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SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES – SPRING STREET COURTHOUSE

GREGORY SCHAEFER, 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.

DENSO PRODUCTS AND SERVICES
AMERICAS, INC., a California corporation;
and DOES 1 through 100, inclusive,

Defendants.

Case No.: 19STCV00685

Honorable Elihu M. Berle
Department SSC6

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
(Edwin Aiwazian); Declaration of
Proposed Class Representative (Gregory
Schaefer); and [Proposed] Order filed
concurrently herewith]

Date: September 25, 2020
Time: 10:00 a.m.
Department: SSC6

Complaint Filed: January 10, 2019
FAC Filed: August 13, 2020
Trial Date: None Set

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

PLEASE TAKE NOTICE that on September 25, 2020 at 10:00 a.m. or as soon thereafter as the matter may be heard before the Honorable Elihu M. Berle in Department SSC6 of the Superior Court of California for the County of Los Angeles, located at Spring Street Courthouse, 312 North Spring Street, Los Angeles, California 90012, Plaintiff Gregory Schaefer (“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 Action and PAGA Settlement (“Settlement,” “Agreement,” or “Settlement Agreement”), attached as “**EXHIBIT A**” to the Declaration of Edwin Aiwazian, 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, Service Award to Plaintiff, and Settlement Administration Costs to the Settlement Administrator;
- Conditionally certifying the Class for settlement purposes;
- Preliminarily appointing Plaintiff Gregory Schaefer as Class Representative;
- Preliminarily appointing Lawyers *for* Justice, PC as Class Counsel;
- Approving the proposed Notice of Class Action Settlement (“Class Notice”), attached as “**EXHIBIT 1**” to the [Proposed] Order Granting Preliminary Approval of Class Action Settlement;
- Directing the mailing of the Class Notice to the Class Members;
- Approving the proposed deadlines for the notice and settlement administration process;
- Approving Atticus Administration, LLC as the Settlement Administrator; and
- 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, Service Award for Plaintiff, and

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Settlement Administration Cost to Settlement Administrator.

This motion is made pursuant to Rule 3.769 of the California Rules of Court, which provides for approval by the Court of the settlement of a putative class action and allows the Court to preliminarily certify a class for settlement purposes.

This motion is based upon the following memorandum of points and authorities, the Settlement Agreement, the Declarations of Proposed Class Counsel (Edwin Aiwarzian) and Proposed Class Representative (Gregory Schaefer) 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: August 26, 2020

LAWYERS for JUSTICE, PC

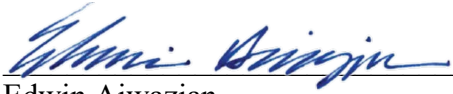
By: 
Edwin Aiwarzian
Attorneys for Plaintiff

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MEMORANDUM OF POINTS AND AUTHORITIES

I. SUMMARY OF MOTION

Plaintiff Gregory Schaefer (“Plaintiff” or “Class Representative”) seeks preliminary approval of the Joint Stipulation of Class Action and PAGA 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 Denso Products and Services Americas, 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 one million seven hundred fifty thousand dollars (\$1,750,000.00).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 Service Award of seven thousand and five hundred dollars (\$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 \$612,500.00, and reimbursement of litigation costs and expenses not to exceed twenty thousand dollars (\$20,000.00)⁴; (4) the Settlement Administration Cost to the Settlement Administrator in the amount not to exceed fifteen thousand dollars (\$15,000.00);⁵ and (5) the amount of three hundred thousand dollars (\$300,000.00) allocated to penalties under the Private Attorneys General Act (“PAGA”), of which 75% (i.e., \$225,000.00) will be distributed to the Labor and Workforce Development Agency (“LWDA”) and 25% (i.e., \$75,000.00) will be distributed to Settlement Class Members as a part of the Net Settlement Amount.⁶

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

¹ Settlement Agreement, attached as “**EXHIBIT A**” to Declaration of Edwin Aiwazian (“Aiwazian Decl.”), §§ I.O & III.N.

² *Id.*, §§ I.P & III.N.2.

³ *Id.*, §§ I.CC & III.N.3.a.

⁴ *Id.*, §§ I.C & III.N.4.

⁵ *Id.*, § III.N.6.

⁶ *Id.*, §§ I.N & III.N.5.

All current and former hourly-paid or non-exempt employees who worked for Defendant within the State of California at any time during the period from January 10, 2015 through June 2, 2020 (“Class” or “Class Members”).⁷

The Class is estimated to consist of approximately three hundred and ninety-eight (398) individuals.⁸

Class Members who do not submit a timely and valid request to be excluded from the Settlement (“Settlement Class Members”) will receive a share of the Net Settlement Amount (“Individual Settlement Payment”) on a *pro rata* basis based upon the number of workweeks each Settlement Class Member was employed by Defendant in California as an hourly-paid or non-exempt employee in California during the period from January 10, 2015 through June 2, 2020 (“Qualifying Workweeks”).⁹

The Settlement resolves the Released Claims of Plaintiff and Settlement Class Members, against the Released Parties.¹⁰

II. PROCEDURAL HISTORY AND FACTUAL BACKGROUND

Defendant is an automotive sales and distribution company that supplies parts for original equipment service dealers and independent aftermarket service centers and retailers throughout California. Plaintiff Gregory Schaefer is a former employee of Defendant.

On January 10, 2019, Plaintiff filed a Class Action Complaint for Damages in the Los Angeles County Superior Court (“Court”), thereby commencing the above-captioned lawsuit (“Action”).

On April 17, 2019, Defendant filed its Answer and Affirmative Defenses to Plaintiff’s Class Action Complaint for Damages.

On August 13, 2020 Plaintiff filed a First Amended Class Action Complaint for Damages and Enforcement Under the Private Attorneys General Act, Cal. Labor Code § 2698 Et Seq. (“Operative Complaint”). Plaintiff’s core allegation is that Defendant has violated the

⁷ Settlement Agreement, § I.E. “Class Period” is defined as the time period from January 10, 2015 through June 2, 2020. *See id.*, § I.F.

⁸ Aiwazian Decl., ¶ 9; *see also*, Settlement Agreement § I.E.

⁹ Settlement Agreement, §§ I.M, I.W, I.FF, & III.N.2.a.

¹⁰ *See id.* at § I.Y, for the full scope of the “Released Claims,” and *id.* at § I.Z for the definition of the “Released Parties.”

California Labor Code by engaging in a uniform practice and procedure, with respect to Plaintiff and the Class Members, of, *inter alia*, failing to pay all overtime and minimum wages, failing to provide compliant meal and rest periods and associated premium pay, failing to timely pay wages during employment and upon termination of employment, failing to provide compliant wage statements, failing to maintain requisite payroll records, and failing to reimburse necessary business expenses, and thereby engaged in unfair business practices in violation of California Business and Professions Code section 17200, *et seq.* and conduct that gives rise to penalties pursuant to PAGA. Plaintiff contends that he, and the Class Members, are entitled to, *inter alia*, unpaid wages, penalties (including and not limited to, penalties pursuant to PAGA), and attorneys' fees.

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

The Parties have actively litigated the Action since it was commenced on January 10, 2019. On March 2, 2020, the Parties participated in a formal, full-day mediation conducted by Louis Marlin, 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 timely and valid request to be excluded from the Settlement (i.e., Settlement Class Member) 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 six hundred twelve thousand five hundred dollars (\$612,500.00) (i.e., up to 35% of the Maximum Settlement Amount) and reimbursement of

¹¹ Settlement Agreement, §§ III.C & III.N.

litigation costs and expenses in an amount not to exceed twenty thousand dollars (\$20,000.00) to Class Counsel (collectively referred to as the “Class Counsel Award”); (2) settlement administration costs, which are not to exceed fifteen thousand dollars (\$15,000.00) to the Settlement Administrator (“Settlement Administration Cost”); (3) payment to the LWDA of its 75% share of the PAGA Payment (i.e., \$225,000.00 out of \$300,000.00) (“LWDA Payment”); and (4) payment in the amount of seven thousand and five hundred dollars (\$7,500.00) to Plaintiff Gregory Schaefer (“Service Award”).¹² The Parties have agreed to retain Atticus Administration, LLC (“Atticus” or “Settlement Administrator”) to handle the notice and settlement administration process.¹³

The Parties have agreed that the Settlement Administrator will determine each Settlement Class Member’s share of the available Net Settlement Amount (“Individual Settlement Payment”), in accordance with the Settlement Agreement, by dividing each Settlement Class Member’s Qualifying Workweeks by the total number of Qualifying Workweeks for all Settlement Class Members to determine the payment ratio (“Payment Ratio”) for each Settlement Class Member, and then multiplying each Settlement Class Member’s Payment Ratio by the Net Settlement Amount.¹⁴

Each Settlement Class Member’s Individual Settlement Payment will be allocated as twenty percent (20%) wages (the “wage portion”), which will be reported on an IRS Form W-2; and eighty percent (80%) penalties and interest, which will be reported on an IRS Form 1099 (if applicable).¹⁵ Settlement Class Members are responsible for the payment of any taxes and penalties assessed on the Individual Settlement Payments.¹⁶ Defendant will pay the employer’s share of taxes due and owing on the wages portion of Individual Settlement Payments (“Employer Taxes”) separately and in addition to the Maximum Settlement Amount.¹⁷

¹² Settlement Agreement, § I.P; see also, §§ I.O, I.C, I.N, & I.CC.

¹³ *Id.*, § I.EE.

¹⁴ *Id.*, § III.N.2.a.

¹⁵ *Id.*, § III.N.2.b.

¹⁶ *Id.*, § III.I.

¹⁷ *Id.*, §§ III.B & III.N.

1 The Individual Settlement Payment checks issued to Settlement Class Members will
2 remain valid and negotiable for one hundred eighty (180) calendar days from the date of
3 issuance.¹⁸ Individual Settlement Payment checks that are not cashed or deposited within the
4 180-day period will be cancelled.¹⁹ The funds represented by such cancelled checks will be
5 distributed to the Controller of the State of California, Unclaimed Property Fund, for the benefit
6 of those Settlement Class Members who did not cash their checks until such time that they claim
7 their property.²⁰

8 Class Members who wish to be excluded from the Settlement (i.e., opt out) must submit
9 a timely and valid written request to be excluded from the Settlement (“Request for Exclusion”) to the Settlement Administrator.²¹ To be timely, the Class Member must mail a Request for Exclusion to the Settlement Administrator, postmarked on or before the date that is sixty (60) calendar days from the initial mailing of the Class Notice (“Response Deadline”), and in the case of a re-mailed Class Notice, an additional fifteen (15) calendar days from the original Response Deadline.²² A Request for Exclusion must contain: (a) the Class Member’s full name, address, and signature, and the last four (4) digits of his or her Social Security number and/or Employee ID number; (b) the case name and number of the Action; and (c) the following statement, or something substantially similar: “I wish to opt out of the settlement of the class action lawsuit entitled *Schaefer v. Denso Products and Services Americas, Inc.*, Los Angeles County Case No. 19STCV00685. I understand that by requesting to be excluded from the Settlement, I will receive no money from the Settlement.”²³ Class Members who submit a valid and timely request for exclusion will not be bound by the terms of the Settlement or have any right to object, appeal, or comment thereon.²⁴

18 Settlement Agreement, § III.N.2.d.

19 *Ibid.*

20 *Ibid.*

21 *Id.*, §§ I.AA, III.M. 4, & III.M.7.

22 *Id.*, §§ I.BB & III.M.7.

23 *Id.*, § III.M.7.

24 *Ibid.*

Only Class Members who do not exclude themselves from the Settlement (i.e., Settlement Class Members) have standing to object to the Settlement.²⁵ Settlement Class Members who wish to object to the Settlement must submit a written objection (“Notice of Objection”) to the Settlement Administrator by the Response Deadline.²⁶ A Notice of Objection must: (a) contain the Settlement Class Member’s full name, address, and signature, and the last four digits of the Settlement Class Member’s Social Security number and/or Employee ID number; (b) contain the case name and number of the Action; (c) clearly state that the Settlement Class Member objects to the Settlement and the factual and legal basis for his or her objection; and (d) if the Settlement Class Member is represented by counsel, the contact information for such counsel.²⁷ The Settlement Administrator will send all Notices of Objection to Class Counsel and Defense Counsel within two (2) business days of receipt.²⁸ Class Counsel will file the Notices of Objection with the Court prior to the Final Approval Hearing.²⁹

Class Members who wish to dispute their dates of employment and/or number of Qualifying Workweeks credited to them in their Class Notice may do so by mailing a written dispute (“Qualifying Workweek Dispute”) to the Settlement Administrator, postmarked by the Response Deadline.³⁰ A valid Qualifying Workweek Dispute must contain: (a) the Class Member’s full name, mailing address, and signature, and the last four (4) digits of his or her Social Security number; (b) the case name and number of the Action; (c) a statement clearly setting forth the number of Qualifying Workweeks the Class Member contends is correct and attach all documentation supporting his or her contention.³¹

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

²⁵ Settlement Agreement, § III.M.8.

²⁶ *Ibid.*

²⁷ *Ibid.*

²⁸ *Ibid.*

²⁹ *Ibid.*

³⁰ *Id.*, § III.M.5.

³¹ *Ibid.*

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

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

17 Preliminary approval of a settlement does not require a court to make a final
18 determination that the settlement is fair, reasonable, and adequate. Rather, that decision is made
19 only at the final approval stage, after notice of the settlement has been given to the class members
20 and they have had an opportunity to voice their views of the settlement or to exclude themselves
21 from the settlement. Cal. R. Ct. 3.769(g).

22 In considering a potential class settlement, a court need not reach any ultimate
23 conclusions on the issues of fact and law which underlie the merits of the dispute and need not
24 engage in a trial on the merits. See *City of Detroit v. Grinnell Corporation* (2d Cir. 1974) 495
25 F.2d 448, 456; *Officers for Justice v. Civil Service Commission of City and County of San*
26 *Francisco* (9th Cir. 1982) 688 F.2d 615, 625. Neither formal notice nor a hearing is required
27 for the trial court to grant provisional class certification and preliminary approval; the court may
28 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 January 10, 2019. 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.³²

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³² Aiwazian Decl., ¶¶ 11-13.

Prior to engaging in mediation, Class Counsel conducted significant investigation 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.³³ The volume of data and documents that Class Counsel reviewed and analyzed included and was not limited to: employment records of Plaintiff, a detailed sampling of Class Members' time and pay data, multiple iterations of Defendant's Associate Handbook, Employee Handbook, Standard Operating Procedure (including Rest and Meal Periods for Non-Exempt Associates, Wage and Salary, Overtime Pay, Associate Time Record System, Mileage Reimbursement Policy, Travel Policy, and Code of Business Conduct, Dress for the Day Policy), company policy acknowledgements, Employee Uniform/Shoe Safety Agreement, arbitration agreement, internal memoranda, Defendant's operations and employment practices, procedures, and policies, among other information and documents.³⁴ Class Counsel interviewed Plaintiff to gather facts and to identify potential witnesses.³⁵ Counsel for the Parties 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.³⁶ Class Counsel drafted Plaintiff's mediation brief and prepared for and attended court proceedings, settlement negotiations, and the mediation, among other tasks.³⁷

The Parties engaged in extensive settlement negotiations and participated in a formal, full-day mediation conducted by Louis Marlin, Esq., a well-respected mediator experienced in mediating complex labor and employment matters.³⁸ 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

³³ Aiwazian Decl., ¶ 12.

³⁴ *Ibid.*

³⁵ *Ibid.*

³⁶ *Ibid.*

³⁷ *Ibid.*

³⁸ *Id.*, ¶ 11.

theory, meal and rest periods, wage-and-hour enforcement, and PAGA representative claims, as well as the evidence produced and analyzed, and the possibility of appeals, among other things.³⁹ During all settlement discussions, the Parties conducted their negotiations at arm's length in an adversarial position.⁴⁰ 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.⁴¹ After conducting investigations, significant informal discovery, extensive settlement negotiations, and with the aid of the mediator's evaluation, the Parties have agreed that the matter is well-suited for settlement given the legal issues relating to Plaintiff's principal claims, as well as the costs and risks to both sides that would attend further litigation.⁴²

The Settlement takes into account the strengths and weaknesses of each side's position and the uncertainty of how the case might have concluded at certification and trial.⁴³ The Parties have had the opportunity to interview and obtain information from their respective witnesses.⁴⁴ Counsel for the Parties have also reviewed documents and information relating to Plaintiff's and the Class Members' employment with Defendant and performed significant research into the law concerning class certification, PAGA representative actions, off-the-clock theory, meal and rest periods, wage-and-hour enforcement, Plaintiff's claims, and Defendant's defenses thereto, as well as facts discovered.⁴⁵ The Parties have reached the Settlement based on this large volume of facts, evidence, and investigation. In addition, Class Counsel has extensive experience in employment class actions, including significant experience in California wage-and-hour litigation.⁴⁶

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³⁹ Aiwazian Decl., ¶ 11

⁴⁰ *Ibid.*

⁴¹ *Id.*, ¶¶ 11, 16-18.

⁴² *Ibid.*

⁴³ *Ibid.*

⁴⁴ *Ibid.*

⁴⁵ *Id.*, ¶¶ 11-13 & 16-18.

⁴⁶ *Id.*, ¶¶ 6-7.

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

2 The Settlement, which provides for a Maximum Settlement Amount of one million seven
3 hundred fifty thousand dollars (\$1,750,000.00), represents a fair, adequate, and reasonable
4 resolution of the matter.⁴⁷ The Settlement was calculated using the information and data
5 uncovered during litigation, case investigation, as well as the informal exchange of
6 information.⁴⁸ The Settlement takes into account the potential risks and rewards inherent in any
7 case and, in particular, in the case at issue.⁴⁹ Moreover, considering all of the facts and
8 circumstances of the lawsuit, the Settlement represents a fair, reasonable, and adequate recovery
9 for the Class.⁵⁰

10 Assuming that the Class Counsel Award, Service Award, LWDA Payment, and
11 Settlement Administration Cost are approved by the Court and paid in the full amounts provided
12 for by the Settlement, the Settlement provides for a Net Settlement Amount that is currently
13 estimated to be eight hundred and seventy thousand dollars (\$870,000).⁵¹ As discussed in Part
14 III, *supra*, the entire Net Settlement Amount will be fully paid out to the Settlement Class
15 Members, in accordance with the Settlement Agreement. The amount of each Settlement Class
16 Member's Individual Settlement Payment will be calculated based on his or her Qualifying
17 Workweeks.⁵² There is no reason to doubt the fairness of the proposed plan of allocation of
18 the settlement funds for purposes of preliminary approval. Even at the final approval stage,
19 "[a]n allocation formula need only have a reasonable, rational basis [to warrant approval],
20 particularly if recommended by experienced and competent class counsel." *In re American*
21 *Bank Note Holographics, Inc., Securities Litigation* (S.D.N.Y. 2001) 127 F.Supp.2d 418, 429-
22 30.

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26 ⁴⁷ Aiwazian Decl., ¶¶ 11, 13, 14 & 21.

27 ⁴⁸ *Id.*, ¶¶ 11-13.

28 ⁴⁹ *Id.*, ¶¶ 16-18.

⁵⁰ *Id.*, ¶¶ 11, 13, & 21.

⁵¹ *Id.*, ¶ 14.

⁵² Settlement Agreement, § III.N.2.a.

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.⁵³ 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 informal discovery and exchanged thousands of pages of documents, data, and information prior to mediation.⁵⁴ The documents and information that Class Counsel obtained from Defendant and through other sources allowed 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.⁵⁵ As outlined in the Declaration of Edwin Aiwazian, Class Counsel performed an extensive analysis of each and every claim pursuant to *Kullar* prior to entering into the Settlement.⁵⁶

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.⁵⁷ 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.*

⁵³ Aiwazian Decl., ¶¶ 11, 13, & 21.

⁵⁴ *Id.*, ¶¶ 11-13 & 18.

⁵⁵ *Id.*, ¶ 18.

⁵⁶ *Id.*, ¶¶ 11-13 & 16-18.

⁵⁷ Settlement Agreement, § III.H.

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

This action involves a class of approximately three hundred and ninety-eight (398) individuals.⁵⁸ This class is sufficiently numerous. *See Rose v. City of Hayward* (1981) 126 Cal.App.3d 926, 934-35 (indicating that a class of 30 to 40 individuals satisfies the numerosity requirement as joinder is not practical at that point). Further, all Class Members can and will be identified by Defendant to the Settlement Administrator through a review of Defendant's employment records regarding hourly-paid and non-exempt employees in California during the Class Period. As such, the Class is ascertainable and sufficiently numerous.

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

The community of interest requirement "embodies three factors: (1) predominant common questions of law or fact; (2) class representative with claims or defenses typical of the class; and (3) class representative who can adequately represent the class." *Sav-On, supra*, 34

⁵⁸ Aiwazian Decl., ¶ 9.

1 Cal.4th at 326. “[T]he community of interest requirement for certification *does not mandate*
2 *that class members have uniform or identical claims.*” *Capitol People First v. Dep’t of*
3 *Developmental Services* (2007) 155 Cal.App.4th 676, 692 (emphasis in original). Rather, courts
4 focus on the defendant’s internal policies and “pattern and practice . . . in order to assess whether
5 that common behavior toward similarly situated plaintiff renders class certification appropriate.”
6 *Id.* (citing *Sav-On, supra*, 34 Cal.4th at 333).

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

12 Here, common issues of fact and law predominate as to each of the claims alleged and
13 asserted in the Operative Complaint. Based on the documents and information obtained through
14 informal discovery and exchange of information in this case, Plaintiff contends that Class
15 Members were subject to the same or similar uniform operations and employment practices,
16 policies, and procedures during the time period at issue.⁵⁹ Plaintiff’s claims arise from
17 Defendant’s alleged uniform policy and systematic scheme, with respect to Plaintiff and the
18 Class Members, of, *inter alia*, failing to properly pay overtime and minimum wages for all hours
19 worked, failing to provide compliant meal and rest periods and associated premium pay, failing
20 to timely pay wages during employment and upon termination of employment, failing to provide
21 compliant wage statements, failing to keep requisite payroll records, and failing to reimburse
22 necessary business-related expenses.⁶⁰

23 Plaintiff also contends that Defendant’s payroll and recordkeeping practices with respect
24 to Plaintiff and the Class Members were substantially the same during the time period at issue.⁶¹
25 As a result, Plaintiff claims that all of the Class Members were uniformly not paid all
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27 ⁵⁹ Aiwazian Decl., ¶ 16.

28 ⁶⁰ *Ibid.*

⁶¹ *Ibid.*

1 compensation due to them from Defendant during the time period at issue.⁶²

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

6 **VII. APPOINTMENT OF CLASS COUNSEL AND ALLOCATION FOR CLASS**
7 **COUNSEL AWARD**

8 Class Counsel has litigated the matter since January 10, 2019 and was actively preparing
9 the matter for class certification and trial.⁶³ The ongoing work has been extensive, demanding,
10 and ultimately successful in achieving a substantial settlement resolution. Class Counsel
11 conducted extensive investigations into the facts of the case and informal discovery. Class
12 Counsel reviewed thousands of pages of documents and data⁶⁴ and also interviewed and
13 obtained information from Plaintiff, researched applicable law, undertook damages/valuation
14 calculations, and met and conferred with Defendant's counsel regarding the pleadings,
15 discovery, and the production of documents and data prior to mediation.⁶⁵ Counsel for the
16 Parties also undertook extensive settlement discussions, which included participating in a
17 formal, full-day mediation.⁶⁶

18 Class Counsel is well-experienced in wage-and-hour class action litigation and used that
19 experience to obtain a great result for the Class.⁶⁷

20 The Settlement establishes a Maximum Settlement Amount of one million seven hundred
21 fifty thousand dollars (\$1,750,000.00), and provides for Class Counsel to apply to the Court
22 for Class Counsel Award, consisting of attorneys' fees in an amount not to exceed thirty-five
23 percent (35%) of the Maximum Settlement Amount (i.e., \$612,500.00) and an amount not to
24 exceed twenty thousand dollars (\$20,000.00) for litigation costs and expenses.⁶⁸ The attorneys'

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26 ⁶² Aiwazian Decl., ¶ 6

27 ⁶³ *Id.*, ¶¶ 11-13.

28 ⁶⁴ *Id.*, ¶ 12.

⁶⁵ *Ibid.*

⁶⁶ *Id.*, ¶ 11.

⁶⁷ *Id.*, ¶¶ 6-7.

⁶⁸ Settlement Agreement, §§ I.C, I.O, & III.N.4.

1 fees provided for by the Settlement is commensurate with: (1) the risk that Class Counsel took
2 in bringing and litigating the case, (2) the extensive time, effort and expense that Class Counsel
3 dedicated to the case, (3) the skill and determination that Class Counsel has shown, (4) the
4 results that Class Counsel has achieved throughout the litigation, (5) the value of the Settlement
5 that Class Counsel has achieved for the Class Members, and (6) the other cases that Class
6 Counsel had to turn down in order to devote its time and efforts to this matter. The proposed
7 Class Notice provides Class Members with information about the amount allocated toward the
8 Class Counsel Award, and that an award of the Class Counsel Award will be sought, as provided
9 for by the Settlement.⁶⁹

10 Trial courts have “wide latitude” in assessing the value of attorneys’ fees and their
11 decisions will “not be disturbed on appeal absent a manifest abuse of discretion.” *Lealao v.*
12 *Beneficial Cal., Inc.* (2000) 82 Cal.App.4th 19, 41. Indeed, it is long settled that the
13 “experienced trial judge is the best judge of the value of professional services rendered in his
14 court.” *Ketchum v. Moses* (2001) 24 Cal.4th 1122, 1132. California law provides that attorney
15 fee awards should be equivalent to fees paid in the legal marketplace to compensate for the result
16 achieved and risk incurred. *Laffitte v. Robert Half Int’l, Inc.* (2016) 1 Cal.5th 480, 503 (citing
17 *Lealao, supra*, 82 Cal.App.4th at 48-49). In *Lealao*, the court held that when an action leads to
18 a recovery that can be “monetized” with a reasonable degree of certainty, the trial court should
19 “ensure that the fee awarded is within the range of fees freely negotiated in the legal marketplace
20 in comparable litigation.” *Id.* at 50. In cases where class members present claims against a
21 settlement fund and the settlement agreement provides that the defendant agrees to paying the
22 attorneys a percentage of the same, use of that percentage method is appropriate. *Id.* at 32.

23 The propriety of calculating and awarding attorneys’ fees as a percentage of a settlement
24 that has, by litigation, been preserved or recovered for the benefit of others, has been confirmed
25 by the California Supreme Court. *Laffitte, supra*, 1 Cal.5th 480 at 486 & 506. The California
26 Supreme Court has taken the position that “[t]rial courts have discretion to conduct a lodestar
27 cross-check on a percentage fee,” “they also retain the discretion to forgo a lodestar cross-check
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⁶⁹ Settlement Agreement, Exh. 1.

1 and use other means to evaluate the reasonableness of a requested percentage fee[.]” and “[t]he
2 percentage of fund method survives in California.” *Id.* (internal quotation marks omitted).

3 Historically, courts have awarded fees as high as fifty percent (50%) of the settlement,
4 depending on the circumstances of the case. *Newberg*, § 14.03; *see also In re Ampicillin*
5 *Antitrust Litig.* (D.D.C. 1981) 526 F.Supp. 494 (awarding attorneys’ fees in the amount of 45%
6 of the \$7.3 million settlement); *Beech Cinema, Inc. v. Twentieth-Century Fox Film Corp.*
7 (S.D.N.Y. 1979) 480 F.Supp. 1195 (awarding approximately 53% of the settlement as attorneys’
8 fees). California courts routinely approve class action attorneys’ fee awards “averag[ing] around
9 one-third of the recovery.” *Chavez v. Netflix, Inc.* (2008) 162 Cal.App.4th 43, 66 n.11 (lower
10 court found 20 to 40 percent range of contingency fee in marketplace was appropriate in class
11 actions); *see also Estrada v. Dr. Pepper/Seven-Up*, Los Angeles County Superior Court Case
12 No. BC262247 (May 2005) (wage and hour); *Moore v. IKEA*, Los Angeles County Superior
13 Court Case No. BC263646 (Sept. 2006) (wage and hour).

14 Class Counsel has borne all of the risks and costs of litigation and will not receive any
15 compensation until recovery is obtained.⁷⁰

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

21 **VIII. THE PROPOSED CLASS NOTICE IS ADEQUATE.**

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

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⁷⁰ Aiwazian Decl., ¶ 19.

1 The proposed Class Notice⁷¹ describes the Settlement, the deadlines and procedures to
2 file and serve an objection to the Settlement, mail a request for exclusion from the Settlement,
3 and/or mail a dispute regarding Qualifying Workweeks, and the date and time set for the Final
4 Approval Hearing.⁷²

5 The proposed Class Notice fulfills the requirement of neutrality in notice procedure.
6 *Newberg*, at § 8.39. “Sufficient information about the case should be provided to enable class
7 members to make an informed decision about their participation.” *Manual for Complex*
8 *Litigation* § 21.311 at 413 (4th Ed. 2004). The proposed Class Notice summarizes the
9 proceedings to date and the terms and conditions of the Settlement in an informative and
10 coherent manner.⁷³ The proposed Class Notice recognizes that the Court has not yet granted
11 final approval of the settlement.⁷⁴ The proposed Class Notice also apprises the Class Members
12 of, *inter alia*, how their Individual Settlement Payment is calculated and the number of
13 Qualifying Workweeks credited to them.⁷⁵

14 The proposed Class Notice satisfies all due process requirements and complies with the
15 standards of fairness, completeness, and neutrality. Fed. R. Civ. P. 23(c)(2) and 23(e); *Newberg*,
16 §§ 8.21, 8.39; *Manual*, §§ 21.311, 21.312; see also *Cartt, supra*, 50 Cal.App.3d at 960 (“The
17 essentials of due process of law in class suits would appear to be afforded by fair representation
18 in the assertion of claims of class members against the opposing parties in any lawsuit, and
19 notice of the pending suit.”). Accordingly, the Court should approve the proposed Class Notice.

20 **IX. APPOINTMENT OF ATTICUS ADMINISTRATION, LLC AS THE**
21 **SETTLEMENT ADMINISTRATOR**

22 Defendant does not object to Plaintiff’s selection of Atticus Administration, LLC to
23 administer the Settlement.

26 ⁷¹ Settlement Agreement, Exh. 1.

27 ⁷² *Ibid.*

28 ⁷³ *Ibid.*

⁷⁴ *Ibid.*

⁷⁵ *Ibid.*

The Settlement Administrator will mail the Class Notice to each Class Member by First-Class U.S. mail.⁷⁶ Any undeliverable Class Notice that is returned to the Settlement Administrator with a forwarding address on or before the Response Deadline, will be re-mailed to the forwarding address.⁷⁷ With respect to any undeliverable Class Notice returned on or before the Response Deadline without a forwarding address, the Settlement Administrator will attempt to determine a correct address by use of skip-tracing, or other search using the name, address and/or Social Security number of the Class Member, and will re-mail the Class Notice to any address located.⁷⁸ The Settlement Administrator will receive and process Requests for Exclusion, Notices of Objection, and any Qualifying Workweek Disputes.⁷⁹

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 Individual Settlement Payment checks to Settlement Class Members; issue W-2 and 1099 forms; calculate and disburse the Class Counsel Award, Service Award, and LWDA Payment; and perform such other tasks necessary to effectuate the terms of the Settlement Agreement.⁸⁰ The Settlement Administration Cost are currently estimated to be fifteen thousand dollars (\$15,000.00) and will be paid out of the Maximum Settlement Amount, subject to approval by the Court.⁸¹

Accordingly, Plaintiff respectfully requests that the Court appoint Atticus Administration, LLC as the Settlement Administrator and direct the mailing of the Class Notice 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

⁷⁶ Settlement Agreement, §§ III.M.3 & III.N.2.C.

⁷⁷ *Id.*, § III.M.4.

⁷⁸ *Ibid.*

⁷⁹ *Id.*, §§ III.M.7, 8 & 9.

⁸⁰ *Id.*, §§ III.M.7, III.M.8, III.M.9, III.N.2.a, III.N.2.b & III.N.2.c; Aiwazian Decl., ¶ 15.

⁸¹ Settlement Agreement, § III.N.6.

entails mailing of the Class Notice, in the form approved by the Court, to all known and reasonably ascertainable Class Members based on Defendant's records.⁸²

Within twelve (12) calendar days after the date on which the Court enters the Preliminary Approval Order ("Preliminary Approval Date"), Defendant will provide the Settlement Administrator with a Microsoft Excel spreadsheet that contains the following information for each Class Member: (1) full name; (2) employee number; (3) last known address; (4) last known telephone number; (5) Social Security number; (6) start and end dates of employment during the Class Period; and (7) any additional information needed to calculate the Qualifying Workweeks (collectively, "Class Data").⁸³

No later than fourteen (14) calendar days after receipt of the Class Data, the Settlement Administrator will mail the Class Notice to the Class Members via First-Class U.S. Mail.⁸⁴ If a Class Notice is returned to the Settlement Administrator with a forwarding address, the Settlement Administrator will re-send the Class Notice to the forwarding address.⁸⁵ If no forwarding address is provided, then the Settlement Administrator will attempt to determine a correct address by use of skip-trace or other search, and re-mail the Class Notice to the any address located.⁸⁶ Class Members will have until the applicable Response Deadline to mail a Request for Exclusion, Qualifying Workweek Dispute, and/or Notice of Objection to the Settlement Administrator.⁸⁷

Defendant will transmit the Maximum Settlement Amount, together with an amount sufficient to pay Employer Taxes, to the Settlement Administrator, no later than ten (10) calendar days after the Effective Date.⁸⁸ Within twenty-five (25) calendar days of the Effective Date, the Settlement Administrator will distribute: (1) the Individual Settlement Payments to Settlement Class Members; (2) the Court-approved Service Award to Plaintiff; (3) the Court-

⁸² Settlement Agreement, § III.M

⁸³ *Id.*, §§ I.D & III.M.1.

⁸⁴ *Id.*, § III.M.3.

⁸⁵ *Id.*, § III.M.4.

⁸⁶ *Ibid.*

⁸⁷ *Id.*, §§ III.M.7, 8, & 9.

⁸⁸ *Id.*, §§ III.N & III.N.1; see also I.J for definition of "Effective Date."

approved Class Counsel Award to Class Counsel; and (4) the LWDA Payment to the LWDA.⁸⁹ The Settlement Administrator will be paid the Settlement Administration Costs no later than twenty-five (25) calendar days after Defendant provides funds to the Settlement Administrator.⁹⁰

The Individual Settlement Payment checks will remain valid and negotiable for one hundred and eighty (180) calendar days from the date of their issuance.⁹¹ If a Settlement Class Member does not cash his or her settlement check within ninety (90) calendar days, the Settlement Administrator will send a letter to such persons, advising that the check will expire after the 180th day, and invite the Settlement Class Member to request reissuance in the event the check was destroyed, lost or misplaced.⁹² Checks that are not cashed or deposited within the 180-day period will be cancelled.⁹³ The funds associated with such cancelled checks will be distributed by the Settlement Administrator to the Controller of the State of California, Unclaimed Property Fund.⁹⁴

XI. APPOINTMENT OF CLASS REPRESENTATIVE AND ALLOCATION FOR SERVICE AWARD

Plaintiff Gregory Schaefer respectfully requests that the Court appoint him as the Class Representative and preliminarily approve the Service Award in an amount up to seven thousand five hundred dollars (\$7,500.00) to Plaintiff Gregory Schaefer.⁹⁵ 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

⁸⁹ Settlement Agreement, §§ III.N.2, III.N.3, III.N.4, & III.N.5.

⁹⁰ *Id.*, § III.N.6.

⁹¹ *Id.*, § III.N.2.d.

⁹² *Ibid.*

⁹³ *Ibid.*

⁹⁴ *Ibid.*

⁹⁵ *Id.*, § III.N.4.

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.*

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The Service Award 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.⁹⁶ Plaintiff was available whenever Class Counsel needed him and actively tried to obtain and provide information that would benefit the Class.⁹⁷ Accordingly, it is appropriate and just for Plaintiff to receive a Service Award for his services on behalf of the Class, in addition to his Individual Settlement Payment.

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; preliminarily appoint and designate Lawyers for Justice, PC as Class Counsel; preliminarily appoint and designate Plaintiff Gregory Schaefer as Class Representative; appoint Atticus Administration, LLC as Settlement Administrator; preliminarily approve the allocations for Class Counsel Award, Service Award, LWDA Payment, and Settlement Administration Cost; approve the proposed Class Notice; direct the Settlement Administrator to undertake the notice and settlement administration process in conformity with the deadlines and procedures provided by the Settlement Agreement; and schedule a Final Approval Hearing to take place approximately five (5) months after the Preliminary Approval Date.

Dated: August 26, 2020

LAWYERS for JUSTICE, PC

By:


Edwin Aiwazian
Attorneys for Plaintiff

⁹⁶ Aiwazian Decl., ¶ 20; Declaration of Gregory Schaefer in Support of Plaintiff's Motion for Preliminary Approval of Class Action Settlement ("Schaefer Decl."), ¶¶ 3 & 4.

⁹⁷ Aiwazian Decl., ¶ 20; Schaefer Decl., ¶¶ 3-6.