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

CHIDIMMA IGBOAKAEZE, 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,

v.

VERA BRADLEY SALES, LLC, an  
unknown business entity; VERA BRADLEY  
DESIGNS, INC., an unknown business entity;  
and DOES 1 through 100, inclusive,

Defendants.

Case No.: 20STCV04294

Honorable Yvette M. Palazuelos  
Department SSC9

**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 Aiwarzian); Declaration of  
Proposed Class Representative (Chidimma  
Igboakaeze); and [Proposed] Order filed  
concurrently herewith]

Date: June 23, 2022  
Time: 10:00 a.m.  
Department: SSC9

Complaint Filed: February 3, 2020  
FAC Filed: July 15, 2020  
Trial Date: None Set

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

**PLEASE TAKE NOTICE** that on June 23, 2022 at 10:00 a.m. or as soon thereafter as the matter may be heard before the Honorable Yvette M. Palazuelos in Department 9 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 Chidimma Igboakaeze (“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 Stipulation of Class Action and PAGA Settlement (“Settlement,” “Agreement,” or “Settlement Agreement”), attached as “**EXHIBIT 1**” 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, Attorneys’ Fees and Costs to Class Counsel, Enhancement Payment to Plaintiff, and Settlement Administration Costs to the Settlement Administrator;
- Conditionally certifying the Class for settlement purposes;
- Preliminarily appointing Plaintiff Chidimma Igboakaeze 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 A**” to the [Proposed] Order Granting Preliminary Approval of Class Action Settlement;
- Directing the mailing of the Class Notice to the Class Members and PAGA Members;
- Approving the proposed deadlines for the notice and settlement administration process;
- Approving Phoenix Settlement Administrators 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 Attorneys' Fees and Costs to Class Counsel, Enhancement Payment for Plaintiff, and Settlement Administration Costs to Settlement Administrator.

This motion is made pursuant to Rule 3.769 and Rule 3.1113(e) of the California Rules of Court, which provide 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, 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 (Edwin Aiwazian) and Proposed Class Representative (Chidimma Igboakaeze) 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: March 28, 2022

**LAWYERS for JUSTICE, PC**

By: \_\_\_\_\_



Edwin Aiwazian  
Attorneys for Plaintiff

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**MEMORANDUM OF POINTS AND AUTHORITIES**

**I. SUMMARY OF MOTION**

Plaintiff Chidimma Igboakaeze (“Plaintiff” or “Class Representative”) seeks preliminary approval of the 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 Defendants Vera Bradley Sales, LLC and Vera Bradley Designs, Inc. (“Defendants”), on the other hand. Subject to approval by the Court, Plaintiff and Defendants (collectively, the “Parties”) have agreed to settle this lawsuit for a Total Settlement Amount of two hundred fifty thousand dollars and no cents (\$250,000.00).<sup>1</sup> The Total Settlement Amount includes the following: (1) Individual Settlement Shares to Settlement Class Members which will be distributed from the Net Settlement Amount<sup>2</sup>; (2) the Enhancement Payment of seven thousand five hundred dollars and no cents (\$7,500.00) to Plaintiff<sup>3</sup>; (3) the Attorneys’ Fees and Costs to Class Counsel, consisting of attorneys’ fees in the amount of thirty-five percent (35%) of the Total Settlement Amount, and reimbursement of litigation costs and expenses not to exceed thirty thousand dollars and no cents (\$30,000.00)<sup>4</sup>; (4) the Settlement Administration Costs to the Settlement Administrator in the amount not to exceed seven thousand dollars and no cents (\$7,000.00);<sup>5</sup> and (5) the amount of thirty seven thousand five hundred dollars and no cents (\$37,500.00) allocated to penalties under the Private Attorneys General Act (“PAGA”) (i.e., PAGA Penalty Amount), of which 75% (i.e., \$28,125.00) will be distributed to the Labor and Workforce Development Agency (“LWDA”) (i.e., the LWDA Payment) and 25% (i.e., \$9,375.00) will be distributed to PAGA Members on a *pro rata* basis, based on Workweeks during the PAGA Period (i.e., Individual PAGA Payment).<sup>6</sup>

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<sup>1</sup> Settlement Agreement, attached as “**EXHIBIT 1**” to Declaration of Edwin Aiwazian (“Aiwazian Decl.”), ¶ 6.ii.

<sup>2</sup> *Id.*, ¶ 6.r.

<sup>3</sup> *Id.*, ¶ 11.

<sup>4</sup> *Id.*, ¶ 10.

<sup>5</sup> *Id.*, ¶ 12.

<sup>6</sup> *Id.*, ¶ 13.

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

All current and former hourly-paid or non-exempt employees of Defendants in California employed between February 3, 2016 through July 22, 2021 (“Class” or “Class Members”).<sup>7</sup>

The Class is estimated to consist of approximately one hundred and sixty-three (163) individuals.<sup>8</sup>

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 on a *pro rata* basis (“Individual Settlement Share”), based upon the number of weeks each Settlement Class Member worked for Defendants as a hourly-paid or non-exempt employee within California during the Release Period (“Workweeks”) and PAGA Members will receive a share of the PAGA Penalty Amount (“Individual PAGA Payment”) on a *pro rata* basis based upon the number of weeks each PAGA Member worked for Defendants as a hourly-paid or non-exempt employee within California during the PAGA Period (“PAGA Workweeks”).<sup>9</sup>

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

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

Defendants are an American luggage and handbag company headquartered in Fort Wayne, Indiana and operate one location within California in the city of Torrance. Plaintiff Chidimma Igboakaeze is a former employee of Defendants.

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

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<sup>7</sup> Settlement Agreement, ¶ 6.d. “Release Period” is defined as the time period from February 3, 2016 through July 22, 2021. *See id.*, ¶ 6.f.

<sup>8</sup> Aiwazian Decl., ¶ 9.

<sup>9</sup> Settlement Agreement, ¶¶ 6.p., 6.r. and 6.jj.

<sup>10</sup> *See id.* at ¶ 6.bb., for the full scope of the “Released Claims,” and *id.* at ¶ 6.cc. for the definition of the “Released Parties.”

1 On July 14, 2020, Plaintiff propounded multiple sets of discovery including Request for  
2 Production of Documents, (Set One); Special Interrogatories, (Sets One & Two); and Form  
3 Interrogatories, (Set One), on Defendants. On July 14, 2020, Plaintiff also noticed the deposition  
4 of Defendants' persons most knowledgeable regarding job duties and organizational structure  
5 of Defendants.

6 On July 15, 2020, Plaintiff filed a First Amended Class Action Complaint for Damages  
7 & Enforcement Under the Private Attorneys General Act, California Labor Code § 2698, *Et Seq.*  
8 ("Operative Complaint").

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

20 On August 12, 2020, Defendants filed an Answer to Plaintiff's First Amended Class  
21 Action Complaint, and thereafter, on September 8, 2020, Defendants filed an Amended Answer  
22 to Plaintiff's First Amended Class Action Complaint.

23 Defendants have denied, and continue to deny, any liability and wrongdoing of any kind  
24 associated with any of the allegations in the Action, and further deny that the Action is  
25 appropriate for class treatment or representative adjudication for any purpose other than for  
26 settlement purposes only.

27 The Parties have actively litigated the Action since it was commenced on February 3,  
28 2020. On April 22, 2021, the Parties participated in a formal, full-day mediation conducted by

Jeffrey A. Ross, Esq., a well-regarded mediator experienced in mediating complex labor and employment matters. With the aid of the mediator's evaluation, the Parties ultimately reached the Settlement described herein to resolve the Action in its entirety.

### III. SUMMARY OF THE SETTLEMENT TERMS

Under the terms of the Settlement, Defendants will pay a Total Settlement Amount to resolve the Released Claims of Plaintiff, PAGA Members, and Class Members who do not submit a timely and valid request to be excluded from the Settlement (i.e., Settlement Class Members) with respect to the Released Parties.<sup>11</sup> Subject to approval by the Court, the Net Settlement Amount will be calculated by deducting the following amounts from the Total Settlement Amount: (1) attorneys' fees in an amount not to exceed thirty-five percent (35%) of the Total Settlement Amount, and reimbursement of costs and expenses in an amount not to exceed thirty thousand dollars and no cents (\$30,000.00) to Class Counsel (collectively referred to as the "Attorneys' Fees and Costs"); (2) settlement administration costs, which are currently estimated not to exceed seven thousand dollars and no cents (\$7,000.00) to the Settlement Administrator ("Settlement Administration Costs"); (3) payment to the LWDA of its 75% share of the PAGA Penalty Amount (i.e., \$28,125.00 out of \$37,500.00) ("LWDA Payment"); and (4) payment in the amount of up to seven thousand five hundred dollars and no cents (\$7,500.00) to Plaintiff Chidimma Igboakaeze ("Enhancement Payment").<sup>12</sup> The Parties have agreed to retain Phoenix Settlement Administrators ("Phoenix" or "Settlement Administrator") to handle the notice and settlement administration process.

The Parties have agreed that the Settlement Administrator will determine each Settlement Class Member's share of the available Net Settlement Amount ("Individual Settlement Share"), in accordance with the Settlement Agreement and as follows:

- a. The Settlement Administrator will calculate each Settlement Class Member's number of Workweeks and the total aggregate number of Workweeks of all Settlement Class Members during the Release Period ("Class Workweek Value").<sup>13</sup>
- b. The Settlement Administrator will divide the Net Settlement Amount by the number of Workweeks of all Settlement Class Members, resulting in the "Class Workweeks

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<sup>11</sup> Settlement Agreement, ¶ 30.

<sup>12</sup> *Id.*, ¶¶ 6.t. and 6.ii.; see also, ¶¶ 10, 12, 13, and 11.

<sup>13</sup> *Id.*, ¶ 14.a.

Value.” Each Settlement Class Member’s Individual Settlement Share will then be determined by multiplying each individual Settlement Class Member’s number of Workweeks by the Class Workweeks Value.<sup>14</sup>

The Parties have agreed that the Settlement Administrator will determine each PAGA Member’s share of the available PAGA Penalty Amount (“Individual PAGA Payment”), in accordance with the Settlement Agreement and as follows:

- a. The Settlement Administrator will calculate each PAGA Member’s number of Workweeks and the total aggregate number of Workweeks of all PAGA Members during the PAGA Period (“Total PAGA Workweeks”), resulting in the PAGA Workweeks Value.<sup>15</sup>
- b. The Settlement Administrator will divide the 25% portion of the PAGA Penalty Amount by the number of Total PAGA Workweeks, resulting in the “PAGA Workweeks Value.” Each PAGA Member’s Individual PAGA Payment will then be determined by multiplying each individual PAGA Member’s number of Workweeks by his or her PAGA Workweeks Value.<sup>16</sup>

Each Settlement Class Member’s Individual Settlement Share will be allocated as follows: twenty percent (20%) as wages (the “wage portion”), which will be reported on an IRS Form W-2; and the remaining eighty percent (80%) as penalties, interest, and other non-wage damages, which will be reported on an IRS Form 1099.<sup>17</sup> Any payment for an Individual PAGA Payment will be allocated as penalties, will not be subject to taxes or withholding, and will be reported on an IRS Form-1099, if necessary.<sup>18</sup> Settlement Class Members will be issued payment of their Individual Settlement Shares subject to reduction for the employee’s share of taxes and withholdings with respect to the wage portion of each Individual Settlement Share (the net payment is referred to as an “Individual Settlement Payment”).<sup>19</sup> Defendants will pay the employer’s share of payroll taxes and contributions with respect to the wage portion of Individual Settlement Shares (“Employer Taxes”) in addition to the Total Settlement Amount.<sup>20</sup>

The Individual Settlement Payment and Individual PAGA Payment checks issued to Settlement Class Members and/or PAGA Members will be valid and negotiable for one hundred

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<sup>14</sup> Settlement Agreement, ¶ 14.a.

<sup>15</sup> *Id.*, ¶ 14.b

<sup>16</sup> *Ibid.*

<sup>17</sup> *Id.*, ¶ 25.

<sup>18</sup> *Ibid.*

<sup>19</sup> *Ibid.*

<sup>20</sup> *Ibid.*

eighty (180) calendar days from the date of issuance.<sup>21</sup> Individual Settlement Payment checks that are not negotiated within the 180-day period will be cancelled.<sup>22</sup> The funds associated with such cancelled checks will be transmitted by the Settlement Administrator to the Los Angeles Legal Aid Foundation, in accordance with California Code of Civil Procedure section 384.<sup>23</sup>

Class Members who wish to be excluded from the Settlement (i.e., opt out) must notify the Settlement Administrator in writing by sending a letter indicating that they want to exclude themselves (“Request for Exclusion”).<sup>24</sup> 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”).<sup>25</sup> A Request for Exclusion must: (a) contain the case name and number of the Action; (b) be signed by the Class Member; (c) contain the full name, address, telephone number, and the last four digits of the Social Security Number of the Class Member requesting exclusion; and (d) clearly state that the Class Member does not wish to be included in the Settlement.<sup>26</sup> A Class Member who does not submit a timely and valid Request for Exclusion will be deemed a Settlement Class Member and will be bound by all terms of the Settlement Agreement, if the Settlement is granted Final Approval by the Court. PAGA Members shall not be permitted to opt out of the PAGA Settlement.<sup>27</sup>

Only Class Members who do not exclude themselves from the Settlement (i.e., Settlement Class Members) have standing to object to the Settlement.<sup>28</sup> Settlement Class Members who wish to object to the Settlement must mail the Settlement Administrator a written objection on or before the Response Deadline (“Notice of Objection”).<sup>29</sup> The Notice of Objection must: (a) include the case name and number of the Action; (b) include the objector’s full name, signature, address, and telephone number, and the last four digits of his or her Social

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<sup>21</sup> Settlement Agreement, ¶ 19.

<sup>22</sup> *Ibid.*

<sup>23</sup> *Ibid.*

<sup>24</sup> *Id.*, ¶ 6.dd.

<sup>25</sup> *Id.*, ¶ 6.ee.

<sup>26</sup> *Id.*, ¶ 6.dd.

<sup>27</sup> *Ibid.*

<sup>28</sup> *Id.*, ¶¶ 6.u & 22.

<sup>29</sup> *Ibid.*

Security number; (c) include a written statement of all grounds for the objection accompanied by any legal support for such objection; and (d) attach copies of any papers, briefs, or other documents upon which the objection is based.<sup>30</sup>

Class Members and PAGA Members who wish to dispute the number of Workweeks credited to them in their Class Notice may do so by mailing a written letter to the Settlement Administrator on or before the Response Deadline.<sup>31</sup> The letter must contain: (a) the Class Member's full name, address, 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 indicating that he or she wishes to dispute the number of Workweeks credited to him or her and what he or she contends is the correct number to be credited to him or her; and (d) any and all information and supporting documents showing the number of Workweeks he or she contends should be credited to him or her are correct.<sup>32</sup>

#### IV. LEGAL STANDARD FOR PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENTS

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

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<sup>30</sup> Settlement Agreement, ¶ 22

<sup>31</sup> *Id.*, ¶18

<sup>32</sup> *Ibid.*

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

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

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

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

The trial court has broad powers to determine whether a proposed settlement is fair under the circumstances of the case. *Dunk v. Ford Motor Co.* (1996) 48 Cal.App.4th 1794. To make this fairness determination, courts must consider several relevant factors, including “the strength of the plaintiff’s case, the risk, expense, complexity and likely duration of further litigation, the risk of maintaining class action status through trial, the amount offered in settlement, the extent of discovery completed and the stage of the proceedings, the experience and view of counsel, the presence of a governmental participant, and the reaction of the class members to the

1 proposed settlement.” *Dunk, supra*, 48 Cal.App.4th at 1801. “The list of factors is not exclusive  
2 and the court is free to engage in a balancing and weighing of the factors depending on the  
3 circumstances of each case.” *Wershba, supra*, 91 Cal.App.4th at 245. Furthermore, courts give  
4 “proper deference to the private consensual decision of the parties.” *Hanlon, supra*, 150 F.3d  
5 at 1027 (citation omitted).

6 The proponent of the settlement has the burden to show that it is fair and reasonable.  
7 *Wershba, supra*, 91 Cal.App.4th at 245. “A presumption of fairness exists where: (1) the  
8 settlement is reached through arm’s-length bargaining; (2) investigation and discovery are  
9 sufficient to allow counsel and the court to act intelligently; (3) counsel is experienced in similar  
10 litigation; and (4) the percentage of objectors is small.” *Id.*; *Dunk, supra*, 48 Cal.App.4th at  
11 1802; *7-Eleven Owners for Fair Franchising v. Southland Corp.* (2000) 85 Cal.App.4th 1135,  
12 1151.

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

15 The Parties actively litigated the Action since it was commenced on February 3, 2020.  
16 Both sides used the pre-mediation time period to investigate the veracity, strength, and scope of  
17 the claims, and Class Counsel was actively preparing the case for class certification and trial.<sup>33</sup>

18 Prior to engaging in mediation, Class Counsel conducted significant investigation and  
19 formal and informal discovery regarding the facts of the case, including and not limited to, the  
20 exchange, review, and analysis of a large volume of documents and data produced by  
21 Defendants.<sup>34</sup> The volume of data and documents that Class Counsel reviewed and analyzed  
22 included and was not limited to: Plaintiff’s employment records, a detailed sampling of Class  
23 Members’ time and pay data, Defendants’ Associate Handbook, company policy  
24 acknowledgements, agreements (including but not limited to, including but not limited to  
25 California Meal Break Waiver Agreement) internal memoranda, job descriptions, Defendants’  
26 operations and employment practices, policies (including but not limited to, Travel and  
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28 <sup>33</sup> Aiwazian Decl., ¶¶ 11-13.

<sup>34</sup> *Id.*, ¶ 12.

Entertainment Policy, Non-Exempt Associate Electronic Communications Policy, and Appearance and Dress policy), and procedures (including but not limited to Defendants' Attendance Incident Tab, Behavioral Rules of Conduct, and Performance Evaluations), among other information and documents.<sup>35</sup> Class Counsel interviewed Plaintiff and other Class Members to gather facts and to identify potential witnesses.<sup>36</sup> Class Counsel propounded multiple sets of formal written discovery requests on Defendants and noticed the depositions of Defendants' Person Most Knowledgeable designees regarding organizational structure and job duties.<sup>37</sup> Counsel for the Parties also met and conferred on numerous occasions, e.g., to discuss issues relating to the pleadings, discovery, and the production of documents and data prior to the mediation.<sup>38</sup> Class Counsel also drafted pleadings and Plaintiff's mediation brief and prepared for and attended court proceedings, settlement negotiations, and the mediation, among other tasks.<sup>39</sup>

The Parties engaged in extensive settlement negotiations and participated in a formal, full-day mediation on April 22, 2021, conducted by Jeffrey A. Ross, Esq., a well-respected mediator experienced in mediating complex labor and employment matters.<sup>40</sup> 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 law and enforcement, and PAGA representative claims, as well as the evidence produced and analyzed, and the possibility of appeals, among other things.<sup>41</sup> During all settlement discussions, the Parties conducted their negotiations at arm's length in an adversarial position.<sup>42</sup> Arriving at a settlement that was

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<sup>35</sup> Aiwazian Decl., ¶ 12.

<sup>36</sup> *Ibid.*

<sup>37</sup> *Ibid.*

<sup>38</sup> *Ibid.*

<sup>39</sup> *Ibid.*

<sup>40</sup> *Id.*, ¶ 11.

<sup>41</sup> *Ibid.*

<sup>42</sup> *Ibid.*

1 acceptable to both Parties was not easy. Defendants and their counsel felt strongly about their  
2 ability to prevail on the merits and at certification, and Plaintiff and Class Counsel believed that  
3 they would be able to obtain class certification and prevail at trial.<sup>43</sup> After conducting  
4 investigations, significant formal and informal discovery and exchange of information,  
5 extensive settlement negotiations, and with the aid of the mediator's evaluation, the Parties have  
6 agreed that the matter is well-suited for settlement given the legal issues relating to Plaintiff's  
7 principal claims, as well as the costs and risks to both sides that would attend further litigation.<sup>44</sup>

8 The Settlement takes into account the strengths and weaknesses of each side's position  
9 and the uncertainty of how the case might have concluded at certification and trial.<sup>45</sup> The Parties  
10 have had the opportunity to interview and obtain information from their respective witnesses.<sup>46</sup>  
11 Counsel for the Parties have also reviewed documents and information relating to Plaintiff's,  
12 Class Members' and PAGA Members' employment with Defendants and performed significant  
13 research into the law concerning class certification, PAGA representative actions, off-the-clock  
14 theory, meal and rest periods, wage-and-hour law and enforcement, Plaintiff's claims, and  
15 Defendants' defenses thereto, as well as facts discovered.<sup>47</sup> The Parties have reached the  
16 Settlement based on this large volume of facts, evidence, and investigation. In addition, Class  
17 Counsel has extensive experience in employment class actions, including significant experience  
18 in California wage-and-hour litigation.<sup>48</sup>

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

20 The Settlement, which provides for a Total Settlement Amount of two hundred fifty  
21 thousand dollars and no cents (\$250,000.00), represents a fair, adequate, and reasonable  
22 resolution of the matter.<sup>49</sup> The Settlement was calculated using the information and data  
23 uncovered during litigation, case investigation, as well as the formal and informal exchange of  
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25 <sup>43</sup> Aiwazian Decl., ¶¶ 11, 16-18.

26 <sup>44</sup> *Ibid.*

27 <sup>45</sup> *Ibid.*

28 <sup>46</sup> *Ibid.*

<sup>47</sup> *Id.*, ¶¶ 11-13 & 16-18.

<sup>48</sup> *Id.*, ¶¶ 6-7.

<sup>49</sup> *Id.*, ¶¶ 11, 13, 14 & 21.

information.<sup>50</sup> The Settlement takes into account the potential risks and rewards inherent in any case and, in particular, in the case at issue.<sup>51</sup> Moreover, considering all of the facts and circumstances of the lawsuit, the Settlement represents a fair, reasonable, and adequate recovery for the Class.<sup>52</sup>

Assuming that the Attorneys' Fees and Costs, Enhancement Payment, PAGA Penalty Amount, 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 eighty thousand five hundred dollars and no cents (\$80,500.00).<sup>53</sup> As discussed in Part III, *supra*, the entire Net Settlement Amount will be fully paid out to the Settlement Class Members, in accordance with the Settlement Agreement. The amount of each Settlement Class Member's Individual Settlement Share and, if applicable, each PAGA Member's Individual PAGA Payment, will be calculated based on his or her Workweeks.<sup>54</sup> 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 and PAGA Members.<sup>55</sup> 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 investigations have been

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<sup>50</sup> Aiwasian Decl., ¶¶ 11-13.

<sup>51</sup> *Id.*, ¶¶ 16-18.

<sup>52</sup> *Id.*, ¶¶ 11, 13, & 21.

<sup>53</sup> *Id.*, ¶ 14.

<sup>54</sup> Settlement Agreement, ¶ 14.

<sup>55</sup> Aiwasian Decl., ¶¶ 11, 13, & 21.

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 mediation.<sup>56</sup> The discovery and information that Class Counsel obtained from Defendants, Plaintiffs, and 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 Defendants' defenses thereto.<sup>57</sup> As outlined in the Declaration of Edwin Aiwasian, Class Counsel performed an extensive analysis of each and every claim pursuant to *Kullar* prior to entering into the Settlement.<sup>58</sup>

**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.<sup>59</sup> California Code of Civil Procedure Section 382 "authorizes class actions when the question is one of a common or general interest, of many persons, or when the Parties are numerous, and it is impracticable to bring them all before the court." *Sav-On Drug Stores, Inc. v. Superior Court* (2004) 34 Cal.4th 319, 326. California courts certify class actions where the plaintiff identifies "both [1] an ascertainable class and [2] a well-defined community of interest among class members." *Id.*

The Class is ascertainable and numerous as to make it impracticable to join all Class Members, and there are common questions of law and fact that predominate over any questions affecting any individual Class Member. Further, Plaintiff's claims are typical of the claims of the Class Members, and Class Counsel will fairly and adequately protect the interests of the Class. Finally, prosecution of separate actions by individual Class Members would create the

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<sup>56</sup> Aiwasian Decl., ¶¶ 11-13 & 18.

<sup>57</sup> *Id.*, ¶ 18.

<sup>58</sup> *Id.*, ¶¶ 11-13 & 16-18.

<sup>59</sup> Settlement Agreement, ¶ 32.a.

1 risk of inconsistent or varying adjudications, and a class action is superior to other available  
2 means for the fair and efficient adjudication of the case. The Class is amenable to class  
3 certification for settlement purposes as discussed below.

4 **A. The Class Is Ascertainable and Sufficiently Numerous.**

5 “Ascertainability is required in order to give notice to putative class members as to whom  
6 the judgment in the action will be *res judicata*.” *Hicks v. Kaufman & Broad Home Corp.* (2001)  
7 89 Cal.App.4th 908, 914. “A class is ascertainable if it identifies a group of unnamed plaintiffs  
8 by describing a set of common characteristics sufficient to allow a member of that group to  
9 identify himself or herself as having a right to recover based on the description.” *Bartold v.*  
10 *Glendale Federal Bank* (2000) 81 Cal.App.4th 816, 828. The proposed class must also be  
11 sufficiently numerous. *Linder v. Thrifty Oil Co.* (2000) 23 Cal.4th 429, 435.

12 This action involves a class of approximately one hundred sixty-three (163)  
13 individuals.<sup>60</sup> This class is sufficiently numerous. *See Rose v. City of Hayward* (1981) 126  
14 Cal.App.3d 926, 934-35 (indicating that a class of 30 to 40 individuals satisfies the numerosity  
15 requirement as joinder is not practical at that point). Further, all Class Members can and will  
16 be identified by Defendants to the Settlement Administrator through a review of Defendants’  
17 employment records regarding hourly-paid or non-exempt employees in California during the  
18 Release Period. As such, the Class is ascertainable and sufficiently numerous.

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

20 The community of interest requirement “embodies three factors: (1) predominant  
21 common questions of law or fact; (2) class representative with claims or defenses typical of the  
22 class; and (3) class representative who can adequately represent the class.” *Sav-On, supra*, 34  
23 Cal.4th at 326. “[T]he community of interest requirement for certification *does not mandate*  
24 *that class members have uniform or identical claims.*” *Capitol People First v. Dep’t of*  
25 *Developmental Services* (2007) 155 Cal.App.4th 676, 692 (emphasis in original). Rather, courts  
26 focus on the Defendant’s internal policies and “pattern and practice . . . in order to assess whether  
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<sup>60</sup> Aiwazian Decl., ¶ 9.

1 that common behavior toward similarly situated plaintiff renders class certification appropriate.”  
2 *Id.* (citing *Sav-On, supra*, 34 Cal.4th at 333).

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

8 Here, common issues of fact and law predominate as to each of the claims alleged and  
9 asserted in the Operative Complaint. Based on the documents and information obtained through  
10 formal and informal discovery and exchange of information in this case, Plaintiff contends that  
11 Class Members and PAGA Members were subject to the same or similar job duties and uniform  
12 operations and employment practices, policies, and procedures during the time period at issue.<sup>61</sup>  
13 Plaintiff’s claims arise from Defendants’ alleged uniform policy and systematic scheme, with  
14 respect to Plaintiff, the PAGA Members, and the Class Members, of, *inter alia*, failing to  
15 properly pay overtime and minimum wages for all hours worked, failing to provide compliant  
16 meal and rest periods and associated premium pay, failing to timely pay wages during  
17 employment and upon termination of employment, failing to provide compliant wage  
18 statements, failing to keep requisite payroll records, and failing to reimburse necessary business-  
19 related expenses.<sup>62</sup>

20 Plaintiff also contends that Defendants’ payroll and recordkeeping practices with respect  
21 to Plaintiff, PAGA Members, and the Class Members were substantially the same during the  
22 time period at issue.<sup>63</sup> As a result, Plaintiff claims that all of the Class Members and PAGA  
23 Members were uniformly not paid all compensation due to them from Defendants during the  
24 time period at issue.<sup>64</sup>

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27 <sup>61</sup> Aiwazian Decl., ¶ 16.

28 <sup>62</sup> *Ibid.*

<sup>63</sup> *Ibid.*

<sup>64</sup> *Ibid.*

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

**VII. APPOINTMENT OF CLASS COUNSEL AND ALLOCATION FOR ATTORNEYS' FEES AND COSTS**

Class Counsel has litigated the matter for over two years, and was actively preparing the matter for class certification and trial.<sup>65</sup> 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 Defendants. Class Counsel also noticed the depositions of Defendants' Person Most Knowledgeable designees. Class Counsel reviewed a large volume of documents and data<sup>66</sup> and also interviewed and obtained information from Plaintiff and other Class Members, researched applicable law, undertook damages/valuation calculations, and met and conferred with Defendants' counsel regarding the pleadings, discovery, and the production of documents and data prior to mediation.<sup>67</sup> Counsel for the Parties also undertook extensive settlement discussions, which included participating in a formal, full-day mediation.<sup>68</sup>

Class Counsel is well-experienced in wage-and-hour class action litigation and used that experience to obtain a great result for the Class.<sup>69</sup>

The Settlement establishes a Total Settlement Amount of two hundred fifty thousand dollars and no cents (\$250,000.00), and provides for Class Counsel to apply to the Court for Attorneys' Fees and Costs, consisting of attorneys' fees in an amount not to exceed thirty-five percent (35%) of the Total Settlement Amount and an amount not to exceed thirty thousand

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<sup>65</sup> Aiwazian Decl., ¶¶ 11-13.

<sup>66</sup> *Id.*, ¶ 12.

<sup>67</sup> *Ibid.*

<sup>68</sup> *Id.*, ¶ 11.

<sup>69</sup> *Id.*, ¶¶ 6-7.

dollars and no cents (\$30,000.00) for costs and expenses.<sup>70</sup> The attorneys' fees provided for by the Settlement is commensurate with: (1) the risk that Class Counsel took in bringing and litigating the case, (2) the extensive time, effort and expense that Class Counsel dedicated to the case, (3) the skill and determination that Class Counsel has shown, (4) the results that Class Counsel has achieved throughout the litigation, (5) the value of the Settlement that Class Counsel has achieved for the Class Members and PAGA Members, and (6) the other cases that Class Counsel had to turn down in order to devote its time and efforts to this matter. The proposed Class Notice provides Class Members and PAGA Members with information about the amount allocated toward the Attorneys' Fees and Costs, and that an award of the Attorneys' Fees and Costs will be sought, as provided for by the Settlement.<sup>71</sup>

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

<sup>70</sup> Settlement Agreement, ¶¶ 6.hh. and 10.

<sup>71</sup> Settlement Agreement, Exh. A.

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).

Class Counsel has borne all of the risks and costs of litigation and will not receive any compensation until recovery is obtained.<sup>72</sup>

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

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

California statutory and case law vests the Court with broad discretion in fashioning appropriate class notice. *See* Cal. Code Civ. Proc. § 1781; *Cartt v. Superior Court* (1975) 50 Cal.App.3d 960, 973-74. A class notice is adequate if it “present[s] a fair recital of the subject

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<sup>72</sup> Aiwazian Decl., ¶ 19.

1 matter and proposed terms” of the Settlement. *Mendoza v. United States* (9th Cir. 1980) 623  
2 F.2d 1338, 1351 (quoting *Marshall v. Holiday Magic* (9th Cir. 1977) 550 F.2d 1173, 1177).

3 The proposed Class Notice<sup>73</sup> describes the Settlement, the deadlines and procedures to  
4 submit a Notice of Objection to the Settlement, mail a Request for Exclusion from the  
5 Settlement, and/or mail a dispute regarding Workweeks, and the date and time set for the Final  
6 Approval Hearing.<sup>74</sup>

7 The proposed Class Notice fulfills the requirement of neutrality in notice procedure.  
8 *Newberg*, at § 8.39. “Sufficient information about the case should be provided to enable class  
9 members to make an informed decision about their participation.” *Manual for Complex*  
10 *Litigation* § 21.311 at 413 (4th ed. 2004). The proposed Class Notice summarizes the  
11 proceedings to date and the terms and conditions of the Settlement in an informative and  
12 coherent manner.<sup>75</sup> The proposed Class Notice recognizes that the Court has not yet granted  
13 final approval of the settlement.<sup>76</sup> The proposed Class Notice also apprises the Class Members  
14 and PAGA Members of, *inter alia*, how their Individual Settlement Share and, if applicable,  
15 Individual PAGA Payment is calculated and the number of Workweeks credited to them.<sup>77</sup>

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

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26 <sup>73</sup> Settlement Agreement, Exh. A.

27 <sup>74</sup> *Ibid.*

28 <sup>75</sup> *Ibid.*

<sup>76</sup> *Ibid.*

<sup>77</sup> *Ibid.*

1 **IX. APPOINTMENT OF PHOENIX SETTLEMENT ADMINISTRATORS AS THE**  
2 **SETTLEMENT ADMINISTRATOR**

3 The Parties have selected Phoenix to administer the Settlement.

4 The Settlement Administrator will mail the Class Notice to each Class Member and  
5 PAGA Member by First-Class U.S. Mail.<sup>78</sup> Any undeliverable Class Notice that is returned to  
6 the Settlement Administrator on or before the Response Deadline, the Settlement Administrator  
7 will search for an alternate address by way of skip-trace and re-mail to the forwarding address  
8 within five (5) calendar days.<sup>79</sup> The Response Deadline to submit a request for exclusion,  
9 objection, or dispute regarding Workweeks for Class Members to whom a Class Notice is re-  
10 sent, after having been returned as undeliverable to the Settlement Administrator, will be fifteen  
11 (15) calendar days from the original sixty (60) calendar day deadline.<sup>80</sup> The Settlement  
12 Administrator will receive and process Requests for Exclusion, Notices of Objection, and any  
13 disputes regarding Workweeks.<sup>81</sup>

14 The Settlement Administrator will calculate the amounts of the Individual Settlement  
15 Shares and, if applicable, Individual PAGA Payments; deduct and transmit applicable state  
16 and/or federal taxes in connection with the wage portion of Individual Settlement Shares; mail  
17 the Individual Settlement Payment and, if applicable, Individual PAGA Payment checks to  
18 PAGA Members; issue W-2 and 1099 forms; calculate and disburse the Attorneys' Fees and  
19 Costs, Enhancement Payment, and LWDA Payment; and perform such other tasks necessary to  
20 effectuate the terms of the Settlement Agreement.<sup>82</sup> The Settlement Administration Costs are  
21 currently estimated to be seven thousand dollars and no cents (\$7,000.00) and will be paid out  
22 of the Total Settlement Amount, subject to approval by the Court.<sup>83</sup>

23 Accordingly, Plaintiff respectfully requests that the Court appoint Phoenix Settlement  
24 Administrators as the Settlement Administrator and direct the mailing of the Class Notice to the  
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26 <sup>78</sup> Settlement Agreement, ¶ 17.a.

27 <sup>79</sup> *Id.*, ¶ 17.b.

28 <sup>80</sup> *Ibid.*

<sup>81</sup> *Id.*, ¶¶ 18, 20 and 22.

<sup>82</sup> *Ibid.*; Aiwazian Decl., ¶ 15.

<sup>83</sup> Settlement Agreement, ¶ 12.

Class Members and PAGA 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, Plaintiff seeks 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 and PAGA Members based on Defendants' records.<sup>84</sup>

Within twenty-one (21) calendar days after the date on which the Court grants preliminary approval of the Settlement, Defendants will provide the Settlement Administrator with the following information for each Class Member and PAGA Member: (1) full name; (2) last known mailing address; (3) Social Security Number; and (4) dates worked for Defendants during the Release Period and, if applicable, during the PAGA Period, and such other information and data as necessary for the Settlement Administrator to independently calculate the Workweeks (collectively, "Class List").<sup>85</sup>

Within fourteen (14) calendar days of receipt of the Class List, the Settlement Administrator will mail the Class Notice to the Class Members and PAGA Members via First-Class U.S. Mail.<sup>86</sup> If a Class Notice is returned as undeliverable on or before the Response Deadline, the Settlement Administrator will search for an alternate address by way of skip-trace and re-mail the Class Notice within five (5) calendar days.<sup>87</sup> Class Members will have until the applicable Response Deadline to mail a Request for Exclusion, mail a dispute regarding Workweeks, and/or Notice of Objection.<sup>88</sup>

Defendants will make a one-time deposit of the Total Settlement Amount, together with an amount sufficient to pay Employer Taxes, into a Qualified Settlement Account to be established by the Settlement Administrator, within thirty (30) calendar days after the Effective

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<sup>84</sup> Settlement Agreement, ¶ 17.

<sup>85</sup> *Id.*, ¶¶ 6.c. and 16.

<sup>86</sup> *Id.*, ¶ 17.a.

<sup>87</sup> *Id.*, ¶ 17.b.

<sup>88</sup> *Id.*, ¶¶ 18, 20, and 22.

1 Date.<sup>89</sup> Within seven (7) calendar days of the funding of the Total Settlement Amount, the  
2 Settlement Administrator will distribute: (1) the Individual Settlement Shares to Settlement  
3 Class Members; (2) Individual PAGA Payments to PAGA Members; (3) the Court-approved  
4 Enhancement Payment to Plaintiff; (3) the Court-approved Attorneys' Fees and Costs to Class  
5 Counsel; (4) the LWDA Payment to the LWDA; and (5) the Court-approved Settlement  
6 Administration Costs to itself.<sup>90</sup>

7 The Individual Settlement Payment and/or Individual PAGA Payment checks will  
8 remain negotiable for one hundred and eighty (180) calendar days from the date of their  
9 issuance.<sup>91</sup> Checks that are not negotiated within the 180-day period will be cancelled.<sup>92</sup> The  
10 funds associated with such cancelled checks will be tendered by the Settlement Administrator  
11 to the Los Angeles Legal Aid Foundation.<sup>93</sup>

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

14 Plaintiff Chidimma Igboakaeze respectfully requests that the Court appoint her as the  
15 Class Representative and preliminarily approve the Enhancement Payment in an amount up to  
16 seven thousand five hundred dollars and no cents (\$7,500.00).<sup>94</sup> It is within the Court's  
17 discretion to award payment to a class representative for their efforts and work. *Vranken v.*  
18 *Atlantic Richfield Co.* (N.D. Cal. 1995) 901 F.Supp. 294, 299 (approving \$50,000 participation  
19 award to a single class representative). The factors that courts may consider in determining  
20 whether to make an enhancement payment include: (1) the risk to the class representative in  
21 commencing suit, both financial and otherwise; (2) the notoriety and personal difficulties  
22 encountered by the class representative; (3) the amount of time and effort spent by the class  
23 representative; (4) the duration of the litigation; and (5) the personal benefit (or lack thereof)  
24 enjoyed by the class representative as a result of the litigation. *Id.*

25  
26 <sup>89</sup> Settlement Agreement, ¶ 9.

27 <sup>90</sup> *Ibid.*

28 <sup>91</sup> *Id.*, ¶ 19.

<sup>92</sup> *Ibid.*

<sup>93</sup> *Ibid.*

<sup>94</sup> *Id.*, ¶ 11.

The Enhancement Payment is fair and appropriate. Plaintiff spent a substantial amount of time and effort in producing relevant documents and past employment records and providing the facts and evidence necessary to attempt to prove the allegations.<sup>95</sup> Plaintiff was available whenever Class Counsel needed her and actively tried to obtain and provide information that would benefit the Class.<sup>96</sup> Accordingly, it is appropriate and just for Plaintiff to receive an Enhancement Payment for her services on behalf of the Class, in addition to her Individual Settlement Payment and Individual PAGA 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; preliminary appoint and designate Lawyers for Justice, PC as Class Counsel; preliminary appoint and designate Plaintiff Chidimma Igboakaeze as Class Representative; appoint Phoenix Settlement Administrators as Settlement Administrator; preliminarily approve the allocations for Attorneys' Fees and Costs, Enhancement Payment, PAGA Penalty Amount, 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 six (6) months.

Dated: March 28, 2022

**LAWYERS for JUSTICE, PC**

By: \_\_\_\_\_

  
Edwin Aiwazian  
Attorneys for Plaintiff

<sup>95</sup> Aiwazian Decl., ¶ 20; Declaration of Chidimma Igboakaeze in Support of Plaintiff's Motion for Preliminary Approval of Class Action Settlement ("Igboakaeze Decl."), ¶ 4.

<sup>96</sup> Aiwazian Decl., ¶ 20; Igboakaeze Decl., ¶¶ 3-6.