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18 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
19 **FOR THE COUNTY OF SAN BERNARDINO**

20 JONATHAN QUENGA, as an individual and on
21 behalf of all others similarly situated,

22 Plaintiff,

23 vs.

24 SCORPION SERVICES, INC., a California
25 corporation; and DOES 1 through 100, inclusive.

26 Defendants.

Case No. CIVSB2417682

*[Assigned for all purposes to the Hon.
Wilfred J. Schneider, Jr., Dept. S32]*

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

DATE: March 12, 2026

TIME: 8:30 a.m.

DEPARTMENT: S32

Complaint Filed: May 28, 2024
Trial Date: Not Yet Assigned

1 PLEASE TAKE NOTICE that pursuant to Rule 3.769 of the California Rules of Court,
2 on March 12, 2026 in Department S32 of the San Bernardino County Superior Court, located at
3 the 247 W. Third Street, San Bernardino, CA. 92415, Plaintiffs Jonathan Quenga and Robert
4 Enriquez (“Plaintiffs”), individually and on behalf of a class of similarly situated individuals
5 employed or previously employed by Defendant Scorpion Services, Inc. (“Defendant” or “SSI”),
6 will and hereby do move this Court for:

- 7 1. Preliminary approval of the proposed class settlement of this lawsuit;
- 8 2. Pursuant to section 382 of the California Code of Civil Procedure, provisional
9 certification of the following Class defined as follows:

10 All non-exempt employees who worked for Defendant Scorpion Services, Inc.
11 at any time during the Class Period. The “Class Period” means the period from
12 October 1, 2023 through Preliminary Approval.

- 13 3. Preliminary appointment of Plaintiffs Jonathan Quenga and Robert Enriquez as Class
14 Representatives;
- 15 4. Preliminary appointment of Daniel J. Brown of Stansbury Brown Law, PC and Manny
16 Starr and Daniel Ginzburg of Frontier Law Center as Class Counsel;
- 17 5. The scheduling of a hearing to consider whether the Settlement should be finally
18 approved and to permit Class Representative Service Payments to Plaintiffs,
19 Settlement Administrator costs, civil penalties payable to the LWDA, and attorneys’
20 fees and costs to Class Counsel;
- 21 6. Appointment of Apex Class Action, LLC as the third-party Settlement Administrator
22 for mailing notices; and
- 23 7. Approval of the proposed Notice Packet which is attached as Exhibit A to the executed
24 Class Action and PAGA Settlement Agreement and Class Notice, which is attached
25 to the Declaration of Daniel J. Brown as Exhibit 1 filed concurrently herewith, and an
26 order that it be disseminated to the proposed Class as provided in the Settlement
27 Agreement.

28 This Motion is based on this notice of motion, the attached memorandum of points and
authorities, the declarations of Daniel J. Brown; Kathleen Becket; Manny Starr; Sean Hartranft

1 of Apex Class Action, LLC; Declaration of Verena Bauer on behalf of Defendant; Declaration
2 of Jean-Paul Le Clercq; and Plaintiffs Jonathan Quenga and Robert Enriquez, as well as the
3 exhibits attached respectively thereto, the pleadings and other papers filed in this action, and on
4 any further oral or documentary evidence or argument presented at the time of hearing.

5 Defendant does not intend to oppose this Motion, and given the multiplicity of issues
6 addressed in this Motion, Defendant has indicated its approval of Plaintiffs' expressed need to
7 exceed the 20-page limit set forth in California Rule of Court 3.764(c)(2). Therefore, Plaintiffs
8 respectfully requests that the Court consider Plaintiffs' memorandum of points and authorities,
9 which is 27 pages in length.

10
11 Dated: February 9, 2026

Respectfully Submitted,
STANSBURY BROWN LAW, PC

12
13 By:



14 Daniel J. Brown
15 Kathleen J. Becket
16 Attorneys for Plaintiffs
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1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. INTRODUCTION**

3 Plaintiffs Jonathan Quenga and Robert Enriquez (“Plaintiffs”) have reached a proposed
4 class and representative action settlement with Defendant Scorpion Services, Inc. (“SSI” or
5 “Defendant”) to resolve various wage and hour related violations. Plaintiffs primarily allege the
6 following violations: (1) Minimum Wage Violations; (2) Failure to Pay All Overtime Wages; (3)
7 Meal Period Violations; (4) Rest Period Violations; (5) Waiting Time Penalties; (6) Wage
8 Statement Violations; (7) Unfair Competition; and (8) Failure to Reimburse Necessary Business
9 Expenses. Based on these violations, Plaintiffs also sought civil penalties under the Private
10 Attorneys General Act of 2004 (“PAGA”) and sought stand-alone PAGA penalties for failure to
11 make necessary disclosures under Labor Code § 2810.5 and sick leave violations.

12 Plaintiffs now respectfully request that this Court preliminarily approve this non-
13 reversionary, common-fund class action settlement,¹ in which Defendant has agreed to pay Two
14 Hundred Thousand Dollars and Zero Cents (\$200,000.00) on behalf of the following Class and
15 Group of Aggrieved Employees:

16 **Settlement Class:**

17 All non-exempt employees who worked for Defendant Scorpion
18 Services, Inc. at any time during the Class Period. The “Class Period”
means the period from October 1, 2023 through Preliminary Approval.

19 **PAGA Aggrieved Employees:**

20 All non-exempt employees who worked for Defendant Scorpion
21 Services, Inc. during the PAGA Period. The “PAGA Period” means the
22 period from October 1, 2023 through Preliminary Approval.

23
24
25 ¹ The Settlement Agreement (“Settlement”) is attached to the Declaration of Daniel J. Brown (“Brown
26 Decl.”) as Exhibit 1. The Class Notice is attached to the Settlement as Exhibit A. All defined terms in this
27 motion have the same definitions as used in the Settlement. Confirmations of Plaintiffs’ PAGA notice
28 letters to the LWDA are attached to the Declaration of Daniel J. Brown as Exhibit 2 and Declaration of
Manny Starr (“Starr Decl.”), Exhibit 9. Plaintiffs uploaded the proposed Settlement to the LWDA on
February 7, 2026 and February 9, 2026. *Id.* The confirmations are attached to Brown Decl. as Exhibit 3 and
Starr Decl. as Exhibit 3.

1 Significantly, Class Members do not need to file a claim to benefit from the Settlement
2 because all Class Members will automatically receive a payment unless they affirmatively opt-out.
3 There are approximately 500 Class members, who worked approximately 13,333 workweeks,
4 rendering the average payment to Class Members to be approximately \$141.02. The lowest
5 payment is estimated to be approximately \$5.28 assuming the Class Member worked one
6 workweek during the Class and PAGA period. Brown Decl., ¶ 12. The highest payment is
7 estimated to be approximately \$675.84 assuming the Class Member worked every week during
8 the Class and PAGA period. This is a fair result given the risks of non-certification due to
9 Defendant’s numerous bona-fide defenses, including arbitration agreements signed by a
10 substantial number of class members, and its claims of financial distress.

11 The Settlement was reached after the Parties attended a full day of mediation with Ms.
12 Nikki Tolt, Esq., a respected wage and hour class action mediator. In connection with the
13 mediation, a sampled set of time records and pay statements for the full Class Period for Class
14 Members; Defendant’s governing written policies; additional information regarding Defendant’s
15 timekeeping and pay practices; and relevant employee count, workweek, and pay period were
16 provided and analyzed by Plaintiffs’ retained economics expert, Mr. Lawrence Beall, Chief
17 Analyst at AttorneyTalk, who provided detailed data on Defendant’s potential exposure prior to
18 mediation. A full-day mediation was held on June 4, 2025, where the Parties achieved a
19 representative and classwide resolution of all claims alleged in the operative Second Amended
20 Class and Representative Action Complaint (“SAC”) subject to months of negotiations and a
21 review of Defendant’s financials. *See* Brown Decl., ¶¶ 9-10.

22 As stated, if the Settlement is approved, Defendant will pay a non-reversionary Gross
23 Settlement Amount (“GSA”) of \$200,000.00. After deducting administration costs, Plaintiffs’
24 Class Representative Service Payment, attorneys’ fees and costs, Individual PAGA Payments, the
25 California Labor and Workforce Development Agency (“LWDA”) PAGA Payment, the remaining
26 Net Settlement Amount (“NSA”) amount of approximately \$70,510.00 will be distributed to all
27 Class Members who do not opt-out of the Settlement (“Class Members”).
28

1 This proposed Settlement is within the range of possible approval in light of the significant
2 legal and factual obstacles that Plaintiffs faced, the risks and costs of further litigation, and the
3 monetary benefits to be received by Plaintiffs and the Class. For the reasons discussed herein,
4 Plaintiffs respectfully request that the Court grant preliminary approval of the Settlement.

5 **II. SUMMARY OF THE LITIGATION**

6 **A. THE PARTIES, PROCEDURAL HISTORY, DISCOVERY, AND ARMS-**
7 **LENGTH NEGOTIATIONS**

8 **1. The Parties**

9 Defendant is a California Corporation in the security industry that provides security guards
10 and technology to both private and public sector clients. *See* Brown Decl., ¶ 6. Plaintiff Jonathan
11 Quenga worked for Defendant from approximately 2022 to approximately 2023 as a security
12 guard. *Id.* Plaintiff Robert Enriquez worked for Defendant from approximately 2017 to
13 approximately 2024 as a security guard. *Id.* Like the vast majority of non-exempt employees, both
14 Plaintiffs worked for Defendant on an hourly basis. Plaintiffs' primary duties were providing
15 security services at residential complexes, patrolling the premises, responding to disturbances and
16 observing and reporting the conditions on the premises. *Id.*; *see also* Declarations of Jonathan
17 Quenga ("Quenga Declaration") and Robert Enriquez ("Enriquez Declaration") in Support of
18 Class Action Settlement at ¶ 2. Plaintiffs were subjected to Defendant's wage and hour policies
19 that are at issue in this action. *Id.*

20 **2. Procedural History**

21 On May 28, 2024, Plaintiff Quenga commenced this Action by filing a Complaint alleging
22 causes of action against Defendant for: (1) Minimum Wage Violations; (2) Failure to Pay All
23 Overtime Wages; (3) Meal Period Violations; (4) Rest Period Violations; (5) Waiting Time
24 Penalties; (6) Wage Statement Violations; (7) Unfair Competition; and (8) Failure to Reimburse
25 Necessary Business Expenses. On August 5, 2024, Plaintiff Quenga filed a First Amended
26 Complaint, alleging all causes of action against Defendant that were alleged in the May 28, 2024
27 Complaint and adding a ninth cause of action for Civil Penalties Under PAGA.
28

1 On May 15, 2024, Plaintiff Enriquez commenced a separate action by filing a Complaint
2 on an individual basis alleging causes of action against Defendant for: (1) Failure to Provide
3 Compliant Meal Periods; (2) Failure to Provide Compliant Rest Periods; (3) Failure to pay for All
4 Hours Worked; (4) Failure to Pay All Overtime Owed; (5) Wage Statement Penalties; (6) Waiting
5 Time Penalties; (7) Violations of Unfair Competition Law, and; (8) a representative claim for civil
6 penalties under the PAGA. On November 17, 2025, the Court granted the Parties' stipulation to
7 add Plaintiff Enriquez as a named plaintiff in this matter, and Plaintiffs filed their Second Amended
8 Complaint ("SAC") on November 20, 2025. The SAC is the operative complaint.

9
10 **3. Discovery**

11 Prior to agreeing to participate in mediation, and after Plaintiff Quenga propounded formal
12 discovery, the Parties engaged in informal discovery regarding the claims at issue, and ultimately
13 agreed to participate in mediation. Brown Decl., ¶ 8. In connection with mediation, in addition to
14 the documents and information previously produced by way of informal discovery, Defendant
15 informally produced a sampled set of time records and pay statements for the full Class Period
16 for Class Members; Defendant's governing written policies; additional information regarding
17 Defendant's timekeeping and pay practices; and relevant employee count, workweek, and pay
18 periods, key financial documents which Plaintiffs reviewed with their retained forensic
19 accountant Vanessa Hill of Evidentia Consulting, LLC. and other documents and information
20 relevant to the claims alleged in advance of mediation. *Id.*

21 Class Counsel conducted a detailed review of the time and pay records produced by their
22 retained expert prior to mediation Brown Decl., ¶ 8. Specifically, Class Counsel transmitted the
23 time and pay data to their hired expert, Mr. Lawrence Beall, and requested that Mr. Beall confirm
24 the date range of the data provided, and extrapolate: (i) the number of pay periods and shifts
25 worked by the class during the Class Period and the PAGA period, (ii) the average rate of pay for
26 the class, and (iii) associated unpaid wages and penalties based on the allegations alleged in the
27 SAC. *Id.* As discussed in detail below, this analysis allowed Plaintiffs to determine the scope of
28 the various violations alleged in the operative SAC and Defendant's potential exposure if the

1 Parties were not able to reach a settlement at mediation. *Id.*

2 **4. Arms-Length Negotiations**

3 On June 4, 2025, after extensive research and analysis, including Class Counsel’s detailed
4 analysis of Defendant’s potential exposure with the help of a retained economics expert, a full-day
5 in-person mediation was held with Ms. Nikki Tolt, Esq., a well-respected wage and hour class
6 action mediator. Brown Decl., ¶ 10. During mediation, the Parties vigorously debated their
7 opposing legal positions, the likelihood of certification of Plaintiffs’ claims, and the legal basis for
8 the claims and defenses for the claims alleged in the operative SAC. *Id.* After a full day mediation,
9 the Parties achieved a resolution for the class and representative action via settlement by way of a
10 mediator’s proposal after several months of confirmatory discovery. *Id.* Thereafter, the Parties
11 drafted and executed the Class Action and PAGA Settlement Agreement and Class Notice
12 (“Settlement”). *Id.* A true and correct copy of the Settlement is attached to the Brown Decl. as
13 Exhibit 1, and the proposed Notice is attached to that Settlement as Exhibit A. *Id.*

14 **III. ARGUMENT**

15 **A. CLASS CERTIFICATION FOR SETTLEMENT PURPOSES**

16 California Rule of Court 3.769 conditions settlement of a class action on court approval,
17 which is generally evaluated under the federal standards applicable under Rule 23 of the Federal
18 Rules of Civil Procedure. *See Reed v. United Teachers Los Angeles* (2012) 208 Cal.App.4th 322,
19 337 (Rule 3.769 requires the trial court to determine “that the settlement is fair, reasonable and
20 adequate to all concerned”); *Hanlon v. Chrysler Corp.* 150 F.3d 1011, 1026 (9th Cir. 1998) (Rule
21 23(e) requires the trial court to determine “whether a proposed settlement is fundamentally fair,
22 adequate, and reasonable”).

23 As further explained below, the Class satisfies the criteria for certification of a Class under
24 California law because: (1) the Class is so numerous that joinder would be impractical; (2)
25 common questions of law and fact predominate over individual questions such that class
26 certification is the most efficient and desirable way to maintain this litigation; (3) Plaintiffs’ claims
27 are typical of the claims of absent Class Members; and (4) Plaintiffs and their counsel will fairly
28 and adequately represent Class Members’ interest. *See* Cal. Civ. Proc. § 382.

1 **1. The Proposed Class Is Ascertainable and Numerous**

2 A class is “ascertainable” where the members “may be readily identified without
3 unreasonable expense or time by reference to official [or business] records.” *See Sevidal v. Target*
4 *Corp.* (2010) 189 Cal.App.4th 905, 916 (alterations in original). Here, the proposed Class is
5 defined as all non-exempt employees who worked for Defendant during the Class Period (“Class”
6 or “Class Members”). *See* Settlement ¶¶ 1.5; 1.12. The “Class Period” is from October 1, 2023
7 through Preliminary Approval. *See* Settlement, ¶ 1.12.² Therefore, Class Members can be
8 identified via Defendant’s personnel and employment records. Defense counsel represents that the
9 Class consists of approximately 500 current and former employees as of the date of settlement.
10 Brown Decl., ¶ 12; Settlement ¶ 4.1. It would therefore be impracticable to bring all Class
11 Members before the Court, or for each Class Member to bring an individual lawsuit. The proposed
12 Class therefore satisfies numerosity. *See, e.g., Bowles v. Sup. Ct.*, (1955) 44 Cal.2d 574 (holding
13 a class representing 10 beneficiaries of a trust sufficiently numerous).

14 **2. Common Issues of Law and Fact Predominate**

15 The focus in a certification dispute is not the merits, but rather on what types of questions,
16 “common or individual,” are likely to arise in the action. *See Sav-On Drug Store, Inc. v. Superior*
17 *Court (Rocher)* (2004) 34 Cal.4th 319, 327. Plaintiffs’ claims are predicated on, among other
18 issues, Defendant’s alleged failure to pay for all hours worked including overtime, its meal and
19 rest period policies/practices, failure to reimburse business expenses, and derivative claims. *See*
20 Quenga Decl., ¶¶ 3 – 4; Enriquez Decl., ¶ 2; Brown Decl., ¶¶ 14 – 20. These types of claims are
21 commonly held to be proper for class certification. *See e.g., Benton v. Telecom Network*
22 *Specialists, Inc.* (2013) 220 Cal.App.4th 701, 726 (certifying meal and rest period claims); *Bluford*
23 *v. Safeway, Inc.*, (2013) 216 Cal.App.4th 864, 871 (reversing denial for certification of rest period
24 claim); *Faulkinbury v. Boyd & Assoc., Inc.* (2013) 216 Cal.App.4th 220, 240 (certifying failure to

25
26 _____
27 ² The Class Period for settlement purposes begins on October 1, 2023, rather than four years prior to the
28 filing of the Complaint (i.e., May 28, 2020). Brown Decl., ¶ 12. This limitation ensures that each workweek
released carries an approximate value of \$15. *Id.* Extending the Class Period to the full statutory period
would have significantly devalued each workweek, as Defendant's verified financial position precluded
funding a settlement covering the entire period while remaining financially viable. *Id.*

1 pay all wages claim).

2 **3. The Claims of the Named Plaintiffs Are Typical**

3 The typicality requirement is satisfied where class representatives have claims that are
4 typical of those of the rest of the class. *B.W.I. Custom Kitchen v. Owens-Illinois, Inc.* (1987) 191
5 Cal.App.3d 1341, 1347 (finding typicality satisfied where named plaintiff purchased the same
6 goods as the putative class in a consumer class action). Here, Plaintiffs' claims are typical of those
7 held by the members of the proposed Class. Like other Class Members, Plaintiffs were employed
8 by Defendant as a non-exempt hourly employee and were compensated via Defendant's pay plans.
9 Brown Decl., ¶ 6; Quenga Decl., ¶¶ 3 – 4; and Enriquez Decl., ¶ 2. Plaintiffs allege that they did
10 not receive all legally compliant meal or rest periods or premium pay in lieu thereof. *Ibid.*
11 Moreover, Plaintiffs allege they were not paid all hours worked, including overtime. *Ibid.* Plaintiffs
12 further assert that they did not receive all earned wages at the time of their separation of
13 employment, received non-compliant wage statements, and were not reimbursed for necessary
14 business expenses including use of their personal cell phones. *Ibid.* Because Plaintiffs have
15 suffered the same injuries as the other members of the Class, the typicality requirement is satisfied.

16 **4. Plaintiffs and Class Counsel Will Fairly and Adequately Represent
17 the Class**

18 The adequacy requirement examines conflicts of interest between named parties and the
19 class(es) they seek to represent. *See Capital People First v. State Dept. of Developmental Services*
20 (2007) 155 Cal.App.4th 676, 697. Plaintiffs and their counsel will adequately represent the Class,
21 as there are no conflicts between Plaintiffs and the proposed Class, and Plaintiffs possess claims
22 that are in line with those of the Class. *See McGhee v. Bank of America* (1976) 60 Cal.App.3d 442,
23 450-51 (adequacy satisfied where there was no indication that Class Counsel were not qualified
24 and the named plaintiff had no interests antagonistic to those of the proposed class). Moreover,
25 Plaintiffs understood the requirements of a class representative and their obligations to absent class
26 members and enthusiastically took on those responsibilities for their benefit. *See Quenga and*
27 *Enriquez Decls., generally.* Class Counsel also have extensive experience in wage and hour class
28 action litigation. *See Brown Decl., ¶¶ 2-5; Starr Decl., ¶¶ 6 - 10.*

1 **B. THE COURT SHOULD GRANT PRELIMINARY APPROVAL OF THE**
2 **PROPOSED CLASS ACTION SETTLEMENT BECAUSE IT IS FAIR,**
3 **ADEQUATE, & REASONABLE**

4 Settlement is the preferred means of dispute resolution, particularly in complex class action
5 litigation. *See In re Syncor ERISA Litig.* 516 F.3d 1095, 1101(9th Cir. 2008). The court’s role in
6 evaluating a proposed settlement is limited to ensuring that the agreement taken as a whole is fair.
7 *See e.g., Hanlon, supra*, 150 F.3d at 1027. There is an initial presumption of fairness where, as
8 here, the Settlement was negotiated at arm’s-length by Class Counsel and with the assistance of
9 an experienced wage and hour class action mediator. *See e.g. Kullar v. Foot Locker Retail, Inc.*
10 (2008) 168 Cal.App.4th 116, 130.

11 **1. The Preliminary Approval Standard is Met**

12 To make a fairness determination, the Court should consider several factors, including:
13 “the strength of plaintiffs’ case, the risk, expense, complexity and likely duration of further
14 litigation, the risk of maintaining class action status through trial, the amount offered in settlement,
15 the extent of discovery completed and the stage of the proceedings, [and] the experience and views
16 of counsel.” *Dunk v. Ford Motor Co.* (1996) 48 Cal.App.4th 1794, 1801. “The list of factors is
17 not exclusive and the court is free to engage in a balancing and weighing of the factors depending
18 on the circumstances of each case.” *Wershba v. Apple Computer, Inc.* (2001) 91 Cal.App.4th 224,
19 245. As discussed below, the proposed Settlement is fair, adequate, and reasonable in light of the
20 overall balance of factors in this case.

21 **a. The Strength of Plaintiffs’ Case**

22 Although Plaintiffs steadfastly maintain that their claims are meritorious, Plaintiffs
23 acknowledge that there were substantial risks and uncertainty in proceeding with litigation. As
24 described below, Defendant presented multiple defenses to Plaintiffs’ claims, both on the merits
25 and with respect to class certification. Moreover, Defendant presented arbitration agreements
26 signed by Plaintiff Quenga and asserted the vast majority of the class signed similar agreements
27 and prior to mediation, Defendant provided financial documents verifying its claims of financial
28 distress. Brown Decl., ¶ 8. Finally, Plaintiffs also engaged a private investigator to investigate

1 Defendant's claims of financial distress, which the investigator's report confirmed. *Id.* Thus, while
2 Plaintiffs were prepared to litigate these claims through class certification, and ultimately trial,
3 success was far from certain.

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

5 Although the Parties engaged in significant formal and informal discovery in advance of
6 mediation, the Parties still had significant discovery to complete in formal litigation had the matter
7 not settled. This would have required expenditure of substantial time and resources by both Parties
8 that would have very likely spanned several years. Moreover, even if Plaintiffs were able to certify
9 the classes, the Parties would incur considerably more attorney fees and costs through a possible
10 decertification motion, trial, and possible appeal. This settlement avoids those risks and the
11 accompanying expense.

12 **c. Risk of Maintaining Class Action Status**

13 Plaintiffs have not yet filed their motion for class certification, and as such, the extent to
14 which Plaintiffs' proposed classes were certifiable is somewhat speculative. Absent settlement,
15 there was a risk that there would not be a certified class at the time of trial, or if there were, it
16 would consist of a significantly smaller group of employees than the proposed Class (either due to
17 a narrowing of the class definition in a Court order on a contested motion for class certification,
18 or through settlement agreements entered into by Defendant with individual Class Members by
19 way of *Pick-Up-Stix* type settlement agreements and the expected recovery could be significantly
20 reduced, given the settlement amounts that are typically offered through the *Pick-Up-Stix* process).
21 Defendant further confirmed that even if class certification was granted, it would move to compel
22 the vast majority of the classes claims to individual arbitration and could declare bankruptcy. Thus,
23 these factors support preliminary approval of the Settlement.

24 **d. Overview of the Settlement Agreement**

25 If the Court preliminarily approves this Settlement, Defendant will pay a Gross Settlement
26 Amount ("GSA") of \$200,000.00. *See* Settlement, ¶ 3.1. The Claim Administrator shall hold all
27 portions of the Gross Settlement Amount for the benefit of the Class until the time for
28 disbursement. *See* Settlement, ¶¶ 4.3-4.4. Significantly, this Settlement is non-reversionary, and

no Class Member will have to submit a claim form to receive an Individual Class Payment and Individual PAGA Payment. *See* Settlement, ¶ 3.1. Each Class Member will automatically receive an Individual Class Payment and Individual PAGA Payment, if eligible, unless he or she affirmatively opts out of the Settlement. *See* Settlement, ¶¶ 1.29, 7.5.1. The monetary terms of the Settlement are summarized below:

Gross Settlement Amount (“GSA”):	\$200,000.00
Minus Court-approved attorneys’ fees (35% of GSA):	\$70,000.00
Minus Court-approved, verified costs (not to exceed):	\$25,000.00
Minus Court-approved Class Rep. Service Payments (\$7,500.00 each):	\$15,000.00
Minus Settlement Administrator costs (not to exceed):	\$9,490.00
Minus PAGA Penalties (LWDA and Individual Payments):	\$10,000.00
Net Settlement Amount (“NSA”):	\$70,510.00

Brown Decl. ¶11; Settlement, ¶ 3, *et seq.*

After deducting amounts for the Court-approved attorneys’ fees and verified costs, the Class Representative Service Payments to Plaintiffs, the Claim Administrator costs, and all PAGA Penalties, the Settlement requires Defendant to pay a Net Settlement Amount (“NSA”) amount of approximately \$70,510.00 to all Class Members who do not timely opt out (“Participating Class Members”). *See* Settlement, ¶¶ 1.35, 3.³ The NSA shall be distributed to all Participating Class Members based on each participating Class Member’s proportionate number of Eligible Workweeks that he or she worked during the Class Period. *See* Settlement, ¶ 3.2.4. Ten Thousand Dollars (\$10,000) of the GSA has been designated as “PAGA Penalties” and shall be distributed 75% to the LWDA and 25% to Aggrieved Employees proportionally based on their respective number of pay periods worked during the PAGA Period. *See* Settlement, ¶¶ 1.30 – 1.34, 3.2.5, 3.2.5.1. This allocation is fair because it is being distributed on a pro rata basis based only on the number of pay periods each Aggrieved Employee worked during the PAGA Period, defined as October 1, 2023 through preliminary approval. *See Moniz v. Adecco USA, Inc.* (2021) 72

³ Defendant will pay the employer’s share of payroll taxes separately from, and in addition to, the Gross Settlement Amount. *See* Settlement, ¶ 3.1.

1 Cal.App.5th 56, 87 (“civil penalties do[] not go disproportionately to the PAGA plaintiff and
2 instead must be shared by all aggrieved employees.”) Disapproved of on other grounds by *Turrieta*
3 *v. Lyft, Inc.* (2024) 16 Cal.5th 664; *see also* Settlement, ¶¶ 1.31, 1.4, 3.2.5.1.

4 According to Defendant there are approximately 500 total Class Members who worked
5 approximately 13,333 workweeks. *See* Settlement, ¶4.1; Brown Decl., ¶ 12. Therefore, the average
6 Individual Settlement Payment is projected to be approximately \$141.02. *Id.* Aggrieved
7 Employees will be entitled to additional compensation for their PAGA claims. *Id.* Class Members
8 will have sixty (60) days from the mailing of the Class Notice to opt-out or object to the Settlement,
9 thereby providing ample time to review the Class Notice without unduly delaying the Settlement.
10 *See* Settlement, ¶¶ 7.5.1, 7.7.2. The deadline will be extended fourteen (14) calendar days beyond
11 the response deadline for any Class Member who is remailed a Notice by the Claim Administrator.
12 *See* Settlement ¶ 7.4.4. Those Class Members who do not opt-out of the Settlement will be bound
13 by its terms and will release all claims against Defendant included within the Settlement through
14 the Class Period. *See* Settlement ¶ 5.2 *et seq.*

15 Due to Defendant’s verified claims of financial distress, the Settlement will be funded in
16 three installment payments as follows: (1) Within 15 Days of Preliminary Approval (“First
17 Installment Payment”): \$100,000.00; (2) Within 6 months of the First Installment Payment or
18 within 15 days of Final Approval (“Second Installment Payment”), whichever is earlier:
19 \$50,000.00; and (3) Within 6 months of the Second Installment Payment (“Third Installment
20 Payment”): \$50,000.00. Settlement ¶ 4.3; Declaration of Verena Bauer Re: Financial Hardship in
21 Support of Approval of Settlement Agreement on behalf of Defendant (“Bauer Decl.”), ¶¶ 2 – 9.
22 Disbursements will be made with 40 calendar days of the Settlement being fully funded.
23 Settlement, ¶ 4.4.

24 **e. The Parties Engaged in Fair and Honest Negotiations.**

25 The Settlement resulted from an exchange of substantial information, arm’s-length
26 negotiations by counsel, a full day of mediation before an experienced wage and hour mediator,
27 and additional months of negotiating the long-form settlement agreement. Brown Decl., ¶¶ 14 -20.
28 Thus, the Settlement is entitled to an initial presumption of fairness. *See Kullar, supra*, 168

1 Cal.App.4th at 130. As discussed above, Plaintiffs carefully vetted the claims at issue and reviewed
2 Class Members' relevant records and conducted a detailed analysis of the data with the assistance
3 of an economics expert to arrive at their estimated class wide damages figures. *See* Brown Decl.,
4 ¶¶ 8-10; 14-20. Thus, this factor supports preliminary approval.

5 **f. Amount Offered in Settlement Given Realistic Value of Claims**

6 The Settlement provides a fair and reasonable recovery for the Class in the face of disputed
7 claims. With the help of their expert, Plaintiffs conducted an analysis of underpaid wages and
8 penalties due to Defendant's alleged unlawful meal and rest period policies/practices, off-the-clock
9 violations, wage statement and waiting time penalties, failure to reimburse, and PAGA civil
10 penalties. Brown Decl., ¶¶ 14 - 20. A summary of the results of Plaintiffs' exposure analysis are
11 discussed below:

12 **Rounding Claim & Off-the-Clock Work: \$6,855.00**

13 Plaintiffs allege that they and other non-exempt employees would routinely be required to
14 remain on the premises after their scheduled shift until an employee scheduled to relieve them of
15 their duties arrived so they could leave their posts. Brown Decl., ¶ 14. Moreover, Defendant also
16 impermissibly rounded employees' work time. This policy is evidenced by the fact that shift start
17 and stop times are rounded to the quarter hour despite Defendant capturing employees' actual start
18 and stop times on phone apps employees were required to use to record their time. This is also
19 evidenced by Defendant's own written policy stating that SSI pays to the "nearest 15-minute
20 increment." *Id.* Based on a review of the time records and discussions with putative class members,
21 Plaintiffs calculated approximately 20 minutes of unpaid time on all workweeks worked within
22 the Class Period, or 4,444 unpaid hours, almost all of which should have been compensated at an
23 overtime rate of pay given the vast majority of shifts were over 8.0 hours. Plaintiffs calculated
24 Defendant's exposure as follows: 4,444.00 off-the-clock hours * \$25.71 average overtime rate of
25 pay = \$114,255.00 in unpaid wages during the relevant time period. *Id.*

26 However, Defendant contends that its rounding policy was neutral on its face and thus
27 compliant with California law. *See See's Candy Shops, Inc. v. Superior Court* (2012) 210
28 Cal.App.4th 889; Brown Decl., ¶ 14. Moreover, Defendant asserted its policies prohibited off the

1 clock work and to the extent employees had to arrive early or stay late they were specifically
2 instructed to record this time. *Id.* Defendant further asserts that Plaintiffs vastly overestimate the
3 number of occurrences of rounding and the amount of uncompensated time, if any, that resulted.
4 *Id.* In light of these defenses, Plaintiffs discounted the maximum amount for this claim by 80% for
5 risk of non-certification, and an additional 70% for a risk of being unsuccessful on the merits, or
6 having the maximum exposure reduced, to arrive at an estimated exposure of \$6,855.00. *Id.*

7 Failure to Reimburse Necessary Business Expenses: \$23,999.00

8 During the Class Period, Plaintiffs and the putative class were not reimbursed for the use
9 of their cellular phones. Specifically, Plaintiffs allege the putative class were not provided radios
10 and instead were required to use their cellular phones to communicate with supervisors stationed
11 at different locations and community members and staff at the locations they were stationed at.
12 Brown Decl., ¶ 15. Moreover, employees were required to download an app on their phones to
13 record their time. *Id.* Plaintiffs' expert determined that this policy led to \$15 of unreimbursed
14 expense per the 13,333 workweeks for a total of \$199,995.00 in unreimbursed cell phone expense.
15 *See Id.*; Labor Code § 2802(a) (“An employer shall indemnify his or her employee for all necessary
16 expenditures or losses incurred by the employee in direct consequence of the discharge of his or
17 her duties.”); *see also Cochran v. Schwan’s Home Service, Inc.* (2014) 228 Cal.App.4th 1137.

18 Defendant countered that Class Members were not required to use cell phones and that to
19 the extent they needed to communicate they could use landlines at the facilities they worked at.
20 Brown Decl., ¶ 15. Defendant also argued that this claim is not suitable for class treatment, as it
21 would require individualized determinations as to whether each Class Member incurred an
22 expense, and if so, how much expense each Class Member incurred. *Id.* In light of these defenses,
23 Plaintiffs discounted the maximum amount for this claim by 60% for risk of non-certification, and
24 an additional 70% for a risk of being unsuccessful on the merits, or having the maximum exposure
25 reduced, to arrive at an estimated exposure of \$23,999.00. *Id.*

26 Meal Period Violations: \$61,343.00

27 Throughout the Class Period, Defendant required security guards to take unlawful on-duty
28 meal periods, but did have security guards sign on-duty agreements. Brown Decl., ¶ 16. Indeed,

1 Plaintiffs were specifically told by their supervisor they could not leave the facility during their
2 shift, and Defendant's records make clear that while meal periods were recorded the time was not
3 deducted from employees' compensable worktime on 60.2% of shifts, evidencing the meal periods
4 were on duty. *Id.* Defendant's records also evidence that 96% of shifts over 10.0 hours did not
5 contain a second meal period. *Id.* See *Donohue v. AMN Servs., LLC* (2021)11 Cal. 5th 58, 74 ("If
6 an employer's records show no meal period for a given shift over five hours, a rebuttable
7 presumption arises that the employee was not relieved of duty and no meal period was provided;"
8 see also *Garcia v. Cent. Coast Restaurants, Inc.*, No. 18-CV-02370-RS, 2022 WL 657972, at *6
9 (N.D. Cal. Mar. 4, 2022) (granting meal period class certification stating "Even taking Defendants'
10 lower estimate as true, that records show 17% of shifts show a possible meal period violation is
11 *sufficient to invoke the presumption from Donohue.*") (Emphasis added.) Brown Decl., ¶ 16. Based
12 on the data provided by Defendant, Plaintiffs calculated Defendant's exposure for meal period
13 violations, assuming a violation on every shift over five hours, as follows: 95,438 shifts in the
14 Class Period * \$17.14 average hourly rate = \$1,635,807.00. *Id.*

15 However, Defendant maintains that it has always provided legally compliant first and
16 second meal periods to Class Members and maintained and enforced lawful verbal meal period
17 policies which provide for timely and duty-free meal periods. Brown Decl., ¶ 16. Further to the
18 extent meal periods were on duty it was because the nature of the work prevented off-duty meal
19 periods and employees signed lawful on-duty meal period agreements. Cal. Code Regs., tit. 8, §
20 11040, subd. 11(A) (permitting on-duty meal period agreements where "the nature of the work
21 prevents an employee from being relieved of all duty" and a written agreement exists that is
22 revocable by the employee at any time). Moreover, Defendant argued that its written policies were
23 compliant to the extent they did not conflict with California law. Brown Decl., ¶ 16. Defendant
24 further argued that this claim would not be certified due to the lack of any common evidence tying
25 together the reason that Class Members experienced a first meal period violation as the experiences
26 of its employees varied greatly depending on the job duties and location. Brown Decl., ¶ 16.
27 Defendant also argues that the presence of these affirmative defenses as to the voluntariness of a
28 particular meal period decision would preclude class certification. *Id.*; see *Duran v. U.S. Bank*

1 *National Association* (2014) 59 Cal.4th 1, 25 (holding that the defendant must be provided an
2 opportunity to litigate affirmative defenses, even when they turn on individual questions). Brown
3 Decl., ¶ 16. Therefore, Plaintiffs discounted the maximum amount that the class could potentially
4 recover for meal period violations by 75% for a risk of non-certification, and an additional 85%
5 for a risk of losing on the merits, or having exposure reduced due to Defendant’s waiver arguments,
6 to arrive at an estimated exposure amount of \$61,343.00. *Id.*

7 Rest Period Violations: \$24,884.00

8 Plaintiffs alleged Defendant failed to provide off-duty rest periods to putative class
9 members for the same reasons they failed to provide compliant meal periods. Brown Decl., ¶ 17.
10 *See Augustus v. ABM Security Services, Inc.*, 2 Cal.5th 257, 260 (2016) (“[D]uring required rest
11 periods, employers must relieve their employees of all duties and relinquish any control over how
12 employees spend their break time.”). Moreover, Defendant also failed to pay any rest period
13 premium wages per Labor Code Section 226.7 and Defendant failed to maintain any pay code for
14 paying rest period premium wages per Labor Code Section 226.7. Brown Decl., ¶ 17; *see also*
15 *Safeway, Inc. v. Superior Court (Esparza)*, (2016) 238 Cal.App.4th 1138, 1159 (2015) (certifying
16 a UCL class based on failure to make premium payments). Consequentially, Plaintiffs calculated
17 Defendant’s exposure for rest period violations as follows: 96,788 on-duty rest periods * \$17.14
18 average hourly rate = \$1,658,946.00. Brown Decl., ¶ 17.

19 However, Defendant contends that, despite Plaintiffs’ arguments to the contrary, it
20 maintained legally compliant rest period policies and practices throughout the Class Period,
21 authorized and permitted all rest periods to class members, and in practice did not prevent the Class
22 Members from leaving the worksite during their rest periods. Brown Decl., ¶ 17. Defendant further
23 argues that Plaintiffs’ rest period claim is inherently unsuited for class treatment as there are no
24 records of whether or not rest periods were taken, therefore requiring an individualized inquiry into
25 whether each class member failed to take rest periods on each shift, which would devolve into an
26 unmanageable series of mini-trials. *Id.* Additionally, Defendant argued that since Class Members
27 were spread out across various client locations, it could not have feasibly ever been aware of any
28 failures to exercise rest periods by its employees and no employees informed them they could not

1 take rest periods. *Id.* In light of these defenses, Plaintiffs discounted the maximum amount for this
2 claim by 90% for risk of non-certification, and an additional 85% for a risk of being unsuccessful
3 on the merits or having the amount of violations determined to be less than Plaintiffs allege to
4 arrive at an estimated exposure of \$24,884.00. *Id.*

5 **Wage Statement Violations: \$71,875.00**

6 With respect to wage statement violations, Plaintiffs contend that for each pay period in
7 which there is a meal or rest period violation or off-the-clock violation, Plaintiffs and other putative
8 class members would have received a non-compliant wage statement in violation of Labor Code
9 Section 226. Brown Decl., ¶ 18. These types of derivative claims are routinely certified. *See, e.g.,*
10 *Finder v. Leprino Foods Co.*, Case No. 1:13-CV-2059 AWI-BAM, 2015 WL 1137151 at *5 (E.D.
11 Cal. Mar. 12, 2015) (“Thus, this court relies on *Murphy* in finding that Section 226.7 premiums
12 constitute wages, and are therefore required to be included in wage statements under Section 226”);
13 Labor Code § 226(e)(2)(b)(i); *Ricaldai v. U.S. Investigations Services, LLC*, 878 F. Supp. 2d 1038,
14 1046-47, n.4 (C.D. Cal. 2012) (“If Ricaldai succeeds on her meal period claim, USIS further
15 violated Section 226 by failing to include premium pay for each missed meal period.”). Plaintiffs’
16 data analysis reflected that there were 11,750 wage statements issued during the one-year liability
17 window.⁴ Accordingly, Plaintiffs calculated Defendant’s potential wage statement exposure as
18 follows: [500 employees * \$50 initial penalty] + [11,250 additional wage statement * \$100
19 subsequent penalty] = \$1,150,000.00. *Id.*

20 Based on Defendant’s arguments that: (i) no violations occurred, (ii) any alleged violations
21 were not “knowing and intentional” as required by Labor Code § 226(e) pursuant to *Naranjo v.*
22 *Spectrum Security Services, Inc.* (2023) 88 Cal.App.5th 937 (iii) no injury was suffered, and (iv)
23 the decision in *Maldonado v. Epsilon Plastics, Inc.* (2018) 22 Cal.App.5th 1308, which holds that
24 there is no wage statement violation when the wage statements accurately reflect the compensation
25 received by an employee, Plaintiffs discounted the maximum amount for this claim by 75% for
26

27
28 ⁴ At some point during the Class Period, Defendant switched from biweekly to weekly pay periods. Brown
Decl., ¶ 18. Thus, there are approximately 11,750 PAGA pay periods and slightly more workweeks during
the same period. *Id.*

1 risk of non-certification, and an additional 75% for a risk of being unsuccessful on the merits, or
2 having the maximum exposure reduced, to arrive at an estimated exposure of \$71,875.00. Brown
3 Decl., ¶ 18.

4 **Waiting Time Penalties: \$49,671.00**

5 Defendant is also liable for waiting time penalties as a result of its failure to pay all
6 overtime wages. *See, e.g., Amaral v. Cintas Corp. No. 2*, 163 Cal.App.4th 1157, 1201 (2008)
7 (“willful” under Section 203 means the “employer has intentionally failed or refused to perform
8 an act which was required to be done” and need not be “based on deliberate evil purpose”);
9 *Gonzalez v. Downtown LA Motors, LP*, 215 Cal.App.4th 36, 54 (2013) (“[T]o be at fault within
10 the meaning of [Labor Code §203], the employer’s refusal to pay need not be based on a deliberate
11 evil purpose to defraud workmen of wages which the employer knows to be due. As used in section
12 203, ‘willful’ merely means that the employer intentionally failed or refused to perform an act
13 which was required to be done.”). Courts routinely certify waiting time penalty claims that stem
14 from claims for unpaid wages, especially where they are wholly derivative in nature. *See, e.g.,*
15 *Provine v. Office Depot, Inc.*, Case No. C 11-00903 SI, 2012 WL 2711085 (N.D. Cal. July 6, 2012)
16 (certifying waiting time penalty claims stemming from defendant employer’s alleged
17 miscalculation of the regular rate of pay); *Pena v. Taylor Farms Pacific, Inc.*, 305 F.R.D. 197, 222
18 (E.D. Cal. 2015) (holding that the plaintiffs’ waiting time penalty claim was “derivative” of his
19 meal- and rest-break claims “and contingent upon the same evidence”). Based on the data produced
20 by Defendant, there are approximately 322 putative class members who have separated their
21 employment with Defendant during the waiting time period. Assuming an average waiting time
22 penalty of \$4,113.60 ($\$17.14 * 8.0 \text{ hours} * 30 \text{ days}$), Plaintiffs calculated Defendant’s exposure as
23 follows: 322 waiting time class members * \$4,113.60 waiting time penalty = \$1,324,579.00.
24 Brown Decl., ¶ 19.

25 However, to the extent that Plaintiffs’ waiting time penalty claim was derivative of their
26 unpaid wage claims, Defendant argues that not all former employees (if any) did, in fact,
27 experience under payment of wages (and therefore Plaintiffs’ exposure was overstated). Brown
28 Decl., ¶ 19. Defendant also contends that because it possessed good-faith defenses to the

1 underlying claims, any failure to pay wages was not “willful” as a matter of law. *Id.*; *see also*
2 *Naranjo v. Spectrum Security Services, Inc.* (2023) 88 Cal.App.5th 937.

3 As a result, Plaintiffs discounted the maximum exposure by 75% to account for the risk of
4 non-certification of the claims upon which the waiting time penalties rely, and an additional 85%
5 for failing to prevail on the merits, including the inability to establish willfulness, to arrive at an
6 estimated exposure of \$49,671.00. Brown Decl., ¶ 19.

7 **PAGA Penalties: \$44,062.00**

8 Plaintiffs also seek civil penalties under the PAGA as a result of the foregoing alleged
9 Labor Code violations. Brown Decl., ¶ 20. The specific statutory violations upon which Plaintiffs
10 base the claim under PAGA are: (i) Labor Code sections 204, 510, 558, 1194, and 1198 for failing
11 to pay all overtime wages owed; (ii) Labor Code sections 1194, 1194.2, 1197 for failing to pay all
12 minimum wages owed; (iii) Labor Code sections 226.7, 512, and 558 for meal period violations;
13 (iv) Labor Code sections 226.7, 516, and 558 for rest period violations; (v) Labor Code section
14 226(e) for failing to provide accurate, itemized wage statements; (vi) Labor Code section 2802 for
15 failing to reimburse for necessary business expenditures; and (vii) Labor Code sections 201
16 through 204, and 210 for failing to pay all timely wages, including wages owed upon termination.
17 Brown Decl., ¶ 20. Plaintiffs also alleged stand-alone PAGA Penalties for failure to make
18 necessary Labor Code § 2810.5 disclosures and failure to provide required sick leave pursuant to
19 Labor Code § 245.5(b). *Id.* Based on the violations addressed above, Plaintiffs contend that
20 Defendant is liable for PAGA civil penalties for each of the 11,750 pay periods worked during the
21 PAGA period. *Id.* Accordingly, Plaintiffs calculate Defendant’s exposure at \$1,175,000.00
22 (11,750.00 pay periods * \$100 for initial violation). (*Id.*; Labor Code § 2699(f)(2); *Gunther v.*
23 *Alaska Airlines, Inc.* (2021) 72 Cal. App. 5th 334, 356 (holding that heightened penalties for
24 “subsequent violation[s]” does not apply unless the employer presents evidence that the Labor
25 Commission or court notified the employer that it was in violation of the Labor Code.)

26 However, Defendant asserts a number of credible defenses to Plaintiffs’ claims. First, the
27 vast majority of these penalties derive from the underlying wage and hour violations discussed
28 above, which Defendant vigorously disputes. Brown Decl., ¶ 20; *see e.g., Green v. Lawrence*

1 *Service Co.* (C.D. Cal. 2013) Case No. LA CV12-06155 JAK (VBKx), 2013 WL 3907506, *5, n.5
2 (explaining that a PAGA claim’s success was determined by the merits of its underlying claims).
3 Defendant also maintains that given its good faith defenses, this Court would exercise its discretion
4 to substantially reduce any PAGA penalties if it were to find Defendant liable for any of Plaintiffs’
5 claims. Brown Decl., ¶ 20. Defendant further alleges that none of the violations would be deemed
6 knowing and intentional as there is no evidence to suggest Defendant intentionally violated the
7 Labor Code and that Defendant’s policies and procedures demonstrate that Defendant acted in
8 good faith in regards to paying the putative class members all wages due. *Id.* For these reasons,
9 Defendant argues the Court would drastically reduce any award of PAGA penalties as
10 “confiscatory.” *Id.*; see also *Thurman v. Bayshore Transit Mgmt., Inc.*, (2012) 203 Cal.App.4th
11 1112, 1135 (affirming reduction of PAGA penalties). Therefore, Plaintiffs discounted the
12 maximum PAGA exposure by 75% for risk of losing on the merits, and an additional 85% to
13 account for the possibility of this Court reducing penalties, to arrive at an estimated exposure of
14 \$44,062.00. Brown Decl., ¶ 20.

15 **g. The Settlement is Within the Range of Possible Approval**

16 Using these estimated figures for each of the claims described above, Plaintiffs predicted
17 that the potential recovery for the Class would be approximately \$282,689.00. Brown Decl., ¶ 21.
18 The proposed settlement of \$200,000 therefore represents over 70.70% of the reasonably
19 forecasted recovery for the Class. *Id.* Preliminary approval is appropriate since the Settlement will
20 provide significant monetary relief to Class Members, which is consistent with what Plaintiffs’
21 counsel believes could have been recovered had the case proceeded through trial. *Id.* Especially in
22 light of the fact that the vast majority of the Class signed arbitration agreements and Defendant’s
23 verified claims of financial distress. *Id.*

24 As stated, the proposed settlement reflects more than 70.70% of the estimated recovery the
25 Class could reasonably expect in light of the significant litigation risks, and will provide tangible,
26 monetary compensation for hotly disputed claims needed by Class Members. Indeed, the
27 percentage of the liability exposure recovered in this case exceeds percentages routinely approved
28 by courts. See, e.g., *Glass v. UBS Finan. Servs.* (N.D. Cal. 2007) Case No. C-06-4068 MMC, 2007

1 WL 221862, *4 (approving settlement representing 25% to 35% of potential damages); *Dunleavy*
2 *v. Nadler* 213 F.3d 454, 459 (9th Cir. 2000) (approving settlement representing about one-sixth of
3 potential recovery); *Nat’l Rural Telecomm. Coop. v. DirecTV, Inc.* 221 F.R.D. 523, 527(C.D. Cal.
4 2004) (“it is well-settled law that a proposed settlement may be acceptable even though it amounts
5 to only a fraction of the potential recovery that might be available to the Class Members at trial”).
6 Further, the average Individual Settlement Amount of \$141.02 is more than the average payments
7 achieved in other wage and hour class action settlements.⁵ Brown Decl., ¶ 12. Thus, Plaintiffs
8 submit that the proposed settlement is within the range of possible approval, such that notice should
9 be provided to the Class so that they can consider the Settlement. The Court will have the
10 opportunity to again assess the reasonableness of the Settlement after the Class has had the
11 opportunity to opt-out or object.

12 **h. The Experience Views of Counsel**

13 “Parties represented by competent counsel are better positioned than courts to produce a
14 settlement that fairly reflects each party’s expected outcome in litigation.” *In re Pacific*
15 *Enterprises Securities Litigation*, 47 F.3d 373, 378 (9th Cir. 1995) . Here, Plaintiffs are represented
16 by competent, experienced counsel who possess extensive experience prosecuting wage-and-hour
17 class actions, and who have been appointed as class counsel in numerous cases alleging similar
18 claims. Brown Decl., ¶¶ 2-5. Class Counsel conducted an in-depth review of Defendant’s relevant
19 policies and Class Members’ records with the assistance of a retained expert, and drew on their
20 extensive experience in similar cases to assess the strengths and weaknesses of Plaintiffs’ case.
21

23 ⁵ See e.g., *Ressler v. Federated Department Stores, Inc.* (Los Angeles County Super. Ct. Jan. 2,
24 2009) Case No. BC335018 (average net recovery of approximately \$90); *Palencia v. 99 Cents*
25 *Only Stores*, Case No. 34-2010-00079619 (Sacramento County Super. Ct.) (average net recovery
26 of approximately \$80); *Doty v. Costco Wholesale Corp.* (C.D. Cal. May 14, 2007) Case No. CV05-
27 3241 FMC-JWJx (average recovery of approximately \$65); *Lim v. Victoria’s Secret Stores, Inc.*
28 (Orange County Super. Ct. Jan. 20, 2006) Case No. 04CC00213 (average net recovery of
approximately \$35); *Gomez v. Amadeus Salon, Inc.*, (Los Angeles County Super. Ct. July 23,
2010) Case No. BC392297 (average net recovery of approximately \$20); *Sorenson v. PetSmart,*
Inc. (E.D. Cal. Dec. 17, 2008) Case No. 2:06-CV-02674-JAM-DAD (wage and hour class action
settlement approved where average recovery was approximately \$60).

1 Brown Decl., ¶¶ 2-5; ¶¶ 8-10. The Settlement was also reached with the assistance of an
2 experienced respected wage and hour class action mediator. Brown Decl., ¶ 10. This factor
3 strongly supports preliminary approval of the Settlement. *See Kullar, supra*, 168 Cal.App.4th at
4 130.

5 **i. Attorneys' Fees and Costs**

6 Class Counsel will also apply for an attorneys' fees award of thirty-five percent (35%) of
7 the GSA, which is currently estimated to be \$70,000.00 and up to \$25,000 in verified costs
8 reimbursement. *See Settlement*, ¶ 3.2.2. Plaintiffs submit the requested fee is fair compensation
9 for undertaking complex, risky, expensive, and time-consuming litigation on a purely contingent
10 fee basis. Class Counsel has incurred substantial attorney fees conducting pre-filing investigation,
11 analyzing Plaintiffs' claims, propounding and responding to informal discovery, conducting legal
12 research, reviewing Defendant's documents and policies, analyzing Class Members' relevant
13 records, working with a retained expert to create a comprehensive damages model, speaking with
14 Class Members regarding the claims, preparing for and attending a full day mediation, negotiating
15 and preparing the long-form Settlement Agreement, preparing this Motion, and otherwise litigating
16 the case. Brown Decl., ¶ 23. Class Counsel expect to expend additional attorney time in attending
17 the hearing on this Motion, overseeing the notice process and fielding questions from Class
18 Members, preparing the final approval papers, and attending the Final Approval hearing. *Id.*

19 California courts recognize an appropriate method for awarding attorneys' fees in class
20 actions is to award a percentage of the "common fund" created as a result of a settlement. *See e.g.,*
21 *Laffitte v. Robert Half Int'l, Inc.* (2016) 1 Cal.5th 480, 506 (holding "the percentage of fund method
22 survives in California class action cases"). Class Counsel's request for fees of one-third of the
23 GSA is well within the range of reasonableness, and indeed is considered the typical rate for
24 common fund settlements. Historically, courts have awarded percentage fees in the range of 20%
25 to 50%, depending on the circumstances of the case. *See 4 Newberg on Class Actions* § 14.6 (4th
26 Ed. 2013). Moreover, as part of the final approval motion, Class Counsel will provide the necessary
27 information regarding hours reasonably expended and Class Counsel's reasonable hourly rate to
28 allow the Court to perform a lodestar cross-check. Brown Decl., ¶ 22; *Laffitte v. Robert Half Int'l,*

1 *Inc.* (2016) 1 Cal.5th 480, 503-506.

2 The settlement also provides for reimbursement of costs reasonably incurred not to exceed
3 \$25,000. *See* Settlement, ¶ 3.2.2. To date, Class Counsel has incurred approximately \$16,122.61
4 in litigation costs. Brown Decl., ¶ 23 (\$16,122.61); Starr Decl., ¶ 8 (\$3,082.79). Counsel
5 anticipates additional charges pertaining to filing the instant motion and motion for final approval,
6 and supplement filings requested by the Court, and the costs of any future appearance. *Id.* As part
7 of Plaintiffs’ motion for final approval, Class Counsel will request only the reimbursement of costs
8 reasonably incurred supported by declaration with an itemized cost sheet. The costs Plaintiffs seek
9 are the types of costs routinely approved by courts. *See, e.g., Harris v. Marhoefer* 24 F.3d 16, 19
10 (9th Cir. 1994) (counsel should recover “those out-of-pocket expenses that would normally be
11 charged to a fee paying client”); *Ashker v. Sayre* (N.D. Cal. 2011), No. 05-03759 CW, 2011 WL
12 825713, at * 3 (“costs of reproducing pleadings, motions and exhibits are typically billed by
13 attorneys to their fee-paying clients” and are reimbursable); *Trustees of Const. Industry &*
14 *Laborers Health and Welfare Trust v. Redland Ins. Co.* 460 F.3d 1253, 1258-59 (9th Cir.
15 2006)(legal research costs are reimbursable); *In re Immune Response Securities Litigation* 497 F.
16 Supp. 2d 1166, 1177-78 (S.D. Cal. 2007) (mediation expenses, consultant and expert fees, legal
17 research, copies, postage, filing fees, messenger and overnight delivery costs are reimbursable).

18 **j. Administrative Costs**

19 Apex Class Action LLC’s settlement administration fees have been quoted at no more than
20 \$9,490.00. after having factored in the hard and hourly costs associated with administrating the
21 settlement. *See* Declaration of Sean Hartranft (“Hartranft Decl.”). This request is reasonable in
22 light of the proposed class size and the costs and expenses associated with administering the
23 notices and distributing the awards.

24 **k. Class Representative Service Payment**

25 Plaintiffs will separately apply for Class Representative Service Payments at the time of
26 seeking final approval of the proposed class action settlement in the amount of \$7,500 each
27 (\$15,000.00 total) for their service to the Class. *See* Settlement, ¶3.2.1. “[I]ncentive awards are
28 fairly typical in class action cases . . . and are intended to compensate class representatives for

1 work done on behalf of the class [and] to make up for financial or reputational risk undertaken in
2 bringing the action.” *In re Cellphone Fee Termination Cases* (2010) 186 Cal.App.4th 1380, 1393-
3 94. As will be fully briefed at the time of final approval, Plaintiffs’ requested Class Representative
4 Service Payments are intended to recognize the time and effort Plaintiffs expended on behalf of
5 the Class, including providing substantial factual information and documents to Class Counsel,
6 attending multiple virtual meetings with Class Counsel to discuss the claims and theories at issue
7 in the litigation, responding to formal written discovery, compiling documents and information as
8 part of the formal discovery process, actively participating in the prosecution of their claims,
9 contacting other class members regarding the claims at issue, actively participating in the full-day
10 mediation, as well as the significant risks Plaintiffs undertook by agreeing to serve as the named
11 plaintiffs in this case. Brown Decl., ¶ 24; Quenga Decl. ¶ 6; Enriquez Decl. ¶ 6; *see, e.g., In re*
12 *Online DVD-Rental Antitrust Litig.*, 779 F.3d at 947 (approving an award \$45,000 in enhancement
13 payments, which was roughly 417 times greater than average award). In addition, Plaintiffs’
14 releases are a general releases. *See* Settlement, ¶ 5.1. As such, they are of more value to Defendant
15 than the limited releases of the Participating Class Members. *Compare* Settlement, ¶ 5.1 with ¶
16 5.2; Brown Decl., ¶ 24; *Greer v. Dick’s Sporting Goods, Inc.*, No. 215CV01063KJMCKD, 2020
17 WL 5535399, at *4 (E.D. Cal. Sept. 15, 2020) (noting Plaintiff’s argument that the general release
18 supports the \$10,000 enhancement payment, in approving the enhancement payment.)

19 **I. PAGA Payment**

20 The Parties have agreed to designate \$10,000.00 of the GSA as PAGA Penalties, of which
21 \$7,500.00 (75%) will be paid to the LWDA, with the remaining \$2,500.00 (25%) allocated to
22 Aggrieved Employees, defined as any person employed by Defendant in California and classified
23 as a non-exempt employee who worked for SSI during the PAGA Period of October 1, 2023
24 through Preliminary Approval. *See* Settlement, ¶¶ 1.12, 1.31. The total number of Aggrieved
25 Employees during the PAGA period and the total pay periods therein are 500 and 11,750,
26 respectively. *See* Settlement, ¶ 4.1. This \$10,000 represents roughly 5% of the \$200,000 Gross
27 Settlement Amount and is fair and appropriate where neither the Court nor a jury has yet made a
28 factual finding of a violation of any Labor Code provision such that approving an amount that is

1 less than the statutory maximum is appropriate. As discussed above (and without waiving the
2 mediation privileges and confidentiality agreements), the Parties specifically negotiated the
3 payment, like the other terms of the settlement, and ultimately agreed to resolve the PAGA claim
4 for \$10,000.00 at mediation. *See also* Settlement, ¶ 4.1. Approval of less than the statutory
5 maximum is appropriate in this case because Defendant expressly denied and continues to deny
6 any liability. *See* Settlement, ¶ 12.1.

7 **m. Payroll Taxes and Individual Settlement Payment Tax Allocation**

8 The Settlement provides that the employer’s share of payroll taxes shall be paid separately
9 from, and in addition to, the Gross Settlement Amount. Settlement, ¶ 3.1. Moreover, the Parties
10 have agreed to allocate 20% of the Individual Settlement Payments as unpaid wages and 80% as
11 penalties and interest. Settlement, ¶ 3.2.4.1.

12 **n. Uncashed Funds**

13 The Settlement provides that Class Members will have 180 days from the date the Claim
14 Administrator mails the checks to negotiate them. *See* Settlement, ¶ 4.4.1. The funds from any
15 uncashed checks shall be transferred by the Claim Administrator to the 501(c)(3) non-profit San
16 Bernardino Community Service Center, Inc. for the purpose of providing immigration services to
17 Class Members and other individuals in San Bernardino County, as the *Cy Pres* Recipient. *See*
18 Settlement, ¶ 4.4.3. The Parties, Class Counsel and Defense Counsel represent that they have no
19 interest or relationship, financial or otherwise, with the intended *Cy Pres* Recipient. Brown Decl.,
20 ¶ 27; Starr Decl., ¶ 9; Quenga Decl. ¶ 8; Enriquez Decl. ¶ 7; Bauer Decl., ¶ 12; Declaration of
21 Jean-Paul Le Clerq In Support of Preliminary Approval of Settlement Agreement (“Le Clercq
22 Decl.”), ¶ 4. After final distribution of the settlement funds, the Claims Administrator will submit
23 a declaration regarding disbursement of Settlement funds. *See* Settlement, ¶ 7.8.6. The declaration
24 shall attest to its disbursement of all payments required under this Agreement.

25 **o. Released Parties and Scope of Release**

26 The scope of the release is specifically limited to the claims and factual allegations in the
27 operative Complaint. *See* Settlement, ¶ 5.2 - 3. Therefore, the language expressly confirms that the
28

1 scope of the release is limited to the claims which could have been asserted based on the same
2 allegations as set forth in the operative complaint (Plaintiffs’ Second Amended Class and
3 Representative Action Complaint). *Id.* This type of release is permissible in wage and hour class
4 action settlements such as this one. *Shine v. Williams Sonoma* (2018) 23 Cal.App.5th 1070, 1078
5 (“[A] judgment pursuant to a class settlement can bar [subsequent] claims based on the allegations
6 underlying the claims in the settled action. This is true even though the preclude claim was not
7 presented, and could not have been presented, in the class action itself (citation omitted).”)

8 **C. THE SETTLEMENT IS DEVOID OF OBVIOUS DEFICIENCIES**

9 Preliminary approval of the Settlement is also warranted because there are no obvious
10 deficiencies. The Settlement will provide monetary relief to Class Members. The amounts
11 proposed for Class Counsel’s attorneys’ fees and costs, the Class Representative Service Payment,
12 and the PAGA allocation are all reasonable and appropriate based on the facts of this case. Further,
13 the Parties cooperatively drafted the Class Action and PAGA Settlement Agreement and Class
14 Notice, giving rise to the presumption that the terms of the settlement are fair and comprehensive.
15 Because the Settlement is devoid of obvious deficiencies, this factor supports preliminary
16 approval.

17 **D. THE COURT SHOULD ORDER DISTRIBUTION OF THE PROPOSED**
18 **NOTICE TO CLASS MEMBERS**

19 This Court should order distribution to the Class of the proposed Class Notice by U.S. Mail,
20 postage prepaid, using last known mailing address information provided by Defendant. *See*
21 *Settlement*, ¶ 7.4 *et seq.* This manner of giving notice is the “best notice practicable” under the
22 circumstances because it provides “individual notice to all members who can be identified through
23 reasonable effort.” *See Eisen v. Carlisle & Jacquelin* (1974) 417 U.S. 156, 173. Here, Plaintiffs
24 propose that the Settlement be administered by Apex Class Action, LLC (“Apex”), an experienced
25 class action settlement administrator. *See generally* Declaration of Sean Hartranft (“Hartranft
26 Decl.”) and attached exhibits. Class Members’ addresses will be ascertainable through Defendant’s
27 personnel and payroll records, which Defendant will provide to Apex within fifteen (15) days of
28 preliminary approval of the Settlement. *See Settlement*, ¶ 4.2. Within fourteen (14) days of receipt

1 of the class list information, Apex will run the addresses through the United States Postal Service
2 Notice of Change of Address database (which provides updated addresses for any individual who
3 has moved in the previous four years and has notified the U.S. Postal Service of a forwarding
4 address) and mail the notices to Class Members. *See* Settlement, ¶ 7.4.2. Not later than 3 business
5 days after the Administrator’s receipt of any Class Notice returned by the USPS as undelivered,
6 Apex shall re-mail the Class Notice using any forwarding address provided by the USPS. If the
7 USPS does not provide a forwarding address, the Administrator shall conduct a Class Member
8 Address Search, and re-mail the Class Notice to the most current address obtained. *See* Settlement,
9 ¶¶ 1.10, 7.4.3.

10 The content of the proposed Class Notice satisfies California Rule of Court 3.766(d)
11 because it advises Class Members of the nature of the claims, basic contentions and denials of the
12 parties and the key terms of the Settlement, the 60-day deadline to opt-out or object to the
13 Settlement and the procedures by which to do so, explains the recovery formula and expected
14 recovery amount for each Class Member, and advises them that they will be bound by the terms of
15 the Settlement if they do not opt-out. *See* Brown Decl., Exh. 1, Exh. A. Class Members to whom
16 Notice Packets are re-sent after having been returned as undeliverable to the Settlement
17 Administrator shall have fourteen (14) days from the date of re-mailing, or until the Response
18 Deadline has expired, whichever is later, to mail a Request for Exclusion, challenge or objection.
19 *See* Settlement, ¶¶ 7.4.4., 7.5.1., 7.6, 7.7.2. The proposed Notice will be sent in Spanish and
20 English. Settlement ¶¶ 1.11, 7.4.2. The proposed Class Notice will also notify Class Members of
21 the final approval hearing date and provides the contact information for Class Counsel. The
22 proposed Notice further provides that relevant case documents, including the final judgment, and
23 any changes to the final approval hearing date and time will be posted on the Settlement
24 Administrator’s website. This manner of giving notice satisfies California Rule of Court 3.766(e)
25 as the most reliable and cost-effective method of reaching Class Members. Moreover, all notice
26 documents, including a final judgment will be posted on the Administrator’s website. *See also*
27 Notice at ¶ 7 (Exhibit A to the Settlement).

1 **E. NOTICE TO THE LABOR AND WORKFORCE DEVELOPMENT**
2 **AGENCY**

3 On May 28, 2024, Plaintiff Quenga provided notice to the LWDA of the claims alleged in
4 this lawsuit, Brown Decl., ¶ 26; Exh. 2. On March 5, 2024, Plaintiff Enriquez provided notice to
5 the LWDA of the claims alleged in this Lawsuit. Starr Decl.; Exh. 1. On December 9, 2025
6 Plaintiffs uploaded to the LWDA the operative SAC. *Id.* On February 7, 2026, and February 9,
7 2026, Plaintiffs provided notice of this Settlement to the LWDA. *See* Brown Decl., ¶ 26; Exh. 3;
8 Starr Decl.; Exh. 3. To date, the LWDA has not provided any notice that it intends on challenging
9 the approval. Lastly, conformed copies of this motion will be uploaded to the LWDA prior to the
10 hearing. Brown Decl., ¶ 26.

11 **F. THE COURT SHOULD SET A FINAL APPROVAL HEARING**

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

15 **IV. CONCLUSION**

16 For the foregoing reasons, Plaintiffs respectfully request that the Court preliminarily
17 approve the proposed Settlement, provisionally certify the Class, and enter the Proposed Order
18 submitted concurrently herewith.

19 Dated: February 9, 2026

Respectfully submitted,
STANSBURY BROWN LAW, PC



20
21 By: _____

Daniel J. Brown
Attorneys for Plaintiffs