

1 **BLUMENTHAL NORDREHAUG BHOWMIK**  
2 **DE BLOUW LLP**

3 Norman B. Blumenthal (State Bar #068687)

4 Kyle R. Nordrehaug (State Bar #205975)

5 Aparajit Bhowmik (State Bar #248066)

6 2255 Calle Clara

7 La Jolla, CA 92037

8 Telephone: (858) 551-1223

9 Facsimile: (858) 551-1232

10 Email: [Kyle@bamlawca.com](mailto:Kyle@bamlawca.com)

11 Website: [www.bamlawca.com](http://www.bamlawca.com)

12 Attorneys for Plaintiff

13 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

14 **IN AND FOR THE COUNTY OF SANTA BARBARA**

15 DEREK CASEY, an individual, on behalf of  
16 himself and on behalf of all persons similarly  
17 situated,

18 Plaintiff,

19 vs.

20 MARBORG RECOVERY, LP, a California  
21 Limited Partnership; MARBORG  
22 INDUSTRIES, a California Corporation; and  
23 DOES 1 through 50, inclusive,

24 Defendants.

CASE NO.: **24CV02182**

**MEMORANDUM OF POINTS AND  
AUTHORITIES IN SUPPORT OF  
UNOPPOSED MOTION FOR  
PRELIMINARY APPROVAL OF CLASS  
SETTLEMENT**

Hearing Date: September 4, 2026  
Hearing Time: 10:00 a.m.

Judge: Hon. Donna D. Geck  
Dept.: 4

Date Action Filed: April 18, 2024  
Trial Date: Not set

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1     **I.     INTRODUCTION**

2             Plaintiff Derek Casey (“Plaintiff”) respectfully submit this memorandum in support of the  
3     unopposed motion for preliminary approval of the proposed class action and Private Attorney General  
4     Act (“PAGA”) settlement with Defendants Marborg Recovery, LP and Marborg Industries  
5     (“Defendants”), and seeks entry of an order: (1) preliminarily approving the proposed settlement of this  
6     class action with Defendants; (2) for settlement purposes only, conditionally certifying the Class, which  
7     is comprised of “all individuals who were employed by Defendants in California and classified as a  
8     non-exempt employee at any time during the Class Period”, which is April 18, 2020 through February  
9     5, 2026; (3) provisionally appointing Plaintiff as the representatives of the Class; (4) provisionally  
10    appointing Blumenthal Nordrehaug Bhowmik De Blouw LLP as Class Counsel; (5) approving the form  
11    and method for providing class-wide notice; (6) directing that notice of the proposed settlement be given  
12    to the Class; (7) appointing Apex Class Action LLC as Administrator, and (8) scheduling a final  
13    approval hearing date, proposed for January 29, 2027, to consider Plaintiff’s motion for final approval  
14    of the settlement and for approval of attorneys’ fees, expenses and the representative service award.  
15    Plaintiff and Defendants (collectively the “Parties”) have reached a full and final settlement of the  
16    above-captioned action (the “Settlement”), which is set forth in the Class Action and PAGA Settlement  
17    Agreement (“Agreement”) filed concurrently with the Court.<sup>1</sup> A copy of the fully executed Agreement  
18    is attached as Exhibit #1 to the Declaration of Kyle Nordrehaug (“Decl. Nordrehaug”), served and filed  
19    herewith. The form of the Agreement is based upon the Los Angeles County Superior Court model  
20    form for a class and PAGA settlement.

21             As consideration for this Settlement, the non-reversionary Gross Settlement Amount of One  
22    Million Two Hundred Fifty Thousand Dollars (\$1,250,000) (the “Gross Settlement Amount”) is to be  
23    paid by Defendants, as set forth in the Agreement. The Gross Settlement Amount will settle all issues  
24    pending in the Action between the Parties and will be made in full and final settlement of the Released  
25    Class Claims and Released PAGA Claims in exchange for the payments to Participating Class Members  
26    and payment of the PAGA Penalties (75% to the LWDA and 25% to the Aggrieved Employees) from  
27    \_\_\_\_\_

28             <sup>1</sup> Capitalized terms shall have the same meaning as defined in the Agreement.

1 the Gross Settlement Amount. The Gross Settlement Amount shall also be used to pay: (a) the costs  
2 of administration of the settlement, (b) Class Counsel's attorneys' fees and costs requests, and (c) Class  
3 Representative Service Payment. (Agreement at ¶ 1.23.) Decl. Nordrehaug at ¶3. The following is a  
4 table of the key Settlement terms and the proposed deductions:

5 **\$1,250,000** (Gross Settlement Amount)

- 6 - \$15,000 (Plaintiff's proposed service award - not to exceed amount)
- 7 - \$30,000 (Class Counsel Litigation Expenses Payment - not to exceed amount)
- 8 - \$416,666 (Class Counsel Fees Payment - not to exceed 1/3 of settlement)
- 9 - \$25,000 (PAGA Payment - 75% to LWDA / 25% to Aggrieved Employees)
- 10 - \$10,258 (Administration Expenses Payment - not to exceed amount)

11 **\$753,076** (Net Settlement Amount)

12 Based upon 692 Class Members who worked an estimated 100,142 work weeks, the Gross Settlement  
13 Amount provides an average value of \$1,806 per Class Member and \$12.48 per workweek and after  
14 deductions the Net Settlement Amount provides an average recovery of \$1,088.26 per Class Member  
15 and a recovery of \$7.52 per workweek. Decl. Nordrehaug at ¶6.

16 On December 5, 2025, the Parties participated in an all-day mediation with Tagore  
17 Subramaniam, a respected and experienced mediator of wage and hour class and representative actions.  
18 Following the mediation, the Parties agreed on the basic terms of a settlement pursuant to a mediator's  
19 proposal, memorialized in the form of a Memorandum of Understanding. Decl. Nordrehaug at ¶5. The  
20 Settlement is fair, reasonable and adequate, and should be preliminarily approved, because there is a fair  
21 monetary payment, and there are significant litigation risks. Plaintiff respectfully requests that this Court  
22 grant preliminary approval of the Agreement and enter the proposed order submitted herewith.

## 23 **II. DESCRIPTION OF THE SETTLEMENT**

24 The Gross Settlement Amount is One Million Two Hundred Fifty Thousand Dollars  
25 (\$1,250,000). (Agreement at ¶ 1.23.) Under the Settlement, the Gross Settlement Amount consists of  
26 the following elements: (1) payment of the Individual Class Payments to the Participating Class  
27 Members; (2) Class Counsel Fees Payment and Class Counsel Litigation Expenses Payment; (3)  
28 Administration Expenses Payment; (4) the Class Representative Service Payment to the Plaintiff; and  
the PAGA Penalties payment, which is to be allocated 25% to the Aggrieved Employees and 75%  
to the LWDA. (Agreement at ¶ 1.23.) The Gross Settlement Amount does not include Defendants'  
share of employer-side payroll taxes which will be paid separately and not out of the Gross Settlement

1 Amount. (Agreement at ¶ 3.1.) The Gross Settlement Amount shall not revert to Defendant.  
2 (Agreement at ¶ 3.1.) Decl. Nordrehaug at ¶15.

3 The Agreement contains appropriate terms which have been previously approved by this Court  
4 and Courts throughout California. (See Agreement at ¶¶ 1.29, 1.40, 3.2, 4.3, 5.1.) The proposed Class  
5 Notice also provides the required protections for the Class to opt out, object or dispute their weeks  
6 worked. (See Agreement at ¶¶ 8.5, 8.6, 8.7, and Exhibit A.) The additional details of the Settlement  
7 are addressed in the Decl. Nordrehaug at ¶¶ 16-22. As set forth in the accompanying proof of service,  
8 the LWDA has been served with this motion and the Agreement.

### 9 **III. CASE BACKGROUND**

10 The description of the case and claims, along with the procedural history is set forth in the  
11 Declaration of Kyle Nordrehaug at ¶¶ 7-14. The Parties engaged in thorough investigation and the  
12 exchange of documents and information in connection with the Action for two years which permitted  
13 Class Counsel to perform a thorough analysis of the claims. Decl. Nordrehaug, ¶¶ 10, 14. The Parties  
14 participated in a mediation on December 5, 2025 with Tagore Subramaniam, which after arms' length  
15 negotiations during and after the mediation, resulted in this Settlement. Decl. Nordrehaug, ¶12.

### 16 **IV. THE SETTLEMENT MEETS THE CRITERIA NECESSARY FOR THIS COURT TO GRANT PRELIMINARY APPROVAL**

17 California "[p]ublic policy generally favors the compromise of complex class action litigation."  
18 *Nordstrom Comm'n Cases*, 186 Cal. App. 4th 576, 581 (2010) quoting *Cellphone Termination Fee*  
19 *Cases*, 180 Cal.App.4th 1110, 1117-18 (2009). Class action settlements are approved where the  
20 proposed settlement is "fair, adequate and reasonable." *Dunk v. Ford Motor Co.*, 48 Cal.App.4th 1794,  
21 1801 (1996) (citing *Officers for Justice v. Civil Serv. Comm'n*, 688 F.2d 615, 625 (9th Cir. 1982), cert.  
22 denied, 459 U.S. 1217 (1983)).

23 Preliminary approval is the first of three steps that comprise the approval procedure for  
24 settlements of class actions. The second step is the dissemination of notice of the settlement to all class  
25 members. The third step is a final settlement approval hearing, at which evidence and argument  
26 concerning the fairness, adequacy, and reasonableness of the settlement may be presented, and class  
27 members may be heard regarding the settlement. See *Dunk v. Ford Motor Co.*, 48 Cal.App.4th 1794,  
28

1801 (1996); *Manual for Complex Litigation, Second* §30.44 (1993); Cal. Rules of Court, rule 3.769.

The primary question presented on an application for preliminary approval of a proposed class action settlement is whether the proposed settlement is “within the range of possible approval.” *Manual for Complex Litigation, Second* §30.44 at 229; *Gautreaux v. Pierce*, 690 F.2d 616, 621 n.3 (7th Cir. 1982).<sup>2</sup> Preliminary approval is merely the prerequisite to giving notice so that “the proposed settlement... may be submitted to members of the prospective Class for their acceptance or rejection.” *Sayaman v. Baxter Healthcare Corp.*, 2010 U.S. Dist. LEXIS 151997, \*3 (C.D. Cal. 2010). There is “a presumption of fairness . . . where . . . [a] settlement is reached through arms-length bargaining.” *Wershba v. Apple Computer, Inc.*, 91 Cal. App. 4th 224, 245 (2001) (citation omitted); *see also Cho v. Seagate Tech. Holdings, Inc.*, 177 Cal. App. 4th 734, 742-45 (2009) (upholding trial court’s determination that settlement was “fair, reasonable and adequate” where the settlement “provided valuable benefits to the class . . . that were ‘particularly valuable in light of the risks plaintiff would have faced if she proceeded to litigate her case.’”); *Newberg*, 3d Ed., §11.41, p.11-88. However, the ultimate question of whether the proposed settlement is fair, reasonable and adequate is made after notice of the settlement to the class members and a final settlement hearing is held by the Court.

**A. The Role Of The Court In Preliminary Approval Of A Class Action Settlement**

The approval of a proposed settlement of a class action suit is a matter within the broad discretion of the trial court. *Wershba, supra*, 91 Cal. App.4th at 234-235; *Dunk*, 48 Cal. App. 4th 1794. In considering a potential settlement for preliminary approval purposes, the trial court does not have to reach any ultimate conclusions on the issues of fact and law which underlie the merits of the dispute, and need not engage in a trial on the merits. *Wershba, supra*, 91 Cal. App. 4th at 239-40; *Dunk, supra*, 48 Cal. App. 4th at 1807. The Ninth Circuit explained that, “the very essence of a settlement is compromise, ‘a yielding of absolutes and an abandoning of highest hopes.’” *Officers for Justice*, 688 F.2d at 624. Thus, when analyzing the settlement, the amount is “not to be judged against

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<sup>2</sup> California courts look to federal authority on class actions. *Vasquez v. Superior Court*, 4 Cal.3d 800, 821 (1971). “It is well established that in the absence of relevant state precedents trial courts are urged to follow the procedures prescribed in Rule 23 of the Federal Rules of Civil Procedure for conducting class actions.” *Frazier v. City of Richmond*, 184 Cal. App.3d 1491, 1499 (1986), *citing Green v. Obledo*, 29 Cal.3d 126, 145-146 (1981).

1 a hypothetical or speculative measure of what might have been achieved by the negotiators.” *Officers*  
2 *for Justice*, 688 F.2d at 625, 628.

3 With regard to class action settlements, the opinions of counsel should be given considerable  
4 weight both because of counsel’s familiarity with this litigation and previous experience with cases such  
5 as these. *Officers for Justice*, 688 F.2d at 625. As a result, courts hold that the recommendation of  
6 counsel is entitled to significant weight. *Nat’l Rural Telecomms. Coop. v. DIRECTV, Inc.*, 221 F.R.D.  
7 523, 528 (C.D. Cal. 2004).

8 **B. Factors To Be Considered In Granting Preliminary Approval**

9 A number of factors are to be considered in evaluating a settlement for purposes of preliminary  
10 approval. In determining whether to grant preliminary approval, the court considers whether “(1) the  
11 proposed settlement appears to be the product of serious, informed, non-collusive negotiations, (2) has  
12 no obvious deficiencies, (3) does not improperly grant preferential treatment to class representatives or  
13 segments of the class, and (4) falls within the range of possible approval.” *In re Tableware Antitrust*  
14 *Litig.*, 484 F. Supp. 2d 1078, 1079 (N.D. Cal. 2007). Courts hold that “a presumption of fairness exists  
15 where: (1) the settlement is reached through arm’s-length bargaining; (2) investigation and discovery  
16 are sufficient to allow counsel and the court to act intelligently; (3) counsel is experienced in similar  
17 litigation; and (4) the percentage of objectors is small.” *Kullar v. Foot Locker Retail, Inc.*, 168 Cal.  
18 App. 4th 116, 128 (2008). Here, the Settlement meets all of the applicable criteria for preliminary  
19 approval and therefore the presumption applies.

20 **1. The Settlement is the Product of Serious, Informed and**  
21 **Arm’s Length Negotiations by Experienced Counsel**

22 This settlement is the result of hard-fought litigation negotiations before an experienced and well-  
23 respected mediator. Defendant has expressly denied and continues to deny any wrongdoing or legal  
24 liability arising out of the conduct alleged in the Action. Plaintiff and Class Counsel have determined  
25 that it is desirable and beneficial to the Class to resolve the Released Class Claims and Released PAGA  
26 Claims as to the Aggrieved Employees. of the Class in accordance with this Settlement. The Class  
27 release is appropriately tethered to factual allegations in the Operative Complaint. (Agreement at ¶¶ 1.40  
28 and 6.2.)

1 Class Counsel are experienced and qualified to evaluate the class claims, the defenses asserted,  
2 and the risks and benefits of trial and settlement, and Class Counsel are particularly experienced in wage  
3 and hour employment class actions, as Class Counsel has previously litigated and certified similar claims  
4 against other employers. Decl. Nordrehaug at ¶31. The view of qualified and well-informed counsel  
5 that a class action settlement is fair, adequate, and reasonable is entitled to significant weight. *See*  
6 *Kullar v. Foot Locker*, 168 Cal. App. 4th 116, 133 (2008) (the trial court "undoubtedly should continue  
7 to place reliance on the competence and integrity of counsel, the involvement of a qualified mediator,  
8 and the paucity of objectors to the settlement."); *Dunk*, 48 Cal. App. 4th at 1802.

9 The Parties attended an arms-length mediation session with Tagore Subramaniam, a respected  
10 and experienced mediator of wage and hour class and representative actions, in order to reach this  
11 Settlement. In preparation for the mediation, Defendant provided Class Counsel with payroll, time and  
12 employment data, along with other information regarding the Class Members, various internal  
13 documents, and other compensation and employment-related materials. Class Counsel analyzed the data  
14 with the assistance of damages expert Berger Consulting and prepared and submitted a mediation brief  
15 to the mediator. The final settlement terms were negotiated and set forth in the Agreement now  
16 presented for this Court's approval. Decl. Nordrehaug at ¶ 5. Importantly, Plaintiff and Class Counsel  
17 believe that this Settlement is fair, reasonable and adequate.

18 Class Counsel has conducted a thorough investigation into the facts of the class and PAGA  
19 action as detailed in the Decl. Nordrehaug. Based on the Class data and their own independent  
20 investigation, evaluation and experience, Class Counsel believes that the settlement with Defendant on  
21 the terms set forth in the Agreement is fair, reasonable, and adequate and is in the best interest of the  
22 Class in light of all known facts and circumstances, including the risk of significant delay, defenses  
23 asserted by Defendant, and potential appellate issues. Decl. Nordrehaug at ¶ 14. Plaintiff and Class  
24 Counsel recognize the risks, expense and length of continuing to litigate and trying this Action against  
25 Defendants and then litigating possible appeals which could take several years. Plaintiff and Class  
26 Counsel have determined that the Settlement set forth in the Agreement is in the best interest of the  
27 Class Members. Decl. Nordrehaug, ¶ 23.

28 Here, there can be no dispute that the litigation has been hard-fought with aggressive and capable

1 advocacy on both sides. The Parties were represented by experienced and capable counsel who zealously  
2 advocated their positions. Accordingly, “[t]here is likewise every reason to conclude that settlement  
3 negotiations were vigorously conducted at arms’ length and without any suggestion of undue influence.”  
4 *In re Wash. Public Power Supply Sec. Litig.*, 720 F. Supp. 1379, 1392 (D. Ariz 1989).

5 **2. The Settlement Has No "Obvious Deficiencies" and Falls Well Within**  
6 **the Range for Approval**

7 The proposed Settlement herein has no “obvious deficiencies” and is well within the range of  
8 possible approval. All Class Members will receive an opportunity to participate in the Settlement and  
9 receive payment according to the same formula. (Agreement at ¶ 3.2(e).) Based upon 692 Class  
10 Members who worked an estimated 100,142 work weeks<sup>3</sup>, the Gross Settlement Amount provides an  
11 average value of \$1,806 per Class Member and \$12.48 per workweek and after deductions the Net  
12 Settlement Amount provides an average recovery of \$1,088.26 per Class Member and a recovery of  
13 \$7.52 per workweek. Decl. Nordrehaug, ¶6.

14 The calculations to compensate for the amount due for the Class at the time of the mediation  
15 were calculated by Berger Consulting, Plaintiff’s damage expert. As to the Class whose claims are at  
16 issue in this Action, Plaintiff used this expert to analyze the data and determine the potential unpaid  
17 wages for the employees. The maximum potential damages were calculated to be \$4,002,370 for the  
18 alleged unpaid wages for off-the-clock work at 1 hour per week, \$123,692 for the alleged underpaid  
19 overtime due to the miscalculation of the regular rate, \$226,911 for the alleged unpaid meal break  
20 premiums, vacation pay and sick pay due to the miscalculation of the regular rate, \$77,500 for alleged  
21 missed meal period damages based upon a 4.9% violation rate observed in the time records and after  
22 deduction of meal premiums already paid by Defendants, \$663,450 for alleged rest period damages  
23 based upon the same 4.9% violation rate observed in the meal period records, \$145,740 for alleged  
24 unreimbursed cell-phone expenses at \$5 per month. Decl. Nordrehaug, ¶6. As a result, the total damage  
25 valuation was calculated such that Defendants were subject to a maximum damage claim in the amount  
26 of \$5,239,663. As to potential penalties, Plaintiffs calculated that potential waiting time penalties were

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27 <sup>3</sup> These figures were verified by the Declaration of Brian Borgatello, which is attached to the Decl.  
28 Nordrehaug as Exhibit #4.

1 a maximum of \$1,974,507 and potential maximum wage statement penalties were \$2,092,000.<sup>4</sup>  
2 Defendants vigorously disputed Plaintiff's calculations and exposure theories. Decl. Nordrehaug, ¶6.

3 Consequently, the Gross Settlement Amount of \$1,250,000 represents more than 23% of the  
4 maximum value of the alleged damages at issue in this case at the time this Settlement was negotiated.<sup>5</sup>  
5 Importantly, the recent decision that good faith belief of compliance by the employer in *Naranjo v.*  
6 *Spectrum Sec. Servs., Inc.*, 15 Cal. 5th 1056, 1065 (2024), could completely negate the claims for  
7 waiting time and wage statement penalties, even if wages were owed to the Class. The above maximum  
8 calculations should then be realistically risk-adjusted in consideration for both the risk of class  
9 certification and class-wide liability on all claims. Given the amount of the settlement as compared to  
10 the potential value of claims in this case and the defenses asserted by Defendants, this settlement is fair  
11 and reasonable.<sup>6</sup> Decl. Nordrehaug, ¶6.

12 Where both sides face significant uncertainty, the attendant risks favor settlement. *Hanlon v.*  
13 *Chrysler Corp.*, 150 F.3d 1011, 1026 (9th Cir. 1998). Here, a number of defenses asserted by  
14 Defendants present serious threats to the claims of the Plaintiff and the other Class Members. Defendants  
15 asserted that Defendants' practices complied with all applicable Labor laws. Defendants argued that

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17 <sup>4</sup> While Plaintiff alleged claims for statutory penalties pursuant to Labor Code Sections 203 and 226,  
18 at mediation Plaintiff recognized that these claims were subject to additional, separate defenses asserted  
19 by Defendants, including, a good faith dispute defense as to whether any premium wages for meal or rest  
20 periods or other wages were owed given Defendants' position that Plaintiff and Class Members were  
21 properly compensated. See *Nordstrom Commission Cases*, 186 Cal. App. 4th 576, 584 (2010) ("There  
is no willful failure to pay wages if the employer and employee have a good faith dispute as to whether  
and when the wages were due.").

22 <sup>5</sup> Because the PAGA claim is not a class claim and primarily is paid to the State of California,  
23 Plaintiff has not included the PAGA claim in this discussion of the value of the class claims. The PAGA  
claim is addressed in the Decl. Nordrehaug at ¶33.

24 <sup>6</sup> See *Glass v. UBS Fin. Servs.*, 2007 U.S. Dist. LEXIS 8476 (N.D. Cal. 2007) (approving a  
25 settlement where the settlement amount constituted approximately 25% of the estimated overtime  
26 damages for the class); *Stovall-Gusman v. W.W. Granger, Inc.*, 2015 U.S. Dist. LEXIS 78671, at \*12  
27 (N.D. Cal. 2015) (granting final approval where the settlement "represents approximately 10% of what  
28 class might have been awarded had they succeeded at trial."); *Viceral v. Mistras Grp., Inc.*, 2016 WL  
5907869 (N.D. Cal. 2016) (approving wage and hour class action settlement amounting to 8.1% of full  
value); *Ma v. Covidien Holding, Inc.*, 2014 WL 2472316, (C.D. Cal. 2014) (approving wage and hour  
class action settlement worth "somewhere between 9% and 18%" of maximum valuation).

1 Class Members were paid for all time worked and that all work time was properly recorded and  
2 compensation for that time was correctly compensated. Defendants contend that its meal and rest period  
3 policies fully complied with California law and Defendants did not fail to provide the opportunity for  
4 legally required meal and rest breaks. Defendants could argue that their payment of significant meal  
5 premiums is evidence of its lawful practices and good faith. Defendants contend that there was no  
6 failure to pay for business expenses and any cell phone usage was merely convenient and voluntary such  
7 that reimbursement was not legally required. Finally, Defendants could argue that the Supreme Court  
8 decision in *Brinker v. Superior Court*, 53 Cal. 4th 1004 (2012), weakened Plaintiff's claims, on liability,  
9 value, and class certifiability as to the meal and rest period claims. Defendants also argue that based on  
10 their facially lawful practices, Defendants acted in good faith and without willfulness, which if accepted  
11 would negate the claims for waiting time penalties and/or inaccurate wage statements. See e.g. *Naranjo*  
12 *v. Spectrum Sec. Servs., Inc.*, 15 Cal. 5th 1056, 1065 (2024) ("if an employer reasonably and in good  
13 faith believed it was providing a complete and accurate wage statement in compliance with the  
14 requirements of section 226, then it has not knowingly and intentionally failed to comply with the wage  
15 statement law.") Defendants' defenses could eliminate or substantially reduce any recovery to the Class.  
16 While Plaintiff believes that these defenses could be overcome, Defendants maintain these defenses have  
17 merit and therefore present a serious risk to recovery by the Class. Decl. Nordrehaug, ¶ 24.

18 There was also a significant risk that, if the Action was not settled, Plaintiff would be unable to  
19 certify a class and maintain that certification through trial, and thereby not recover on behalf of any  
20 employees other than himself. At the time of the mediation, Defendants forcefully opposed the propriety  
21 of class certification, arguing that individual issues precluded class certification. Further, as  
22 demonstrated by the California Supreme Court decision in *Duran v. U.S. Bank National Assn.*, 59 Cal.  
23 4th 1 (2014), there are significant hurdles to overcome for a class-wide recovery even where the class  
24 has been certified. While other cases have approved class certification in wage and hour claims, class  
25 certification in this action was hotly disputed and the maintenance of a certified class through trial was  
26 by no means a foregone conclusion. Decl. Nordrehaug, ¶ 25.

27 After arm's length negotiations between experienced and informed counsel, the Parties  
28 recognized the potential risks and agreed on the Settlement with a Gross Settlement Amount of

1 \$1,250,000. As the Court held in *Glass*, where the parties faced uncertainties similar to those here:

2 In light of the above-referenced uncertainty in the law, the risk, expense, complexity, and  
3 likely duration of further litigation likewise favors the settlement. Regardless of how this  
4 Court might have ruled on the merits of the legal issues, the losing party likely would  
have appealed, and the parties would have faced the expense and uncertainty of litigating  
an appeal.

5 2007 WL 221862, at \*4.

6 **3. The Settlement Does Not Improperly Grant Preferential Treatment To**  
7 **Class Representatives or Segments Of The Class**

8 The relief provided in the Settlement will benefit all members of the Class. The Settlement does  
9 not grant preferential treatment to Plaintiff or segments of the Class in any way. Payments to the Class  
10 Members are all determined under a neutral methodology. Each Participating Class Member will receive  
11 the same opportunity to participate in and receive payment through a neutral formula that is based upon  
12 the Workweeks for that individual. Decl. Nordrehaug, ¶4.

13 Plaintiff will apply to the Court for a Class Representative Service Payment in consideration for  
14 his service and for the risks undertaken on behalf of the Class. (Agreement at ¶ 3.2(a).) Plaintiff  
15 performed his duties admirably by working with Class Counsel over the course of litigation, and  
16 undertook the risks of litigation for the Class. The Declaration of the Plaintiff is submitted herewith in  
17 support. Decl. Nordrehaug at ¶27. At this stage, the requested service award is within the range of  
18 reasonableness for purposes of preliminary approval. *See e.g. Andrews v. Plains All Am. Pipeline L.P.*,  
19 2022 U.S. Dist. LEXIS 172183, at \*11 (C.D. Cal. 2022) (service awards of \$15,000 each are  
20 appropriate); *Louie v. Kaiser Foundation Health Plan, Inc.*, 2008 WL 4473183, \*7 (S.D. Cal. 2008)  
21 (awarding \$25,000 service award); *Reynolds v. Direct Flow Med., Inc.*, 2019 U.S. Dist. LEXIS 149865,  
22 at \*19 (N.D. Cal. 2019) (granting request for \$12,500 service award); *Mathein v. Pier 1 Imps. (U.S.)*,  
23 *Inc.*, 2018 U.S. Dist. LEXIS 71386 (E.D. Cal. 2018) (awarding \$12,500). As explained in *Glass*,  
24 service awards are routinely awarded to compensate for the time and effort expended on the case, for  
25 the risk of litigation, for the fear of suing an employer and retaliation there from, and to serve as an  
26 incentive to vindicate the statutory rights of all employees. 2007 WL 221862 at \*16-17.

27 **4. The Stage Of The Proceedings Are Sufficiently Advanced To Permit**  
28 **Preliminary Approval Of The Settlement**

The stage of the proceedings at which this Settlement was reached also militates in favor of

1 preliminary approval and ultimately, final approval of the Settlement. Class Counsel has conducted a  
2 thorough investigation into the facts of the class action. Class Counsel engaged in both formal and  
3 informal discovery to obtain necessary information. Class Counsel conducted a review of thousands  
4 of pages of documents and data, and analyzed the information with the assistance of an expert. Class  
5 Counsel was also experienced with these claims. Accordingly, the agreement to settle did not occur until  
6 Class Counsel possessed sufficient information to make an informed judgment regarding the likelihood  
7 of success on the merits and the results that could be obtained through further litigation. Decl.  
8 Nordrehaug at ¶28.

9 Based on the foregoing data and their own independent investigation and evaluation, Class  
10 Counsel is of the opinion that the Settlement with Defendants for the consideration and on the terms set  
11 forth in the Agreement is fair, reasonable, and adequate and is in the best interest of the Class in light  
12 of all known facts and circumstances, including the risk of significant delay, defenses asserted by  
13 Defendants, and numerous potential appellate issues. Decl. Nordrehaug at ¶29.

#### 14 **V. THE CLASS IS PROPERLY CERTIFIED FOR SETTLEMENT PURPOSES ONLY**

15 Plaintiff contends that the proposed settlement meet all of the requirements for class certification  
16 under California Code of Civil Procedure § 382 as demonstrated below, and therefore, the Court may  
17 appropriately approve the Class as defined in the Agreement. This Court should conditionally certify the  
18 Class for settlement purposes only, defined as follows:

19 All individuals who were employed by Defendants in California and classified as a  
20 non-exempt employee at any time during the Class Period.

21 (Agreement at ¶ 1.5.)

22 The Class Period is from April 18, 2020 through February 5, 2026. (Agreement at ¶ 1.13).

#### 23 **A. California Code of Civil Procedure § 382**

24 Plaintiff seeks certification of this Class for settlement purposes under California Code of Civil  
25 Procedure § 382. The California Supreme Court explained the standard for determining whether class  
26 certification is appropriate as follows:

27 Code of Civil Procedure Section 382 authorizes class actions “when the question is one  
28 of a common or general interest, of many persons, or when the parties are numerous, and  
it is impracticable to bring them all before the court....” The “community of interest”  
requirement embodies three factors: (1) predominant common questions of law or fact;

1 (2) class representatives with claims or defenses typical of the class; and (3) class  
2 representatives who can adequately represent the class.

3 *Sav-On Drug Stores, Inc. v. Superior Court*, 34 Cal. 4th 319, 326 (2004).

4 While Defendants reserve all rights to dispute that the Plaintiff can satisfy these requirements,  
5 the Parties agree that Defendants will not dispute that these requirements may be satisfied in this case  
6 for purposes of settlement only and therefore, the proposed Class should be certified for purposes of  
7 settlement only. (Agreement at ¶ 2.9.)

8 **B. The Proposed Class Is Ascertainable and Numerous**

9 Plaintiff brings this Action on behalf of a Class of non-exempt employees of the Defendants  
10 during the Class Period. Plaintiff asserts that all of these individuals are ascertainable because the Class  
11 Members can readily be determined through examination of Defendants' files. Given that the Class  
12 consists of approximately 692 individuals, Plaintiff maintains that numerosity is clearly satisfied. *See*  
13 *Bowles v. Superior Court*, 44 Cal.2d 574 (1955) (class with 10 members); *Rose v. City of Hayward*, 126  
14 Cal.App.3d 926, 934 (1981) (class of 48 members satisfies numerosity requirement.) Here, Plaintiff  
15 asserts that the 692 current and former employees that comprise the Class can be identified based on  
16 Defendants' records and are sufficiently numerous for class certification. Decl. Nordrehaug at ¶30.

17 **C. Common Issues of Law and Fact Predominate**

18 Predominance of common issues of law or fact does not require that the common issues be  
19 dispositive of the entire controversy or even that they be dispositive of all liability issues. 1 *Newberg on*  
20 *Class Actions*, Section 4.25 at 4-82, 4-83 (1992). "Predominance is a comparative concept, and 'the  
21 necessity for class members to individually establish eligibility and damages does not mean individual  
22 fact questions predominate.'" *Sav-On*, 34 Cal. 4th at 334.

23 Commonality exists if there is a predominant common legal question regarding how an  
24 employer's policies impact its employees. *Ghazaryan v. Diva Limousine, Ltd.*, 169 Cal. App. 4th 1524,  
25 1536 (2008) ("[T]he common legal question remains the overall impact of Diva's policies on its  
26 drivers.") Whether the plaintiff is likely to prevail on their theory of recovery is irrelevant at the  
27 certification stage since the question is "essentially a procedural one that does not ask whether an action  
28 is legally or factually meritorious." *Linder v. Thrifty Oil Co.*, 23 Cal. 4th 429, 439-440 (2003).

1 Here, Plaintiff contends that common questions of law and fact are present, specifically the  
2 common questions of whether Defendants' practices were lawful, whether Defendants failed to provide  
3 meal and rest periods to Class Members, whether Class Members were lawfully compensated for all  
4 hours worked, whether Defendants miscalculated the regular rate when paying overtime, meal premiums,  
5 vacation pay and/or sick pay, whether Defendants failed to provide required expense reimbursement,  
6 and whether Class Members are entitled to damages and penalties as a result of these practices. Plaintiff  
7 contends that certification of this Class is appropriate because Defendants allegedly engaged in uniform  
8 practices with respect to the Class Members. As a result, these common questions of liability could be  
9 answered on a class wide basis. Decl. Nordrehaug, ¶30. Defendants dispute that common questions  
10 predominate but will not oppose such a finding for purposes of this Settlement only.

11 **D. The Claims of the Plaintiff Are Typical of the Class Claims**

12 The typicality requirement requires the Plaintiff to demonstrate that the members of the Class  
13 have the same or similar claims as the Plaintiff. "The typicality requirement is met when the claims of  
14 the [p]laintiff arise from the same event or are based on the same legal theories." *Tate v. Weyerhaeuser*  
15 *Co.*, 723 F.2d 598, 608 (8th Cir. 1983). In *Hanlon, supra*, 150 F.3d at 1020, the Ninth Circuit held that  
16 "[u]nder the rule's permissive standards, representative claims are 'typical' if they are reasonably  
17 coextensive with those of absent class members; they need not be substantially identical."

18 In this Action, Plaintiff contends that the typicality requirement is fully satisfied. Plaintiff, like  
19 every other member of the Class, was employed by Defendants as a non-exempt employee, and, like  
20 every other member of the Class, was subject to the same employment policies and practices. Plaintiff,  
21 like every other member of the Class, also claims owed compensation as a result of the Defendants'  
22 allegedly uniform company policies and practices. Thus, the claims of Plaintiff and the members of the  
23 Class arise from the same course of conduct by Defendant, involve the same issues, and are based on  
24 the same legal theories. Decl. Nordrehaug at ¶30. Plaintiff asserts that the typicality requirement is met  
25 as to the common issues presented in this case. Defendants dispute that the typicality requirement is  
26 satisfied but do not oppose a finding of typicality for purposes of this Settlement only.

27 **E. The Class Representation Fairly and Adequately Protected the Class**

28 Plaintiff contends that the Class Members are adequately represented here because Plaintiff and

1 Class Counsel (a) do not have any conflicts of interest with other class members, and (b) will prosecute  
2 the case vigorously on behalf of the class. *Hanlon*, 150 F.3d at 1020. This requirement is met here.  
3 First, Plaintiff is well aware of his duties as the representatives of the Class and has actively participated  
4 in the prosecution of this case to date. Plaintiff effectively communicated with Class Counsel, provided  
5 documents and information to Class Counsel, and participated in the investigation and resolution of the  
6 Action. The personal involvement of the Plaintiff was essential to the prosecution of the Action and the  
7 monetary settlement reached. Second, Plaintiff retained competent counsel who are experienced in  
8 employment class and representative actions and who have no conflicts. Decl. Nordrehaug at ¶ 31.  
9 Third, there is no antagonism between the interests of the Plaintiff and those of the Class. Both the  
10 Plaintiff and the Class Members seek monetary relief under the same set of facts and legal theories.  
11 Under such circumstances, there can be no conflicts of interest, and adequacy of representation is  
12 satisfied. *Reaves v. Ketoro, Inc.*, 2020 U.S. Dist. Lexis 167926, \*23 (C.D. Cal. 2020).

#### 13 **F. The Superiority Requirement Is Met**

14 To certify a class, the Court must also determine that a class action is superior to other available  
15 methods for the fair and efficient adjudication of the controversy. As the Supreme Court has explained:

16 Absent class treatment, each individual plaintiff would present in separate, duplicative  
17 proceedings the same or essentially the same arguments and evidence, including expert  
18 testimony. The result would be a multiplicity of trials conducted at enormous expense  
to both the judicial system and the litigants.

19 *Sav-On*, 34 Cal. 4th at 340.

20 Here, Plaintiff contends that a class action is the superior mechanism for resolution of the claims  
21 as pled by the Plaintiff. While Defendants dispute that the superiority requirement is satisfied,  
22 Defendants do not dispute a finding of superiority for purposes of this Settlement only.

#### 23 **VI. THE PROPOSED METHOD OF CLASS NOTICE IS APPROPRIATE**

24 The Court has broad discretion in approving a practical notice program. *7- Eleven Owners for*  
25 *Fair Franchising v. Southland Corp.*, 85 Cal. App. 4th 1135, 1164 (2000). The Parties have agreed  
26 upon procedures by which the Class Members will be provided with written notice of the Settlement  
27 similar to that approved and utilized in hundreds of class action settlements and the Class Notice includes  
28 all relevant information. (See Exhibit "A" to the Agreement.) Decl. Nordrehaug at ¶32. The Class

1 Notice will explain that the Class Members shall have sixty (60) days from the date that the Class Notice  
2 is mailed to them (the “Response Deadline”) to request exclusion (opt-out) or to submit a written  
3 objection. (Agreement at ¶¶ 1.44, 8.5, 8.7.) Class Members shall be given the opportunity to object to  
4 the Settlement and/or the attorneys’ fees and expenses, and to appear at the Final Approval Hearing.  
5 (Agreement at ¶ 8.7.) This notice program was designed to meaningfully reach the Class Members  
6 providing notice of all pertinent information concerning the Settlement, and is the best notice practicable  
7 in compliance with Rules of Court 3.766 and 3.769(f). Decl. Nordrehaug at ¶32.

8  
9 **VII. CONCLUSION**

10 Plaintiff respectfully requests that the Court preliminarily approve the proposed settlement and  
11 sign the proposed Preliminary Approval Order, which is submitted herewith, and schedule the final  
12 approval hearing for the proposed date of January 29, 2027.

13 Dated: March 27, 2026

**BLUMENTHAL NORDREHAUG BHOWMIK DE BLOUW LLP**

By: /s/ Kyle Nordrehaug  
Kyle R. Nordrehaug, Esq.,  
Attorney for Plaintiff