

**WILSHIRE LAW FIRM, PLC**  
Benjamin H. Haber (SBN 315664)  
benjamin.haber@wilshirelawfirm.com  
Daniel J. Kramer (SBN 314625)  
daniel.kramer@wilshirelawfirm.com  
Chase M. Stern (SBN 290540)  
chase.stern@wilshirelawfirm.com  
Alan A. Wilcox, Esq. (SBN 287476)  
alan.wilcox@wilshirelawfirm.com  
Conor J.D. Gomez, Esq. (SBN 337395)  
conor.gomez@wilshirelawfirm.com  
660 South Figueroa Street, Sky Lobby  
Los Angeles, California 90017  
Telephone: (213) 381-9988  
Facsimile: (213) 381-9989

*Attorneys for Plaintiff*

**SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE COUNTY OF LOS ANGELES**

CRISTIAN SANTOS, individually, on behalf  
of all others similarly situated, the State of  
California, and other aggrieved persons,

*Plaintiff,*

v.

STONE ROOFING CO., INC., a California  
corporation; and DOES 1 through 10,  
inclusive,

*Defendant.*

Case No.: 24STCV24122  
Assigned to: Hon William F. Highberger, Dept.  
10

Complaint filed: September 17, 2024  
FAC filed: February 20, 2025  
Trial date: Not set

**CLASS & REPRESENTATIVE ACTION**

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

**PRELIMINARY APPROVAL HEARING**

Date: July 27, 2026  
Time: 11:30 a.m.  
Dept: 10

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

2 PLEASE TAKE NOTICE that on July 27, 2026 at 11:30 a.m., in Department 10 of the Los  
3 Angeles County Superior Court, Spring Street Courthouse located at 312 North Spring Street Los  
4 Angeles, CA 90012, pursuant to Code of Civil Procedure § 382 and California Rules of Court  
5 3.769, *et seq.*, Plaintiff Cristian Santos (“Plaintiff” or “Class Representative”) will move the Court  
6 for an Order granting preliminary approval of the proposed \$575,000.00 (the “Gross Settlement  
7 Amount”) Class Action and PAGA Settlement Agreement (the “Settlement” or “Settlement  
8 Agreement”) between Plaintiff and Defendant Stone Roofing Co., Inc. (“Defendant,” and together  
9 with Plaintiff, the “Parties”) to resolve the wage and hour class action and Private Attorneys  
10 General Act (Cal. Lab. Code §§ 2699, *et seq.*) (“PAGA”) representative action between Plaintiff,  
11 on behalf of the Class (defined below), and Defendant (the “Action”). Plaintiff further moves the  
12 Court for an Order:

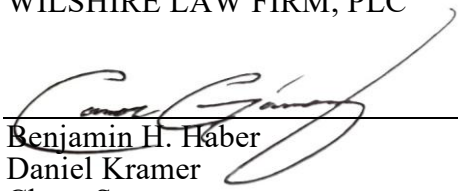
- 13 1. Granting preliminary approval of the Settlement Agreement;
- 14 2. Certifying the Class, for settlement purposes, defined as all current and former non-  
15 exempt employees of Stone Roofing Company. Inc. who worked for Stone Roofing  
16 Company. Inc. in the State of California during the period March 23, 2020, to October  
17 5, 2025 (the "Class Period"), and who do not timely opt out of the settlement of the  
18 class claims (each a "Class Member" and collectively the “Class”).
- 19 3. Approving the proposed class notice (the “Class Notice”) and the plan for distribution  
20 of the Class Notice. A true and correct copy of the Class Notice is attached to the  
21 Settlement Agreement as **Exhibit A**;
- 22 4. Appointing Plaintiff Cristian Santos as “Class Representative” for settlement purposes;
- 23 5. Appointing Plaintiff’s Counsel, Benjamin H. Haber, Daniel Kramer, Chase Stern, Alan  
24 A. Wilcox, and Conor J.D. Gomez of Wilshire Law Firm, PLC (“WLF”) as “Class  
25 Counsel” for settlement purposes;
- 26 6. Appointing Apex Class Action, LLC. as the “Administrator”; and
- 27 7. Scheduling a final approval hearing.
- 28

1 The motion will be based upon this notice, the attached memorandum of points and  
2 authorities, the Declarations of Conor J.D. Gomez (the “Class Counsel Declaration”) and Cristian  
3 Santos, filed concurrently herewith, the records and files in the Action, and any other further  
4 evidence or argument that the Court may properly receive at or before the hearing (the “Motion”).

5  
6 Dated: May 28, 2026

Respectfully submitted,

WILSHIRE LAW FIRM, PLC

8 By: 

9 Benjamin H. Haber

Daniel Kramer

10 Chase Stern

11 Alan A. Wilcox

Conor J.D. Gomez

12 *Attorneys for Plaintiff*

**TABLE OF CONTENTS**

|                                                                                                                    |     |
|--------------------------------------------------------------------------------------------------------------------|-----|
| NOTICE OF MOTION AND MOTION.....                                                                                   | i   |
| TABLE OF CONTENTS .....                                                                                            | iii |
| TABLE OF AUTHORITIES.....                                                                                          | v   |
| MEMORANDUM OF POINTS AND AUTHORITIES.....                                                                          | 1   |
| I. INTRODUCTION.....                                                                                               | 1   |
| II. SUMMARY OF THE LITIGATION AND SETTLEMENT.....                                                                  | 1   |
| A. Plaintiff’s Claims and Procedural History .....                                                                 | 1   |
| B. Discovery and Investigation.....                                                                                | 2   |
| C. Settlement Negotiations .....                                                                                   | 2   |
| D. Key Terms of the Proposed Settlement.....                                                                       | 3   |
| III. DISCUSSION .....                                                                                              | 7   |
| A. A Presumption of Fairness Exists Over The Settlement.....                                                       | 8   |
| 1. The Settlement Is the Product of Arm’s-Length Negotiations.....                                                 | 8   |
| 2. The Parties Conducted Sufficient Investigation.....                                                             | 8   |
| 3. Class Counsel Has Extensive Experience in Class Action Litigation.....                                          | 9   |
| 4. The Percentage of Objectors Is Small.....                                                                       | 9   |
| B. The Settlement Is Fair, Just, Reasonable, and Adequate .....                                                    | 9   |
| 1. Plaintiff’s Strengths and Risks of Continued Litigation .....                                                   | 9   |
| 2. The Gross Settlement Amount Is Reasonable.....                                                                  | 10  |
| C. The Proposed Attorneys’ Fees and Costs Are Reasonable .....                                                     | 11  |
| 1. Class Counsel Request an Award of the Attorneys’ Fees and Costs Based on<br>the “Common Fund” Method.....       | 11  |
| 2. The Requested Attorneys’ Fees and Costs Are in Line with Typical Cases.....                                     | 12  |
| 3. This Matter Involves A “Fee-Shifting” Provision of the Labor Code .....                                         | 13  |
| 4. The Experience, Reputation and Ability of Class Counsel Support the<br>Requested Attorneys’ Fees and Costs..... | 13  |
| D. The PAGA Allocation is Reasonable.....                                                                          | 14  |

|    |                                                                                    |    |
|----|------------------------------------------------------------------------------------|----|
| 1  | E. The Class Representative Service Payment Is Reasonable.....                     | 15 |
| 2  | IV. CERTIFICATION FOR SETTLEMENT PURPOSES IS WARRANTED .....                       | 16 |
| 3  | A. Legal Standard .....                                                            | 16 |
| 4  | B. Plaintiff Maintains That the Criteria for Class Certification Are Satisfied for |    |
| 5  | Settlement Purposes. ....                                                          | 17 |
| 6  | 1. The Class is Ascertainable and Numerous.....                                    | 17 |
| 7  | 2. There is a Well-Defined Community of Interest in the Questions of Law and       |    |
| 8  | Fact.....                                                                          | 19 |
| 9  | 3. A Class Action is Superior to a Multiplicity of Litigation.....                 | 20 |
| 10 | V. THE PROPOSED CLASS NOTICE IS CONSTITUTIONALLY SOUND .....                       | 21 |
| 11 | A. The Proposed Class Notice Plan Satisfies Due Process.....                       | 21 |
| 12 | B. The Class Notice is Accurate and Informative .....                              | 21 |
| 13 | C. The Proposed Class Notice of Settlement Should Be Approved .....                | 22 |
| 14 | VI. CONCLUSION .....                                                               | 22 |

**TABLE OF AUTHORITIES**

**STATE CASES**

|                                                                                            |        |
|--------------------------------------------------------------------------------------------|--------|
| <i>ABM Industries Overtime Cases</i> (2017) 19 Cal.App.5th 277 .....                       | 17, 18 |
| <i>Bowles v. Super. Ct.</i> (1955) 44 Cal.2d 574 .....                                     | 18     |
| <i>Cartt v. Super Ct</i> (1975) 50 Cal.App.3d 960.....                                     | 21     |
| <i>Chavez v. Netflix, Inc.</i> (2008) 162 Cal.App.4th 43 .....                             | 13     |
| <i>City and County of San Francisco v. Sweet</i> (1995) 12 Cal.4th 105 .....               | 12     |
| <i>Classen v. Weller</i> (1983) 145 Cal.App.3d 27 .....                                    | 19, 20 |
| <i>Clothesrigger, Inc. v. GTE Corp.</i> (1987) 191 Cal.App.3d 605 .....                    | 19     |
| <i>Collins v. Rocha</i> (1972) 7 Cal.3d 232 .....                                          | 18     |
| <i>D’Amico v. Bd. of Medical Examiners</i> (1974) 11 Cal.3d 1 .....                        | 11     |
| <i>Dunk v. Ford Motor Co.</i> , (1996) 48 Cal.App.4th 1794 .....                           | 7, 8   |
| <i>Faulkinbury v. Boyd &amp; Associates, Inc.</i> (2013) 216 Cal.App.4th 220 .....         | 17     |
| <i>Gentry v. Super. Ct.</i> (2007) 42 Cal.4th 443 .....                                    | 15, 21 |
| <i>In re Tobacco II Cases</i> , (2009) 46 Cal.App.4th 298, 313 .....                       | 17     |
| <i>Kullar v. Foot Locker Retail, Inc.</i> (2008) 168 Cal.App.4th 116 .....                 | 9, 10  |
| <i>Laffitte v. Robert Half Int’l Inc.</i> (2016) 1 Cal.5th 480.....                        | 12     |
| <i>Linder v. Thrifty Oil Co.</i> (2000) 23 Cal.4th 429 .....                               | 17     |
| <i>Mallick v. Super. Ct.</i> (1979) 89 Cal.App.3d 434 .....                                | 8      |
| <i>McGhee v. Bank of America</i> (1976) 60 Cal.App.3d 442 .....                            | 20     |
| <i>Miller v. Woods</i> (1983) 148 Cal. App. 3d 862 .....                                   | 20     |
| <i>Munoz v. BCI Coca-Cola Bottling Co. of Los Angeles</i> (2010) 186 Cal.App.4th 399 ..... | 10, 15 |
| <i>Quinn v. State of California</i> (1995) 15 Cal.3d 162.....                              | 12     |
| <i>Richmond v. Dart Indus., Inc.</i> (1981) 29 Cal. 3d 462.....                            | 17, 19 |
| <i>Rose v. City of Hayward</i> (1981) 126 Cal.App.3d 926 .....                             | 18     |
| <i>Serrano v. Priest</i> (1977) 20 Cal.3d 25.....                                          | 11     |

|    |                                                                                                                                |           |
|----|--------------------------------------------------------------------------------------------------------------------------------|-----------|
| 1  | <i>Stamburgh v. Super. Ct.</i> (1976) 62 Cal.App.3d 231 .....                                                                  | 9         |
| 2  | <i>Wershba v. Apple Computers, Inc.</i> (2001) 91 Cal.App.4th 224.....                                                         | 11        |
| 3  | <b><u>FEDERAL CASES</u></b>                                                                                                    |           |
| 4  | <i>Frank v. Eastman Kodak Co.</i> (W.D.N.Y. 2005) 228 F.R.D. 174 .....                                                         | 15        |
| 5  | <i>Garcia v. Gordon Trucking, Inc.</i> (E.D. Cal. Oct. 31, 2012) No. 1:10-CV-0324 AWI SKO, 2012<br>WL 5364575 .....            | 14        |
| 6  | <i>Jack v. Hartford Fire Ins. Co.</i> (S.D. Cal. Oct. 13, 2011) 2011 WL 4899942 .....                                          | 14        |
| 7  | <i>Leyva v. Medline Ind.</i> (9th Cir. 2013) 716 F.3d 510 .....                                                                | 21        |
| 8  | <i>McKenzie v. Fed. Express Corp.</i> (C.D. Cal. Jan. 23, 2012) 2012 WL 12882124 .....                                         | 14        |
| 9  | <i>Moreno v. Pretium Packaging, L.L.C.</i> (C.D. Cal. Aug. 6, 2021) 2021 WL 3673845 .....                                      | 15        |
| 10 | <i>Priddy v. Edelman</i> , (6th Cir. 1989) 883 F.2d 438 .....                                                                  | 10        |
| 11 | <i>Rodriguez v. W. Publ'g Corp.</i> (9th Cir. 2009) 563 F.3d 948 .....                                                         | 15        |
| 12 | <i>Suarez v. Bank of America, National Association</i> (N.D. Cal., Jan. 11, 2024, No. 18-CV-01202-<br>LB) 2024 WL 150721 ..... | 16        |
| 13 | <i>Van Vranken v. Atlantic Richfield Company</i> (N.D. Cal. 1995) 901 F.Supp. 294.....                                         | 13        |
| 14 | <i>Vincent v. Hughes Air West, Inc.</i> (9th Cir. 1977) 557 F.2d 759 .....                                                     | 12        |
| 15 | <i>Zubia v. Shamrock Foods Co.</i> (C.D. Cal. Dec. 21, 2017) No. CV1603128ABAGRX, 2017 WL<br>10541431 .....                    | 14        |
| 16 |                                                                                                                                |           |
| 17 | <b><u>TREATISES</u></b>                                                                                                        |           |
| 18 | Conte & Newberg, <i>Newberg on Class Actions</i> (3rd Ed.) .....                                                               | 8, 12, 21 |
| 19 |                                                                                                                                |           |
| 20 | <b><u>OTHER SOURCES</u></b>                                                                                                    |           |
| 21 | Eisenberg & Miller, <i>Incentive Awards to Class Action Plaintiffs: An Empirical Study</i> (2006) 53<br>UCLA L.Rev. 1303 ..... | 16        |
| 22 |                                                                                                                                |           |
| 23 |                                                                                                                                |           |
| 24 |                                                                                                                                |           |
| 25 |                                                                                                                                |           |
| 26 |                                                                                                                                |           |
| 27 |                                                                                                                                |           |
| 28 |                                                                                                                                |           |

## **MEMORANDUM OF POINTS AND AUTHORITIES**

### **I. INTRODUCTION**

Plaintiff seeks preliminary approval of a proposed Settlement Agreement entered into between Plaintiff (on behalf of the Class) and Defendant. The Settlement Agreement will provide substantial monetary payments to approximately 216 Class Members. And, as set forth more fully below, the proposed Settlement satisfies all the criteria for settlement approval under California law. The Settlement was reached after extensive investigation, discovery, and arm's-length negotiations between the Parties. The negotiations were at arms-length and after extensive negotiations and discussions regarding the strengths and weaknesses of Plaintiff's claims and Defendant's defenses, the Parties executed the Settlement on April 9, 2026. Accordingly, Plaintiff requests that the Court preliminarily approve the proposed Settlement, certify the Class, approve the proposed Class Notice, and set a final approval hearing.

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

#### **A. Plaintiff's Claims and Procedural History**

Plaintiff alleges that Defendant's payroll, timekeeping, and wage and hour practices resulted in Labor Code violations. (Class Counsel Decl., at ¶ 3.) Plaintiff alleges that Defendant failed to pay for all hours worked. (*Id.*) Specifically, Plaintiff further alleges that Defendant failed to: provide meal periods, authorize and permit rest periods, timely pay final wages, furnish accurate wage statements, and indemnify employees for expenditures. (*Id.*)

Based on these allegations, on September 17, 2024, Plaintiff filed a putative wage and hour class action complaint against Defendant for: (1) failure to pay minimum and straight time wages (Labor Code §§ 204, 1194, 1194.2, and 1197); (2) failure to pay overtime wages (Labor Code §§ 1194 and 1198); (3) failure to provide meal periods (Labor Code §§ 226.7 and 512); (4) failure to authorize and permit rest periods (Labor Code § 226.7); (5) failure to timely pay final wages at termination (Labor Code §§ 201-203); (6) failure to provide accurate itemized wage statements (Labor Code § 226); (7) failure to indemnify employees for expenditures (Labor Code § 2802); and (8) unfair business practices (Business and Professions Code §§ 17200, *et seq.*). (Class Counsel Decl., at ¶ 4.) Plaintiff sent a notice to Defendant and the

1 California Labor & Workforce Development Agency (“LWDA”) alleging similar wage and hour  
2 violations pursuant to the PAGA on October 18, 2024. (*Id.*) On February 20, 2025, Plaintiff  
3 filed a first amended complaint against Defendant adding a cause of action for PAGA civil  
4 penalties (the “Operative Complaint”). (*Id.*)

5 **B. Discovery and Investigation**

6 Following the filing of the Action, the Parties exchanged information, data, and  
7 documents, and reviewed the same before going to mediation. (Class Counsel Decl., at ¶ 5.)  
8 Defendant produced a sample of time and pay records for Class Members. (*Id.*) Defendant also  
9 provided documents setting forth its wage and hour policies and practices during the Class  
10 Period and information regarding the total number of current and former employees in its  
11 informal discovery responses. (*Id.*) The Parties have engaged in sufficient informal discovery  
12 and investigation to assess the relative merits of the claims and contentions of the Parties. (*Id.*)

13 After reviewing documents regarding Defendant’s wage and hour policies and practices  
14 and analyzing Defendant’s timekeeping and payroll records, Class Counsel was able to evaluate  
15 the probability of class certification, success on the merits, and Defendant’s maximum monetary  
16 exposure for all claims. (Class Counsel Decl., at ¶ 6.) Class Counsel also investigated the  
17 applicable law regarding the claims and defenses asserted in the Action. (*Id.*) Class Counsel  
18 reviewed these records and prepared a damage analysis prior to mediation. (*Id.*) This extensive  
19 investigation and discovery allowed Class Counsel to act intelligently and effectively in  
20 negotiating the Settlement. (*Id.*)

21 **C. Settlement Negotiations**

22 On August 5, 2025, the Parties participated in private mediation with experienced class  
23 action mediator Daniel J. Turner, Esq. (Class Counsel Decl., at ¶ 7.) The settlement negotiations  
24 were at arm’s length and, although conducted in a professional manner, were adversarial. (*Id.*)  
25 After extensive negotiations and discussions regarding the strengths and weaknesses of  
26 Plaintiff’s claims and Defendant’s defenses, the Parties reached the Settlement, the material  
27 terms of which are encompassed within the Settlement Agreement. (*Id.* at ¶ 8, Ex. 1, Settlement  
28 Agreement.)

1 Class Counsel has conducted a thorough investigation into the facts of this case. (Class  
2 Counsel Decl., at ¶ 14.) Based on the foregoing discovery and their own independent  
3 investigation and evaluation, Class Counsel is of the opinion that the Settlement is fair, just,  
4 reasonable, and adequate and is in the best interests of the Class Members in light of all known  
5 facts and circumstances, the risk of significant delay, the defenses that could be asserted by  
6 Defendant both to certification and on the merits, trial risk, and appellate risk. (*Id.*)

7 Indeed, the Gross Settlement Amount represents approximately **61.3%** of the **realistic**  
8 **maximum recovery** of \$937,584.00. (Class Counsel Decl., at ¶ 23.) Although Class Counsel  
9 estimated that Defendant's maximum potential liability for all claims was approximately \$4.7  
10 million, when the risk of prevailing at certification and trial are factored into the equation, Class  
11 Counsel believes that Defendant's realistic exposure was \$937,584.00, meaning the Settlement  
12 achieves a significant recovery. (*Id.* at ¶¶ 14-27.) Considering the risk and uncertainty of  
13 prevailing at class certification and at trial, this is an excellent result for the Class. (*Id.* at ¶ 27.)  
14 Indeed, because of the proposed Settlement, Class Members will receive timely, guaranteed  
15 relief and will avoid the risk of an unfavorable judgment. (*Id.* at ¶ 23.)

16 **D. Key Terms of the Proposed Settlement**

17 The Settlement's key terms include:

18 1. Class Period: "means the period March 23, 2020, to October 5, 2025." (Settlement,  
19 § 1.12.)

20 2. Class: "means all current and former non-exempt employees of Stone Roofing  
21 Company. Inc. who worked for Stone Roofing Company. Inc. in the State of California during the  
22 Class Period and who do not timely opt out of the settlement of the Class Claims ("Class  
23 Members")." (Settlement, § 1.5.)

24 3. Aggrieved Employee: "means all current and former non-exempt employees of  
25 Stone Roofing Company. Inc. who worked for Stone Roofing Company, Inc. in the State of  
26 California during the period October 18, 2023, to October 5, 2025, ("PAGA Period"), regardless  
27 of whether they opt out of the settlement of the Class Claims ("Aggrieved Employees")."  
28 (Settlement, § 1.4.)

1           4.     PAGA Period: “means the period is October 18, 2023, to October 5, 2025.”  
2 (Settlement, § 1.32.)

3           5.     Gross Settlement Amount or GSA: “means \$ 575,000.00 which is the total amount  
4 Defendant agrees to pay under the Settlement, except as provided in Paragraph 8 [of the Settlement  
5 Agreement], Escalator Clause.” (Settlement, § 1.22.)

6           6.     No Reversion: “The Gross Settlement Amount is non-reversionary and does not  
7 include employer payroll taxes owed on the wage portions of the Individual Class Payments, which  
8 Defendant will pay separately.” (Settlement, § 3.1.)

9           7.     Uncashed Checks: “For any Class Member whose Individual Class Payment check  
10 or Individual PAGA Payment check is uncashed and canceled after the void date, the Administrator  
11 shall transmit the funds represented by such checks to the California Controller's Unclaimed  
12 Property Fund in the name of the Class Member thereby leaving no “unpaid residue” subject to the  
13 requirements of California Code of Civil Procedure Section 384, subd. (b).” (Settlement, § 4.4.3.)

14           8.     Released Class Claims: Effective on the date when Defendant fully funds the Gross  
15 Settlement Amount and all employer payroll taxes owed on the Wage Portion of the Individual  
16 Class Payments, Plaintiff, Class Members, and Aggrieved Employees will release claims against  
17 all Releasees as follows: “All Participating Class Members, on behalf of themselves and their  
18 respective former and present representatives, agents, attorneys, heirs, administrators, successors,  
19 and assigns, release Released Parties from (i) all claims that were alleged, or reasonably could have  
20 been alleged, based on the facts stated in the Operative Complaint including but not limited to, state  
21 and federal wage and hour claims for any and all violations of California's Labor Code and Unfair  
22 Competition Law, and the federal Fair Labor Standards Act based on Defendant's failure to pay for  
23 all hours worked (including minimum, straight time, and overtime wages), failure to provide meal  
24 periods, failure to authorize and permit rest periods, failure to timely pay final wages at termination,  
25 failure to furnish accurate itemized wage statements, and failure to indemnify employees for  
26 expenditures based on the alleged Labor Code violations, and all damages, interest, penalties,  
27 attorneys' fees, costs, and other amounts recoverable under said causes of action under California  
28 and federal law, to the extent permissible, including, but not limited to, the California Labor Code

1 and the applicable Wage Orders, and the Fair Labor Standards Act. Except as set forth in Section 6.3  
2 of this Agreement, Participating Class Members do not release any other claims, including claims  
3 for vested benefits, wrongful termination, violation of the Fair Employment and Housing Act,  
4 unemployment insurance, disability, social security, workers' compensation, or claims based on facts  
5 occurring outside the Class Period.” (Settlement, § 5.2.)

6 1. Released PAGA Claims: Effective on the date when Defendant fully funds the Gross  
7 Settlement Amount and all employer payroll taxes owed on the Wage Portion of the Individual  
8 Class Payments, Plaintiff, Class Members, and Aggrieved Employees will release claims against  
9 all Releasees as follows: “Upon entry of the Final Judgment and the employer's payment of the  
10 employer's taxes for the portion of the Settlement allocated to settlement of wage claims, the claims  
11 waived, released, and discharged by Aggrieved Employees and the State of California as to the  
12 Releasees are all claims under PAGA arising during the PAGA Period (a) which were asserted  
13 against Defendant in Plaintiffs PAGA Notice preceding the Action and/or the Operative Complaint  
14 filed in the Action, or (b) which reasonably could have been asserted against Defendant based on  
15 the factual allegations stated in Plaintiffs PAGA Notice preceding the Action and/or the Operative  
16 Complaint filed in the Action. For avoidance of doubt, the Released PAGA Claims are limited to  
17 claims under PAGA arising during the PAGA Period that were asserted or reasonably could have  
18 been asserted based on the factual allegations stated in Plaintiff’s PAGA Notice preceding the Action  
19 and/or the Operative Complaint filed in the Action, and do not include any PAGA claims outside of  
20 the PAGA Period or any non-PAGA claims.” (Settlement, § 5.3.)

21 2. PAGA Penalties: “means the total amount of PAGA civil penalties to be paid from  
22 the Gross Settlement Amount (\$28,750.00) allocated 35% to the Aggrieved Employees  
23 (\$10,062.50) and 65% to LWDA (\$18,687.50) in settlement of PAGA claims.” (Settlement, §  
24 1.35.) Class Counsel submitted the proposed settlement to the LWDA before filing this Motion  
25 for Preliminary Approval. (Class Counsel Decl., ¶ 9.)

26 3. Net Settlement Amount: “means the Gross Settlement Amount, less the following  
27 payments in the amounts approved by the Court: PAGA Penalties payment, Enhancement, Class  
28 Counsel Fees Payment, Class Counsel Litigation Expenses Payment, and the Administration Costs.

1 The remainder is to be paid to Participating Class Members as Individual Class Payments.”  
2 (Settlement, § 1.28.)

3 4. Distribution Formula: As to Class: “An Individual Class Payment is calculated by (a)  
4 dividing the Net Settlement Amount by the total number of Workweeks worked by all Participating  
5 Class Members during the Class Period, and (b) multiplying the result by each individual  
6 Participating Class Member’s Workweeks.” (Settlement, § 3.2.4.) As to PAGA: “The  
7 Administrator will calculate each Individual PAGA Payment by (a) dividing the amount of the  
8 Aggrieved Employees’ 35% share of PAGA Penalties (\$10,062.50) by the total number of PAGA  
9 Period Pay Periods worked by all Aggrieved Employees during the PAGA Period, and (b)  
10 multiplying the result by each individual Aggrieved Employee’s PAGA Pay Periods. Aggrieved  
11 Employees assume full responsibility and liability for any taxes owed on their Individual PAGA  
12 Payment.” (Settlement, § 3.2.7.1.)

13 5. Tax Allocation of Individual Class Payments: “Twenty Percent (20%) of each  
14 Participating Class Member’s Individual Class Payment will be allocated to the Settlement of wage  
15 claims (the “Wage Portion”). The Wage Portion is subject to tax withholding and will be reported  
16 on an IRS W-2 Form. The remaining eighty (80%) of each Participating Class Member’s Individual  
17 Class Payment will be allocated to the settlement of claims for interest and penalties (the “Non-  
18 Wage Portion”). The Non-Wage Portions are not subject to wage withholdings and will be reported  
19 on IRS 1099 Forms. Participating Class Members assume full responsibility and liability for any  
20 employee taxes owed on their Individual Class Payment.” (Settlement, § 3.2.5.)

21 6. Class Representative Service Award or Enhancement Award: “A payment for the  
22 Enhancement Award to Plaintiff of not more than \$10,000.00 in addition to any Individual Class  
23 Payment and any Individual PAGA Payment the Class Representative is entitled to receive as a  
24 Participating Class Member. Defendant will not oppose Plaintiffs request for an Enhancement  
25 Award that does not exceed this amount. If the Court approves an Enhancement Award less than  
26 the amount requested, the Administrator will retain the remainder in the Net Settlement Amount to  
27 be distributed to Participating Class Members. The Administrator will pay the Enhancement Award  
28

using IRS Form 1099. Plaintiff assumes full responsibility and liability for employee taxes owed on the Enhancement Award.” (Settlement, § 3.2.1.)

7. Class Counsel Fees Payment and Class Counsel Litigation Expenses Payment: “A Class Counsel Fees Payment of up to 35% the GSA, which is currently estimated to be \$201,250.00, and a Class Counsel Litigation Expenses Payment for actual costs. Defendant will not oppose requests for these payments.” (Settlement, § 3.2.2.)

8. Administrator: “means Apex Class Action LLC, the neutral entity the Parties have agreed to appoint to administer the Settlement.” (Settlement, § 1.2.)

9. Administration Costs: “An Administrator Costs for actual costs, not to exceed \$6,990.00 except for a showing of good cause and as approved by the Court. To the extent the Administration Costs are less, or the Court approves payment of less than requested, the Administrator will retain the remainder in the Net Settlement Amount to be distributed to Participating Class Members.” The Administrator’s bid is not to exceed \$6,990.00 for 230 Class Members (the “Administration Costs”). (Settlement, § 3.2.3; Class Counsel Decl., ¶ 10, Ex. 3 [Settlement Administrator Bid].)

10. Notice of Proposed Class Action Settlement: The Class Notice sets forth in plain terms, a statement of the Action, the terms of the Settlement Agreement, the approximate amount of the Class Counsel Fees, Class Counsel Costs, and Class Representative Service Award being sought, and an explanation of how the Settlement allocations are calculated. (Settlement § 1.11, Ex. A, Class Notice.) Class Members will be notified by mail of the Settlement. (*Id.*) The Settlement Administrator will undertake its best efforts to ensure that the Class Notice is provided to the current addresses of Class Members, including conducting a national change of address search and re-mailing the Class Notice to updated addresses. (*Id.*; Class Counsel Decl., ¶ 10, Ex. 3 [Settlement Administrator Bid].)

### **III. DISCUSSION**

To prevent fraud, collusion, or unfairness to the class, the settlement of a class action requires court approval. (*Dunk v. Ford Motor Co.* (1996) 48 Cal.App.4th 1794, 1800-01.) This

1 Court has wide discretion to determine whether the proposed Settlement is fair. (*Mallick v. Super.*  
2 *Ct.* (1979) 89 Cal.App.3d 434, 438.)

3 **A. A Presumption of Fairness Exists Over The Settlement**

4 Fairness is presumed when: (1) the settlement is reached through arm's-length bargaining;  
5 (2) investigation is sufficient to allow counsel and the court to act intelligently; (3) counsel is  
6 experienced in similar litigation; and (4) the percentage of objectors is small. (*Dunk* at p. 1800.)

7 **1. The Settlement Is the Product of Arm's-Length Negotiations**

8 Courts presume the absence of fraud or collusion in the negotiation of a settlement, unless  
9 evidence to the contrary is offered. No evidence to the contrary has been offered here; thus, there  
10 is a presumption that the negotiations were conducted in good faith. (Conte & Newberg, *Newberg*  
11 *on Class Actions* (3rd Ed.) § 11.51.)

12 On August 5, 2025, the Parties participated in private mediation with experienced class  
13 action mediator Daniel J. Turner, Esq. (Class Counsel Decl., at ¶ 7.) The Parties' settlement  
14 discussions were conducted at arms' length and although the Parties were professional, the  
15 settlement negotiations were adversarial with each of the Parties prepared to litigate their position  
16 through trial and appeal if a settlement had not been reached. (*Id.*) After extensive negotiations and  
17 discussions regarding the strengths and weaknesses of Plaintiff's claims and Defendant's defenses,  
18 the Parties reached the Settlement. (*Id.*)

19 **2. The Parties Conducted Sufficient Investigation**

20 Prior to reaching this Settlement, Class Counsel conducted informal discovery concerning  
21 the claims set forth in the Action, such as exchanging a sample of Class Member timekeeping and  
22 payroll records, Defendant's policies and procedures concerning the payment of wages, the  
23 provision of meal and rest breaks, issuance of wage statements, and providing all wages at  
24 separation, as well as information regarding the number of putative Class Members and the mix of  
25 current versus former employees, the wage rates in effect, and the amount of meal and rest period  
26 premium wages paid to Class Members. (Class Counsel Decl., at ¶¶ 5-6.) In conjunction with their  
27 extensive factual investigation, Class Counsel investigated the applicable law regarding the claims  
28

1 and defenses asserted in the Action. (*Id.*) Thus, Plaintiff and Class Counsel were able to act  
2 intelligently and effectively in negotiating the proposed Settlement. (*Id.*)

### 3 **3. Class Counsel Has Extensive Experience in Class Action Litigation**

4 The settlement negotiations were conducted by highly capable and experienced counsel.  
5 Class Counsel have a strong record of vigorous and effective advocacy for their clients and are  
6 experienced in handling complex wage and hour class action litigation. (*Id.* at ¶¶ 37-51.) Although  
7 Plaintiff and Class Counsel were prepared to litigate the claims alleged in the Action, they believe  
8 the proposed Settlement is in the best interests of the Class.

### 9 **4. The Percentage of Objectors Is Small**

10 This factor cannot yet be determined unless and until the Court preliminarily approves the  
11 Motion and the Class Notice. This factor will be properly addressed in Class Counsel’s Motion  
12 for Final Approval of Class Action Settlement, should this Court grant the instant Motion.

### 13 **B. The Settlement Is Fair, Just, Reasonable, and Adequate**

14 In considering whether a settlement is fair, just, reasonable, and adequate the trial court  
15 should consider relevant factors, which may include the strength of plaintiff’s case, the risk,  
16 expense, complexity and likely duration of further litigation, the risk of maintaining class action  
17 status through trial, the amount offered in settlement, the extent of discovery completed and the  
18 stage of the proceedings, the experience and views of counsel, ... and the reaction of the class  
19 members to the proposed settlement. (*Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th  
20 116, 128.) Settlement is favored, and settlement agreements are realistically assessed. (*Stamburgh*  
21 *v. Super. Ct.* (1976) 62 Cal.App.3d 231, 236.)

22 As discussed below, Class Counsel has provided information exceeding the threshold  
23 required to provide this Court with materials and information necessary to determine that the  
24 proposed Settlement is fair, just, adequate, and reasonable.

### 25 **1. Plaintiff’s Strengths and Risks of Continued Litigation**

26 Based on Plaintiff’s discovery and investigation, Class Counsel reached the conclusion that  
27 Defendant had a policy and practice of: requiring its employees to work “off-the-clock” prior to  
28 clocking in for the workday, during meal periods, and after clocking out for the workday, time

1 which it did not pay for; not providing its employees with California compliant meal and rest  
2 periods, which it did not pay appropriate premiums for; and failing to reimburse its employees for  
3 business-related expenses. (Class Counsel Decl., ¶ 16.) Defendant denies these claims.

4 While Plaintiff is confident in the merits of their claims, a legitimate controversy exists as  
5 to each cause of action. (Class Counsel Decl., ¶ 24.) Plaintiff recognizes that proving the amount  
6 of wages due to each class member would be an expensive, time-consuming, and uncertain  
7 proposition. (*Id.*) Although the Parties had engaged in significant amount of investigation, informal  
8 discovery and Class-wide data analysis, the Parties had not yet completed formal written discovery.  
9 (*Id.* at ¶ 24.) Plaintiff intended to depose corporate officers and managers of Defendant. (*Id.*)  
10 Moreover, preparation for a class certification and a trial remained for the Parties as well as the  
11 prospect of appeals in the wake of a disputed class certification ruling for Plaintiffs and/or adverse  
12 summary judgment ruling. (*Id.*) Had the Court certified any claims, Defendant could move to  
13 decertify the claims. (*Id.*) As a result, the Parties would incur considerably more attorneys' fees  
14 and costs through trial. (*Id.*) This Settlement avoids the risks and the accompanying expense of  
15 further litigation. (*Id.*)

16 Balancing the strengths of Plaintiff's claims against the risks of continued litigation of the  
17 Action, Plaintiff and Class Counsel determined that the proposed Settlement was in the best  
18 interests of the Class.

## 19 **2. The Gross Settlement Amount Is Reasonable**

20 In order to approve a class action settlement, the Court must satisfy itself that the class  
21 settlement is within the "ballpark" of reasonableness. (*Kullar*, at 133.) The fact that a plaintiff  
22 might have received more if the case had been fully litigated is no reason not to approve the  
23 settlement. (*Priddy v. Edelman* (6th Cir. 1989) 883 F.2d 438, 447.) The record need not contain an  
24 explicit statement of the maximum theoretical recovery. (*Munoz v. BCI Coca-Cola Bottling Co. of*  
25 *Los Angeles* (2010) 186 Cal.App.4th 399, 408-9 [holding that *Kullar* does not require "an explicit  
26 statement of the maximum amount the plaintiff class could recover if it prevailed on all its claims",  
27 but instead, only an "understanding of the amount that is in controversy and the realistic range of  
28 outcomes of the litigation."].)

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

8 The proposed Gross Settlement Amount represents a substantial recovery when compared  
9 to Plaintiff’s reasonably forecasted recovery. (Class Counsel Decl. at ¶¶ 14-27.) Because of the  
10 proposed Settlement, Class Members will receive timely, guaranteed relief and will avoid the risk  
11 of an unfavorable judgment. (*Id.*) When considering the risks of litigation, the uncertainties  
12 involved in achieving class certification, the burdens of proof necessary to establish liability, the  
13 probability of appeal of a favorable judgment, it is clear that the Settlement is within the “ballpark”  
14 of reasonableness, and preliminary settlement approval is appropriate. (*Id.*) ***Indeed, each Class***  
15 ***Member is eligible to receive an average net benefit of approximately \$1,402.82.*** (*Id.* at ¶ 27.)

16 **C. The Proposed Attorneys’ Fees and Costs Are Reasonable**

17 Under the Settlement, subject to the Court’s approval, Defendant agrees to pay Class  
18 Counsel Fees Payment and Class Counsel Litigation Expenses Payment. These amounts are  
19 disclosed to all Class Members in the proposed Class Notice and are reasonable. (Class Counsel  
20 Decl., at Ex. 1, Ex. A.)

21 **1. Class Counsel Request an Award of the Attorneys’ Fees and Costs Based**  
22 **on the “Common Fund” Method**

23 California courts have long awarded attorneys’ fees as a percentage of the benefit created  
24 by counsel in creating a common fund. The California Supreme Court held that “when a number  
25 of persons is entitled in common to a specific fund, and an action brought by a plaintiff or plaintiffs  
26 for the benefit of all results in the creation or preservation of that fund, such plaintiff or plaintiffs  
27 may be awarded attorneys’ fees out of the fund.” (*Serrano v. Priest* (1977) 20 Cal.3d 25, 34,  
28 quoting *D’Amico v. Bd. of Medical Examiners* (1974) 11 Cal.3d 1.)

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

12           The California Supreme Court affirmed in *Laffitte v. Robert Half Int’l Inc.* (2016) 1 Cal.5th  
13 480 that, “when class action litigation establishes a monetary fund for the benefit of the class  
14 members, and the trial court in its equitable powers awards class counsel a fee out of that fund, the  
15 court may determine the amount of a reasonable fee by choosing an appropriate percentage of the  
16 fund created.” (*Id.* at p. 503.) The court explained: “The recognized advantages of the percentage  
17 method—including relative ease of calculation, alignment of incentives between counsel and the  
18 class, a better approximation of market conditions in a contingency case, and the encouragement  
19 it provides counsel to seek an early settlement and avoid unnecessarily prolonging the litigation—  
20 convince us the percentage method is a valuable tool that should not be denied our trial courts.”  
21 (*Id.* [internal citations omitted].)

## 22                   **2.       The Requested Attorneys’ Fees and Costs Are in Line with Typical** 23                   **Cases**

24           According to a leading treatise on class actions, “[n]o general rule can be articulated on  
25 what is a reasonable percentage of a common fund. Usually, 50% of the fund is the upper limit on  
26 a reasonable fee award from a common fund in order to assure that the fees do not consume a  
27 disproportionate part of the recovery obtained for the class, although somewhat larger percentages  
28 are not unprecedented.” (*See Conte & Newberg, Newberg on Class Actions* (3rd Ed.) § 14.03.)

Attorneys’ fees that are fifty percent of the fund are typically considered the upper limit, with thirty to forty percent commonly awarded in cases where the settlement is relatively small. (*Id.*; *see also Van Vranken v. Atlantic Richfield Company* (N.D. Cal. 1995) 901 F. Supp. 294 [stating that most cases where 30-50 percent was awarded involved “smaller” settlement funds of under \$10 million].)

Here, the Class Counsel Fees Payment is equal to 35% of the Gross Settlement Amount, which is in line with the prevailing guidelines established in California case law and academic literature and is consistent with awards in California. (*See Chavez v. Netflix, Inc.* (2008) 162 Cal.App.4th 43, 66, n.11 [“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.”].) Accordingly, Plaintiff respectfully requests that the Court approve the attorneys’ fees as negotiated by the Parties and requested herein.

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

Labor Code § 1194 (a) provides for the recovery of “minimum wage or overtime compensation, including interest thereon, reasonable attorney’s fees, and costs of suit.” Under this section, Plaintiff would be permitted to recover their actual attorneys’ fees, even if those fees were larger than the total Class recovery at the conclusion of this Action should it proceed. The Settlement is beneficial in that it limits the risk of continued expenses and consumption of time, energy, and resources facing Defendant while at the same time rewarding Class Counsel for their decision to assume risk by taking on this Action. In fact, prosecution of this Action involved significant financial risk for Class Counsel. (Class Counsel Decl., ¶¶ 35-36.) Class Counsel undertook this matter solely on a contingent basis, with no guarantee of recovery. (*Id.*) Once Class Counsel undertook this Action on behalf of the Class, Class Counsel committed to pursue it to its conclusion, placing its fiduciary duty to the Class ahead of all other concerns. (*Id.*)

### **4. The Experience, Reputation and Ability of Class Counsel Support the Requested Attorneys’ Fees and Costs**

As demonstrated by their past experience in pursuing class actions on behalf of consumers and employees, Class Counsel possess considerable expertise in litigating class actions. (Class

1 Counsel Decl., ¶¶ 37-51.) Class Counsel has been involved as lead counsel or co-counsel in several  
2 class actions that resulted in millions in recovery. (*Id.*) Because it is reasonable to compensate  
3 class counsel commensurate with their skill, reputation and experience, Class Counsel's requested  
4 fee award is supported here.

5 Class Counsel's experience in wage and hour class actions was integral in evaluating the  
6 strengths and weaknesses of the case against Defendant and the reasonableness of the Settlement.  
7 Practice in the narrow field of wage and hour litigation requires skill and knowledge concerning  
8 the rapidly evolving substantive law (state and federal), as well as the procedural law of class  
9 action litigation. Based on these and other factors, Class Counsel has frequently received fee  
10 awards of this percentage from the gross recovery for the class. Therefore, the requested Class  
11 Counsel Fees are reasonable and fair.

12 **D. The PAGA Allocation is Reasonable**

13 Where settlements negotiate a good faith amount for PAGA penalties and there is no  
14 indication that this amount was the result of self-interest at the expense of other class members,  
15 such amounts are generally considered reasonable. Courts have approved amounts for PAGA  
16 penalties in the range of zero to two percent of the total maximum amount of the Settlement. (*See*  
17 *Jack v. Hartford Fire Ins. Co.* (S.D. Cal. Oct. 13, 2011) 2011 WL 4899942 at \*6 [approving a  
18 PAGA payment of 0.25%]; *McKenzie v. Fed. Express Corp.* (C.D. Cal. Jan. 23, 2012) 2012 WL  
19 12882124 at \*5 [acknowledging that courts approve PAGA claim settlements in the range of zero  
20 to two percent of the total settlement].)

21 Here, the PAGA Amount is larger than many other PAGA settlement amounts approved by  
22 the courts where seemingly nominal amounts were allocated for such claims. (*See, e.g., Zubia v.*  
23 *Shamrock Foods Co.* (C.D. Cal. Dec. 21, 2017) No. CV1603128ABAGRX, 2017 WL 10541431,  
24 at \*14 [approving a PAGA settlement of 0.1%]; *Hopson, supra*, 2008 WL 3385452, at \*1  
25 [approving a PAGA settlement of 0.3% or \$1,500]; *Garcia v. Gordon Trucking, Inc.* (E.D. Cal.  
26 Oct. 31, 2012) No. 1:10-CV-0324 AWI SKO, 2012 WL 5364575, at \*3 [approving a PAGA  
27 settlement of 0.27%].) The Parties negotiated the PAGA Penalties, 35% to the Aggrieved  
28 Employees (\$10,062.50) and 65% to LWDA (\$18,687.50) in settlement of PAGA claims.

(Settlement, § 1.35.) The PAGA Amount equates to approximately 5% of the Gross Settlement Amount, which far exceeds amounts that are routinely approved. The Parties negotiated to allocate 5% of the Gross Settlement Amount to PAGA Penalties in good faith and this amount is reasonable. (Class Counsel Decl., ¶ 22.)

**E. The Class Representative Service Payment Is Reasonable**

Named plaintiffs in class action lawsuits “are eligible for reasonable incentive payments to compensate them for the expense or risk they have incurred in conferring a benefit on other members of the class.” (*Munoz, supra*, 86 Cal.App.4th at p. 412.) Courts routinely grant approval of class action settlement agreements containing enhancements for the class representatives, which are necessary to provide incentive to represent the class, and are appropriate given the benefit the class representatives help to bring about for the class. (*See Rodriguez v. W. Publ'g Corp.* (9th Cir. 2009) 563 F.3d 948, 958-59.)

Service awards are particularly important to plaintiffs in wage and hour cases because they promote the important public policies underlying the wage and hour laws. This strong policy is codified in California Labor Code § 90.5, which provides, “it is the policy of this state to vigorously enforce minimum labor standards in order to ensure employees are not required or permitted to work under substandard unlawful conditions . . . .” Nonetheless, the California Supreme Court has noted that “retaliation against employees for asserting statutory rights under the Labor Code is widespread,” despite anti-retaliation statutes designed to protect employees. (*Gentry v. Super. Ct.* (2007) 42 Cal.4th 443, 460-61.) In this context, class representatives should be rewarded for assuming the risk of retaliation for the sake of class members. (*See Frank v. Eastman Kodak Co.* (W.D.N.Y. 2005) 228 F.R.D. 174, 187.)

Under the Settlement Agreement, subject to the Court’s approval, Defendant agreed to pay the Class Representative Service Payment in the amount of \$10,000.00 to Plaintiff. Courts routinely approve service awards of \$10,000.00 for plaintiffs represented by counsel. (*See, e.g., Moreno v. Pretium Packaging, L.L.C.* (C.D. Cal. Aug. 6, 2021) 2021 WL 3673845, \*3 [“The Court concludes a \$10,000 incentive award is appropriate.”]; *Suarez v. Bank of America, National*

1 *Association* (N.D. Cal., Jan. 11, 2024, No. 18-CV-01202-LB) 2024 WL 150721, at \*4 [“The court  
2 approves awards of \$10,000 for each class representative.”].)

3 A 2006 study examining the average incentive award given to class action plaintiffs from  
4 1993 to 2002 found that the “average award per class representative was \$15,992 and the median  
5 award per class representative was \$4,357.” (Eisenberg & Miller, *Incentive Awards to Class Action*  
6 *Plaintiffs: An Empirical Study* (2006) 53 UCLA L.Rev. 1303, 1308.) That same study found that  
7 named plaintiffs in employment discrimination class actions received an average award of \$69,850  
8 and a median award of \$31,081, while named plaintiffs in other employment class actions received  
9 an average award of \$12,121 and a median award of \$13,059. (*Id.* at p. 1334.) The authors of the  
10 study found that higher awards in employment cases reflected the “courts’ wish to make  
11 representative plaintiffs whole by compensating them for the high costs of their service to the class,  
12 including risks of stigmatization or retaliation on the job.” (*Id.* at p. 1308.)

13 Class Counsel represents that Plaintiff devoted a great deal of time and work assisting Class  
14 Counsel litigate the Action, and Plaintiff communicated with Class Counsel during the mediation  
15 and the preparation leading up to mediation. (*See generally* Plaintiff’s declaration; Class Counsel  
16 Decl., ¶¶ 28-32.) The Class Representative Service Award is reasonable particularly in light of the  
17 substantial benefits Plaintiff generated for all Class Members and as compared to similarly situated  
18 plaintiffs in other employment class and representative actions. (*Id.*)

#### 19 **IV. CERTIFICATION FOR SETTLEMENT PURPOSES IS WARRANTED**

##### 20 **A. Legal Standard**

21 The proposed Class is well suited for class certification. All of the claims derive from a  
22 core set of alleged violations of California’s wage and hour laws and regulations. For the reasons  
23 set forth more fully below, for purposes of settlement only, the Class satisfies the prerequisites for  
24 certification under Code of Civil Procedure § 382. Section 382 provides: “when the question is one  
25 of a common or general interest, of many persons, or when the parties are numerous, and it is  
26 impracticable to bring them all before the court, one or more may sue or defend for the benefit of  
27 all.” (Code Civ. Proc., § 382). There are three requirements to section 382: Class certification  
28 requires proof (1) of a sufficiently numerous, ascertainable class, (2) of a well-defined community

1 of interest, and (3) that certification will provide substantial benefits to litigants and the courts, i.e.,  
2 that proceeding as a class is *superior* to other methods. (*In re Tobacco II Cases*, (2009) 46  
3 Cal.App.4th 298, 313.)

4 The California Supreme Court has looked to Federal Rule of Civil Procedure 23 to further  
5 explain that the community-of-interest requirement itself embodies three factors: “(1) predominant  
6 questions of law or fact; (2) class representatives with claims or defenses typical of the class; and  
7 (3) class representatives who can adequately represent the class.” (*Richmond v. Dart Indus., Inc.*  
8 (1981) 29 Cal. 3d 462, 470.)

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

14 **B. Plaintiff Maintains That the Criteria for Class Certification Are Satisfied for**  
15 **Settlement Purposes.**

16 **1. The Class is Ascertainable and Numerous**

17 A class is ascertainable if a plaintiff supplies a reasonable means of identifying potential  
18 class members and the class is defined in terms of objective characteristics and common facts  
19 sufficient to allow a class member to identify himself or herself as having a right to recover based  
20 on that description. (*ABM Industries Overtime Cases*, (2017) 19 Cal.App.5th 277, 303.) Courts  
21 also consider the size or numerosity of the class when determining whether or not it is  
22 ascertainable. (*Id.* at 302).

23 **a) *Class Definition***

24 When defining a class, the terminology used must convey “sufficient meaning to enables  
25 persons hearing to determine whether they are members of the class” and if the proposed class  
26 definition offers an objective way to identify those who will be bound by the results of the  
27 litigation. (*Id.* at 302-303.) Courts have routinely certified classes defined using language to that  
28 here. (*Faulkinbury v. Boyd & Associates, Inc.* (2013) 216 Cal.App.4th 220, 227; *see also Brinker*

1 at 1017-1018, 1019, defining several subclasses such as employees “who worked one or more work  
2 periods in excess of three and a half hours without receiving a paid 10 minute break” and those  
3 “who worked ‘off-the-clock’ or without pay.”)

4 Here, the Class definition (as stated above) is objective as it is limited in scope to a specific  
5 time frame (during the Class Period) and is limited to the potential class members’ employment  
6 classification (non-exempt employees). Further, there are common facts that exist here (such as  
7 those employees who worked without pay, were not given proper meal or rest periods, etc.) that  
8 are encapsulated by the causes of action alleged in the Action. This definition therefore provides  
9 sufficiently clear information to allow current and former employees to readily and reasonably  
10 determine whether or not they are a putative Class Member in this Action based upon this  
11 definition. (*ABM* at 304, stating “As long as the potential class members may be identified without  
12 unreasonable expense or time and given notice of the litigation, and the proposed class definition  
13 offers an objective means of identifying the persons who will be bound by the results of the  
14 litigation, the ascertainability requirement is met.”) Thus, the proposed Class that Plaintiff seeks  
15 to represent is easily ascertainable and includes approximately former and current 216 employees  
16 of Defendant.

17 **b) Numerosity**

18 “The requirement of Code of Civil Procedure section 382 that there be ‘many’ parties to a  
19 class action suit is indefinite and has been construed liberally.” (*Rose v. City of Hayward* (1981)  
20 126 Cal.App.3d 926, 934.) “Where a question is of common interest to ‘many’ persons, an action  
21 may be maintained as a class action even where the parties are numerous and it is in fact practicable  
22 to join them all.” (*Id.*) “No set number is required as a matter of law for the maintenance of a  
23 class action.” (*Id.*) “Thus, our Supreme Court has upheld a class representing the 10 beneficiaries  
24 of a trust in an action for removal of the trustees.” (*Id.*, citing *Bowles v. Super. Ct.* (1955) 44 Cal.2d  
25 574; *see also Collins v. Rocha* (1972) 7 Cal.3d 232 [upholding a 35 member class.]) If even as  
26 little as 10 persons can constitute a class, then certainly the 216 Class Members here satisfy the  
27 numerosity requirement.

1                   **2.       There is a Well-Defined Community of Interest in the Questions of**  
2                   **Law and Fact**

3           The community-of-interest requirement itself embodies three factors: “(1) predominant  
4 questions of law or fact; (2) class representatives with claims or defenses typical of the class; and  
5 (3) class representatives who can adequately represent the class.” (*Richmond* at 470.)

6                   **a)       There are Many Common Issues of Law and Fact Which**  
7                   **Predominate**

8           The Court should grant conditional Class certification for settlement purposes here on the  
9 grounds that questions of law and fact common to all Class and subclass predominate over any  
10 individual questions. This inquiry tests whether proposed classes are sufficiently cohesive to  
11 warrant adjudication by representation. (*See, e.g., Clothesrigger, Inc. v. GTE Corp.* (1987) 191  
12 Cal.App.3d 605.)

13           Here, the employment practices at issue are: whether Defendant had legally compliant  
14 policies and practices for all hours worked, including overtime wages; whether Defendant had  
15 legally compliant policies and practices to provide employees with meal periods; whether  
16 Defendant had legally compliant policies and practices authorizing and permitting its employees  
17 to take rest periods; whether Defendant reimbursed employees for business expenses; whether  
18 payment of wages during employed was timely; whether final payment of wages was untimely and  
19 excluded unpaid wages, including meal and rest period premium wages; whether wage statements  
20 were consequently non-compliant; and whether Defendant failed to keep requisite payroll records.  
21 Plaintiff contends that the factual and legal issues are the same for all the identified Class Members,  
22 including Plaintiff. Further, all Class Members suffered from, and seek redress for, the same  
23 alleged injuries.

24                   **b)       Plaintiff’s Claims Are Typical of the Claims of the Class**

25           The typicality requirement does not focus on the individual characteristics or circumstances  
26 of the representative plaintiff compared to those of the remainder of the class, but rather upon the  
27 typicality of the proposed representative’s claims as they relate to the defendant’s conduct and  
28 activities. (*Classen v. Weller* (1983) 145 Cal.App.3d 27, 47 [“[t]he only requirements are that

1 common questions of law and fact predominate and that the class representative be similarly  
2 situated” vis-à-vis the class.].) A representative plaintiff’s claims are typical of the class if they  
3 arise from the same event, practice or course of conduct, and if the claims rest on the same legal  
4 theories. (*Id.*) That is precisely the case here. Plaintiff is a former employee of Defendant; as such,  
5 Plaintiff alleges that Plaintiff was subject to the same policies and practices as other similarly  
6 situated employees. Thus, Plaintiff’s claims arise out of the same practices of Defendant and rest  
7 on the same legal theories as those of the Class. Therefore, Plaintiff can easily meet the typicality  
8 requirement in favor of certification.

9 **c) Plaintiff and Class Counsel Meet the Adequacy Requirement**

10 The adequacy of representation requirements is met by fulfilling two conditions: first, a  
11 named plaintiff must be represented by counsel qualified to conduct the pending litigation; second,  
12 a named plaintiff’s interests cannot be antagonistic to those of the class. (*McGhee v. Bank of*  
13 *America* (1976) 60 Cal.App.3d 442, 451.)

14 All of these requirements are met here for settlement purposes. Plaintiff retained Class  
15 Counsel, whom have extensive experience in prosecuting complex class actions, including similar  
16 class actions that previously settled. (Class Counsel Decl., ¶¶ 37-51.) Class Counsel  
17 unquestionably is “qualified, experienced and generally able to conduct the proposed litigation.”  
18 (*Miller v. Woods* (1983) 148 Cal.App.3d 862, 875.) In addition, Plaintiff has no conflicts, and  
19 Plaintiff has, with Class Counsel, litigated this Action and diligently reviewed the Settlement  
20 terms, showing their dedication. Plaintiff’s willingness to serve as Class Representative and to  
21 sacrifice the value of their own individual claims by executing a general release broader than that  
22 of the other Class Members so that the Class may benefit from this Settlement demonstrates  
23 Plaintiff’s serious commitment to bringing about the best results possible for the Class, thereby  
24 also demonstrating that Plaintiff’s interests are aligned with those of the Class and no conflict  
25 exists. (*McGhee, supra*, 60 Cal.App.3d at p. 451.)

26 **3. A Class Action is Superior to a Multiplicity of Litigation**

27 Finally, in making its Class certification decision, the Court must determine that a class  
28 action would be superior to alternative means for the fair and efficient adjudication of the litigation.

1 By consolidating many potential individual actions into a single proceeding, this Court’s use of the  
2 class action device enables it to manage this litigation in a manner that serves the economics of  
3 time, effort and expense for the litigants and the judicial system. Absent class treatment, similarly-  
4 situated employees with small but nevertheless meritorious claims for damages would, as a  
5 practical matter, have no means of redress because of the time, effort and expense required to  
6 prosecute individual actions. (*Gentry, supra*, 42 Cal.4th at pp. 457-62; *Leyva v. Medline Ind.* (9th  
7 Cir. 2013) 716 F.3d 510, 515.) Moreover, in the context of settlement, the superiority concerns  
8 are essentially non-existent.

9 **V. THE PROPOSED CLASS NOTICE IS CONSTITUTIONALLY SOUND**

10 **A. The Proposed Class Notice Plan Satisfies Due Process**

11 Notice requirements are set forth in the California Rules of Court. (Cal. Rules of Court,  
12 Rule 3.766 (e), (f).) California law vests the Court with broad discretion in fashioning an  
13 appropriate notice program. (*Cartt v. Super Ct.* (1975) 50 Cal.App.3d 960, 973-74.) There is no  
14 statutory or due process requirement that all class members receive actual notice, but in this Action,  
15 the Class Notice will be disseminated through direct U.S. first class mail to the last known address  
16 for each Class Member. As the Court of Appeals has explained, “[t]he notice given should have a  
17 reasonable chance of reaching a substantial percentage of the class members . . . .” (*Id.* at p. 974.)  
18 In this Action the Class Notice will be provided by direct mailing, which is the best possible form  
19 of notice as it provides the most reasonable chance of reaching a substantial percentage of the  
20 Class.

21 **B. The Class Notice is Accurate and Informative**

22 The proposed Class Notice is informative. It informs the Class Members of the terms of the  
23 Settlement and their right to be excluded from the Settlement. If there are Class Members who  
24 wish to object to this proposed Settlement, they will have the opportunity to file their objections  
25 and be heard at the Final Approval Hearing.

26 The Class Notice also fulfills the requirement of neutrality in class notices. (Conte &  
27 Newberg, *Newberg on Class Actions* (3rd Ed.) § 8.39.) It summarizes the proceedings to date  
28 and the terms and conditions of the Settlement Agreement, in an informative and coherent

1 manner. It makes clear that the Settlement Agreement does not constitute an admission of  
2 liability by the Defendant, who denies all liability, and it recognizes that this Court has not ruled  
3 on the merits of the Action. It also states that the final settlement approval decision has yet to  
4 be made. The Class Notice thus complies with the standards of fairness, completeness, and  
5 neutrality required of a combined settlement-certification class notice.

6 **C. The Proposed Class Notice of Settlement Should Be Approved**

7 The proposed Class Notice, in the form attached as **Exhibit A** to the Settlement Agreement,  
8 should be approved for dissemination to the Class. The Class Notice informs the Class of the terms  
9 of the Settlement and of their rights to be excluded from the Settlement. And if there are Class  
10 Members who wish to object to the Settlement, they will have the opportunity to file their  
11 objections and be heard at the final approval hearing. Accordingly, the proposed Class Notice  
12 meets all the requirements of Rule 3.769(f) of the California Rules of Court and should be  
13 approved.

14 **VI. CONCLUSION**

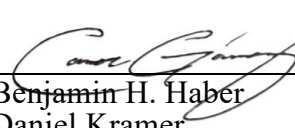
15 For the foregoing reasons, Plaintiff respectfully requests that the Court grant preliminary  
16 approval of the proposed Settlement and set a final approval hearing on or after December 17,  
17 2026.

18 Respectfully submitted,

19 Dated: May 28, 2026

WILSHIRE LAW FIRM, PLC

20 By:

  
Benjamin H. Haber  
Daniel Kramer  
Chase Stern  
Alan A. Wilcox  
Conor J.D. Gomez

21  
22  
23 *Attorneys for Plaintiff*