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9
10 SUPERIOR COURT OF THE STATE OF CALIFORNIA

11 FOR THE COUNTY OF LOS ANGELES – CIVIL DIVISION

12 ASHLEY MAYS, KRISTINA DOVE,
13 DYANE MACKINNON, LYRIC HEMMER,
14 and VICTORIA VALENTINE, on behalf of
themselves and all others similarly situated,

15 Plaintiffs,

16 v.

17 NURTUR, LLC, an Ohio limited liability
18 company; and DOES 1 to 10, inclusive,

19
20 Defendants.
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Case No. 20STCV26635

CLASS ACTION

**PLAINTIFFS' NOTICE OF MOTION AND
MOTION FOR PRELIMINARY
APPROVAL OF CLASS ACTION AND
PAGA SETTLEMENT**

*[Filed concurrently with Declaration of Justin
Kachadoorian; [Proposed] Order]*

Hearing Date: November 23, 2026

Time: 3:00 p.m.

Judge: Hon. William F. Highberger

Dept.: 10

PLEASE TAKE NOTICE that, pursuant to Rules 3.764 and 3.769 of the California Rules of Court, on November 23, 2026 at 3:00 p.m., or as soon thereafter as this matter may be heard in Department 10 of the above-entitled Court, located at 312 North Spring Street, Los Angeles, California 90012, Plaintiffs Ashley Mays, Kristina Dove, Dyane MacKinnon, Lyric Hemmer, and Victoria Valentine (collectively, “Plaintiffs”), individually, on behalf of a class of similarly situated individuals, and, as to the claim under the Private Attorneys General Act, Labor Code section 2698 et seq. (“PAGA”), on behalf of the State of California and other aggrieved employees, will and hereby do move this Court for:

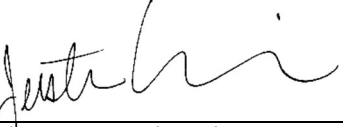
- Preliminary approval of the proposed class action settlement;
- Approval of the PAGA component of the Settlement, including the \$10,000 PAGA Settlement Payment, of which seventy-five percent (\$7,500) shall be paid to the California Labor and Workforce Development Agency (“LWDA”) pursuant to Labor Code section 2699(i) and twenty-five percent (\$2,500) shall be distributed pro rata to the approximately 535 PAGA Claimants without any claims process;
- Pursuant to Section 382 of the California Code of Civil Procedure and Rule 3.764 of the California Rules of Court, provisional certification of the following Settlement Class, for settlement purposes only: All persons who graduated from Defendant Nurtur, LLC’s cosmetology or esthetician programs at Aveda Institute Los Angeles (AILA) during the Class Period (July 10, 2016 to October 31, 2022);
- Preliminary appointment of Plaintiffs as Settlement Class Representatives;
- Preliminary appointment of CounselOne, P.C. as Settlement Class Counsel;
- Appointment of ILYM Group, Inc. as the Settlement Administrator for mailing notices and disbursements to the Settlement Class and for distributing Individual PAGA Payments to the PAGA Claimants;
- Approval of the proposed Class Notice and entry of the proposed Order instructing the Class Notice to be disseminated to the Settlement Class and the PAGA Claimants as provided in the Settlement Agreement; and
- Scheduling of a final approval hearing.

1 This motion is based on this Notice of Motion, the attached Memorandum of Points and
2 Authorities, the Declaration of Justin Kachadoorian filed concurrently herewith, the Settlement
3 Agreement and all exhibits thereto, all pleadings and papers filed in this action, and any further oral
4 or documentary evidence or argument presented at the time of hearing.

5 Respectfully submitted,

6 Dated: September 1, 2026

COUNSELONE, P.C.

7
8 By  _____

9 Anthony J. Orshansky

Alexandria R. Kachadoorian

10 Justin Kachadoorian

11 *Attorneys for Plaintiffs and the Settlement Class*

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1 **I. INTRODUCTION**

2 Plaintiffs Ashley Mays, Kristina Dove, Dyane MacKinnon, Lyric Hemmer, and Victoria
3 Valentine seek preliminary approval of a class and PAGA settlement resolving the claims of 786
4 graduates of Defendant Nurtur, LLC’s cosmetology and esthetician programs at the now-closed
5 Aveda Institute Los Angeles (“AILA”) campus, reached after six years of hard-fought litigation,
6 two mediations, and lengthy follow-on negotiations. Under the Settlement, Defendant will fund a
7 claims-made settlement of up to \$250,000 (the “Claim Maximum”), paying \$370 to each
8 cosmetology graduate and \$185 to each esthetician graduate, together with a separate \$10,000
9 PAGA Settlement Payment allocated between the LWDA and approximately 535 PAGA Claimants,
10 who will be paid without any claims process. Attorneys’ fees and costs, incentive awards, and
11 administration costs are paid separately by Defendant and are not deducted from the class recovery.

12 The Settlement reflects a realistic assessment of the risks of proceeding with the litigation
13 and Defendant’s financial condition, which impacts the potential collectability of any judgment
14 Plaintiffs might obtain if they were to prevail on the merits: AILA ceased operations in October
15 2022 and has not reopened; Defendant’s most recent U.S. Department of Education composite score
16 places its reporting entity in the bottom quartile of Title IV-participating institutions nationally; and
17 Defendant’s available insurance is a \$1,000,000 “burning limits” policy substantially eroded by six
18 years of defense costs. A materially larger settlement or judgment risked pushing Defendant below
19 the Department’s financial-responsibility thresholds—jeopardizing the Title IV eligibility on which
20 its remaining schools depend and leaving the Settlement Class with no meaningful recovery at all.
21 As set forth below, the Settlement satisfies each requirement for preliminary approval, and Plaintiffs
22 respectfully request that the Court grant preliminary approval, provisionally certify the Settlement
23 Class, approve the proposed notice plan, and set a Final Approval Hearing.

24 **II. SUMMARY OF THE LITIGATION**

25 **A. *Discovery and Investigation***

26 Plaintiffs filed this action on July 10, 2020, in the Superior Court of California for the County
27 of Los Angeles, alleging statutory and common law claims arising out of Defendant’s post-
28 secondary education programs. (Kachadoorian Decl. ¶ 2.) Defendant removed the action to federal

1 court on September 11, 2020, and the Parties fully briefed both Defendant’s motion to dismiss and
2 Plaintiff Mays’s motion to remand before the action was remanded to state court on November 19,
3 2020.

4 During the course of this litigation, the Parties engaged in substantial discovery. Plaintiffs
5 propounded multiple sets of written discovery on Defendant and reviewed Defendant’s production
6 of approximately 10,000 pages of documents. Plaintiffs took depositions of Defendant’s owner,
7 Patrick Thompson, and other persons most qualified on Defendant’s behalf, and Defendant deposed
8 approximately twenty Plaintiffs and declarants in connection with class certification. The Parties
9 also litigated multiple discovery motions, including motions to compel and participated in informal
10 discovery conferences.

11 Plaintiffs consulted with and retained four expert witnesses in preparing for class
12 certification and settlement, including an electronically stored information (“ESI”) expert, a
13 damages expert, a consumer survey expert retained to design a survey of Settlement Class Members,
14 and an expert in cosmetology-industry standards and practices. In light of Defendant’s interest in
15 protecting student privacy under the Family Educational Rights and Privacy Act (“FERPA”), the
16 Parties agreed to a *Belaire-West* notice process incorporating both opt-in and opt-out features. That
17 notice, sent in 2024, generated substantial engagement from former students, and Plaintiffs’ counsel
18 interviewed dozens of them regarding their experiences in both programs, resulting in twenty-five
19 declarations submitted in support of Plaintiffs’ motion for class certification, filed February 5, 2025.
20 Plaintiffs also submitted federal and state public-records requests concerning similar private post-
21 secondary beauty schools and the school at issue in this action.

22 Class Counsel further reviewed Defendant’s financial records and publicly available
23 documentation Defendant submitted to the U.S. Department of Education, which informed the
24 settlement valuation. During discovery, gaps emerged in Defendant’s retention of certain records
25 relevant to this litigation, which gave rise to Plaintiffs’ pending motion for spoliation sanctions.
26 (Kachadoorian Decl. ¶¶ 4-8.)

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28 ///

1 ***B. Mediation and Settlement***

2 The Parties engaged in two mediation sessions. The first took place on August 5, 2022, with
3 Marc J. Feder, and was followed by continued negotiations with Mr. Feder over the following year
4 without resolution. On July 30, 2025, the Parties engaged in a second, in-person mediation in San
5 Diego, California before the Hon. Leo Papas (Ret.), a well-regarded mediator who has mediated
6 many class actions, followed by lengthy follow-on negotiations both assisted by Judge Papas and
7 directly between counsel. (Kachadoorian Decl. ¶ 9.)

8 The settlement negotiations were hard fought and conducted in good faith and at arm's
9 length between attorneys with substantial experience litigating class actions. The Parties recognized
10 that the issues presented were likely only to be resolved with extensive and costly pretrial
11 proceedings, and that further litigation would cause inconvenience, distraction, disruption, delay,
12 and expense disproportionate to the potential benefits, taking into account the risk and uncertainty
13 of the outcome inherent in any litigation. The Settlement was the product of a process in which the
14 Parties each made significant compromises in the interest of reaching a full and complete settlement
15 of the action.

16 From Class Counsel's review of the facts, strengths, and weaknesses of the case, the risks
17 and delays posed by further litigation, and Class Counsel's own prior litigation experience, Class
18 Counsel believe that the recovery being made available to the Settlement Class is fair and
19 reasonable, taking into consideration the amount obtained, the risks inherent in litigation of this
20 genre, and Defendant's financial condition. (Kachadoorian Decl. ¶ 11.)

21 **III. SUMMARY OF BASIC SETTLEMENT TERMS**

22 Under the terms of the Settlement Agreement, a true and correct copy of which is attached
23 as Exhibit A to the Declaration of Justin Kachadoorian, Defendant has agreed to fund a claims-made
24 settlement up to a maximum of \$250,000 (the "Claim Maximum") to pay valid claims by Authorized
25 Claimants. (Settlement Agreement ¶ 14.) The key terms are as follows:

26 **Settlement Payments:** Each Authorized Claimant shall receive \$370 per cosmetology
27 graduate or \$185 per esthetician graduate. Payments shall be applied first to any outstanding retail
28 installment contract debt owed by the Authorized Claimant to Defendant, with the remainder paid

1 in cash. If total valid claims exceed the Claim Maximum, payments and credits will be reduced pro
2 rata.

3 **Incentive Awards:** Each of the five Named Plaintiffs shall receive \$5,000, subject to Court
4 approval. The twenty-five non-plaintiff Student Witnesses who submitted declarations or testified
5 in support of the certification motion shall share incentive awards of up to \$35,000 in total, allocated
6 on a per-student basis as set forth in the Settlement Agreement.

7 **Attorneys' Fees and Costs:** Defendant shall separately pay \$200,000 in attorneys' fees and
8 costs. If total claims paid are less than the Claim Maximum, Class Counsel may also seek an
9 additional one-third of the unclaimed amount as supplemental fees and costs, up to a maximum of
10 \$40,000, for a total maximum fee and cost award of \$240,000, subject to Court approval. No fee-
11 splitting agreement exists.

12 **PAGA Settlement Payment:** A separate PAGA Settlement Payment of \$10,000 shall be
13 paid, with 75% (\$7,500) allocated to the LWDA and 25% (\$2,500) distributed pro rata to
14 approximately 535 PAGA Claimants, without a claims process.

15 **Administration Costs:** Administration costs shall not exceed \$10,000 and shall be paid by
16 Defendant. The Settlement Administrator is ILYM Group, Inc., jointly selected by the Parties.

17 Assuming the Claim Maximum is fully claimed, Defendant's total payment obligation under
18 the Settlement is \$530,000. (Kachadoorian Decl. ¶ 16.)

19 **IV. CERTIFICATION FOR SETTLEMENT PURPOSES IS APPROPRIATE.**

20 Plaintiffs request that the Court provisionally certify the Settlement Class for settlement
21 purposes only. (Cal. Rules of Court, rule 3.769(d).) Code of Civil Procedure section 382 authorizes
22 a class action where "the question is one of a common or general interest, of many persons, or when
23 the parties are numerous, and it is impracticable to bring them all before the court." To obtain
24 certification, a party must establish the existence of both an ascertainable class and a well-defined
25 community of interest among the class members. *Linder v. Thrifty Oil Co.* (2000) 23 Cal. 4th 429,
26 435. The community of interest requirement embodies three factors: (1) predominant common
27 questions of law or fact; (2) class representatives with claims or defenses typical of the class; and
28 (3) class representatives who can adequately represent the class. *Richmond v. Dart Indus., Inc.*

(1981) 29 Cal. 3d 462, 470. The Court’s assessment also considers whether a class action is superior to individual lawsuits or alternative procedures for resolving the controversy. *Bufl v. Dollar Fin. Grp., Inc.* (2008) 162 Cal. App. 4th 1193, 1204, disapproved on other grounds by *Noel v. Thrifty Payless, Inc.* (2019) 7 Cal. 5th 955, 986 n.15.

When certification is sought for settlement purposes only, California courts apply a lesser standard of scrutiny. *Dunk v. Ford Motor Co.* (1996) 48 Cal. App. 4th 1794, 1802 n.19; *Luckey v. Superior Court* (2014) 228 Cal. App. 4th 81, 93. This is because no trial is anticipated in the settlement-only context, so the case-management issues inherent in a contested certification motion need not be confronted. *Luckey*, 228 Cal. App. 4th at 93-94; *Amchem Prods. Inc. v. Windsor* (1997) 521 U.S. 591, 620. Whether the class should be provisionally certified is left to the Court’s discretion. *Wershba v. Apple Computer, Inc.* (2001) 91 Cal. App. 4th 224, 234-35.

Plaintiffs request that the Court certify the following Settlement Class for settlement purposes only:

Settlement Class: All persons who graduated from Defendant Nurtur, LLC’s cosmetology or esthetician programs at Aveda Institute Los Angeles (AILA) during the Class Period (July 10, 2016 to October 31, 2022).

The Court may also refer to Plaintiffs’ motion for class certification, filed February 5, 2025, for additional detail regarding the certification record. Here, each requirement for class certification is met and certification of the Settlement Class is warranted.

A. The Proposed Settlement Class Is Ascertainable and Numerous.

Numerosity is satisfied if the class is so large that joinder of all members would be impracticable. Cal. Code Civ. P. § 382. Here, there are 786 Settlement Class Members (graduates) and approximately 535 PAGA Claimants identified from Defendant’s own records. (Kachadoorian Decl. ¶¶ 4, 18.) Numerosity is satisfied.

As for ascertainability, one method of establishing an ascertainable class is by reference to a defendant’s records where class members “may be readily identified without unreasonable expense or time by reference to official records.” *Noel*, 7 Cal. 5th at 986 n.15. Here, the Settlement Class Members are readily identifiable from Defendant’s records. During discovery, Defendant provided Plaintiffs with data identifying the Settlement Class Members, and *Belaire-West* notices

1 were sent to these individuals regarding disclosure of their contact information and student files.
2 Thus, the Class is ascertainable.

3 ***B. The Community of Interest Requirements Are Met.***

4 The “community of interest” requirement involves three factors: “(1) predominant common
5 questions of law or fact; (2) class representatives with claims or defenses typical of the class; and
6 (3) class representatives who can adequately represent the class.” *Richmond*, 29 Cal. 3d at 470.
7 Here, each element is met for purposes of the Settlement.

8 ***1) Common Questions Predominate.***

9 “To determine whether common questions of fact predominate the trial court must examine
10 the issues framed by the pleadings and the law applicable to the causes of action alleged.” *Hicks v.*
11 *Kaufman & Broad Home Corp.* (2001) 89 Cal. App. 4th 908, 916. “As a general rule if the
12 defendant’s liability can be determined by facts common to all members of the class, a class will be
13 certified even if the members must individually prove their damages.” *Id.* at 916. Here, Plaintiffs
14 and Settlement Class Members were all former students of Defendant’s cosmetology or esthetician
15 programs during the Class Period. Whether Defendant’s conduct in connection with its post-
16 secondary education programs violated applicable statutory and common law is capable of
17 resolution by common evidence, and each Settlement Class Member’s entitlement to a claim under
18 the Settlement is capable of resolution through the class settlement administration process.

19 ***2) Plaintiffs’ Claims Are Typical.***

20 Typicality is met where the named plaintiffs’ claims arise from the same course of conduct
21 and are based on the same legal theories as the claims of absent class members. *Johnson v.*
22 *GlaxoSmithKline, Inc.* (2008) 166 Cal. App. 4th 1497, 1509. Here, Plaintiffs and Settlement Class
23 Members were all former students who attended Defendant’s cosmetology or esthetician programs
24 during the Class Period, and Plaintiffs’ claims arise from the same conduct and course of dealing
25 alleged on behalf of the Settlement Class. Typicality is satisfied.

26 ***3) Plaintiffs and Plaintiffs’ Counsel Can Adequately Represent the Class.***

27 To satisfy the adequacy requirement, class representatives must establish that: (1) the
28 representative plaintiffs and their counsel do not have any conflicts of interest with other class

1 members, and (2) the representative plaintiffs and their counsel will prosecute the action vigorously
2 on behalf of the class. *Janik v. Rudy, Exelrod & Zieff* (2004) 119 Cal. App. 4th 930, 944. Plaintiffs
3 have committed to represent the interests of the Settlement Class and have no conflicts with the
4 Settlement Class. Plaintiffs are motivated and qualified class representatives who have participated
5 throughout the investigation and settlement of the Settlement Class's claims, including six years of
6 active litigation. Plaintiffs have engaged qualified counsel with extensive experience litigating
7 consumer, privacy, and employment class actions across California and nationally. (Kachadoorian
8 Decl. ¶¶ 30-32.)

9 ***C. A Class Action Is the Superior Vehicle for Resolving This Matter.***

10 Finally, a class action is a superior method of resolving this matter through the class
11 settlement process. Superiority is satisfied if "the class action proceeding is superior to alternate
12 means for a fair and efficient adjudication of the litigation." *Sav-On Drug Stores, Inc. v. Superior*
13 *Court* (2004) 34 Cal. 4th 319, 332. Here, where the claims of all Settlement Class Members are
14 based on the same common core of facts but involve modest individual amounts, resolving this
15 matter as a class action settlement will achieve economies of time, effort, and expense, and promote
16 uniformity of results. *Basurco v. 21st Century Ins.* (2003) 108 Cal. App. 4th 110, 120-21.

17 **V. THE COURT SHOULD GRANT PRELIMINARY APPROVAL.**

18 As a matter of public policy, courts both encourage the use of the class action device and
19 favor settlement over continued litigation. *Linder v. Thrifty Oil Co.* (2000) 23 Cal. 4th 429, 434;
20 *State v. Levi Strauss & Co.* (1986) 41 Cal. 3d 460, 471; *Class Plaintiffs v. City of Seattle* (9th Cir.
21 1992) 955 F.2d 1268, 1276. Settlement is favored, and settlement agreements are realistically
22 assessed. *Stambaugh v. Superior Court* (1976) 62 Cal. App. 3d 231, 236.

23 The Settlement here is fair because it offers relief to the Settlement Class, provides payment
24 to each Settlement Class Member for releasing his or her claims, extinguishes the risk of litigation,
25 and provides a fair and adequate distribution of the settlement proceeds. (Kachadoorian Decl.)

26 ***A. The Settlement Is Entitled to a Presumption of Fairness.***

27 Courts presume the absence of fraud or collusion in the negotiation of a settlement unless
28 evidence to the contrary is offered. In short, there is a presumption that the negotiations were

1 conducted in good faith. *Rodriguez v. West Publ. Corp.* (C.D. Cal. Aug. 10, 2007) 2007 U.S. Dist.
2 LEXIS 74767, at *24-25; *In re Chicken Antitrust Litig.* (N.D. Ga. 1980) 560 F. Supp. 957, 962;
3 *Priddy*, 883 F.2d at 447; *Mars Steel Corp. v. Continental Illinois National Bank & Trust Co.* (7th
4 Cir. 1987) 834 F.2d 677, 681. Courts do not substitute their judgment for that of the settling parties,
5 particularly when settlement has been reached by experienced counsel familiar with the litigation.
6 *Rodriguez*, 2007 U.S. Dist. LEXIS 74767, at *24. The Settlement here is the result of extensive
7 settlement negotiations between the Parties, conducted at arm's length, and informed by substantial
8 factual and legal investigation. (Kachadoorian Decl., *passim*.)

9 **1) Negotiations Were at Arm's Length before Experienced Mediators**

10 The Parties participated in mediation sessions with Marc J. Feder and, later, the Honorable
11 Leo Papas (Ret.), a well-regarded mediator who has mediated many class actions. (Kachadoorian
12 Decl. ¶ 9.) The settlement negotiations were hard fought, and the Settlement is the product of an
13 adversarial, non-collusive process in which the Parties each made significant compromises in the
14 interest of reaching a full and complete settlement of the action. (*Ibid.*)

15 **2) Investigation Was Sufficient to Allow Counsel to Act Intelligently**

16 Class Members have been represented throughout by experienced counsel with decades of
17 experience in class action litigation generally and consumer and employment litigation in particular.
18 (Kachadoorian Decl. ¶¶ 30-32.) Class Counsel conducted a thorough investigation, including
19 propounding written discovery, taking and defending depositions, retaining four expert witnesses,
20 reviewing Defendant's financial records and publicly available regulatory filings, interviewing
21 dozens of former students, preparing for and attending mediation, and negotiating and finalizing the
22 Settlement and related documents. (*Id.* ¶ 29.)

23 **3) Class Counsel Are Experienced in Similar Litigation.**

24 Class Counsel believe that the Settlement is fair and reasonable and serves the best interests
25 of the Class Members. (Kachadoorian Decl. ¶ 11.) Although the recommendations of counsel
26 proposing a class settlement are not conclusive, the Court can properly take those recommendations
27 into account, particularly where counsel have been involved in the litigation for a substantial period,
28 appear competent, have experience with this type of litigation, and sufficient discovery has been

1 completed. Here, Plaintiffs are represented by competent and experienced counsel who possess
2 extensive experience litigating consumer, privacy, and employment class actions and have been
3 appointed as class counsel in numerous such actions across California and nationally.
4 (Kachadoorian Decl. ¶¶ 30-32.)

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

6 To make a fairness determination, the Court should consider several factors, including “the
7 strength of plaintiffs’ case, the risk, expense, complexity and likely duration of further litigation, the
8 risk of maintaining class action status through trial, the amount offered in settlement, the extent of
9 discovery and the stage of proceedings, [and] the experience and views of counsel.” *Dunk v. Ford*
10 *Motor Co.* (1996) 48 Cal. App. 4th 1794, 1801. “The list of factors is not exclusive and the court is
11 free to engage in a balancing and weighing of factors depending on the circumstances of each case.”
12 *Wershba*, 91 Cal. App. 4th at 245. As discussed below, the proposed Settlement is fair, adequate,
13 and reasonable in light of the overall factors in this case.

14 ***1) The Strength of Plaintiffs’ Case and Maximum Realistic Recovery***

15 Plaintiffs steadfastly maintain that their claims are meritorious but acknowledge substantial
16 risks and uncertainty in proceeding with litigation, including at class certification and trial.
17 Defendant disputes liability and asserts numerous defenses, including that similar claims have not
18 succeeded in other actions; that Defendant’s school performance data and other information
19 presented at the time of enrollment were factually accurate, were highly regulated by Defendant’s
20 accrediting agencies, and were supported by backup documentation, which was reviewed and
21 approved by said agencies; that Defendant employed instructors who were legally qualified to
22 provide cosmetology instruction under applicable law and regulations; that students were not
23 employees and were informed and acknowledged at the time of enrollment that they were not
24 employees and that they would not be compensated; that some putative class members understood
25 they were not employees and that they would not be compensated by Defendant for any part of their
26 enrollment at Defendant’s school; that students acknowledged at the time of enrollment that
27 Defendant does not guarantee job placement; that most students passed their State licensing exams
28 and became licensed cosmetologists or estheticians; that the alleged sanitation activities Plaintiffs

1 allege in the complaint were either required components of the curriculum or were necessary to the
2 completion of the curriculum; that individual issues predominate; that certain of Plaintiffs' claims
3 concerning the quality of instruction are barred under the doctrine limiting educational-quality
4 claims to a narrow set of circumstances; and that post-program surveys reflect that many students
5 reported positive experiences regarding the quality of their education and/or their readiness for their
6 respective licensing exams. While Plaintiffs dispute Defendant's position on these issues,
7 Defendant's positions and supporting evidence create a genuine and substantial risk that Defendant
8 could prevail at trial and that Plaintiffs and the class could recover nothing. Class certification was
9 also pending and contested at the time of settlement, with Defendant having conducted
10 approximately twenty depositions of Plaintiffs and declarants in preparation to oppose the motion.
11 If the class certification motion had been denied, Settlement Class Members would have received
12 nothing, and any favorable judgment could have been appealed, potentially tying up recovery for
13 years. (Kachadoorian Decl. ¶¶ 17, 21.)

14 The Settlement reflects Defendant's financial condition, discussed further in subsection 5
15 below. The Claim Maximum of up to \$250,000, paying \$370 per cosmetology graduate and \$185
16 per esthetician graduate, provides meaningful individual relief to 786 Settlement Class Members
17 and falls well within the "ballpark" of reasonableness under *Kullar v. Foot Locker Retail, Inc.*, 168
18 Cal. App. 4th 116, 123 (2008).

19 **2) Risk, Expense, Complexity, and Duration of Further Litigation**

20 Absent settlement, the Parties would have needed to conduct substantial additional
21 discovery, including further depositions of Plaintiffs' declarants, Defendant's employees, and expert
22 witnesses for both sides, and actually conducting a consumer survey. Significant additional costs,
23 including expert fees, attorney time, and costs for Defendant's employees, Plaintiffs, and declarants,
24 would have been necessary. Further, Plaintiffs had a pending motion for spoliation sanctions, which
25 would have resulted in contested briefing and hearing. In addition, as set forth above, Defendant
26 has raised numerous defenses that create a real risk that Defendant could prevail at trial and any
27 favorable judgment Plaintiffs might have received could have been appealed. This complex
28

litigation has already spanned six years; further litigation would impose even greater expense and delay disproportionate to potential additional benefit. (Kachadoorian Decl. ¶ 15.)

3) Risk of Maintaining Class Action Status

Settlement was reached while a class certification motion remained pending, following substantial investment by both sides in briefing and taking and defending extensive depositions. Despite this investment, class certification was by no means guaranteed. Having taken depositions of approximately 20 different class members, including the named Plaintiffs, Defendant likely would have raised colorable arguments in opposition to class certification based on that deposition testimony that, among other things, common questions of law and fact do not predominate, that Plaintiffs' claims are atypical, and/or other arguments bearing on the relevant class certification factors. If the Court had denied class certification or later decertified the class, Settlement Class Members would have recovered nothing and would have been forced to proceed on individual claims. (Kachadoorian Decl. ¶ 17.) This factor strongly supports approval.

4) Amount Offered in Settlement Given Realistic Valuation of the Claims

The Settlement provides a fair and reasonable monetary recovery for the Settlement Class in the face of disputed claims. A settlement is not judged against what might have been recovered had Plaintiffs prevailed at trial, nor must it provide 100 percent of the damages sought to be fair and reasonable. *Wershba*, 91 Cal. App. 4th at 246, 250. Class Counsel reviewed Defendant's financials and data reflecting the school's composite score, which constrain the maximum realistic recovery.

This settlement compares favorably to outcomes in similar litigation. In *Eberline v. Douglas J. Holdings, Inc.*, Case No. 5:14-cv-10887 (E.D. Mich.), a class of cosmetology students at an ongoing, solvent Aveda-affiliated school chain recovered approximately \$379 per student. The litigation had proceeded through summary judgment, an interlocutory appeal, and remand over the course of approximately ten years of litigation before it settled. Measured against that benchmark, the \$370 payment to each Nurtur cosmetology graduate here compares favorably, notwithstanding that *Eberline* involved a financially healthy, ongoing school with no claimed financial distress and reached settlement at a materially later procedural stage. The lower \$185 payment to esthetician graduates is likewise justified: the esthetician program lasted only 21 weeks, compared to 56 weeks

1 for the cosmetology program, so a proportionally smaller recovery for the shorter program reflects
2 a fair distribution of the settlement fund rather than any disparity in treatment.

3 Courts also approve modest per-capita recoveries where a defendant's financial condition or
4 the underlying litigation risk warrants it. In the COVID-19 tuition-refund litigation against Rutgers
5 University, a public university with no comparable financial distress, the court approved a settlement
6 yielding expected per-student payments of only \$50 to \$70. *See Rocchio v. Rutgers, The State Univ.*
7 *of N.J.* (N.J. Super. Ct., Middlesex Cnty., final approval Jan. 28, 2022). Measured against this
8 landscape, and particularly in light of Defendant's financial condition discussed below, the recovery
9 here is well within the range that California courts have found reasonable.

10 Because the Settlement resolves both class claims and the non-class PAGA claim, the
11 amount allocated to the PAGA payment is separately justified and fair to the PAGA Claimants it
12 affects. *See Moniz v. Adecco USA, Inc.* (2021) 72 Cal. App. 5th 56, 77, disapproved on other
13 grounds by *Turrieta v. Lyft, Inc.* (2024) 16 Cal. 5th 664. The \$10,000 PAGA payment is separate
14 from, and in addition to, the \$250,000 Claim Maximum available to the Settlement Class—it is not
15 carved out of the class recovery—and the 25% PAGA Claimant share (\$2,500, distributed pro rata
16 to approximately 535 PAGA Claimants without any claims process) reflects a per-employee amount
17 sufficient to avoid the de minimis-recovery concerns that can arise in PAGA settlements. Moreover,
18 for the reasons set forth earlier in this brief, Plaintiffs faced a genuine and substantial risk, perhaps
19 more than any other claim alleged by Plaintiffs, that Defendant could prevail on the PAGA Claim
20 based on pre-enrollment disclosures by Defendant, signed and acknowledged by students, that
21 students are not employees and will not be compensated, class member deposition testimony
22 wherein the deponents testified that they did not have any understanding that they were employees
23 of Defendant or any expectation of compensation, the lack of success in similar cases in other
24 jurisdictions, and Defendant's argument, under *Benjamin v. B&H Educ., Inc.* (9th Cir. 2017) 877
25 F.3d 1139 and its progeny, that students were the primary beneficiaries of the tasks Plaintiffs allege
26 in the Complaint. This allocation is therefore fair both to Settlement Class Members and to PAGA
27 Claimants as a distinct group.

1 A claims-made structure is appropriate here. California courts have repeatedly approved
2 class settlements structured on a claims-made basis. (*See, e.g., Wershba, supra*, 91 Cal. App. 4th
3 224 [affirming approval of nationwide consumer class settlement in which the defendant provided
4 benefits only to class members who submitted claim forms]; *Chavez v. Netflix, Inc.* (2008) 162 Cal.
5 App. 4th 43 [affirming settlement providing benefits only to class members who registered claims];
6 *Munoz v. BCI Coca-Cola Bottling Co. of Los Angeles* (2010) 186 Cal. App. 4th 399 [affirming
7 claims-made wage-and-hour class settlement over objections]; *see also Kaupelis v. Harbor Freight*
8 *Tools USA, Inc.* (C.D. Cal. Jan. 12, 2022, No. 8:19-cv-01203) 2022 WL 2288895 [granting final
9 approval of claims-made consumer class settlement]; *Broomfield v. Craft Brew Alliance, Inc.* (N.D.
10 Cal. Feb. 5, 2020, No. 17-cv-01027) 2020 WL 1972505 [same].) Defendant does not possess readily
11 accessible individual transaction or damage data tied to each class member’s specific loss, gaps exist
12 in the available data as a result of the record-retention issues discussed above, including complete
13 records of hours spent by students required on curriculum, on alleged non-educational tasks, and on
14 required practical operations, and individual students may place differing subjective value on the
15 program and differing degrees of continued affinity toward Defendant’s brand—meaning some may
16 choose not to submit a claim at all. A claims-made structure, together with the fixed per-graduate
17 payment amounts, which simplifies the claim-filing process, is appropriate in light of these
18 considerations as well as Defendant’s financial condition and the regulatory environment discussed
19 below.¹

20 **5) Defendant’s Financial Condition, Composite Score, and Regulatory**
21 **Environment**

22 Defendant’s financial condition is a critical factor under *Kullar* and *Dunk*, and it
23 independently justifies the size of the Settlement. AILA—the campus at which the Settlement Class
24 attended—ceased operations effective October 28, 2022, near the end of the Class Period, and has

25 ¹ Notice will be sent to the addresses and email addresses obtained through the 2024 *Belaire-West*
26 process, which generated a robust response. Class Counsel will field calls regarding the settlement
27 and encourage participation. Claims rates in claims-made settlements are typically in the range of
28 1% to 10%. *See Forcellati v. Hyland’s, Inc.*, 2014 WL 1410264, at *6 (C.D. Cal. Apr. 9, 2014)
 (“The prevailing rule of thumb with respect to consumer class actions is 3-5 percent.”); *Sullivan v.*
 DB Invs., Inc., 667 F.3d 273, 329 n.60 (3d Cir. 2011) (*en banc*) (claims rates “rarely exceed seven
 percent, even with the most extensive notice campaigns”). Given the response to the 2024 *Belaire-*
 West notice, Plaintiffs anticipate a claims rate toward the higher end of that range.

1 not reopened. (Kachadoorian Decl. ¶ 7.) Defendant, which continues to operate a cosmetology
2 school in Columbus, Ohio, remains subject to ongoing U.S. Department of Education (“DOE”)
3 financial-responsibility oversight as a condition of its continued participation in the Title IV federal
4 student aid programs, on which the cosmetology-education industry depends for enrollment and
5 revenue. *See* 20 U.S.C. § 1094(a); 34 C.F.R. § 668.14(a).

6 To remain eligible to participate in Title IV programs, an institution must be “financially
7 responsible,” which DOE assesses chiefly through a “composite score” derived from the
8 institution’s equity, primary reserve, and net income ratios. 34 C.F.R. §§ 668.171(b)(1), 668.172.
9 An institution with a composite score below 1.5 but at or above 1.0 falls into the “zone,” where it
10 may continue to participate only under heightened reporting and, in many cases, only by posting a
11 letter of credit or other financial protection. 34 C.F.R. § 668.175(d). A score below 1.0 exposes the
12 institution to provisional certification or termination of Title IV eligibility. DOE’s regulations
13 further direct that an institution’s composite score be recalculated to account for the impact of an
14 adverse monetary judgment or a monetary settlement arising from litigation, regardless of whether
15 it has been paid, where the institution’s composite score is already below 1.5. *See* 34 C.F.R. §
16 668.171(c)(2)(i)(A).

17 In addition to Defendant’s reported data reflecting financial responsibility, Plaintiffs’
18 counsel independently reviewed financial documentation of both AILA and its affiliated institution
19 during the Class Period. DOE’s most recently published composite-score dataset reports a score of
20 1.8 for the reporting entity under which AILA operated (Aveda Institute Columbus) for the fiscal
21 year ending between July 1, 2022 and June 30, 2023. A score of 1.8 is well below both the mean
22 (2.25) and median (2.4) composite scores across the 2,871 institutions in DOE’s most recent
23 nationwide dataset, and falls below the 25th percentile (1.9) for all reporting institutions—placing
24 Defendant’s reporting entity in the bottom quartile of Title IV-participating schools nationally.
25 Even measured only against other proprietary institutions, a 1.8 score ranks below the proprietary-
26 sector median of 2.3. Because the composite-score scale runs from -1.0 to 3.0, with 1.5 marking
27 the floor of “financially responsible” status and 1.0 the floor of the “zone,” a score of 1.8 leaves
28 Defendant only 0.3 points above losing financially-responsible status outright and only 0.8 points

1 above the “zone” threshold—a thin cushion that a judgment or settlement recalculation could readily
2 erase. (Kachadoorian Decl. ¶ 7.)

3 Class Counsel’s review of Defendant’s audited financials and composite score confirmed
4 that a judgment or settlement materially larger than the negotiated Claim Maximum risked pushing
5 Defendant’s recalculated composite score into the “zone” or below the 1.0 threshold that triggers
6 provisional certification. (Kachadoorian Decl. ¶ 7.) Because Title IV funding is the financial
7 lifeblood of a school like Nurtur, a settlement large enough to jeopardize Defendant’s Title IV
8 eligibility would not have served the Settlement Class’s interests; it would have risked further
9 campus closures and left PAGA Claimants, Settlement Class Members, and future students alike
10 with no meaningful benefit or means of recovery.

11 The regulatory landscape has only worsened since this action was filed in 2020. On July 4,
12 2025, Congress enacted the One Big Beautiful Bill Act, which directs DOE to condition continued
13 Direct Loan eligibility on a new “earnings premium” accountability metric requiring that graduates
14 of a program earn more than similarly situated individuals who did not attend. DOE’s own analysis
15 in its implementing rulemaking projects that approximately 92 percent of cosmetology programs
16 nationwide would fail the proposed test and lose Title IV eligibility. This regulatory environment—
17 arising independently of this litigation—confirms that Nurtur and the broader cosmetology-school
18 industry face acute financial pressure, reinforcing the reasonableness of a settlement calibrated to
19 Defendant’s realistic ability to pay and the urgency to promptly settle the litigation before Plaintiffs
20 and the class lose any potential avenue of recovery.

21 Defendant’s available insurance coverage to satisfy any judgment or settlement in this action
22 has also been substantially eroded. Defendant’s applicable coverage is a Travelers policy with a
23 \$1,000,000 limit of liability that is subject to “burning limits,” meaning defense costs incurred in
24 this and other covered matters erode, rather than sit outside, the available limit. Given the six years
25 of litigation defense costs incurred since this action was filed in 2020, the funds realistically
26 available under that policy to satisfy any judgment or settlement have been substantially diminished.
27 (Kachadoorian Decl. ¶ 8.) In short, any larger settlement amount or lengthy delay in reaching a
28 final settlement creates a substantial risk that Plaintiffs and the class will recover nothing at all.

1 **6) *Incentive Awards to Named Plaintiffs and Non-Plaintiff Student Witnesses Are***
2 ***Appropriate.***

3 The Settlement provides for incentive awards of \$5,000 to each of the five Named Plaintiffs
4 and tiered incentive awards, totaling no more than \$35,000, to the twenty-five non-plaintiff Student
5 Witnesses who submitted sworn declarations—and in many instances sat for deposition—in support
6 of class certification. These amounts are paid separately by Defendant and do not reduce the Claim
7 Maximum available to the Settlement Class. Incentive awards to named plaintiffs “are fairly typical
8 in class action cases” and compensate class representatives for work performed on behalf of the
9 class and for the financial and reputational risk undertaken in bringing the action. (*Cellphone*
10 *Termination Fee Cases* (2010) 186 Cal. App. 4th 1380, 1393-1394; see *Clark v. American*
11 *Residential Services LLC* (2009) 175 Cal. App. 4th 785, 804 [relevant factors include the actions
12 taken to protect the class, the degree to which the class benefitted, and the time and effort
13 expended].)

14 Awards to the non-plaintiff Student Witnesses are likewise appropriate. Such witnesses are
15 not mere bystanders: they shoulder burdens of participation, preparation, and exposure not shared
16 by the class as a whole, and their sworn testimony is often what makes class certification and
17 settlement achievable. (See *Huguley v. Gen. Motors Corp.* (E.D. Mich. 1989) 128 F.R.D. 81, 85
18 [“named plaintiffs and witnesses are entitled to more consideration than class members generally”].)
19 Courts, including California federal courts, routinely approve such awards in amounts equal to or
20 greater than the tiered payments here. (See *Satchell v. Fed. Express Corp.* (N.D. Cal. Aug. 14, 2007,
21 No. C-03-2659 SI) 2007 WL 2343904 [\$5,000 to each of eighteen declarants]; *Boyd v. Bank of*
22 *America Corp.* (C.D. Cal. Jan. 19, 2016, No. 8:13-cv-00561-DOC) [\$2,000 to each class-member
23 deponent]; *Irvine v. Destination Wild Dunes Mgmt., Inc.* (D.S.C. 2016) 204 F. Supp. 3d 846, 851
24 [“without their actions, this settlement may not have been achieved”].) The twenty-five Student
25 Witnesses here provided the declarations supporting class certification, and many prepared for and
26 sat through depositions taken by Defendant, directly advancing the result achieved for the
27 Settlement Class.

28 ///

1 7) ***The Attorneys' Fees and Costs Provision Is Reasonable.***

2 “In so-called ‘fee shifting’ cases, in which the responsibility to pay attorney fees is statutorily
3 or otherwise transferred from the prevailing plaintiff or class to the defendant, the primary method
4 for establishing the amount of ‘reasonable’ attorney fees is the lodestar method.” (*Lealao v.*
5 *Beneficial California, Inc.* (2000) 82 Cal. App. 4th 19, 26; see also *Ketchum v. Moses* (2001) 24
6 Cal. 4th 1122, 1131-1132; *Serrano v. Priest* (1977) 20 Cal. 3d 25; *Wershba*, 91 Cal. App. 4th at
7 254; *Laffitte v. Robert Half Internat., Inc.* (2016) 1 Cal. 5th 480, 489.) Under that method, the court
8 multiplies counsel’s reasonable hourly rates by the hours reasonably expended, and may apply a
9 multiplier reflecting the contingent nature of the case, the risks and difficulties presented, and the
10 result achieved. (*Ketchum*, at pp. 1131-1132.) Plaintiffs’ operative claims arise under precisely
11 such fee-shifting statutes: the CLRA mandates an award of costs and attorneys’ fees to a prevailing
12 plaintiff (Civ. Code § 1780(e)); the Labor Code authorizes fee awards on Plaintiffs’ wage claims
13 (Lab. Code §§ 218.5, 1194); PAGA entitles a prevailing employee to reasonable attorneys’ fees and
14 costs (Lab. Code § 2699(g)(1)); and Plaintiffs’ UCL claim supports a fee award under the private
15 attorney general statute (Code Civ. Proc. § 1021.5).

16 The negotiated fee structure is consistent with these principles. Defendant will separately
17 pay \$200,000 in attorneys’ fees and costs—an amount paid in addition to, not out of, the Claim
18 Maximum available to the Settlement Class. If total claims paid are less than the Claim Maximum,
19 Class Counsel may seek an additional one-third of the unclaimed amount as supplemental fees and
20 costs, capped at \$40,000, for a total maximum award of \$240,000. Any award remains subject to
21 Court approval, and Class Counsel will submit a full lodestar analysis, with hours and rates, in
22 connection with the motion for final approval and fees. No fee-splitting agreement exists.
23 (Kachadoorian Decl. ¶ 16.)

24 The supplemental-fee component is well supported. A settlement may itself provide for the
25 disposition of unclaimed funds, and the Court has discretion to approve such a provision so long as
26 the settlement as a whole is fair, adequate, and reasonable. (*In re Microsoft I-V Cases* (2006) 135
27 Cal. App. 4th 706, 719-723; *Cundiff v. Verizon California, Inc.* (2008) 167 Cal. App. 4th 718, 728.)
28 And federal courts—whose class action jurisprudence California courts consult in the absence of

1 state authority (*Dunk*, 48 Cal. App. 4th at 1802)—routinely approve supplemental attorneys’ fees
2 payable from unclaimed funds where the claims are paid in full before any supplemental award is
3 calculated. (See *Arredondo v. Delano Farms Co.* (E.D. Cal. Sept. 29, 2017, No. 1:09-cv-01247-
4 MJS) 2017 WL 4340204, at *4 [supplemental fee from unclaimed funds, capped at counsel’s
5 originally requested one-third, would “certainly be reasonable”]; *Lewis v. Huntington Nat’l Bank*
6 (S.D. Ohio May 30, 2013, No. 2:11-cv-00058) 2013 U.S. Dist. LEXIS 205702, at *14-16 [approving
7 supplemental fees from unclaimed funds for post-settlement work]; *Wilson v. Southwest Airlines,*
8 *Inc.* (5th Cir. 1989) 880 F.2d 807, 809 [counsel hold an equitable claim to funds remaining after full
9 class recovery].)

10 **VI. THE PROPOSED NOTICE PLAN PROVIDES ADEQUATE NOTICE TO THE**
11 **SETTLEMENT CLASS.**

12 This Court should order distribution of the Class Notice to the Settlement Class. The content
13 of the notice will satisfy California Rule of Court 3.766(d) because it will advise Settlement Class
14 Members of the nature of the claims, basic contentions and denials of the Parties, the key terms of
15 the Settlement, the deadline to submit a Claim Form, opt out, or object to the Settlement, and the
16 procedure by which to do so. The Class Notice will also notify Settlement Class Members of the
17 final approval hearing date, provide the contact information for Class Counsel, and advise objecting
18 Settlement Class Members that they may enter an appearance through counsel if they wish.

19 The Class Notice will be sent by email and, where a Settlement Class Member’s email
20 address is no longer valid, by First-Class U.S. Mail to the individuals identified in discovery and to
21 whom a *Belaire-West* notice was sent in 2024. Settlement Class Members will have 45 days from
22 the date the Settlement Administrator sends the Notice to submit claims, opt out, or object. Any
23 mailed notices returned as non-delivered will be skip-traced and re-sent within seven days of
24 receiving notice of non-delivery.

25 The Settlement Administrator will create and maintain an interactive website containing
26 information about the settlement, with the capability to accept online submissions of claim forms.
27 Settlement Class Members will be able to elect payment via paper check or digital payment, and
28

1 will have 120 calendar days to cash their settlement checks; any funds not cashed within that period
2 shall be remitted to the Settlement Class Member's state of residence as unclaimed funds.

3 This manner of giving notice is the "best notice practicable" under the circumstances because
4 it provides individual notice to all members who can be identified through reasonable effort, and
5 satisfies Rule 3.766(e) as the most reliable and cost-effective method of reaching Settlement Class
6 Members. The Parties have jointly selected ILYM Group, Inc. as the Settlement Administrator to
7 administer the Settlement, including sending notice, processing claims, and distributing funds.
8 Administration costs shall not exceed \$10,000 and shall be paid by Defendant.

9 **VII. THE COURT SHOULD SET A FINAL APPROVAL HEARING.**

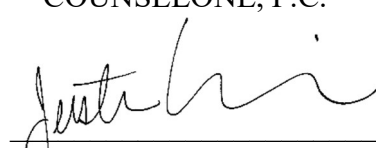
10 Finally, this Court should set a hearing for final approval of the Settlement on a date
11 appropriately scheduled to follow the Claims Deadline. Cal. Rules of Court, rule 3.769. Under the
12 Settlement Agreement's notice timeline, Defendant must provide the Settlement Administrator with
13 class data within seven business days of preliminary approval, the Settlement Administrator must
14 send the Class Notice within fourteen calendar days of receiving that data, and Settlement Class
15 Members then have forty-five calendar days to submit claims, opt out, or object. Allowing
16 additional time for the Settlement Administrator to compile a final report and for the Parties to
17 prepare final approval papers, Plaintiffs respectfully request that the Court set the Final Approval
18 Hearing at a date no earlier than 100 days after entry of the Preliminary Approval Order.

19 **VIII. CONCLUSION**

20 For the foregoing reasons, Plaintiffs respectfully request that the Court grant this Motion for
21 Preliminary Approval of Class Action and PAGA Settlement in its entirety.

22
23 DATED: September 1, 2026

COUNSELONE, P.C.

24
25 By: 

26 Anthony J. Orshansky
27 Alexandria R. Kachadoorian
28 Justin Kachadoorian

Attorneys for Plaintiffs and the Putative Class