

1 DAVID YEREMIAN & ASSOCIATES, INC.
David Yeremian (SBN 226337)
2 David@yeremianlaw.com
Natalie Haritounian (SBN 324318)
3 natalie@yeremianlaw.com
2540 Foothill Blvd., Suite 201
4 La Crescenta, CA 91214
Telephone: (818) 230-8380
5 Facsimile: (818) 230-0308

6 DAVTYAN LAW FIRM, INC.
Emil Davtyan (SBN 299363)
7 emil@davtyanlaw.com
400 N. Brand Blvd, Suite 700
8 Glendale, CA 91203
Telephone: (818) 875-2008
9 Facsimile: (818) 722-3974

10 Attorneys for Plaintiff MARY JEAN SMITH,
on behalf of herself and all others similarly situated
11

12 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
13 **FOR THE COUNTY OF FRESNO**

14 MARY JEAN SMITH, an individual, on
15 behalf of herself and others similarly situated,

16 Plaintiff,

17 vs.

18 NOIA RESIDENTIAL SERVICES, INC., a
19 California corporation; and DOES 1 through
50, inclusive,

20 Defendants.
21
22

Case No.: 20CECG01820

CLASS ACTION

Assigned for All Purposes To:
Hon. Kimberly Gaab
Dept.: 503

**PLAINTIFF'S NOTICE OF MOTION AND
MOTION FOR AN ORDER (1)
PRELIMINARILY APPROVING THE
CLASS ACTION SETTLEMENT; (2)
APPROVING NOTICE OF CLASS
ACTION SETTLEMENT; AND (3)
SETTING HEARING FOR FINAL
APPROVAL**

*[Filed concurrently with Plaintiff's
Memorandum of Points and Authorities;
Declaration of David Yeremian; Declaration of
Emil Davtyan; Declaration of Mary Jean Smith;
Declaration of Jarrett Gorlick; and [Proposed]
Order]*

Date: April 4, 2023
Time: 3:30 p.m.
Dept: 503

1 **TO THE COURT AND DEFENDANTS AND THEIR ATTORNEYS OF RECORD:**

2 PLEASE TAKE NOTICE that on December 6, 2022 at 3:30 p.m., or as soon thereafter as
3 this matter may be heard, at Department 503, located at 1130 O Street, Fresno, California 93721,
4 Plaintiff Mary Jean Smith (“Plaintiff”), on behalf of herself and all persons similarly situated, will
5 and hereby moves this Court pursuant to California Code of Civil Procedure § 382 and California
6 Rule of Court 3.769 for an order:

- 7 (1) Preliminarily approving the class action settlement reached between Plaintiff and
8 Defendant NOIA Residential Services, Inc. (“Defendant”), including granting
9 preliminary approval of the following class: “all current and former non-exempt
10 employees who worked for Defendant in California at any time between June 24, 2016
11 and October 8, 2021.”
- 12 (2) Approving the form of Notice of Class Action Settlement and procedure for notice to
13 the class; and
- 14 (3) Setting the final approval hearing.

15 Pursuant to Labor Code § 2699.3(b)(4), the Parties also seek approval of the proposed
16 settlement’s allocation of funds to claims made under the Labor Code Private Attorneys General
17 Act of 2004 (“PAGA”).

18 Pursuant to the proposed Joint Stipulation of Class Action Settlement (“Settlement” or
19 “Settlement Agreement”), filed concurrently herewith, Defendant does not oppose the
20 preliminary approval of the class action settlement.

21 Under the terms of the Settlement, the parties have agreed that all claims brought on
22 behalf of the Class Members shall be fully and finally resolved for the total sum of Seven
23 Hundred Fifty Thousand Dollars and Zero Cents (\$750,000.00) (“Gross Settlement Amount”) to
24 be paid on a non-reversionary basis. The amount remaining of the Gross Settlement Amount after
25 the following deductions have been made (“Net Settlement Amount”) shall be available for
26 distribution to Class Members who do not opt out of the settlement:

- 27 • not more than Two Hundred Fifty Thousand Dollars and Zero Cents (\$250,000.00)
28 to Class Counsel for attorneys’ fees, and not more than Seventeen Thousand

1 Dollars and Zero Cents (\$17,000.00) to Class Counsel for reasonable litigation
2 costs;

- 3 • not more than Six Thousand Dollars and Zero Cents (\$6,000.00) for the Settlement
4 Administration Costs;
- 5 • not more than Seven Thousand Five Hundred Dollars and Zero Cents (\$7,500.00)
6 for a Class Representative Enhancement Payment; and
- 7 • Twenty Five Thousand Dollars and Zero Cents (\$25,000.00) for civil penalties
8 under the PAGA, where 75% (\$18,750.00) will be paid to the LWDA and 25%
9 (\$6,250.00) will be included in the Net Settlement Amount and distributed to
10 Settlement Class Members).

11 This Notice of Motion and Motion is based on the fact that this is a fair and reasonable
12 settlement that benefits the class and was the product of informed, non-collusive negotiations by
13 the parties who were represented by experienced and able counsel. *See Dunk v. Ford Motor Co.*
14 (1996) 48 Cal. App. 4th 1794, 1802; Manual for Complex Litigation (Second) (1985)§ 30.44. The
15 proposed settlement meets the legal standard for preliminary approval and is in the best interests
16 of the class; the proposed form of notice explains the settlement terms in a clear and
17 straightforward manner; the proposed procedures for notice provide the best practical notice to
18 the class; and that Class Members will have an opportunity to participate in and/or object to the
19 settlement and/or opt-out of the settlement.

20 This Notice of Motion and Motion is based on this Notice, and the exhibits thereto
21 (including the Notice to Class Members), the accompanying Memorandum of Points and
22 Authorities, the Declaration of David Yeremian, the pleadings, records and files in the case, and
23 such other further oral and documentary evidence which may be submitted at or before the
24 hearing on this Motion.

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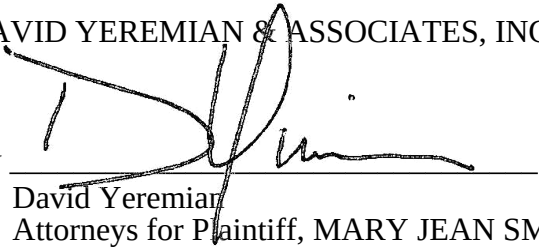
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1 Dated: March 10, 2023

Respectfully submitted,

2 DAVID YEREMIAN & ASSOCIATES, INC.

3
4 By


David Yeremian

Attorneys for Plaintiff, MARY JEAN SMITH,
on behalf of herself and others similarly situated