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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF ALAMEDA**

CANDACE EVANS, individually, and on
behalf of other members of the general public
similarly situated and on behalf of other
aggrieved employees pursuant to the
California Private Attorneys General Act;

Plaintiff,

vs.

BIG JOE HANDLING SYSTEMS INC., an
unknown business entity; BIG JOE
CALIFORNIA NORTH, INC., a California
corporation; and DOES 1 through 100,
inclusive,

Defendants.

Case No.: RG20055273

Honorable Brad Seligman
Department 23

CLASS ACTION

**PLAINTIFF'S NOTICE OF MOTION
AND MOTION FOR PRELIMINARY
APPROVAL OF CLASS ACTION
SETTLEMENT; MEMORANDUM OF
POINTS AND AUTHORITIES**

[Declaration of Proposed Class Counsel
(Alexandra Rose); Declaration of
Proposed Class Representative (Candace
Evans); and [Proposed] Order filed
concurrently herewith]

Reservation ID: 926300367352
Date: May 10, 2022
Time: 3:00 p.m.
Department: 23

Complaint Filed: February 20, 2020
FAC Filed: May 22, 2020
Trial Date: None Set

**TO THE HONORABLE COURT AND TO ALL PARTIES AND THEIR COUNSEL OF
RECORD:**

PLEASE TAKE NOTICE that on May 10, 2022 at 3:00 p.m. or as soon thereafter as the matter may be heard before the Honorable Brad Seligman in Department 23 of the Superior Court of California for the County of Alameda, located at Rene C. Davidson Courthouse, 1225 Fallon St., Oakland, California 94612, Plaintiff Candace Evans (“Plaintiff” or “Class Representative”) will, and hereby does, move for an order:

- Granting preliminary approval of the proposed class action settlement described herein and as set forth in the Joint Stipulation of Class and Representative Action Settlement (“Settlement,” “Agreement,” or “Settlement Agreement”), attached as “**EXHIBIT 1**” to the Declaration of Alexandra Rose, including, but not limited to, the means of allocation and distribution of funds, including and not limited to, the allocations for penalties under the California Labor Code Private Attorneys General Act of 2004, Class Counsel Award to Class Counsel, Enhancement Payment to Plaintiff, and Settlement Administration Costs to the Settlement Administrator;
- Conditionally certifying the Class for settlement purposes;
- Preliminarily appointing Plaintiff Candace Evans as Class Representative;
- Preliminarily appointing Edwin Aiwazian, Arby Aiwazian, and Joanna Ghosh of *Lawyers for Justice, PC* as Class Counsel;
- Approving the proposed Notice of Class Action Settlement (“Notice Packet”), attached as “**EXHIBIT 1**” to the [Proposed] Order Granting Preliminary Approval of Class Action Settlement;
- Directing the mailing of the Notice Packet to the Class Members;
- Approving the proposed deadlines for the notice and settlement administration process;
- Approving Phoenix Class Action Administration Solutions as the Settlement Administrator; and

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- Scheduling a hearing to consider whether to grant final approval of the Settlement, at which time the Court will also consider whether to grant final approval of the requests for the Class Counsel Award to Class Counsel, Enhancement Payment to Plaintiff, and Settlement Administration Costs to the Settlement Administrator.

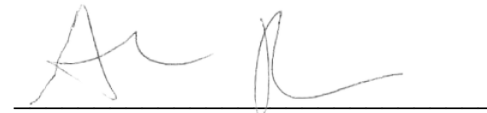
This Motion is made pursuant to Rule 3.769 and Rule 3.1113(e) of the California Rules of Court, which require approval by the Court of a class action settlement and permit the Court to extend the page limit for memoranda.

This motion is based upon the following memorandum of points and authorities, the Settlement Agreement, the Declarations of Proposed Class Counsel (Alexandra Rose) and Proposed Class Representative (Candace Evans) in support thereof, the pleadings and other records on file with the Court in this matter, and such evidence and oral argument as may be presented at the hearing on this motion.

Dated: April 18, 2022

LAWYERS for JUSTICE, PC

By:


Alexandra Rose
Attorneys for Plaintiff

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27
28

TABLE OF CONTENTS

I. SUMMARY OF MOTION.....1

II. PROCEDURAL HISTORY AND FACTUAL BACKGROUND.....2

III. SUMMARY OF THE SETTLEMENT TERMS4

**IV. LEGAL STANDARD FOR PRELIMINARY APPROVAL OF CLASS
ACTION SETTLEMENTS.....7**

**V. THE COURT SHOULD PRELIMINARILY APPROVE THE
SETTLEMENT8**

**A. The Settlement Resulted from Arm’s-Length Negotiations Based
Upon Extensive Investigation and Discovery.9**

B. The Settlement Is Fair, Reasonable, and Adequate.....11

C. The Settlement Is of Significant Value.....12

VI. CERTIFICATION OF THE CLASS IS APPROPRIATE13

A. The Class Is Ascertainable and Sufficiently Numerous.13

B. The Class Members Share a Well-Defined Community of Interest....14

**VII. APPOINTMENT OF CLASS COUNSEL AND ALLOCATION FOR
CLASS COUNSEL AWARD.....15**

VIII. THE PROPOSED NOTICE PACKET IS ADEQUATE18

**IX. APPOINTMENT OF PHOENIX CLASS ACTION ADMINISTRATION
SOLUTIONS AS THE SETTLEMENT ADMINISTRATOR19**

X. PROPOSED DEADLINES FOR THE NOTICE PROCESS20

**XI. APPOINTMENT OF CLASS REPRESENTATIVE AND ALLOCATION
FOR ENHANCEMENT PAYMENT22**

XII. CONCLUSION23

TABLE OF AUTHORITIES

Cases

<i>7-Eleven Owners for Fair Franchising v. Southland Corp.</i> (2000) 85 Cal.App.4th 1135	9
<i>Bartold v. Glendale Federal Bank</i> (2000) 81 Cal.App.4th 816	14
<i>Beech Cinema, Inc. v. Twentieth-Century Fox Film Corp.</i> (S.D.N.Y. 1979) 480 F.Supp. 1195	17
<i>Capitol People First v. Department of Developmental Services</i> (2007) 155 Cal.App.4th 676.	14
<i>Cartt v. Superior Court</i> (1975) 50 Cal.App.3d 960	18, 19
<i>Chavez v. Netflix, Inc.</i> (2008) 162 Cal.App.4th 43	17
<i>City of Detroit v. Grinnell Corporation</i> (2d Cir. 1974) 495 F.2d 448	8
<i>Class Plaintiffs v. City of Seattle</i> (9th Cir. 1982) 955 F.2d 1268.....	7
<i>Dunk v. Ford Motor Co.</i> (1996) 48 Cal.App.4th 1794	7, 8, 9
<i>Estrada v. Dr. Pepper/Seven-Up</i> , Los Angeles County Superior Court, Case No. BC 262247 (May 2005)	18
<i>Hanlon v. Chrysler Corp.</i> (9th Cir. 1998) 150 F.3d 1011.....	7, 8
<i>Hicks v. Kaufman & Broad Home Corp.</i> (2001) 89 Cal.App.4th 908	13
<i>In re American Bank Note Holographics, Inc., Securities Litigation</i> (S.D.N.Y. 2001) 127 F.Supp.2d 418	12
<i>In re Ampicillin Antitrust Litigation</i> (D. D.C. 1981) 526 F.Supp. 494	17
<i>Ketchum v. Moses</i> (2001) 24 Cal.4th 1122	17
<i>Kullar v. Foot Locker Retail, Inc.</i> (2008) 168 Cal.App.4th 116	12
<i>Laffitte v. Robert Half Int’l, Inc.</i> (2016) 1 Cal.5th 480	17
<i>Lealao v. Beneficial Cal., Inc.</i> (2000) 82 Cal.App.4th 19.....	17
<i>Linder v. Thrifty Oil Co.</i> (2000) 23 Cal.4th 429	14
<i>Mendoza v. United States</i> (9th Cir. 1980) 623 F.2d 1338.....	18
<i>Moore v. IKEA</i> , Los Angeles Superior Court, Case No. BC 263646 (Sept. 2006).....	18
<i>Officers for Justice v. Civil Service Commission of City and County of San Francisco</i> (9th Cir. 1982) 688 F.2d 615	8
<i>Rose v. City of Hayward</i> (1981) 126 Cal.App.3d 926	14
<i>Sav-On Drug Stores, Inc. v. Superior Court</i> (2004) 34 Cal.4th 319.....	13, 14

1	<i>Vasquez v. Superior Court</i> (1971) 4 Cal.3d 800	7
2	<i>Vranken v. Atlantic Richfield Co.</i> (N.D. Cal. 1995) 901 F.Supp. 294	22
3	<i>Wershba v. Apple Computer, Inc.</i> (2001) 91 Cal.App.4th 224	7, 8
4	Statutes	
5	Cal. Code Civ. Proc. § 1781.....	18
6	Cal. Code Civ. Proc. § 1781(f).....	7
7	Other Authorities	
8	Conte & Newberg, Newberg on Class Actions § 11.25 (4th Ed.)	8
9	Conte & Newberg, Newberg on Class Actions § 11.26 (4th Ed.)	20
10	Conte & Newberg, Newberg on Class Actions § 11.47 (4th Ed.)	12
11	Conte & Newberg, Newberg on Class Actions § 14.03 (4th Ed.)	17
12	Conte & Newberg, Newberg on Class Actions § 8.21 (4th Ed.)	19
13	Conte & Newberg, Newberg on Class Actions § 8.29 (4th Ed.)	19
14	<i>Manual for Complex Litigation</i> § 21.311 (4th ed. 2007)	18
15	<i>Manual for Complex Litigation</i> § 21.312 (4th ed. 2007)	19
16	Rules	
17	Fed. R. Civ. P. 23(c)(2)	19
18	Fed. R. Civ. P. 23(e).....	19
19		
20		
21		
22		
23		
24		
25		
26		
27		
28		

MEMORANDUM OF POINTS AND AUTHORITIES

I. SUMMARY OF MOTION

Plaintiff Candace Evans (“Plaintiff” or “Class Representative”) seeks preliminary approval of the Joint Stipulation of Class and Representative Action Settlement (“Settlement,” “Agreement,” or “Settlement Agreement”) entered into by and between Plaintiff, individually and on behalf of all others similarly situated and other aggrieved employees, on the one hand, and Defendant Big Joe California North, Inc. dba Big Joe Handling Systems (erroneously sued as Big Joe Handling Systems, Inc.) (“Defendant”), on the other hand. Subject to approval by the Court, Plaintiff and Defendant (collectively, the “Parties”) have agreed to settle this lawsuit for a Maximum Settlement Amount of five hundred thousand dollars and no cents (\$500,000.00).¹ The Maximum Settlement Amount includes the following: (1) Individual Settlement Payments to Settlement Class Members which will be distributed from the Net Settlement Amount²; (2) the Enhancement Payment of seven thousand five hundred dollars and no cents (\$7,500.00) to Plaintiff³; (3) the Class Counsel Award to Class Counsel, consisting of attorneys’ fees in the amount of thirty-five percent (35%) of the Maximum Settlement Amount, or \$175,000.00, and reimbursement of litigation costs and expenses not to exceed twenty-five thousand dollars and no cents (\$25,000.00)⁴; (4) the Settlement Administration Costs to the Settlement Administrator in the amount not to exceed eight thousand dollars and no cents (\$8,000.00);⁵ and (5) the amount of seventy-five thousand dollars and no cents (\$75,000.00) allocated to penalties under the Private Attorneys General Act (“PAGA”), of which 75% (i.e., \$56,250.00) will be distributed to the Labor and Workforce Development Agency (“LWDA”) and 25% (i.e., \$18,750.00) will be distributed to Settlement Class Members as a part of the Net Settlement Amount.⁶

¹ Settlement Agreement, attached as “**EXHIBIT 1**” to Declaration of Alexandra Rose (“Rose Decl.”), § A.15. In the event the number of Workweeks during the Class Period exceeds 14,372, Plaintiff will have the option to either proportionally increase the Maximum Settlement Amount or rescind the Settlement Agreement. See *id.*, § C.8.

² *Id.*, §§ A.16 & C.7.

³ *Id.*, §§ A.13 & C.4.

⁴ *Id.*, §§ A.4 & C.3.

⁵ *Id.*, §§ A.28 & C.5.

⁶ *Id.*, §§ A.21 & C.6.

Plaintiff also seeks to provisionally certify the following Class for settlement purposes, which Defendant does not oppose:

All current and former hourly-paid or non-exempt employees who worked for Defendant within the State of California at any time during the Class Period (“Class” or “Class Members”).⁷

The Class is estimated to consist of approximately one hundred forty-two (142) individuals.⁸

Class Members who do not submit a valid and timely Request for Exclusion (“Settlement Class Member”) will receive a share of the Net Settlement Amount (“Individual Settlement Payment”) on a *pro rata* basis based upon the number of weeks each Settlement Class Member worked for Defendant as an hourly-paid or non-exempt employee during the Class Period (“Workweeks”).⁹

The Settlement, if granted preliminary and final approval by the Court, will operate to resolve the Released Claims of Plaintiff and Settlement Class Members, against the Released Parties.¹⁰

In order to efficiently present the Court with adequate information to determine whether to grant preliminary approval of the Settlement, Plaintiff also moves for an order permitting the filing of this single consolidated memorandum, although it exceeds the page limit established by California Rules of Court, Rule 3.1113(d), instead of filing several separate motions.

II. PROCEDURAL HISTORY AND FACTUAL BACKGROUND

Defendant has been in operation for over sixty (60) years selling forklifts, pallet racks, and produce storage systems. Defendant offers the industry’s most comprehensive line of lift trucks used in transportation, stacking, retrieving materials and products in warehouses, distribution centers, manufacturing and retail environments. Plaintiff Candace Evans is a former employee of Defendant.

⁷ Settlement Agreement, § A.2. “Class Period” is defined as the period from February 20, 2016, through June 10, 2021. See *id.*, § A.6.

⁸ Rose Decl., ¶ 9; see also, Settlement Agreement, § A.2.

⁹ Settlement Agreement, §§ A.30, A.16, A.32, & C.7.

¹⁰ See *id.* at § A.23, for the full scope of the “Released Claims,” and *id.* at § A.24 for the definition of the “Released Parties.”

1 On February 20, 2020, Plaintiff filed a Class Action Complaint for Damages in the
2 Alameda County Superior Court (“Court”), thereby commencing the above-captioned lawsuit
3 (“Action”).

4 On May 20, 2020, Plaintiff filed a First Amended Class Action Complaint for Damages
5 & Enforcement of the Private Attorneys General Act, California Labor Code § 2698, *Et Seq.*
6 (“Operative Complaint”).

7 Plaintiff’s core allegation is that Defendant has violated the California Labor Code by
8 engaging in a uniform practice and procedure, with respect to Plaintiff and the Class Members,
9 of, *inter alia*, failing to pay all overtime and minimum wages, failing to provide compliant meal
10 and rest periods and associated premium pay, failing to timely pay wages during employment
11 and upon termination of employment, failing to provide compliant wage statements, failing to
12 maintain requisite payroll records, and failing to reimburse necessary business expenses, and
13 thereby engaged in unfair business practices in violation of California Business and Professions
14 Code section 17200, *et seq.* and conduct that gives rise to penalties pursuant to PAGA. Plaintiff
15 contends that she, and the Class Members, are entitled to, *inter alia*, unpaid wages, penalties
16 (including and not limited to, penalties pursuant to PAGA), and attorneys’ fees.

17 Defendant has denied, and continues to deny, any liability and wrongdoing of any kind
18 associated with any of the allegations in the Action, and further denies that the Action is
19 appropriate for class treatment or representative adjudication for any purpose other than for
20 settlement purposes only.

21 On March 18, 2020, Defendant propounded multiple sets of discovery including Request
22 for Production of Documents, (Set One); Form Interrogatories – Employment Law, (Set One);
23 and Form Interrogatories – General, (Set One), on Plaintiff, and noticed the deposition of
24 Plaintiff. Thereafter, on April 21, 2020, Plaintiff responded to Defendant’s discovery requests.

25 On June 9, 2020, Plaintiff propounded multiple sets of discovery including Requests for
26 Production of Documents, (Set One); Special Interrogatories, (Set One & Two); and Form
27 Interrogatories – General, (Set One), on Defendant, and noticed the deposition of Defendant’s
28

Person Most Knowledgeable designees regarding job duties and organizational structure of Defendant.

The Parties have actively litigated the Action since it was commenced on February 20, 2020. On March 10, 2021, the Parties participated in a formal, full-day mediation conducted by Jeffrey A. Ross, Esq., a well-regarded mediator experienced in mediating complex labor and employment matters. With the aid of the mediator's evaluation, the Parties ultimately reached the Settlement described herein to resolve the Action in its entirety.

III. SUMMARY OF THE SETTLEMENT TERMS

Under the terms of the Settlement, Defendant will pay a Maximum Settlement Amount to resolve the Released Claims of Plaintiff and the Class Members who do not submit a valid and timely Request for Exclusion (i.e., Settlement Class Members) with respect to the Released Parties.¹¹ Subject to approval by the Court, the Net Settlement Amount will be calculated by deducting the following amounts from the Maximum Settlement Amount: (1) attorneys' fees in an amount not to exceed one hundred seventy-five thousand dollars and no cents (\$175,000.00) (i.e., up to 35% of the Maximum Settlement Amount) and reimbursement of costs and expenses in an amount not to exceed twenty-five thousand dollars and no cents (\$25,000.00) to Class Counsel (collectively referred to as the "Class Counsel Award"); (2) settlement administration costs, which are not to exceed eight thousand dollars and no cents (\$8,000.00) to the Settlement Administrator ("Settlement Administration Costs"); (3) payment to the LWDA of its 75% share of the PAGA Payment (i.e., \$56,250.00 out of \$75,000.00) ("LWDA Payment"); and (4) payment in the amount of up to seven thousand five hundred dollars and no cents (\$7,500.00) to Plaintiff Candace Evans ("Enhancement Payment").¹² The Parties have agreed to retain Phoenix Class Action Administration Solutions ("Phoenix" or "Settlement Administrator") to handle the notice and settlement administration process.

The Parties have agreed that the Settlement Administrator will determine each Settlement Class Member's share of the available Net Settlement Amount ("Individual

¹¹ Settlement Agreement, § A.15.

¹² *Id.*, §§ A.4, A.13, A.17, A.18, A.21, A.28, C.3, C.4, C.5, & C.6.

Settlement Payment”), in accordance with the Settlement Agreement and as follows: the Settlement Administrator will divide the Net Settlement Amount by the total number of Workweeks of all Class Members and will multiply that value by the number of Workweeks for each respective Class Member.¹³

Each Settlement Class Member’s Individual Settlement Payment will be allocated as follows: one-third (1/3) as wages, which will be reported on an IRS Form W-2; and the remaining two-third (2/3) as interest, penalties, and other non-wage damages, which will be reported on an IRS Form 1099.¹⁴ Settlement Class Members will be issued payment of their Individual Settlement Payment subject to reduction for the employee’s share of payroll taxes and withholdings with respect to the wage portion of each Individual Settlement Payment.¹⁵ The employer’s share of payroll taxes and contributions with respect to the wages portion of Individual Settlement Payments shall be paid by Defendant separately and in addition to the Maximum Settlement Amount.¹⁶

Any Individual Settlement Payment checks issued by the Settlement Administrator to Settlement Class Members (“Settlement Payment Check”) shall be valid and negotiable for not less than one hundred eighty (180) calendar days from the date of issuance, and thereafter, shall be cancelled.¹⁷ All Settlement Payment Checks to Settlement Class Members that remain uncashed after one hundred eighty (180) calendar days of the mailing of Settlement Payment Checks by the Settlement Administrator shall be paid out pursuant to California Code of Civil Procedure section 384 to the following *cy pres* recipient: Legal Services of Northern California.¹⁸

Any Class Member, other than Plaintiff, may opt-out from the Settlement by submitting a timely letter indicating a request to be excluded from the Settlement (“Request for Exclusion”) to the Settlement Administrator postmarked by the date that is forty-five (45) calendar days after

¹³ Settlement Agreement, § C.7.

¹⁴ *Id.*, § C.24.

¹⁵ *Ibid.*

¹⁶ *Ibid.*

¹⁷ *Id.*, §§ A.31 & C.22.

¹⁸ *Id.*, § C.22.

the Settlement Administrator initially mails the Notice Packet to Class Members (“Response Deadline”).¹⁹ The Request for Exclusion must: (a) contain the case name and number of the Action; (b) clearly state that the Class Member does not wish to be included in the Settlement; (c) set forth the full name, address, telephone number, and last four digits of the Social Security Number of the Class Member requesting exclusion; (d) be signed by the Class Member; (e) be returned by mail to the Settlement Administrator at the specified address indicated in the Notice Packet; and (f) be postmarked on or before the Response Deadline.²⁰ Class Members who submit a valid and timely Request for Exclusion will not be bound by the terms of the Settlement and Final Approval Order and Judgment.²¹

Any Class Member who does not opt-out of the Settlement shall be entitled to object to the Settlement.²² To object to the Settlement, a Class Member must return by mail a valid and timely written objection to the Settlement (“Notice of Objection”) to the Settlement Administrator at the specified address by the Response Deadline.²³ For the Notice of Objection to be valid, it must include: (a) the case name and number of the Action; (b) the objector’s full name, signature, address, and telephone number, and the last four digits of his or her Social Security number; (c) a written statement of the basis for the objection; and (d) any copies of papers, briefs, or documents upon which the objection is based.²⁴ Alternatively, a Class Member may appear at the Final Approval Hearing and present his or her objection to the Court orally, even without written objection.²⁵

In order to dispute Workweeks, Class Members must submit a written letter to the Settlement Administrator and must: (1) state the case name and number of the Action; (2) contain the full name, address, telephone number, and the last four digits of the Social Security Number of the disputing Class Member; (3) clearly state that the Class Member disputes the number of Workweeks credited to him or her and what he or she contends is the correct number

¹⁹ Settlement Agreement, § A.25, A.26, & C.16.

²⁰ *Id.*, § A.25.

²¹ *Id.*, § C.16.

²² *Id.*, § C.18.

²³ *Id.*, §§ A.19 & C.18.

²⁴ *Id.*, § A.19.

²⁵ *Id.*, § C.18.

that should be credited to him or her; (4) include information and/or attach documentation demonstrating that the number of Workweeks that he or she contends should be credited to him or her is correct; (5) be signed by the Class Member; (6) be returned by mail to the Settlement Administrator at the specified address; and (7) be postmarked on or before the Response Deadline.²⁶

IV. LEGAL STANDARD FOR PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENTS

The settlement of a class action requires approval by the court. *Dunk v. Ford Motor Co.* (1996) 48 Cal.App.4th 1794, 1800; Cal. Code Civ. Proc. § 1781(f). California courts look to federal authority for guidance with class action settlements. *Dunk, supra*, 48 Cal.App.4th at 1801, fn.7 (citing *Vasquez v. Superior Court* (1971) 4 Cal.3d 800, 821). The decision to approve or reject a proposed settlement is within the court's discretion. *Wershba v. Apple Computer, Inc.* (2001) 91 Cal.App.4th 224, 234-35 ("In general, questions whether a settlement was fair and reasonable, whether certification of the class was proper, and whether the attorney fee award was proper are matters addressed to the trial court's broad discretion."). Accordingly, a court's decision to approve a class action settlement may be reversed only upon a strong showing of "clear abuse of discretion." *Hanlon v. Chrysler Corp.* (9th Cir. 1998) 150 F.3d 1011, 1026; *Class Plaintiff v. City of Seattle* (9th Cir. 1982) 955 F.2d 1268, 1276.

Courts review class action settlements in a two-step process: (1) an earlier conditional review by the court; and (2) a later detailed review after the period during which notice is distributed to class members for their comments or objections. Conte & Newberg, *Newberg on Class Actions* § 11.24 (4th Ed. 2002). This procedure, which is commonly utilized by both federal and state courts, assures class members of the protection of procedural due process safeguards and enables a court to fulfill its role as the guardian of the interest of the settlement class.

Preliminary approval of a settlement does not require a court to make a final determination that the settlement is fair, reasonable, and adequate. Rather, that decision is made

²⁶ Settlement Agreement, § C.33.

only at the final approval stage, after notice of the settlement has been given to the class members and they have had an opportunity to voice their views of the settlement or to exclude themselves from the settlement. Cal. R. Ct. 3.769(g).

In considering a potential class settlement, a court need not reach any ultimate conclusions on the issues of fact and law which underlie the merits of the dispute and need not engage in a trial on the merits. See *City of Detroit v. Grinnell Corporation* (2d Cir. 1974) 495 F.2d 448, 456; *Officers for Justice v. Civil Service Commission of City and County of San Francisco* (9th Cir. 1982) 688 F.2d 615, 625. Neither formal notice nor a hearing is required for the trial court to grant provisional class certification and preliminary approval; the court may grant such relief upon an informal application by the settling parties and may conduct any necessary hearing in court or in chambers, at the court's discretion. *Newberg*, § 11.25.

V. THE COURT SHOULD PRELIMINARILY APPROVE THE SETTLEMENT

The trial court has broad powers to determine whether a proposed settlement is fair under the circumstances of the case. *Dunk v. Ford Motor Co.* (1996) 48 Cal.App.4th 1794. To make this fairness determination, courts must consider several relevant factors, including "the strength of the plaintiff's case, the risk, expense, complexity and likely duration of further litigation, the risk of maintaining class action status through trial, the amount offered in settlement, the extent of discovery completed and the stage of the proceedings, the experience and view of counsel, the presence of a governmental participant, and the reaction of the class members to the proposed settlement." *Dunk, supra*, 48 Cal.App.4th at 1801. "The list of factors is not exclusive and the court is free to engage in a balancing and weighing of the factors depending on the circumstances of each case." *Wershba, supra*, 91 Cal.App.4th at 245. Furthermore, courts give "proper deference to the private consensual decision of the parties." *Hanlon, supra*, 150 F.3d at 1027 (citation omitted).

The proponent of the settlement has the burden to show that it is fair and reasonable. *Wershba, supra*, 91 Cal.App.4th at 245. "A presumption of fairness exists where: (1) the settlement is reached through arm's-length bargaining; (2) investigation and discovery are sufficient to allow counsel and the court to act intelligently; (3) counsel is experienced in similar

litigation; and (4) the percentage of objectors is small.” *Id.*; *Dunk, supra*, 48 Cal.App.4th at 1802; *7-Eleven Owners for Fair Franchising v. Southland Corp.* (2000) 85 Cal.App.4th 1135, 1151.

A. **The Settlement Resulted from Arm’s-Length Negotiations Based Upon Extensive Investigation and Discovery.**

The Parties actively litigated the Action since it was commenced on February 20, 2020. Both sides used the pre-mediation time period to investigate the veracity, strength, and scope of the claims, and Class Counsel was actively preparing the case for class certification and trial.²⁷

Prior to engaging in mediation, Class Counsel conducted significant investigation and formal and informal discovery regarding the facts of the case, including and not limited to, the exchange, review, and analysis of thousands of pages of documents and data produced by Defendant.²⁸ The volume of data and documents that Class Counsel reviewed and analyzed included and was not limited to: Plaintiff’s employment records, a detailed sampling of Class Members’ time and pay data, multiple iterations of Defendant’s Employee Handbook, company policy acknowledgements (including, but not limited to, Acknowledgment of Receipt of Basic Employment Policies, Meal and Rest Period Obligation Acknowledgement, and General Handbook Acknowledgment), internal memoranda, job descriptions, Defendant’s operations and employment practices, forms, procedures, and policies (including, but not limited to, Defendant’s Rest Breaks policy, Meal Periods policy, General Requirements for Rest Periods and Meal Breaks, Timekeeping Procedures, Overtime policy, Employee Dress, Personal Appearance, and Protective Footwear policy, and Business Expense Reimbursement policy), among other information and documents.²⁹ Class Counsel interviewed Plaintiff and other Class Members to gather facts and to identify potential witnesses.³⁰ Class Counsel propounded multiple sets of formal written discovery requests on Defendant (specifically, Requests for Production of Documents, (Set One); Special Interrogatories, (Set One & Two); and Form

²⁷ Rose Decl., ¶¶ 11-13.

²⁸ *Id.*, ¶ 12.

²⁹ *Ibid.*

³⁰ *Ibid.*

Interrogatories – General (Set One)), noticed the depositions of Defendant’s Person Most Knowledgeable designees regarding organizational structure and job duties, and worked with Plaintiff to provide responses and objections to multiple sets of discovery requests that were propounded by Defendant (specifically, Request for Production of Documents, (Set One); Form Interrogatories – Employment Law, (Set One); and Form Interrogatories – General, (Set One)).³¹ Counsel for the Parties also met and conferred on numerous occasions, e.g., to discuss issues relating to the pleadings, discovery, and the production of documents and data prior to the mediation.³² Class Counsel also drafted Plaintiff’s mediation brief and prepared for and attended court proceedings, settlement negotiations, and the mediation, among other tasks.³³

The Parties engaged in extensive settlement negotiations and participated in a formal, full-day mediation on March 10, 2021, conducted by Jeffrey A. Ross, Esq., a well-respected mediator experienced in mediating complex labor and employment matters.³⁴ Prior to and during the mediation and settlement discussions, the Parties exchanged class information and engaged in an intensive discussion regarding their evaluations of the case and various aspects of the case, including but not limited to, the risks and delays of further litigation, the risks to the Parties of proceeding with class certification and/or representative adjudication, the law relating to off-the-clock theory, meal and rest periods, federal and state wage-and-hour law and enforcement, and PAGA representative claims, as well as the evidence produced and analyzed, and the possibility of appeals, among other things.³⁵ During all settlement discussions, the Parties conducted their negotiations at arm’s length in an adversarial position.³⁶ Arriving at a settlement that was acceptable to both Parties was not easy. Defendant and its counsel felt strongly about their ability to prevail on the merits and at certification, and Plaintiff and Class Counsel believed that they would be able to obtain class certification and prevail at trial.³⁷ After conducting investigations, extensive formal and informal discovery, exchange of information,

³¹ Rose Decl., ¶ 12.

³² *Ibid.*

³³ *Ibid.*

³⁴ *Id.*, ¶ 11.

³⁵ *Ibid.*

³⁶ *Ibid.*

³⁷ *Id.*, ¶¶ 11, 16-18.

1 extensive settlement negotiations, and with the aid of the mediator's evaluation, the Parties have
2 agreed that the matter is well-suited for settlement given the legal issues relating to Plaintiff's
3 principal claims, as well as the costs and risks to both sides that would attend further litigation.³⁸

4 The Settlement takes into account the strengths and weaknesses of each side's position
5 and the uncertainty of how the case might have concluded at certification and trial.³⁹ The Parties
6 have had the opportunity to interview and obtain information from their respective witnesses.⁴⁰
7 Counsel for the Parties have also reviewed documents and information relating to Plaintiff's and
8 the Class Members' employment with Defendant and performed significant research into the
9 law concerning class certification, PAGA representative actions, off-the-clock theory, meal and
10 rest periods, federal and state wage-and-hour law and enforcement, Plaintiff's claims, and
11 Defendant's defenses thereto, as well as facts discovered.⁴¹ The Parties have reached the
12 Settlement based on this large volume of facts, evidence, and investigation. In addition, Class
13 Counsel has extensive experience in employment class actions, including significant experience
14 in California wage-and-hour litigation.⁴²

15 **B. The Settlement Is Fair, Reasonable, and Adequate.**

16 The Settlement, which provides for a Maximum Settlement Amount of five hundred
17 thousand dollars and no cents (\$500,000.00), represents a fair, adequate, and reasonable
18 resolution of the matter.⁴³ The Settlement was calculated using the information and data
19 uncovered during litigation, case investigation, as well as the formal and informal exchange of
20 information.⁴⁴ The Settlement takes into account the potential risks and rewards inherent in any
21 case and, in particular, in the case at issue.⁴⁵ Moreover, considering all of the facts and
22 circumstances of the lawsuit, the Settlement represents a fair, reasonable, and adequate recovery
23 for the Class.⁴⁶

24 ³⁸ Rose Decl., ¶¶ 11, 16-18.

25 ³⁹ *Ibid.*

26 ⁴⁰ *Ibid.*

27 ⁴¹ *Id.*, ¶¶ 11-13 & 16-18.

28 ⁴² *Id.*, ¶¶ 2-7.

⁴³ *Id.*, ¶¶ 11, 13, 14 & 21.

⁴⁴ *Id.*, ¶¶ 11-13.

⁴⁵ *Id.*, ¶¶ 16-18.

⁴⁶ *Id.*, ¶¶ 11, 13, & 21.

Assuming that the Class Counsel Award, Enhancement Payment, LWDA Payment, and Settlement Administration Costs are approved by the Court and paid in the full amounts provided for by the Settlement, the Settlement provides for a Net Settlement Amount that is currently estimated to be two hundred twenty-eight thousand five hundred fifty dollars and no cents (\$228,250.00).⁴⁷ As discussed in Part III, *supra*, the entire Net Settlement Amount will be fully paid out to the Settlement Class Members, in accordance with the Settlement Agreement. The amount of each Settlement Class Member's Individual Settlement Payment will be calculated based on his or her Workweeks.⁴⁸ There is no reason to doubt the fairness of the proposed plan of allocation of the settlement funds for purposes of preliminary approval. Even at the final approval stage, "[a]n allocation formula need only have a reasonable, rational basis [to warrant approval], particularly if recommended by experienced and competent class counsel." *In re American Bank Note Holographics, Inc., Securities Litigation* (S.D.N.Y. 2001) 127 F.Supp.2d 418, 429-30.

In light of the foregoing considerations, Class Counsel believes that the Settlement as a whole is fair, reasonable, and adequate, and is in the best interest of the Class Members.⁴⁹ Although the recommendations of Class Counsel are not conclusive, the Court can properly take the recommendations into account, particularly if Class Counsel appears to be competent, and has experience with this type of litigation, and investigation have been completed, as is the case here. *Newberg*, §11.47. Accordingly, the Court should grant preliminary approval of the Settlement.

C. The Settlement Is of Significant Value.

Pursuant to *Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th 116, the Parties conducted significant formal and informal discovery and exchanged thousands of pages of documents, data, and information prior to mediation.⁵⁰ The documents, discovery, and information that Class Counsel obtained from Defendant, Plaintiff, and other sources allowed

⁴⁷ Rose Decl., ¶ 14.

⁴⁸ Settlement Agreement, § C.7.

⁴⁹ Rose Decl., ¶¶ 11, 13, & 21.

⁵⁰ *Id.*, ¶¶ 11-13 & 18.

Class Counsel to develop valuation models in order to evaluate the potential value and merit of the claims, and perform a complete evaluation of Defendant's defenses thereto.⁵¹ As outlined in the Declaration of Alexandra Rose, Class Counsel performed an extensive analysis of each and every claim pursuant to *Kullar* prior to entering into the Settlement.⁵²

VI. CERTIFICATION OF THE CLASS IS APPROPRIATE

For settlement purposes, the requisites for establishing class certification are met, and the Parties have stipulated to conditional certification of the Class for settlement purposes only.⁵³ California Code of Civil Procedure Section 382 "authorizes class actions when the question is one of a common or general interest, of many persons, or when the Parties are numerous, and it is impracticable to bring them all before the court." *Sav-On Drug Stores, Inc. v. Superior Court* (2004) 34 Cal.4th 319, 326. California courts certify class actions where the plaintiff identifies "both [1] an ascertainable class and [2] a well-defined community of interest among class members." *Id.*

The Class is ascertainable and numerous as to make it impracticable to join all Class Members, and there are common questions of law and fact that predominate over any questions affecting any individual Class Member. Further, Plaintiff's claims are typical of the claims of the Class Members, and Class Counsel will fairly and adequately protect the interests of the Class. Finally, prosecution of separate actions by individual Class Members would create the risk of inconsistent or varying adjudications, and a class action is superior to other available means for the fair and efficient adjudication of the case. The Class is amenable to class certification for settlement purposes as discussed below.

A. The Class Is Ascertainable and Sufficiently Numerous.

"Ascertainability is required in order to give notice to putative class members as to whom the judgment in the action will be *res judicata*." *Hicks v. Kaufman & Broad Home Corp.* (2001) 89 Cal.App.4th 908, 914. "A class is ascertainable if it identifies a group of unnamed plaintiffs by describing a set of common characteristics sufficient to allow a member of that group to

⁵¹ Rose Decl., ¶ 18.

⁵² *Id.*, ¶¶ 11-13 & 16-18.

⁵³ Settlement Agreement, § C.49.

1 identify himself or herself as having a right to recover based on the description.” *Bartold v.*
2 *Glendale Federal Bank* (2000) 81 Cal.App.4th 816, 828. The proposed class must also be
3 sufficiently numerous. *Linder v. Thrifty Oil Co.* (2000) 23 Cal.4th 429, 435.

4 This Action involves a class of approximately one hundred forty-two (142) individuals.⁵⁴
5 This class is sufficiently numerous. See *Rose v. City of Hayward* (1981) 126 Cal.App.3d 926,
6 934-35 (indicating that a class of 30 to 40 individuals satisfies the numerosity requirement as
7 joinder is not practical at that point). Further, all Class Members can and will be identified by
8 Defendant to the Settlement Administrator through a review of Defendant’s employment
9 records regarding hourly-paid or non-exempt employees in California during the Class Period.
10 As such, the Class is ascertainable and sufficiently numerous.

11 **B. The Class Members Share a Well-Defined Community of Interest.**

12 The community of interest requirement “embodies three factors: (1) predominant
13 common questions of law or fact; (2) class representative with claims or defenses typical of the
14 class; and (3) class representative who can adequately represent the class.” *Sav-On, supra*, 34
15 Cal.4th at 326. “[T]he community of interest requirement for certification *does not mandate*
16 *that class members have uniform or identical claims.*” *Capitol People First v. Dep’t of*
17 *Developmental Services* (2007) 155 Cal.App.4th 676, 692 (emphasis in original). Rather, courts
18 focus on the Defendant’s internal policies and “pattern and practice . . . in order to assess whether
19 that common behavior toward similarly situated plaintiff renders class certification appropriate.”
20 *Id.* (citing *Sav-On, supra*, 34 Cal.4th at 333).

21 The “common issues” requirement “involves analysis of whether the proponent’s ‘theory
22 of recovery’ is likely to prove compatible with class treatment.” *Capitol People, supra*, 155
23 Cal.App.4th at 690 (emphasis added) (citing *Sav-On, supra*, 34 Cal.4th at 327). Furthermore,
24 the commonality inquiry centers on the “reasonableness” of the defendant’s labor policies as
25 applied to the potential class. *Ghazaryan, supra*, 169 Cal.App.4th at 1534.

26 Here, common issues of fact and law predominate as to each of the claims alleged and
27 asserted in the Operative Complaint. Based on the documents and information obtained through
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⁵⁴ Rose Decl., ¶ 9.

1 formal and informal and exchange of information in this case, Plaintiff contends that Class
2 Members were subject to the same or similar job duties and uniform operations and employment
3 practices, policies, and procedures during the time period at issue.⁵⁵ Plaintiff's claims arise from
4 Defendant's alleged uniform policy and systematic scheme, with respect to Plaintiff's and the
5 Class Members, of, *inter alia*, failing to properly pay overtime and minimum wages for all hours
6 worked, failing to provide compliant meal and rest periods and associated premium pay, failing
7 to timely pay wages during employment and upon termination of employment, failing to provide
8 complaint wage statements, failing to keep requisite payroll records, and failing to reimburse
9 necessary business-related expenses.⁵⁶

10 Plaintiff also contends that Defendant's payroll and recordkeeping practices with respect
11 to Plaintiff and the Class Members were substantially the same during the time period at issue.⁵⁷
12 As a result of the alleged conduct, Plaintiff claims that all of the Class Members were uniformly
13 not paid all compensation due to them from Defendant during the time period at issue.⁵⁸

14 Plaintiff maintains that the outcome of this litigation would be determined by
15 Defendant's alleged uniform operations and employment policies and procedures that applied
16 across its hourly-paid or non-exempt employees who worked in California during the Class
17 Period. Accordingly, the Court should certify the Class for settlement purposes only.

18 **VII. APPOINTMENT OF CLASS COUNSEL AND ALLOCATION FOR CLASS**
19 **COUNSEL AWARD**

20 Class Counsel has litigated the matter for over two years and was actively preparing the
21 matter for class certification and trial.⁵⁹ The ongoing work has been extensive, demanding, and
22 ultimately successful in achieving a substantial settlement resolution. Class Counsel conducted
23 extensive investigations into the facts of the case and formal and informal discovery, including,
24 and not limited to, propounding multiple formal written discovery requests onto Defendant.
25 Class Counsel also noticed the depositions of Defendant's Person Most Knowledgeable

26 ⁵⁵ Rose Decl., ¶ 16.

27 ⁵⁶ *Ibid.*

28 ⁵⁷ *Ibid.*

⁵⁸ *Ibid.*

⁵⁹ *Id.*, ¶¶ 11-13.

1 designees. Class Counsel reviewed thousands of pages of documents and data⁶⁰ and also
2 interviewed and obtained information from Plaintiff and other Class Members, researched
3 applicable law, undertook damages/valuation calculations, and met and conferred with
4 Defendant's counsel regarding the pleadings, discovery, and the production of documents and
5 data prior to mediation.⁶¹ Counsel for the Parties also undertook extensive settlement
6 discussions, which included participating in a formal, full-day mediation.⁶²

7 Class Counsel is well-experienced in wage-and-hour class action litigation and used that
8 experience to obtain a great result for the Class.⁶³

9 The Settlement establishes a Maximum Settlement Amount of five hundred thousand
10 dollars and no cents (\$500,000.00), and provides for Class Counsel to apply to the Court for the
11 Class Counsel Award, consisting of attorneys' fees in an amount not to exceed thirty-five
12 percent (35%) of the Maximum Settlement Amount (i.e., \$175,000.00) and an amount not to
13 exceed twenty-five thousand dollars and no cents (\$25,000.00) for costs and expenses.⁶⁴ The
14 attorneys' fees provided for by the Settlement is commensurate with: (1) the risk that Class
15 Counsel took in bringing and litigating the case, (2) the extensive time, effort and expense that
16 Class Counsel dedicated to the case, (3) the skill and determination that Class Counsel has
17 shown, (4) the results that Class Counsel has achieved throughout the litigation, (5) the value of
18 the Settlement that Class Counsel has achieved for the Class Members, and (6) the other cases
19 that Class Counsel had to turn down in order to devote its time and efforts to this matter. The
20 proposed Notice Packet provides Class Members with information about the amount allocated
21 toward the Class Counsel Award, and that an award of the Class Counsel Award will be sought,
22 as provided for by the Settlement.⁶⁵

23 Trial courts have "wide latitude" in assessing the value of attorneys' fees and their
24 decisions will "not be disturbed on appeal absent a manifest abuse of discretion." *Lealao v.*

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26 ⁶⁰ Rose Decl., ¶ 12.

27 ⁶¹ *Ibid.*

28 ⁶² *Id.*, ¶ 11.

⁶³ *Id.*, ¶¶ 2-7.

⁶⁴ Settlement Agreement, §§ A.4 & C.3.

⁶⁵ *Id.*, Exh. A.

1 *Beneficial Cal., Inc.* (2000) 82 Cal.App.4th 19, 41. Indeed, it is long settled that the
2 “experienced trial judge is the best judge of the value of professional services rendered in his
3 court.” *Ketchum v. Moses* (2001) 24 Cal.4th 1122, 1132. California law provides that attorney
4 fee awards should be equivalent to fees paid in the legal marketplace to compensate for the result
5 achieved and risk incurred. *Laffitte v. Robert Half Int’l, Inc.* (2016) 1 Cal.5th 480, 503 (citing
6 *Lealao, supra*, 82 Cal.App.4th at 48-49). In *Lealao*, the court held that when an action leads to
7 a recovery that can be “monetized” with a reasonable degree of certainty, the trial court should
8 “ensure that the fee awarded is within the range of fees freely negotiated in the legal marketplace
9 in comparable litigation.” *Id.* at 50. In cases where class members present claims against a
10 settlement fund and the settlement agreement provides that the defendant agrees to paying the
11 attorneys a percentage of the same, use of that percentage method is appropriate. *Id.* at 32.

12 The propriety of calculating and awarding attorneys’ fees as a percentage of a settlement
13 that has, by litigation, been preserved or recovered for the benefit of others, has been confirmed
14 by the California Supreme Court. *Laffitte, supra*, 1 Cal.5th 480 at 486 & 506. The California
15 Supreme Court has taken the position that “[t]rial courts have discretion to conduct a lodestar
16 cross-check on a percentage fee,” “they also retain the discretion to forgo a lodestar cross-check
17 and use other means to evaluate the reasonableness of a requested percentage fee[,]” and “[t]he
18 percentage of fund method survives in California.” *Id.* (internal quotation marks omitted).

19 Historically, courts have awarded fees as high as fifty percent (50%) of the settlement,
20 depending on the circumstances of the case. *Newberg*, § 14.03; see also *In re Ampicillin*
21 *Antitrust Litig.* (D.D.C. 1981) 526 F.Supp. 494 (awarding attorneys’ fees in the amount of 45%
22 of the \$7.3 million settlement); *Beech Cinema, Inc. v. Twentieth-Century Fox Film Corp.*
23 (S.D.N.Y. 1979) 480 F.Supp. 1195 (awarding approximately 53% of the settlement as attorneys’
24 fees). California courts routinely approve class action attorneys’ fee awards “averag[ing] around
25 one-third of the recovery.” *Chavez v. Netflix, Inc.* (2008) 162 Cal.App.4th 43, 66 n.11 (lower
26 court found 20 to 40 percent range of contingency fee in marketplace was appropriate in class
27 actions); see also *Estrada v. Dr. Pepper/Seven-Up*, Los Angeles County Superior Court Case
28

No. BC262247 (May 2005) (wage and hour); *Moore v. IKEA*, Los Angeles County Superior Court Case No. BC263646 (Sept. 2006) (wage and hour).

Class Counsel has borne all of the risks and costs of litigation and will not receive any compensation until recovery is obtained.⁶⁶

Class Counsel will provide extensive evidence as to the time worked, litigation efforts, and further argument at the time of filing Plaintiff's motion for final approval of the Settlement and application for the Class Counsel Award and at the Final Approval Hearing. Considering the work performed and the risks incurred, the attorneys' fees provided for by the Settlement and to be requested by Class Counsel are well within the range of reasonableness.

VIII. THE PROPOSED NOTICE PACKET IS ADEQUATE

California statutory and case law vests the Court with broad discretion in fashioning appropriate class notice. See Cal. Code Civ. Proc. § 1781; *Cartt v. Superior Court* (1975) 50 Cal.App.3d 960, 973-74. A class notice is adequate if it "present[s] a fair recital of the subject matter and proposed terms" of the Settlement. *Mendoza v. United States* (9th Cir. 1980) 623 F.2d 1338, 1351 (quoting *Marshall v. Holiday Magic* (9th Cir. 1977) 550 F.2d 1173, 1177).

The proposed Notice Packet⁶⁷ describes the Settlement, the deadlines and procedures to submit a Notice of Objection, Request for Exclusion, and/or dispute regarding Workweeks, and the date and time set for the Final Approval Hearing.⁶⁸

The proposed Notice Packet fulfills the requirement of neutrality in notice procedure. *Newberg*, at § 8.39. "Sufficient information about the case should be provided to enable class members to make an informed decision about their participation." *Manual for Complex Litigation* § 21.311 at 413 (4th ed. 2004). The proposed Notice Packet summarizes the proceedings to date and the terms and conditions of the Settlement in an informative and coherent manner.⁶⁹ The proposed Notice Packet recognizes that the Court has not yet granted final approval of the settlement.⁷⁰ The proposed Notice Packet also apprises the Class Members

⁶⁶ Rose Decl., ¶ 19.

⁶⁷ Settlement Agreement, Exh. A.

⁶⁸ *Ibid.*

⁶⁹ *Ibid.*

⁷⁰ *Ibid.*

of, *inter alia*, how their Individual Settlement Payment is calculated, and the number of Workweeks credited to them.⁷¹

The proposed Notice Packet satisfies all due process requirements and complies with the standards of fairness, completeness, and neutrality. Fed. R. Civ. P. 23(c)(2) and 23(e); *Newberg*, §§ 8.21, 8.39; *Manual*, §§ 21.311, 21.312; see also *Cartt*, *supra*, 50 Cal.App.3d at 960 (“The essentials of due process of law in class suits would appear to be afforded by fair representation in the assertion of claims of class members against the opposing parties in any lawsuit, and notice of the pending suit.”). Accordingly, the Court should approve the proposed Notice Packet.

IX. APPOINTMENT OF PHOENIX CLASS ACTION ADMINISTRATION
SOLUTIONS AS THE SETTLEMENT ADMINISTRATOR

The Parties have selected Phoenix to administer the Settlement.

The Settlement Administrator will mail the Notice Packet to each Class Member by First-Class U.S. Mail.⁷² Any Notice Packets returned to the Settlement Administrator as non-deliverable on or before the Response Deadline shall be re-sent promptly via regular First-Class Mail to the forwarding address affixed thereto and the Settlement Administrator shall include the date of such re-mailing on the Notice Packet.⁷³ If no forwarding address is provided, the Settlement Administrator shall promptly attempt to determine the correct address using a skip-trace, or other search using the name and/or address of the Class Member involved and shall then perform a re-mailing.⁷⁴ Those Class Members who receive a re-mailed Notice Packet shall have their Response Deadline extended fifteen (15) days from the original Response Deadline.⁷⁵ The Settlement Administrator will receive and process Requests for Exclusion, Notices of Objection, and any disputes regarding Workweeks.⁷⁶

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⁷¹ Settlement Agreement, Exh. A.

⁷² *Id.*, § C.11.

⁷³ *Id.*, § C.15.

⁷⁴ *Ibid.*

⁷⁵ *Ibid.*

⁷⁶ *Id.*, §§ C.16, C.18, & C.33.

The Settlement Administrator will calculate the amounts of the Individual Settlement Payments; deduct and transmit applicable state and/or federal taxes in connection with the wage portion of Individual Settlement Payments; mail the Settlement Payment Checks to Settlement Class Members; issue W-2 and 1099 forms; calculate and disburse the Class Counsel Award, and LWDA Payment; and perform such other tasks necessary to effectuate the terms of the Settlement Agreement.⁷⁷ The Settlement Administration Costs are not to exceed eight thousand dollars and no cents (\$8,000.00) and will be paid out of the Maximum Settlement Amount, subject to approval by the Court.⁷⁸

Accordingly, Plaintiff respectfully requests that the Court appoint Phoenix Class Action Administration Solutions as the Settlement Administrator and direct the mailing of the Notice Packet to the Class Members in the manner outlined and based on the proposed deadlines as described herein and set forth in the Settlement Agreement.

X. PROPOSED DEADLINES FOR THE NOTICE PROCESS

At this preliminary approval stage, plaintiffs seek approval of the proposed deadlines for the notice and settlement administration process. *Newberg*, at § 11.26. The notice process entails mailing of the Notice Packet, in the form approved by the Court, to all known and reasonably ascertainable Class Members based on Defendant's records.⁷⁹

Within ten (10) business days of the Court's order granting preliminary approval of the Settlement, Defendant shall provide the Settlement Administrator with a list of all Class Members, which shall include each Class Member's full name, last known home address, Social Security number, beginning and ending dates of employment, and number of Workweeks (collectively, "Class List and Data").⁸⁰

Within five (5) business days of receiving the Class List and Data from Defendant, the Settlement Administrator shall mail a Notice Packet to all Class Members via regular First-Class U.S. Mail, using the most current, known mailing addresses identified in the Class List and

⁷⁷ Settlement Agreement, § C.5; Rose Decl., ¶ 15.

⁷⁸ Settlement Agreement, §§ A.28 & C.5.

⁷⁹ *Id.*, §§ C.12 & C.14.

⁸⁰ *Id.*, § A.5.

Data.⁸¹ Any Notice Packets returned to the Settlement Administrator as non-deliverable on or before the Response Deadline shall be re-sent promptly via regular First-Class Mail to the forwarding address affixed thereto and the Settlement Administrator shall include the date of such re-mailing on the Notice Packet.⁸² If no forwarding address is provided, the Settlement Administrator shall promptly attempt to determine the correct address using a skip-trace, or other search using the name and/or address of the Class Member involved and shall then perform a re-mailing.⁸³ Those Class Members who receive a re-mailed Notice Packet shall have their Response Deadline extended fifteen (15) days from the original Response Deadline.⁸⁴ Class Members will have until the applicable Response Deadline to submit a Request for Exclusion, dispute regarding Workweeks, and/or Notice of Objection.⁸⁵

Within thirty (30) calendar days after the Effective Date, Defendant shall make a one-time deposit of the Maximum Settlement Amount into a Qualified Settlement Fund to be established by the Settlement Administrator.⁸⁶ No earlier than the Effective Date, and no later than forty-five (45) calendar days after the Effective Date, the Settlement Administrator shall issue payments to (1) Settlement Class Members; (2) the LWDA; (3) Plaintiff; and (4) Class Counsel.⁸⁷ The Settlement Administrator shall also issue a payment to itself for services performed in connection with the Settlement.⁸⁸

Any Settlement Payment Checks issued by the Settlement Administrator to Settlement Class Members shall be valid and negotiable for not less than one hundred eighty (180) calendar days from the date of their issuance, and thereafter, shall be cancelled.⁸⁹ All Settlement Payment Checks to Settlement Class Members that remain un-cashed after one hundred eighty (180) calendar days of the mailing of Settlement Payment Checks by the Settlement Administrator shall be paid out pursuant to California Code of Civil Procedure section 384 to the following cy

⁸¹ Settlement Agreement, § C.12.

⁸² *Id.*, § C.15.

⁸³ *Ibid.*

⁸⁴ *Ibid.*

⁸⁵ *Id.*, §§ C.16, C.18, & C.33.

⁸⁶ *Id.*, § C.2.

⁸⁷ *Id.*, § C.21.

⁸⁸ *Ibid.*

⁸⁹ *Id.*, § C.22.

pres recipient: Legal Services of Northern California.⁹⁰

**XI. APPOINTMENT OF CLASS REPRESENTATIVE AND ALLOCATION FOR
ENHANCEMENT PAYMENT**

Plaintiff Candace Evans respectfully requests that the Court appoint her as the Class Representative and preliminarily approve the Enhancement Payment in an amount up to seven thousand five hundred dollars and no cents (\$7,500.00) to Plaintiff Candace Evans.⁹¹ It is within the Court's discretion to award payment to a class representative for their efforts and work. *Vranken v. Atlantic Richfield Co.* (N.D. Cal. 1995) 901 F.Supp. 294, 299 (approving \$50,000 participation award to a single class representative). The factors that courts may consider in determining whether to make an enhancement payment include: (1) the risk to the class representative in commencing suit, both financial and otherwise; (2) the notoriety and personal difficulties encountered by the class representative; (3) the amount of time and effort spent by the class representative; (4) the duration of the litigation; and (5) the personal benefit (or lack thereof) enjoyed by the class representative as a result of the litigation. *Id.*

The Enhancement Payment is fair and appropriate. Plaintiff spent a substantial amount of time and effort in producing relevant documents and past employment records and providing the facts and evidence necessary to attempt to prove the allegations.⁹² For example, Plaintiff expended effort to review and provide responses and objections to multiple sets of discovery requests that were propounded by Defendant.⁹³ Plaintiff was available whenever Class Counsel needed her and actively tried to obtain and provide information that would benefit the Class.⁹⁴ Accordingly, it is appropriate and just for Plaintiff to receive an Enhancement Payment for her services on behalf of the Class, in addition to her Individual Settlement Payment.

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⁹⁰ Settlement Agreement, § C.22.

⁹¹ *Id.*, § C.4.

⁹² Rose Decl., ¶ 20; Declaration of Candace Evans in Support of Plaintiff's Motion for Preliminary Approval of Class Action Settlement ("Evans Decl."), ¶ 4.

⁹³ Rose Decl., ¶ 20; Evans Decl., ¶ 4.

⁹⁴ Rose Decl., ¶ 20; Evans Decl., ¶¶ 3-4.

XII. CONCLUSION

For the foregoing reasons, Plaintiff respectfully requests that the Court grant preliminary approval of the Settlement; conditionally certify the Class for settlement purposes; preliminary appoint and designate Edwin Aiwasian, Arby Aiwasian, and Joanna Ghosh of Lawyers for Justice, PC as Class Counsel; preliminary appoint and designate Plaintiff Candace Evans as Class Representative; appoint Phoenix Class Action Administration Solutions as the Settlement Administrator; preliminarily approve the allocations for Class Counsel Award, Enhancement Payment, LWDA Payment, and Settlement Administration Costs; approve the proposed Notice Packet; direct the Settlement Administrator to undertake the notice and settlement administration process in conformity with the deadlines and procedures provided by the Settlement Agreement; schedule a Final Approval Hearing to take place in approximately six (6) months; and permit the filing of a memorandum that exceeds the page limit.

Dated: April 18, 2022

LAWYERS for JUSTICE, PC

By:



Alexandra Rose
Attorneys for Plaintiff