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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

VICTOR OROZCO and FELIPE RUVALCABA, as individuals and on behalf of all others similarly situated,

Plaintiffs,

vs.

MAGNETIC COMPONENT ENGINEERING, LLC, a Delaware limited liability company; DEXTER MAGNETIC TECHNOLOGIES, INC., a New York corporation; MAGNETIC HOLDINGS, LLC, a California limited liability company; and DOES 1 through 100, inclusive,

Defendants.

Case No.: 24STCV29587

[*Assigned for all purposes to the Hon. Timothy P. Dillon, Dept. 15*]

PLAINTIFFS' NOTICE OF MOTION AND MOTION FOR PRELIMINARY APPROVAL OF CLASS ACTION AND PAGA SETTLEMENT

Date: February 3, 2027
Time: 10:00 a.m.
Dept.: 15

Action Filed: November 12, 2024
Trial Date: None Set

PLEASE TAKE NOTICE that, pursuant to California Rule of Court 3.769, on February 3, 2027 at 10:00 a.m., or as soon thereafter as the matter may be heard, in Department 15 of the Superior Court of the State of California, County of Los Angeles, located at 312 North Spring Street, Los Angeles, CA 90012, Plaintiffs Victor Orozco and Felipe Ruvalcaba ("Plaintiffs"), as individuals and on behalf of a class of similarly situated individuals, will and hereby do move this Court for:

1. Preliminary approval of the proposed Class Action and PAGA Settlement Agreement ("Settlement Agreement") in this lawsuit, entered into between Plaintiffs and Defendant Magnetic Component Engineering, LLC;
2. Pursuant to Section 382 of the California Code of Civil Procedure, and for settlement purposes only, provisional certification of the Settlement Class, defined in the Settlement Agreement as follows:

   > All individuals who are or were employed by Defendant as non-exempt employees in California from November 12, 2020 through the Motion for Preliminary Approval ("MPA") Filing Date, but excluding anyone who has filed their own separate action as a named plaintiff alleging the same or similar claims being released by the Settlement and/or who has previously released such claims.

3. Preliminary appointment of Plaintiffs Victor Orozco and Felipe Ruvalcaba as the Class Representatives;
4. Preliminary appointment of Paul K. Haines, Fletcher W. Schmidt, Matthew K. Moen, and Ian T. Mallery of Haines Law Group, APC, as Class Counsel;
5. The scheduling of a hearing to consider final approval of the Settlement and Plaintiffs' future requests for the Class Representative Service Payments, Administration Expenses Payment, LWDA PAGA Payment, Class Counsel Fees Payment, and Class Counsel Litigation Expenses Payment;
6. Appointment of Apex Class Action, LLC as the neutral settlement administrator ("Administrator"); and

7. Approval of the proposed Class Notice and entry of the proposed Order instructing that the Class Notice be disseminated to the proposed Settlement Class in English and Spanish, as provided in the Settlement Agreement.

This motion is based on this notice of motion; the attached memorandum of points and authorities; the declarations of Matthew K. Moen, Paul K. Haines, Fletcher W. Schmidt, and Ian T. Mallery, Plaintiffs Victor Orozco and Felipe Ruvalcaba, and Sean Hartranft of Apex Class Action, LLC; the exhibits attached thereto; the pleadings and other papers filed in this action; and on any further oral or documentary evidence or argument presented at the time of hearing.

Dated: November 20, 2026

Respectfully Submitted,
HAINES LAW GROUP, APC

By: 

Matthew K. Moen
Attorneys for Plaintiffs

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MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

Plaintiffs Victor Orozco and Felipe Ruvalcaba ("Plaintiffs"), as individuals and on behalf of the proposed Settlement Class, respectfully request that this Court preliminarily approve the proposed Class Action and PAGA Settlement Agreement ("Settlement Agreement" or "Settlement"),[1] entered into by Plaintiffs and Defendant Magnetic Component Engineering, LLC ("MCE"), to resolve this action on behalf of MCE and co-defendants Dexter Magnetic Technologies, Inc. and Magnetic Holdings, LLC (collectively, "Defendants") (Plaintiffs and Defendants are referred to together as the "Parties"). Plaintiffs respectfully request that this Court preliminarily approve this non-reversionary, $157,000.00 class action and PAGA settlement on behalf of the following Settlement Class defined in the Settlement Agreement:

> All individuals who are or were employed by Defendant as non-exempt employees in California from November 12, 2020 through the MPA Filing Date, but excluding anyone who has filed their own separate action as a named plaintiff alleging the same or similar claims being released by the Settlement and/or who has previously released such claims.

The "Class Membership Period" runs from November 12, 2020 through the "MPA Filing Date". Settlement, §§ 1.11, 1.32. Based upon the data provided by Defendants, there are approximately 19 remaining Settlement Class Members who did not participate in Defendants' Individual Settlement Program, who worked an estimated 2,888 Workweeks as of the MPA Filing Date, and who are therefore eligible for an Individual Class Payment. *Id.*, § 8. After Court-approved deductions for Plaintiffs' Class Representative Service Payments, the Administration Expenses Payment, the PAGA Penalties, the Class Counsel Fees Payment, and the Class Counsel Litigation Expenses Payment, the remaining Net Settlement Fund ("NSF") is estimated to be no less than $13,916.67. Moen Decl., ¶ 11. This results in an average Individual Class Payment of approximately $732.46, with the lowest possible estimated Individual Class Payment of $4.82 (in the event a Settlement Class Member worked only one Workweek during the Class Membership

[1] The Settlement Agreement is attached as Exhibit 1 to the Declaration of Matthew K. Moen ("Moen Decl."), filed concurrently herewith, and the proposed Class Notice is attached to the Settlement Agreement as Exhibit C.

Period) and the highest possible estimated Individual Class Payment of $1,513.10 (in the event a Settlement Class Member performed work in every Workweek during the Class Membership Period). *Id.* Further, an additional $1,750.00 will be paid to all current and former non-exempt employees who worked for Defendants in California between November 12, 2023 and the MPA Filing Date (the "PAGA Membership Period") (collectively, the "Aggrieved Employees") for the release of claims under the Labor Code Private Attorneys General Act, Labor Code § 2698 *et seq.* ("PAGA"). Settlement, §§ 1.4, 1.35, 3.4.5. These payments will be made to approximately 76 Aggrieved Employees, resulting in an average Individual PAGA Payment of approximately $23.03. Moen Decl., ¶ 11; *see* Settlement, §§ 3.4.5.1, 8. Significantly, Settlement Class Members do not need to file a claim form in order to receive an Individual Class Payment, and all Participating Class Members (i.e., Settlement Class Members who do not opt out and did not receive a payment through Defendants' Individual Settlement Program) will automatically receive their share of the Settlement. Settlement, §§ 1.40, 3.3, 3.4.4. This represents an exceptional, fair and reasonable result for the Settlement Class Members, who will be agreeing to a release of only those claims that were actually asserted, or which could have been asserted based on the facts and/or legal violations alleged in the operative Second Amended Complaint. *Id.*, § 5.2.

Prior to reaching this proposed Settlement, Defendants, through informal discovery, provided Plaintiffs with all reasonably available timekeeping and payroll records, wage statements, class list and workweek/pay period data, and policies and employee handbooks spanning the entire Class Membership Period. Moen Decl., ¶ 12. Plaintiffs also retained an expert, who conducted a comprehensive analysis of the data and created a comprehensive damages model. *Id.* On March 30, 2026, after extensive legal research and analysis, along with Plaintiffs' and their expert's comprehensive review of the data, the Parties participated in a mediation session with Kevin T. Barnes, Esq., an experienced wage-and-hour class action mediator, and were able to reach a class-wide settlement after accepting a mediator's proposal at the conclusion of mediation. *Id.*, ¶ 12; Settlement, § 2.4. Over the following months, the Parties negotiated and

executed the long-form Settlement Agreement that is now before this Court for preliminary approval. Moen Decl., ¶ 12.

This proposed Settlement is well within the range of possible approval in light of the significant legal and factual obstacles that Plaintiffs faced, the risks and costs of further litigation, and the monetary benefit to the Settlement Class Members. For the reasons discussed herein, Plaintiffs respectfully request that the Court grant preliminary approval of the Settlement.

II. SUMMARY OF THE LITIGATION

A. FACTUAL AND PROCEDURAL BACKGROUND

Defendants operate permanent magnet and magnetic assembly designing and manufacturing facilities, including a location in Torrance, California. Moen Decl., ¶ 13. Plaintiffs were employed by MCE as non-exempt employees in California during the Class Membership Period, Plaintiff Orozco as a CNC Machinist and Plaintiff Ruvalcaba as an Assembly Operator. Declaration of Victor Orozco ("Orozco Decl."), ¶ 2; Declaration of Felipe Ruvalcaba ("Ruvalcaba Decl."), ¶ 2. Like all Settlement Class Members, Plaintiffs were employed by MCE as non-exempt employees during the Class Membership Period and were subject to Defendants' allegedly unlawful wage and hour policies and practices. Orozco Decl., ¶¶ 2-3; Ruvalcaba Decl., ¶¶ 2-3.

On November 12, 2024, Plaintiff Victor Orozco initiated the instant action, alleging Defendants failed to: pay all minimum wages; pay all overtime wages; provide compliant meal periods; provide accurate itemized wage statements; and timely pay all wages owed upon separation, and that Defendants thereby engaged in unfair competition in violation of Business and Professions Code § 17200. Moen Decl., ¶ 14. That same day, Plaintiff Orozco submitted notice to the California Labor and Workforce Development Agency ("LWDA") of Defendants' alleged Labor Code violations (the "PAGA Notice"). *Id.*, Exhibit 2. On January 17, 2025, Plaintiff Orozco filed a First Amended Class and Representative Action Complaint, adding a cause of action for civil penalties under PAGA. *Id.*. On November 20, 2026, Plaintiff Orozco filed an amended PAGA Notice with the LWDA identifying additional facts and theories regarding alleged rest period violations. *Id.*, Exhibit 3; Settlement, § 3.2. Concurrently with the filing of this Motion, the Parties are filing a Stipulation and Proposed Order to grant Plaintiffs leave to file the operative Second Amended Complaint for purposes of the Settlement only, which adds Felipe

Ruvalcaba as a named plaintiff and a cause of action for failure to authorize and permit compliant rest periods. *Id.*, ¶ 14; Settlement, § 3.1.

B. PLAINTIFFS' CLAIMS AND DEFENDANT'S DEFENSES

1. Failure to Pay Minimum and Overtime Wages (Rounding)

Plaintiffs assert that Defendants' electronic timekeeping system recorded non-exempt employees' clock-in and clock-out punches to the minute, but rounded total hours worked to the nearest quarter-hour for payroll purposes. Moen Decl., ¶ 15. Plaintiffs allege that the rounding practice was not neutral in application and resulted in employees not being compensated for all hours worked. *Id.* Plaintiffs further assert that Defendants' policies required employees to be ready to work immediately upon clocking in, such that the unrounded punches reflect all time during which employees performed work. *Id.*; *see also* Labor Code §§ 1182.12, 1194, 1194.2, 1197, 1198; IWC Wage Order 1, § 4; *Camp v. Home Depot U.S.A., Inc.* (2022) 84 Cal.App.5th 638; *Woodworth v. Loma Linda University Medical Center* (2023) 93 Cal.App.5th 1038.

Defendants deny Plaintiffs' claims and contend their rounding practice was facially neutral and neutral as applied, and therefore lawful under *See's Candy Shops, Inc. v. Superior Court* (2012) 210 Cal.App.4th 889. Moen Decl., ¶ 16. Defendants further assert that individualized inquiries would be required to determine what each employee was doing during the start and end of their work periods, including whether or not they were performing compensable work, precluding class treatment. *Id.*

2. Meal Period Violations

Plaintiffs assert that Defendants failed to provide legally compliant meal periods of at least 30 minutes of "net" rest in a suitable area away from the workstation. Moen Decl., ¶ 17. Specifically, Plaintiffs allege that Defendants' written policies required employees to "return to work on time at the end of your lunch period" and to remain at their workstations except for approved breaks, and instructed employees to clock back in after exactly 30 minutes, which did not account for travel time between the timeclocks, workstations, and break rooms. *Id.* Plaintiffs further allege that meal periods commenced after the fifth hour of work. *Id.*; *see also* Labor Code §§ 226.7, 512; IWC Wage Order 1, §§ 11, 13(B); *Brinker Restaurant Corp. v. Superior Court*

(2012) 53 Cal.4th 1004; *Augustus v. ABM Security Services, Inc.* (2016) 2 Cal.5th 257; *Naranjo v. Spectrum Security Services, Inc.* (2022) 13 Cal.5th 93.

Defendants argue they are only required to "provide" the opportunity to take meal periods, not "ensure" they are taken. Moen Decl., ¶ 18; *see Brinker*, *supra*, 53 Cal.4th at 1038. Defendants further contend that their written policy provides compliant, timely 30-minute meal periods, and that employees were provided with a full 30-minutes in the breakroom as required by law. Moen Decl., ¶ 18. Defendants also argue that individualized inquiries into travel time and the reasons any meal period was late or short would preclude class certification. *Id.*

3. Rest Period Violations

Plaintiffs assert that Defendants failed to authorize and permit a "net" 10-minute rest period beginning when the employee reaches an area appropriate for rest. Moen Decl., ¶ 19. Specifically, Plaintiffs allege that Defendants' rest period policy authorized breaks of exactly 10 minutes beginning when employees left their workstations, and required employees to return to their workstations by the end of the 10 minutes under threat of discipline. *Id.* Plaintiffs further assert that employees were excused and recalled by a bell system and had to walk to and from a breakroom approximately 2-3 minutes away, reducing actual rest to less than 10 minutes. *Id.* Plaintiffs also allege that Defendants did not pay any rest period premiums. *Id.*; *see also* Labor Code §§ 226.7, 516; IWC Wage Order 1, §§ 12(A), 13(B); DLSE Manual § 45.3.3; *Vaquero v. Stoneledge Furniture LLC* (2017) 9 Cal.App.5th 98; *Augustus*, *supra*, 2 Cal.5th 257.

Defendants argue they maintain a lawful written rest period policy that authorizes and permits all required 10-minute rest periods, and that the employees' rest periods, in practice, did not start until the employee reached the breakroom. Moen Decl., ¶ 20. Defendants further contend that employees chose to rest anywhere away from their workstations, not just in the breakroom, and that individual inquiries into each employee's location, travel time, and break practices on each shift would result in an unmanageable series of mini-trials. *Id.*

4. Wage Statement, Waiting Time, Unfair Competition, and PAGA Penalties

As a result of Defendants' failure to pay all minimum and overtime wages and meal and rest period premiums, Plaintiffs assert that Defendants issued inaccurate wage statements. Moen

Decl., ¶ 21; *see also* Labor Code § 226; *Naranjo*, *supra*, 13 Cal.5th 93. Plaintiffs further assert that Defendants willfully failed to pay all wages due at separation of employment, including unpaid minimum wages and meal and rest period premium wages. Moen Decl., ¶ 21; *see also* Labor Code §§ 201-203; *Amaral v. Cintas Corp. No. 2* (2008) 163 Cal.App.4th 1157. Finally, Plaintiffs seek PAGA civil penalties on behalf of all Aggrieved Employees based on these same predicate Labor Code violations, as set forth in the PAGA Notice. Moen Decl., ¶ 21; *see also* Labor Code § 2698 *et seq.*

Defendants argue that Plaintiffs' wage statement, waiting time, and PAGA claims are derivative of the underlying claims and will fail if the underlying claims fail. Moen Decl., ¶ 22; *see Price v. Starbucks Corp.* (2011) 192 Cal.App.4th 1136. Defendants also maintain that any wage statement violations were not "knowing and intentional" and that employees did not "suffer injury," as required by Labor Code § 226(e). Moen Decl., ¶ 22; *see* Labor Code § 226(e)(1). As to waiting time penalties, Defendants contend that their good faith defenses to Plaintiffs' underlying claims would preclude the recovery of waiting time penalties, which are only available for the "willful" failure to pay wages. Moen Decl., ¶ 22; *see also* 8 Cal. Code Regs. § 13520 ("[A] good faith dispute that any wages are due will preclude imposition of waiting time penalties under Section 203."). Finally, as to the PAGA claim, Defendants argue that the Court would exercise its discretion to substantially reduce any PAGA penalties, and that their Individual Settlement Program releases and good-faith defenses would reduce any PAGA award. Moen Decl., ¶ 22; *see Carrington v. Starbucks Corp.* (2018) 30 Cal.App.5th 504, 529.

C. DISCOVERY AND MEDIATION

The Parties engaged in informal discovery and information exchange prior to attending mediation. Moen Decl., ¶ 23. Through informal discovery, Defendants provided Plaintiffs with all reasonably available timekeeping and payroll records, wage statements, class list and workweek/pay period data, and policies and employee handbooks in advance of mediation. *Id.* With the assistance of a retained expert, Plaintiffs conducted a comprehensive analysis of the data and created a comprehensive damages model. *Id.* On March 30, 2026, the Parties participated in a mediation session, during which the Parties exchanged divergent views on Defendants' liability

and exposure valuations, their legal positions, and the likelihood of certification of Plaintiffs' claims. *Id.* At the close of mediation, the mediator issued a mediator's proposal that the Parties ultimately accepted. *Id.* Over the following months, the Parties finalized the terms of the proposed Settlement now before the Court for preliminary approval. *Id.*

III. THE PROPOSED SETTLEMENT

A. ESSENTIAL TERMS OF THE SETTLEMENT

If the Court preliminarily approves this settlement, the Gross Settlement Fund ("GSF") will be $157,000.00. Settlement, §§ 1.22, 3.3. The GSF includes a payment credit for the Individual Settlement Amount of approximately $37,000.00, which Defendants have already paid through their Individual Settlement Program. *Id.*, §§ 1.22, 1.26, 1.27, 3.3, 3.3.1. This Settlement is non-reversionary, and Settlement Class Members who did not participate in Defendants' Individual Settlement Program will automatically receive their Individual Class Payment unless they affirmatively opt out. *Id.*, §§ 3.3, 3.4.4. MCE will fund the remaining $120,000.00 Gross Settlement Fund Payment plus Employer Payroll Taxes within 15 court days after the Effective Date. *Id.*, §§ 1.23, 3.3.1, 4.2. The monetary terms of the Settlement are as follows:

Gross Settlement Fund:	**$157,000.00**
Minus Class Counsel Fees Payment (one-third):	$52,333.33
Minus Individual Settlement Amount (payment credit already paid):	$37,000.00
Minus Class Counsel Litigation Expenses Payment (up to):	$33,000.00
Minus Class Representative Service Payments ($5,000.00 each):	$10,000.00
Minus LWDA PAGA Payment:	$3,250.00
Minus Individual PAGA Payments:	$1,750.00
Minus Administration Expenses Payment (up to):	$5,750.00
Net Settlement Fund:	**$13,916.67**

1. The Settlement Provides for Reasonable Monetary Payments

After deducting the Court-approved Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, Plaintiffs' Class Representative Service Payments, the Administration Expenses Payment, and the PAGA Penalties, the Settlement provides for an estimated NSF of no less than $13,916.67. *See* Settlement, §§ 1.23, 1.33. Individual Class Payments will be calculated based on the proportionate number of Workweeks worked by each Participating Class Member during the Class Membership Period. *Id.*, §§ 1.40, 3.4.4. Further, of

the $5,000.00 in PAGA Penalties, 65% ($3,250.00) will be paid to the LWDA as the LWDA PAGA Payment and 35% ($1,750.00) will be paid to all Aggrieved Employees as Individual PAGA Payments, regardless of whether they opt out of the class settlement or participated in Defendants' Individual Settlement Program, based on their respective PAGA Pay Periods during the PAGA Membership Period, as required by Labor Code § 2699(m). *Id.*, §§ 1.39, 3.4.5, 3.4.5.1, 7.5.4, 7.5.5. Plaintiffs have submitted the proposed Settlement to the LWDA in accordance with Labor Code § 2699(s)(2). Moen Decl., ¶ 10, Exhibit 4.

For tax purposes, each Individual Class Payment will be allocated as 10% wages, 45% penalties, and 45% interest. Settlement, § 3.4.4.1. Individual PAGA Payments will be allocated as 100% penalties. *Id.*, § 3.4.5.1. Further, Defendants will separately pay the Employer Payroll Taxes separate and apart from the GSF. *Id.*, §§ 3.3, 3.4.4.2.

According to Defendants' records, there are approximately 19 remaining Settlement Class Members eligible for an Individual Class Payment. Settlement, § 8. Based on the estimated NSF, the average Individual Class Payment is projected to be approximately $732.46. Moen Decl., ¶ 24. Settlement Class Members will have until the Response Deadline, 60 calendar days after the Administrator mails the Class Notice (plus an additional 14 calendar days for Settlement Class Members whose Class Notices are re-mailed), to submit a Request for Exclusion or object to the Settlement, thereby providing ample time to review the Class Notice without unduly delaying the Settlement. *See* Settlement, §§ 1.48, 7.4.4, 7.5.1, 7.7.2. Participating Class Members will be bound by the terms of the Settlement and will release the Released Class Claims against the Released Parties as detailed in the Settlement. *Id.*, §§ 1.44, 5.2, 7.5.3. Settlement Class Members will have 180 days from the date the Individual Class Payment checks are mailed to cash their checks. *Id.*, § 4.3.1. In the event that there are any uncashed checks remaining after 180 days, any remaining funds will be transmitted to the State Controller's Unclaimed Property Fund in the member's name. *Id.*, § 4.3.3.

2. Attorneys' Fees, Costs, and Plaintiffs' Class Representative Service Payments

At the time of seeking Final Approval, Plaintiffs will apply for Class Representative Service Payments in the amount of $5,000.00 each for their service to the Settlement Class and

general release of all claims. Moen Decl., ¶ 25; *see* Settlement, §§ 1.14, 3.4.1. Plaintiffs' requested Class Representative Service Payments are intended to recognize the significant time and effort that Plaintiffs expended on behalf of the Settlement Class. Plaintiffs have been actively involved in this case, including searching for relevant policy, employment-related, and other documents for use in the lawsuit; providing factual information and relevant documents to their attorneys regarding Defendants' policies and practices (including the rest period policies and practices that were added to the lawsuit after Plaintiff Ruvalcaba informed counsel of his experiences); holding phone calls and in-person meetings with their attorneys to discuss the claims in the lawsuit; discussing the status of the case and general case strategy with their attorneys; notifying their attorneys of Defendants' *Pick-Up-Stix* campaign and providing the relevant documents; providing input to assist their attorneys in preparing for mediation; making themselves available during the mediation that led to this Settlement to answer questions posed by the mediator; reviewing and providing input regarding the Settlement; and otherwise assisting their attorneys in moving this case towards resolution. Orozco Decl., ¶ 5; Ruvalcaba Decl., ¶ 5. The requested Class Representative Service Payments also recognize the significant risks Plaintiffs undertook by serving as the named plaintiffs, and the fact that they agreed to a general release of all claims subject to a waiver of Civil Code § 1542. Moen Decl., ¶ 25; Orozco Decl., ¶ 4; Ruvalcaba Decl., ¶ 4; Settlement, §§ 5.1, 5.1.1.

Class Counsel will also apply for a Class Counsel Fees Payment of up to one-third of the GSF (currently estimated at $52,333.33) and a Class Counsel Litigation Expenses Payment of up to $33,000.00 for actual litigation costs. Moen Decl., ¶ 26; *see* Settlement, §§ 1.6, 1.7, 3.4.2. Plaintiffs submit that the requested fee is fair compensation for undertaking complex, risky, expensive, and time-consuming litigation on a purely contingent fee basis. Moen Decl., ¶ 26. Class Counsel has incurred substantial attorneys' fees conducting pre-filing investigation, reviewing Defendants' policies and timekeeping/payroll data, retaining and working with an expert to create a comprehensive damages model, preparing for and attending mediation, negotiating the Settlement, and preparing the preliminary approval papers. *Id.* Class Counsel will also expend future attorney time attending the hearing on this Motion, overseeing the notice

process, drafting the Motion for Final Approval and supporting documents, attending the Final Approval Hearing, and completing other tasks, such as fielding questions from Settlement Class Members. *Id.*

Both California and federal courts have recognized that an appropriate method for awarding attorneys' fees in class actions is to award a percentage of the "common fund" created as a result of the settlement. *See Laffitte v. Robert Half Int'l, Inc.* (2016) 1 Cal.5th 480, 506; *Wershba v. Apple Computer, Inc.* (2001) 91 Cal.App.4th 224, 254, disapproved on another ground by *Hernandez v. Restoration Hardware, Inc.* (2018) 4 Cal.5th 260, 269. Historically, courts have awarded percentage fees in the range of 20% to 50%. *See* 4 Newberg on Class Actions § 14:6 (4th ed. 2002). Class Counsel submits that the request for attorneys' fees is reasonable when viewed as an overall percentage of the Settlement in light of the risks and work undertaken, the positive results obtained for the class, and the efficiency with which the Parties have conducted the litigation. Moen Decl., ¶ 27. Class Counsel will seek such an award when seeking Final Approval.

IV. ARGUMENT

A. PRELIMINARY APPROVAL IS WARRANTED

California Rule of Court 3.769 requires court approval of a class action settlement. The Court must independently determine whether the Settlement is fair, reasonable, and adequate. *Reed v. United Teachers Los Angeles* (2012) 208 Cal.App.4th 322, 337; *Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th 116, 129-130. In making that determination, the Court considers the strength of Plaintiffs' case; the risk, expense, complexity, and likely duration of further litigation; the risk of maintaining class status through trial; the amount offered; the extent of discovery and stage of the proceedings; and the experience and views of counsel. *Dunk v. Ford Motor Co.* (1996) 48 Cal.App.4th 1794, 1801.

1. The Dunk Factors Support Preliminary Approval

a. The Strength of Plaintiffs' Case

Class Counsel carefully vetted the claims at issue, reviewed Settlement Class Member timekeeping and payroll records, wage statements, and class list and workweek/pay period data

spanning the entire Class Membership Period, reviewed all relevant policy documents, retained an expert, and created a comprehensive damages model. Moen Decl., ¶ 28. Although Plaintiffs steadfastly maintain that their claims are meritorious, Plaintiffs acknowledge that there were substantial risks and uncertainty in proceeding with class certification and trial. As explained in detail in Section II.B., *supra*, Defendants presented numerous defenses to Plaintiffs' claims, both on the merits and with respect to class certification. Although they were prepared to litigate these claims through class certification and ultimately through trial, it was far from certain that Plaintiffs would be able to recover a greater amount should this matter proceed through trial. Thus, this factor supports preliminary approval.

b. Risk, Expense, Complexity, and Duration of Further Litigation

To date, the Parties have engaged only in informal discovery and information exchange in connection with mediation. Moen Decl., ¶ 29. Absent settlement, the Parties will be required to expend substantial time and resources conducting formal written and deposition discovery, litigating summary judgment or adjudication, preparing for trial, and facing potential appellate proceedings. *Id.* This Settlement avoids these considerable costs, risks, and the accompanying burden of continued litigation on the Court. Thus, this factor supports preliminary approval.

c. Risk of Maintaining Class Action Status

At the time of the proposed Settlement, Plaintiffs had not filed their motion for class certification. Moen Decl., ¶ 30. Had the Court certified any claims, Plaintiffs anticipated that Defendants would seek decertification. *Id.* Moreover, after Plaintiff Orozco filed this action, Defendants conducted a *Pick-Up-Stix* campaign through their Individual Settlement Program, mailing putative class members individual settlement offers in exchange for releases of their claims; approximately 112 of the approximately 131 putative class members (roughly 85%) accepted, substantially reducing the size of the putative class and threatening Plaintiffs' ability to prove numerosity at the time of class certification. Moen Decl., ¶ 30; Settlement, §§ 2.3, 8; *see Chindarah v. Pick Up Stix, Inc.* (2009) 171 Cal.App.4th 796 (affirming judgment based on releases of bona fide disputed wage claims obtained from putative class members). Therefore,

absent the Settlement, there was a serious risk that Plaintiffs would be unable to move forward on a class-wide basis. Moen Decl., ¶ 30. Thus, this factor supports preliminary approval.

d. Amount Offered in Settlement Given Realistic Value of Claims

This proposed Settlement provides an exceptional, fair and reasonable recovery for the Settlement Class in the face of disputed claims. After analyzing Defendants' produced data, Class Counsel conducted a class-wide exposure analysis, forecasting the total expected recovery as follows:

Failure to Pay Earned Wages (Rounding)**: $1,070**

Plaintiffs' expert's data analysis determined that Defendants' rounding practice favored Defendants in 487 workweeks, resulting in 97.13 unpaid hours across the putative class. Moen Decl., ¶ 31. Plaintiffs therefore calculated Defendants' maximum exposure for this claim at $2,992 (97.13 hours × $15.40 weighted average minimum wage × 2 for liquidated damages). *Id.*

Defendants contend their rounding practice was facially neutral and neutral as applied, and therefore lawful under *See's Candy Shops*, *supra*, 210 Cal.App.4th 889, that any unrounded pre-shift or post-shift time was not compensable work time, and that individualized inquiries would be required to determine what each employee was doing during rounded time, precluding class treatment. Moen Decl., ¶ 32. In light of these certification risks, Plaintiffs discounted the maximum exposure by 35% for the risk of non-certification, and by an additional 45% for the risk of failing to prove liability on the merits, resulting in estimated exposure of $1,070. *Id.*

Meal Period Violations**: $36,517**

Plaintiffs' expert's data analysis determined that the putative class members worked approximately 4,202 shifts in excess of 6.0 hours during which the employee's timekeeping records reflected a meal period of *exactly* 30-minutes in length, in violation of Plaintiffs' "net rest" theory. Moen Decl., ¶ 33. Plaintiffs therefore calculated Defendants' maximum exposure for this claim at $104,335 (4,202 shifts × $24.83 avg. premium wage). *Id.*

Defendants argue they are only required to provide the opportunity to take meal periods, not ensure they are taken, that their written policy provides compliant, timely 30-minute meal periods, and that individualized inquiries into travel time and the reasons any meal period was

late or short would preclude class certification. Moen Decl., ¶ 34. In light of the substantial certification risks, Plaintiffs discounted the maximum exposure by 30% for the risk of non-certification, and by an additional 50% for the risk of failing to establish liability on the merits, resulting in estimated exposure of $36,517. *Id.*

Rest Period Violations**: $71,704**

Plaintiffs' expert's data analysis determined that the putative class members worked approximately 9,626 shifts over 3.5 hours. Moen Decl., ¶ 35. Plaintiffs therefore calculated Defendants' maximum exposure for this claim at $239,014 (9,626 shifts × $24.83 avg. premium wage). *Id.*

Defendants argue they maintain a lawful written rest period policy, that employees chose to rest anywhere away from their workstations, not just in the breakroom, and that individual inquiries into each employee's location, travel time, and break practices would result in an unmanageable series of mini-trials, which Defendants assert is exacerbated by the fact that rest periods were not recorded. Moen Decl., ¶ 36. In light of the manageability and certification risks Defendants identified, Plaintiffs discounted the maximum exposure by 40% for the risk of non-certification, and by an additional 50% for the risk of failing to establish liability on the merits, resulting in estimated exposure of $71,704. *Id.*

Wage Statement Penalties**: $14,560**

Plaintiffs' data analysis determined that, during the one-year limitations period, 356 wage statements were issued to 8 putative class members. Moen Decl., ¶ 37. Plaintiffs therefore calculated Defendants' maximum exposure for this claim at $32,000 ((8 initial violations × $50) + (348 subsequent violations × $100) = $35,200, capped at $4,000 per employee × 8 employees). *Id.*

Defendants argue that any wage statement violations were not knowing and intentional, that employees did not suffer injury, that their reasonable, good faith belief that they paid all wages owed precludes penalties, and that the derivative claim fails if the underlying claims fail. Moen Decl., ¶ 38. In light of these risks, Plaintiffs discounted the maximum exposure by 30% to account for the risk of non-certification of the underlying claims, and by an additional 35% for

the risk of failing to establish liability on the merits, including failing to prove the violations were "knowing and intentional," that the Settlement Class Members "suffer[ed] injury," or that the Court would find that Defendants had a reasonable, good faith belief that they paid all wages owed precluding the imposition of wage statement penalties, resulting in estimated exposure of $14,560. *Id.*

Waiting Time Penalties**: $35,249**

Plaintiffs' data analysis determined that approximately 13 former employees separated from employment during the three-year limitations period and are eligible for waiting time penalties. Moen Decl., ¶ 39. Plaintiffs therefore calculated Defendants' maximum exposure for this claim at $77,469 (13 former employees × $24.83 average rate × 8 hours × 30 days). *Id.*

Defendants contend that they paid all final wages owed in good faith and within statutory time limits, and invoke the good faith dispute defense under 8 Cal. Code Regs. § 13520, arguing that any failure to include meal and rest period premiums in final wages was based on a reasonable and good faith belief that such amounts were not owed, thereby precluding a finding of willfulness. Moen Decl., ¶ 40. Therefore, Plaintiffs discounted the maximum exposure by 30% for the risk of non-certification of the underlying claims, and by an additional 35% for the risk of being unsuccessful on the merits or failing to establish a "willful" failure to pay all wages due at separation, resulting in estimated exposure of $35,249. *Id.*

PAGA Penalties**: $12,812**

Plaintiffs' data analysis determined that Aggrieved Employees worked approximately 2,847 pay periods as of the date of mediation, in each of which Plaintiffs assert they could establish at least one Labor Code violation. Moen Decl., ¶ 41. Plaintiffs therefore calculated Defendants' maximum exposure for this claim at $284,700 (2,847 pay periods × $100 initial violation rate). *Id.*; *see also Amaral*, *supra*, 163 Cal.App.4th at 1207 (finding "initial" violation rate applies until employer is notified that it is violating a Labor Code provision).

Defendants argue that the PAGA civil penalties are derivative of the underlying wage and hour violations Defendants dispute, and that their Individual Settlement Program releases and good-faith defenses would apply to reduce any PAGA award. Moen Decl., ¶ 42. Defendants also

argue that the Court would exercise its discretion to substantially reduce any PAGA penalties. *Id.*; *see Carrington*, *supra*, 30 Cal.App.5th at 529. Plaintiffs therefore discounted the maximum figure by 55% for the risk of losing on the merits of all underlying claims and by 90% for the likely possibility that this Court would reduce the PAGA penalties awarded, to arrive at an estimated exposure of $12,812. Moen Decl., ¶ 42.

Using these estimated figures, Plaintiffs estimated that the potential reasonable recovery for the Settlement Class would be approximately $171,911. Moen Decl., ¶ 43. Thus, the Gross Settlement Fund of $157,000 represents approximately 91.3% of Plaintiffs' reasonably forecasted aggregate recovery. *Id.* This is well within the range approved by courts as fair, reasonable, and adequate, while also avoiding the further expense and risk of proceeding toward class certification and trial. *Id.*; *see, e.g.*, *Altamirano v. Shaw Industries, Inc.* (N.D. Cal., July 24, 2015) 2015 WL 4512372, at *9 ("Although 15% represents a modest fraction of the hypothetical maximum recovery estimated by Plaintiff, that figure is sufficient for the Court to grant preliminary approval..."); *In re Mego Financial Corp. Securities Litigation* (9th Cir. 2000) 213 F.3d 454, 459 (approving settlement of "roughly one-sixth of the potential recovery"); *Linney v. Cellular Alaska Partnership* (9th Cir. 1998) 151 F.3d 1234, 1242 ("The fact that a proposed settlement may only amount to a fraction of the potential recovery does not, in and of itself, mean that the proposed settlement is grossly inadequate and should be disapproved.") (internal quotations omitted). Preliminary approval is appropriate since the Settlement will provide tangible monetary relief to the Settlement Class Members without the uncertainty, delay, and expense of further litigation.

e. <u>The Experience and Views of Counsel</u>

"Parties represented by competent counsel are better positioned than courts to produce a settlement that fairly reflects each party's expected outcome in litigation." *In re Pacific Enterprises Securities Litigation* (9th Cir. 1995) 47 F.3d 373, 378. Here, Plaintiffs are represented by competent and experienced counsel who possess extensive experience litigating wage and hour class actions. Moen Decl., ¶¶ 2-8; Declaration of Paul K. Haines ("Haines Decl."), ¶¶ 2-14; Declaration of Fletcher W. Schmidt ("Schmidt Decl."), ¶¶ 2-9; Declaration of Ian T. Mallery ("Mallery Decl."), ¶¶ 2-7. Class Counsel and their retained expert conducted an extensive review

and analysis of Defendants' produced timekeeping and payroll records, wage statements, and class list and workweek/pay period data and drew on their extensive experience in similar cases to assess the strengths and weaknesses of Plaintiffs' case. Moen Decl., ¶ 44. It was only after the completion of this work that the Parties attended mediation and accepted a mediator's proposal at the conclusion of mediation for a class-wide settlement of all claims at issue. *Id.* Thus, this factor supports preliminary approval.

2. The Settlement Warrants Notice to the Settlement Class Members

The Settlement provides meaningful monetary relief without requiring Settlement Class Members to submit claims and limits the class release to claims alleged or that reasonably could have been alleged based on the facts alleged in the operative Second Amended Complaint. Settlement, §§ 3.3, 5.2. It resulted from informed, arm's-length negotiations after Plaintiffs analyzed Defendants' records and the Parties mediated before Kevin T. Barnes, Esq., who issued the proposal they accepted. Moen Decl., ¶ 45. The Settlement was also reached after Defendants engaged in a successful *Pick-Up-Stix* campaign after Plaintiff Orozco filed the lawsuit, substantially reducing the size of the putative class and threatening Plaintiffs' ability to prove numerosity at the time of class certification. *Id.*; Settlement, § 2.3. The requested Class Representative Service Payments, Administration Expenses Payment, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, and PAGA allocation remain subject to Court approval. Settlement, §§ 3.4.1-3, 3.4.5.2, 3.4.6. The Settlement therefore has no obvious deficiencies and warrants notice to the Settlement Class Members.

B. THE COURT SHOULD CERTIFY THE SETTLEMENT CLASS FOR SETTLEMENT PURPOSES

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

1. The Proposed Class is Ascertainable and Numerous

A class is "ascertainable" where the members "may be readily identified without unreasonable expense or time by reference to official [or business] records." *See Sevidal v. Target Corp.* (2010) 189 Cal.App.4th 905, 919 (alterations in original). Here, the proposed Settlement Class is defined as all individuals who are or were employed by Defendants as non-exempt employees in California from November 12, 2020 through the MPA Filing Date, but excluding anyone who has filed their own separate action as a named plaintiff alleging the same or similar claims being released by the Settlement and/or who has previously released such claims. *See* Settlement, § 1.50. Settlement Class Members can be easily identified using Defendants' employment and payroll records. Moen Decl., ¶ 46. Defendants represent that the Settlement Class consists of approximately 19 individuals, rendering it impracticable to bring all Settlement Class Members before the Court. *Id.*; Settlement, § 8. Thus, the proposed Settlement Class satisfies numerosity. *See Collins v. Rocha* (1972) 7 Cal.3d 232, 234.

2. Common Issues of Law and Fact Predominate

The focus in a certification dispute is not on the merits of the case, but rather on what types of questions, "common or individual," are likely to arise in the action. *See Sav-On Drug Stores, Inc. v. Superior Court* (2004) 34 Cal.4th 319, 327. Here, Plaintiffs' claims are predicated on Defendants' alleged failures to pay all minimum wages, provide compliant meal and rest periods, provide accurate itemized wage statements, and timely pay all wages owed upon separation. These types of claims are commonly held to be proper for class certification. *See, e.g., Brinker, supra,* 53 Cal.4th at 1032-34 ("The theory of liability—that Brinker has a uniform policy, and that that policy…allegedly violates the law—is by its nature a common question eminently suited for class treatment.").

3. The Claims of the Named Plaintiffs are Typical

The typicality requirement is satisfied where class representatives have claims that are typical of those of the rest of the class. *B.W.I. Custom Kitchen v. Owens-Illinois, Inc.* (1987) 191 Cal.App.3d 1341, 1347. Here, like other Settlement Class Members, Plaintiffs were employed by Defendants as non-exempt employees in California and were subject to Defendants' allegedly unlawful wage and hour policies/practices during the Class Membership Period. Orozco Decl.,

¶¶ 2-3; Ruvalcaba Decl., ¶¶ 2-3. Plaintiffs were therefore impacted by the same challenged policies that allegedly injured the Settlement Class as a whole and were subject to the same defenses asserted by Defendants as to the Settlement Class, and are therefore typical.

4. Plaintiffs and Class Counsel are Adequate to Represent the Class

The adequacy of representation requirement examines conflicts of interest between named parties and the class(es) they seek to represent. *See Capitol People First v. Department of Developmental Services* (2007) 155 Cal.App.4th 676, 697. Here, Plaintiffs and Class Counsel will adequately represent the Settlement Class Members as there are no conflicts between the named Plaintiffs and the Settlement Class Members they seek to represent, and Plaintiffs possess claims that are in line with those of the Settlement Class Members. *See McGhee v. Bank of America* (1976) 60 Cal.App.3d 442, 450 (finding adequacy satisfied where there was no indication that the plaintiff's counsel were not qualified and the plaintiff had no interests antagonistic to those of the class). Class Counsel also has extensive experience in wage and hour class action litigation. *See* Moen Decl., ¶¶ 2-8; Haines Decl., ¶¶ 2-14; Schmidt Decl., ¶¶ 2-9; Mallery Decl., ¶¶ 2-7.

C. THE COURT SHOULD ORDER DISTRIBUTION OF THE PROPOSED CLASS NOTICE

This Court should order distribution of the proposed Class Notice in English and Spanish to the Settlement Class Members by first class mail, postage prepaid, using the last known mailing address information provided by Defendants. *See* Settlement, §§ 1.12, 7.4.2. This manner of giving notice is the "best notice practicable" under the circumstances because it provides "individual notice to all members who can be identified through reasonable effort." *See Eisen v. Carlisle and Jacquelin* (1974) 417 U.S. 156, 173. The Parties propose that the Settlement be administered by the Administrator, Apex Class Action, LLC, an experienced class action settlement administrator. Settlement, §§ 1.2, 7.1; *see* Declaration of Sean Hartranft ("Hartranft Decl."), ¶¶ 1-4, Exhibit A. Neither the Parties nor their counsel have any ownership stake in or affiliation with the Administrator, and the Administrator maintains data security protocols and insurance coverage to protect Settlement Class Member information. Hartranft Decl., ¶¶ 3, 5. The Administrator's fees for administering the Settlement will not exceed $5,750.00. *Id.*, ¶ 7, Exhibit

B. Settlement Class Members' addresses will be ascertainable through Defendants' personnel records, and Defendants will provide the Administrator with each Settlement Class Member's name, last-known mailing address, Social Security number, Workweeks, and PAGA Pay Periods no later than 30 days after the Court grants Preliminary Approval. Settlement, §§ 1.8, 4.1. The Administrator will run the Settlement Class Members' addresses through the National Change of Address database and/or conduct skip traces to obtain current address information. *Id.*, §§ 1.10, 4.3.2, 7.4.2, 7.4.3; Hartranft Decl., Exhibit A.

The content of the proposed Class Notice satisfies California Rule of Court 3.766(d) because it advises the Settlement Class Members of the nature of the claims, basic contentions and denials of the Parties, the key terms of the Settlement, the uniform 60-day deadline to opt out or object to the Settlement and the procedures by which to do so, explains the recovery formula and expected recovery amount for each Settlement Class Member, and advises them that they will be bound by the terms of the Settlement if they do not request exclusion. *See* Settlement, Exhibit C. The proposed Class Notice will also notify the Settlement Class of the Final Approval Hearing date, provide Class Counsel's contact information, and advise Settlement Class Members that they may enter an appearance through counsel if they so wish. *Id.* This manner of giving notice is appropriate under California Rule of Court 3.766(e) because it reliably reaches identifiable Settlement Class Members at a reasonable cost. Additionally, because the proposed Settlement includes settlement of Plaintiffs' representative PAGA claim, notice of the Settlement has been submitted to the LWDA. *See* Moen Decl., ¶ 10, Exhibit 4 (LWDA Settlement Submission); Proof of Service.

D. THE COURT SHOULD SET A FINAL APPROVAL HEARING

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

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V. CONCLUSION

For these reasons, Plaintiffs request that the Court grant preliminary approval and enter the concurrently submitted proposed order.

Dated: November 20, 2026

HAINES LAW GROUP, APC

By: 

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