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9 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

10 **FOR THE COUNTY OF LOS ANGELES**

12 EDUARDO JOSE PAIZ and SHOGHIG
13 PILILIAN, individuals and on behalf of all
others similarly situated;

14 Plaintiffs,

15 vs.

16 EMANATE HEALTH, a California non-profit
17 corporation; and DOES 1 through 50,

18 Defendants.

Case No.: 24STCV21209

[Assigned for All Purposes to:
Hon. Laura A. Seigle, Dept. 17]

**PLAINTIFFS' NOTICE OF MOTION
AND MOTION FOR PRELIMINARY
APPROVAL OF CLASS ACTION AND
PAGA SETTLEMENT; MEMORANDUM
OF POINTS AND AUTHORITIES**

(Filed concurrently with Supporting
Declarations and [Proposed] Order)

DATE: May 6, 2026

TIME: 9:00 a.m.

DEPT: 17

Action Filed: August 20, 2024

Trial Date: Not Set

1 TO THE HONORABLE COURT, ALL PARTIES, AND THEIR ATTORNEYS OF
2 RECORD:

3 PLEASE TAKE NOTICE that pursuant to Rule 3.769 of the California Rules of Court, on
4 May, 2026 at 9:00 a.m. in Department 17 of the Los Angeles Superior Court, Spring Street
5 Courthouse, located at 312 North Spring Street, Los Angeles, CA 90012, Plaintiffs Eduardo Jose
6 Paiz and Shoghig Pililian (“Plaintiffs”), individually and on behalf of a class of similarly situated
7 individuals, will and hereby move this Court for:

- 8 1. Preliminary approval of the proposed class settlement of this lawsuit;
- 9 2. Pursuant to section 382 of the California Code of Civil Procedure, provisional
10 certification of the following Class defined as follows:
11 All current and former non-exempt employees who worked for Defendant Emanate
12 Health within the State of California during the Class Period of July 21, 2023
13 through January 24, 2026.
- 13 3. Preliminary appointment of Plaintiffs as Class Representatives;
- 14 4. Preliminary appointment of William C. Sung, Tiffany L. Luu, and Joseph C. Ramli
15 of Justice for Workers, P.C. as Class Counsel;
- 16 5. The scheduling of a hearing to consider whether the Settlement should be finally
17 approved and to permit a Class Representative Service Payments to Plaintiffs, civil penalties
18 payable to the LWDA, settlement administration costs, and attorney’s fees and costs to Class
19 Counsel;
- 20 6. Appointment of Phoenix Settlement Administrators as the third-party Administrator
21 for mailing notices and administering the Settlement; and
- 22 7. Approval of the proposed Class Notice and an order that it be disseminated to the
23 proposed Class as provided in the Settlement Agreement.

24 This Motion is based on this Notice of Motion; the attached Memorandum of Points and
25 Authorities; the supporting declarations of William C. Sung, Tiffany L. Luu, Joseph C. Ramli,
26 Plaintiffs Eduardo Jose Paiz and Shoghig Pililian, and Jodey Lawrence of Phoenix Settlement
27 Administrators, and the exhibits attached thereto; the pleadings, and other papers filed in this
28 Action; and on any further oral or documentary evidence or argument presented at the time of the

1 hearing.

2 DATED: March 19, 2026

Respectfully submitted,

3 **JUSTICE FOR WORKERS, P.C.**

4
5 By: 

6 William C. Sung

7 Tiffany L. Luu

8 Joseph C. Ramli

9 Attorneys for Plaintiffs Eduardo Jose Paiz
10 and Shoghig Pililian
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1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. INTRODUCTION**

3 Plaintiffs Eduardo Jose Paiz and Shoghig Pililian (collectively, “Plaintiffs”) brought this
4 wage and hour class and representative action on behalf of a Class of all current and former non-
5 exempt employees who worked for Defendant Emanate Health (“Defendant”) within the State of
6 California during the Class Period of July 21, 2023 through January 24, 2026. The primary issues in
7 this case pertain to Defendant’s alleged regular rate violations, unpaid wages due to off-the-clock
8 work, meal and rest period violations, and reimbursement issues. Plaintiffs contend Defendant is
9 also liable for inaccurate wage statement penalties, waiting time penalties, and civil penalties under
10 the California Private Attorney’s General Act (“PAGA”). Plaintiffs now request that this Court
11 preliminarily approve this non-reversionary, common-fund class action settlement¹, in which
12 Defendant has agreed to pay the Gross Settlement Amount of One Million Nine Hundred Thousand
13 Dollars and Zero Cents (\$1,900,000) to approximately 4,868 Class Members.

14 After deducting administration costs, Plaintiffs’ requested Class Representative Service
15 Payments, the amount set aside as PAGA Payment, and requested Class Counsel Fees Payment and
16 Litigation Expense Payment, the Net Settlement Amount of approximately \$1,078,166.67 will be
17 distributed to all Class Members who do not opt out of the Settlement based on the proportionate
18 number of Workweeks worked by each Class Member during the Class Period. Employees with
19 standing for PAGA Payment will receive additional consideration for their release of PAGA claims.

20 Significantly, all Class Members will automatically receive a payment unless they
21 affirmatively opt-out. There are approximately 4,868 Class Members, and **the average payment to**
22 **participating Class Members is projected to be approximately \$221.48**. This is an excellent
23 result for Class Members, who will be releasing only those claims alleged or which could have been
24 alleged in the Action. The proposed Settlement is within the range of possible approval in light of

25
26
27 ¹ The Class Action and PAGA Settlement Agreement and Class Notice (“Settlement” or “Agreement”) is
28 attached to the Declaration of William C. Sung as **Exhibit 1**. The proposed Class Notice is attached to the
Agreement as **Exhibit A**. All defined terms in this motion have the same definition as that in the Agreement.
A redlined copy of the Agreement is attached as **Exhibit 2** and a redlined copy of the Class Notice is
attached as **Exhibit A** to the redlined Agreement.

1 the significant legal and factual obstacles that Plaintiffs faced, the risks and costs of further
2 litigation, and the tangible monetary benefits to be received by the Class. For the reasons discussed
3 herein, Plaintiffs respectfully request that this Court grant preliminary approval of the Settlement.

4 **II. SUMMARY OF THE LITIGATION**

5 **A. THE PARTIES AND BRIEF PROCEDURAL HISTORY**

6 Defendant operates healthcare centers and hospitals in Los Angeles County, California.
7 Declaration of William C. Sung (“Sung Decl.”), ¶ 9. Defendant employed Plaintiff Paiz as an
8 hourly-paid, non-exempt employee from approximately November 2020 to approximately May 30,
9 2024 as a medical assistant at the Emanate Medical Plaza in Covina, California. Declaration of
10 Eduardo Jose Paiz (“Paiz Decl.”), ¶ 2. Defendant employed Plaintiff Pililian as an hourly-paid, non-
11 exempt employee from approximately 2006 to approximately October 9, 2024 as a nurse supervisor
12 for night-shifts at the Foothill Presbyterian Hospital in Glendora, California. Declaration of Shoghig
13 Pililian (“Pililian Decl.”), ¶ 2

14 On August 20, 2024, Plaintiff Paiz sent a notice letter under PAGA to the Labor and
15 Workforce Development Agency (“LWDA”) and gave notice to Defendant. Sung Decl., ¶ 10, **Exh.**
16 **3** (PAGA Notice). On the same day, August 20, 2024, Plaintiff Paiz filed a Class Action Complaint
17 against Defendant for (1) Minimum Wage Violations; (2) Overtime Wage Violations; (3) Meal
18 Period Violations; (4) Rest Period Violations; (5) Wage Statement Penalties; (6) Waiting Time
19 Penalties; (7) Failure to Reimburse Necessary Business Expenses; and (8) Unfair Competition.
20 Sung Decl., ¶ 11. On March 29, 2024, Plaintiff Paiz filed the First Amended Complaint adding a
21 cause of action for Civil Penalties Under PAGA against Defendant. *Ibid.*

22 On January 2, 2025, Plaintiff Paiz sent an amended PAGA notice letter to the LWDA adding
23 Plaintiff Pililian as a second named aggrieved employee, and gave notice to Defendant. Sung Decl.,
24 ¶ 12, **Exh. 4** (Amended PAGA Notice). On May 21, 2025, with leave to amend, Plaintiff Paiz filed
25 the Second Amended Complaint adding Plaintiff Pililian as a second named Plaintiff. *Ibid.*

26 After the parties agreed to this Settlement, on December 9, 2025, Plaintiffs sent a second
27 amended PAGA notice letter to the LWDA adding allegations that Defendant failed to pay
28 overtime, meal and rest period premiums, and paid sick leave at the regular rate of pay. Sung Decl.,

¶ 13, **Exh. 5** (Amended PAGA Notice). On March 19, 2026, with leave to amend, Plaintiffs filed the operative Third Amended Complaint, adding allegations that Defendant failed to pay paid sick leave wages at the regular rate of pay. Sung Decl., ¶ 14, **Exh. 6** (Operative Complaint).

B. PLAINTIFFS' CLAIMS AND DEFENDANT'S DEFENSES

1. Unpaid Wages Due to Regular Rate of Pay Violations

Regular rate of pay, which can change from pay period to pay period, includes adjustments to the straight time rate, reflecting, among other things, shift differentials and the per-hour value of any nonhourly compensation the employee has earned.” *Alvarado v. Dart Container Corp. of California* (2018) 4 Cal.5th 542, 554; *see also Ferra v. Loews Hollywood Hotel, LLC* (2021) 11 Cal. 5th 858, 863 (meal and rest period premiums to be paid at regular rate of pay); Lab. Code § 246(l)(1) (paid sick leave to be paid at the regular rate of pay or at a rate based on a 90-day lookback of compensation earned). Depending on if the incentive is a production-type bonus or flat-sum bonus, California law mandates different formula for the calculation of the regular rate of pay. *See Alvarado*, 4 Cal.5th at 573 (discussing flat-sum methodology). Where an incentive is earned over a period greater than one pay period, then the regular rate must be calculated by looking back over hours worked during the period where the incentive is earned (“lookback period”). *See* DSLE Enforcement Manual, § 49.2.4.2 (the regular rate on a seasonal bonus “is determined by dividing the bonus by the maximum legal regular hours worked during the period to which the bonus applies”) (quoted with approval in *Alvarado*, 4 Cal.5th at 560-561).

Here, Plaintiffs contended that Defendant failed to pay overtime wages, paid sick leave wages, and meal and rest period premiums at the regular rate by (1) erroneously calculating a flat-sum incentive coded as WV-BNFT\$, which Plaintiffs believe was paid to incentivize employees to waive health insurance benefits, under the production bonus method; and (2) failing to factor in a quarterly incentive coded as SIGBONUS, which Plaintiffs believe was a longevity bonus, into the regular rate of pay. Sung Decl., ¶ 15. In response, Defendant argued that WV-BNFT\$ and SIGNBONUS are legally excluded from the regular rate as payments made by an employer for health insurance and similar benefit or as gifts where the amounts are not measured by or dependent on hours worked, production, or efficiency. *See* 29 C.F.R. § 778.200(a)(1), (a)(4). Defendant further

1 argued that any damages must be significantly limited because not every employee experienced
2 these alleged regular rate violations and the collective bargaining agreement governing pay for its
3 unionized workforce preempted Plaintiffs' claims. Sung Decl., ¶ 15.

4 **2. Unpaid Wages Due to Off-the-Clock Work**

5 Plaintiffs alleged that Defendant required Plaintiffs and other non-exempt employees to
6 work off the clock without pay. Sung Decl., ¶ 16. Plaintiff Paiz alleged that he sometimes clocked
7 out for meal breaks and kept working and received work-related text messages during his meal
8 breaks and Plaintiff Pililian alleged that she was required to remain on duty during her meal breaks
9 and stay behind after the end of her shifts to clean up and give reports to other supervisors who were
10 relieving her. *Ibid.*

11 In response, Defendant argued it maintained compliant policies that prohibit working off the
12 clock and that Defendant's pay statistics evidence superior compliance with its policies and
13 practices requiring all employees to receive wages for all hours worked. *Ibid.* During the Class
14 Period, Defendant paid Class Members over 369,000 overtime and double time hours totaling over
15 \$23 million, over 87,000 meal period premiums totaling over \$3.69 million, and over 22,000 rest
16 period premiums totaling over \$2.18 million. *Ibid.* As to Plaintiff Paiz, Defendant argued that the
17 clinic where Plaintiff Paiz worked closed for an hour during the lunch period and that there would
18 be no reason for Plaintiff Paiz to perform any work during his meal period. *Ibid.* Defendant further
19 argued that it provided Plaintiff Paiz with a work computer and, thus, he had no reason to use his
20 personal cell phone for work purposes. *Ibid.* As to Plaintiff Pililian, Defendant argued that less than
21 20 Class Members were in the same position as her (i.e., night-shift nurse supervisor), and even if
22 she did work off the clock, which Defendant disputed, this is not a classwide issue. *Ibid.* Defendant
23 thus contended that Plaintiff's off-the-clock work claim is individualized and not suited for class
24 certification since there is no evidence of a common policy or practice forcing Class Members to
25 work off the clock and numerous individual inquiries would be needed to assess which Class
26 Members, if any, worked off the clock, how often, the reasons why a particular Class Member
27 worked off the clock, and whether Defendant knew or should have known that Class Members
28 worked off the clock for the imposition of classwide liability. *Ibid; see, e.g., Troester v. Starbucks*

1 *Corporation* (C.D. Cal., Jan. 27, 2020, No. CV1207677CJCPJWX) 2020 WL 553572, at *9
2 (denying certification of off-the-clock work claim because of individualized inquiries); *Williams v.*
3 *Superior Court* (2013) 221 Cal.App.4th 1353, 1369, as modified (Dec. 24, 2013) (liability for off-
4 the-clock work is based on the “know or should have known” standard).

5 **3. Meal Period Violations**

6 Plaintiffs claimed that they and other employees were unable to take compliant meal
7 periods, Plaintiff Pililian alleged that she could not take her meal breaks or had to take her meal
8 breaks on duty, and Plaintiff Paiz alleged that he sometimes worked off the clock or had his meal
9 breaks interrupted by work-related text messages. Sung Decl., ¶ 17. Defendant countered that
10 Defendant maintained compliant meal period policies and practices throughout the Class Period and
11 always provided compliant meal periods in line with those policies. *Ibid*; see *Brinker Rest. Corp. v.*
12 *Superior Court* (2012) 53 Cal.4th 1004, 1040-1041 (holding employers need only “provide” meal
13 periods to employees and are not obligated to “police” meal periods). Defendant points to the fact
14 that it paid over 87,000 meal period premiums totaling over \$3.69 million during the Class Period
15 as evidence of Defendant’s superior meal period compliance practices. Sung Decl., ¶ 17. Defendant
16 also made the same arguments regarding Plaintiffs as above. *Ibid*. As such, Defendant maintained
17 Plaintiffs’ meal period claim is not suited for class certification since individual inquiries would be
18 needed to assess which employees, if any, took non-compliant meal periods, how many meal
19 periods were non-compliant, and the reasons why a particular employee did not take a meal period
20 on a particular shift and a meal period premium was not paid. *Ibid*.

21 **4. Rest Period Violations**

22 Plaintiffs claimed that they and other employees were unable to take compliant rest periods
23 because of operation needs. Sung Decl., ¶ 18. Defendant countered that Defendant maintained
24 compliant rest period policies and practices and provided compliant rest periods in line with those
25 policies. *Ibid*. Defendant points to the fact that it paid over 22,000 rest period premiums totaling
26 over \$2.18 million during the Class Period as evidence of Defendant superior rest period
27 compliance practices. *Ibid*. Defendant also made the same argument regarding Plaintiffs as above.
28 *Ibid*. Thus, Defendant maintained Plaintiffs’ rest period claim is not suited for class certification

1 since individual inquiries would be needed to assess which employees, if any, took non-compliant
2 rest periods, how many rest periods were non-compliant, and the reasons why a particular employee
3 did not take a rest period. *Ibid.*

4 **5. Failure to Reimburse Necessary Business Expenses**

5 Plaintiff Paiz alleged that he was required to use his personal cellphone to receive work-
6 related text messages from his supervisor. Sung Decl., ¶ 19. Defendant countered that Plaintiff Paiz
7 was a medical assistant, was provided a work computer, and had no reason to use his personal
8 cellphone. *Ibid.* Defendant maintained Plaintiff Paiz’s reimbursement claim is not suited for class
9 certification since individual inquiries would be needed to assess which employees, if any, used
10 their personal cellphones for work, why they used their cellphones and whether cellphone usage
11 was required or out of their own convenience. *Ibid.*

12 **6. Waiting Time and Wage Statement Penalties**

13 As a result of the unpaid wages and meal and rest period premiums described above,
14 Plaintiffs contended that Defendant failed to comply with its final pay obligations set forth in Labor
15 Code §§ 201 to 203 to former employees and failed to issue accurate itemized wage statements to
16 Class Members as set forth in Labor Code § 226(a). Sung Decl., ¶ 20. Thus, Plaintiffs’ claims for
17 waiting time and wage statement penalties are derivative of the underlying claims. *Ibid.*

18 In response, Defendant argued that Defendant possessed strong, good faith defenses to
19 Plaintiffs’ underlying claims and these claims cannot meet the willfulness standard in Labor Code §
20 203 or the knowing and intentional standard in Labor Code § 226(e). Sung Decl., ¶ 18. Notably,
21 Defendant relied on the California Supreme Court decision in *Naranjo v. Spectrum Security*
22 *Services, Inc.* (2024) 15 Cal.5th 1056, 1065, which held that an employer’s good-faith defenses
23 precludes a “willfulness” finding under Labor Code § 203 and a “knowing and intentional” finding
24 under Labor Code § 226(e) for the imposition of statutory penalties. *Ibid.* Defendant further asserted
25 that Plaintiffs’ waiting time and wage statement penalty exposure was inflated as not every
26 employee experienced the alleged Labor Code violations. *Ibid.*

27 **7. PAGA Civil Penalties**

28 Plaintiffs contended that, as a result of the foregoing Labor Code violations, Defendant is

1 liable for civil penalties under the PAGA. Sung Decl., ¶ 21. Since Plaintiffs’ PAGA claims are
2 derivative of Plaintiffs’ underlying wage claims, Defendant asserted that the PAGA claim would
3 fail with those claims. *Ibid*; see *Price v. Starbucks Corp.* (2011) 192 Cal.App.4th 1136, 1147
4 (“Because the underlying causes of action fail, the derivative UCL and PAGA claims also fail.”).
5 Defendant further maintained that, given Defendant’s good faith defenses, this Court would
6 exercise its discretion to substantially reduce any PAGA penalties if it were to find Defendant liable
7 for any of Plaintiffs’ claims. Sung Decl., ¶ 21; see Lab. Code § 2699(e)(2); *Thurman v. Bayshore*
8 *Transit Mgmt., Inc.* (2012) 203 Cal.App.4th 1112, 1135 (affirming reduction of PAGA penalties);
9 *Carrington v. Starbucks Corp.* (2018) 30 Cal.App.5th 504, 529 (affirming PAGA civil penalty of
10 just \$5 per pay period where employer made “good faith attempts” to comply with the law). Finally,
11 Defendant maintained that, prior to receiving the PAGA Notice and due to a prior wage and hour
12 class action and PAGA settlement, it had taken all reasonable steps to be in compliance with the
13 issues alleged in the PAGA notice; thus, PAGA penalties are limited to no more than 15% of the
14 penalties sought under the PAGA amendment. Sung Decl., ¶ 21; see Labor Code § 2699(g)(1).

15 C. DISCOVERY AND MEDIATION

16 The Parties began formal discovery prior to agreeing to mediate, pause formal discovery,
17 and engage in informal discovery. Sung Decl., ¶ 22. Defendant served written discovery on Plaintiff
18 Paiz, and Plaintiff Paiz responded to said discovery. *Ibid*. Defendant also served Plaintiff Paiz with
19 a Notice of Deposition and Request for Production of Documents, and Plaintiff Paiz served pre-
20 certification written discovery, along with a draft *Belaire West* notice, on Defendant. *Ibid*.

21 In connection with mediation, the Parties engaged in extensive informal discovery. Sung
22 Decl., ¶ 23. Defendant produced (1) class and PAGA demographic information, including the
23 number of workweeks during the Class Period and pay periods during the PAGA Period; (2) time
24 and payroll records of all Class Members (not a sampling); (3) Defendant’s relevant policy
25 documents; and (4) Plaintiffs’ personnel records. *Ibid*. In preparation for mediation, Class Counsel
26 engaged an expert data scientist with prior wage and hour class action litigation experience to
27 conduct a comprehensive analysis and extrapolation of the payroll and timekeeping data produced
28 by Defendant to create a detailed exposure analysis for all claims at issue. Sung Decl., ¶ 24. This

discovery and analysis allowed the Parties to assess the merits and value of Plaintiffs' claims, the chances of certification of Plaintiffs' claims, and Defendant's potential defenses. *Ibid.*

On October 28, 2025, the Parties participated in a full-day mediation with Steven Pearl, Esq. a well-respected wage and hour class action mediator. Sung Decl., ¶ 25. During mediation, the Parties vigorously debated their opposing legal positions, the likelihood of certification of Plaintiffs' claims, and the legal basis for the claims and defenses. *Ibid.* The Parties reached a tentative class and PAGA settlement at the mediation. *Ibid.* The Parties then finalized the terms of the Settlement and executed Agreement now before the Court. *Ibid*; see Sung Decl., ¶ 8, **Exh. 1** (Agreement).

III. THE PROPOSED SETTLEMENT

A. ESSENTIAL TERMS OF THE SETTLEMENT

If the Court preliminarily approves the Settlement, Defendant will pay a Gross Settlement Amount of \$1,900,000. Agreement, § 1.23 (Exh. 1 to Sung Decl.). Significantly, this Settlement is non-reversionary, and no Class Member will have to submit a claim form to receive an Individual Settlement Payment. Agreement, § 3.1. Each Class Member will automatically receive an Individual Settlement Payment unless they affirmatively opt out of the Settlement. Agreement, § 7.5. The monetary terms of the Settlement are summarized below:

Gross Settlement Amount:	\$1,900,000
Minus Court-approved attorneys' fees:	\$633,333.33
Minus Court-approved verified costs (up to):	\$30,000
Minus Court-approved Service Payments:	\$30,000
Minus estimated settlement administration costs:	\$28,500
<u>Minus amount set aside as PAGA Payment:</u>	<u>\$100,000</u>
Net Settlement Amount:	\$1,078,166.67
Plus 35% "PAGA Payment" to Class:	\$35,000
Total Amount Paid to Class Members:	\$1,113,166.67

Sung Decl., ¶ 26.

Defendant has verified the number of Workweeks and has exercised the option to end the Class Period and PAGA Periods on January 24, 2026 where the total number of Workweeks through that date was 402,178 Workweeks; thus, the applicable Class Period is July 21, 2023 through January 24, 2026 and the applicable PAGA Period is August 20, 2023 through January 24, 2026. Agreement, §§ 1.12, 1.31, 8; Sung Decl., ¶¶ 27-28.

///

1 **1. The Settlement Provides for Reasonable Monetary Payments**

2 After deducting amounts for the Court-approved attorneys' fees and costs, Class
3 Representative Service Payments to Plaintiffs, the amount set aside as PAGA Payment, and
4 settlement administration costs, the Settlement requires Defendant to pay a Net Settlement Amount
5 of at least **\$1,078,166.67** to all Class Members who do not timely opt-out. Agreement, § 3.2. The
6 Net Settlement Amount shall be distributed to participating Class Members as Individual Class
7 Payment, calculated by (a) dividing the Net Settlement Amount by the total number of Workweeks
8 worked by all Participating Class Members during the Class Period and (b) multiplying the result by
9 each Participating Class Member's Workweeks. Agreement, § 3.2.4. Additionally, \$35,000 of the
10 Gross Settlement Amount has been designated as Individual PAGA Payments to Aggrieved
11 Employees and shall be distributed to Aggrieved Employees (including those who submit a valid
12 and timely Request for Exclusion from the class action settlement) who were employed during the
13 PAGA Period proportionally based on the number of Pay Periods worked during the PAGA Period.
14 Agreement, §§ 3.2.5, 7.5.4. In addition to the Gross Settlement Amount, Defendant is obligated to
15 pay the employer's share of payroll taxes on Individual Class Payments allocated to settlement of
16 wage claims. Agreement, § 3.1.

17 According to Defendant, there are approximately 4,868 Class Members. Sung Decl., ¶ 29.
18 Therefore, the average Individual Class Payment from the Net Settlement Amount is projected to be
19 approximately **\$221.48**. *Ibid.* There are also approximately 4,800 Aggrieved Employees during the
20 PAGA Period who will each receive an average of approximately **\$7.29** as Individual PAGA
21 Payments. *Ibid.* Class Members will have 45 calendar days from the mailing of the Class Notice to
22 opt-out or object to the Settlement, thereby providing ample time to review the Class Notice without
23 unduly delaying the Settlement. Agreement, §§ 1.43, 7.5, 7.7.

24 Effective on the date when Defendant fully funds the Gross Settlement Amount and
25 employer taxes, Participating Class Members will release all claims, demands, damages, penalties,
26 and actions or causes of action of any kind arising before or during the Class Period and that were
27 alleged in the Complaint, Amended Complaint, Second Amended Complaint, Operative Amended
28 Complaint, or the PAGA Notices or could have been alleged against any of the Released Parties

1 based on the facts alleged in Complaint, Amended Complaint, Second Amended Complaint,
2 Operative Complaint, or the PAGA Notices, or based on any facts discovered in the course of the
3 litigation; and all Aggrieved Employees are deemed to release all claims, demands, damages,
4 penalties, and actions or causes of action that are alleged in Plaintiffs' PAGA Notices, Complaint,
5 Amended Complaint, Second Amended Complaint, Operative Complaint, or that could have been
6 alleged based on the facts alleged in the PAGA Notices, Complaint, Amended Complaint, Second
7 Amended Complaint, Operative Complaint for civil penalties under the PAGA. Agreement, §§ 5,
8 5.2, 5.3. Defendant shall fund the Gross Settlement Amount no later than 14 days after the Effective
9 Date (i.e., 60 days after the Court enters a Judgment on its Order Granting Final Approval and the
10 Judgment is final). Agreement, §§ 1.19, 4.3.

11 **2. Attorneys' Fees and Costs, Service Payment, and PAGA Payment**

12 Plaintiffs will apply for a Class Representative Service Payments at the time of seeking final
13 approval of the proposed class action settlement in the amount of \$15,000 each for Plaintiffs'
14 service to the Class. Agreement, § 3.2.1. "[I]ncentive awards are fairly typical in class action cases .
15 . . and are intended to compensate class representatives for work done on behalf of the class [and] to
16 make up for financial or reputational risk undertaken in bringing the action." *In re Cellphone Fee*
17 *Termination Cases* (2010) 186 Cal.App.4th 1380, 1393-94. Plaintiffs' requested Service Payments
18 are intended to recognize the time and effort Plaintiffs expended on behalf of the Class, including
19 providing substantial information and documents to Class Counsel, discussing the claims at issue in
20 the litigation, actively participating in the prosecution of Plaintiffs' claims, as well as the risks
21 Plaintiffs undertook by agreeing to serve as the named plaintiff in this case. *See* Paiz Decl., ¶¶ 4-6;
22 Pililian Decl., ¶¶ 4-7. Notably, Plaintiff Pililian rejected a severance offer of \$14,805 from
23 Defendant in order to preserve her standing to participate in this Action and help her coworkers,
24 knowing that that her recovery in this case could be less than the severance. Pililian Decl., ¶ 4.

25 Class Counsel will also apply for an attorneys' fees award of 33 1/3% of the Gross
26 Settlement Amount, which is equivalent to \$633,333.33 , and up to \$30,000 in verified costs
27 reimbursement. Agreement, § 3.2.2. The requested fee is fair compensation for undertaking
28 complex, risky, expensive, and time-consuming litigation on a purely contingent fee basis. Sung

Decl., ¶ 30. Class Counsel have incurred substantial attorneys' fees and costs conducting pre-filing investigation, analyzing Plaintiffs' claims, conducting legal research, conducting formal and informal discovery, analyzing Class Members' time and payroll records, creating a comprehensive damages model, preparing for and attending mediation, negotiating and preparing the long-form Agreement, preparing this Motion, and otherwise litigating the case. *Ibid.* Class Counsel expect to expend additional attorney time in attending the hearing on this Motion, overseeing the Class Notice process and fielding questions from Class Members, preparing the Final Approval papers, and attending the Final Approval hearing. *Ibid.*

California courts recognize that an appropriate method for awarding attorneys' fees in class actions is to award a percentage of the "common fund" created as a result of a settlement. *See, e.g., Laffitte v. Robert Half Int'l, Inc.* (2016) 1 Cal.5th 480, 506 (holding "the percentage of fund method survives in California class action cases"). Class Counsel's request for fees of 33 1/3% of the Gross Settlement Amount is well within the range of reasonableness and indeed is considered the typical rate for common fund settlements. Historically, courts have awarded percentage fees in the range of 20% to 50%, depending on the circumstances of the case. *See* 4 Newberg on Class Actions § 14.6 (4th Ed. 2013). Class Counsel submit that their request for attorneys' fees is reasonable when viewed as an overall percentage of the Settlement and in light of the substantial risks and significant work undertaken, the results obtained, and the efficiency with which the litigation has been conducted. Should the Court grant preliminary approval, Class Counsel will seek an award of attorneys' fees and verified costs upon seeking Final Approval.

Additionally, the parties have agreed to designate \$100,000 of the Gross Settlement Amount as PAGA civil penalties, of which \$65,000 (65%) will be paid to the LWDA, with the remaining \$35,000 (35%) for distribution to the Aggrieved Employees pursuant to Labor Code § 2699(m) (post-July 1, 2024 PAGA amendment). Agreement, § 3.2.5. Plaintiffs submit this allocation to the LWDA for civil PAGA penalties is appropriate. *See, e.g., Chu v. Wells Fargo Investments, LLC* (N.D. Cal. 2011) Case No. C 05-4526 MHP, 2011 WL 672645 at *1 (approving PAGA payment of \$7,500 to LWDA out of \$6.9 million common-fund settlement); *Lazarin v. Pro Unlimited, Inc.* (N.D. Cal. 2013) Case No. C11-03609 HRL, 2013 WL 3541217 (approving PAGA payment of

1 \$7,500 to LWDA out of \$1.25 million common-fund settlement).

2 **IV. LEGAL ARGUMENT**

3 **A. PRELIMINARY APPROVAL IS WARRANTED**

4 California Rule of Court 3.769 conditions settlement of a class action on court approval,
5 which is generally evaluated under the federal standards applicable under Rule 23 of the Federal
6 Rules of Civil Procedure. *See Reed v. United Teachers Los Angeles* (2012) 208 Cal.App.4th 322,
7 337 (Rule 3.769 requires trial court to determine “that the settlement is fair, reasonable and
8 adequate to all concerned”); *Hanlon v. Chrysler Corp.* (9th Cir. 1998) 150 F.3d 1011, 1026 (Rule
9 23(e) requires the trial court to determine “whether a proposed settlement is fundamentally fair,
10 adequate, and reasonable”). Settlement is the preferred means of dispute resolution, particularly in
11 complex class action litigation. *See In re Syncor ERISA Litig* (9th Cir. 2008) 516 F.3d 1095, 1101.
12 The Court’s role in evaluating a proposed settlement is limited to ensuring that the agreement taken
13 as a whole is fair. *See e.g., Hanlon*, 150 F.3d at 1027. There is an initial presumption of fairness
14 where, as here, the Settlement was negotiated at arm’s-length by class counsel and with the
15 assistance of an experienced wage and hour class action mediator. *See e.g., Kullar v. Foot Locker*
16 *Retail, Inc.* (2008) 168 Cal.App.4th 116, 130.

17 To make a fairness determination, the Court should consider “the strength of Plaintiffs’ case,
18 the risk, expense, complexity and likely duration of further litigation, the risk of maintaining class
19 action status through trial, the amount offered in settlement, the extent of discovery completed and
20 the stage of the proceedings, [and] the experience and views of counsel.” *Dunk v. Ford Motor Co.*
21 (1996) 48 Cal.App.4th 1794, 1801. “The list of factors is not exclusive, and the court is free to
22 engage in a balancing and weighing of the factors depending on the circumstances of each case.”
23 *Wershba v. Apple Computer, Inc.* (2001) 91 Cal.App.4th 230, 245. Here, the proposed Settlement is
24 fair, adequate, and reasonable in light of the overall balance of factors in this case.

25 **1. The Strength of Plaintiffs’ Case and Risk, Expense, Complexity, and**
26 **Duration of Further Litigation**

27 Although Plaintiffs maintain that Plaintiffs’ claims are meritorious, Plaintiffs acknowledge
28 that there were substantial risks and uncertainty in proceeding with litigation. As described above,

1 Defendant presented multiple defenses to Plaintiffs' claims, both on the merits and with respect to
2 class certification. Thus, while Plaintiffs are prepared to litigate these claims through class
3 certification and ultimately trial, success was far from certain. Although the Parties engaged in
4 significant informal discovery prior to mediation, the Parties still had significant formal discovery
5 to complete if the Action did not resolve. Sung Decl., ¶ 31. This would have required the
6 expenditure of substantial time and resources by both Parties that would have very likely spanned
7 several years. *Ibid.* Even if Plaintiffs were to certify the class, the Parties would incur considerably
8 more attorneys' fees and costs through a possible decertification motion, trial, and possible appeal.
9 *Ibid.* This Settlement avoids those risks and the accompanying expense. *Ibid.*

10 Plaintiffs have not yet filed a motion for class certification, and as such, the extent to which
11 Plaintiffs' proposed classes were certifiable is somewhat speculative. Sung Decl., ¶ 32. Absent
12 settlement, there was a risk that there would not be a certified class at the time of trial, or if there
13 were, it would consist of a significantly smaller group of employees than the proposed Class due to
14 a narrowing of the class definition in a Court order on a contested motion for class certification.
15 *Ibid.* Thus, this factor, too, supports preliminary approval of the settlement.

16 **2. Amount Offered in Settlement Given Realistic Value of Claims**

17 The Settlement provides a positive recovery for the Class in the face of disputed claims.
18 Plaintiffs' expert conducted a detailed analysis of alleged unpaid wages and meal and rest period
19 premium payments owing, wage statement penalties, waiting time penalties, and PAGA civil
20 penalties. A summary of the results of Plaintiffs' exposure analysis are discussed below:

21 Regular Rate Violations. Plaintiffs' expert found Defendant's maximum damages for regular
22 rate violations—underpaid overtime, meal and rest period premiums, and paid sick leave wages—to
23 be approximately \$85,201. Sung Decl., ¶ 33. As discussed in § II.B.1. *supra*, Defendant argues that
24 the incentives at issue are legally excludable from the regular rate. *Ibid.* Thus, Plaintiffs discounted
25 Defendant's maximum exposure by 25% to account for the risk for Defendant's defenses on the
26 merits or failing to recover the full amount sought (no discount is applied for risk of non-
27 certification because Plaintiffs believe this is a certifiable claim) to arrive at an estimated realistic
28 recovery of approximately **\$63,900.75**. *Ibid.*

1 Unpaid Wages Due to Off the Clock Work. Any evidence of off-the-clock work would not
2 be reflected in the time or payroll records. Sung Decl., ¶ 34. Estimating that Class Members on
3 average worked two hours of overtime off the clock in 20% of workweeks, and over 367,731
4 workweeks and at an average hourly rate of \$41.12, Plaintiff's expert estimates Defendant's
5 maximum damages to be \$9,072,659.23. As discussed in § II.B.2. *supra*, Defendant advanced
6 numerous defenses, including the amount of overtime premiums paid, that less than 20 employees
7 worked in Plaintiff Pililian's position, and its defenses against certification. *Ibid.* Thus, Plaintiffs
8 discounted Defendant's maximum exposure by 75% to account for the risk of non-certification and
9 an additional 75% to account for Defendant's defenses on the merits or failing to recover the full
10 amount sought to arrive at an estimated realistic recovery of approximately **\$567,041.20**. *Ibid.*

11 Meal and Rest Period Violations. As Plaintiffs' meal and rest period theories are based on
12 on-duty meal and rest breaks or working during their meal and rest breaks, any evidence of
13 violations would not be reflected in the time and payroll records. Sung Decl., ¶ 35. Estimating that
14 Class Members on average experienced two meal and rest period violations in 20% of workweeks,
15 and over 367,731 workweeks and at an average hourly rate of \$41.12, Plaintiff's expert estimates
16 Defendant's maximum damages to be approximately \$6,048,439.49 for meal premiums and
17 \$6,048,439.49 for rest premiums. *Ibid.* As discussed in § II.B.3-4. *supra*, Defendant advanced
18 numerous defenses, including the amount of meal and rest period premiums paid, that less than 20
19 employees worked in Plaintiff Pililian's position, and its defenses against certification. *Ibid.* Thus,
20 Plaintiffs discounted Defendant's maximum exposure by 75% to account for the risk of non-
21 certification and an additional 75% to account for Defendant's defenses on the merits or failing to
22 recover the full amount sought to arrive at an estimated realistic recovery of approximately
23 **\$378,027.47** for meal premiums and **\$378,027.47** for rest premiums. *Ibid.*

24 Waiting Time Penalties. As a result of the unpaid wages and meal and rest period premiums
25 described above, Plaintiffs contended that Defendant failed to comply with its final pay obligations
26 set forth in Labor Code §§ 201 to 203 to former employees. Sung Decl., ¶ 36. Plaintiff's expert
27 found that waiting time penalties for Class Members with unpaid wage and meal and rest period
28 violations to be approximately \$1,608,526. *Ibid.* Defendant presented several defenses, including

1 that because they possessed good-faith defenses to the underlying wage claims, any failure to pay
2 wages was not “willful” as a matter of law; Plaintiffs’ waiting time penalty exposure was grossly
3 inflated as not every former employee experienced the alleged Labor Code violations; and because
4 the waiting time claim is derivative of Plaintiffs’ underlying wage claims, Plaintiffs would need to
5 overcome Defendant’s defenses, both as to class certification and on the merits, as to the underlying
6 claims. *Ibid.* Thus, Plaintiffs discounted Defendant’s maximum exposure by 80% to account for
7 Defendant’s defenses on the merits or failing to recover the full amount sought, (no discount is
8 applied for risk of non-certification because Plaintiffs believe this is a certifiable claim under the
9 regular rate theory), to arrive at an estimated realistic recovery of approximately **\$321,705.20**. *Ibid.*

10 Wage Statement Penalties. Plaintiffs alleged that Defendant is liable for wage statement
11 penalties as a result of the unpaid wages and meal and rest period premiums. Sung Decl., ¶ 37.
12 Those penalties are calculated as \$50 for each “initial” violation and \$100 for each “subsequent”
13 violation, with a maximum of \$4,000 per employee. Lab. Code § 226(e). Plaintiff’s expert found
14 that wage statement penalties for Class Members with alleged unpaid wages for off the clock work
15 and alleged meal and rest period violations to be approximately \$1,345,346.00. Sung Decl., ¶ 37. As
16 discussed above, Defendant presented several defenses, most notably their assertion that because
17 they possessed good-faith defenses to the underlying claims for failure to pay wages was not
18 “knowing and intentional” as a matter of law and because the wage statement claim is derivative of
19 Plaintiffs’ underlying wage claims, Plaintiffs would need to overcome Defendant’s defenses, both
20 as to class certification and on the merits, as to their underlying claims. *Ibid.* Thus, Plaintiffs
21 discounted Defendant’s maximum exposure by 80% to account for Defendant’s defenses on the
22 merits or failing to recover the full amount sought (no discount is applied for risk of non-
23 certification because Plaintiffs believe this is a certifiable claim under the regular rate theory), to
24 arrive at an estimated realistic recovery of approximately **\$269,069.20**. *Ibid.*

25 Failure to Reimburse Necessary Business Expense. In light of Defendant’s defenses to
26 Plaintiff Paiz’s cellphone reimbursement claim as discussed above, Plaintiffs do not assign any
27 value to this cause of action. Sung Decl., ¶ 38.

28 ///

1 PAGA Penalties. Plaintiffs’ expert estimates a maximum total PAGA exposure of
2 approximately \$8,343,950 at initial violation rates. Sung Decl., ¶ 39; *Amaral v. Cintas Corp. No. 2*
3 (2008) 163 Cal.App.4th 1157, 1207 (finding “initial” violation rate applies until employer is
4 notified that it is violating a Labor Code provision). However, these penalties derive from the
5 underlying wage and hour violations discussed above, which Defendant disputes vigorously. Sung
6 Decl., ¶ 39; *see e.g., Green v. Lawrence Service Co.* (C.D. Cal. 2013) 2013 WL 3907506, *5, n.5
7 (explaining that a PAGA claim’s success was determined by the merits of its underlying claims).
8 Defendant also assert that the Court would drastically reduce any award of PAGA penalties as
9 “confiscatory” and that PAGA penalties are limited to no more than 15% of the penalties sought it
10 had taken all reasonable steps to be in compliance with the issues alleged in the PAGA notice. Sung
11 Decl., ¶ 39. Therefore, Plaintiffs discounted the maximum figure by 85% for the risk of losing on
12 the merits and/or not recovering a PAGA penalty for each and every pay period and to account for
13 the possibility of this Court reducing penalties, to arrive at an estimated exposure of approximately
14 **\$1,251,592.50**. Sung Decl., ¶ 39.

15 Conclusion. Using these estimated figures for each of the claims described above, Plaintiffs
16 predicted that the potential realistic recovery for the Class would be approximately **\$3,229,363.79**.
17 Sung Decl., ¶ 40. The proposed Settlement of \$1,900,000 represents approximately **58.84%** of the
18 reasonably forecasted recovery for the Class. *Ibid.* Preliminary approval is appropriate since the
19 Settlement will provide significant monetary relief to the Class, which is consistent with what Class
20 Counsel believes could have been recovered had the case proceeded through trial. *Ibid.*

21 **3. The Experience and Views of Counsel**

22 “Parties represented by competent counsel are better positioned than courts to produce a
23 settlement that fairly reflects each party’s expected outcome in litigation.” In *In re Pacific*
24 *Enterprises Securities Litigation* (9th Cir. 1995) 47 F.3d 373, 378. Here, Plaintiffs are represented
25 by competent, experienced counsel who possess extensive experience prosecuting and defending
26 wage-and-hour class actions and who have been appointed as class counsel. *See* Sung Decl., ¶¶ 2-7;
27 Declaration of Tiffany L. Luu, ¶¶ 2-6; Declaration of Joseph C. Ramli, ¶¶ 2-6. Class Counsel
28 conducted an in-depth review of class records and drew on their extensive experience in similar

1 cases to assess the strengths and weaknesses of Plaintiffs' case. The Settlement was also reached
2 with the assistance of an experienced and respected wage-and-hour class action mediator. This
3 factor strongly supports preliminary approval of the Settlement. *See Kullar*, 168 Cal.App.4th at 130.

4 **4. The Preliminary Approval Standard Is Met**

5 At this stage, the Court can grant preliminary approval of the Settlement and direct that
6 notice be given if the proposed Settlement: (1) falls within the range of possible approval; (2)
7 appears to be the product of serious, informed, and non-collusive negotiations; and (3) has no
8 obvious deficiencies. *See* Manual for Complex Litigation § 30.41(3rd Ed. 1995); 4 Newberg on
9 Class Actions § 11:24-25 (4th Ed. 2013).

10 The proposed Settlement reflects approximately **58.84%** of the estimated recovery the Class
11 could reasonably expect in light of the significant litigation risks and will provide tangible,
12 substantial monetary compensation for hotly disputed claims. Indeed, the percentage of the liability
13 exposure recovered in this case far exceeds percentages routinely approved by courts. *See, e.g.,*
14 *Glass v. UBS Finan. Servs.* (N.D. Cal. 2007) Case No. C-06-4068 MMC, 2007 WL 221862, *4
15 (approving settlement representing 25% to 35% of potential damages); *Dunleavy v. Nadler* (9th Cir.
16 2000) 213 F.3d 454, 459 (approving settlement representing about one-sixth of potential recovery);
17 *Nat'l Rural Telecomm. Coop. v. DirecTV, Inc.* (C.D. Cal. 2004) 221 F.R.D. 523, 527 ("it is well-
18 settled law that a proposed settlement may be acceptable even though it amounts to only a fraction
19 of the potential recovery that might be available to the Class Members at trial"). The average
20 Individual Class Payment of approximately **\$221.48** exceeds average payments achieved in other
21 wage and hour class action settlements.² Thus, the proposed settlement is within the range of
22 possible approval, such that notice should be provided to the Class Members so that they can

23 _____
24 ² *See e.g., Bercea v. AE Retail West*, Case No. 34-2012-00123947 (Sacramento County Super. Ct. May 9,
25 2012) (average recovery of approximately \$105); *Ressler v. Federated Department Stores, Inc.*, Case No.
26 BC335018 (Los Angeles County Super. Ct. Jan. 2, 2009) (average recovery of approximately \$90); *Palencia*
27 *v. 99 Cents Only Stores*, Case No. 34-2010-00079619 (Sacramento County Super. Ct.) (average recovery of
28 approximately \$80); *Doty v. Costco Wholesale Corp.*, Case No. CV05-3241 FMC-JWJx (C.D. Cal. May 14,
2007) (average recovery of approximately \$65); *Lim v. Victoria's Secret Stores, Inc.*, Case No. 04CC00213
(Orange County Super. Ct. Jan. 20, 2006) (average net recovery of approximately \$35); *Gomez v. Amadeus*
Salon, Inc., Case No. BC392297 (Los Angeles County Super. Ct. July 23, 2010) (average net recovery of
approximately \$20); *Sorenson v. PetSmart, Inc.*, Case No. 2:06-CV-02674-JAM-DAD (E.D. Cal. Dec. 17,
2008) (wage and hour class action settlement approved where average recovery was approximately \$60).

1 consider the Settlement. The Court will have the opportunity to again assess the reasonableness of
2 the Settlement after the Class Members have had the opportunity to opt-out or object.

3 The Settlement resulted from an exchange of substantial information, arm's-length
4 negotiations by counsel, a full-day mediation before an experienced wage and hour mediator, and
5 additional months of negotiating the long-form settlement agreement. Thus, the Settlement is
6 entitled to an initial presumption of fairness. *See Kullar, supra*, 168 Cal.App.4th at 130. As
7 discussed above, Plaintiffs carefully vetted the claims at issue, analyzed extensive sampling time
8 and payroll data, and conducted a detailed damages analysis to arrive at the estimated class-wide
9 damages figures. *See Sung Decl.*, ¶¶ 33-40. Thus, this factor supports preliminary approval.

10 Preliminary approval of the Settlement is also warranted because there are no obvious
11 deficiencies. The Settlement will provide substantial monetary relief to the Class. The amounts
12 proposed for Class Counsel's attorneys' fees and costs, LWDA payment, and Plaintiffs' Class
13 Representative Service Payments, are all reasonable and appropriate based on the facts of this case.
14 Because the Settlement is devoid of obvious deficiencies, this factor supports preliminary approval.

15 **B. THE COURT SHOULD CERTIFY THE CLASS**

16 The Class satisfies the criteria for certification of a settlement class under California law
17 because: (1) the Class is so numerous that joinder would be impractical; (2) common questions of
18 law and fact predominate over individual questions such that class certification is the most efficient
19 and desirable way to maintain this litigation; (3) Plaintiffs' claims are typical of the claims of absent
20 Class Members; and (4) Plaintiffs and Class Counsel will fairly and adequately represent Class
21 Members' interest. *See Code Civ. Proc. § 382.*

22 A class is "ascertainable" where the members "may be readily identified without
23 unreasonable expense or time by reference to official [or business] records." *See Sevidal v. Target*
24 *Corp.* (2010) 189 Cal.App.4th 905, 916 (alterations in original). Here, the Class is defined as "all
25 current and former non-exempt employees who worked for Defendant within the State of California
26 during the Class Period." Therefore, Class Members can be identified from Defendant's personnel
27 and employment records. Defendant represents that the Class consists of approximately 4,868
28 current and former non-exempt employees. It would therefore be impracticable to bring all Class

1 Members before the Court or for each Class Member to bring an individual lawsuit. Thus, the
2 proposed Class satisfies numerosity. *See, e.g., Bowles v. Superior Court* (1955) 44 Cal.2d 574
3 (holding a class representing 10 beneficiaries of a trust sufficiently numerous).

4 The focus in a certification dispute is not on the merits but rather on what types of questions,
5 “common or individual,” are likely to arise in the Action. *See Sav-On Drug Store, Inc. v. Superior*
6 *Court (Rocher)* (2004) 34 Cal.4th 319, 327. Plaintiffs’ claims are predicated on, among other issues,
7 Defendant’s uniform policy and practice regarding provision of meal and rest periods, regular rate
8 of pay, timekeeping, and provision of wage statements and final wages. These types of claims are
9 commonly held to be proper for class certification. *See e.g., Benton v. Telecom Network Specialists,*
10 *Inc.* (2013) 220 Cal.App.4th 701, 726 (certifying meal and rest period claims); *Sav-On Drug Stores,*
11 *Inc. v. Superior Court* (2004) 34 Cal.4th 319, 324 (certifying exemption misclassification and
12 unpaid overtime claim).

13 The typicality requirement is satisfied where class representatives have claims that are
14 typical of those of the rest of the class. *B.W.I. Custom Kitchen v. Owens-Illinois, Inc.* (1987) 191
15 Cal.App.3d 1341, 1347 (finding typicality satisfied where named Plaintiffs purchased the same
16 goods as the putative class in a consumer class action). Here, Plaintiffs’ claims are typical of those
17 held by the Class Members. First, Defendant employed Plaintiffs as non-exempt employee during
18 the Class Period, and Plaintiffs were subject to Defendant’s wage and hour policies at issue in this
19 case. Paiz Decl., ¶¶ 2-3; Pililian Decl., ¶¶ 2-3. Second, Plaintiffs allege they were injured by the
20 same challenged policies/practices that allegedly injured the Class as a whole: meal/rest period
21 violations, regular rate violations resulting in underpayment of wages, and derivative statutory and
22 civil penalties. Paiz Decl., ¶ 3; Pililian Decl., ¶ 3. Because Plaintiffs suffered the same injuries as
23 the other members of the Class, the typicality requirement is satisfied.

24 The adequacy requirement examines conflicts of interest between named parties and the
25 class(es) they seek to represent. *See Capital People First v. State Dept. of Developmental Services*
26 (2007) 155 Cal.App.4th 676, 697. Plaintiffs and Class Counsel will adequately represent the Class,
27 as there are no conflicts between Plaintiffs and the proposed Class, and Plaintiffs possesses claims
28 that are in line with those of the Class. Sung Decl., ¶ 37; Paiz Decl., ¶ 5; Pililian Decl., ¶ 6; *see*

1 *McGhee v. Bank of America* (1976) 60 Cal.App.3d 442, 450-51 (adequacy satisfied where there was
2 no indication that Class Counsel were not qualified and the named plaintiff had no interests
3 antagonistic to those of the proposed class). Class Counsel also have extensive experience in wage
4 and hour class action litigation. *See* Sung Decl., ¶¶ 2-7; Luu Decl., ¶¶ 2-6; Ramli Decl., ¶¶ 2-6.

5 **C. THE COURT SHOULD ORDER DISTRIBUTION OF THE CLASS NOTICE**

6 This Court should order distribution to the Class of the proposed Class Notice by U.S. Mail,
7 postage prepaid using the last known mailing address information provided by Defendant. *See*
8 Agreement, §§ 1.8, 7.4.2, **Exhibit A** (Class Notice). The Class Notice will be distributed in English
9 and Spanish. Agreement, § 1.11. This manner of giving notice is the “best notice practicable” under
10 the circumstances because it provides “individual notice to all members who can be identified
11 through reasonable effort.” *See Eisen v. Carlisle & Jacquelin* (1974) 417 U.S. 156, 173.

12 Here, the Parties have agreed that the Settlement be administered by Phoenix Settlement
13 Administrators (“Administrator”), an experienced class action settlement administrator. *See*
14 *generally* Declaration of Jodey Lawrence (“Administrator Decl.”) and attached exhibits. Class
15 Members’ addresses will be ascertainable through Defendant’s personnel and payroll records,
16 which Defendant will provide to the Administrator within 21 days of preliminary approval of the
17 Settlement. Agreement, § 4.2. Within 14 days of receipt of the Class Members’ addresses, the
18 Administrator will run the names of all Class Members through the National Change of Address
19 database to update addresses and mail the Class Notice to all Class Members. Agreement, § 7.4.2.
20 To the extent that any notices are returned, the Administrator will perform a “skip trace” to track
21 any Class Member’s current mailing address and remail the notice within 3 business days.
22 Agreement, § 7.4.3.

23 The content of the proposed Class Notice satisfies California Rule of Court 3.766(d) because
24 it advises Class Members of the nature of the claims, basic contentions and denials of the parties,
25 and the key terms of the Settlement, the 45-day deadline to opt-out or object to the Settlement and
26 the procedures by which to do so, explains the recovery formula and expected recovery amount for
27 each Class Member, and advises them that they will be bound by the terms of the Agreement if they
28 do not opt-out. *See* Agreement, **Exhibit A** (Class Notice). The proposed Class Notice will also

1 notify Class Members of the final approval hearing date and provides the Class contact information
2 for Class Counsel and advises Class Members that they may enter an appearance through counsel if
3 they wish to. *Ibid.* This manner of giving notice satisfies California Rule of Court 3.766(e) as the
4 most reliable and cost-effective method of reaching Class Members.

5 **D. THE COURT SHOULD SET A FINAL APPROVAL HEARING**

6 Finally, this Court should set a hearing for Final Approval of the Settlement on a date
7 appropriately scheduled to follow the deadline by which Class Members must file objections to the
8 Settlement or opt-out. *See* California Rule of Court 3.769.

9 **V. CONCLUSION**

10 For the foregoing reasons, Plaintiffs respectfully request that the Court preliminarily approve
11 the proposed Settlement, provisionally certify the Class, and enter the Proposed Order submitted
12 concurrently herewith.

13
14 DATED: March 19, 2026

Respectfully submitted,

15 **JUSTICE FOR WORKERS, P.C.**

16
17 By: 

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