

Edwin Aiwazian (SBN 232943)
Arby Aiwazian (SBN 269827)
Joanna Ghosh (SBN 272479)
Ovsanna Takvoryan (SBN 217435)
LAWYERS for JUSTICE, PC
410 West Arden Avenue, Suite 203
Glendale, California 91203
Tel: (818) 265-1020 / Fax: (818) 265-1021

Attorneys for Plaintiffs

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES – SPRING STREET COURTHOUSE

MIREYA TORRES, IDREES HOLLIS,
CHRISTOPHER GARCIA, CHUMANI
BROWN, 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.

WILLIAMS LEA, INC., a California
corporation; and DOES 1 through 100,
inclusive,

Defendants.

Case No.: 20STCV04508

Honorable Kenneth R. Freeman
Department SSC14

CLASS ACTION

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

[Declaration of Proposed Class Counsel
(Ovsanna Takvoryan); Declarations of
Proposed Class Representatives (Mireya
Torres, Idrees Hollis, Christopher Garcia,
and Chumani Brown); and [Proposed]
Order filed concurrently herewith]

Date: December 15, 2022
Time: 10:00 a.m.
Department: SSC14

Complaint Filed: February 4, 2020
FAC Filed: July 29, 2022
Trial Date: None Set

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

PLEASE TAKE NOTICE that on December 15, 2022 at 10:00 a.m., or as soon thereafter as the matter may be heard before the Honorable Kenneth R. Freeman in Department SSC14 of the Superior Court of California for the County of Los Angeles, located at 312 North Spring Street, Los Angeles, CA 90012, Plaintiffs Mireya Torres, Idrees Hollis, Christopher Garcia, and Chumani Brown (“Plaintiffs” or “Class Representatives”) will, and hereby do, move for an order:

- Granting preliminary approval of the proposed class and representative 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 1**” to the Declaration of Ovsanna Takvoryan 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 (“PAGA Payment”), Class Counsel Fees & Costs, Enhancement Payments, and Settlement Administration Costs;
- Certifying the Class for settlement purposes;
- Appointing Plaintiffs Mireya Torres, Idrees Hollis, Christopher Garcia, and Chumani Brown as Class Representatives;
- Appointing Lawyers *for* Justice, PC as Class Counsel;
- Approving the proposed Notice of Class Action Settlement (“Class Notice”), attached as “**EXHIBIT A**” to the [Proposed] Order Granting Preliminary Approval of Class Action and PAGA Settlement;
- Directing the mailing of the Class Notice to the Class Members;
- Approving the proposed deadlines for the notice and settlement administration process;
- Approving Simpluris, Inc. 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 Fees & Costs, Enhancement Payments, and Settlement Administration Costs, and allocation of the PAGA Payment.

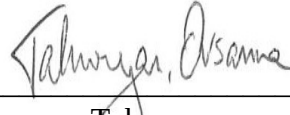
This motion is made pursuant to Rule 3.769 and Rule 3.1113(e) of the California Rules of Court, which require approval by the Court of a class action settlement, allow the Court to preliminarily certify a class for settlement purposes, and permit the Court to extend the page limit for memoranda.

This motion is based upon the following memorandum of points and authorities, the Settlement Agreement, the Declarations of Proposed Class Counsel (Ovsanna Takvoryan) and Proposed Class Representatives (Mireya Torres, Idrees Hollis, Christopher Garcia, and Chumani Brown) 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: September 22, 2022

LAWYERS for JUSTICE, PC

By:



Ovsanna Takvoryan
Attorneys for Plaintiffs

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MEMORANDUM OF POINTS AND AUTHORITIES

I. SUMMARY OF MOTION

Plaintiffs Mireya Torres, Idrees Hollis, Christopher Garcia, and Chumani Brown (“Plaintiffs” or “Class Representatives”) seek preliminary approval of the Joint Stipulation of Class Action and PAGA Settlement (“Settlement,” “Agreement,” or “Settlement Agreement”) entered into by and between Plaintiffs, individually and on behalf of all others similarly situated and other aggrieved employees, on the one hand, and Defendant Williams Lea Inc. (“Defendant”), on the other hand. Subject to approval by the Court, Plaintiffs and Defendant (collectively, the “Parties”) have agreed to settle this lawsuit for a Gross Settlement Amount of Two Million Nine Hundred Thousand Dollars and Zero Cents (\$2,900,000.00).¹ The Gross Settlement Amount includes the following: (1) Individual Settlement Payments to Settlement Class Members²; (2) Enhancement Payments in the amount of Twelve Thousand Five Hundred Dollars (\$12,500.00) to each Plaintiff³; (3) Class Counsel Fees & Costs to Class Counsel, consisting of attorneys’ fees in the amount of thirty-five percent (35%) of the Gross Settlement Amount (i.e., \$1,015,000.00), and reimbursement of litigation costs and expenses not to exceed Twenty Five Thousand Dollars and Zero Cents (\$25,000.00)⁴; (4) Settlement Administration Costs to the Settlement Administrator estimated at Twenty Thousand Dollars (\$20,000.00);⁵ and (5) the amount of Three Hundred Thousand Dollars (\$300,000.00) allocated as penalties under the California Labor Code Private Attorneys General Act of 2004 (“PAGA Payment”), of which 75% (i.e., \$225,000.00) will be distributed to the Labor and Workforce Development Agency (“LWDA Payment”) and 25% (i.e., \$75,000.00) will be distributed to the PAGA Aggrieved Employees (“Net PAGA Penalties”).⁶

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¹ Settlement Agreement, attached as “**EXHIBIT 1**” to Declaration of Ovsanna Takvoryan (“Takvoryan Decl.”), ¶ B.15.

² ¶¶ B.17 & C.10.

³ ¶¶ B.12 & C.5.

⁴ ¶¶ B.2 & C.4.

⁵ ¶¶ B.29 & C.6.

⁶ ¶¶ B.21, C.7, C.8, & C.9.

1 Plaintiffs also seek to provisionally certify the following Class for settlement purposes,
2 which Defendant does not oppose:

3 All current and former non-exempt or hourly employees of Defendant that
4 worked in California at any time from February 4, 2016 through March 16, 2022
("Class" or "Class Members").⁷

5 The Class is estimated to consist of approximately nine hundred and sixty (960)
6 individuals.⁸

7 Class Members who do not submit a timely and valid Request for Exclusion ("Settlement
8 Class Member") will receive a share of the Net Settlement Amount on a *pro rata* basis, based
9 upon the total number of pay periods worked by each Class Member for Defendant in the State
10 of California during the Class Period.⁹ The Net Settlement Amount refers to the Gross
11 Settlement Amount, less the following amounts subject to approval by the Court: Class Counsel
12 Fees and Costs, Settlement Administration Costs, Enhancement Payments, and PAGA
13 Payment.¹⁰

14 All current and former non-exempt or hourly employees of Defendant that worked in
15 California at any time from May 12, 2019 through March 16, 2022 ("PAGA Aggrieved
16 Employees") will receive an Individual PAGA Payment based on the total number of pay
17 periods worked by PAGA Aggrieved Employees during the PAGA Period.¹¹ The aggrieved
18 employees are estimated to consist of approximately four hundred eighty-three (483)
19 individuals.¹²

20 The Settlement resolves the Released Claims of Plaintiffs, Settlement Class Members,
21 and PAGA Aggrieved Employees, against the Released Parties.¹³

22 In order to efficiently present the Court with adequate information to determine whether
23 to grant preliminary approval of the Settlement and provisional certification of the Class for
24

25 ⁷ Settlement Agreement, ¶ B.4.

26 ⁸ Takvoryan Decl., ¶ 9.

27 ⁹ Settlement Agreement, ¶¶ B.17 & C.10.

28 ¹⁰ *Id.*, ¶ B.18.

¹¹ *Id.*, ¶¶ B.20, B.21, B.22, & C.9.

¹² Takvoryan Decl., ¶ 9.

¹³ See *id.* at ¶ B.25, for the full scope of the "Released Claims," and *id.* at ¶ B.26, for the definition of the "Released Parties."

1 settlement purposes, Plaintiffs also move for an order permitting the filing of this memorandum,
2 although it exceeds the page limit established by California Rules of Court, Rule 3.1113(d).

3 **II. PROCEDURAL HISTORY AND FACTUAL BACKGROUND**

4 Defendant is a global company that provides business process outsourcing services to
5 financial, legal, and professional services firms. Plaintiffs Mireya Torres, Idrees Hollis,
6 Christopher Garcia, and Chumani Brown are former employees of Defendant.

7 On February 4, 2020, Plaintiff Mireya Torres filed a Class Action Complaint for
8 Damages in the Los Angeles County Superior Court (“Court”), thereby commencing the above-
9 captioned lawsuit (“*Torres Class Action*”).

10 On May 12, 2020, Plaintiff Mireya Torres provided written notice to the Labor and
11 Workforce Development Agency (“LWDA”) and Defendant giving notice of her intent to
12 pursue civil penalties under the California Private Attorneys General Act, California Labor Code
13 § 2698, Et. Seq. (“PAGA”), on behalf of herself and the State of California.

14 On July 16, 2020, Plaintiff Mireya Torres filed a Complaint for Enforcement Under the
15 Private Attorneys General Act, California Labor Code § 2698, Et Seq. against Defendant, on
16 behalf of the State of California, as a private attorney general, alleging a single cause of action
17 against Defendant for recovery of civil penalties under the California Private Attorneys General
18 Act (“PAGA”), entitled *Mireya Torres v. Williams Lea, Inc.*, Orange County Superior Court
19 Case No. 30-2020-01149249-CU-OE-CXC (the “*Torres PAGA Action*,” and together with the
20 *Torres Class Action*, the “*Actions*”).

21 On July 27, 2020, Defendant filed an Answer to the *Torres Class Action*.

22 Plaintiffs’ core allegation is that Defendant has violated the California Labor Code by
23 engaging in a uniform practice and procedure, with respect to Plaintiffs and the Class Members,
24 of, *inter alia*, failing to pay all overtime and minimum wages, failing to provide compliant meal
25 and rest periods and associated premium pay, failing to timely pay wages during employment
26 and upon termination of employment, failing to provide compliant wage statements, failing to
27 maintain requisite payroll records, and failing to reimburse necessary business expenses, and
28 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 Mireya Torres contends that she, the Class Members, and the PAGA Aggrieved Employees, 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 Actions, and further denies that the Actions are appropriate for class treatment or representative adjudication for any purpose other than for settlement purposes only.

The Parties have actively litigated the Actions since the *Torres* Class Action was commenced on February 4, 2020. The Parties have conducted significant formal and informal discovery and investigation into the claims. Both sides have propounded multiple sets of formal written discovery requests in various forms. On January 6, 2022, Plaintiff Mireya Torres propounded multiple sets of discovery including Requests for Production of Documents, (Set One); Special Interrogatories, (Set One, Two and Three); and Form Interrogatories, (Set One), on Defendant. Thereafter, on March 14, 2022, Defendant responded to Plaintiff Mireya Torres' discovery requests. The Parties engaged in extensive discussions about the strengths and weaknesses of Plaintiff's claims and Defendants' defenses thereto, to try to resolve the Actions.

On September 16, 2021, the Parties participated in a formal, full-day mediation conducted by David Walsh, 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 Actions in their entirety.

On March 16, 2022, Plaintiffs Idrees Hollis, Christopher Garcia, and Chumani Brown provided written notices to the LWDA and Defendant of the specific provisions of the California Labor Code that they contend were violated. On July 29, 2022, Plaintiffs filed a First Amended Class Action Complaint for Damages and Enforcement Under the Private Attorneys General Act, California Labor Code § 2698, Et Seq. in the *Torres* Class Action, adding Idrees Hollis, Chumani Brown, and Christopher Garcia as additional named plaintiffs and effectively

consolidating all of the claims in the *Torres* Class Action and the *Torres* PAGA Action into one complaint (the “Operative Complaint”).

III. SUMMARY OF THE SETTLEMENT TERMS

Under the terms of the Settlement, Defendant will pay a Gross Settlement Amount in the amount of Two Million Nine Hundred Thousand Dollars and Zero Cents (\$2,900,000.00) to resolve the Released Claims of Plaintiffs, PAGA Aggrieved Employees, and 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.¹⁴ Subject to approval by the Court, the Net Settlement Amount will be calculated by deducting the following amounts from the Gross Settlement Amount: (1) attorneys’ fees in an amount not to exceed thirty-five percent (35%) of the Gross Settlement Amount (i.e., \$1,015,000.00), and reimbursement of costs and expenses in an amount not to exceed Twenty-Five Thousand Dollars (\$25,000.00) to Class Counsel (collectively referred to as the “Class Counsel Fees & Costs”); (2) settlement administration costs, which are estimated at Twenty Thousand Dollars (\$20,000.00) to the Settlement Administrator (“Settlement Administration Costs”); (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”); (4) the remaining twenty-five percent (25%) of the PAGA Payment (i.e., \$75,000.00 out of \$300,000.00) (“Net PAGA Penalties”) to be distributed to the PAGA Aggrieved Employees; and (5) Class Representative enhancement payment in the amount of up to Twelve Thousand Five Hundred Dollars (\$12,500.00) each to Plaintiffs Mireya Torres, Mireya Torres, Idrees Hollis, Christopher Garcia, and Chumani Brown (“Enhancement Payments”).¹⁵ The Parties have agreed to retain Simpluris, Inc. (“Simpluris” 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 *pro rata* share of the available Net Settlement Amount (“Individual Settlement Payment”), in accordance with the Settlement Agreement and as follows:

¹⁴ Settlement Agreement, ¶¶ D.2 & D.3.

¹⁵ *Id.*, ¶¶ B.18.

- a. The Settlement Administrator will allocate the Individual Settlement Payments by first dividing the Net Settlement Amount by the total number of pay periods worked by Class Members during the Class Period.¹⁶
- b. That value will then be multiplied by the number of pay periods worked by each respective Class Member during the Class Period.¹⁷
- c. Class Members are entitled to 100% of the Net Settlement Amount. Defendant maintains no reversionary right to any portion of the Net Settlement Amount. If there are any timely submitted Requests for Exclusion, the Settlement Administrator shall proportionately increase the Individual Settlement Payments for each Class Member so that the amount actually distributed to Class Members equals 100% of the Net Settlement Amount.¹⁸

The Parties have agreed that the Settlement Administrator will determine each PAGA Aggrieved Employees' *pro rata* share of the Net PAGA Penalties ("Individual PAGA Payment"), in accordance with the Settlement Agreement as follows:

- a. The Settlement Administrator will allocate the Individual PAGA Payments by first dividing the Net PAGA Penalties by the total number of pay periods worked by PAGA Aggrieved Employees during the PAGA Period.¹⁹
- b. That value will then be multiplied by the number of pay periods worked by each respective PAGA Aggrieved Employee during the PAGA Period.²⁰
- c. PAGA Aggrieved Employees are entitled to 100% of the Net PAGA Penalties. Defendant maintains no reversionary right to any portion of the Net PAGA Penalties.²¹

All Individual Settlement Payments shall be allocated as follows: eighty percent (80%) as penalties and interest and reported on an IRS Form 1099; and twenty percent (20%) shall be attributed to wages and reported via an IRS Form W-2.²² Settlement Class Members are responsible for their share of the payroll taxes, which shall be deducted from their Individual Settlement Payments.²³ The employer's share of payroll taxes with respect to the wage portion of the Individual Settlement Payments will be paid by Defendant separately and in addition to the Gross Settlement Amount.²⁴ The Parties further agree that all Individual PAGA Payments

¹⁶ Settlement Agreement, ¶ C.10.

¹⁷ *Ibid.*

¹⁸ *Ibid.*

¹⁹ *Id.*, ¶ C. 9.

²⁰ *Ibid.*

²¹ *Ibid.*

²² *Id.*, ¶ C.28.

²³ *Ibid.*

²⁴ *Ibid.*

shall be allocated 100% as penalties, and shall be reported on an IRS Form 1099 by the Settlement Administrator.²⁵

Any Individual Settlement Payment to Settlement Class Members and Individual PAGA Payment to PAGA Aggrieved Employees (“Settlement Payment Check”), shall be negotiable until one hundred and eighty (180) calendar days after mailing to the Settlement Class Members and PAGA Aggrieved Employees.²⁶ Those funds represented by settlement checks returned as undeliverable and the funds which correspond with the settlement checks that are not negotiated within one hundred and eighty (180) calendar days after mailing shall be transferred to the California Secretary of State Controller’s Office-Office of Unclaimed Property Fund under the unclaimed property laws in the name of the Settlement Class Members and PAGA Aggrieved Employees.²⁷

Any Class Member, other than Plaintiffs, may opt-out from the Settlement by submitting a written letter indicating a request to be excluded (“Request for Exclusion”) to the Settlement Administrator.²⁸ To be timely, the Class Member must mail the Request for Exclusion to the Settlement Administrator, postmarked on or before the date that is sixty (60) days after the Settlement Administrator initially mails the Class Notice to Class Members (“Response Deadline”).²⁹ Those Class Members who receive a re-mailed Class Notice shall have their Response Deadline extended fifteen (15) days from the original Response Deadline.³⁰ A Request for Exclusion must: (a) clearly state that the Class Member does not wish to be included in the Settlement; (b) set forth the name, address, telephone number, and last four digits of the Social Security Number of the Class Member requesting exclusion; (c) be signed by the Class Member; (d) be returned by mail to the Settlement Administrator at the specified address indicated in the Class Notice; and (e) be postmarked on or before the Response Deadline.³¹ By submitting such a Request for Exclusion, a Class Member shall be deemed to have exercised his

²⁵ Settlement Agreement, ¶ C.29.

²⁶ *Id.*, ¶¶ B.32 & C.25.

²⁷ *Id.*, ¶ C.25.

²⁸ *Id.*, ¶ B.27.

²⁹ *Id.*, ¶ B.28.

³⁰ *Id.*, ¶ C.18.

³¹ *Id.*, ¶ B.27.

1 or her option to opt out of the Settlement and not be bound by the Settlement Agreement, except
2 that in light of the binding nature of a PAGA judgment on non-party employees, Class Members
3 employed during the PAGA Period who exclude themselves from the Settlement shall still be
4 bound by the release of any claims under the California Private Attorneys' General Act that
5 accrued during the PAGA Period and are encompassed within the Released Claims.³² Thus,
6 Class Members who submit timely and valid Requests for Exclusion who were employed by
7 Defendant during the PAGA Period, will still be issued payment for their share of the Net PAGA
8 Penalties.

9 Only Class Members who do not exclude themselves from the Settlement (i.e.,
10 Settlement Class Members) can object to the Settlement. Settlement Class Members who wish
11 to object to the Settlement must mail their written objection ("Notice of Objection") to the
12 Settlement Administrator on or before the Response Deadline.³³ The Notice of Objection must
13 include: (a) the case name and number of the Action; (b) the objector's full name, signature,
14 address, and telephone number; (c) a written statement of all grounds for the objection
15 accompanied by any legal support for such objection; and (d) copies of any papers, briefs, or
16 other documents upon which the objection is based.³⁴

17 Class Members and/or PAGA Aggrieved Employees who wish to dispute the number of
18 pay periods credited to each of them in their Class Notice may do so by mailing a written dispute
19 to the Settlement Administrator on or before the Response Deadline. In the event that Class
20 Members and/or PAGA Aggrieved Employees have a dispute as to the data provided by
21 Defendant regarding the total number of pay periods worked by Class Members and/or regarding
22 the total number of pay periods worked by PAGA Aggrieved Employees, Class Members and
23 PAGA Aggrieved Employees will have the opportunity to provide documentation and/or an
24 explanation.³⁵ If there is a dispute, the Settlement Administrator will consult with the Parties to
25 determine whether an adjustment is warranted.³⁶

26 ³² Settlement Agreement, ¶ C.19.

27 ³³ *Id.*, ¶ C.21.

28 ³⁴ *Id.*, ¶ B.19.

³⁵ *Id.*, ¶ G.2.

³⁶ *Ibid.*

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

3 The settlement of a class action requires approval by the court. *Dunk v. Ford Motor Co.*
4 (1996) 48 Cal.App.4th 1794, 1800; Cal. Code Civ. Proc. § 1781(f). California courts look to
5 federal authority for guidance with class action settlements. *Dunk, supra*, 48 Cal.App.4th at
6 1801, fn.7 (citing *Vasquez v. Superior Court* (1971) 4 Cal.3d 800, 821). The decision to approve
7 or reject a proposed settlement is within the court's discretion. *Wershba v. Apple Computer,*
8 *Inc.* (2001) 91 Cal.App.4th 224, 234-35 ("In general, questions whether a settlement was fair
9 and reasonable, whether certification of the class was proper, and whether the attorney fee award
10 was proper are matters addressed to the trial court's broad discretion."). Accordingly, a court's
11 decision to approve a class action settlement may be reversed only upon a strong showing of
12 "clear abuse of discretion." *Hanlon v. Chrysler Corp.* (9th Cir. 1998) 150 F.3d 1011, 1026;
13 *Class Plaintiff v. City of Seattle* (9th Cir. 1982) 955 F.2d 1268, 1276.

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

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

26 In considering a potential class settlement, a court need not reach any ultimate
27 conclusions on the issues of fact and law which underlie the merits of the dispute and need not
28 engage in a trial on the merits. See *City of Detroit v. Grinnell Corporation* (2d Cir. 1974) 495

1 F.2d 448, 456; *Officers for Justice v. Civil Service Commission of City and County of San*
2 *Francisco* (9th Cir. 1982) 688 F.2d 615, 625. Neither formal notice nor a hearing is required
3 for the trial court to grant provisional class certification and preliminary approval; the court may
4 grant such relief upon an informal application by the settling parties and may conduct any
5 necessary hearing in court or in chambers, at the court's discretion. *Newberg*, § 11.25.

6 **V. THE COURT SHOULD PRELIMINARILY APPROVE THE SETTLEMENT**

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

19 The proponent of the settlement has the burden to show that it is fair and reasonable.
20 *Wershba, supra*, 91 Cal.App.4th at 245. "A presumption of fairness exists where: (1) the
21 settlement is reached through arm's-length bargaining; (2) investigation and discovery are
22 sufficient to allow counsel and the court to act intelligently; (3) counsel is experienced in similar
23 litigation; and (4) the percentage of objectors is small." *Id.*; *Dunk, supra*, 48 Cal.App.4th at
24 1802; *7-Eleven Owners for Fair Franchising v. Southland Corp.* (2000) 85 Cal.App.4th 1135,
25 1151.

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

3 The Parties have actively litigated the Actions since the Torres Class Action was
4 commenced on February 4, 2020. Both sides used the pre-mediation time period to investigate
5 the veracity, strength, and scope of the claims, and Class Counsel was actively preparing the
6 case for class certification and trial.³⁷

7 Prior to engaging in mediation, Class Counsel conducted significant investigation and
8 formal and informal discovery regarding the facts of the case, including and not limited to, the
9 exchange, review, and analysis of a large volume of documents and data produced by
10 Defendant.³⁸ The volume of data and documents that Class Counsel reviewed and analyzed
11 included and was not limited to: employment records of Plaintiffs and other Class Members, a
12 detailed sampling of Class Members’ time and pay data, Employee Handbook, company policy
13 acknowledgements, internal memoranda, job descriptions, new hire orientation checklists,
14 operations and employment practices, forms (including but not limited to Conflict of Interest
15 Questionnaire, Corrective Action Form, and Onboarding/New Hire Documents), among other
16 information and documents.³⁹ Class Counsel interviewed Plaintiffs and other Class Members
17 to gather facts and to identify potential witnesses.⁴⁰ Class Counsel propounded multiple sets of
18 formal written discovery requests on Defendant.⁴¹ Counsel for the Parties also met and
19 conferred on numerous occasions, e.g., to discuss issues relating to the pleadings, discovery, and
20 the production of documents and data prior to the mediation.⁴² Class Counsel also drafted
21 Plaintiffs’ mediation brief and prepared for and attended court proceedings, settlement
22 negotiations, and the mediation, among other tasks.⁴³

23 The Parties engaged in extensive settlement negotiations and participated in a formal,
24 full-day mediation conducted by David Walsh, Esq., a well-respected mediator experienced in

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³⁷ Takvoryan Decl., ¶¶ 11-14.

26 ³⁸ *Id.*, ¶ 13.

27 ³⁹ *Ibid.*

28 ⁴⁰ *Ibid.*

⁴¹ *Ibid.*

⁴² *Ibid.*

⁴³ *Ibid.*

mediating complex labor and employment matters.⁴⁴ 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, wage-and-hour enforcement, and PAGA representative claims, as well as the evidence produced and analyzed, and the possibility of appeals, among other things.⁴⁵ During all settlement discussions, the Parties conducted their negotiations at arm's length in an adversarial position.⁴⁶ 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 Plaintiffs and Class Counsel believed that they would be able to obtain class certification and prevail at trial.⁴⁷ After conducting investigations, significant formal and 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 Plaintiffs' principal claims, as well as the costs and risks to both sides that would attend further litigation.⁴⁸

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.⁴⁹ The Parties have had the opportunity to interview and obtain information from their respective witnesses.⁵⁰ Counsel for the Parties have also reviewed documents and information relating to Plaintiffs', Class Members', PAGA Aggrieved Employees' 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, Plaintiffs' claims, and

⁴⁴ Takvoryan Decl., ¶ 12.

⁴⁵ *Ibid.*

⁴⁶ *Ibid.*

⁴⁷ *Id.*, ¶¶ 11, 12, 17-19.

⁴⁸ *Ibid.*

⁴⁹ *Ibid.*

⁵⁰ *Ibid.*

Defendant's defenses thereto, as well as facts discovered.⁵¹ 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.⁵²

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

The Settlement, which provides for a Gross Settlement Amount of Two Million Nine Hundred Thousand Dollars and Zero Cents (\$2,900,000.00), represents a fair, adequate, and reasonable resolution of the matter.⁵³ The Settlement was calculated using the information and data uncovered during litigation, case investigation, as well as the formal and informal exchange of information.⁵⁴ The Settlement takes into account the potential risks and rewards inherent in any case and, in particular, in the case at issue.⁵⁵ Moreover, considering all of the facts and circumstances of the lawsuit, the Settlement represents a fair, reasonable, and adequate recovery for the Class.⁵⁶

Assuming that the Class Counsel Fees and Costs, Enhancement Payments, PAGA 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 One Million Four Hundred Ninety Thousand Dollars and Zero Cents (\$1,490,000.00).⁵⁷ As discussed in Part III, *supra*, the entire Net Settlement Amount will be fully paid out to the Settlement Class Members and the Net PAGA Penalties, in the amount of Seventy-Five Thousand Dollars and Zero Cents (\$75,000.00), will be fully paid out to PAGA Aggrieved Employees. The amount of each Settlement Class Member's Individual Settlement Payment will be calculated by the total number of pay periods worked by Class Members during the Class Period and the amount of each PAGA Aggrieved Employee's Individual PAGA Payment will be calculated by the total number of pay periods worked by PAGA

⁵¹ Takvoryan Decl., ¶¶ 11-14 & 17-19.

⁵² *Id.*, ¶¶ 6-7.

⁵³ *Id.*, ¶¶ 11, 12, 13, 14, 15 & 22.

⁵⁴ *Id.*, ¶¶ 11-14.

⁵⁵ *Id.*, ¶¶ 17-19.

⁵⁶ *Id.*, ¶¶ 12, 14, & 22.

⁵⁷ *Id.*, ¶ 15.

Aggrieved Employees during the PAGA Period.⁵⁸ 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, PAGA Aggrieved Employees, and the State of California.⁵⁹ 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 a large volume of documents, data, and information prior to engaging in settlement discussions.⁶⁰ The discovery 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.⁶¹ As outlined in the Declaration of Ovsanna Takvoryan, Class Counsel performed an extensive analysis of each and every claim pursuant to *Kullar* prior to entering into the Settlement.⁶²

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⁵⁸ Settlement Agreement, ¶¶ C.9 & C.10.

⁵⁹ Takvoryan Decl., ¶¶ 12, 14, & 22.

⁶⁰ *Id.*, ¶¶ 11-14 & 19.

⁶¹ *Id.*, ¶ 19.

⁶² *Id.*, ¶¶ 11-14 & 17-19.

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.⁶³ 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, Plaintiffs' 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.

⁶³ Settlement Agreement, ¶ F.1.

This action involves a class of approximately nine hundred and sixty (960) individuals.⁶⁴ 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 non-exempt or hourly 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 Cal.4th at 326. “[T]he community of interest requirement for certification *does not mandate that class members have uniform or identical claims.*” *Capitol People First v. Dep’t of Developmental Services* (2007) 155 Cal.App.4th 676, 692 (emphasis in original). Rather, courts focus on the Defendant’s internal policies and “pattern and practice . . . in order to assess whether that common behavior toward similarly situated plaintiff renders class certification appropriate.” *Id.* (citing *Sav-On, supra*, 34 Cal.4th at 333).

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

Here, common issues of fact and law predominate as to each of the claims alleged and asserted in the Action. Based on the documents and information obtained through formal and informal discovery and exchange of information in this case, Plaintiffs contend that Class Members were subject to the same or similar job duties and uniform operations and employment

⁶⁴ Takvoryan Decl., ¶ 9.

practices, policies, and procedures during the time period at issue.⁶⁵ Plaintiffs' claims arise from Defendant's alleged uniform policy and systematic scheme, with respect to Plaintiffs and the Class Members, of, *inter alia*, failing to properly pay overtime and minimum wages for all hours worked, 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 complaint wage statements, failing to keep requisite payroll records, and failing to reimburse necessary business-related expenses.⁶⁶

Plaintiffs also contend that Defendant's payroll and recordkeeping practices with respect to Plaintiffs and the Class Members were substantially the same during the time period at issue.⁶⁷ As a result, Plaintiffs claim that all of the Class Members were uniformly not paid all compensation due to them from Defendant during the time period at issue.⁶⁸

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

VII. APPOINTMENT OF CLASS COUNSEL AND ALLOCATION FOR CLASS COUNSEL FEES & COSTS

Class Counsel have litigated the Action for approximately two-and-one-half years and were actively preparing the matter for representative adjudication and class certification.⁶⁹ The ongoing work has been extensive, demanding, and ultimately successful in achieving a substantial settlement resolution. Class Counsel conducted extensive investigations into the facts of the case and formal and informal discovery, including, and not limited to, propounding multiple formal written discovery requests onto Defendant and reviewing Defendant's responses thereto.⁷⁰ Class Counsel reviewed a large volume of documents and data, interviewed and

⁶⁵ Takvoryan Decl., ¶ 17.

⁶⁶ *Ibid.*

⁶⁷ *Ibid.*

⁶⁸ *Ibid.*

⁶⁹ Takvoryan Decl., ¶¶ 11-14.

⁷⁰ *Id.*, ¶ 13.

1 obtained information from Plaintiffs and other Class Members, researched applicable law,
2 undertook damages/valuation calculations, and met and conferred with Defendant's counsel
3 regarding the pleadings, discovery, and the production of documents and data prior to
4 mediation.⁷¹ Counsel for the Parties also undertook extensive settlement discussions, which
5 included participating in a formal, full-day mediation.⁷²

6 Class Counsel is well-experienced in wage-and-hour class action litigation and used that
7 experience to obtain a great result.⁷³

8 The Settlement establishes a Gross Settlement Amount of Two Million Nine Hundred
9 Thousand Dollars and Zero Cents (\$2,900,000.00), and provides for Class Counsel to apply to
10 the Court for Class Counsel Fees and Costs, consisting of attorneys' fees in an amount not to
11 exceed thirty-five percent (35%) of the Gross Settlement Amount (i.e., \$1,015,000.00) and an
12 amount not to exceed Twenty-Five Thousand Dollars (\$25,000.00) for costs and expenses.⁷⁴
13 The attorneys' fees provided for by the Settlement is commensurate with: (1) the risk that Class
14 Counsel took in bringing and litigating the Action, (2) the extensive time, effort and expense
15 that Class Counsel dedicated to the Action, (3) the skill and determination that Class Counsel
16 has shown, (4) the results that Class Counsel has achieved throughout the litigation, (5) the value
17 of the Settlement that Class Counsel has achieved for the Class Members, PAGA Aggrieved
18 Employees, and the State of California, and (6) the other cases that Class Counsel had to turn
19 down in order to devote its time and efforts to this matter. The proposed Class Notice provides
20 Class Members with information about the amount allocated toward attorneys' fees, and that
21 Class Counsel Fees and Costs will be sought, as provided for by the Settlement.⁷⁵

22 Trial courts have "wide latitude" in assessing the value of attorneys' fees and their
23 decisions will "not be disturbed on appeal absent a manifest abuse of discretion." *Lealao v.*
24 *Beneficial Cal., Inc.* (2000) 82 Cal.App.4th 19, 41. Indeed, it is long settled that the
25 "experienced trial judge is the best judge of the value of professional services rendered in his

26 ⁷¹ Takvoryan Decl., ¶ 13.

27 ⁷² *Id.*, ¶ 12.

28 ⁷³ *Id.*, ¶¶ 6-7.

⁷⁴ Settlement Agreement, ¶¶ B.2 & C.4.

⁷⁵ *Id.*, Exh. A.

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

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

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

1 Class Counsel has borne all of the risks and costs of litigation and will not receive any
2 compensation until recovery is obtained.⁷⁶

3 Class Counsel will provide extensive evidence as to the time worked, litigation efforts,
4 and further argument at the time of filing Plaintiffs' motion for final approval of the Settlement
5 and application for the attorneys' fees and costs at the Final Approval Hearing. Considering the
6 work performed and the risks incurred, the Class Counsel Fees and Costs provided for by the
7 Settlement and to be requested by Class Counsel are well within the range of reasonableness.

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

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

14 The proposed Class Notice⁷⁷ describes the Settlement, the deadlines and procedures to
15 submit a valid Request for Exclusion, or Notice of Objection, and a dispute as to the data
16 provided by Defendant regarding the total number of pay periods worked by Class Members
17 during the Class Period, and/or regarding the total number of pay periods worked by PAGA
18 Aggrieved Employees during the PAGA Period, and the date and time set for the Final Approval
19 Hearing.⁷⁸

20 The proposed Class Notice fulfills the requirement of neutrality in notice procedure.
21 *Newberg*, at § 8.39. "Sufficient information about the case should be provided to enable class
22 members to make an informed decision about their participation." *Manual for Complex*
23 *Litigation* § 21.311 at 413 (4th ed. 2004). The proposed Class Notice summarizes the
24 proceedings to date and the terms and conditions of the Settlement in an informative and
25 coherent manner.⁷⁹ The proposed Class Notice recognizes that the Court has not yet granted
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27 ⁷⁶ Takvoryan Decl., ¶ 20.

28 ⁷⁷ Settlement Agreement, Exh. A.

⁷⁸ *Ibid.*

⁷⁹ *Ibid.*

1 final approval of the settlement.⁸⁰ The proposed Class Notice also apprises the Class Members
2 of, *inter alia*, how their Individual Settlement Payment and, if applicable, their share of the Net
3 PAGA Penalties are calculated and the number of pay periods credited to them for the Class
4 Period and, if applicable, the PAGA Period.⁸¹

5 The proposed Class Notice satisfies all due process requirements and complies with the
6 standards of fairness, completeness, and neutrality. Fed. R. Civ. P. 23(c)(2) and 23(e); *Newberg*,
7 §§ 8.21, 8.39; *Manual*, §§ 21.311, 21.312; see also *Cartt*, *supra*, 50 Cal.App.3d at 960 (“The
8 essentials of due process of law in class suits would appear to be afforded by fair representation
9 in the assertion of claims of class members against the opposing parties in any lawsuit, and
10 notice of the pending suit.”). Accordingly, the Court should approve the proposed Class Notice.

11 **IX. APPOINTMENT OF SIMPLURIS AS THE SETTLEMENT ADMINISTRATOR**

12 The Parties have selected Simpluris, Inc. (hereinafter, “Simpluris” or “Settlement
13 Administrator”) to administer the Settlement.

14 The Settlement Administrator will mail the Class Notice to each Class Member via
15 regular First-Class U.S. Mail.⁸² Any Class Notices returned to the Settlement Administrator as
16 non-deliverable on or before the Response Deadline shall be re-sent promptly via regular First-
17 Class U.S. Mail to the forwarding address affixed thereto and the Settlement Administrator shall
18 indicate the date of such re-mailing on the Class Notice.⁸³ If no forwarding address is provided,
19 the Settlement Administrator shall promptly attempt to determine the correct address using a
20 skip-trace, or other search using the name, address and/or Social Security Number of the Class
21 Member involved and shall then perform a re-mailing.⁸⁴ Those Class Members who receive a
22 re-mailed Class Notice shall have their Response Deadline extended fifteen (15) days from the
23 original Response Deadline.⁸⁵ The Settlement Administrator will receive and process requests
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26 ⁸⁰ Settlement Agreement, Exh. A.

27 ⁸¹ *Ibid.*

28 ⁸² *Id.*, ¶ C.15.

⁸³ *Id.*, ¶ C.18.

⁸⁴ *Ibid.*

⁸⁵ *Ibid.*

for exclusion, objections, and any disputes regarding Individual Settlement Payments and/or Individual PAGA Payments.⁸⁶

The Settlement Administrator will calculate the amounts of the Individual Settlement Payments and Individual PAGA Payments; deduct and transmit applicable state and/or federal taxes thereon; mail the Settlement Payment Checks to Settlement Class Members and PAGA Aggrieved Employees; issue W-2 and 1099 forms; calculate and disburse the Class Counsel Fees and Costs, Class Representative Enhancement Payments, and the LWDA Payment; provide necessary reports and declarations; and perform such other tasks necessary to effectuate the terms of the Settlement.⁸⁷ The Settlement Administration Costs are currently estimated to be Twenty Thousand Dollars (\$20,000.00) and will be paid out of the Gross Settlement Amount, subject to approval by the Court.⁸⁸

Accordingly, Plaintiffs respectfully request that the Court appoint Simpluris 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 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.⁸⁹

Within thirty (30) calendar days after Preliminary Approval, Defendant will provide the Settlement Administrator with a complete list of all Class Members in a password protected and formatted in a readable Microsoft Office Excel spreadsheet and will include each Class Member's full name, last known mailing address, last known telephone number (if available), Social Security Number, the number of pay periods he or she worked during the Class Period,

⁸⁶ Settlement Agreement, ¶¶ C.19., C.21, & G.2.

⁸⁷ *Ibid.*; Takvoryan Decl., ¶ 16.

⁸⁸ Settlement Agreement, ¶¶ B.29 & C.6.

⁸⁹ *Id.*, ¶ C.17.

1 and the number of pay periods he or she worked during the PAGA Period. (collectively, “Class
2 Data and List”).⁹⁰

3 Within five (5) business days after receiving the Class List and Data from Defendant,
4 the Settlement Administrator shall mail a Class Notice to all Class Members via regular First-
5 Class U.S. Mail, using the most current, known mailing addresses identified in the Class List
6 and Data.⁹¹ Any Class Notices returned to the Settlement Administrator as non-deliverable on
7 or before the Response Deadline shall be re-sent promptly via regular First-Class U.S. Mail to
8 the forwarding address affixed thereto and the Settlement Administrator shall indicate the date
9 of such re-mailing on the Class Notice.⁹² If no forwarding address is provided, the Settlement
10 Administrator shall promptly attempt to determine the correct address using a skip-trace, or
11 other search using the name, address and/or Social Security Number of the Class Member
12 involved and shall then perform a re-mailing.⁹³ Class Members will have until the applicable
13 Response Deadline to submit a Request for Exclusion, mail a dispute regarding Individual
14 Settlement Payments and/or Individual PAGA Payments, and/or to submit a Notice of
15 Objection.⁹⁴

16 Within thirty (30) calendar days of the Effective Date, Defendant shall make a one-time
17 deposit of the Gross Settlement Amount into a qualified settlement account to be established
18 by the Settlement Administrator.⁹⁵ Within fifteen (15) calendar days of Defendant funding the
19 Gross Settlement Amount, the Settlement Administrator shall pay: (1) the Individual Settlement
20 Payments to Settlement Class Members and Individual PAGA Payments to PAGA Aggrieved
21 Employees; (2) the LWDA Payment to the Labor and Workforce Development Agency; (4) the
22 Enhancement Payments to Plaintiffs Mireya Torres, Idrees Hollis, Christopher Garcia, and
23 Chumani Brown; and (5) Class Counsel Fees and Costs to Class Counsel.⁹⁶ The Settlement
24 Administrator shall also issue a payment to itself for services performed in connection with the

25 ⁹⁰ Settlement Agreement, ¶ B.3.

26 ⁹¹ *Id.*, ¶ C.15.

27 ⁹² *Id.*, ¶ C.18.

28 ⁹³ *Ibid.*

⁹⁴ *Id.*, ¶¶ B.28 & G.2.

⁹⁵ *Id.*, ¶ C.3.

⁹⁶ *Id.*, ¶ C.24.

Settlement.⁹⁷

Any Settlement Payment Checks shall be negotiable until one hundred and eighty (180) calendar days after mailing to the Settlement Class Members and PAGA Aggrieved Employees.⁹⁸ Those funds represented by settlement checks returned as undeliverable and the funds which correspond with the settlement checks that are not negotiated within one hundred and eighty (180) calendar days after mailing shall be transferred to the California Secretary of State Controller's Office—Office of Unclaimed Property Fund under the unclaimed property laws in the name of the Settlement Class Members and PAGA Aggrieved Employees.⁹⁹

XI. APPOINTMENT OF CLASS REPRESENTATIVES AND ALLOCATION FOR ENHANCEMENT PAYMENTS

Plaintiffs Mireya Torres, Idrees Hollis, Christopher Garcia, and Chumani Brown respectfully request that the Court appoint them as Class Representatives and preliminarily approve Enhancement Payments in an amount up to Twelve Thousand Five Hundred Dollars (\$12,500.00) to each of them as provided for by the Settlement.¹⁰⁰ 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 Class Representative Enhancement Payments to Plaintiffs are fair and appropriate. Plaintiffs 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

⁹⁷ Settlement Agreement, ¶ C.24.

⁹⁸ *Id.*, ¶ C.25.

⁹⁹ *Ibid.*

¹⁰⁰ *Id.*, ¶¶ B.12 & C.5.

allegations.¹⁰¹ Plaintiffs were available whenever Class Counsel needed them and actively tried to obtain and provide information that would benefit the Class.¹⁰² Accordingly, it is appropriate and just for Plaintiffs to receive an Enhancement Payments for their services on behalf of the Class, State of California, and PAGA Aggrieved Employees, in addition to their Individual Settlement Payment and Individual PAGA Payment.

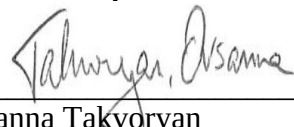
XII. CONCLUSION

For the foregoing reasons, Plaintiffs respectfully request that the Court grant preliminary approval of the Settlement; conditionally certify the Class for settlement purposes; preliminary appoint and designate Lawyers for Justice, PC as Class Counsel; preliminary appoint and designate Plaintiffs Mireya Torres, Idrees Hollis, Christopher Garcia, and Chumani Brown as Class Representatives; appoint Simpluris, Inc. as Settlement Administrator; preliminarily approve the allocations for Class Counsel Fees & Costs, Enhancement Payments, PAGA Payment, and Settlement Administration Costs; 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 in approximately five (5) months.

Dated: September 22, 2022

LAWYERS for JUSTICE, PC

By:



Ovsanna Takvoryan
Attorneys for Plaintiffs

¹⁰¹ Takvoryan Decl., ¶ 21; Declaration of Mireya Torres in Support of Plaintiffs' Motion for Preliminary Approval of Class Action and PAGA Settlement ("Torres Decl."), ¶ 4; Declaration of Idrees Hollis in Support of Plaintiffs' Motion for Preliminary Approval of Class Action and PAGA Settlement ("Hollis Decl."), ¶ 4; Declaration of Christopher Garcia in Support of Plaintiffs' Motion for Preliminary Approval of Class Action and PAGA Settlement ("Garcia Decl."), ¶ 4; and Declaration of Chumani Brown in Support of Plaintiffs' Motion for Preliminary Approval of Class Action and PAGA Settlement ("Brown Decl."), ¶ 4.

¹⁰² Takvoryan Decl., ¶ 21; Torres Decl., ¶¶ 3-6; Hollis Decl., ¶¶ 3-6; Garcia Decl., ¶¶ 3-6; and Brown Decl., ¶¶ 3-6.