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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES – SPRING STREET COURTHOUSE

DANIEL ROESSLER, an individual, on behalf of himself and all others similarly situated,

Plaintiff,

vs.

POPULUS GROUP, LLC, a Michigan limited liability company; SAMSUNG ELECTRONICS AMERICA, INC., a New York corporation; and DOES 1 through 50, inclusive,

Defendants

CASE NO.: 24STCV32796

[Assigned for all purposes to the Hon. Samantha Jessner, Dept. SS-7]

PLAINTIFF'S NOTICE OF MOTION AND MOTION FOR PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT

[Filed concurrently with Declarations of Matthew W. Gordon and Daniel Roessler; and [Proposed] Order Granting Preliminary Approval]

Date: November 4, 2026
Time: 11:00 a.m.
Dept.: SS-7

Complaint Filed: December 12, 2024
Trial Date: None Set

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

PLEASE TAKE NOTICE that on November 4, 2026 at 11:00 a.m., or as soon thereafter as the matter may be heard, in Department SS-7 of the Los Angeles County Superior Court, Spring Street Courthouse, located at 312 North Spring Street, Los Angeles, California 90012, Plaintiff Daniel Roessler ("Plaintiff") will, and hereby does, move this Court for entry of an order, pursuant to rules 3.766 and 3.769 of the California Rules of Court and Code of Civil Procedure section 382, as follows:

1. Granting preliminary approval of the Class Action and PAGA Settlement Agreement ("Settlement" or "Agreement");

2. Provisionally certifying the following Class for settlement purposes only: (i) all current and former hourly-paid, non-exempt employees of Defendant Samsung Electronics America, Inc. in the State of California at any time during the Class Period, and (ii) all current and former hourly-paid, non-exempt employees of Defendant Populus Group, LLC who were assigned to work at Defendant Samsung Electronics America, Inc. in the State of California at any time during the Class Period;

3. Appointing Plaintiff Daniel Roessler as the Class Representative;

4. Appointing Matern Law Group, PC as Class Counsel;

5. Appointing Apex Class Action, LLC as the Administrator;

6. Approving the proposed Court Approved Notice of Class Action and PAGA Settlement and Hearing Date for Final Court Approval ("Class Notice"); and

7. Scheduling a Final Approval Hearing.

Good cause exists for the granting of this motion as the proposed Settlement is fair, adequate, and reasonable. Additionally, the proposed Class Notice process complies with rules 3.766 and 3.769 of the California Rules of Court, and mailing (via regular First-Class U.S. mail) the Class Notice to the Class Members' most last known mailing addresses is an appropriate form of giving notice. Provisional certification of the Class is appropriate because the proposed Class is ascertainable, common questions of law and fact predominate over any individualized questions, Plaintiff's claims are typical of those of Class Members, Plaintiff and his counsel have adequately represented, and will continue to adequately represent, the Class, and proceeding as a class action is a superior means of resolving this dispute.

This motion is based upon this notice, the attached Memorandum of Points and Authorities, the accompanying Declarations of Matthew W. Gordon and Daniel Roessler, and exhibits thereto, the complete files and records of this case, and any other evidence or oral argument which may be considered by the Court at the time of the hearing.

DATED: August 11, 2026 MATERN LAW GROUP, PC

By: ______________________________
MATTHEW J. MATERN
MATTHEW W. GORDON
ISABELLE C. SHEPARD
Attorneys for Plaintiff DANIEL ROESSLER
on behalf of himself and all others similarly situated

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MEMORANDUM OF POINTS AND AUTHORITITES

I. INTRODUCTION

Plaintiff Daniel Roessler ("Plaintiff") has reached a global settlement with Defendants Populus Group, LLC ("Populous") and Samsung Electronics America, Inc. ("SEA") (collectively, "Defendants") (Plaintiff and Defendants are collectively, the "Parties") of Plaintiff's wage and hour claims. Those claims are based on Defendants' alleged failure to provide Plaintiff and Class Members legally compliant meal and rest periods, failure to pay minimum and overtime wages, failure to provide accurate itemized wage statements, and failure to timely pay all wages owed. Plaintiff now seeks preliminary approval of the Parties' Class Action and PAGA Settlement Agreement ("Settlement" or "Agreement").

In exchange for a release of claims, Defendants have agreed to an all-inclusive, non-reversionary settlement of **$950,000.00**. A presumption of fairness exists as the proposed Settlement was reached through extensive, arm's-length negotiations with the assistance of an experienced mediator, sufficient investigation and informal discovery were conducted to allow Plaintiff's counsel to act intelligently, and Plaintiff's counsel has extensive experience in similar wage-and-hour class and representative action litigation.

Preliminary approval is appropriate because the proposed Settlement is within the "ballpark" of reasonableness and is fair, adequate, and reasonable to the putative Class Members, the State of California, and the Aggrieved Employees. If the Court approves the Settlement, it is estimated that Class Members will receive, on average, **$1,636.82**.

Provisional certification of the Class for settlement purposes is appropriate because the proposed Class is ascertainable and sufficiently numerous (335 individuals), common questions of law and fact predominate over any individualized questions, Plaintiff's claims are typical of those of the Class Members, Plaintiff and his counsel have adequately represented, and will continue to adequately represent, the Class, and proceeding as a class action is a superior means of resolving this dispute. Accordingly, Plaintiff requests that the Court grant preliminary approval.

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II. FACTUAL AND PROCEDURAL BACKGROUND

A. The Parties

SEA is a sales and marketing subsidiary that markets consumer electronics. Declaration of Matthew W. Gordon ("Gordon Decl.") ¶ 5. Populus is a staffing agency that placed employees to work at SEA. *Id.*

Plaintiff was hired by Populus and placed to work at SEA as a non-exempt Talent Acquisition Partner from approximately January 4, 2022 to January 2025. *Id.* at ¶ 6.

B. Procedural History

On August 1, 2024, Plaintiff gave written notice to the California Labor and Workforce Development Agency ("LWDA") and to Defendants of the specific provisions of the Labor Code Defendants allegedly violated, including the facts and theories to support the alleged violations. Gordon Decl. ¶ 7. The LWDA did not respond to the notice. *Id.*, Exh. A.

On December 12, 2024, Plaintiff filed a complaint against Defendants and Samsung Research America, Inc. ("SRA") in Los Angeles County Superior Court, alleging causes of action for (1) Failure to Provide Required Meal Periods; (2) Failure to Provide Required Rest Periods; (3) Failure to Pay Overtime Wages; (4) Failure to Pay Minimum Wages; (5) Failure to Pay All Wages Due to Discharged and Quitting Employees; (6) Failure to Furnish Accurate Itemized Wage Statements; (7) Failure to Indemnify for Necessary Expenditures Incurred in Discharge of Duties; (8) Unfair and Unlawful Business Practices; and (9) Penalties under the Labor Code Private Attorneys General Act of 2004 ("PAGA"). *Id.* at ¶ 8.

On December 18, 2025, Plaintiff filed a request to dismiss SRA as a defendant, which was granted on December 24, 2025. *Id*. at ¶ 9.

On January 5, 2026, Plaintiff filed an individual whistleblower action against Defendants in Los Angeles County Superior Court, alleging claims for retaliation, whistleblower retaliation, and wrongful termination. *Id.* at ¶ 10. The proposed settlement of this class action does not waive or dispose of Plaintiff's claims in his individual action. *Id.*

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C. Investigation and Discovery

Prior to filing the Action, Plaintiff's counsel interviewed Plaintiff, investigated Plaintiff's claims, and conducted legal research regarding Plaintiff's claims and Defendant's potential defenses. Gordon Decl. ¶ 11.

Prior to the mediation, Defendants produced written employment policy documents in effect during the class and PAGA periods, as well as the complete time and pay records of SEA's employees and Populus' employees placed at SEA from December 12, 2020 through April 7, 2026. *Id.* at ¶ 12. For SEA, the time and pay data contained records for 177 employees, 92,167 shifts, and 10,047 pay periods. *Id.* For Populus, the time data contained records for 100 employees, 14,847 shifts, and 3,129 pay periods. *Id.*

Plaintiff retained an expert to conduct an analysis and extrapolation of the time and payroll data and to create a damages and penalties model for the mediation. *Id.* at ¶ 13. Based on the data provided by Defendants, Plaintiff's expert prepared a damages and penalties model prior to mediation, which allowed Plaintiff to act intelligently and effectively in negotiating the proposed Settlement. *Id.*

D. Settlement Negotiations

On January 13, 2026, the Parties participated in a global, all-day mediation with well-respected and experienced mediator Hon. Angela M. Bradstreet (Ret.), which resulted in this Settlement. Gordon Decl. ¶ 14.

The settlement discussions were hard-fought, conducted at arm's length and not collusive, as demonstrated by the fact that the Parties, through their experienced counsel, worked with an objective and experienced mediator, and were fully informed of the relative strengths of the claims and the defenses thereto. *Id.* at ¶ 15. The Settlement is the result of an informed analysis of Defendants' potential liability exposure in relation to the costs and risks associated with continued litigation. *Id.* The Parties went into the mediation willing to explore the potential for a settlement of the lawsuit, but Plaintiff was also prepared to litigate their position through trial and appeal if a settlement was not reached. *Id.*

The Agreement was fully executed on August 10, 2026. *Id.* at ¶ 16, Exh. B. On August 11, 2026, Plaintiff submitted a copy of the Agreement to the LWDA. *Id.* at ¶ 17, Exh. C. To date, Plaintiff has not received a response from the LWDA. *Id.*

III. SUMMARY OF THE SETTLEMENT

A. The Class Members and the Aggrieved Employees

The Class Members consist of (i) all current and former hourly-paid, non-exempt employees of SEA in the State of California at any time during the Class Period, and (ii) all current and former hourly-paid, non-exempt employees of Populus who were assigned to work at SEA in the State of California at any time during the Class Period. Agreement ¶ 1.5. The Class Period is the time period from December 12, 2020 through April 7, 2026. *Id*. at ¶ 1.12.

There are approximately 335 Class Members who collectively worked approximately 28,641 Workweeks during the Class Period. Agreement ¶ 4.1.

The Aggrieved Employee consist of (i) all current and former hourly-paid, non-exempt employees of SEA in the State of California at any time during the PAGA Period, and (ii) all current and former hourly-paid, non-exempt employees of Populus who were assigned to work at SEA in the State of California at any time during the PAGA Period. Agreement ¶ 1.4. The PAGA Period is the time period from October 8, 2023 through April 7, 2026. *Id*. at ¶ 1.33.

There are approximately 234 Aggrieved Employees who collectively worked approximately 8,390 PAGA Pay Periods during the PAGA Period. Agreement ¶ 4.1.

B. Settlement Terms

Defendants have agreed to pay a non-reversionary Gross Settlement Amount ("GSA") of $950,000.00, which includes the Individual Class Payments, the Individual PAGA Payments, the LWDA PAGA Payment, the Class Representative Service Payment, the Class Counsel Fees Payment, the Class Counsel Litigation Expenses Payment, and the Administration Expenses Payment. Agreement ¶¶ 3.1-3.2. The employer's share of payroll taxes will be paid separately from and in addition to the GSA. *Id.* at ¶ 1.24.

Defendants shall fund the GSA by transmitting the funds to the Administrator no later than 14 days after the Effective Date. Agreement ¶¶ 1.20, 4.2. All payments under the Settlement will be distributed by the Administrator within 14 days after Defendants fund the GSA. *Id.* at ¶ 4.3.

The Net Settlement Amount is the portion of the GSA remaining after deducting the Individual PAGA Payments, the LWDA PAGA Payment, the Administration Expenses Payment, the Class Counsel Fees and Litigation Expenses Payments, and the Class Representative Service Payment. *Id.* at ¶ 1.30. The entirety of the Net Settlement Amount will be distributed to Participating Class Members and there will be no reversion to Defendants. *Id.* at ¶¶ 1.30, 3.1.

The GSA will be allocated as follows, subject to Court approval:

1. Individual Class Payments. Individual Class Payments are the Participating Class Members' respective shares of the Net Settlement Amount calculated according to the number of Workweeks worked during the Class Period. Agreement ¶ 1.25. Individual Class Payments will be allocated as follows: 20% as wages and 80% as penalties and interest. *Id.* at ¶ 3.2.4.1. Each Individual Class Payment will be calculated by: (a) dividing the Net Settlement Amount by the total number of Workweeks worked by all Participating Class Members during the Class Period, and (b) multiplying the result by each Participating Class Member's number of Workweeks. *Id.* at ¶ 3.2.4.

2. Class Representative Service Payment. Subject to Court approval, in addition to his Individual Class Payment and Individual PAGA Payment, Plaintiff will be paid a Class Representative Service Payment not to exceed $10,000.00 for his time, effort, and risks undertaken in bringing and prosecuting the Action and for his general release of all claims excluding his individual action, including a waiver of rights under Civil Code section 1542. Agreement ¶¶ 3.2.1, 5.1, 5.1.1.

3. Class Counsel Fees Payment. Class Counsel shall be entitled to receive reasonable attorney's fees in an amount not to exceed one-third of the GSA, which is $316,666.67. Agreement ¶ 3.2.2.

4. Class Counsel Litigation Expenses Payment. Class Counsel shall be entitled to reimbursement for their litigation expenses incurred in the prosecution of the Action in an amount not to exceed $40,000.00. Agreement ¶ 3.2.2.

5. Administration Expenses Payment. The Parties have chosen Apex Class Action, LLC ("Apex") to administer the proposed Settlement. Agreement ¶ 7.1. Apex will receive no more than $10,000.00 for its services. *Id.* at ¶ 3.2.3. This amount is reasonable given the size of the Class and

the scope of the Administrator's duties. Gordon Decl. ¶ 46. There is no conflict of interest between Plaintiff's counsel and Apex. *Id.*

6. PAGA Penalties. The Parties have allocated $25,000.00 from the GSA to PAGA Penalties, of which 65% ($16,250.00) will be allocated to the LWDA PAGA Payment and the remaining 35% ($8,750.00) will be allocated to the Individual PAGA Payments. Agreement ¶ 3.2.5. The Administrator will calculate Individual PAGA Payments by (a) dividing $8,750.00 by the total number of PAGA Pay Periods worked by all Aggrieved Employees during the PAGA Period, and (b) multiplying the result by each Aggrieved Employee's number of PAGA Pay Periods. *Id.* at ¶ 3.2.5.1.

If an Individual Class Payment or Individual PAGA Payment check remains unclaimed, undeliverable, or expired for more than 180 days after issuance, it shall be transmitted by the Administrator to the California State Controller's Unclaimed Property Fund in the name of the Class Member or Aggrieved Employee, thereby leaving no "unpaid residue" subject to the requirements of California Code of Civil Procedure § 384(b). Agreement ¶¶ 4.3.1, 4.4.3.

C. **The Releases**

Effective upon date that Defendants fund the GSA, all Participating Class Members will release the following claims against the Released Parties:

> [A]ll claims and/or causes of action arising during the Class Period by Participating Class Members against the Released Parties that were or could have been alleged based on the allegations in the Complaint alleging violations of California Labor Code sections 201, 202, 203, 210, 226, 226(a), 226(e), 226.7, 510, 512, 558, 558.1, 1174, 1174.5, 1194, 1194.2, 1197, 1197.1, 1198, 2802, and 2810.3, and the applicable IWC Wage Orders, including inter alia, Wage Order No. 4-2001, including and not limited to: (a) All claims for unpaid wages, including claims for minimum, overtime, and double-time wages, the alleged failure to pay for all time worked, the alleged failure to pay for all time worked at correct rates, and the alleged failure to pay for off-the-clock work, including pre-shift work, post-shift work, and work during meal and rest periods; (b) All claims for off-the-clock work, including claims of unpaid pre- and post-shift work, responding to work-related communications, and alleged improper deductions of time worked and meal breaks taken; (c) All claims for meal period violations, including claims for short, late, missed, interrupted, and/or improperly controlled meal periods, the failure to pay premium wages, the failure to pay premium wages at the correct regular rates, and the failure to properly record meal

> periods; (d) All claims for rest break violations, including claims for short, late, missed, interrupted, and/or improperly controlled rest breaks, the failure to pay premium wages, and the failure to pay premium wages at the correct regular rates; (e) All claims for the untimely payment of final wages and associated waiting time penalties under California Labor Code sections 201, 202, and 203; (f) All claims for unreimbursed business expenses in violation of California Labor Code section 2802; (g) All claims for improper or inaccurate itemized wage statements, including any alleged violations of California Labor Code section 226(a)(1)–(9); (h) All claims for the alleged failure to keep accurate records in violation of California Labor Code sections 226, 1174, and 1174.5 and IWC Wage Order No. 4-2001, section 7; (i) All claims under California Business and Professions Code section 17200 et seq. premised on the facts, claims, and causes of action alleged in the Complaint; (j) All claims arising under or relating to client employer and labor contractor liability pursuant to California Labor Code section 2810.3; and (k) All claims for statutory penalties, liquidated damages, restitution, and equitable and declaratory relief based on the allegations in the Complaint, including but not limited to penalties pursuant to California Labor Code sections 203, 226(e), 226.3, 558, 558.1, 1174.5, 1194.2, 1197.1, and any other applicable statutory penalty provisions of the California Labor Code and IWC Wage Orders. Except as set forth in Paragraph 5.3 of this Agreement, Participating Class Members do not release any other claims, including claims for vested benefits, wrongful termination, violation of the Fair Employment and Housing Act, unemployment insurance, disability, social security, workers' compensation, or claims based on events occurring outside the Class Period.

Agreement ¶ 5.2.

The Released PAGA Claims include:

> [A]ll claims and causes of action for civil penalties under the Private Attorneys General Act, California Labor Code section 2698, et seq. ("PAGA") arising during the PAGA Period, on behalf of the State of California with respect to Aggrieved Employees against the Released Parties that were or could have been alleged based on the allegations in the Complaint and in the PAGA Notice , including all claims for civil penalties based on alleged violations of California Labor Code sections 201, 202, 203, 204, 206.5, 210, 221, 223, 224, 225.5, 226(a), 226.3, 226.7, 256, 510, 512, 558, 558.1, 1174, 1174.5, 1182.12, 1194, 1197, 1197.1, 1198, 1199, 2699, 2802, and 2810.3, and the applicable IWC Wage Orders, including inter alia, Wage Order No. 4- 2001, including and not limited to: (a) All claims for civil penalties under PAGA based on the alleged failure to pay wages earned, including minimum,

> overtime, and doubletime wages; (b) All claims for civil penalties under PAGA based on alleged off-the-clock work, including claims of unpaid pre- and post-shift work, donning and doffing of uniforms, and alleged improper deductions of time worked and meal breaks taken; (c) All claims for civil penalties under PAGA based on the alleged failure to provide compliant meal periods, including claims for short, late, missed, interrupted, and/or improperly controlled meal periods and the failure to pay premium wages; (d) All claims for civil penalties under PAGA based on the alleged failure to provide compliant rest breaks, including claims for short, late, missed, interrupted, and/or improperly controlled rest breaks and the failure to pay premium wages; (e) All claims for civil penalties under PAGA based on the alleged failure to pay wages on a timely basis in violation of California Labor Code section 204; (f) All claims for civil penalties under PAGA based on the alleged failure to provide timely payment of final wages in violation of California Labor Code sections 201 and 202 and waiting time penalties in violation of California Labor Code section 203; (g) All claims for civil penalties under PAGA based on the alleged failure to reimburse employees for all necessary business expenses in violation of California Labor Code section 2802; (h) All claims for civil penalties under PAGA based on the alleged failure to provide accurate itemized wage statements, including any alleged violations of California Labor Code section 226(a)(1)–(9); (i) All claims for civil penalties under PAGA based on the alleged failure to keep accurate records in violation of California Labor Code sections 226, 1174, and 1174.5 and IWC Wage Order No. 4-2001, section 7; (j) All claims for civil penalties under PAGA based on the alleged failure to pay minimum wages; (k) All claims for civil penalties under PAGA based on alleged unlawful deductions and withholdings from employees' wages in violation of California Labor Code sections 221, 223, and 224; (l) All claims for civil penalties under PAGA based on allegations arising under or relating to client employer and labor contractor liability pursuant to California Labor Code section 2810.3; and (m) Any other claims for civil penalties alleged in the Complaint and in the PAGA Notice , including but not limited to civil penalties under California Labor Code sections 206.5, 210, 225.5, 226.3, 256, 558, 558.1, 1174.5, 1182.12, 1197.1, 1198, 1199, 2699, and IWC Wage Order No. 4-2001, section 20.

Agreement ¶ 5.3.

In addition, Plaintiff agrees to a general release of all claims against the Released Parties and a waiver of the rights under Civil Code § 1542. *Id.* at ¶¶ 5.1, 5.1.1. However, Plaintiff's Release does not cover Plaintiff's claims alleged in his separate individual action currently pending in Los Angeles

Superior Court, Case No. 26STCV00186, which are explicitly carved out of Plaintiff's Release. *Id*.

D. <u>Notice and Settlement Administration</u>

No later than 14 calendar days after the Court grants Preliminary Approval of the Settlement, Defendants will provide the Class Data to the Administrator, identifying each Class Member's name, last-known mailing address, Social Security number, and number of Workweeks and PAGA Pay Periods. Agreement ¶¶ 1.8, 7.4.

Within 14 calendar days after receiving the Class Data, the Administrator will send the Class Notice to all Class Members by regular First-Class U.S. Mail. *Id*. at ¶ 7.4.2. Before mailing the Notice Packet, the Administrator will update Class Member addresses using the National Change of Address database. *Id*. Not later than three business days after the Administrator's receipt of any Class Notice returned as undeliverable, the Administrator will re-mail the Class Notice using any forwarding address provided. *Id.* at ¶ 7.4.3. If no forwarding address is provided, the Administrator will conduct a Class Member Address Search and re-mail the Class Notice to the most current address found. *Id.*

Class Members will have 45 calendar days after the Administrator mails the Class Notice to request exclusion from the Settlement, object to the Settlement, or challenge their number of Workweeks and/or PAGA Pay Periods ("Response Deadline"). *Id.* at ¶¶ 1.45, 7.5.1. For those Class Members whose Class Notices were re-mailed, the Response Deadline will be extended an additional 14 calendar days beyond the 45 calendar days to take any of those actions. *Id.* at ¶ 7.4.4.

A Participating Class Member may object to the proposed Settlement by mailing, faxing, or e-mailing written objections to the Administrator on or before the Response Deadline or extended deadline. *Id.* at ¶ 7.7.2. Alternatively, a Participating Class Member can object orally (or personally retain a lawyer to object at their own cost) at the Final Approval Hearing. *Id.*

A Class Member may opt out of the proposed Settlement by sending the Administrator, by fax, e-mail, or mail, a signed letter by the Response Deadline or extended deadline, requesting to be excluded from the Settlement. Agreement ¶ 7.5.1. Aggrieved Employees may not opt out of the Settlement. Agreement, ¶ 1.11, Exh. A, Class Notice, Pg. 2. Any Class Member who timely requests exclusion from the Settlement will still receive an Individual PAGA Payment.

Class Members may challenge the number of Workweeks or PAGA Pay Periods allocated to them by informing the Administrator via fax, e-mail, or mail by the Response Deadline or extended deadline, preferably with supporting documentation. Agreement ¶ 7.6.

IV. ARGUMENT

A. <u>The Court Should Provisionally Certify the Class for Settlement Purposes</u>

Code of Civil Procedure section 382 provides that three basic requirements must be met in order to sustain any class action: (1) there must be an ascertainable class; (2) there must be a well-defined community of interest in the question of law or fact affecting the parties to be represented; and (3) certification will provide substantial benefits to litigants and the courts, i.e., proceeding as a class is superior to other methods. *Fireside Bank v. Superior Court* (2007) 40 Cal.4th 1069, 1089; *see also Sav-On Drug Stores, Inc. v. Superior Court* (2004) 34 Cal.4th 319, 326. Courts utilize a less stringent standard for class certification during settlement. *Global Minerals & Metals Corp. v. Superior Court* (2003) 113 Cal.App.4th 836, 859. The reason: "no trial is anticipated in a settlement class case, so the case management issues inherent in the ascertainable class determination need not be confronted." *Id.*; *see also Amchem Prods, Inc. v. Windsor* (1997) 521 U.S. 591, 620.

1. The Settlement Class Is Ascertainable and Sufficiently Numerous

To determine whether a class is ascertainable, courts looks at: (1) the class definition; (2) the size of the class; and (3) the means available for identifying class members. *Reyes v. Board of Supervisors of San Diego County* (1987) 196 Cal.App.3d 1263, 1271. A class is ascertainable where it is "defined in terms of 'objective characteristics and common transactional facts.'" *Ghazaryan v. Diva Limousine, Ltd.* (2008) 169 Cal.App.4th 1524, 1531-32; *see also Sevidal v. Target Corp*. (2010) 189 Cal.App.4th 905, 919.

Here, the Settlement Class is defined based on objective criteria, as it includes all of Defendants' nonexempt employees in California at any time during the Class Period. Agreement ¶ 1.12.

Class members are ascertainable where "they may be readily identified without unreasonable expense or time by reference to official [or business] records." *Sevidal*, 189 Cal.App.4th at 919. Here, the identity of Class Members may be easily ascertained from Defendants' personnel records.

Gordon Decl. ¶ 12.

The Class is also sufficiently numerous. In California, no set number is required as a matter of law for the maintenance of a class action. *Rose v. City of Hayward* (1981) 126 Cal.App.3d 926, 934 (finding that class of 42 was sufficiently numerous). The Class consists of 335 individuals. Gordon Decl. ¶ 12, 26. Thus, the Class is ascertainable and the numerosity requirement is satisfied.

2. The Settlement Class Shares a Well-Defined Community of Interest

The community of interest requirement embodies three factors: (1) predominant questions of law and fact; (2) class representatives with claims or defenses typical of the class; and (3) class representatives who can adequately represent the class. *Dunk v. Ford Motor Co.* (1996) 48 Cal.App.4th 1794, 1806; *Richmond v. Dart Indus. Inc.* (1981) 29 Cal.3d 462, 473-475. In this case, all three factors are met.

a. *Common Issues of Law and Fact Predominate*

The commonality criterion requires the existence of a common question of law or fact and is generally established with the issues of predominance and typicality. *Daar v. Yellow Cab Co.* (1967) 67 Cal.2d 695, 713-14. All that is required is a common question of fact or law exists which predominates over issues unique to an individual plaintiff. The existence of individual issues or facts is not a bar to class certification as long as they do not render class litigation unmanageable or predominate over the common issues. *See B.W.I. Custom Kitchen v. Owens-Illinois, Inc.* (1987) 191 Cal.App.3d 1341, 1354 ("presence of individual damages issues cannot bar certification").

Here, Plaintiff's claims present common issues of law and fact that predominate over individual issues and thus warrant class certification. Among other allegations, Plaintiff contends that Defendants failed to provide compliant meal and rest periods because of Defendants' insufficient written policies and timekeeping systems. Gordon Decl. ¶ 18. Plaintiff further alleges that Defendants failed to reimburse employees for expenditures necessary to perform job duties while working remotely such as computer monitors. *Id*. Plaintiff contends that these alleged violations were the result of common policies and practices implemented by Defendants that were uniform as to all of their non-exempt employees in California staffed at SEA. *Id.* Thus, class treatment is appropriate.

b. *Plaintiff's Claims Are Typical of the Claims of the Class*

To satisfy the typicality requirement, California law does not require that plaintiffs have claims identical to the other class members. Rather, the test of typicality for a class representative is whether other members have the same or similar injury, whether the action is based on conduct which is not unique to the named plaintiff, and whether other class members have been injured by the same course of conduct. *Seastrom v. Neways, Inc*. (2007) 149 Cal.App.4th 1496, 1502. The typicality requirement for a class representative refers to the nature of the claim or defense of the representative, and not to the specific facts from which it arose or the relief sought. *Id*. Here, as Plaintiff and the Class Members' claims are based on the same legal theories, and arise out of the same unlawful policies and practices, the typicality requirement is satisfied. Gordon Decl. ¶ 18; Roessler Decl. ¶ 7.

c. *Plaintiff and Counsel Will Fairly and Adequately Represent the Class*

The question of adequacy of representation "depends on whether the plaintiff's attorney is qualified to conduct the proposed litigation in the plaintiff's interest or not antagonistic to the interests of the class." *McGee v. Bank of Am.* (1976) 60 Cal.App.3d 422, 450. Here, Plaintiff's counsel are well-regarded and accomplished attorneys who are qualified and experienced in wage-and-hour class action litigation. Gordon Decl. ¶¶ 36-45. Furthermore, because Plaintiff's claims are typical of those of the other Class Members and are not based on unique circumstances that might jeopardize the claims of the Class, there is no conflict of interest between Plaintiff and the other Class Members. Gordon Decl. ¶ 28; Roessler Decl. ¶ 14. Plaintiff will make an adequate Class Representative based on his commitment to the Action and the time, effort, risks, and waiver of rights they have undertaken. Gordon Decl. ¶¶ 28-35; Roessler Decl. ¶¶ 5, 11-14.

3. Proceeding as a Class Action Is Superior to Individual Actions

Under the circumstances, proceeding as a class action is a superior means of resolving this dispute, as the Class Members and the Court will derive substantial benefits. Class certification and the imposition of civil penalties would serve as the only means to deter and redress the alleged Labor Code violations. *See Linder v. Thrifty Oil Co*. (2000) 23 Cal.4th 429, 434 (relevant considerations include the probability that each class member will come forward ultimately to prove his or her separate claim to a portion of the total recovery and whether the class approach would actually serve to deter and redress the alleged wrongdoing). Furthermore, individual actions arising out of the same operative facts would unduly burden the courts and could produce inconsistent results, which may be avoided by proceedings on a classwide basis.

B. <u>The Court Should Grant Preliminary Approval of the Proposed Settlement</u>

Review of a proposed class action settlement is a two-step process. The first step is a preliminary hearing to determine whether the proposed settlement is "within the range of possible approval" and whether notice to the class of the settlement terms and scheduling of a final fairness hearing should be approved. *Armstrong v. Bd. of Sch. Directors of City of Milwaukee* (7th Cir. 1980) 616 F.2d 305, 314, overruled on other grounds by *Felzen v. Andreas* (7th Cir. 1998) 134 F.3d 873; *Wershba v. Apple Computer Inc.* (2001) 9l Cal.App.4th 224, 234-35, disapproved on other grounds in *Hernandez v. Restoration Hardware, Inc.* (2018) 4 Cal.5th 260, 269. To determine whether a class settlement is fair, adequate, and reasonable a court must be provided with basic information about the nature and magnitude of the claims in question and the basis for concluding that the consideration being paid for the release of those claims represents a reasonable compromise. *Clark v. Am. Residential Srvs. LLC* (2009) 175 Cal.App.4th 785, 790, 802-03. The trial court must exercise its discretion through the application of several well-recognized factors when deciding whether a class action settlement is fair. *Id*.

The list of factors, which "is not exhaustive and should be tailored to each case," includes "the strength of Plaintiff's case, the risk, expense, complexity and likely duration of further litigation, the risk of maintaining class action status through trial, the amount offered in settlement, the extent of discovery completed and the stage of the proceedings, the experience and views of counsel, the presence of a governmental participant, and the reaction of the class members to the proposed settlement." *Kullar v. Foot Locker Retail Inc.* (2008) l68 Cal.App.4th 116, 128 (quoting *Dunk*, 48 Cal.App.4th at 1801). The most important factor the trial court should consider in determining whether to approve a class action settlement is the strength of the case on the merits balanced against the amount offered in settlement. *Munoz v. BCI Coca Cola Bottling Co. of Los Angeles* (2010) 186 Cal.App.4th 399, 408; *Kullar*, 168 Cal.App.4th at 130. In order to approve a class action settlement, the court must satisfy itself that the class settlement is within the "ballpark" of reasonableness.

Kullar, 168 Cal.App.4th at 133.

Here, the proposed Settlement merits preliminary approval as it is supported by experienced counsel, it was preceded by extensive investigation and informal discovery, it was reached with the assistance of an experienced mediator, it extinguishes the risks of continued litigation, it provides significant financial recovery to Participating Class Members, and provides a fair, adequate and reasonable distribution of settlement proceeds to Participating Class Members that is in their best interests. Gordon Decl. ¶¶ 13-17; 19-27; 36-45.

1. The Proposed Settlement Is Entitled to a Presumption of Fairness

A presumption of fairness exists where: (1) the settlement is reached through arm's-length bargaining; (2) investigation and discovery are sufficient to allow counsel and the court to act intelligently; (3) counsel are experienced in similar litigation; and (4) the percentage of objectors is small. *Dunk*, 48 Cal.App.4th at 1806; *In re Microsoft I-V Cases* (2006) 135 Cal.App.4th 706, 723; *7-Eleven Owners for Fair Franchising v. Southland Corp*. (2000) 85 Cal.App.4th 1135, 1146. Based on the arm's-length negotiations, the extensive investigation and discovery that allowed Plaintiff's counsel to act intelligently, and the fact that Plaintiff's counsel are experienced in wage-and-hour class actions, the proposed Settlement is entitled to a presumption of fairness.[1]

a. The Proposed Settlement Was Reached through Arm's-Length Bargaining

Here, the proposed Settlement is the product of hard-fought and arm's-length negotiations between experienced counsel with the assistance of a respected mediator over the course of a full-day mediation. Gordon Decl. ¶¶ 15-17. Counsel were fully informed of the relative strengths of the claims and defenses thereto and the proposed Settlement is the result of an informed analysis of Defendants' potential liability exposure in relation to the costs and risks associated with continued litigation. *Id.* at ¶ 16.

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[1] At preliminary approval, the fourth factor—the percentage of objectors—is not applicable, as notice has not yet been provided and class members have not yet had an opportunity to object.

b. Plaintiff Conducted Extensive Investigation and Discovery

Prior to mediation, Plaintiff investigated and researched Plaintiff's claims and Defendants' anticipated defenses, obtained Defendants' relevant written wage and hour policies, and obtained the complete time and pay records of Defendants' non-exempt employees in California from December 12, 2020 through April 7, 2026. Gordon Decl. ¶ 12. For SEA, the time and pay data contained records for 177 employees, 92,167 shifts, and 10,047 pay periods. *Id*. For Populus, the time data contained records for 100 employees, 14,847 shifts, and 3,129 pay periods. *Id*.

Plaintiff retained an expert in data analysis to review and analyze this data sample and prepared a damages and penalties model for the mediation. *Id*. at ¶ 13. Accordingly, Plaintiff's counsel was able to act intelligently and effectively in negotiating the proposed Settlement. *Id*.

c. Plaintiff's Counsel Has Extensive Experience in Class Actions

The settlement negotiations were conducted by highly capable and experienced counsel. Gordon Decl. ¶¶ 36-45. Plaintiff's counsel has a strong and lengthy record of vigorous and effective advocacy for their clients and are experienced in handling complex wage and hour class action and PAGA litigation. *Id.*

2. The Proposed Settlement Is Fair, Adequate, and Reasonable

The trial court has "broad discretion to determine "whether a settlement [is] fair and reasonable." *In re Cellphone Fee Termination Cases* (2010) 186 Cal.App.4th 1380, 1389. In order to evaluate whether a class settlement is fair, adequate, and reasonable, courts must be provided with "basic information about the nature and magnitude of the claims in question and the basis for concluding that the consideration being paid for the release of those claims represents a reasonable compromise." *Kullar*, 168 Cal.App.4th at 133; *Clark*, 175 Cal.App.4th at 802-03. A settlement is not judged against what might have been recovered had a plaintiff prevailed at trial, nor does the settlement need to recoup the maximum amount of damages available to be found fair and reasonable. *Wershba*, 9l Cal.App.4th at 246, 250.

In considering whether a settlement is reasonable, the trial court should consider relevant factors, which may include the strength of a plaintiff's case, the risk, expense, complexity and likely duration of further litigation, the risk of maintaining class action status through trial, the amount offered in settlement, the extent of discovery completed and the stage of the proceedings, the experience and views of counsel, the presence of a governmental participant, and the reaction of the class members to the proposed settlement. *Kullar*, 168 Cal.App.4th at 128.

Plaintiff's counsel has satisfied the *Kullar* analysis by providing the Court with a detailed evaluation of the maximum potential damages and penalties of the claims that were alleged in this matter. Gordon Decl. ¶ 19. In doing so, Plaintiff's counsel calculated the maximum potential damages and penalties to be approximately $13,209,383. *Id*. This amount constitutes a reasonable estimate of the potential recovery, excluding interest, costs, and fees, that could be obtained on behalf of the Class if Plaintiff prevailed in an "everything-goes-right" scenario. *Id*.

Here, the proposed Settlement is fair, adequate, and reasonable. Plaintiff and his counsel considered several factors in reaching the decision to settle at this point in the litigation, including: (a) the risk, expense, time-consuming and uncertain proposition of proving liability, damages and penalties at trial; (b) obtaining the cooperation of current employees would be difficult, given their likely reluctance to aid in the prosecution of a lawsuit against their employer and their likely willingness to assist Defendants; (c) Defendants strenuously deny that they committed any Labor Code violations and contend the class claims are not suitable for class certification under the standard applied to contested certification motions because individual issues and affirmative defenses (allegedly) would predominate should this case go to trial; (d) the potential difficulties in establishing and maintaining certification of the class; (e) the risk that the Court could find the trial unmanageable; (f) continued litigation could lead to an unfavorable judgment and/or a lengthy and unsuccessful appeal and delay any positive recovery for the Class Members; and (g) this area of the law is constantly evolving, creating uncertainty for employees. *Id.* at ¶ 20. Plaintiff further considered the likelihood that a court would substantially reduce any award of civil penalties on the grounds that they were "unjust, arbitrary and oppressive, or confiscatory" pursuant to Labor Code section 2699(e)(2). *Id*. at ¶ 21.

While Plaintiff and his counsel are confident in the merits of Plaintiff's claims, a legitimate controversy exists as to each cause of action. *Id.* at ¶¶ 22-23. All of these risks are obviated by the Settlement. *Id.* at ¶ 24. Because of the proposed Settlement, Class Members will receive timely relief with significant financial recovery. *Id*. Based on an estimated Net Settlement Amount of **$548,333.33**, each Class Member, on average, stands to receive a gross Individual Settlement Payment of approximately **$1,636.82**, and each Aggrieved Employee will receive an average Individual PAGA Payment of approximately **$37.39**. *Id*. at ¶¶ 25-26. Accordingly, the Settlement is in the best interest of the Class and an excellent result for Class Members. *Id.* at ¶ 27.

In sum, when the costs and risks of continued litigation, the uncertainties involved in prevailing at trial, the burdens of proof necessary to establish classwide liability, and the probability of appeal of a favorable judgment are balanced against the merits of Plaintiff's claims, it is clear that the non-reversionary GSA of $950,000.00 is within the "ballpark" of reasonableness. *Id*. Although Plaintiff's counsel was prepared to litigate the claims through trial, they support the proposed Settlement as being in the best interests of the Class, the State of California, and the Aggrieved Employees. *Id.* ¶¶ 18, 27.

C. **The Proposed Class Notice Is an Appropriate Form of Giving Notice to the Class and Satisfies Due Process**

"The principal purpose of notice to the class is the protection of the integrity of the class action process." *Cartt v. Superior Court* (1975) 50 Cal.App.3d 960, 970. The notice "'must fairly apprise the class members of the terms of the proposed compromise and of the options open to the dissenting class members.'" *Wershba*, 91 Cal.App.4th at 224, 251. Additionally, the notice given should have a reasonable chance of reaching a substantial percentage of the class members. *Cartt*, 50 Cal.App.3d at 974. However, there is no statutory or due process requirement that all class members receive the notice. *Id*.

The notice plan in this matter is consistent with class notices approved in state and federal courts, is the best notice practicable, and is the method of dissemination likely to give the best actual notice to the greatest number of Class Members. Direct mail notice to Class Members' last known addresses is the best possible notice under the circumstances. *See Mullane v. Central Hanover Bank & Trust Co.* (1950) 339 U.S. 306, 319; *Eisen v. Carlisle & Jacquelin* (1974) 417 U.S. 156, 173-176.

In accordance with the proposed notice plan, the Administrator will send each Class Member the Class Notice via regular U.S. First-Class mail. Agreement ¶ 4.3.1. Prior to mailing the Class

Notice, the Administrator will perform a search using the National Change of Address List to update and correct any known or identifiable address changes. *Id*.

The proposed Class Notice provides all of the information a reasonable person would need to make an informed decision about the Settlement. Agreement ¶ 1.11, Exh. A. It sets forth the material terms of the Settlement, the proposed fees and costs of administration, details about the Final Approval Hearing and Class Members' rights and options (and their consequences), including the submission of objections and how Class Members can obtain additional information. *Id.*

The Class Notice makes clear that each Class Member will receive an Individual Class Payment unless he or she opts out of the settlement and explains the process for doing so. *Id.* The Class Notice comports with the requirements of rules 3.766 and 3.769 of the California Rules of Court. Accordingly, the proposed Class Notice should be approved by the Court.

D. <u>The PAGA Settlement Is Fair, Adequate, and Reasonable and Fulfills PAGA's Underlying Purpose to Benefit the Public</u>

The PAGA statute specifically provides that "[t]he superior court shall review and approve any settlement of any civil action filed pursuant to this part." Lab. Code, § 2699, subd. (s)(2). Although the statute does provide the standard for evaluating a PAGA settlement, California's First District Court of Appeal held that the standard is "fair, adequate, and reasonable" as well as meaningful and consistent with the purposes of PAGA." *Moniz v. Adecco USA, Inc.* (2021) 72 Cal.App.5th 56, 64, disapproved of on other grounds by *Turrieta v. Lyft, Inc.* (2024) 16 Cal.5th 664, 710. In ascertaining the fairness of a PAGA settlement, the trial court may consider many of the same factors used to evaluate the fairness of class action settlements, "including the strength of the plaintiff's case, the risk, the stage of the proceeding, the complexity and likely duration of further litigation, and the settlement amount." *Moniz,* 72 Cal.App.5th at 77.

The California Legislature enacted PAGA to "augment the limited enforcement capability of the [LWDA] by empowering employees to enforce the Labor Code as representatives of the Agency." *Iskanian v. CLS Transp. Los Angeles, LLC* (2014) 59 Cal.4th 348, 383, abrogated in part on other grounds by *Viking River Cruises v. Moriana* (2022) 596 U.S. 639, 662. PAGA authorizes an employee to bring an action for "civil penalties on behalf of the state against his or her employer for

Labor Code violations committed against the employee and fellow employees." *Id.* at 360. An action under PAGA to recover civil penalties "is essentially a law enforcement action designed to protect the public and not benefit private parties." *Id.* at 381. "As the state's proxy, an employee-plaintiff may obtain civil penalties for violations committed against absent employees [citation], just as the state could if it brought an enforcement action directly." *Id.*

A PAGA action is one of the "primary mechanisms for enforcing the Labor Code." *Iskanian,* 59 Cal.4th at 383. As the state's proxy or agent, "the employee plaintiff represents the same legal right and interest as state labor law enforcement agencies—namely, recovery of civil penalties that otherwise would have been assessed by and collected by the [LWDA]." *Id.* "[A]n aggrieved employee's action under [PAGA] functions as a substitute for an action brought by the government itself." *Id.* The goal of PAGA is to impose civil penalties for Labor Code violations "significant enough to deter violations." *Id.* at 379.

Here, the Settlement provides for civil penalties that meet the standard enunciated in *Moniz.* The PAGA claims will be settled for $25,000.00, which is consistent with PAGA's goal of deterring future violations and providing a benefit to the public through enforcement of state labor laws. *Moniz,* 72 Cal.App.5th at 77. It is significant enough to deter Defendants from future violations (Defendants deny that they have committed any violations whatsoever), creating an effective disincentive for Defendants to engage in unlawful business practices. The Settlement provides a substantial benefit to the State of California, with the LWDA receiving $16,250.00 to assist with the enforcement of labor laws with the remainder ($8,750.00) shared among the Aggrieved Employees. Agreement ¶ 3.2.5. The same factors discussed above with respect to settlement of the class claims apply with equal force to the PAGA settlement. Accordingly, the Settlement fulfills the underlying purpose of the statute and confers a substantial benefit on the public.

The PAGA Penalties allocation is a generous 2.63 percent of the GSA that is on the higher end of the zero-to-three-percent range generally approved by courts. *See, e.g., Nordstrom Comm. Cases* (2010) 186 Cal.App.4th 576, 589 (no abuse of discretion in approving a settlement that allocated $0 to the PAGA claims, where the penalty claims were at issue and resolved as part of the overall settlement of the case); *Gilmore v. McMillan-Hendryx Incorporated* (E.D. Cal., Jan. 20, 2022, No. 1:20-CV-00483-HBK) 2022 WL 184004, at *4 (approving 2.3 percent PAGA allocation of total settlement amount); *Martinez v. Helzberg's Diamond Shops* (C.D. Cal., Apr. 12, 2021, No. EDCV201085PSGSHKX) 2021 WL 4730914, at *10 ("PAGA allocation represents approximately two percent of the $475,000 [settlement fund] which is in the range generally approved by courts."); *de Cabrera v. Swift Beef Co.* (C.D. Cal., Nov. 23, 2020, No. ED-CV-18-2551-PSG-Ex) 2020 WL 13585929, at *9 (PAGA allocation of 0.1 percent of gross settlement approved); *Alcala v. Meyer Logistics, Inc.* (C.D. Cal., June 17, 2019, No. CV177211PSGAGRX) 2019 WL 4452961, at *9 (finding PAGA allocation of 1.25 percent of the $400,000 settlement fund reasonable); *Erami v. JPMorgan Chase Bank* (C.D. Cal., Dec. 3, 2018, No. CV157728PSGPLAX) 2018 WL 11352374, at *6 (approving PAGA settlement which represents 0.9 percent of the total settlement amount).

"There is no express or even baseline percentage of recovery required [because] [u]nder the express terms of the PAGA, a verdict value is not guaranteed even if the plaintiff prevails, as courts have discretion to lower the amount of penalties based on the circumstances of a particular case." *Gilmore,* 2022 WL 184004, at *2 (court "may award a lesser amount than the maximum civil penalty amount [when] to do otherwise would result in an award that is unjust, arbitrary and oppressive, or confiscatory."), citing Lab. Code, § 2699, subd. (e)(2). Thus, the PAGA portion of the Settlement comports with California law.

E. The Requested Class Representative Service Payment Is Justified

Plaintiffs in class action lawsuits are eligible for reasonable service payments as compensation "for the expense or risk they have incurred in conferring a benefit on other members of the class." *Munoz*, 186 Cal.App.4th at 412. The Settlement provides for a Class Representative Service Payment not to exceed $10,000.00 for Plaintiff. Agreement ¶ 3.2.1. The requested service award is reasonable according to controlling and persuasive case law. *See Clark*, 175 Cal.App.4th at 805-806. The award is intended to recognize the time, effort, and risks Plaintiff undertook on behalf of the Class. Gordon Decl. ¶¶ 29-35.

Throughout this litigation, Plaintiff cooperated with his counsel and took actions to protect the interests of the Class, including: maintaining regular contact with his counsel, searching for and providing his counsel with information and documents to support his claims, discussing his work experiences with his counsel, making himself available to his counsel, including for the full-day of the mediation, keeping himself apprised of developments in the Action, making decisions in the Action, including regarding settlement; asking his counsel questions, making sure he understood everything that was going in the Action so he could make the best informed decisions on behalf of the Class, and reviewing the Settlement documents and declarations in support of this motion. Gordon Decl. ¶ 29; Roessler Decl. ¶ 5.

Plaintiff has also provided valuable information regarding his claims, which was instrumental in attempting to establish the alleged wage and hour violations. Gordon Decl. ¶ 29. The recovery provided for in the Settlement would not have been possible to obtain without Plaintiff's participation. *Id.* at ¶ 34. Plaintiff also put the interests of the Class ahead of his own personal interests by postponing the prosecution of his own individual wage and hour claims and any recovery for himself alone so that the Actions could be litigated on a classwide or representative basis. Gordon Decl. ¶ 34; Roessler Decl. ¶¶ 10-12.

Plaintiff faced many risks in pursuing this case as a class action and a representative action. Gordon Decl. ¶¶ 30-32; Roessler ¶¶ 8-9. Because of Plaintiff's efforts, approximately 335 Class Members will now have the opportunity to participate in a settlement and to recover payment for alleged workplace violations they may never have known about on their own or been willing to pursue on their own. Gordon Decl. ¶ 33. If each Class Member attempted to pursue his or her legal remedies individually, each person would have been required to expend a significant amount of their own time and monetary resources. *Id*. Few individuals are willing to serve as a class representative and assume the substantial risk should the employer prevail in the action. *Id.* ¶ 30.

Plaintiff's willingness to assume the financial risk is significant, as California law provides that the losing party must pay the prevailing party's costs. *Id*. As such, if Plaintiff did not prevail, he could have been subjected to a cost award in the amount of several thousands of dollars. *Id*. Additionally, as a result of filing a class and representative action against his former employers, Plaintiff may face reputational harm among potential future employers that could adversely impact his future job opportunities because he may be viewed negatively by bringing this Action. *Id.* at ¶ 31. Moreover, Plaintiff is giving up more rights than the other Class Members by agreeing to a general release subject to limited exceptions, and waiving his rights under Civil Code section 1542. Gordon Decl. ¶ 32; Agreement ¶¶ 5.1, 5.1.1.

The Action and excellent recovery would not have been possible without the aid of Plaintiff, who devoted his personal time and effort to the Action, sacrificed the value of his own individual claims, placed himself at risk for the sake of the other Class Members, the State of California, and the Aggrieved Employees, and relinquished more rights than the other Class Members. Gordon Decl. ¶ 34. Indeed, by actively pursuing this Action, Plaintiff furthered California's public policy goal of enforcing the State's wage and hour laws. *Sav-On Drug Stores,* 34 Cal.4th at 340 (recognizing the "clear public policy" that is specifically directed at the enforcement of California wage laws). The requested Class Representative Service Payment is therefore reasonable to compensate Plaintiff for his active participation in the Action, the risks he undertook, and the rights he gave up.

F. <u>The Requested Class Counsel Fees Payment Is Reasonable</u>

The Settlement provides for a Class Counsel Fees Payment in an amount up to one-third of the GSA, for a maximum fee award of $316,666.67, plus a Class Counsel Litigation Expenses Payment not to exceed $40,000.00. Agreement ¶ 3.2.2.

Plaintiff's request for attorney's fees as a percentage of the GSA is supported by the "common fund theory," where "one who expends attorney fees in winning a suit which creates a fund from which others derive benefits, may require those passive beneficiaries to bear a fair share of the litigation costs." *Serrano v. Priest* (1977) 20 Cal.3d 25, 35. This method of calculation is also supported by federal law. *Boeing v. Van Gemert* (1980) 444 U.S. 472, 478 and *In re Pac. Enterprises Sec. Litig*. (9th Cir. 1995) 47 F.3d 373, 378-379. The percentage is properly based upon the maximum settlement amount, rather than upon the amount of funds distributed to class members. *Williams v. MGM-Pathe Communications Co*. (9th Cir. 1997) 129 F.3d 1026, 1027.

The requested fees also are reasonable under the lodestar method, based on the time reasonably spent prosecuting the Action. *Ramos v. Countrywide Home Loans, Inc.* (2000) 82 Cal.App.4th 615, 622; *see also In re Consumer Privacy Cases* (2009) 175 Cal.App.4th 545, 558, fn. 13 ("Empirical studies show that, regardless whether the percentage method or the lodestar method is used, fee awards in class actions average around one-third of the recovery.") (internal quotation marks omitted). Plaintiff's counsel invested significant time and resources into this case, with payment deferred to the end and entirely contingent on the outcome. Gordon Decl. ¶ 45. The efforts expended by Plaintiff's counsel thus far include, but are not limited to, the following: investigating Defendants' wage and hour practices; researching Plaintiff's claims and Defendants' anticipated defenses; conducting lengthy interviews with Plaintiff and reviewing documents, including wage statements, and other information provided by Plaintiff; preparing PAGA notice letters; obtaining personnel records for Plaintiff; preparing the complaint; conferring with Defendants' counsel to obtain relevant documents and information, including but not limited to, employees' timekeeping and payroll records, wage statements, employee handbooks, manuals, policies, and procedures; communicating with Plaintiff regularly; retaining and working with an expert in data analysis to analyze the timekeeping and payroll data; drafting the mediation brief; preparing for and attending the mediation; drafting, negotiating, and revising the Agreement and Class Notice; and preparing the motion for preliminary approval papers. *Id*.

The ultimate determination of attorneys' fees and costs will be properly addressed at the final approval stage, at which time Plaintiff's Counsel will submit evidence supporting the requested fees as well as their costs.

G. <u>The Requested Administration Costs are Reasonable</u>

The Agreement provides that Apex shall be paid up to $10,000.00 for administering the proposed Settlement. Agreement ¶ 3.2.3. Apex has agreed to be bound by the Agreement and to perform, as a fiduciary, all duties specified in the Agreement in exchange for payment of the aforementioned Administration Expenses. Gordon Decl. ¶ 46, Exh. D. Given the size of the Class and the scope of the duties to be performed by the Administrator, this amount is reasonable. Gordon Decl. ¶ 46.

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V. CONCLUSION

Based on the foregoing, Plaintiff respectfully requests that the Court: (1) grant preliminary approval of the Settlement; (2) approve the Class Notice and the plan for distribution; (3) provisionally certify the class for settlement purposes only; (4) appoint Apex as the Settlement Administrator; and (5) schedule a Final Approval Hearing.

DATED: August 11, 2026

MATERN LAW GROUP, PC

By: ______________________________

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on behalf of himself and all others similarly situated