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JUAN MIGUEL MORALES and All Similarly Situated

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF LOS ANGELES – SPRING STREET COURTHOUSE

JUAN MIGUEL MORALES, an individual on
behalf of himself and all similarly situated
employees,

Plaintiffs,

v.

SPUR FREIGHT SERVICES INC., a Texas
Corporation; AIT WORLDWIDE LOGISTICS,
INC., an Illinois Corporation; WORLD FRESH
EXPRESS INC., a California Corporation; and
DOES 1 through 10, inclusive,

Defendants.

Case No: 25STCV01554

Hon.: HON. THERESA M. TRABER

Dept.: 1 (SSC)

CLASS ACTION

**PLAINTIFF’S NOTICE OF MOTION AND
MOTION FOR PRELIMINARY APPROVAL
OF CLASS ACTION AND PAGA
SETTLEMENT AGREEMENT AND CLASS
NOTICE; MEMORANDUM OF POINTS AND
AUTHORITIES**

*[Filed Concurrently with Declaration of Grant
Joseph Savoy, Esq.; Declaration of Plaintiff Juan
Miguel Morales; Declaration of Settlement
Administrator; and [Proposed] Order]*

Date:

Time:

Dept.: 1 (SSC)

Judge: Hon. Theresa M. Traber

Action Filed: January 17, 2025

Trial Date: None Set

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

2 **PLEASE TAKE NOTICE** that, on _____, 2026, at _____AM/PM, or as soon
3 thereafter as this matter may be heard, in Department 1 (SSC) of the Los Angeles County Superior Court,
4 located at 312 N. Spring St., Los Angeles, CA 90012, Plaintiff Juan Miguel Morales (“Plaintiff” and/or
5 “Morales”), will, and hereby does, move this Court for preliminary approval of the Class Action and
6 PAGA Settlement Agreement and Class Notice (“Settlement” and/or “Agreement”) reached by the
7 parties in the above-captioned litigation.

8 The motion will be based upon this Notice, the attached Memorandum of Points and Authorities,
9 the accompanying Declaration of Plaintiff Juan Miguel Morales, Declaration of Grant Joseph Savoy,
10 Declaration of Apex Class Action Administration, the Settlement Agreement, the Notice of Class Action
11 Settlement, the complete files and records of this case, and any other evidence or oral argument which
12 may be considered by the Court at the time of the hearing.

13 **SOLOUKI | SAVOY, LLP**

14 Dated: September 1, 2026

15 /s/ Grant Joseph Savoy
16 Grant Joseph Savoy, Esq.
17 Shoham J. Solouki, Esq.
18 *Attorneys for Plaintiff JUAN MIGUEL*
19 *MORALES and All Similarly Situated*
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TABLE OF CONTENTS

	<u>Page</u>
I. INTRODUCTION	1
II. FACTUAL AND PROCEDURAL BACKGROUND	2
III. SUMMARY OF THE SETTLEMENT	<u>2</u>
A. Settlement Negotiations	<u>2</u>
B. Definition of Settlement Class.....	3
C. Settlement Terms.....	4
D. Settlement Administrator Notice to Class members, Objections, Opt-Out Rights	8
1. Settlement Administrator	8
2. Notice to the Settlement Class Members	9
3. Responses to Notice, Opt-Outs, and Objections	10
4. Funding of Settlement Fund	12
5. Final Fairness Hearing, Final Approval and Final Judgment	12
6. Released Parties and Settled Claims	14
IV. LEGAL ARGUMENT	16
A. The Terms Of The Proposed Settlement Are Fair	18
1. The Settlement Was Reached Through Arm's-Length Bargaining	18
2. Investigation and Discovery Were Sufficient For The Parties to Evaluate the Risks Intelligently	19
3. Counsel Is Experienced In Similar Litigation	20
B. The Settlement Falls Within The “Ballpark” of Reasonableness	20
1. Settlement Amount Is Fair, Just, and Reasonable	21
2. Settlement Amount Allocated to PAGA Claim Is Fair, Just, and Reasonable	24
C. The Court Should Issue an Order Conditionally Certifying the Settlement Class.....	25
1. The Criteria for Conditional Certification of a Settlement Class Are Met	25
2. There Is an Ascertainable Class	25
3. The Proposed Class Shares a Well-Defined Community of Interest	26
4. Proceeding as a Class Action Is Superior to Individual Actions	28
V. CONCLUSION.....	29

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TABLE OF AUTHORITIES

Page(s)

Federal Cases

<i>United Energy Corp. Solar Power Modules Tax Shelter Investment Securities Lit.</i> (C.D. Cal. 1988) 122 F.R.D. 251	26
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State Cases

<i>B.W.I. Custom Kitchen v. Owens-Illinois, Inc.</i> (1987) 191 Cal.App.3d 1341	27
<i>Clark v. American Residential Services, LLC</i> (2009) 175 Cal.App.4th 785	17, 20
<i>Clothesrigger, Inc. v. GTE Corp.</i> (1987) 191 Cal.App.3d 605	25
<i>Daar v. Yellow Cab Co.</i> (1967) 67 Cal.2d 695	25-26
<i>Dunk v. Ford Motor Co.</i> (1996) 48 Cal.App.4th 1794	17-18, 25-26
<i>Fireside Bank v. Superior Court</i> (2007) 40 Cal.4th 1069	25
<i>Linder v. Thrifty Oil Co.</i> (2000) 23 Cal.4th 429	29
<i>McGee v. Bank of America</i> (1976) 60 Cal.App.3d 422	28
<i>Miller v. Woods</i> (1983) 148 Cal.App.3d 862	25
<i>Reyes v. San Diego County Bd. of Supervisors</i> (1987) 196 Cal.App.3d 1263	26
<i>Richmond v. Dart Indus. Inc.</i> (1981) 29 Cal.3d 462	25-26
<i>Sav-On Drug Stores, Inc. v. Superior Court</i> (2004) 34 Cal.4th 319	25
<i>Seastrom v. Neways, Inc.</i> (2007) 149 Cal.App.4th 1496	27

State Statutes

California Code of Civil Procedure § 382 <i>et seq.</i>	1, 25
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State Rules

Cal. Rule of Court 3.769(f) 16

Other Sources

The Federal Manual for Complex Litigation (Third)16

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1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. INTRODUCTION**

3 This motion is brought by Plaintiff JUAN MIGUEL MORALES (“Plaintiff” and/or “Morales”), an
4 individual on behalf of himself and all others similarly situated, seeking approval of the Class Action and
5 PAGA Settlement Agreement (“Settlement” and/or “Agreement”) entered into by Plaintiff, on the one
6 hand, and Defendants AIT WORLDWIDE LOGISTICS, INC. (“AIT”) and SPUR FREIGHT SERVICES,
7 INC. (“SFS”) (all Defendants referred to jointly as “Defendants” and Plaintiff and Defendants referred to
8 collectively as the “Parties”), on the other, seeking to settle all class claims and Private Attorneys General
9 Act (“PAGA”) representative claims brought by Plaintiff on behalf of all current and former hourly
10 employees of Defendants in the above-captioned Action.

11 The instant action (*Juan Miguel Morales, et al. v. Spur Freight Services Inc., et al.*) 25STCV01554
12 (the “Action”) is a wage and hour class action and PAGA representative action brought on behalf of all
13 current and former hourly non-exempt employees of Defendants, employed by Defendants in the State of
14 California during the Class Period Period (January 1, 2023, through April 7, 2026).

15 The Action primarily alleges that Defendants failed to provide Plaintiff and the class he seeks to
16 represent with legally required meal and rest periods, failed to compensate employees for overtime and
17 paid time off at the regular rate of pay, failed to accurately compensate employees for off-the-clock wages,
18 failed to maintain required employment records, provided inaccurate wage statements, and failed to timely
19 compensate former employees for all wages owed upon separation of employment. As mentioned above,
20 Plaintiff and Defendants (collectively, the “Parties”) have entered into the Settlement, which provides for a
21 Gross Settlement Amount (“GSA”) of Two Hundred Fifty Thousand Dollars (\$250,000.00).

22 The Settlement Class is composed of approximately 240 current and former employees of
23 Defendants working as hourly non-exempt employees, in the State of California at any time from January
24 1, 2023, through April 7, 2026. The proposed settlement is fair, adequate, and reasonable, and conditional
25 certification of the Settlement Class is appropriate because the requirements of California Code of Civil
26 Procedure § 382 are satisfied. Plaintiff respectfully requests that the Court preliminarily approve this
27 Settlement and set a hearing date to consider whether to grant final approval of the Settlement, at which
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1 time the Court will consider any requests for attorneys’ fees, costs, and service awards.

2 **II. FACTUAL AND PROCEDURAL BACKGROUND**

3 On or about January 17, 2025, Plaintiff Juan Miguel Morales filed a complaint in the Superior
4 Court of the State of California, County of Los Angeles, entitled, “*Juan Miguel Morales, et al. vs. Spur*
5 *Freight Services, Inc., et al.*” LASC Case No. 25STCV01554 (the “Action”). Plaintiff’s complaint alleges
6 Eleven (11) causes of action for: (1) failure to provide required meal periods; (2) failure to provide required
7 rest periods; (3) failure to pay overtime wages; (4) failure to pay minimum wages; (5) failure to timely pay
8 wages; (6) failure to pay all wages due to discharged and quitting employees; (7) failure to maintain
9 required records; (8) failure to furnish accurate itemized statements; (9) failure to indemnify employees for
10 necessary expenditures incurred in discharge of duties; (10) unfair and unlawful business practices; and
11 (11) penalties pursuant to the Private Attorneys General Act (“PAGA”) (“Complaint,” or “Operative
12 Complaint”). (*Declaration of Grant Joseph Savoy, Esq.* (“*Savoy Decl.*”), at paras. 3, 4.)

13 Plaintiff is a former employee of Defendants, who worked for Defendants as a non-exempt hourly
14 warehouse worker, forklift driver, and truck driver. (*Savoy Decl.*, at para. 5.)

15 Defendants SFS and AIT are in the business of transportation and third-party logistics and provide
16 supply chain transportation services for clients throughout the county. As of April 7, 2026, it is estimated
17 that there are approximately 240 current and former employees of Defendants that fall within the class
18 definition set forth in the operative complaint and Class Action and PAGA Settlement Agreement
19 (“Settlement” and/or “Agreement”) who are eligible to participate in the Settlement. Said current and
20 former employees of Defendants worked approximately 17,214 unique workweeks during the Class Period
21 (January 1, 2023, through April 7, 2026.) Further, it is estimated that as of April 7, 2026 there are
22 approximately 203 current and former Aggrieved Employees in the Private Attorneys General Act
23 (“PAGA”) contingency that worked an approximate 6,775 pay periods during the PAGA Period
24 (September 18, 2023, through April 7, 2026). (*Savoy Decl.*, at para. 6.)

25 **III. SUMMARY OF THE SETTLEMENT**

26 **A. Settlement Negotiations**

27 On February 5, 2026, the Parties attended a mediation session with Steven J. Serratore, Esq., an
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1 experienced wage and hour class action mediator. In anticipation of the mediation, Plaintiff's Counsel
2 represents that they conducted significant investigation and discovery of the facts and law. Defendants
3 produced, among other things, hundreds of pages relevant written policies and procedures, Plaintiff's
4 personnel file (inclusive of Plaintiff's time and payroll records), and an agreed upon 20% sampling of class
5 payroll and timekeeping data amounting to thousands of lines of data. Plaintiff's Counsel's review of the
6 time records, payroll records, and information relating to the size and scope of the Class, was sufficient
7 data to permit Plaintiff's Counsel and their retained statistical expert to understand the number of
8 workweeks and pay periods at issue in the Class and PAGA Periods. The Parties agreed that the above-
9 described investigation and evaluation, as well as the information exchanged during the settlement
10 negotiations, were more than sufficient to assess the merits of the respective Parties' positions and to
11 compromise the issues on a fair and equitable basis. (*Savoy Decl.*, at para. 8.)

12 At this mediation, the Parties discussed Plaintiff's claims, theories for class certification and
13 Defendants' defenses thereto. The Parties also analyzed the potential exposure to Defendants on Plaintiff's
14 claims, Defendants' potential liability for penalties and interest, as well as the potential risks associated
15 with litigating this Action through a contested class certification proceeding, trial, and potential appeal(s).
16 The mediation lasted the entire day and allowed the Parties to better understand each other's respective
17 positions as to the claims, defenses, and Defendants' potential exposure to liability. The Parties were able
18 to reach an agreement to resolve the Action based on the terms set forth herein and in the Settlement
19 Agreement for the Gross Settlement Amount ("GSA") of Two Hundred Fifty Thousand Dollars
20 (\$250,000.00), which is allocated to the class action and PAGA claims in this Action. (*Savoy Decl.*, at
21 para. 9.) A true and accurate copy of the Settlement Agreement is attached to the Declaration of Grant
22 Joseph Savoy, Esq. as "Exhibit A" thereto ("*Settlement*").

23 **B. Definition of Settlement Class**

24 "Class Members" or "Settlement Class Member" means a member of the Class, as either a
25 Participating Class Member or Non-Participating Class Member (including a Non-Participating Class
26 Member who qualifies as an Aggrieved Employee). The Class is estimated to consist of approximately 240
27 persons with an estimated 17,214 Class Period "Workweeks," defined as any week during which a Class
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Member worked for Defendants for at least one day, during the Class Period, and includes approximately 6,775 “PAGA Pay Periods” worked, defined as any Pay Period during which an Aggrieved Employee worked for Defendants for at least one day during the PAGA Period (September 18, 2023 through April 7, 2026). (*Settlement*, sections 1.9, 1.10, 1.30, 1.31, 4.1.)

C. Settlement Terms

In exchange for a release of claims against Released Parties,¹ as set forth in the Settlement, the payment terms of the Settlement are as follows:

1. “Gross Settlement Amount” or “GSA” means Two Hundred Fifty Thousand Dollars and Zero Cents (\$250,000.00), which is the total amount Defendants agree to pay under the Settlement except as provided in Paragraph 8 of the Settlement Agreement. The Gross Settlement Amount will be used to pay Individual Class Payments, Individual PAGA Payments, the LWDA PAGA Payment, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, and the Administration Expenses Payment. (*Settlement*, section 1.22.) In total, Two Hundred Fifty Thousand Dollars and Zero Cents is attributed to the Class Action and PAGA representative settlement fund. Subject to Court approval, this amount shall be allocated as follows:

2. The “Net Settlement Amount” or “NSA” means the Gross Settlement Amount, less the following payments in the amounts approved by the Court: Individual PAGA Payments, the LWDA PAGA Payment, Class Representative Service Payment, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, and the Administration Expenses Payment. The remainder is to be paid to Participating Class Members as Individual Class Payments. (*Settlement*, section 1.28.) Specifically, after all of the aforementioned deductions from the GSA, the NSA totals \$121,916.67 (*Declaration of Grant Joseph Savoy, Esq.* (“*Savoy Decl.*”). at para. 23.)

3. Subject to the Final Approval of the Settlement and the conditions specified in the Settlement Agreement, and in consideration of the mutual covenants and promises set forth therein,

¹ “Released Parties” means: Defendants and each of their former and present directors, officers, shareholders, owners, members, attorneys, insurers, predecessors, successors, assigns, subsidiaries, and affiliates.

1 Defendants agree to make a payment as set forth in the Settlement Agreement totaling the fixed amount of
2 Two Hundred Fifty Thousand Dollars and Zero Cents (\$250,000.00). The GSA shall fully satisfy
3 Defendants' obligations for any and all payments, fees and costs identified in the Settlement Agreement,
4 including, but not limited to, any payments to be made to the Named Plaintiff, Settlement Class Members,
5 PAGA Members, the LWDA, Class Counsel's attorneys' fees and out-of-pocket litigation expenses and
6 costs, and settlement administration costs. Other than employer-side payroll taxes, in no event shall
7 Defendants be required to pay any amounts above the GSA under the Settlement Agreement. The Parties
8 agree, subject to Court approval, that the GSA shall be apportioned as follows:

- 9 a. Attorneys' Fees and Costs. A Class Counsel Fees Payment of not more than
10 one-third of the Class Action and PAGA representative Gross Settlement
11 Amount, which is currently estimated to be Eighty-Three Thousand, Three
12 Hundred Thirty-Three Dollars, and Thirty-Three Cents (\$83,333.33) and a Class
13 Counsel Litigation Expense Payment of not more than Twenty-Five Thousand
14 Dollars and Zero Cents (\$25,000.00). Defendants will not oppose requests for the
15 Class Counsel Fees Payment and Class Counsel Litigation Expense Payment
16 provided that they do not exceed these amounts. (*Settlement*, section 3.2.2.)
- 17 b. Administration Fees and Costs. An Administrator Expenses Payment not to
18 exceed Six Thousand, Seven Hundred Fifty Dollars and Zero Cents (\$6,750.00)
19 except for a showing of good cause and as approved by the Court. To the extent
20 the Administration Expenses Payment is less, or the Court approves payment less
21 than \$6,750.00, the Administrator will retain the remainder in the Net Settlement
22 Amount. (*Settlement*, section 3.2.3.)
- 23 c. PAGA Allocation and Payments. PAGA Penalties in the amount of \$20,000.00
24 to be paid from the Gross Settlement Amount, with 65% (\$13,000.00) allocated
25 to the LWDA PAGA Payment and 35% (\$7,000.00) allocated to the Individual
26 PAGA Payments.
- 27 i. The Administrator will calculate each Individual PAGA Payment by (a)
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1 dividing the amount of the Aggrieved Employees' 35% share of PAGA
2 Penalties (\$7,000.00) by the total number of PAGA Period Pay Periods
3 worked by all Aggrieved Employees during the PAGA Period, and (b)
4 multiplying the result by each Aggrieved Employee's PAGA Period Pay
5 Periods. Aggrieved Employees assume full responsibility and liability for
6 any taxes owed on their Individual PAGA Payment. If the Court approves
7 PAGA Penalties of less than the amount requested, the Administrator will
8 allocate the remainder to the Net Settlement Amount. The Administrator
9 will report the Individual PAGA Payments on IRS 1099 Forms.

10 (Settlement, section 3.2.5.)

11 Class Workweeks and Aggrieved Employee Pay Periods. Based on a review of its records to date,
12 Defendants estimate there are 240 Class Members who collectively worked a total of 17,214 Workweeks,
13 and 203 Aggrieved Employees who worked a total of 6,775 PAGA Pay Periods. (Settlement, section 4.1.)

14 Class Data. Not later than thirty (30) days after the Court grants Preliminary Approval of the
15 Settlement, Defendants will simultaneously deliver the Class Data to the Administrator, in the form of a
16 Microsoft Excel spreadsheet. To protect Class Members' privacy rights, the Administrator must maintain
17 the Class Data in confidence, use the Class Data only for purposes of this Settlement and for no other
18 purpose, and restrict access to the Class Data to Administrator employees who need access to the Class
19 Data to effect and perform under this Agreement. Defendants have a continuing duty to immediately notify
20 Class Counsel if it discovers that the Class Data omitted class member identifying information and to
21 provide corrected or updated Class Data as soon as reasonably feasible. Without any extension of the
22 deadline by which Defendants must send the Class Data to the Administrator, the Parties and their counsel
23 will expeditiously use best efforts, in good faith, to reconstruct or otherwise resolve any issues related to
24 missing or omitted Class Data. (Settlement, section 4.2.)

25 Payments from the Gross Settlement Amount. Within fourteen (14) days after Defendants funds
26 the Gross Settlement Amount, the Administrator will mail checks for all Individual Class Payments, all
27 Individual PAGA Payments, the LWDA PAGA Payment, the Administration Expenses Payment, the Class
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1 Counsel Fees Payment, the Class Counsel Litigation Expenses Payment, and the Class Representative
2 Service Payment. Disbursement of the Class Counsel Fees Payment, the Class Counsel Litigation Expenses
3 Payment and the Class Representative Service Payment shall not precede disbursement of Individual Class
4 Payments and Individual PAGA Payments.

- 5 i. The Administrator will issue checks for the Individual Class Payments and/or Individual
6 PAGA Payments and send them to the Class Members via First Class U.S. Mail, postage
7 prepaid. The face of each check shall prominently state the date (not less than one hundred
8 eighty (180) days after the date of mailing) when the check will be voided. The
9 Administrator will cancel all checks not cashed by the void date. The Administrator will send
10 checks for Individual Settlement Payments to all Participating Class Members (including
11 those for whom Class Notice was returned undelivered). The Administrator will send checks
12 for Individual PAGA Payments to all Aggrieved Employees including Non-Participating
13 Class Members who qualify as Aggrieved Employees (including those for whom Class
14 Notice was returned undelivered). The Administrator shall send Participating Class Members
15 a single check combining the Individual Class Payment and the Individual PAGA Payment.
16 Before mailing any checks, the Settlement Administrator must update the recipients' mailing
17 addresses using the National Change of Address Database.
- 18 ii. The Administrator must conduct a Class Member Address Search for all other Class
19 Members whose checks are returned undelivered without USPS forwarding address. Within
20 seven (7) days of receiving a returned check, the Administrator must re-mail checks to the
21 USPS forwarding address provided or to an address ascertained through the Class Member
22 Address Search. The Administrator need not take further steps to deliver checks to Class
23 Members whose re-mailed checks are returned as undelivered. The Administrator will
24 promptly send a replacement check to any Class Member whose original check was lost or
25 misplaced, requested by the Class Member prior to the void date.
- 26 iii. For any Class Member whose Individual Class Payment check and/or Individual PAGA
27 Payment check is uncashed and cancelled after the void date, the Administrator will transmit
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the funds represented by such checks to the California Controller’s Unclaimed Property Fund in the name of the Class Member thereby leaving no “unpaid residue” subject to the requirements of California Code of Civil Procedure section 384(b).

iv. The payment of Individual Class Payments and/or Individual PAGA Payments will not obligate Defendants to confer any additional benefits or make any additional payments to Class Members and/or Aggrieved Employees (*e.g.*, 401(k) contributions, bonuses, *etc.*) beyond those specified in this Agreement.

(*Settlement*, section 4.4.)

D. Settlement Administrator Notice to Class Members, Objections, Opt-Out Rights

1. Settlement Administrator

The Parties have jointly selected Apex Class Action Administration (“Apex,” “Settlement Administrator,” or “SA”) to serve as the Administrator and verified that, as a condition of appointment, Apex agrees to be bound by this Agreement and to perform, as a fiduciary, all duties specified in this Agreement in exchange for payment of Administration Expenses. The Parties and their Counsel represent that they have no interest or relationship, financial or otherwise, with the Administrator other than a professional relationship arising out of prior experiences administering settlements. (*Settlement*, section 7.1.)

Subsequent to entering into the Settlement Agreement, Class Counsel received quotes for class settlement administration and determined the quote and services provided by Apex to be the most reasonable. (*Savoy Decl.* para. 11.) A true and accurate copy of the Apex settlement administration quote and associated services is attached to the *Declaration of Settlement Administrator* (“SA Decl.”).

The Administrator will have and use its own Employer Identification Number for purposes of calculating payroll tax withholdings and providing reports to state and federal tax authorities. The Administrator will establish a settlement fund that meets the requirements of a Qualified Settlement Fund (QSF”) under US Treasury Regulation section 468B-1. (*Settlement*, sections 7.2, 7.3.)

1 **2. Notice to the Settlement Class Members**

2 No later than three (3) business days after receipt of the Class Data, the Administrator will notify
3 Class Counsel that the list has been received and state the number of Class Members, Aggrieved
4 Employees, Class Period Workweeks, and PAGA Pay Periods in the Class Data. (*Settlement*, section
5 7.4.1.)

6 Using best efforts to perform as soon as possible, and in no event later than forty-five (45) days
7 after receiving the Class Data, the Administrator will send to all Class Members identified in the Class
8 Data, via first-class United States Postal Service (“USPS”) mail, the Class Notice, substantially in the form
9 attached to this Agreement as Exhibit B. The first page of the Class Notice will prominently estimate the
10 dollar amounts of any Individual Class Payment and/or Individual PAGA Payment payable to the Class
11 Member, and the number of Class Period Workweeks and PAGA Pay Periods (if applicable) used to
12 calculate these amounts. Before mailing Class Notices, the Administrator will update Class Member
13 addresses using the National Change of Address database. (*Settlement*, section 7.4.2.)

14 Not later than three (3) business days after the Administrator’s receipt of any Class Notice returned
15 by the USPS as undelivered, the Administrator will re-mail the Class Notice using any forwarding address
16 provided by the USPS. If the USPS does not provide a forwarding address, the Administrator will conduct
17 a Class Member Address Search, and re-mail the Class Notice to the most current address obtained. The
18 Administrator has no obligation to make further attempts to locate or send Class Notice to Class Members
19 whose Class Notice is returned by the USPS a second time. (*Settlement*, section 7.4.3.)

20 The deadlines for Class Members’ written objections, challenges to Class Period Workweeks and/or
21 PAGA Pay Periods, and Requests for Exclusion will be extended an additional fourteen (14) days beyond
22 the sixty (60) days otherwise provided in the Class Notice for all Class Members whose notice is re-mailed.
23 The Administrator will inform the Class Member of the extended deadline with the re-mailed Class Notice.
24 (*Settlement*, section 7.4.4.)

25 If the Administrator, the Parties, Class Counsel, or Defense Counsel are contacted by or otherwise
26 discover any persons who believe they should have been included in the Class Data and should have
27 received Class Notice, the Parties will expeditiously meet and confer in person or by telephone, and in
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1 good faith in an effort to agree on whether to include them as Class Members. If the Parties agree, such
2 persons will be Class Members entitled to the same rights as other Class Members, and the Administrator
3 will send, via email or overnight delivery, a Class Notice requiring them to exercise options under this
4 Agreement not later than fourteen (14) days after receipt of Class Notice, or the deadline dates in the Class
5 Notice, whichever are later. (*Settlement*, section 7.4.5.)

6 **3. Responses to Notice, Opt-Outs, and Objections**

7 Requests for Exclusion (Opt-Outs). Class Members who wish to exclude themselves (opt-out of)
8 the Settlement must send the Administrator, by fax, email, or mail, a signed written Request for Exclusion
9 not later than sixty (60) days after the Administrator mails the Class Notice (plus an additional fourteen
10 (14) days for Class Members whose Class Notice is re-mailed). A Request for Exclusion is a letter from a
11 Class Member or his/her representative that reasonably communicates the Class Member's election to be
12 excluded from the Settlement and includes the Class Member's name, address and email address or
13 telephone number. To be valid, a Request for Exclusion must be timely faxed, emailed, or postmarked by
14 the Response Deadline. (*Settlement*, section 7.5.1.)

15 The Administrator may not reject a Request for Exclusion as invalid because it fails to contain all
16 the information specified in the Class Notice. The Administrator will accept any Request for Exclusion as
17 valid if the Administrator can reasonably ascertain the identity of the person as a Class Member and the
18 Class Member's desire to be excluded. The Administrator's determination will be final and not appealable
19 or otherwise susceptible to challenge. If the Administrator has reason to question the authenticity of a
20 Request for Exclusion, the Administrator may demand additional proof of the Class Member's identity.
21 The Administrator's determination of authenticity will be final and not appealable or otherwise susceptible
22 to challenge. (*Settlement*, section 7.5.2.)

23 Every Class Member who does not submit a timely and valid Request for Exclusion is deemed to be
24 a Participating Class Member under the Settlement Agreement, entitled to all benefits, and bound by all
25 terms and conditions of the Settlement, including the Participating Class Members' Releases under
26 Paragraphs 5.2 of the Settlement Agreement, regardless of whether the Participating Class Member
27 actually receives the Class Notice or objects to the Settlement. (*Settlement*, section 7.5.3.)

1 Every Class Member who submits a valid and timely Request for Exclusion is a Non-Participating
2 Class Member and will not receive an Individual Class Payment or have the right to object to the
3 Settlement. Because PAGA claims are subject to claim preclusion upon entry of the Judgment, Non-
4 Participating Class Members who are Aggrieved Employees are deemed to release the claims identified in
5 Paragraph 5.3 of the Settlement Agreement and are eligible for an Individual PAGA Payment. (*Settlement*,
6 section 7.5.4.)

7 Challenges to Calculation of Class Period Workweeks and PAGA Pay Periods. Each Class
8 Member will have sixty (60) days after the Administrator mails the Class Notice (plus an additional
9 fourteen (14) days for Class Members whose Class Notice is re-mailed) to challenge the number of Class
10 Period Workweeks and PAGA Pay Periods (if any) allocated to the Class Member in the Class Notice. The
11 Class Member may challenge the allocation by communicating with the Administrator via fax, email, or
12 mail. The Administrator must encourage the challenging Class Member to submit supporting
13 documentation. In the absence of any contrary documentation, the Administrator is entitled to presume that
14 the Class Period Workweeks contained in the Class Notice are correct so long as they are consistent with
15 the Class Data. The Administrator's determination of each Class Member's allocation of Class Period
16 Workweeks and/or PAGA Pay Periods will be final and not appealable or otherwise susceptible to
17 challenge. The Administrator will promptly provide copies of all challenges to calculation of Class Period
18 Workweeks and/or PAGA Pay Periods to Defense Counsel and Class Counsel and the Administrator's
19 determination of the challenges. (*Settlement*, section 7.6.)

20 Objections to Settlement. Only Participating Class Members may object to the class action
21 components of the Settlement, including contesting the fairness of the Settlement, and/or amounts
22 requested for the Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment and/or the
23 Class Representative Service Payment. (*Settlement*, section 7.7.1.)

24 Participating Class Members may send written objections to the Administrator, by fax, email, or
25 mail. In the alternative, Participating Class Members may appear in Court (or hire an attorney to appear in
26 Court) to present verbal objections at the Final Approval Hearing. A Participating Class Member who
27 elects to send a written objection to the Administrator must do so not later than sixty (60) days after the
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1 Administrator's mailing of the Class Notice (plus an additional fourteen (14) days for Class Members
2 whose Class Notice was re-mailed). (*Settlement*, section 7.7.2.)

3 Non-Participating Class Members have no right to object to any of the class action components of
4 the Settlement. (*Settlement*, section 7.7.3.)

5 Class Size Estimates and Escalator Clause. Based on its records, Defendants estimate that, as of the
6 date of this Settlement Agreement, (1) there are 240 Class Members and 17,214 Total Workweeks during
7 the Class Period and (2) there were 203 Aggrieved Employees who worked 6,775 Pay Periods during the
8 PAGA Period. If the number of workweeks worked by the Class Members is greater than 10% above
9 17,500, then the Gross Settlement Amount shall be increased proportionately for each additional
10 Workweek above the 10% buffer. Alternatively, Defendants may select a release date as of the accrual of
11 17,500 workweeks. In the event that the escalator clause is triggered, then Defendants shall be required to
12 make an election as to either increase the Gross Settlement Amount or select a release date as set forth in
13 this paragraph.

14 Defendants' Right to Withdraw. If the number of valid Requests for Exclusion identified in the
15 Exclusion List exceeds 10% of the total of all Class Members, Defendants may, but are not obligated, elect
16 to withdraw from the Settlement. The Parties agree that, if Defendants withdraw, the Settlement shall be
17 void ab initio, have no force or effect whatsoever, and that neither Party will have any further obligation to
18 perform under this Agreement; provided, however, Defendants will remain responsible for paying all
19 Settlement Administration Expenses incurred to that point. Defendants must notify Class Counsel and the
20 Court of their election to withdraw not later than seven (7) days after the Administrator sends the final
21 Exclusion List to Defense Counsel; late elections will have no effect. (*Settlement*, section 8.)

22 **4. Funding of Settlement Fund**

23 Defendants will fully fund the Gross Settlement Amount and fund the amounts necessary to fully
24 pay Defendants' share of payroll taxes by transmitting the funds to the Administrator no later than thirty
25 (30) days after the Effective Date. (*Settlement*, section 4.3.)

26 **5. Final Fairness Hearing, Final Approval and Final Judgment**

27 Not later than sixteen (16) court days before the calendared Final Approval Hearing, Plaintiff will
28 file in Court, a motion for final approval of the Settlement that includes a request for approval of the PAGA

1 settlement under Labor Code section 2699, subd. (l), a Proposed Final Approval Order, and a proposed
2 Judgment (collectively “Motion for Final Approval”). Plaintiff shall provide drafts of these documents to
3 Defense Counsel not later than seven (7) days prior to filing the Motion for Final Approval. Class Counsel
4 and Defense Counsel will expeditiously meet and confer in person or by telephone, and in good faith, to
5 resolve any disagreements concerning the Motion for Final Approval. (*Settlement*, section 10.)

6 Response to Objections. Each Party retains the right to respond to any objection raised by a
7 Participating Class Member, including the right to file responsive documents in Court no later than five (5)
8 court days prior to the Final Approval Hearing, or as otherwise ordered or accepted by the Court.
9 (*Settlement*, section 10.1.)

10 Duty to Cooperate. If the Court does not grant Final Approval or conditions Final Approval on any
11 material change to the Settlement (including, but not limited to, the scope of release to be granted by Class
12 Members), the Parties will expeditiously work together in good faith to address the Court’s concerns by
13 revising the Agreement as necessary to obtain Final Approval. The Court’s decision to award less than the
14 amounts requested for the Class Representative Service Payment, Class Counsel Fees Payment, Class
15 Counsel Litigation Expenses Payment and/or Administrator Expenses Payment shall not constitute a
16 material modification to the Agreement within the meaning of this paragraph. (*Settlement*, section 10.2.)

17 Continuing Jurisdiction of the Court. The Parties agree that, after entry of Judgment, the Court will
18 retain jurisdiction over the Parties, the Action, and the Settlement solely for purposes of (i) enforcing this
19 Agreement and/or Judgment, (ii) addressing settlement administration matters, and (iii) addressing such
20 post- Judgment matters as are permitted by law. (*Settlement*, section 10.3.)

21 Waiver of Right to Appeal. Provided the Judgment is consistent with the terms and conditions of
22 this Agreement, specifically including the Class Counsel Fees Payment and Class Counsel Litigation
23 Expenses Payment reflected and set forth in this Settlement, the Parties, their respective counsel, and all
24 Participating Class Members who did not object to the Settlement as provided in this Agreement waive all
25 rights to appeal from the Judgment, including all rights to post-judgment and appellate proceedings, the
26 right to file motions to vacate judgment, motions for new trial, extraordinary writs, and appeals. The waiver
27 of appeal does not include any waiver of the right to oppose such motions, writs or appeals. If an objector
28 appeals the Judgment, the Parties’ obligations to perform under this Agreement will be suspended until

1 such time as the appeal is finally resolved and the Judgment becomes final, except as to matters that do not
2 affect the amount of the Net Settlement Amount. (*Settlement*, section 10.4.)

3 Appellate Court Order to Vacate, reverse, or Materially Modify Judgment. If the reviewing Court
4 vacates, reverses, or modifies the Judgment in a manner that requires a material modification of this
5 Agreement (including, but not limited to, the scope of release to be granted by Class Members), this
6 Agreement will be null and void. The Parties will nevertheless expeditiously work together in good faith to
7 address the appellate court's concerns and to obtain final approval of the Settlement and entry of Judgment.
8 An appellate decision to vacate, reverse, or modify the Court's award of the Class Representative Service
9 Payment or any payments to Class Counsel will not constitute a material modification of the Judgment
10 within the meaning of this paragraph, as long as the Gross Settlement Amount remains unchanged.
11 (*Settlement*, section 10.5.)

12 **6. Released Parties and Settled Claims**

13 Effective on the date when Defendants fully fund the entire Gross Settlement Amount and funds all
14 employer payroll taxes owed on the Individual Class Payments allocated to alleged unpaid wages; Plaintiff,
15 Class Members, Aggrieved Employees, and Class Counsel will release claims against all Released Parties
16 as follows:

17 Plaintiff's Release.

18 Plaintiff and Plaintiff's respective former and present representatives, agents, attorneys,
19 administrators, successors and assigns, release and discharge Released Parties from all claims, transactions
20 or occurrences, including, but not limited to: (a) all claims that were, or reasonably could have been,
21 alleged based on the facts contained in the Operative Complaint and (b) all PAGA claims that were, or
22 reasonably could have been, alleged based on facts contained in the Operative Complaint and Plaintiff's
23 PAGA Notice ("Plaintiff's Release"). Plaintiff's Release does not extend to any claims or actions to
24 enforce this Agreement, or to any claims for vested benefits, unemployment benefits, disability benefits,
25 social security benefits, or workers' compensation benefits that arose at any time, or based on occurrences
26 outside the Class Period. Plaintiff acknowledges that Plaintiff may discover facts or law different from, or
27 in addition to, the facts or law that Plaintiff now knows or believes to be true but agrees, nonetheless, that
28

1 Plaintiff's Release shall be and remain effective in all respects, notwithstanding such different or additional
2 facts or Plaintiff's discovery of them. (*Settlement*, section 5.1.)

3 Plaintiff's Waiver of Rights Under California Civil Code section 1542. For purposes of Plaintiff's
4 Release, Plaintiff expressly waives and relinquishes the provisions, rights, and benefits, if any, of section
5 1542 of the California Civil Code, which reads:

6 ***A general release does not extend to claims that the creditor or releasing party does not***
7 ***know or suspect to exist in his or her favor at the time of executing the release, and***
8 ***that if known by him or her would have materially affected his or her settlement with***
9 ***the debtor or Released Party.***

10 (*Settlement*, section 5.1.1.)

11 Release by Participating Class Members.

12 All Participating Class Members, on behalf of themselves and their respective former and present
13 representatives, agents, attorneys, heirs, administrators, successors, and assigns, release Released Parties
14 from all claims arising during the Class Period that were alleged, or reasonably could have been alleged,
15 based on the facts stated in the Complaint, including, e.g., claims for: (1) Failure To Provide Required
16 Meal Periods; (2) Failure To Provide Required Rest Periods; (3) Failure To Pay Overtime Wages; (4)
17 Failure To Pay Minimum Wage; (5) Failure To Timely Pay Wages; (6) Failure To Pay All Wages Due To
18 Discharged And Quitting Employees; (7) Failure To Maintain Required Records; (8) Failure To Furnish
19 Accurate Itemized Statements; (9) Failure To Indemnify Employees For Necessary Expenditures Incurred
20 In Discharge Of Duties; (10) Unfair And Unlawful Business Practices; and (11) Penalties Pursuant to the
21 California Private Attorneys General Act. Except as set forth in a separate individual settlement agreement
22 and release of claims between Plaintiff and Defendants, Participating Class Members do not release any
23 other claims, including claims for vested benefits, wrongful termination, violation of the Fair Employment
24 and Housing Act, unemployment insurance, disability, social security, workers' compensation, or claims
25 based on facts occurring outside the Class Period. (*Settlement*, section 5.2.)

26 ///

27 ///

1 Release by Aggrieved Employees.

2 Plaintiff and all Aggrieved Employees, including Non- Participating Class Members, are deemed to
3 release, on behalf of themselves and their respective former and present representatives, agents, attorneys,
4 heirs, administrators, successors, and assigns, the Released Parties from all claims for PAGA penalties that
5 were alleged, or reasonably could have been alleged, based on the PAGA Period facts stated in the
6 Complaint and the PAGA Notice, including, e.g., claims for PAGA penalties based on (1) Failure To
7 Provide Required Meal Periods; (2) Failure To Provide Required Rest Periods; (3) Failure To Pay
8 Overtime Wages; (4) Failure To Pay Minimum Wage; (5) Failure To Timely Pay Wages; (6) Failure To
9 Pay All Wages Due To Discharged And Quitting Employees; (7) Failure To Maintain Required Records;
10 (8) Failure To Furnish Accurate Itemized Statements; (9) Failure To Indemnify Employees For Necessary
11 Expenditures Incurred In Discharge Of Duties; (10) Unfair And Unlawful Business Practices; And (11)
12 Penalties Pursuant To The California Private Attorneys General Act. (*Settlement*, section 5.3.)

13 **IV. LEGAL ARGUMENT**

14 Any settlement of class litigation must be reviewed and approved by the Court. (Cal. R. Ct. 3.769;
15 Fed. R. Civ. P. 23(e).)² This is done in two steps: (1) an early (preliminary) review by the trial court, and
16 (2) a final review after notice has been distributed to the Class Members informing them of the terms of the
17 settlement and allowing them to exclude themselves from, participate in and/or object to the settlement.
18 The Manual for Complex Litigation (Third) § 30.41 states:

19 If the preliminary evaluation of the proposed settlement does not disclose grounds
20 to doubt its fairness or other obvious deficiencies, such as unduly preferential
21 treatment of class representatives or of segments of the class, or excessive
22 compensation for attorneys, and appears to fall within the range of possible
23 approval, the court should direct that notice ... be given to the class members of a
formal fairness hearing, at which arguments and evidence may be presented in
support of and in opposition to the settlement.

24 Thus, the preliminary approval by the trial court is simply a conditional finding that the settlement
25 appears to be within the range of acceptable settlements. (*See Wershba v. Apple Computer* (2001) 91

1 Cal.App.4th 224, 234-35.) “The strength of the findings made by a judge at a preliminary hearing or
2 conference concerning a tentative settlement proposal may vary. The court may find that the settlement
3 proposal contains some merit, is within the range of reasonableness required for a settlement offer, or is
4 presumptively valid subject only to any objections that may be raised at a final hearing.” (4 Alba Conte &
5 Herbert B. Newberg, *Newberg on Class Actions*, § 11.26 (4th ed. 2002).)

6 The law favors settlement, particularly in class actions and other complex cases in which substantial
7 resources can be conserved by avoiding the time, cost and rigors of formal litigation. (*City of Seattle*, 955
8 F.2d at 1276; *Potter v Pacific Coast Lumber Company* (1951) 37 Cal. 2d. 592, 602-603.; 4 *Newberg on*
9 *Class Actions* § 11.41.) To grant preliminary approval of this Class Action Settlement, the Court need find
10 only that the settlement falls within the “range of reasonableness.” (*North County Contractor’s Ass. Inc. v.*
11 *Touchstone Ins. Svcs.* (1994) 27 Cal. App. 4th 1085, 1089-1090.)

12 In determining whether a class settlement is fair, adequate and reasonable, courts must consider the
13 following relevant factors: the strength of the plaintiff’s case; the risk, expense, complexity and likely
14 duration of further litigation; the risk of maintaining class action status through trial; the amount of offered
15 settlement; the extent of discovery completed and the range of the proceedings; and the experience and
16 views of counsel. (*Dunk v. Ford Motor Co.* (1996) 48 Cal. App. 4th 1794, 1801; *Clark v. American*
17 *Residential Services, LLC* (2009) 175 Cal. App. 4th. 785,799.) The list of factors is not exclusive and the
18 court is free to engage in a balancing and weighing of the factors depending on the circumstances of each
19 case. (*Clark*, 175 Cal. App. 4th at 799; *Wershba*, 91 Cal. App. 4th at 245.)

20 Furthermore, courts must give “proper deference to the private consensual decision of the parties,”
21 since “the court’s intrusion upon what is otherwise a private consensual agreement negotiated between the
22 parties to a lawsuit must be limited to the extent necessary to reach a reasoned judgment that the agreement
23 is not the product of fraud or overreaching by, or collusion between, the negotiating parties, and that the
24 settlement, taken as a whole, is fair, reasonable and adequate to all concerned.” (*Hanlon v. Chrysler Corp.*
25 (9th Cir. 1998), 150 F.3d 1011, 1027.)

26
27 ² The California Supreme Court has authorized California's trial courts to use Federal Rule 23 and cases applying it for guidance
28 in considering class issues. (See *Vasquez v. Superior Court* (1971) 4 Cal.3d 800, 821; *Green v. Obledo* (1981) 29 Cal.3d 126,

1 **A. The Terms Of The Proposed Settlement Are Fair**

2 A preliminary review of the terms of the Settlement provides no reason to doubt its fairness. Indeed,
3 this Court should begin its analysis with a presumption that the proposed settlement is fair. A presumption
4 of fairness exists where: “1) the settlement is reached through arms-length negotiations; 2) investigation
5 and discovery are sufficient to allow counsel and the court to act intelligently; 3) counsel is experienced in
6 similar litigation; and 4) the percentage of objectors is small.” (*Dunk v. Ford Motor Co., supra*, at 1802.)
7 The first three of these factors apply at the preliminary approval stage; the percentage of objectors is
8 determinable only at the final approval stage.

9 **1. The Settlement Was Reached Through Arm’s-Length Bargaining, Not Through Fraud**
10 **or Collusion**

11 The Settlement was reached following extensive negotiations during and after a private mediation
12 with professional mediator Steven J. Serratore, Esq. The settlement negotiations were at arm’s length and,
13 although conducted in a professional manner, were adversarial. The Parties went into the mediation
14 session willing to explore the potential for a settlement of the dispute, but each side was also prepared to
15 litigate its position through trial and appeal if a settlement had not been reached. (*Savoy Decl.* paras. 8, 9,
16 28.)

17 During mediation, Plaintiff strongly asserted the validity of his arguments and his assessment that
18 this case could be worth a substantial amount of money. However, as the mediation and settlement
19 discussions progressed, Defendants presented their arguments as to various issues, and it became apparent
20 that many issues would be highly disputed and could pose a risk to both parties going forward with
21 litigation. As a result, the parties agreed to resolve the class action and PAGA representative actions for a
22 total of \$250,000.00. (*Savoy Decl.* para. 19.)

23 Moreover, Mr. Serratore presided over the extended back and forth exchange of information, and
24 helped guide the parties towards what he believed, based on his significant experience, was a reasonable
25 resolution given the disputed issues of liability. (*Savoy Decl.* para. 20.)

26 Courts presume the absence of fraud or collusion in the negotiation of a settlement unless evidence
27 to the contrary is offered. (*Priddy v. Edelman* (6th Cir. 1989) 883 F.2d 438, 447; *Mars Steel Corp. v.*

28 _____
145-146.) Where appropriate, therefore, Plaintiff cites Federal Rule 23 and federal case law in addition to California law.

1 *Continental Illinois Nat'l Bank & Trust Co.* (7th Cir. 1987) 834 F.2d 677, 682; *In re Chicken Antitrust*
2 *Litig.* (N.D. Ga. 1980) 560 F. Supp. 957, 962.) Courts do not substitute their judgment for that of the
3 proponents, particularly where, as here, settlement has been reached with the participation of experienced
4 counsel familiar with the litigation. (*Nat'l Rural Telecomms. Coop. v. DIRECTV, Inc.* (C.D. Cal. 2004)
5 221 F.R.D. 523, 528; *Hammon v. Barry* (D.D.C. 1990) 752 F. Supp. 1087, 1093; *Steinberg v. Carey*
6 (S.D.N.Y. 1979) 470 F. Supp. 471, 478; *In re Armored Car Antitrust Litig.* (N.D. Ga. 1979) 472 F. Supp.
7 1357, 1368; *Sommers v. Abraham Lincoln Federal Sav. & Loan Ass'n* (E.D. Pa. 1978) 79 F.R.D. 571, 580.)

8 **2. Investigation and Discovery Were Sufficient For The Parties To Evaluate The Risks**
9 **Intelligently**

10 Prior to the Settlement, Plaintiff's counsel conducted an investigation into the claims alleged by
11 Plaintiff, conducted legal research, and engaged in extensive formal and informal discovery. Prior to
12 mediation, the Parties met and conferred regarding the scope of discovery necessary for the Parties to
13 engage in a productive mediation. It was agreed that the Parties would exchange agreed upon documents
14 and class records/data prior to mediation. (*Savoy Decl.*, at para. 29.)

15 In anticipation of the mediation, the Parties conducted significant investigation and discovery of
16 the facts and law. Defendants produced, among other things, hundreds of pages relevant written policies
17 and procedures, Plaintiff's personnel file (inclusive of Plaintiff's time and payroll records), and an agreed
18 upon 20% sampling of class payroll and timekeeping data amounting to thousands of lines of data.
19 Plaintiff's Counsel's review of the time records, payroll records, and information relating to the size and
20 scope of the Class, was sufficient data to permit Plaintiff's Counsel and their retained expert to understand
21 the number of workweeks and pay periods at issue in the Class and PAGA Periods. The Parties agreed that
22 the above-described investigation and evaluation, as well as the information exchanged during the
23 settlement negotiations, were more than sufficient to assess the merits of the respective Parties' positions
24 and to compromise the issues on a fair and equitable basis. (*Savoy Decl.*, at para. 8, 29.)

25 Through discovery and investigation, Plaintiff's Counsel was able to identify multiple current and
26 former employees of Defendants that provided valuable information that allowed Plaintiff's Counsel and
27 their retained expert to clarify any apparent discrepancies in the data provided by Defendants. (*Savoy*
28 *Decl.*, at para. 31.)

1 For example, Defendants’ records, by their face, could not provide us with information regarding
2 the alleged Off-The-Clock work or whether rest breaks were given in compliance with the applicable laws.
3 Through the interviews conducted by Plaintiff’s Counsel, it appeared that on average, the employees we
4 spoke with conducted approximately 20 minutes of work while off-the-clock per shift. Further, it was
5 determined that at least one rest break every shift was either missed, interrupted, or cut short due to the
6 interviewed employees’ work duties. This information simply could not have been known by the face of
7 the records and standard written discovery. (*Savoy Decl.*, at para. 32.)

8 Plaintiff’s statistical experts analyzed this information, including data for approximately 20,200
9 unique shifts, 4,500 workweeks, and 2,250 pay periods. Based on this analysis, Plaintiff’s counsel was
10 able to evaluate the potential liability and damages for the Class Members. As such, Plaintiff’s counsel
11 was able to act intelligently and effectively in negotiating the proposed Settlement. (*Savoy Decl.*, at para.
12 33.)

13 **3. Counsel Is Experienced In Similar Litigation**

14 Furthermore, the settlement negotiations were conducted by highly capable and experienced
15 counsel. Plaintiff’s Counsel are respected members of the bar with a strong record of vigorous and
16 effective advocacy for their clients, and they are experienced in handling complex wage and hour class
17 action litigation. (*Savoy Decl.*, at paras. 42-49.) Although Plaintiff and Class Counsel were prepared to
18 litigate the claims in this action, they support the proposed Settlement as being in the best interests of the
19 Class Members. (*Savoy Decl.*, at para. 28.)

20 **B. The Settlement Falls Well Within The “Ballpark” of Reasonableness**

21 The Court must make an “independent assessment of the reasonableness of the terms of the
22 settlement” prior to granting preliminary and final approval. (*Clark v. American Residential Services LLC*
23 (2009) 175 Cal.App.4th 785, 799; *Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th 116, 127-28,
24 130, 133.) To do so requires the Parties to submit “basic information about the nature and magnitude of the
25 claims in question and the basis for concluding that the consideration being paid for the release of those
26 claims represents a reasonable compromise.” (*Clark, supra*, 175 Cal.App.4th at 800.) However, the Court
27 should *not* “attempt to decide the merits of the case or to substitute its evaluation of the most appropriate
28

1 settlement for that of the attorneys.” (*Kullar, supra*, 168 Cal.App.4th at 133.)

2 **1. Settlement Amount Is Fair, Just, and Reasonable**

3 Plaintiff and Plaintiff’s Counsel remain confident of the merits of Plaintiff’s claims. Plaintiff and
4 Plaintiff’s counsel considered several factors in reaching the decision to settle at this point in the litigation.
5 Plaintiff’s counsel has calculated the maximum damages of the Class Members, exclusive of PAGA
6 penalties, to be approximately Six Million, Thirty-Two Thousand, Thirty-Six Dollars and Seventeen Cents
7 (\$6,032,036.17) and believes this amount would be the maximum damage potential should the case
8 proceed to trial. (*Savoy Decl.*, at para. 13.)

9 Given the maximum potential damages, the settlement sum of Two Hundred Fifty Thousand
10 Dollars (\$250,000.00) is reasonable considering the substantial risks entailed by this case. Based on my and
11 my partner Shoham J. Solouki, Esq.’s extensive experience litigating wage and hour class actions,
12 Plaintiff’s Counsel estimates a Sixty Percent (60%) likelihood of obtaining and maintaining certification of
13 Plaintiff’s claims, which reduces the value of these claims. Further, my office estimates that there is a
14 Sixty Percent (60%) chance that Plaintiff will defeat a dispositive motion and prevail at trial on his
15 individual and class wage and hour claims, further reducing the value of the claims. Taking these two
16 significant risk factors into account, a more realistic damages recovery analysis values the instant action at
17 approximately Two Million, One Hundred Seventy-One, Five Hundred Thirty-Three Dollars and Two
18 Cents (\$2,171,533.02). The GSA is approximately Twelve Percent (12%) of the revised and reduced total
19 damages exposure. The significant risk that this Court may deny class certification is obviated by the
20 Settlement. Moreover, continued litigation would very likely reduce and substantially delay recovery by
21 Class Members. In contrast, because of the proposed Settlement, Class Members will receive timely relief
22 and avoid the risk of an unfavorable judgment and avoids the possibility of having all, or a portion, of the
23 class and representative claims lost to a dispositive motion. (*Savoy Decl.*, at para. 15.)

24 Defendants, on the other hand, strongly contend that their policies and practices do not violate any
25 laws and that it complied with all applicable laws at all times. Specifically, Defendants maintain that
26 Plaintiff’s claims that he and class members were not paid for all hours worked is factually incorrect. It is
27 Defendants’ position that there would be no liability for unpaid wages and overtime, and therefore, the
28

1 derivative claims of waiting time penalties, untimely wage payments and inaccurate wage statements
2 therefore also fail. Defendants further contend that they provided meal and rest breaks as required by law
3 and is not required to ensure that employees took every meal and rest period made available to them.
4 (*Brinker Restaurant Corp. v. Superior Court*, 53 Cal. 4th 1004 (2012).) Even if the data were to show that
5 meal periods were not taken, time records alone cannot establish a meal break violation under California
6 law. (See *Donohue v. AMN Servs., LLC*, 29 Cal. App. 5th 1068, 1088 n. 25, as modified (Dec. 28, 2018),
7 review granted, 2019 WL 1388808, at *1 (Cal. Mar. 27, 2019) (finding that “an employer’s time records
8 may . . . [only] reflect a section 226.7 violation” in the class certification context, and not on the merits
9 either at trial or on summary judgment); *Brown v. Federal Express Corp.*, 249 F.R.D. 580, 587 (C.D. Cal.
10 2008) (time records could not prove break claims as they would not provide reason for missed breaks).)

11 Additionally, Defendants contend that Plaintiff would not obtain class certification on his claims,
12 particularly because the claims would require an individualized inquiry. (See *Koval v. Pacific Bell*
13 *Telephone Co.*, 232 Cal. App. 4th 1050, 1062 (2014) (denying certification and holding that plaintiff’s
14 failure to demonstrate that allegedly unlawful policies were consistently applied “create[d] a shifting
15 kaleidoscope of liability determinations that render this case unsuitable for class action treatment”); *Dailey*
16 *v. Sears, Roebuck & Co.*, 214 Cal. App. 4th 974, 1002 (2013) (denying class certification of meal period
17 and rest break claims of employees alleging that they did not regularly take uninterrupted meal and rest
18 breaks where there was no evidence of a uniform policy showing that the Company required the employees
19 to forego breaks).) In such an event, there would be no recovery for Class Members at all. A discount was
20 required at this stage of the litigation for settlement purposes based on these risk factors.

21 The significant risks that this Court may deny class certification or rule against Plaintiff on the
22 merits are obviated by the Settlement, as is any risk associated with trial. Moreover, continued litigation
23 would very likely reduce and substantially delay recovery by Class Members. In contrast, because of the
24 proposed Settlement, Class Members will receive timely relief and avoid the risk of an unfavorable
25 judgment. (*Savoy Decl.*, at para. 15.)

26 Furthermore, while Plaintiff is confident in the merits of the case, a legitimate controversy exists as
27 to each cause of action. It must be noted that a large portion of the non-PAGA and non-penalty class
28

1 damages are attributable to meal period violations (approximately 19% of all non-PAGA damages and
2 penalties). Further, the Unpaid Off-The-Clock claim and Rest Break Violation claim (approximately 58%
3 of all non-PAGA claims/damages) are both based solely on subjective information, such as statements
4 given by Plaintiff and Class Members, in opposition to valid written timekeeping and rest break policies,
5 making them hard to certify, and even harder to prove to the tier of fact. This substantial factor was taken
6 into consideration when valuing the reasonableness of the Settlement. (*Savoy Decl.*, at para. 16.)

7 Plaintiff also recognizes that proving the amount of wages due to each individual Class Member,
8 while feasible, would be an expensive, time-consuming, and extremely uncertain proposition. (*Savoy Decl.*,
9 at para. 17.)

10 After deducting attorney's fees and costs, settlement administrative fees and costs, Plaintiff's
11 representative service payment, and the PAGA payment to the LWDA, the remaining Net Settlement
12 Amount ("NSA") is One Hundred Twenty-One Thousand, Nine Hundred Sixteen Dollars and Sixty-Seven
13 Cents (\$121,916.67). Assuming full participation of all 240 employees in the settlement, we estimate that
14 each class member will recover on average approximately Five Hundred Seven Dollars and Ninety-Nine
15 Cents (~\$507.99) ($\$121,916.70/240 = \sim\507.99). The average workweek recovery from the NSA is
16 approximately Seven Dollars and Eight Cents (~\$7.08). At the time of submitting this declaration,
17 Plaintiff's Counsel estimates that the maximum recovery for a class member is approximately One
18 Thousand, Two Hundred Ten Dollars and Sixty-Eight Cents (~\$1,210.68) (class member(s) who worked
19 the maximum 171 workweeks in the Class Period). The minimum recovery for a class member is
20 approximately Seven Dollars and Eight Cents (~\$7.08) (class member(s) who worked 1 workweek out of
21 the total class period). On average, this amount is far from insignificant, especially because most class
22 members will never pursue their individual claims. Moreover, the Class Members are longer-term
23 employees of Defendants, working most, if not all, of the eligible workweeks and will receive close to the
24 average recovery. (*Savoy Decl.*, at para. 23.)

25 In sum, when the risks of litigation, the uncertainties involved in achieving class certification, the
26 burdens of proof necessary to establish liability, and the probability of appeal of a favorable judgment are
27 balanced against the merits of Plaintiff's claims, the Gross Settlement Amount is fair, adequate, and
28

1 reasonable. (*Savoy Decl.*, at para. 18.)

2 **2. Settlement Amount Allocated to PAGA Claim Is Fair, Just, and Reasonable**

3 As of April 7, 2026, the Parties have calculated the number of unique PAGA pay periods to be
4 6,775. Further, Plaintiff's expert found Defendants' maximum PAGA penalty exposure to be
5 approximately Three Million, Twenty-Eight Thousand, Nine Hundred Dollars and Zero Cents
6 (\$3,028,900.00). As noted, based on Plaintiff's Counsel's experience, Plaintiff estimates a sixty percent
7 (60%) chance of beating a motion for summary judgment/adjudication on the underlying Labor Code
8 causes of action and the element of whether Plaintiff is an "aggrieved employee," as well as a 60% chance
9 of a favorable outcome at trial. This reduces Defendants' potential PAGA penalty exposure to
10 approximately One Million, Ninety Thousand, Four Hundred Four Dollars and Zero Cents (\$1,090,404.00).
11 However, as explained below, this number must be greatly reduced when the facts and evidence presented
12 during litigation and mediation are taken into account. As a part of the Settlement, the Parties jointly
13 agreed to attribute a total of Twenty Thousand Dollars (\$20,000.00) to PAGA penalties, which amounts to
14 approximately Eight Percent (8.0%) of the GSA. For the reasons below, Plaintiff's Counsel believes that
15 the PAGA allocation is more than fair, just, and reasonable for the Class Members. (*Savoy Decl.*, at para.
16 25.)

17 Through investigation and informal discovery productions, as well as further evidence presented
18 at and after mediation, it became clear that the majority of all Labor Code violations occurred within the
19 first year of the alleged class period. Defendants' timekeeping, meal and rest break, and reimbursement
20 policies for the entire class period appear facially valid. Based on timekeeping records and interviews
21 with Plaintiff and aggrieved employees, Defendants' apparent practice and enforcement of said policies
22 appear to have changed during the class period due to a change in company ownership. Additionally,
23 Plaintiff's non-subjective and non-derivative PAGA penalty claims are based primarily on meal break
24 violations. (*Savoy Decl.*, at para. 26.)

25 More importantly, by allocating a majority of the GSA to class action claims, the Class Members
26 will actually receive a majority of the GSA. As such, the PAGA allocation is in the best interest of Class
27 Members, and therefore should be deemed reasonable and fair. As such, Plaintiff believes it is proper to
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1 attribute approximately Eight Percent (8.0%) of the Gross Settlement Amount to PAGA penalties. (*Savoy*
2 *Decl.*, at para. 27.)

3 **C. The Court Should Issue an Order Conditionally Certifying the Settlement Class**

4 **1. *The Criteria for Conditional Certification of a Settlement Class Are Met***

5 California Code of Civil Procedure § 382 provides that three basic requirements must be met in
6 order to sustain any class action: (1) there must be an ascertainable class; (2) there must be a well-defined
7 community of interest in the question of law or fact affecting the parties to be represented; and (3)
8 certification will provide substantial benefits to litigants and the courts, i.e., proceeding as a class is
9 superior to other methods. (*Fireside Bank v. Superior Court* (2007) 40 Cal.4th 1069, 1089; *see also, Sav-*
10 *On Drug Stores, Inc. v. Superior Court* (2004) 34 Cal.4th 319, 326; *Dunk v. Ford Motor Co.* (1996) 48
11 Cal.App.4th 1794, 1806; *Daar v. Yellow Cab Co.* (1967) 67 Cal.2d 695, 704.) Any doubts as to the
12 appropriateness of class treatment must be resolved in favor of certification, subject to later modification.
13 (*Richmond v. Dart Indus. Inc.* (1981) 29 Cal.3d 462, 473-475.) For purposes of this Settlement only,
14 Defendants have stipulated to conditional certification of the proposed class action. (*Settlement*, section 2.)

15 **2. *There Is an Ascertainable Class***

16 Whether an ascertainable class exists turns on three factors: (1) the class definition, (2) the size of
17 the class, and (3) the means of identifying the class members. (*See Miller v. Woods* (1983) 148 Cal.App.3d
18 862, 873.) In this case, Plaintiff contends that all three considerations strongly favor class certification.

19 **a. *The Settlement Class Is Precisely Defined***

20 The proposed class consists of “all individuals who are or were employed by Defendants as non-
21 exempt employees in California during the Class Period (January 1, 2023 through April 7, 2026).”
22 (*Settlement*, at paras. 1.5, 1.12.) The Class is estimated to consist of 240 persons with an estimated 17,214
23 workweeks, and includes an estimated 203 PAGA Aggrieved Employees that worked approximately 6,775
24 PAGA Pay Periods. (*Settlement*, section 1.5, 4.1; *Savoy Decl.*, at para. 6.) The class definition is
25 sufficiently specific to enable the parties, potential class members, and the Court to readily determine the
26 parameters of the class. (*See Clothesrigger, Inc. v. GTE Corp.* (1987) 191 Cal.App.3d 605, 617 (proposed
27 class defined as all persons nationwide subscribing to telephone service since January 1, 1981, who were
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1 charged for one or more unanswered long distance calls, deemed “plainly” ascertainable).) Indeed, the
2 Class Members are readily ascertainable from Defendants’ records. (*Savoy Decl.*, at para. 34.)

3 **b. Class Members Are Numerous Enough that Individual Litigation Is Not**
4 **Preferable**

5 Class size leans in favor of class certification in this case. There are approximately 240 Class
6 Members. (*Savoy Decl.*, para. 6.) It would be impractical to bring each of these persons before the Court
7 or to resolve their claims individually. There is no magic number that satisfies the numerosity requirement.
8 (*See, e.g., Rose v. City of Haywood* (1981) 126 Cal.App.3d 926, 934 (holding that forty-two class members
9 are quantitatively sufficient to satisfy the numerosity requirement).) Here, Plaintiff asserts that the class of
10 240 Class Members and allegedly aggrieved employees is sufficient to satisfy the numerosity requirement.

11 **c. Members of the Class Are Easily Identifiable**

12 The question of whether class members are easily identifiable turns on whether a plaintiff can
13 establish “the existence of an ascertainable class,” not whether the plaintiff can “identify the individual
14 members of such class as prerequisite to the class suit.” (*Daar*, 67 Cal.2d at 706; *see also, Reyes v. San*
15 *Diego County Bd. of Supervisors* (1987) 196 Cal.App.3d 1263, 1275.) Here, the existence of an
16 ascertainable class can be established through Defendants’ records. (*Savoy Decl.*, para. 34.)

17 **3. The Proposed Class Shares a Well-Defined Community of Interest**

18 The community of interest requirement embodies three factors: (1) predominant questions of law
19 and fact; (2) class representatives with claims or defenses typical of the class; and (3) class representatives
20 who can adequately represent the class. (*Dunk*, 48 Cal.App.4th at 1806; *Richmond*, 29 Cal.3d at 473-75.)
21 In this case, Plaintiff’s claims satisfy all three factors.

22 **a. Common Issues of Law and Fact Predominate Over Individual Issues**

23 The commonality criterion requires the existence of common questions of law or fact and is
24 generally established with the issues of predominance and typicality. (*See Daar*, 67 Cal.2d at 695; *In re*
25 *United Energy Corp. Solar Power Modules Tax Shelter Investment Securities Lit.* (C.D. Cal. 1988) 122
26 F.R.D. 251, 254.) All that is required is that a common question of fact or law exists which predominates
27 over issues unique to the plaintiff. The existence of individual issues or facts is not a bar to class
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1 certification as long as they do not render class litigation unmanageable or predominate over the common
2 issues. (*See B.W.I. Custom Kitchen v. Owens-Illinois, Inc.* (1987) 191 Cal.App.3d 1341, 1354 (“presence
3 of individual damages issues cannot bar certification”).)

4 In the Action, Plaintiff’s claims present sufficient common issues of law and fact that predominate
5 over individual issues and warrant class certification. Plaintiff alleges that Defendants failed to provide
6 timely, uninterrupted meal and rest periods to all Class Members as a regular practice. Plaintiff alleges that
7 Defendants failed to properly compensate Class Members for all hours worked, including overtime hours
8 worked and paid-time-off due to a failure to compensate said wages at the regular rate. Plaintiff further
9 asserts that Defendants failed to adequately compensate its former employees for all wages owed at the
10 time of their separation from employment. Plaintiff alleges that Defendants’ policies and practices were
11 uniform as to all Class Members, and that all class members were indeed subjected to the same workplace
12 experiences as him. Thus, class treatment for settlement purposes is appropriate.

13 **b. *Plaintiff’s Claims Are Typical of the Claims of the Settlement Class***

14 To satisfy the typicality requirement, California law does not require that a plaintiff have claims
15 identical to the other class members. Rather, the test of typicality for a class representative is whether other
16 members have the same or similar injury, whether the action is based on conduct which is not unique to the
17 named plaintiff, and whether other class members have been injured by the same course of conduct.
18 (*Seastrom v. Neways, Inc.* (2007) 149 Cal.App.4th 1496, 1502.) The typicality requirement for a class
19 representative refers to the nature of the claim or defense of the representative, and not to the specific facts
20 from which it arose or the relief sought. (*Id.*)

21 Here, Plaintiff alleges that his claims are similar to those of the other Class Members. Plaintiff
22 alleges all of his claims arise out of the same alleged facts and course of conduct giving rise to the claims
23 of the other Class Members, as they all worked together for Defendants and were subjected to identical
24 workplace policies and practices. Finally, Plaintiff alleges that Plaintiff’s claims are typical of the other
25 Class Members because they seek the exact same relief for alleged Labor Code violations. Because
26 Plaintiff’s claims are based upon the same alleged conduct and business practices as those of the potential
27 Class Members, the typicality requirement has been satisfied.

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Additionally, Plaintiff understands the obligations of being an adequate class representative, the details of what he has done to demonstrate the adequacy of his representation, and the substantial burden he will and has undertaken in order to represent the putative class. (See generally, *Declaration of Plaintiff Juan Miguel Morales*, filed concurrently herewith.)

4. *Proceeding As a Class Action Is Superior to Individual Action*

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 would serve as the

1 only means to deter and redress the alleged Labor Code violations. (*See Linder v. Thrifty Oil Co.* (2000) 23
2 Cal.4th 429, 434 (relevant considerations include the probability that each class member will come forward
3 ultimately to prove his or her separate claim to a portion of the total recovery and whether the class
4 approach would actually serve to deter and redress the alleged wrongdoing).)

5 Furthermore, individual actions arising out of the same operative facts would unduly burden the
6 courts and could result in inconsistent results, which may be avoided by class certification.

7
8 **V. CONCLUSION**

9 For the reasons set forth above, Plaintiff respectfully requests that the Court: (1) certify a
10 provisional settlement class; (2) grant preliminary approval of the proposed Settlement; (3) approve the
11 Class Notice; (4) appoint Solouki | Savoy, LLP as Class Counsel; (5) appoint Plaintiff Juan Miguel Morales
12 as the Class Representative; (6) approve Apex Class Action Administration as the Settlement
13 Administrator; and (7) schedule a hearing on final approval of the Settlement.

14 **SOLOUKI | SAVOY, LLP**

15 Dated: September 1, 2026

16 /s/ Grant Joseph Savoy .
17 Grant Joseph Savoy, Esq.
18 Shoham J. Solouki, Esq.
19 *Attorneys for Plaintiff JUAN MIGUEL*
20 *MORALES and All Similarly Situated*