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Note: Changes Made by Court

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

WALTER PARRISH, Individually,
and on Behalf of Other Members of
the Public Similarly Situated and the
State of California,

Plaintiff,

vs.

THE OKONITE COMPANY, INC.,
a corporation,

Defendants.

CASE NO: CV -20-9000-JFW (JCx)

*Assigned for All Purposes to:
Hon. John F. Walter – Crtrm. 7A*

**STATEMENT OF DECISION ON
PLAINTIFF’S MOTION FOR
CLASS CERTIFICATION**

**ORDER GRANTING PLAINTIFF WALTER PARRISH’S MOTION FOR
CLASS CERTIFICATION**

1 **I. FACTUAL AND PROCEDURAL BACKGROUND¹**

2 **A. Factual Summary**

3 Okonite makes cable products at manufacturing plants, including a plant
4 located in Santa Maria, CA (the “Plant”). (Dkt. #58-7.) The Plant employs
5 approximately 195 employees. At any given time during the Statutory Period, the
6 Plant employed about 140-150 nonexempt hourly-paid employees. Plaintiff Walter
7 Parrish was one of those employees.

8 **1. Testimony of Plaintiff (Dkt. #58-1)**

9 Plaintiff testified that he worked as a maintenance craftsman at the Plant for
10 several years prior to his retirement at the end of 2019. Plaintiff’s normal shift was
11 8:00 a.m. to 4:00 p.m. He normally took a rest period of 10 minutes after two hours
12 of work (*i.e.*, 10:00 a.m.), a 30-minute lunch break at 12:00 p.m., and a second 10-
13 minute rest period at 2:00 p.m. “But Okonite always reminded us you’re continuous.”
14 Parrish Dep. 67:17-18, Jan. 26, 2021.

15 Plaintiff testified that he was not permitted to leave the plant for meal breaks at
16 the instruction of company forepersons. Similarly, Plaintiff testified he was never
17 permitted to leave the plant for rest breaks because it was company policy.

18 Various restaurants and eateries are only a 2-3 minute drive from the Plant.
19 Plaintiff and his coworkers claim that they would have liked to be able to leave the
20 Plant to visit these locations during meal periods, but were unable to, based on
21 company policy.

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26 ¹ To the extent that the Court has relied on any evidence to which the parties
27 have objected, the Court has considered and overruled those objections. As to the
28 remaining objections, the Court finds that it is unnecessary to rule on those
objections because the disputed evidence was not relied on by the Court.

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2. Deposition of Okonite’s Rule 30(b)(6) designee, Dustin Banet (Dkt. #58-2)

Plaintiff took the deposition of Okonite’s 30(b)(6), Dustin Banet, who is the current Plant manager. Banet testified that there are approximately 140-150 nonexempt hourly-paid employees at any given time at the Plant between April 6, 2016, and the present. Employees at Okonite record their hours worked using two forms: a production report and indirect labor report. Since at least April 6, 2016, in the production report, hourly employees “document their activities throughout their shift that they were engaged in. They’ll write the times down for each particular activity and just a brief description of what they were doing.” Banet Dep. 25:1-4, Feb. 12, 2021. In the indirect labor report, generally “the employees will just write the number of hours.” Banet Dep. 25:17-18. Most employees will not record their break times, although Banet testified “I believe there may have been cases where some employees have.” Banet Dep. 27:6-9. According to Banet, Okonite does not have any policy regarding hourly employees recording their break times.

After employees fill out their production report and indirect labor report, employees turn in their reports to their direct foreperson. Then, the foreperson will actively review them, initial them, and submit them to the accounting department, who then enters the information — including workers’ hours — into Okonite’s mainframe system. The accounting department then uses the information to determine payroll and generate paychecks. Okonite also lists these hours in employees’ wage statements.

In addition to handwritten production reports and indirect labor reports, Okonite used an electronic system called Novatime to track employees’ time. Hourly employees use a keycard to access the Plant. There is a single location where all hourly employees enter and exit the Plant. Employees are required to use the card reader before entering and exiting the Plant. Okonite’s accounting department uses

1 this data to “verify that employees were here. They match it against the production
2 reports or indirect labor receipts that they get.” Banet Dep. 81:16-21.

3 Okonite’s Hourly Attendance Control Policy & Procedure states: “Employees
4 are expected to remain at work for the duration of their work schedule.” (Dkt. # 58-
5 8.) During his deposition, when asked what that meant, Banet testified that employees
6 were expected to “remain at the plant” for the duration of the employee’s “scheduled
7 shift.”² Banet Dep. 104:1-11.

8 Okonite does not have a company-wide written policy governing meal-and-rest
9 breaks. There is, however, a general practice: “for the standard eight hour work shift
10 there is a ten minute rest break two hours into the shift, a 30 minute meal break four
11 hours into the shift, and another ten minute rest break six hours into the shift.” Banet
12 Dep. 49:13-17.

13 Banet did not “recall many instances an employee has asked to take an off duty
14 break. ... Off duty would be off the clock unpaid.” Banet Dep. 141:8-13. When asked,
15 “employees are paid for the time that they’re on a 30 minute break, correct?,” Banet
16 answered, “Yes.” Banet Dep. 141:14-16.

17 Finally, Banet testified that he is not aware of Okonite ever paying an employee
18 at the Plant an extra hour’s wage in connection with meal or rest breaks. Nor does
19 Okonite have a form that would allow employees to claim extra wages if he or she
20 missed a meal or rest break.

21 **3. Deposition of Okonite’s HR manager, Paul Espinosa (Dkt.
22 #58-3)**

23 Espinosa testified at the time of his deposition that he was Okonite’s HR
24 Manager. During new hire training, HR informs new hourly employees at the Plant
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27 ² Banet later clarified his deposition testimony, stating that employees were expected to remain
28 at work or the plant “for the time they are scheduled to actually be working.” Banet Dep. Errata
Sheet (Docket No. 50-12).

1 that employees are paid for their lunch. Hourly employees do not clock out for their
2 meal periods at the Plant. Other than a break schedule, there is no document
3 containing the “rules of the road regarding breaks at the Santa Maria plant....”
4 Espinosa Dep. 21:13-16, Mar. 18, 2021.

5 Espinosa also identified Okonite’s “most recent” version of its attendance
6 policy. (Dkt. # 58-8.) As with Banet, Esponisa was asked about the meaning of the
7 policy language which states “Employees are expected to remain at work for the
8 duration of their work schedule.” Espinosa’s understanding differed with the
9 testimony of Banet; Espinosa testified it meant “there’s several shifts, so work
10 schedule includes meal and rest periods. And work schedule here is just to imply, are
11 you a first-shift, second-shift or third-shift employee? And for times other than your
12 meal breaks and rest periods, you’re expected to remain, you know, at work. Does
13 that make sense?” Espinosa Dep. 32:17-25. Based on his understanding at the time
14 of his deposition, Espinosa testified that nonexempt hourly employees at the Plant
15 were free to decide whether to stay on the company premises during their meal-and-
16 rest breaks, but that employees’ supervisors were responsible for covering details
17 regarding their breaks. However, after his deposition, Espinosa stated that he was
18 mistaken regarding his understanding regarding the rule in place at the Plant
19 concerning Class Members’ ability to leave the Plant. (Dkt. #54.) Specifically, as set
20 forth in his declaration, Espinosa testified:

21 On March 18, 2021, Mr. Escobedo took my deposition. I testified as to
22 my understanding at the time that non-exempt hourly employees at the
23 Plant were free to decide whether to stay on the company premises
24 during their meal-and-rest breaks, but that employees’ supervisors were
25 responsible for covering such details regarding their breaks. After my
26 deposition, I spoke with Adam Klein, who is the Plant’s
27 Superintendent, General Foreman, who has served in this position since
28 approximately October 19, 2019. ... [¶] Mr. Klein asked me about my
deposition. I told Mr. Klein about how I believed non-exempt hourly
employees at the Plant were allowed to leave the company premises

1 during their breaks. Mr. Klein, who has informed me that he has
2 worked at the Plant since around 1990-1991, told me that this was not
3 true, that *non-exempt hourly employees at the Plant are not allowed*
4 *to leave the company premises during their meal-and-rest breaks, and*
5 *this has always been the rule for as long as he has worked at the*
6 *Plant.*³

7 Espinosa Decl. ¶¶ 2-3.

8
9 **4. Deposition of Okonite’s former HR manager, Patrick Ortega**
10 **(Dkt. #58-4)**

11 Ortega formerly worked for Okonite as its Director of Work Force and Training
12 Development and Employee Relations Manager. Around October 9, 2015, Ortega
13 implemented an earlier version of Okonite’s attendance policy. (Dkt. #59-10.)

14 The earlier version of the policy contained language similar to that of the
15 subsequent version: “Employees are expected to report as scheduled, on time and
16 prepared to start work. Employees are also expected to remain at work for their entire
17 work schedule.”⁴ Ortega testified he was not aware of any hourly employees clocking
18 out to leave the Plant during a break during his time at Okonite between 2014 and
19 2019. Ortega also does not recall any discussion of employees being told they could
20 forego their right to paid meal breaks if they wanted to leave the premises during their
21 meal break. Okonite did not present to employees the choice of whether to either (1)
22 stay on the premises during meal periods and receive pay, or (2) leave the premises
23 and not receive pay during meal periods.

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25 **5. Deposition of Okonite’s accounting manager, Teri Carranza**
26 **(Dkt. #58-5)**

27 Carranza is the Accounting Manager at the Plant, where she has worked for the
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25 ³ Although Adam Klein admits that he had a conversation with Paul Espinosa after his
26 deposition, Adam Klein denies that he ever told Paul Espona that hourly non-exempt employees
27 were not allowed to leave the facility for their meal or rest breaks. (Dkt # 47-5, 50-15).

28 ⁴ The subsequent version of the policy indicates “Employees are expected to
remain at work for the duration of their work schedule.” (Dkt. #59-10.)

1 past 20 years. For the past 6 years, Carranza has handled payroll and some budgeting
2 tasks, among other duties. Employees often submit their timesheets to a foreperson
3 or supervisor, who then submit them to accounting.

4 For the past 6 years, hourly employees have been required to swipe a card to
5 access the Plant before their scheduled shift begins, and swipe out when they leave
6 the premises. The swiped data is stored in Novatime. The card access system “tracks
7 when they enter and exit the Plant. We put hours worked off what their timesheet
8 says. And we use that to verify that they were on premise.” Carranza Dep. 15:2-5,
9 Mar. 30, 2021. The accounting department ensures that each employee’s reported
10 hours on their timesheets matches the hours in Novatime. The data is then transferred
11 to Okonite’s corporate office for purposes of wage payment.

12 If the daily total hours in Novatime reflect 8-hours shifts over 5 days (*i.e.*, 40
13 hours), for example, the employee’s check stub would generally list regular/worked
14 40 hours/units. Carranza identified such a sample check stub and confirmed that “the
15 regular hours worked on this pay stub is just the straight time that they were here and
16 claimed on their sheets.” Carranza Dep. 61:6-8. Carranza’s department prints
17 employees’ paystubs to be distributed to employees.

18 Carranza was at Okonite when Novatime was first installed. Okonite
19 implemented Novatime “[b]ecause we had to start locking down the premise and we
20 needed gate access” and “it is also helping us to track pay.” Carranza Dep. 25:25-
21 26:1, 27:1-2.

22 Every day an employee works is generally reviewed for coding purposes.
23 Exhibit 27 (Dkt. #58-11) lists Okonite’s pay codes with descriptions of what those
24 codes are used for. Ortega and Carranza discussed setting up a code to track
25 attendance infractions and occurrences. The list includes a paycode “17 [EO] Early
26 Out”; Carranza testified that an “early out” means “they didn’t work their 8-hour shift
27 or whatever their shift would have been, that they left early.” Carranza Dep. 39:1-4.

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1 “[I]f they submit their timesheet to us and, for example, if they were supposed to be
2 here 12 to 8 in the morning, and their timesheet had 7.8 hours, and we could see their
3 coming in and out time, that they left early, then it would get a code 17 to say they
4 left early.” Carranza Dep. 39:11-18

5 **B. This Action and Motion for Class Certification**

6 On August 26, 2020, Plaintiff, on behalf of himself and all others similarly
7 situated, filed a Class Action Complaint (Dkt. #1), and on December 16, 2020,
8 Plaintiff filed a First Amended Class Action and Representative Complaint
9 ("FAC"), against Defendant.

10 The First Claim in the FAC alleges that Okonite’s policy required Plaintiff and
11 other hourly employees to remain at the Plant during their breaks. *See* Dkt. #18, FAC,
12 at ¶¶ 17, 22-30. Consequently, Plaintiff alleges Okonite violated [Labor Code § 226.7](#)
13 and owes premium wages under that statute. Defendant moved to dismiss the Second
14 and Third Claims on grounds unrelated to the merits of the First Claim. *See* Dkt. #26.
15 The Court granted the Motion and dismissed the Second and Third Claims with
16 prejudice. *See* Dkt. #31. Thus, the First Claim for [Section 226.7](#) violations is the sole
17 claim at issue in this motion. Plaintiff’s Fourth Claim asserts a representative action
18 on a non-class basis pursuant to California’s Private Attorneys General Act, [Lab.](#)
19 [Code, §§ 2698](#), *et seq.* *See* Dkt. #18, FAC, at ¶¶ 53-56.

20 In the current motion, Plaintiff seeks to represent and certify the following
21 class under [Federal Rule of Civil Procedure 23\(b\)\(3\)](#):

22 **Meal-and-Rest Period Class:** Any and all persons who are or were employed
23 as an hourly-paid non-exempt employee by The Okonite Company, Inc. at its
24 Santa Maria, California plant from April 6, 2016, until resolution of this
25 lawsuit (“4-Year Statutory Period”) who were required to remain at the plant
26 during meal-and-rest breaks or required to obtain permission to leave the
27 premises during meal-and-rest breaks[.].

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1 Plaintiff also requests appointment of his counsel, Mohammed K. Ghods and
2 Jeremy Rhyne of Lex Opus, and Ruben Escobedo of WorkWorld Law, as class
3 counsel.

4 **II. LEGAL STANDARD**

5 Before certifying a class, the trial court must conduct a "rigorous analysis" to
6 determine whether the party seeking certification has met the prerequisites
7 of [Federal Rule of Civil Procedure 23](#). *Zinser v. Accufix Research Institute, Inc.*, 253
8 [F.3d 1180, 1186 \(9th Cir. 2001\)](#), *as amended*, 273 [F.3d 1266 \(9th Cir. 2001\)](#). The
9 party seeking class certification bears the burden of demonstrating that the four
10 requirements of [Rule 23\(a\)](#) and at least one of the requirements of [Rule 23\(b\)](#) have
11 been satisfied. *Id.*

12 Under [Rule 23\(a\)](#), a class action is only proper if:

- 13 (1) the class is so numerous that joinder of all members is impracticable;
14 (2) there are questions of law or fact common to the class;
15 (3) the claims or defenses of the representative parties are typical of the
16 claims or defenses of the class; and
17 (4) the representative parties will fairly and adequately protect the interests of
18 the class.

19 [Fed. R. Civ. Proc. 23\(a\)](#).

20 If the [Rule 23\(a\)](#) prerequisites are met, the Court must decide if certification
21 is appropriate under [Rule 23\(b\)](#). In this case, Plaintiff seeks certification of the Class
22 under [Rule 23\(b\)\(3\)](#), which authorizes certification if:

23 [T]he court finds that the questions of law or fact common to class members
24 predominate over any questions affecting only individual members, and that a
25 class action is superior to other available methods for fairly and efficiently
26 adjudicating the controversy. The matters pertinent to these findings include:
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- 1 (A) the class members' interests in individually controlling the prosecution or
2 defense of separate actions;
- 3 (B) the extent and nature of any litigation concerning the controversy already
4 begun by or against class members;
- 5 (C) the desirability or undesirability of concentrating the litigation of the
6 claims in the particular forum; and
- 7 (D) the likely difficulties in managing a class action.

8 [Fed. R. Civ. P. 23\(b\)\(3\)](#).

9 "Rule 23 does not set forth a mere pleading standard. A party seeking class
10 certification must affirmatively demonstrate his compliance with the Rule -- that is,
11 he must be prepared to prove that there are *in fact* sufficiently numerous parties,
12 common questions of law or fact, etc." [Wal-Mart Stores, Inc. v. Dukes, 564 U.S.](#)
13 [338, 131 S. Ct. 2541, 2551, 180 L. Ed. 2d 374 \(2011\)](#). "When considering class
14 certification under [Rule 23](#), district courts are not only at liberty to, but must
15 perform 'a rigorous analysis [to ensure] that the prerequisites of [Rule 23\(a\)](#) have
16 been satisfied.'" [Ellis v. Costco Wholesale Corp., 657 F.3d 970, 980 \(9th Cir.](#)
17 [2011\)](#) (quoting *Wal-Mart*, 131 S. Ct. at 2551). "In many cases, 'that rigorous
18 analysis will entail some overlap with the merits of the plaintiff's underlying claim.
19 That cannot be helped.'" *Id.*

20 **III. DISCUSSION**

21 The Court concludes that Plaintiff has met his burden of demonstrating that
22 the requirements of [Federal Rule of Civil Procedure 23](#) have been satisfied as to the
23 Meal and Rest Break Class, and thus that the Class should be certified.

24 **A. Numerosity**

25 To satisfy the numerosity requirement of [Rule 23\(a\)](#), the class must be "so
26 numerous that joinder of all members is impracticable." [Fed. R. Civ. P.](#)
27 [23\(a\)\(1\)](#). "Joinder need not be impossible so long as potential class members would
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1 suffer a strong litigation hardship or inconvenience if joinder were required." *Rannis*
 2 *v. Recchia*, 380 Fed. Appx. 646, 2010 WL 2124096, at *3 (9th Cir. May 27,
 3 2010) (citing *Harris v. Palms Springs Alpine Estates, Inc.*, 329 F.2d 909, 913-14
 4 (9th Cir. 1964)). Courts routinely find the numerosity requirement satisfied when
 5 the class consists of 40 or more members. See *EEOC v. Kovacevich "5" Farms*,
 6 2007 U.S. Dist. LEXIS 32330, 2007 WL 1174444, at *21 (E.D. Cal. Apr. 19,
 7 2007). In this case, the numerosity requirement is easily satisfied as Plaintiff's Meal
 8 and Rest Break Class consists of hundreds of employees. (Dkt. #58-13.)

9 **B. Commonality**

10 The commonality requirement is satisfied "if there are questions of fact and
 11 law which are common to the class." Fed. R. Civ. P. 23(a)(2). "The Supreme Court
 12 has recently emphasized that commonality requires that the class members' claims
 13 'depend upon a common contention' such that 'determination of its truth or falsity
 14 will resolve an issue that is central to the validity of each claim in one
 15 stroke.'" *Mazza v. Am. Honda Motor Co.*, 666 F.3d 581, 588 (9th Cir.
 16 2012) (quoting *Wal-Mart Stores, Inc. v. Dukes*, 564 U.S. 338, 131 S. Ct. 2541, 2551,
 17 180 L. Ed. 2d 374 (2011)) (internal alteration omitted). "What matters to class
 18 certification is not the raising of common 'questions' - even in droves - but rather the
 19 capacity of a classwide proceeding to generate common *answers* apt to drive the
 20 resolution of the litigation." *Wal-Mart*, 1331 S. Ct. at 2551 (quotations and citations
 21 omitted). "This does not, however, mean that *every* question of law or fact must be
 22 common to the class; all that Rule 23(a)(2) requires is 'a single *significant* question
 23 of law or fact.'" *Abdullah v. U.S. Security Associates, Inc.*, 731 F.3d 952, 957 (9th
 24 Cir. 2013) (quoting *Mazza*, 666 F.3d at 589).

25 The Court concludes that Plaintiff has met his burden of demonstrating that
 26 there are common questions of law and fact that will generate common answers
 27 likely to drive the resolution of the litigation. Indeed, Plaintiff has presented
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1 substantial evidence that Okonite has maintained uniform policy of requiring
2 employees to remain at work during either a meal or rest break, and that policy has
3 been consistently applied to its employees. Whether “that policy, measured against
4 wage order requirements, allegedly violates the law -- is by its nature a common
5 question eminently suited for class treatment.” *Brinker Restaurant Corp. v. Superior*
6 *Court*, 53 Cal.4th 1004, 1033, 139 Cal. Rptr. 3d 315, 273 P.3d 513 (2012); *see*
7 *also Cummings v. Starbucks Corp.*, 2014 U.S. Dist. LEXIS 51970, 2014 WL
8 1379119, at *10 (C.D. Cal. Mar. 24, 2014) (finding that, “[t]o the extent that
9 Starbucks can show its uniform scheduling practice provided for rest breaks for
10 work periods lasting a major fraction of four hours, despite its facially defective
11 policy, that defense appears amenable to class-wide proof.”).

12 C. Typicality

13 Typicality exists when “the claims or defenses of the representative parties are
14 typical of the claims or defenses of the class.” Fed. R. Civ. P. 23(a)(3). “Under the
15 rule’s permissive standards, representative claims are ‘typical’ if they are reasonably
16 co-extensive with those of absent class members; they need not be substantially
17 identical.” *Hanlon v. Chrysler Corp.*, 150 F.3d 1011, 1020 (9th Cir.1998).

18 “Although the claims of the purported class representative need not be identical to
19 the claims of other class members, the class representative ‘must be part of the class
20 and possess the same interest and suffer the same injury as the class
21 members.’” *Lymburner v. U.S. Financial Funds, Inc.*, 263 F.R.D. 534, 540 (N.D.
22 Cal. 2010) (quoting *General Tel. Co. of Southwest v. Falcon*, 457 U.S. 147, 156,
23 102 S. Ct. 2364, 72 L. Ed. 2d 740 (1982)). To assess whether or not the
24 representative’s claims are typical, the Court examines “whether other members
25 have the same or similar injury, whether the action is based on conduct which is not
26 unique to the named plaintiffs, and whether other class members have been injured
27 by the same course of conduct.” *Hanon v. Dataproducts Corp.*, 976 F.2d 497, 508

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1 [\(9th Cir. 1992\)](#) (quoting *Schwartz v. Harp*, 108 F.R.D. 279, 282 (C.D.Cal.1985)). In
2 addition, "class certification is inappropriate where the putative class representative
3 is subject to unique defenses which threaten to become the focus of the
4 litigation." *Id.* (citing cases).

5 The Court concludes that Plaintiff's claims are typical of the claims of the
6 Class. All of the Class Members have the same alleged injury caused by the same
7 course of conduct: denial of premium pay under [§ 226.7](#) as a result of Defendant's
8 alleged policies and practices. In cases such as this that involve a "common policy,
9 the fact that there have been variations in meetings attended, scheduled shifts, and
10 actual hours of work does not defeat typicality." See *Kamar v. Radio Shack Corp.*,
11 [254 F.R.D. 387, 396 \(C.D. Cal. 2008\)](#).

12 **D. Adequacy of Representation**

13 [Rule 23\(a\)\(4\)](#) requires that "the representative parties will fairly and
14 adequately protect the interests of the class. [Fed. R. Civ. P. 23\(a\)\(4\)](#). To satisfy
15 constitutional due process concerns, "absent class members must be afforded
16 adequate representation before entry of a judgment which binds them." *Hanlon v.*
17 *Chrysler Corp.*, 150 F.3d 1011, 1020 (9th Cir. 1998) (citing *Hansberry v. Lee*, 311
18 [U.S. 32, 42-3, 61 S. Ct. 115, 85 L. Ed. 22 \(1940\)](#)). "Resolution of two questions
19 determines legal adequacy: (1) do the named plaintiffs and their counsel have any
20 conflicts of interest with other class members and (2) will the named plaintiffs and
21 their counsel prosecute the action vigorously on behalf of the
22 class?" *Id.* (citing *Lerwill v. Inflight Motion Pictures, Inc.*, 582 F.2d 507, 512 (9th
23 [Cir. 1978](#))).

24 Plaintiff has submitted a declaration that states that he understands his
25 responsibilities as a class representative, that no known conflicts exist between his
26 interests and other members of the class, and that he is fully prepared to accept and
27 perform his obligations as class representative. (Dkt. #52.) Based on the nature of
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1 Plaintiff's claims and those of the proposed class members, the Court concludes that
2 Plaintiff has demonstrated that he will fairly and adequately protect the interests of
3 the Class.

4 As for the appointment of Plaintiff's counsel, Plaintiff's counsel have
5 submitted declarations demonstrating that they have substantial experience with
6 similar class actions and other complex litigation and have the time and resources to
7 adequately represent Plaintiff and the proposed classes in this action. (Dkt. #53,
8 #56.) Plaintiff's counsel have also performed a significant amount of work in this
9 action to date. Accordingly, the Court concludes that class counsel will fairly and
10 adequately represent the interests of the proposed classes.

11 E. Rule 23(b)(3) Requirements

12 Having concluded that the [Rule 23\(a\)](#) requirements are satisfied, the Court
13 must consider whether certification is appropriate under [Rule 23\(b\)\(3\)](#). In order to
14 certify a class pursuant to [Rule 23\(b\)\(3\)](#), Plaintiff must demonstrate that (1) "the
15 questions of law or fact common to class members predominate over any questions
16 affecting only individual members," and that (2) a class action is superior to other
17 available methods for fairly and efficiently adjudicating the controversy. [Fed. R.
18 Civ. P. 23\(b\)\(3\)](#). A showing of commonality under [Rule 23\(a\)\(2\)](#) is not sufficient to
19 fulfill the requirements of [Rule 23\(b\)\(3\)](#). See *Hanlon v. Chrysler Corp.*, [150 F.3d
20 1011, 1022 \(9th Cir. 1998\)](#). To satisfy the requirements of [Rule 23\(b\)\(3\)](#), common
21 questions must constitute a significant aspect of the case which can be resolved for
22 members of the class in a single action. *Id.* "[T]o meet the predominance
23 requirement of [Rule 23\(b\)\(3\)](#), a plaintiff must establish that 'the issues in the class
24 action that are subject to generalized proof, and thus applicable to the class as a
25 whole . . . predominate over those issues that are subject only to individualized
26 proof.'" *In re Visa Check/Master Money Antitrust Litig.*, [280 F.3d 124, 136 \(2d Cir.
27 2001\)](#). "The overarching focus [is] whether trial by class representation would

1 further the goals of efficiency and judicial economy." *Vinser v. Countrywide Home*
2 *Loans, Inc.*, 571 F.3d 935, 946 (9th Cir. 2009).

3 In this case, the Court concludes that Plaintiff has demonstrated that common
4 issues predominate, and that a class action is superior, for the proposed Class. This
5 conclusion is supported by the evidence of Okonite's uniform policy requiring
6 employees to remain at work during either a meal or rest break. According to the
7 evidence presented by Plaintiff, this policy was consistently applied to its
8 employees. Although the extent of damages will be an individualized
9 determination, that issue is secondary. The main and predominating question
10 remains whether Defendant's alleged Plant-wide policies and practices violate
11 California law.

12 **IV. CONCLUSION**

13 For the foregoing reasons, Plaintiff's Motion for Class Certification
14 under Fed. R. Civ. Proc. 23 is GRANTED. The Court hereby certifies the following
15 classes under Federal Rule of Civil Procedure 23:

16 **Class 1:** Any and all persons who are or were employed as an hourly-paid
17 nonexempt employee by The Okonite Company, Inc. at its Santa Maria, California
18 plant from April 6, 2016, until resolution of this lawsuit, who were required to
19 remain at the plant during meal-and-rest breaks or required to obtain permission to
20 leave the premises during meal-and-rest breaks

21 If at any time it appears that common questions of law or fact no longer
22 predominate or if a class become unmanageable, the Court will not hesitate to
23 decertify the Class. *See Fed. R. Civ. P. 23(c)(1)(C)*("An order that grants or denies
24 class certification may be altered or amended before final judgment.").

25 The Court appoints Walter Parrish as Class Representative, and appoints
26 Mohammed K. Ghods, Jeremy A. Rhyne of Lex Opus, and Ruben Escobedo of
27 WorkWorld Law Corp. as Class Counsel.

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1 The parties are ordered to meet and confer on or before **June 1, 2021**, to
2 discuss and agree on the provision of notice to class members. The parties are
3 further ordered to file a joint plan for the provision of notice and an agreed-upon
4 notice to class members on or before **June 4, 2021**. In the unlikely event that the
5 parties cannot agree upon the joint plan and notice to class members, the parties
6 shall file a joint report on or before **June 4, 2021**, containing each party's alternative
7 plan and notice to class members, along with a brief explanation of each party's
8 respective position.

9 **IT IS SO ORDERED.**

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11 DATED: May 24, 2021

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14 By:  _____
15 THE HONORABLE JOHN F. WALTER
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