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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF FRESNO

YOLANDA GONZALEZ, individually, and on behalf of all others similarly situated, Plaintiff, vs. BROWNING CONTRACTORS, INC., a California corporation; and DOES 1 through 10, inclusive, Defendants	Case No. 24CECG05339 CLASS AND REPRESENTATIVE ACTION *[Assigned for all purposes to the Hon. Jon M Skiles, Dept. 503]* **DECLARATION OF KANE MOON IN SUPPORT OF PLAINTIFF'S MOTION FOR PRELIMINARY APPROVAL OF CLASS ACTION AND PAGA SETTLEMENT** [*Filed with Plaintiff's Notice of Motion and Motion for Preliminary Approval, the Declaration of Plaintiff, the Declaration of Alex Alvarez, the Declaration of David Litman, the Declaration of Lisa Mullins, and [Proposed] Preliminary Approval Order*] PRELIMINARY APPROVAL HEARING Date: April 8, 2026 Time: 3:30 PM Dept. 503 Complaint filed: December 6, 2024 Trial date: Not set

DECLARATION OF KANE MOON

I, KANE MOON, declare as follows:

1. I am an attorney at law duly licensed to practice as such before all of the Courts of the State of California and am one of the attorneys of record for Plaintiff Yolanda Gonzalez ("Plaintiff") and the putative Class.

2. I have personal knowledge of the matters set forth herein and could competently testify to the facts described herein.

CASE BACKGROUND

3. This is a wage and hour class action and representative action for alleged Labor Code violations and claims for civil penalties pursuant to the California Private Attorneys General Act, Labor Code sections 2698, *et seq.* ("PAGA"). Plaintiff seeks to represent a class of all individuals who worked for Defendant Browning Contractors, Inc. ("Defendant") (together with Plaintiff, the "Parties") as hourly and/or non-exempt employees in California at any time during the period from December 6, 2020 to November 8, 2025, as set forth in the Class and PAGA Action Settlement Agreement (the "Settlement"). A true and correct copy of the Settlement is attached to the instant Declaration as **Exhibit 1**. The proposed Class Notice is attached to the Settlement as **Exhibit A**.

4. Defendant is a private contractor that specializes in underground utilities in the State of California. Plaintiff worked for Defendant from approximately February 14, 2022 to November 12, 2024 as an executive assistant. Plaintiff was classified as non-exempt during the entirety of her employment and was subjected to the same unlawful labor practices as her coworkers.

5. Plaintiff's claim for unpaid wages stems from Defendant's failure to pay employees for off-the-clock work and Defendant's failure to incorporate all non-discretionary bonuses into employees' regular rate of pay. Moreover, Plaintiff alleges that Defendant systematically failed to provide meal periods and rest breaks. In addition to the foregoing claims, Plaintiff brings claims for reimbursement of necessary business expenses, and derivative claims against Defendant for waiting time penalties, wage statement violations, unfair business practices, and civil penalties under PAGA.

6. Because of Defendant's alleged violations of various provisions of the Labor Code, Plaintiff filed this class and representative action on December 6, 2024, which, in its amended form, alleges that Defendant systematically: (1) failed to pay minimum wages, (2) failed to pay overtime compensation, (3) failed to provide meal periods, (4) failed to authorize and permit rest breaks, (5) failed to indemnify necessary business expenses; (6) failed to timely pay final wages at termination, (7) failed to provide accurate itemized wage statements, (8) engaged in unfair business practices and (9) violated civil penalty provisions recoverable as PAGA penalties pursuant to Labor Code section 2698 *et seq*.

7. Pursuant to PAGA, and on December 4, 2024, Plaintiff gave written notice to the California Labor and Workforce Development Agency (the "LWDA") of the alleged Labor Code violations, with certified mail service on Defendant, and paid the required filing fee. A true and correct copy of Plaintiff's PAGA Notice is attached hereto as **Exhibit 2**. On February 10, 2025, Plaintiff timely filed a First Amended Class and Representative Action Complaint to add a ninth cause of action for civil penalties under PAGA (the "Operative Complaint"). Pursuant to Labor Code section 2699(s)(1), Plaintiff subsequently submitted to the LWDA a file-stamped copy of the Operative Complaint containing the Court-assigned case number. To date, the LWDA has not indicated its intent to investigate the alleged violations or intervene in this Action.

8. Defendant ardently opposes the merits of this case and denies Plaintiff's factual allegations. Defendant contends, among other things, that Plaintiff and the Class Members have been paid proper wages, that it does not permit its employees to work off-the-clock, and that it did not fail to incorporate any bonuses into the regular rate of pay as such bonuses were discretionary. Moreover, Defendant argues that it met its meal and rest period obligations, and that Plaintiff and the putative class members were provided with the opportunity to take code-compliant meal and rest periods to which they were entitled.

9. Furthermore, to the extent that Plaintiff received wage statements that were allegedly inaccurate, Defendant asserts that Plaintiff suffered no actual damage or harm as a result. (*See, e.g., Angeles v. U.S. Airways, Inc.* (N.D. Cal. Feb. 19, 2013) No. C 12-05860 CRB, 2013 WL 622032, at *10 ["A plaintiff must adequately plead an injury arising from an employer's failure to

provide full and accurate wage statements, and the omission of the required information alone is not sufficient."].) With respect to Plaintiff's claim for waiting time penalties, Defendant alleges that its good-faith belief that it paid all wages precluded the imposition of waiting time penalties since Plaintiff could not prove that Defendant's alleged failure to pay all final wages at the time of separation was "willful." (*See, e.g., Pedroza v. PetSmart, Inc.* (C.D. Cal. June 14, 2012) No. ED CV 11–298 GHK (DTBx), 2012 WL 9506073, *5.) For these reasons, Defendant claims that it did not engage in any unfair business practices and denies liability under PAGA. Finally, Defendant disputes the certifiability of the class, due to the individualized and testimony-intensive nature of the wage claims that could bar class certification or significantly reduce Defendant's overall liability.

DISCOVERY AND INVESTIGATION

10. Following the filing of the complaint, the Parties met and conferred regarding an agreement to mediate the claims. Thereafter, the Parties agreed to a protocol for exchanging documents and information before the mediation. Plaintiff obtained from Defendant, through informal but extensive discovery, information sufficient to meaningfully evaluate the claims at issue in the action, including applicable written policies, the employee handbook in effect during the Class Period, Plaintiff's complete personnel file, a sample of time and corresponding payroll records for Class Members, and information regarding the estimated number of current and former Class Members, Workweeks, Aggrieved Employees, PAGA Pay Periods, and average hourly pay.

11. In preparation for mediation, Plaintiff's Counsel reviewed and analyzed all the information Defendant provided, including the sample time and pay records and documents regarding Defendant's wage and hour policies. Plaintiff's Counsel retained a statistics expert to analyze the sample records and prepare a damage analysis prior to mediation. The records analyzed contained 87,217 shifts that Class Members worked (representing approximately 31.8% of total shifts worked in the Class Period), which allowed Plaintiff's expert to prepare an analysis with a high degree of certainty. In conjunction with their extensive factual investigation, Plaintiff's Counsel also investigated the applicable law regarding the claims and defenses asserted in the litigation. Accordingly, Plaintiff's Counsel were able to evaluate the probability of class

certification, success on the merits, and Defendant's maximum and realistic monetary exposure for all claims. Thus, Plaintiff's and her counsel's familiarity with the facts of the case and the legal issues raised by the pleadings allowed them to act intelligently in negotiating the Settlement.

12. To the best of my knowledge, I am not aware of any individual, representative, or class action in this jurisdiction, or any other court or jurisdiction, asserting claims similar to those asserted in this action on behalf of a class or group of individuals who would also be members of the putative Class, as defined in this matter. I have come to this conclusion after a reasonable inquiry and review of the LWDA's PAGA Case Search website, this Court's case search website, and other information reasonably available online. Additionally, Defendant has not indicated there is any other related case pending as of the date of this declaration. As such, I am unable to name any case the nature of any claims asserted in such case, or the definition of a class of parties on whose behalf any action was brought that would overlap with the putative Class, as defined in this matter, or would otherwise be extinguished or adversely affected by approval of this Settlement.

SETTLEMENT NEGOTIATIONS AND NOTICE TO THE LWDA

13. On September 9, 2025, the Parties participated in a full-day mediation with Brandon McKelvey, Esq., a professional and neutral class and PAGA action mediator. The settlement negotiations were at arm's length and, although conducted in a professional manner, adversarial. The Parties went into the mediation willing to explore the potential for a settlement of the dispute, but each side was also prepared to litigate their position through trial and appeal if a settlement had not been reached. After extensive discussion regarding the merits and certifiability of Plaintiff's claims and Defendant's defenses, a settlement was reached by the parties, the material terms of which are encompassed within the Settlement.

14. In compliance with Labor Code section 2699(s)(2), notice of settlement and a copy of the proposed Settlement has been submitted to the LWDA along with a copy of Plaintiff's preliminary approval motion and the hearing date. A true and correct copy of the LWDA's email confirming receipt thereof is attached hereto as **Exhibit 3**. To date, the LWDA has not indicated any objection to the Settlement.

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KEY TERMS OF SETTLEMENT

15. The Gross Settlement is $1,300,000.00, subject to potential increase under an escalator clause, and is non-reversionary. (Settlement, ¶¶ 3.1, 8) Defendant will separately pay its employer-side payroll taxes owed on the Wage Portion of Individual Class Payments. (*Id.*) Defendant shall fully fund the Gross Settlement Amount twenty-one (21) days after the Effective Date of the Settlement. (*Id.* at ¶ 4.3.) Disbursement will occur within 14 days of completed funding. (*Id.* at ¶ 4.4.) Class Members will not need to submit any claim form as a condition of receiving individual settlement payments. (*Id.* at ¶ 3.1.) For any Class Member whose Individual Class Payment check or Individual PAGA Payment check is uncashed and cancelled after the void date (180 days after the date of mailing), the Administrator shall transmit the funds represented by such checks to the California Controller's Unclaimed Property Fund in the name of the Class Member thereby leaving no "unpaid residue" subject to the requirements of California Code of Civil Procedure Section 384, subd. (b). (*Id.* at ¶¶ 4.4.1, 4.4.3.)

16. The Settlement provides an escalator clause under which should the number of Class Period Workweeks exceed the estimated count of 58,014 by more than 10%, then Defendant has the option to either: (1) increase the Gross Settlement Amount by the percentage that the actual number of Workweeks exceeds 63,815; or (2) cut-off the Class Period to end on the date when the total Workweeks reach 63,815 (e.g. 10 percent greater than 58,014). (*Id.* at ¶ 8.)

17. "Class" means all individuals who worked for Defendant as hourly and/or non-exempt employees in California at any time during the period between December 6, 2020 to November 8, 2025 ("Class Period"). (*Id.* at ¶¶ 1.5, 1.12.)

18. "Aggrieved Employee" means all persons who were worked for Defendant as an hourly, non-exempt employee at any time during the period between December 4, 2023 to November 8. 2025. (*Id.* at ¶¶ 1.4, 1.31.)

19. An Individual Class Payment will be calculated by (a) dividing the Net Settlement Amount by the total number of Workweeks worked by all Participating Class Members during the Class Period and (b) multiplying the result by each Participating Class Member's Workweeks. (*Id.* at ¶ 3.2.4.). (*Id.* at ¶ 3.2.4.) "Net Settlement Amount" means the Gross Settlement Amount, less the

following payments in the amounts approved by the Court: Class Representative Service Payment, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, the Administration Expenses Payment, the Individual PAGA Payment, and the LWDA PAGA Payment. (*Id.* at ¶ 1.28.) The Net Settlement Amount available for Individual Class Payments is estimated to be no less than **$721,316.67**[1] for an estimated Class size of **1,263 individuals**. As a result, it is estimated each Participating Class Member is eligible to receive an average benefit of approximately **$571.11** ($721,316.67 / 1,263) prior to tax withholdings on the wage portion of payments. Considering Class Members' estimated average hourly rate is $26.71, the average benefit is approximately **21 hours of work** ($571.11 / $26.71). Based on an estimated 58,014 Workweeks, **the estimated Workweek value is $12.43** ($721,316.67 / 58,014). The actual amounts to Participating Class Members will vary based on each individual's duration of work during the Class Period; thus, those who worked longer for Defendant during the relevant period will receive a benefit greater than the average estimated amount.[2]

20. The Settlement allocates $100,000.00 from the Gross Settlement Amount for settlement of the Released PAGA Claims, which will be distributed 65% ($65,000.00) to the LWDA and 35% ($35,000.00) to Aggrieved Employees pursuant to PAGA law governing Plaintiff's claims. (*Id.* at ¶ 3.2.5.) The Administrator will calculate each Individual PAGA Payment by (a) dividing the amount of the Aggrieved Employees' 35% share of PAGA Penalties (i.e., $35,000.00) by the total number of PAGA Period Pay Periods worked by all Aggrieved Employees during the PAGA Period and (b) multiplying the result by each Aggrieved Employee's PAGA Period Pay Periods. (*Id.* at ¶ 3.2.5.1.) Based on an estimated 715 Aggrieved Employees, Aggrieved Employees will each receive an **estimated average of $48.95** from the total $35,000 Individual PAGA Payments ($35,000 / 715).

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[1] The Net Settlement Amount is estimated to be at least $1,300,000 less the following: $7,500 for the Class Representative Service Payment, $11,850 for the Administration Expenses Payment, $100,000 for the PAGA Penalties payments to the LWDA and to Aggrieved Employees, $433,333.33 for Class Counsel's attorneys' fees, and up to $26,000.00 for Class Counsel's litigation costs. (Settlement Agreement, ¶¶ 1.28, 3.2.)

[2] The high and low range of payments to Class Members and Aggrieved Employees will be calculated by the Administrator following preliminary approval and receipt and processing of the Class Data and will be provided to the Court in Plaintiff's motion for final approval.

Based on the total 21,783 PAGA Pay Periods, **the estimated Pay Period value is $1.61** ($35,000 / 21,783). The actual amounts to Aggrieved Employees will vary based on each individual's duration of work during the PAGA Period; thus, those who worked longer for Defendant during the relevant period will receive a benefit greater than the average estimated amount.

21. Individual Class Payments will be allocated as 10% as wages and 90% as penalties and interest for tax purposes. (*Id.* at ¶ 3.2.4.1.) Aggrieved Employees assume full responsibility and liability for any taxes owed on their Individual PAGA Payment. (*Id.* at ¶ 3.2.5.1.)

22. The Settlement Agreement provides for a Class Counsel Fees Payment of not more than 1/3 of the Gross Settlement Amount, which is currently estimated to be $433,333.33 and a Class Counsel Litigation Expenses Payment of not more than $26,000.00. (*Id.* at ¶ 3.2.2.) If the Court approves a Class Counsel Fees Payment and/or a Class Counsel Litigation Expenses Payment less than the amounts requested, the Administrator will allocate the remainder to the Net Settlement Amount. (*Id.*) At this time, my firm has incurred $23,474.83 in costs, and a true and correct copy of these litigation costs is attached hereto as **Exhibit 4**. My firm expects to incur additional expenses following preliminary approval, including for filing and service fees of Plaintiff's motion for final approval. We will provide an updated costs report with Plaintiff's motion for final approval.

23. The Settlement Agreement includes a Class Representative Service Payment to the Class Representative of not more than $7,500.00 (in addition to any Individual Class Payment and any Individual PAGA Payment the Class Representative is entitled to receive as Participating Class Members). (*Id.* at ¶ 3.2.1.) This service award to Plaintiff is for initiating the Action and providing services in support of the Action. (*Id.* at ¶ 1.14.) If the Court approves Class Representative Service Payment less than the amount requested, the Administrator will retain the remainder in the Net Settlement Amount. (*Id.* at ¶ 3.2.1.)

24. The Parties jointly appoint ILYM Group, Inc. as the neutral entity to administer this Settlement. (*Id.* at ¶ 1.2.) The Settlement Agreement provides the Administrator will be paid an Administration Expenses Payment from the Gross Settlement Amount, in an amount up to $11,850.00, for its fees and expenses in administering this Settlement. (*Id.* at ¶ 3.2.3.) To the extent the Administration Expenses are less or the Court approves payment less than $11.850.00, the

Administrator will retain the remainder in the Net Settlement Amount. (*Id.*) A true and correct copy of the Administrator's flat-fee bid of $11,850.00 is attached hereto as **Exhibit 5**.

25. The Class Notice will be mailed in English and Spanish via first-class U.S. mail to the current address of each Class Member. (*Id.* at ¶¶ 1.11, 7.4.2.) The proposed Class Notice sets forth, in plain terms, a statement of case, the terms of the Settlement, the approximate amounts of attorneys' fees, costs, PAGA Penalties, and service award being sought, an explanation of how the individual payments are calculated, the Final Approval Hearing information, the procedure for disputing the number of Workweeks and/or Pay Periods credited to each Class Members, and how Class Members may, should they choose, opt-out or otherwise object to the Settlement. (*Id.* at ¶¶ 7.4–7.7, Ex. A.)

26. The "Released Class Claims" are limited to all claims that were alleged, or reasonably could have been alleged, based on the facts stated in the Operative Complaint and ascertained in the course of the Action for the Class Period. (*Id.* at ¶ 5.2.) The release excludes any claims for vested benefits, wrongful termination, violation of the Fair Employment and Housing Act, unemployment insurance, disability, social security, workers' compensation, or claims based on facts occurring outside the Class Period. (*Id.*) The "Released PAGA Claims" are limited to all claims for PAGA penalties that were alleged, or reasonably could have been alleged, based on the facts stated in the Operative Complaint, the PAGA Notices, and ascertained in the course of the Action for the PAGA Period. (*Id.* at ¶ 5.3.) Under the Settlement, Plaintiff has agreed to a general release of any and all claims against the Released Parties, including a release of rights pursuant to California Civil Code section 1542. (*Id.* at ¶ 5.1.) The release of all claims will be effective only upon entry of the Court's final approval order. (*Id.* at ¶ 5.) The "Released Parties" are Defendant, and each of its past, present and future subsidiaries, parents, affiliated and related companies, divisions, successors, predecessors or assigns; and their past, present, and future officers, directors, shareholders, partners, agents, insurers, employee, advisors, accountants, representatives, trustees, heirs, executors, administrators, predecessors, successors or assigns. (*Id.* at ¶ 1.41.)

THE PROPOSED SETTLEMENT IS FAIR AND REASONABLE

27. Plaintiff's Counsel have conducted a thorough investigation into the facts of this case.

Based on the foregoing discovery and their own independent investigation and evaluation, Plaintiff's Counsel are of the opinion that the Settlement is fair, reasonable, and adequate. Furthermore, in light of all known facts and circumstances, the risk of significant delay, trial risk, appellate risk, the defenses that could be asserted by Defendant both to certification and on the merits, the settlement is in the best interests of the Class Members.

28. Based on my analysis of the time, payroll, and additional records provided by Defendant, Plaintiff's expert's analysis of time and payroll records provided by Defendant, and information from Plaintiff, Plaintiff's Counsel evaluated Defendant's maximum exposure. I took into account the risk of not having the claims certified and the risk of not prevailing at trial, even if the claims are certified. Based on a review of its records to date, Defendant estimates there are a total of 58,014 Workweeks. (*Id.* at ¶ 4.1.) Additionally, based on Defendant's payroll data, Defendant estimates there are 1,263 Class Members, 715 Aggrieved Employees who worked a total of 21,783 PAGA Pay Periods, that the average hourly rate of pay is $26.71, that the average regular rate of pay is $26.79, and there were 500 former employees for Labor Code § 203 penalties, and 715 employees that fall within the 1-year statute of limitations period for penalties under Labor Code § 226.

Accordingly, I calculated Defendant's potential exposure as follows:

Claim	Relevant Time Period	Rate	Number of Violations	Amount
Unpaid Wages (Off-the-Clock Work)	58,014 Workweeks	$26.71 average hourly rate	45,713 unpaid hours (assuming 10 minutes per shift) (85.7% overtime)	**$261,638.34*** **
Unpaid Wages (Regular Rate Claim)	58,014 Workweeks	$26.79 average regular rate	Based on expert analysis of records	**$39,697.50***
Meal Period Violations	58,014 Workweeks	$26.71 average hourly rate	61,870 unique meal break violations	**$413,136.93****
Rest Break Violations	58,014 Workweeks	$26.71 average hourly rate	270,969 unique rest break violations (assumes 100%	**$178,700.70*****

			violation rate for shifts of at least 3.5 hours)	
Unreimbursed Business Expenses	58,014 Workweeks	Assumes $20 per Workweek	Based on information from Plaintiff	**$134,826.30*** **
Labor Code §203	Based on approximately 500 terminated employees	$26.71 average hourly rate/ 30-day max.	Assumes 8.7 hours/day	**$362,150.90**** **
Labor Code §226	Based on approximately 715 class members within the 1-year statute of limitations	$50 for initial violation; $100 for each subsequent pay period with $4,000 employee maximum	Based on 21,783 pay periods within the 1-year SOL	**$213,655.00**** **
PAGA	Based on approximately 21,783 pay periods within the 1-year statute of limitations	$100 per pay period	Based on 21,783 pay periods within the 1-year SOL	**$217,830.00**** **
Total for Class Claims				**$1,821,635.67**
* This figure is discounted based on a 50% probability of prevailing at class certification and on the merits. ** These figures are discounted based on a 25% probability of prevailing at class certification and on the merits. *** These figures are discounted based on a 15% probability of prevailing at class certification and on the merits. **** These figures are discounted based on a 10% probability of prevailing at class certification and on the merits.				

29. As discussed above, Plaintiff's unpaid wages claim is also due to allegations that Defendant did not compensate Class Members for off-the-clock work. For example, Plaintiff alleges that she was asked for cook for company events; however, she was not paid for the hours that she spent cooking at home or in the kitchen inside of the work facility. For purposes of mediation, I assumed, based on information from Plaintiff, that each Class Member performed 10 minutes of unpaid work each shift, and thereby arrived at 45,713 cumulative unpaid hours, 85.7% of which is estimated to be overtime, resulting in an estimated maximum exposure of $1,744,255.63. However, Defendant argues employee timesheets accurately reflect work hours, that employees were compensated for all hours worked, and that Defendant did not require or permit the Class to work

outside of their scheduled shift times. Moreover, Defendant argues this claim is improper for class treatment, in part, given the individualized nature of assessing any unpaid hours and resulting damages. Although I believe there is merit to this claim, I acknowledge the foregoing presents significant risk with certifying this claim and proof on the merits. Certification and proof of this claim would require declarations from Class Members and obtaining such declarations could potentially reveal that each Class Member had a different experience with respect to clocking in and working off-the-clock. Therefore, I applied an 85% discount to the maximum exposure figure; accordingly, I arrived at **a realistic damage estimate of $261,638.34 for the unpaid off-the-clock work claim**.

30. As discussed above, Plaintiff's unpaid wages claim is also due to allegations that Defendant failed to incorporate all non-discretionary bonuses into Class Members' regular rate of pay for purposes of paying overtime pay, sick pay, and meal break premiums. Specifically, Plaintiff's expert reviewed the sample records Defendant produced and found 36 identifiable additional renumerations that were made yet not factored into the regular rate of pay, impacting 48.2% of Class Members for overtime pay, 22.0% of Class Members for sick pay, and 8.8% of Class Members for meal break premiums, resulting in a maximum exposure of $79,395.00. However, Defendant argues the bonuses were discretionary, and therefore Defendant was not required to incorporate those payments into the regular rate. Additionally, Defendant argues that to the extent it failed to incorporate any of the additional payments into the regular rate of pay, this results in nominal exposure as only 5.2% of pay periods included overtime and additional compensation, 0.9% of pay periods included sick pay and additional compensation, and 0.3% of pay periods included meal break premiums and additional compensation. Due to the lack of written policies regarding criteria for bonus payments and Defendant's *de minimis* exposure, I acknowledge the foregoing presents significant risk with certifying this claim and proof on the merits. Therefore, I applied a 50% discount to the maximum exposure figure; accordingly, I arrived at **a realistic damage estimate of $39,697.50 for the regular rate claim**.

31. As discussed above, Plaintiff's meal period claim is based on allegations that due to the nature of their work, Class Members' meal breaks were often short, late, interrupted, and

sometimes missed altogether. Plaintiff's expert reviewed the sample records that Defendant produced and thereby assessed 61,870 identifiable meal period violations, which is a 24% violation rate. Plaintiff's expert thus calculated a maximum exposure of $1,652,547.70. However, Defendant contends that many compliant meal breaks were taken and that where a violation appears, it was a result of employees voluntarily waiving their break rights. The records also revealed paid meal break premiums for approximately 4.1% of the violations and meal break waivers for 5.0% of the violations. Furthermore, Defendant argues this claim is improper for class treatment, in part, given the individualized nature of assessing non-compliant meal periods and resulting damages. Although I believe there is merit to this claim, I acknowledge the foregoing presents some risk with certifying this claim and proof on the merits. Certification and proof of this claim would require declarations from Class Members and obtaining such declarations potentially would reveal that each Class Member had a different experience with respect to meal periods. Therefore, I believe a 75% discount to the maximum exposure figure is warranted. Applying this discount, I accordingly arrived at **a realistic damage estimate of $413,136.93 for the meal period claim**.

32. As discussed above, Plaintiff's rest period claim is based on allegations that due to the nature of their work, Class Members' rest periods were often short, late, interrupted, and sometimes missed altogether. I assumed, based on information from Plaintiff, a 100% violation rate for shifts of at least 3.5 hours. Plaintiff's expert thus determined that there are 270,969 unique rest period violations and that Defendant did not pay any premium wages, resulting in an estimated maximum exposure of $1,191,338.00. Defendant maintains that it complied with all rest period obligations and that the putative Class was provided with the opportunity to take all rest periods to which they were entitled or otherwise voluntarily waived breaks. Moreover, Defendant argues this claim is improper for class treatment, in part, given the individualized nature of assessing non-compliant rest periods and resulting damages. Although I believe there is merit to this claim, I acknowledge the foregoing presents significant risk with certifying this claim and proof on the merits, particularly because rest periods do not have to be recorded. Certification and proof of this claim would require declarations from Class Members and obtaining such declarations potentially would reveal that each Class Member had a different experience with respect to rest periods. Therefore,

I applied an 85% discount to the maximum exposure. Applying this discount, I accordingly arrived at **a realistic damage estimate of $178,700.70 for the rest period claim**.

33. The unreimbursed business expenses claim is based on the allegation that Defendant did not reimburse Class Members for all expenses incurred in direct consequence of the discharge of duties. Based on information from Plaintiff, she and other Class Members used their personal cell phones to clock in and out of their shifts without reimbursement from Defendant. Plaintiff was also not reimbursed for gas mileage when she used her personal vehicle to transport equipment to events for Defendant. The precise value of all necessary business expenses Class Members incurred could not be calculated. Therefore, in preparation for mediation, Plaintiff's Counsel estimated Defendant owed approximately $20.00 per Workweek per Class Member in the statutory period and that Defendant's potential liability is $898,842.00. Defendant contends it complied with all its reimbursement obligations, and further, that the reimbursement claim would be difficult to certify, given the individualistic nature of this claim. In light of these defenses, and for purposes of settlement, I discounted Defendant's potential liability by 85%. **Plaintiff's realistic recovery estimate for the unreimbursed expenses claim is therefore $134,826.30**

34. With respect to Plaintiff's derivative claims for statutory and civil penalties, Plaintiff estimated that Defendant's realistic potential liability is **$793,635.90**. While Defendant's maximum potential liability for waiting time penalties is $3,621,509.00 based on approximately 500 terminated class members within the relevant time period, $2,136,550.00 for inaccurate wage statements based on approximately 715 class members within the 1-year statute of limitations, and $2,178,300.00 for PAGA penalties based on the Court assessing a $100 penalty for each pay period (21,783 pay periods), I believe that it would be unrealistic to expect the Court to award the full $7,936,359.00, in penalties given Defendant's defenses and the discretionary nature of penalties. Considering that the underlying claims are realistically estimated to be $1,027,999.77 awarding such a disproportional amount in penalties would also raise Due Process concerns. Although the Court does not have discretion to reduce waiting time penalties under Labor Code § 203, under *Diaz v. Grill Concepts Services, Inc.* (2018) 23 Cal.App.5th 859, 874, the palpable difficulty in proving a willful violation, alone, warrants the discount applied. Weighing these factors and

applying a discount to account for the risk and uncertainty of prevailing at trial, I arrived at **$793,635.90** for statutory and civil penalties (applying a 90% discount to the wage statement penalties, waiting time penalties, and the PAGA penalties).

35. **Using these estimated figures, Plaintiff predicted that the realistic recovery for all claims, including penalties, would be $1,821,635.67**. This means that the $1,300,000.00 settlement figure represents approximately 71.36% of the realistic recovery. This is an excellent result for the Class. Indeed, because of the proposed Settlement, class members will receive timely, guaranteed relief and will avoid the risk of an unfavorable judgment.

36. While Plaintiff is confident in the merits of her claims, a legitimate controversy exists as to each cause of action. Plaintiff also recognizes that proving the amount of wages due to each Class Member would be an expensive, time-consuming, and uncertain proposition.

37. Plaintiff's Counsel are also of the opinion that because the issues here are fairly contested, there is a possibility of the Court not awarding PAGA penalties even if Plaintiff prevailed on the merits due to the largely discretionary nature of awarding PAGA penalties. In other words, were this matter to go to trial, any award granted would be at the discretion of the Court and subject to a substantial reduction.

38. The Settlement obviates the significant risk that this Court may deny certification of all or some of Plaintiff's claims. Furthermore, even if Plaintiff was able to pursue her claims on a class-wide basis and thereafter obtained certification of all or some of the claims, continued litigation would be expensive, involving a trial and possible appeals, and would substantially delay and reduce any recovery by the Class Members.

39. This Settlement avoids the risks and the accompanying expense of further litigation. Although the Parties had engaged in a significant amount of investigation, informal discovery and class-wide data analysis, the Parties have not yet completed formal written discovery. Moreover, preparation for class certification and a trial remained for the parties as well as the prospect of appeals in the wake of a disputed class certification ruling for Plaintiff and/or adverse summary judgment ruling. Had the Court certified any claims, Defendant could move to decertify the claims. As a result, the Parties would incur considerably more attorneys' fees and costs through trial.

40. The proposed settlement of $1,300,000.00 therefore represents a substantial recovery when compared to Plaintiff's reasonably forecasted recovery. When considering the risks of litigation, the uncertainties involved in achieving class certification, the burdens of proof necessary to establish liability, the probability of appeal of a favorable judgment, it is clear that the settlement amount of $1,300,000.00 is within the "ballpark" of reasonableness, and preliminary settlement approval is appropriate.

THE SERVICE PAYMENT TO PLAINTIFF IS REASONABLE

41. Throughout this litigation, Plaintiff, who was a former employee of Defendant, has cooperated immensely with my office and has taken many actions to protect the interests of the Class. Plaintiff provided valuable information regarding her hours worked, and what duties were performed during those hours. Plaintiff also provided information regarding meal and rest periods taken and missed by Plaintiff and other Class Members. Plaintiff participated in decisions concerning this action, assisted in preparation for the mediation session, and provided my office with the names and contact information of potential witnesses in this action. Before we filed this case, Plaintiff worked with my office to determine the viability of her claims. Plaintiff also provided information and documents relating to her employment by Defendant. The information and documentation provided by Plaintiff were instrumental in establishing the wage and hour violations alleged in this action, and the recovery provided for in the Settlement would have been impossible to obtain without her participation.

42. At the same time, Plaintiff faced many risks in adding herself as the Class Representative in this matter. Plaintiff faced actual risks with her future employment, as putting herself on public record in an employment lawsuit could affect her likelihood for future employment. For example, a search of Plaintiff's name will reveal this action, and as a result, many employers may forego hiring Plaintiff in learning she sued a former employer.

43. In turn, Class Members now can participate in a settlement, reimbursing them for wage violations they may have never known about or been willing to pursue on their own. If each Class Member would have tried to pursue legal remedies on their own, that would have resulted in each having to expend a significant amount of their own monetary resources and time, not to mention

limited judicial resources, which were obviated by Plaintiff putting herself on the line on behalf of the Class.

44. This class action would not have been possible without the aid of Plaintiff, who put her own time and effort into this litigation and placed herself at risk for the sake of the Class. The requested service payment to Plaintiff for her service as the Class Representative is a relatively small amount of money considering the time and effort put into the litigation and compared to enhancements granted in other class actions. The requested service payment is therefore reasonable to compensate Plaintiff for her active participation in this lawsuit, in addition to her general release of claims, both known and unknown, and waiver of section 1542 rights.

MY EXPERIENCE AND QUALIFICATIONS

45. I received a B.A. in History in 1998 from UCLA, and my J.D. from Loyola Marymount Law School in 2006. I became an Active Member of the State Bar of California in June 2007 and have been an Active Member in good standing continuously since then. I have been selected to Super Lawyers each year from 2019 to 2023.

46. I co-founded Moon & Yang, APC—now Moon Law Group, PC—in March 2010. My practice is focused exclusively on advocating for the rights of employees in wage and hour litigation, almost entirely in class and/or PAGA representative actions.

47. For the past decade, I have built my practice to have an emphasis on employment and related civil litigation cases and have both prosecuted and defended employment-related litigation cases. I have been heavily, successfully, and continuously involved in active litigation and trial work, and have conducted bench and jury trials on behalf of both employees and employers in wage and hour cases.

48. My current billing rate is $950.00 per hour, which is my usual hourly rate for wage and hour litigations A $950.00 per hour rate is reasonable considering my years of experience practicing in the highly specialized area of employment and labor law and my Laffey Matrix rate (The Laffey Matrix, http://www.laffeymatrix.com/see.html, [last visited Nov. 20, 2025].) The Laffey Matrix is a "well-established objective source for rates that vary by experience" used by the District of Columbia. (*In re HPL Tech., Inc. Sec. Litig.* (N.D. Cal. 2005) 366 F. Supp 2d 912, 921.) A true and correct copy

of the Laffey Matrix is attached hereto as **<u>Exhibit 6</u>**. California Courts have adjusted the Laffey Matrix rate upwards based on "locality pay differentials" and the location of counsel's office in California to determine whether counsel's rates are reasonable. (*See, e.g., id.* [applying a 9% upward adjustment to the Laffey Matrix rate based on an approximate difference of 9% between the locality pay differential of the District of Columbia and San Francisco, California, where counsel's office was located].) To determine the locality pay differential, the Court in *In re HPL Technologies, Inc.* utilized the locality pay differentials within the federal courts. (*Id.* at 921–22.) Using the same method here and based on Class Counsel's location in Los Angeles, California, the locality pay differential of the Los Angeles-Long Beach area is 36.47% and the locality pay differential of the Washington-Baltimore-Arlington area is 33.94%, which results in a difference of approximately 2.5%. (*Compare* Judiciary Salary Plan of Los Angeles-Long Beach, CA, Effective January 13, 2024 *with* Judiciary Salary Plan of Washington-Baltimore-Arlington, Effective January 13, 2025.) True and correct copies of the Los Angeles-Long Beach and Washington-Baltimore-Arlington salary plans are attached hereto as **<u>Exhibit 7</u>** and **<u>Exhibit 8</u>**, respectively. Based on my 18 years of experience, my Laffey Matrix rate with a 2.5% adjustment is $971.70 per hour ($948 Laffey Matrix rate + (2.5% x $948)). Accordingly, my current billing rate of $950.00 per hour is reasonable.

49. I am experienced in prosecuting and defending employment matters, particularly class and PAGA actions. My firm has focused a substantial percentage of its practice on wage, hour, and working conditions violations. In addition to the present case, I am also class counsel for other wage and hour class action lawsuits pending in various counties throughout California, including in state and federal courts. The following is a list of some of our recent class action settlements that have received preliminary and final approval: *Aparicio v. Lineage Logistics, LLC* (LASC No. BC722764) (class size approx. 155; lead counsel); *Black v. Mission Healthcare Servs., Inc*. (LASC No. 19STCV04602) (class size approx. 1,000; lead counsel); *Campa v. Bloomingdeals, Inc*. (LASC No. BC700366) (class size approx. 1,500; lead counsel); *Garcia v. Comfy U.S.A. Apparel, Inc.* (LASC No. BC709630) (class size approx. 210; lead counsel); *Gomez v. H Mart Cos., Inc.* (LASC No. BC671525) (class size approx. 2,500; co-counsel); *Jones v. Citiguard, Inc.* (LASC No. BC664890) (class size approx. 587; lead counsel); *Jones v. Fitness Alliance, LLC* (Riverside

No. PSC1404079) (class size approx. 1,000; lead counsel); *Lagos v. ThyssenKrupp Elevator Corp.* (LASC No. BC682972) ($750,000 for 79 class members; lead counsel); *Mark Brulee et al. v. DAL Global Servs., LLC* (C.D. Cal. Dec. 20, 2018) No. CV 17-6433 JVS(JCGx), 2018 WL 6616659, at *10 (class size approx. 2,650; lead counsel) (in approving my $650 hourly rate in that case, the Court found: "Class Counsel's declarations show that the attorneys are experienced and successful litigators. Other courts have approved the attorneys' current rates for the Moon & Yang, APC attorneys"); *Martinez v. Bail Hotline Bail Bonds, Inc.* (LASC No. BC700131) (class size approx. 173; lead counsel); *Montoya v. Golden 1 Credit Union* (Sacramento No. 34-2018-00228252) (class size approx. 1,900; lead counsel); *Onofre v. Caitac Garment Processing, Inc*. (LASC No. BC702283) (class size approx. 750; lead counsel); *Rodriguez v. Rossmoyne, Inc.* (LASC No. BC699137) (class size approx. 220; lead counsel); *Sison v. Cha Hollywood Med. Ctr., L.P.* (LASC No. BC6441 29) (class size approx. 2,100; co-counsel); *Slaughter v. ACA Sec. Stems, LP* (LASC No. BC699137) (class size approx. 300; lead counsel); *Taylor v. Sherman's Delicatessen & Bakery, LLC* (LASC No. BC722765) (class size approx. 515; lead counsel); *Vargas v. AMS Paving, Inc*. (LASC No. BC722767) (case size approx. 260; lead counsel); *Vertti v. Bagcraft Papercon III, LLC* (LASC No. 19STCV12729) (class size approx. 260; lead counsel); and *Wallick v. Campbell Soup Supply Co., LLC* (San Joaquin No. STK-CV-UOE-2021-0000865) (class size 435; lead counsel).

ALLEN FEGHALI'S EXPERIENCE AND QUALIFICATIONS

50. Allen Feghali is a partner at Moon Law Group, PC. He received his B.A. in Global and International Studies in 2011 from UC Santa Barbara, and his J.D. from University of La Verne College of Law in 2014. Mr. Feghali became an Active Member of the State Bar of California in December 2014 and has been an Active Member in good standing continuously since then. He was selected by Super Lawyers as a "Southern California Rising Star" in 2020–2023.

51. Mr. Feghali began working at Moon Law Group, PC in May 2015, and his practice has focused on advocating for the rights of employees at the trial-court and appellate level. Prior to approximately June 2018, with the exception of a handful of cases, his practice focused on individual FEHA and wrongful termination claims, as well as individual wage and hour claims. In

June 2018, Mr. Feghali became heavily involved in the firm's class and PAGA representative action practice.

52. Mr. Feghali's current billing rate is $900.00 per hour, which is his usual hourly rate in wage and hour litigations. Based on Mr. Feghali's 11 years of experience, his Laffey Matrix rate with a 2.5% adjustment is $971.70 per hour ($948 Laffey Matrix rate + (2.5% x $948)). (*See* Ex. 6.) As compared to the Laffey Matrix rate and when considering his experience, Mr. Feghali's billing rate of $900.00 per hour is reasonable.

53. During Mr. Feghali's tenure with Moon Law Group, PC, he has played a critical role in obtaining outstanding results for employees who have been wronged by their employers. Mr. Feghali's litigation experience includes, but is not limited to:

(a) In March 2021, Mr. Feghali prepared the briefing in the matter of *Rivera, et al. v. Clearpath Federal Credit Union* (LASC No. 19STCV33504), which resulted in a certification order on all causes of action following contested briefing in a wage and hour class action.

(b) Mr. Feghali prepared the briefing in a contested class certification motion in the matter of *Dawson, et al. v. GoHealth, LLC, et al.* (No. CGC-19-577790), which was argued and taken under submission by the Court on February 3, 2022.

(c) Mr. Feghali prepared the briefing in a contested class certification motion in the matter of *Brown v. NTI-CA, Inc., et al.* (No. 21STCV04397), which is not currently scheduled for hearing.

(d) Mr. Feghali was part of a team that prepared the briefing in a contested class certification motion in the matter of *Thong, et al. v. Outlook Resources, Inc., et al*. (No. 19STCV44400), which was granted, in part, and denied, in part, in October 2022.

(e) Mr. Feghali prepared the briefing which resulted in a remand order in the matter of *Andrade v. Rehrig Pacific Corp.* (C.D. Cal. April 22, 2020) No. CV 20-1448 FMP (RAOx), 2020 WL 1934954, where Defendant removed a wage and hour class alleging that plaintiff's claims were pre-empted by the Labor Management Relations Act.

(f) Mr. Feghali briefed, argued, and won the matter of *Lee, et al. v. The Christian Herald, U.S.A., Inc.* (Cal. Ct. App. Dec. 12, 2017) No. B266853, 2017 WL 6333905, at *1. There, the Court of Appeal reversed a dismissal of an individual defendant following the trial court's granting of a demurrer without leave to amend relating to alter ego allegations.

(g) Mr. Feghali prepared the briefing which resulted in a remand order in the matter of *Sotelo v. Belfor USA Group, Inc.* (C.D. Cal. Mar. 13, 2018) No. 2:17–cv–09056–RSWL–MRWx, 2018 WL 1352910. Defendants there sought to remove the case based on the inclusion of a "sham defendant," but the court agreed with Mr. Feghali's briefing which argued that the individual defendant, who was alleged to have harassed the plaintiff under FEHA, was a proper defendant.

(h) Mr. Feghali has been the lead counsel, or co-lead counsel, in individual cases that settled for $850,000.00, $375,000.00, and $250,000.00. In addition to the foregoing, Mr. Feghali has resolved or assisted in the resolution of approximately 100 cases which has resulted in millions of dollars of unpaid wages being returned to low-wage employees.

(i) Mr. Feghali was part of a team that prepared the briefing in a contested class certification motion in the matter of Hernandez v. CR Laurence, Inc., et al. (No. 20STCV32372), which was granted, in part, and denied, in part, in February 2024.

54. Since June 2018, Mr. Feghali's practice has shifted to almost exclusively representing employees in wage and hour class and PAGA representative actions. His fee has been approved by Courts throughout the state. He has participated as lead, or co-lead counsel, in the litigation and resolution of over 100 wage and hour class actions, including obtaining preliminary and final approval of settlements. A selection of settled cases wherein Mr. Feghali served as lead or co-lead

class counsel includes the following: *Barahona v. Methodist Hosp. of Cal*. (No. 20STCV09876) ($5,000,000); *Vazquez v. St. Mar 2.0 Inc.* (No. 37-2021-00042702-CU-OE-CTL) ($2,250,000); *Duncan v. Infineon Technologies Americas Corp*. (No. 21STCV16872) ($2,500,000); *Aquino v. Coast King Packing, LLC* (No. 21CV002448) ($2,300,000); *Martinez, et al. v. Curative LLC* (No. 21STCV20778) ($1,500,000); *Calderon v. Installed Building Products* (No. 37-2021-00035844-CU-OE-CTL) ($1,500,000); *Majdoub v. Argent Hotel Mgmt.* (No. CGC-20-582921) ($1,800,000); *Fuentes v. Covid Clinic, Inc*. (No. CIVSB2106806) ($1,526,317.57); *Rahman, et al. v. Gate Gourmet, Inc*. (No. 3:20-cv-03047) ($3,850,000); *Pagoulatos v. Coast Hills Credit Union* (No. 20CV02801) ($1,100,000); *Hammers v. Redwood Oil Co., Inc*. (No. SCV-269625) ($1,180,000); *Cuadras v. R.C. Wendt Painting, Inc*. (No. BC705964) ($1,400,000); *Zaragoza v. The Roman Catholic Bishop of Fresno* (No. 22CV-00282) ($1,500,000); *Garcia v. San Jose Water Co.* (22CV396328) ($1,200,000); *Garcia v. Tri-Valley Plastering, Inc*. (No. 22CECG00591) ($1,250,000); *Garcia v. Tapia Enter., Inc*. ($2,137,651 for 507 class members); *Cha v. Center Point, Inc*. (No. CIV2102081) ($1,000,000); *Sison v. Cha Hollywood Med. Ctr., L.P*. (No. BC644129) (2,137 class members); *Lagos v. ThyssenKrupp Elevator Corp.* (No. BC682972) ($750,000 for 79 class members); and *Montoya v. Golden 1 Credit Union* (No. 34-2018-00228252) ($1,250,000).

S. PHILLIP SONG'S EXPERIENCE AND QUALIFICATIONS

55. S. Phillip Song is a Senior Attorney at Moon Law Group, PC. He received his undergraduate degree in 2006 from the University of Houston, graduating cum laude with a Communications B.A. and minor in Accounting. Mr. Song earned his Juris Doctor degree in 2011 from the University of Houston Law Center.

56. Mr. Song has been admitted to practice law since 2013 (Texas). Mr. Song is presently admitted to practice in all state courts of California (admitted in 2019), and before all federal district courts in California.

57. The focus of Mr. Song's practice is currently on class actions, wage-and-hour law, and employment law. Mr. Song is currently handling multiple class action and PAGA matters.

58. Mr. Song's current billing rate is $775.00 per hour, which is his usual hourly rate in wage and hour litigations. Based on Mr. Song's 14 years of experience, his Laffey Matrix rate with a 2.5% adjustment is $971.70 per hour ($948 Laffey Matrix rate + (2.5% x $948)). (*See* Ex. 6.) As compared to the Laffey Matrix rate and when considering his experience, Mr. Song's billing rate of $775.00 per hour is reasonable.

59. Mr. Song has worked on numerous class action cases and representative actions that have been granted final approval, including *Paez et al. v. C&R Restaurant Group*, LP, Kern County Superior Court, Case No. BCV-18-103181-SDS; *Baker v. Central Coast Home Health, Inc*., San Luis Obispo County Superior Court, Case No. 17CV-0219; *Martinez v. Community Playgrounds, Inc*., Solano County Superior Court, Case No. FCS53879; *Duval v. Pacific States Petroleum, Inc*., Sacramento County Superior Court, Case No. 34-2018-00231934; *Flores v. Wilmar Oils & Fats (Stockton)*, LLC, San Joaquin County Superior Court, Case No. STK-CV-UOE-2018-0012758; G*arcia v. Continental Intermodal Group LP dba CIG Logistics*, Kern County Superior Court, Case No. BCV-19-102776; *Tourchette adv. Finelite, Inc*., Alameda County Superior Court, Case No. RG19022885; *Touch v. Presidio Components, Inc*., Kern County Superior Court, Case No. BCV-20-101005; *Johnston v. Environmental Logistics, Inc*., Kern County Superior Court, Case No. BCV-18-100865-DRL; *Lewis v. Environmental Waste Minimization, Inc*., Kern County Superior Court, Case No. BCV-19-102248-SDS; *Priess v. Fiore Management LLC dba Canndescent*, Kern County Superior Court, Case No. BCV-20-100930; *Alcantar v. Bay Equity LLC, Marin County Superior Court*, Case No. CIV1903376; *Spier v. Gibbs International, Inc.*, Kern County Superior Court, Case No. BCV-19-101774-DRL; *Borghi v. Goldco Direct LLC dba Goldco Precious Metals*, Ventura County Superior Court, Case No. 56-2019-00533053-CU-OE-VTA; *Williams v. Aetna, Inc., et al*., Alameda County Superior Court, Case No. RG19004083; *Singh v. Ryzen*, Alameda County Superior Court, Case No. RG19039158; *Hoshaw v. Sutherland Healthcare*, Los Angeles County Superior Court, Case No. 19STCV33165; *Hart v. Zazzle, Inc*., San Mateo County Superior, Court Case No. 20-CIV-01321; *Stacy v. Branded Group, Inc*. Kern County Superior Court, Case No. BCV-21- 100443-BCB; *Angeles v. iKrusher, Inc*., Los Angeles County Superior Court, Case No. MSC20-01312, *Zuniga v. Central Valley Concrete, Inc*., Merced County Superior

Court, Case No. 20CV-00490; *Gomez v. IHI Power Services Corp*., Merced County Superior Court, Case No. 20CV-02657; *Martinez v. N.A.F.T.A Distributors*, San Bernardino County Superior Court, Case No. CIVDS1938970; *Bandril v. Plastikon Industries*, Alameda County Superior Court, Case No. RG19038227; *Williams v. National Construction Rentals, Inc*., Alameda County Superior Court, Case No. RG20075904; *Pho v. Kruger Foods, Inc*., San Joaquin County Superior Court, Case No. STK-CV-UOE-2020-0002099; *Collins v. Mobile Medical Examination Services, LLC dba MEDXM*, Orange County Superior Court, Case No. 30-2020-01130693-CU-OE-CXC; *McNeil v. Kik International, LLC, et al*., San Bernardino County Superior Court, Case No. CIVDS1915438 (Consolidated with Case No. CIVDS2023661); *Weber v. Sunrise Medical (US) LLC*, Merced County Superior Court, Case No. 20CV-01461 (Consolidated with Case No. 20CV-01707); *Flores v. Rivermaid Trading Company*, San Joaquin County Superior Court, Case No. STK-CV-UOE-2020-0008623; *Guzman v. Bentley Mills, Inc*., Los Angeles County Superior Court, Case No. 20PSCV00789; and *Ferrara v. South Coast Winery, Inc*., Riverside County Superior Court, Case No. CVRI2101920 (Consolidated with Case Nos. CVRI2102449 and MCC2001498).

MORGAN SIMPSON'S EXPERIENCE AND QUALIFICATIONS

60. Morgan W. Simpson is an Associate Attorney at Moon Law Group, P.C. He graduated from the University of South Carolina – Columbia in 2016 with a Bachelor of Arts in Journalism, magna cum laude. Mr. Simpson attended the University of Southern California Gould of School of Law and graduated in 2020.

61. Mr. Simpson was admitted to the California State Bar as an attorney in June 2021. Mr. Simpson began practicing plaintiff-side wage and hour class and representative actions in July 2024 when he joined Moon Law Group, PC.

62. Mr. Simpson's current billing rate is $600.00 per hour, which is his usual hourly rate in wage and hour litigations. Based on Mr. Simpson's 5 years of experience since graduating law school, his Laffey Matrix rate with a 2.5% adjustment is $595.53 per hour ($581 Laffey Matrix rate + (2.5% x $581)). (*See* Ex. 6.) As compared to the Laffey Matrix rate and when considering his experience, Mr. Simpson's billing rate of $600.00 per hour is reasonable

63. Mr. Simpson has served as a handling attorney on the following matters that successfully settled and are in the process of obtaining or have obtained preliminary or final approval: *Ocampo v. DNA Motor, Inc.*, Los Angeles County Superior Court Case No. 23STCV31444; *Gutierrez v. Allegion Access Technologies, LLC*, San Bernardino County Case No. CIVSB2406590; *Gutierrez v. Patton Sales Corp.*, Los Angeles County Case No. 24STCV16019; *Stamm v. Pacific Clay Products, Inc., et al.*, Los Angeles County Case No. 24STCV04369; *Velo v. Chicken Choice, Inc.*, Santa Clara County Case No. 24CV441906; *Calderon v. B-Per Electronic, Inc.*, Orange County Case No. 30-2024-01409795-CU-OE-CXC.

CLASS COUNSEL'S EXPERIENCE AND QUALIFICATIONS

64. As demonstrated by the foregoing, my office is qualified to handle this litigation because we are experienced in litigating Labor Code and Wage Order violations in individual, class, and representative actions. The attorneys at my office have been appointed as lead or co-lead counsel in numerous wage and hour class actions in state and federal courts by way of motion for settlement approval. Including myself, Moon Law Group, PC is comprised of approximately 35 attorneys, all of whom are actively and continuously practicing employment litigation, representing almost entirely employee-plaintiffs, in both individual and class actions, in this Court and other Superior Courts throughout the State, in the Courts of Appeal, and in various federal courts. The attorneys at my firm have a high level of skill, knowledge, and experience in areas of wage and hour class actions, PAGA representative actions, and labor and employment law generally, the substantiative (state and federal) and procedural law of which is frequently evolving.

65. Moon Law Group, PC has been engaged in the practice of employment and labor law for over a decade, and presently focuses exclusively on plaintiffs' employment law. The firm and its lawyers have tried both bench and jury trials (representing both plaintiffs and defendants) relating to employment matters. As noted above, Moon Law Group, PC has been appointed lead or co-lead class counsel in federal and state courts in California. Also, the firm and its lawyers have successfully settled hundreds of cases during that time, including wage and hour class actions and PAGA representative actions.

66. The foregoing experience of myself and other attorneys of Moon Law Group, PC is invaluable in assessing the reasonableness of settlements, such as the one at issue here, and from this experience Plaintiff's Counsel concluded that this litigation could not have been settled on better terms.

67. I respectfully submit that the attorneys of Moon Law Group, PC, myself included, are well suited to act as Class Counsel in this action, and we have, and will continue to, vigorously represent the interests of the Class. To my knowledge, we do not have any conflicts of interest with Plaintiff, other Class Members, or the proposed Administrator, and we are not related to Plaintiff. We respectfully request our appointment as Class Counsel, for settlement purposes, be confirmed.

THE REQUEST FOR ATTORNEYS' FEES AND COSTS IS REASONABLE

68. In line with the Settlement, Plaintiff's Counsel request an award of attorneys' fees, payable from the Gross Settlement Amount, in an amount of **$433,333.33**, which is 1/3 of the Gross Settlement Amount. The proposed award of attorneys' fees in this case can be justified under either the lodestar method or the percentage of recovery/common fund method. While Plaintiff's Counsel base the proposed award of fees on the common-fund recovery method, I have provided billing records of my time, Mr. Feghali's time, Mr. Song's time, and Mr. Simpson's time to perform a lodestar check. A true and correct copy of the billing records are attached hereto as **Exhibit 9**. As discussed below, a positive multiplier is warranted in this case.

69. The total current lodestar for Moon Law Group, PC is *not less than* the following:

Attorney	Rate	Hours	Lodestar
Kane Moon	$950.00	34.7	$32,965.00
Allen Feghali	$900.00	27.3	$24,570.00
S. Phillip Song	$775.00	34.4	$26,660.00
Morgan Simpson	$600.00	42.2	$25,320.00
	Total:	**138.6**	**$109,515.00**

70. It is further estimated that my office will need to expend at least another 50 hours to monitor the administration process leading up to the final approval, prepare for final approval, and

oversee distribution to the Class following final approval. My office also bears the risk of taking whatever actions are necessary should Defendant fail to pay.

71. The lodestar method requires the Court to determine a "touchstone" or lodestar figure based on a compilation of time spent and reasonable hourly compensation for each attorney. (*Graham v. DaimlerChrysler Corp.* (2004) 34 Cal.4th 553, 579.) Generally, hours are reasonable if they were "reasonably expended in pursuit of the ultimate result achieved in the same manner that an attorney traditionally is compensated by a fee-paying client." (*Hensley v. Eckerhart* (1983) 461 U.S. 424, 431.) The Court "should defer to the winning lawyer's professional judgment as to how much time he was required to spend on the case." (*Moreno v. City of Sacramento* (9th Cir. 2008) 534 F.3d 1106, 1112.)

a. <u>Number of Hours Expended by My Office Is Reasonable</u>: As set forth in this declaration, my office expended a significant amount of time litigating the case to achieve an excellent result on behalf of the Class. To date, my office has spent no less than **138.6** hours litigating this case. In the event the Court grants preliminary settlement approval, my office will spend additional time related to this litigation, including to prepare for final settlement approval, monitor administration of the Settlement after final approval, committing no less, although likely more, than 50 hours to those additional tasks. The number of hours that my office has and will devote to this case is reasonable. (*See, e.g.*, *Ketchum III v. Moses* (2001) 24 Cal.4th 1122, 1133 [fee award should be fully compensatory and, "absent circumstances rendering the award unjust, an attorney fee award should ordinarily include compensation for *all* the hours *reasonably spent*"] [emphasis in original]; *Serrano v. Unruh* (1982) 32 Cal. 3d 621, 624 [counsel are entitled to compensation for all hours reasonably expended]; *Hensley*, *supra*, 461 U.S. at pp. 435–36; *Caudle v. Bristow Optical Co.* (9th Cir. 2000) 224 F.3d 1014, 1028; *Cabrales v. Cty. of L.A.* (9th Cir. 1991) 935 F.2d 1050, 1052–53.) As discussed above, my office was required to expend considerable time and resources to investigate, litigate, and successfully settle these claims for the benefit of the Class.

b. Class Counsel's Hourly Rates Are Reasonable: "[T]he established standard when determining a reasonable hourly rate is the 'rate prevailing in the community for similar work performed by attorneys of comparable skill, experience, and reputation.'" (*Camacho v. Bridgeport Fin., Inc.* (9th Cir. 2008) 523 F.3d 973, 979 [quoting *Barjon v. Dalton* (9th Cir. 1997) 132 F.3d 496, 502].) This rule applies even when, as here, the attorneys representing a named plaintiff perform the work on a contingent fee basis. (*See, e.g.*, *Robertson v. Fleetwood Travel Trailers of Cal., Inc.* (2006) 144 Cal.App.4th 785, 818; *Blanchard v. Bergeron* (1989) 489 U.S. 87, 96.) These hourly rates are reasonable in light of the significant experience, expertise, and skill my firm brought to this action. Rates are reasonable if they are "within the range of reasonable rates charged by and judicially awarded comparable attorneys for comparable work." (*Children's Hosp. & Med. Ctr. v. Bonta* (2002) 97 Cal.App.4th 740, 783.) The trial court may "find hourly rates reasonable based on evidence of other courts approving similar rates." (*Parkinson v. Hyundai Motor Am.* (C.D. Cal. 2010) 796 F.Supp.2d 1160, 1172.) The attorneys at Moon Law Group, PC are experienced litigators who specialize in employment law, with a substantial wage and hour class action practice. The hourly rates of each attorney are also reasonable as compared to their respective Laffey Matrix rates as explained *supra*. Moreover, these rates are not opposed or challenged, and have been approved by other courts, as explained *supra*.

c. Application of a Positive Multiplier Is Warranted: Once this lodestar figure has been determined, the Court may take into account other "enhancement" factors to adjust the lodestar award. As the California Supreme Court has held, contingency fees should be higher than fees for the same legal services paid concurrently with the provision of the services. (*Ketchum III*, *supra*, 24 Cal.4th at pp. 1132–33; *see also Fischel v. Equitable Life Assurance Soc'y of the U.S.* (9th Cir. 2002) 307 F.3d 997, 1008.) "A lawyer who both bears the risk of not being paid and provides legal services is not receiving the fair market value of his work if he is paid only for the second of these functions. If he is paid no more, competent counsel will be reluctant to accept fee award cases." (*Ketchum,* 24 Cal.4th at p. 1133.) Application of that rule is particularly appropriate where the case is brought to redress important rights of vulnerable persons. (*Id.*) A risk enhancement is "earned compensation; unlike a windfall, it is neither unexpected nor fortuitous. Rather, it is intended to approximate market-level compensation for such services, which typically includes a premium for the risk of nonpayment or delay in payment of attorney fees." (*Id.* at p. 1138.) **Multipliers normally range from two to four or higher.** (*Wershba v. Apple Comp., Inc.* (2001) 91 Cal.App.4th 224, 255; *see also Vizcaino v. Microsoft Corp.* (9th Cir. 2002) 290 F.3d 1043, 1051, n.6 ["most" common fund cases apply a multiplier of 1.0–4.0]; *Been v. O.K. Indus., Inc.* (E.D. Okla. Aug. 16, 2011) No. CIV–02–285–RAW, 2011 WL 4478766, *11 [citing a study "reporting [an] average multiplier of 3.89 in survey of 1,120 class action cases" and finding that a multiplier of 1.22 would be "per se reasonable"].) Factors considered in determining whether a lodestar multiplier is appropriate generally include: (1) the risks presented by the contingent nature of the case; (2) the novelty and difficulty of the questions involved and the skill requisite to perform the legal service properly; (3) the nature of the opposition; (4) the preclusion of other employment by the attorney due to acceptance of the case; and (5) the result obtained and the importance of the lawsuit to the public. (*Serrano v. Ivy Baker Priest* (1977) 20 Cal. 3d 25, 48–49 [hereinafter "*Serrano III*"].) All these factors favor approval of a multiplier along the lines of those approved in the cases above. To date, my office has incurred no less than **$109,515.00** in attorneys' lodestar fees and advanced **$23,474.83** in actual costs. Accordingly, after reimbursement of our reasonable out-of-pocket expenses, our fee request represents a multiplier of approximately **3.96** of the lodestar fees incurred in prosecuting this case.

1) *Risks presented by the contingent nature of the case*: The major consideration in determining the necessity of a multiplier is the contingent

nature of the award. (*Ketchum III*, *supra*, 24 Cal.4th at pp. 1132–33; *see also Fischel*, *supra*, 307 F.3d at p. 1008.) In determining what multiplier to award, the probability of success must be assessed *ex ante*, that is, as viewed from the outset of the case. (*See, e.g.*, *Harman v. Lyphomed, Inc.* (7th Cir. 1991) 945 F.2d 969, 976.) Further, the possibility of no recovery is only one of the uncertainties involved in taking on such a case. Other uncertainties are the amount that will be recovered, uncertainty as to the cost, both in effort and expenses, and uncertainty about how much time will pass before the recovery is obtained. (*See, e.g.*, *Ketchum*, 24 Ca1.4th at pp. 1132–1133, 1138.) My office's outlay of time and money in this case has been significant. In all, my office has spent *no less than* **138.6 hours** to date investigating, analyzing, researching, litigating, and negotiating a favorable resolution of this case, in addition to *a minimum of* 50 hours that will be spent preparing for final settlement approval, following final settlement approval, including to monitor settlement administration and distribution of funds, and has incurred **$23,474.83** in necessary litigation costs. Unsettled legal issues also presented risks to the claims in this case. My office bore the substantial risk of an uncertain outcome in agreeing to prosecute this class action case on a contingency fee basis, as well as the difficulties and delay inherent in such litigation. There was the prospect of the enormous cost inherent in class action litigation, as well as extensive negotiations with a corporate Defendant who vigorously opposed Plaintiff's claims and resisted settlement from the outset. My office risked significant time and expense to ensure a successful settlement. As detailed *supra*, the risks presented in this case were significant, and Defendant's defenses posed serious risks to the success of this matter at the certification level and on the merits. These risks illustrate the recognition by the California Supreme Court in *Ketchum III* that, if multipliers are not awarded to class counsel in the cases that are successfully settled, counsel's fees are essentially being cut because the lodestar in and of itself would not account for contingent risk.

2) *Difficulty of the questions involved and the skill required*: My office is comprised of skilled attorneys who have had success in wage and hour class actions. This case required experienced and competent lawyers, as well as expertise in the issues presented herein. To obtain such an attorney on the free market, a client must pay the market rate. While most class actions are complex and involve some risk, my office had to overcome several major obstacles in prosecuting this case, as explained *supra*. Defendant's contentions underscore the risk of prevailing at class certification and trial, and any of these obstacles could have prevented recovery completely.

3) *Vigorous opposition by Defendant*: Counsel who skillfully overcome difficult issues or uncompromising opposition in the litigation are entitled to a fee enhancement. (*Serrano III*, *supra*, 20 Cal.3d at 49.) Here, before eventually agreeing to a settlement, Defendant asserted a vigorous defense. The settlement effort was protracted, with extended discussions and instances in which it appeared the Parties would not reach a settlement. Further, proceeding to trial would have added years to the resolution of this case because of the difficult legal and factual issues raised and the likelihood of appeals. Indeed, even if Plaintiff prevailed at class certification and trial, Defendant would likely have mounted a decertification motion and/or appeal.

4) *The extent to which litigation precluded other employment would justify an enhancement*: There are only so many cases that my office can take at any one time. Consequently, there were other meritorious cases presented to my office that would have generated substantial fees, but were declined, during

the pendency of this action in order to devote the attention necessary to achieve favorable results.

5) *The result obtained would justify an enhancement*: The results obtained in litigation can properly be used to enhance a lodestar calculation where an exceptional effort produced excellent results. (*Graham*, *supra*, 34 Cal.4th at p. 582.) Here, the final gross settlement figure of $1,300,000.00 is approximately 71.36% of the realistic (*risk-adjusted*) maximum recovery. Considered against the size of the Class, the risks posed by continued litigation, and the importance of the employment rights and a speedy recovery, the relief provided under the Settlement represents a very strong result for the Class.

72. I am informed and believe that the fees and costs provision in the Settlement is reasonable. The fee percentage requested is less than that charged by my office for most employment cases. Moreover, my office invested significant time and resources into the case, with payment deferred to the end of the case, and then, of course, contingent on the outcome.

73. The risk to my office has been very significant, particularly if we would not be successful in pursuing this class action. In such instance, we would have been left with no compensation for all the time taken in litigating this case due to the contingency fee arrangement. Indeed, I have taken on a number of class action cases that have resulted in thousands of attorney hours being expended and ultimately having the defendant company going bankrupt during litigation. The contingent risk in these types of cases is very real and occurs regularly. Furthermore, we were precluded from focusing on, or taking on, other cases which could have resulted in a larger, and less risky, monetary gain.

74. Because most individuals cannot afford to pay for representation in litigation on an hourly basis, Moon Law Group, PC represents virtually all its employment law clients on a contingency fee basis, including Plaintiff in this matter. Pursuant to this arrangement, we are not compensated for our time unless we prevail at trial or successfully settle our clients' cases. Because Moon Law Group, PC is taking the risk that we will not be reimbursed for our time unless our client

settles or wins his or her case, we cannot afford to represent an individual employee on a contingency basis if, at the end of our representation, all we are to receive is our regular hourly rate for services. It is essential that we recover more than our regular hourly rate when we win if we are to remain in practice so as to be able to continue representing other individuals in civil rights employment disputes.

75. As of the drafting of this motion, my office has incurred $23,474.83 in unreimbursed out-of-pocket costs litigating this action. (Ex. 4.) These expenses were reasonably necessary to the litigation and were actually incurred by my office. Moreover, these expenses, including anticipated expenses following preliminary approval, are well below the maximum allocation under the Settlement ($26,000.00), and thus, the remainder will revert to the Net Settlement to be paid to Participating Class Members. (Settlement, ¶ 3.2.2.) Therefore, Plaintiff's Counsel should be reimbursed in full for the litigation costs incurred.

76. My office invested significant time and resources into the case, with payment deferred to the end of the case, and then, of course, contingent on the outcome. My office's efforts included, without limitation, the following:

(a) Numerous interviews with Plaintiff and review of documents provided by her;

(b) Legal research and investigation regarding the Defendant's practices at numerous points in the litigation;

(c) Preparation of multiple drafts of the original class action complaint and the first amended complaint, finalization and filing of the complaints;

(d) Extensive "meet and confer" correspondence and discussions with Defendant's counsel regarding remand;

(e) Extensive "meet and confer" correspondence and discussions with Defendant's counsel to obtain relevant documents and information through informal discovery;

(f) Analysis of the damages model with the aid of a statistics expert;

(g) Research and preparation of Plaintiff's mediation brief;

(h) Attendance at mediation;

(i) Drafting, negotiating, and reviewing multiple drafts of the Settlement Agreement and attachments;

(j) Drafting and managing pleadings issues to streamline the approval process; and

(k) Preparation of the motion for preliminary approval.

77. Through the efforts of my office and Plaintiff in this case, a fair and reasonable resolution has been reached that includes a settlement payment by Defendant of $1,300,000.00 to compensate Class Members for Defendant's wage and hour practices. I am informed and believe that, without the efforts of my office, the Labor Code and Wage Order violations alleged in the Complaint would have gone completely unremedied.

I declare under penalty of perjury under the laws of the State of California and the United States that the foregoing is true and correct.

Executed on December 17, 2025, at Los Angeles, California.

____

Kane Moon

PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the county of Los Angeles, State of California. I am over the age of 18 and not a party to the within action; my business address is 1055 W. Seventh St., Suite 1880, Los Angeles, California 90017. On **December 17, 2025**, I served the foregoing document described as:

DECLARATION OF KANE MOON IN SUPPORT OF PLAINTIFF'S MOTION FOR PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT

X__ by placing ___ the original _X_ a true copy thereof enclosed in sealed envelope(s) addressed as follows:

Attorneys for Defendant

[✓] **BY ELECTRONIC SERVICE:** Based on a court order or an agreement of the parties to accept electronic service, I caused the documents to be sent to the persons at the electronic service addresses listed above via third-party cloud service **CASE ANYWHERE.** I did not receive an error message.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed this**, December 17, 2025** at Los Angeles, California.

Ivette Hernandez	*/s/ Ivette Hernandez*
Type or Print Name	Signature