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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF SANTA CLARA**

JOANNE MANALO, individually, on behalf
of herself and all other similarly situated
employees,

Plaintiff,

vs.

SAN JOSE, LLC, and DOES 1 to 5
Defendants.

Case No: 20CV371934

*Assigned for all Purposes to Hon. Theodore
C. Zayner, Department 19*

CLASS ACTION

**PLAINTIFF'S NOTICE OF MOTION
AND MOTION FOR PRELIMINARY
APPROVAL OF CLASS ACTION AND
PAGA SETTLEMENT AND
MEMORANDUM OF POINTS AND
AUTHORITIES IN SUPPORT THEREOF**

Date: October 22, 2025
Time: 1:30 p.m.
Dept: 19

Complaint filed: October 23, 2020
FAC filed: April 25, 2024
Trial Date: TBD

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Attorneys for Plaintiff Joanne Manalo and
all other similarly situated employees

PLEASE TAKE NOTICE THAT on October 22, 2025 at 1:30 p.m., or as soon thereafter as the matter may be heard, in Department 19 of the Superior Court of the State of California, County of Santa Clara, located at 191 North 1st Street, San Jose, California 95113, Plaintiff Joanne Manalo (“Plaintiff”) will and hereby does move for an Order: (1) preliminarily approving the proposed class action settlement in the above-captioned putative class action, (2) provisionally certifying the settlement class, (3) approving the appointment of settlement class counsel, the settlement class representative, and the settlement administrator, (4) approving and directing distribution of the Notice of Class and PAGA Action Settlement to the settlement class, and (5) setting a final fairness and approval hearing.

This Motion is made pursuant to Rule 3.769 of the California Rules of Court, which provides for court approval of the settlement of a class action. The basis for this Motion is that the proposed settlement is fair, adequate, and reasonable and in the best interests of the settlement class as a whole, and that the procedures proposed are adequate to ensure the opportunity of the proposed settlement Class Members to participate in, opt out of, or object to the settlement.

This Motion will be based on the Memorandum of Points and Authorities set forth herein, the Joint Stipulation of Class and PAGA Action Settlement and Release of Claims, the Declarations of Eric A. Grover, Alexei Kuchinsky, William Klein, Robert Spencer, Joanne Manalo, and Michael Bui, and such evidence or oral argument as may be presented at the hearing, and on the complete records and file herein.

Respectfully submitted,

Dated: September 29, 2025

KELLER GROVER LLP

By: 

ERIC A. GROVER
Attorneys for Plaintiff and proposed Class Counsel

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MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

Plaintiff Joanne Manalo (“Plaintiff”) filed this putative class action against San Jose, LLC and San Jose Healthcare System, L.P., dba Regional Medical Center of San Jose, (“Defendant”) on behalf of herself and a putative class of approximately 1,450 current and former hourly, non-exempt registered nurses who worked for Defendant on or after October 22, 2019.¹ Plaintiff alleges causes of action for failure to provide meal periods and rest breaks or premium wages in lieu thereof, unpaid wages, inaccurate wage statements, and failure to pay all wages due at termination.² Plaintiff alleges that Defendant violated various provisions of the California Labor Code and Industrial Welfare Commission Wage Order No. 5 (“Wage Order 5”).³ Plaintiff also alleges that Defendant violated the Private Attorneys General Act of 2004, Labor Code §§ 2698, *et seq.* (“PAGA”), and seeks PAGA penalties on behalf of all aggrieved employees and California’s Labor and Workforce Development Agency (“LWDA”).⁴

Plaintiff now seeks the Court’s preliminary approval of a proposed class and PAGA action settlement, the terms of which are set forth in the Joint Stipulation of Class and PAGA Action Settlement and Release of Claims (“Stipulation”) executed by Plaintiff and Defendant (the “Parties”).⁵ During this nearly five-year litigation, the Parties engaged in formal discovery and motion practice. The Parties’ motions regarding class certification were fully briefed and set for hearing when the Parties decided to discuss a possible settlement. The Stipulation was reached after the Parties engaged in arm’s-length settlement negotiations through their experienced counsel.⁶ The negotiations included a formal mediation session with Francis M. “Tripper” Ortman, III, Esq., a well-respected mediator experienced in wage and hour class actions.⁷

The Settlement represents a good result for the putative Class Members. To settle the

¹ Declaration of Eric A. Grover submitted herewith, at ¶ 6, Ex. B (the operative First Amended Complaint (“FAC”)). Hereinafter, all “Ex.” references are to the exhibits attached to the Grover Declaration.

² Grover Decl. at ¶ 6; Ex. B at ¶¶ 37-81, 93-100.

³ Ex. B at ¶¶ 37-81, 93-100.

⁴ Ex. B at ¶¶ 82-92.

⁵ Grover Decl. at ¶ 5, Ex. A (the Stipulation).

⁶ Grover Decl. at ¶¶ 6-11.

⁷ Ex. A at § II.B; Grover Decl. at ¶ 11.

matter, Defendant is required to make a non-reversionary payment of \$1,750,000, referred to as the Maximum Settlement Amount (“MSA”), plus the employer’s share of the payroll taxes.⁸ The Settlement will result in an average gross payment of approximately \$679.31 to those Class Members who do not opt out of the settlement, on terms that Plaintiff believes to be fair, reasonable and adequate.⁹

The Settlement also provides that the representative PAGA claims will be settled for \$50,000, referred to as the PAGA Payment.¹⁰ As Labor Code § 2699(i) requires, the PAGA Payment will be distributed 75% (\$37,500) to the California Labor and Workforce Development Agency (“LWDA”) and 25% (\$12,500) to Aggrieved Employees.¹¹ From the \$12,500 allocated to Aggrieved Employees, each Aggrieved Employee will receive an Individual PAGA Payment based the number of Qualified PAGA Pay Periods worked.¹² All Aggrieved Employees are also Class Members unless they opt-out of participation in the class action portion of the Settlement.¹³

For the foregoing reasons, Plaintiff respectfully requests that the Court take the following actions solely for the purposes of settlement: (a) grant preliminary approval of the Stipulation, (b) conditionally grant certification of the proposed settlement Class, (c) appoint Plaintiff Joanne Manalo as settlement Class Representative, (d) appoint Eric A. Grover and David M. Watson of Keller Grover LLP, Alexei Kuchinsky of Kuchinsky Law Office, P.C., and William P. Klein of Klein Law Group, P.C. as Class Counsel, (e) approve the appointment of Simpluris, Inc. (“Simpluris”) as the Settlement Administrator, (f) authorize the mailing of the Notice of Class and PAGA Action Settlement, and (g) schedule a final fairness and approval hearing.

II. SUMMARY OF PROCEDURAL BACKGROUND AND CLAIMS

On October 23, 2020, Plaintiff filed the initial complaint in this action in Santa Clara County Superior Court. Plaintiff filed the operative First Amended Complaint on April 25, 2024. Plaintiff

⁸ Ex. A at §§ I.W, III.M.1; Grover Decl. at ¶ 18.

⁹ See *Dunk v. Ford Motor Co.* (1996) 48 Cal.App.4th 1794, 1801-02; Grover Decl. at ¶ 19 (\$985,000 estimated Net Settlement Amount/1,450 Class Members = \$679.31) *see also*, ¶¶ 15-39; Ex. A at §§ I.H, I.X, III.M.2.a.

¹⁰ Ex. A at §§ I.AA, III.M.5, *see also*, §§ I.Z, I.BB, I.CC. *See* Lab. Code § 2699(l)(2).

¹¹ Ex. A at §§ I.AA, III.M, *see also*, I.C.

¹² Ex. A at §§ I.C, I.R, I.AA, I.JJ, III.M.2.b; Grover Decl. at ¶¶ 14, 24, 30.

¹³ Ex. A at §§ I.C, I.H; Grover Decl. at ¶ 14.

brought the action on behalf of herself and a putative class of current and former current and former hourly, non-exempt registered nurses who worked for Defendant in California on and after October 22, 2019. Plaintiff alleged that Defendant failed to provide meal periods and rest breaks and properly pay premiums, pay regular and overtime wages for all work performed, pay all wages owed upon separation of employment, and provide accurate itemized wage statements. Plaintiff asserted that Defendant's practices and policies violated Labor Code §§ 201-203, 226, 226.7, 510, 512, 1194 and related provisions of Wage Order 5. Plaintiff also alleged related representative PAGA claims.¹⁴

Defendant denies all the allegations in their entirety. To date, no class has been certified and no court has made any findings that Defendant engaged in any wrongdoing or in any wrongful conduct or otherwise acted improperly or in violation of any state law, rule or regulation, with respect to the issues presented in the litigation.¹⁵

The Parties conducted extensive class related discovery, including exchanging written discovery, producing relevant documents, engaging experts, and conducting numerous depositions. The Parties also engaged in motion practice, including Plaintiff's motions to amend the complaint and for class certification and Defendant's demurer to the First Amended Complaint and motion to deny class certification.¹⁶

The Parties attended an early mediation that did not resolve the case. After extensive discovery and the full briefing of the two certification-related motions, the Parties agreed to a second mediation. Prior to the second mediation, Plaintiff provided Defendant with additional information necessary for Plaintiff to engage in informed settlement discussions.¹⁷

The information and data provided as of the time the second mediation indicated the following:

- (A) The number of Class Members:
 - o There are approximately 1,450 Class Members.

¹⁴ Grover Decl. at ¶ 6; *see also*, Ex. B (FAC); Declaration of Alexei Kuchinsky submitted herewith at ¶¶ 2-3.

¹⁵ Ex. A at § II.D; Grover Decl. at ¶ 7.

¹⁶ Grover Decl. at ¶ 8; Kuchinsky Decl. at ¶¶ 10-16.

¹⁷ Grover Decl. at ¶ 9.

- (B) The total workweeks worked by Class Members:
- o Class Members worked a total of approximately 150,000 weeks during the Class Period.
- (C) Class Members’ average hourly wage:
- o Class Members were hourly employees and the average hourly wage during the Class Period was approximately \$88.00.
- (D) The total pay periods during the PAGA Period:
- o Aggrieved Employees worked a total of approximately 80,500 pay periods during the PAGA Period.¹⁸

On February 11, 2025, the Parties participated in an all-day mediation session with skilled mediator Francis M. “Tripper” Ortman, III, Esq., who has significant experience mediating wage and hour class actions.¹⁹ The mediated negotiations resulted in the Parties reaching an agreement to settle the entire action, subject to the Court’s approval.²⁰ All terms of the Parties’ settlement are set forth in the Stipulation.²¹

III. SUMMARY OF THE SETTLEMENT TERMS

A. The Settlement Class and Aggrieved Employees.

The Parties agreed that, for purposes of settlement only, the settlement class should be defined as:

All current and former hourly, non-exempt registered nurses who worked for Defendants in California at any time or times during the Class Period.²²

The Class Period is the time period from and including October 22, 2019 through June 1, 2025.²³

In this brief, the proposed settlement class members are referred to as the “Class Members.”

For the PAGA claims, the Settlement defines “Aggrieved Employees” to mean “all current and former non-exempt employees who worked for Defendants in California as hourly, non-exempt registered nurses at any time or times during the PAGA Period.”²⁴ The PAGA Period is the period

¹⁸ *Id.* at ¶ 10.

¹⁹ Ex. A at § II.B; Grover Decl. at ¶ 11.

²⁰ *Id.*

²¹ Grover Decl. at ¶ 11; *see generally*, Ex. A.

²² Ex. A at § I.H; Grover Decl. at ¶ 12.

²³ Ex. A at § I.I; Grover Decl. at ¶ 13.

²⁴ Ex. A at § I.C; Grover Decl. at ¶ 14.

1 from and including October 22, 2019 through June 1, 2025.²⁵ All Aggrieved Employees are also
2 Class Members unless they opt-out of participation in the class action portion of the Settlement.²⁶

3 **B. Notice Procedure and Settlement Process.**

4 The proposed Notice of Class and PAGA Action Settlement (“Notice”) explains in plain
5 language the nature of the lawsuit, terms of the settlement, Class Members’ rights, the expected
6 settlement payment that each Class Member can expect to receive, the steps necessary for a Class
7 Member to dispute the information used to calculate his or her settlement payment, and the steps
8 necessary to request exclusion from or object to the settlement.²⁷ The Notice is offered only in
9 English because registered nurses in California must be proficient in the English language.²⁸

10 “PAGA has no notice requirements for unnamed aggrieved employees, nor may such
11 employees opt out of a PAGA action.”²⁹ Even so, the Notice will inform the Class Members and
12 Aggrieved Employees of the PAGA Settlement and the amount of the Individual PAGA Payment
13 that the Aggrieved Employee can expect to receive.³⁰

14 The Parties agreed upon a notice procedure that is intended to ensure the highest number of
15 Class Members receive the Notice. Simpluris, the company that the Parties selected to handle the
16 Notice and settlement administration, will mail the Notice to Class Members based on contact
17 information Defendant will provide from its records.³¹ In the event any Notices are returned by the
18 post office as undeliverable, the proposed notice procedure requires Simpluris to perform
19 reasonable searches to attempt to locate Class Members’ correct addresses.³²

20 The settlement provides all Class Members with the opportunity to request exclusion from
21 the settlement or object to the settlement terms.³³ Class Members will have 60 days from the date
22 the Settlement Administrator mails the Notices to opt out of or object to the Settlement.³⁴

23 ²⁵ Ex. A at § I.BB; Grover Decl. at ¶ 14.

24 ²⁶ Ex. A at §§ I.C, I.H; Grover Decl. at ¶ 14.

25 ²⁷ Ex. A at §§ I.Y, III.K.2, Stipulation Exhibit 1; Grover Decl. at ¶¶ 24-25.

26 ²⁸ Grover Decl. at ¶ 24; see Stipulation Exhibit 1.

27 ²⁹ *Baumann v. Chase Inv. Servs. Corp.* (9th Cir. 2014) 747 F.3d 1117, 1122.

28 ³⁰ Ex. A at §§ I.Y, III.K.2, Stipulation Exhibit 1; Grover Decl. at ¶ 36.

29 ³¹ Ex. A at §§ III.K.1, III.K.3. Simpluris’ experience and qualifications to serve as the settlement
30 administrator are set forth in the Declaration of Michael Bui submitted with this motion.

31 ³² Ex. A at § III.K.4.

32 ³³ Ex. A at §§ III.K.7, III.K.8.

33 ³⁴ Ex. A at §§ I.OO, III.K.7, III.K.8.

Class Members are not required to submit a claim in order to participate in the Settlement and receive an Individual Settlement Payment.³⁵ The Notices will be individualized to state each Class Member’s number of Qualified Workweeks and Qualified Pay Periods.³⁶ The Notices also will state the Settlement Administrator’s calculation of each Class Member’s estimated gross Individual Settlement Payment if that Class Member does not request exclusion from the Settlement and each Aggrieved Employee’s estimated Individual PAGA Payment.³⁷ Class Members will have the ability to dispute the number of Qualified Workweeks stated on the individualized Notices.³⁸

C. Benefits to the Class.

Plaintiff believes the settlement provides fair and adequate benefits for the Class Members. Although the maximum theoretical damages of the remaining claims exceed the Net Settlement Amount, the defenses to those claims discussed in the Grover and Kuchinsky Declarations warrant a substantial discount.³⁹ In its motion to deny class certification and its opposition to Plaintiff’s class certification motion, Defendant argued against certifying the class.⁴⁰ Highlighting the difficulty of obtaining and maintaining class certification, the court of appeal recently affirmed decertification of a class of registered nurses’ meal and rest break claims.⁴¹ Defendant also asserts that it has always complied with the California Labor Code, the California Wage Orders, and all applicable California state law.⁴²

Further, recent California Supreme Court case law has interpreted the “good faith” defense in a manner that makes it more difficult for employees to obtain certain penalties, including Labor Code §§ 203 waiting time and 226(e)(1) penalties.⁴³ *Naranjo II* found that, if an employer who reasonably believes that its conduct was lawful, it will not be subject to penalties that are intended

³⁵ See Ex. A at §§ I.S, III.M.2.a; Grover Decl. at ¶ 27.

³⁶ Ex. A at §§ I.Y, I.JJ, I.LL, III.K.2.b.

³⁷ Ex. A at § III.K.2.b; see also, §§ I.R, I.S.

³⁸ Ex. A at § III.K.5.

³⁹ Grover Decl. at ¶¶ 15-17, 20-23, 25, 38-39; Kuchinsky Decl. at ¶¶ 17-18.

⁴⁰ See Grover Decl. at ¶¶ 8, 17.

⁴¹ *Allison v. Dignity Health* (2025) 112 Cal. App. 5th 192, 218-20; Kuchinsky Decl. at ¶ 18.

⁴² Grover Decl. at ¶ 20.

⁴³ *Naranjo v. Spectrum Sec. Serv., Inc.* (2024) 15 Cal.5th 1056, 1077-81 (“*Naranjo II*”). Although the Court addressed whether a good faith defense exists for Labor Code § 226(e)(1)’s “knowing and intentional” requirement, the Court did so by analyzing the “willfulness” requirement for § 203 penalties, finding the two should be harmonized. *Id.*; see, Grover Decl. at ¶ 21.

1 to deter willful or intentional misconduct.⁴⁴ In other words, *Naranjo II* approved a relatively low
2 bar for establishing a good faith defense to avoid Labor Code §§ 203 and 226(e)(1) penalties.⁴⁵

3 Taking those factors into account, Class Counsel believes the proposed allocations of the
4 Net Settlement Amount to be fair and reasonable and a good compromise for the damages of absent
5 Class Members.⁴⁶

6 The settlement provides that Defendant will pay a Maximum Settlement Amount of
7 \$1,750,000, plus the employer's share of the payroll taxes, to resolve the claims covered by the
8 settlement.⁴⁷ After subtracting out the amounts allocated to pay the Settlement Administration
9 Costs (capped at no more than \$12,500), the PAGA Payment (\$50,000), the Class Counsel Award
10 (estimated to be \$612,500 in fees and \$70,000 in costs), and the Class Representative Incentive
11 Award/General Release Payment (estimated to be \$20,000) from the Maximum Settlement
12 Amount, each of which is subject to the Court's approval, the Net Settlement Amount ("NSA") is
13 an estimated \$985,000.⁴⁸ The NSA will be distributed to all Settlement Class Members, *i.e.*, all
14 Class Members who do not timely opt out, based on the formula set forth in the Stipulation,
15 summarized below.⁴⁹ There is no reversion of the MSA to Defendant.⁵⁰

16 **D. Payments to Settlement Class Members.**

17 The Stipulation provides that NSA will be distributed proportionally based on the number
18 of Qualified Workweeks each Settlement Class Member worked during the Class Period.⁵¹ Each
19 Settlement Class Member will be assigned a share calculated by dividing his or her total number of
20 Qualified Workweeks by the total number of Qualified Workweeks for the entire Settlement Class,
21 which is that person's Payment Ratio.⁵² The Payment Ratio then will be multiplied by the NSA to
22 determine that Settlement Class Member's Individual Settlement Payment, except that no gross

23 ⁴⁴ *Naranjo II*, *supra*, 15 Cal.5th at 1077-81.

24 ⁴⁵ *Id.* at 1078 ("[s]o long as no other evidence suggests the employer acted in bad faith, presentation
25 of a good faith defense, based in law or fact, will negate a finding of willfulness," quoting *Amaral*
v. Cintas Corp. No. 2 (2008) 163 Cal.App.4th 1157, 1204 and citing other cases).

26 ⁴⁶ Grover Decl. at ¶¶ 1-17, 20-22, 25, 38-39; Kuchinsky Decl. at ¶¶ 17-18.

27 ⁴⁷ Ex. A at §§ I.W, III.M; Grover Decl. at ¶ 18.

28 ⁴⁸ Ex. A at § I.X; Grover Decl. at ¶ 19.

⁴⁹ Ex. A at §§ I.X, III.M.2, *see also*, §§ I.H, I.RR; Grover Decl. at ¶ 19.

⁵⁰ Ex. A at §§ I.W, III.M; Grover Decl. at ¶ 18.

⁵¹ Ex. A at § III.M.2.a, *see also*, §§ I.X, I.LL; Grover Decl. at ¶¶ 28-29.

⁵² Ex. A at § III.M.2.a; *see also*, §§ I.FF, I.LL.

Individual Settlement Payment will be less than \$25.⁵³ Settlement Class Members are not required to submit a claim to receive an Individual Settlement Payment.⁵⁴

If no Class Member opts out, the average Individual Settlement Payment would be approximately \$679.13 (\$985,000/1,450).⁵⁵ For the reasons explained above, including the various defenses and other risks of litigation, the proposed settlement amount is reasonable under the circumstances.⁵⁶

E. Payments to the Aggrieved Employees and State

The Parties have agreed to allocate \$50,000 of the MSA to settle the PAGA claims, referred to as the PAGA Payment.⁵⁷ Labor Code § 2699(i) requires that the LWDA receive 75% (\$37,500) of the PAGA settlement amount and Aggrieved Employees receive 25% (\$12,500).⁵⁸

To distribute the 25% allocated to the Aggrieved Employees, the Settlement Administrator will distribute Individual PAGA Payments according to the formula set forth in the Settlement Agreement.⁵⁹ The Settlement Administrator will divide the respective Qualified PAGA Pay Periods for each Aggrieved Employees by the total Qualified PAGA Pay Periods for all Aggrieved Employees, resulting in the Payment Ratio for each Aggrieved Employee.⁶⁰ Each Aggrieved Employee's Payment Ratio then will be multiplied by the \$12,500 portion of the PAGA Payment allocated to the Aggrieved Employees to calculate each Individual PAGA Payment.⁶¹

F. The scope of the Release applicable to Settlement Class Members.

The scope of the release is narrowly tailored to the claims asserted in the operative Complaint filed in this action and factual or legal theories that reasonably could have been alleged based on the facts and legal theories contained in the operative Complaint.⁶² The release is also

⁵³ Ex. A at § III.M.2.a; *see also*, §§ I.S, I.FF.

⁵⁴ Ex. A at § III.M.2.a, *see also*, § I.S; Grover Decl. at ¶ 27.

⁵⁵ Grover Decl. at ¶ 29; *see* Ex. A at §§ I.W, I.X, III.M.2.a.

⁵⁶ *See* Grover Decl. at ¶¶ 15-39.

⁵⁷ Lab. Code § 2699(f); Ex. A at §§ I.AA, III.M.5.

⁵⁸ Lab. Code § 2699(i); *see* Ex. A at §§ I.V, I.AA, III.M.5.

⁵⁹ Ex. A at § III.M.2.b; *see* §§ I.C, I.R.

⁶⁰ Ex. A at § III.M.2.b; *see also*, §§ I.R, I.Z, I.EE, I.JJ; Grover Decl. at ¶ 30. Qualified PAGA Pay Periods are all pay periods (as reflected in Defendant's records) during which one or more Aggrieved Employees performed work for Defendant in California during the PAGA Period. Ex. A at § I.JJ.

⁶¹ Ex. A at § III.M.2.b; *see also*, §§ I.C, I.R, I.Z, I.EE, I.JJ; Grover Decl. at ¶ 30.

⁶² Ex. A at § III.B; *see also*, §§ I.MM, I.NN *see* Ex. B (FAC); Grover Decl. at ¶ 31.

temporally limited to the Class Period.⁶³

G. The PAGA Release.

The settlement provides a separate PAGA Release through which Plaintiff, individually and as representative acting as a proxy or agent of the LWDA, a State of California Executive Branch Agency, releases the Released Parties of and from any and all claims for civil penalties, attorneys' fees, and litigation costs under PAGA, as alleged in the operative Complaint for the PAGA Period (the "PAGA Released Claims").⁶⁴

H. The Class Representative Incentive Award/General Release Payment.

The Stipulation provides for a reasonable enhancement for Plaintiff Manalo to compensate her for the risks she took and the time and effort she expended in coming forward to provide invaluable information in support of the claims alleged in the First Amended Complaint.⁶⁵ Plaintiff Manalo also will provide a general release of her claims against Defendant that is much broader than the release that will apply to the Settlement Class Members.⁶⁶

Subject to the Court's approval, the settlement provides that Plaintiff Manalo will receive \$20,000 as a Class Representative Incentive Award/General Release Payment.⁶⁷ The service award is slightly more than one percent of the overall Maximum Settlement Amount.⁶⁸ The settlement provides that any amount allocated to the service award that the Court does not approve will become part of the NSA.⁶⁹ With this motion, Plaintiff has submitted a declaration detailing the time and effort that she put into this case.⁷⁰

I. Attorneys' fees and costs.

The Stipulation also provides that, at final approval, Class Counsel will seek an award of attorneys' fees not to exceed one-third (33.33%) of the MSA, *i.e.*, \$612,500 of the \$1,750,000 MSA, and actual costs and litigation expenses, which are estimated not to exceed \$70,000, referred

⁶³ Ex. A at § III.B; Grover Decl. at ¶ 31.

⁶⁴ Ex. A at § III.D, *see also*, §§ I.CC; Grover Decl. at ¶ 32.

⁶⁵ Ex. A at § III.M.3, *see also*, §§ I.J, I.K; Grover Decl. at ¶¶ 33, 46; Declaration of Joanne Manalo submitted with this preliminary approval motion ("Manalo Decl."), at ¶¶ 4-17.

⁶⁶ *Compare* Ex. A at § III.C with § III.B; Grover Decl. at ¶ 46.

⁶⁷ Ex. A at § III.M.3; *see also*, §§ I.J, I.K.

⁶⁸ *See* Ex. A at §§ I.J, I.W, III.M and III.M.3.a.

⁶⁹ Ex. A at § III.M.3.b.

⁷⁰ Grover Decl. at ¶ 46.

1 to collectively as the Class Counsel Award.⁷¹ The fee request of 33.33% of the MSA is reasonable
2 given the time invested in the case and the amount that will be paid to the 1,450 Class Members.
3 With the final application, Class Counsel will provide information regarding the hours they have
4 spent litigating this case.⁷² The settlement provides that any amount allocated to the Class Counsel
5 Award that the Court does not approve will become part of the NSA.⁷³

6 **J. Administration costs.**

7 The Stipulation allocates up to \$12,500 of the MSA for the costs of settlement
8 administration, subject to the Court's approval.⁷⁴

9 **K. Residual funds.**

10 All settlement checks issued to Settlement Class Members will be valid for 120 days from
11 the date of issuance.⁷⁵ The settlement provides that, after the check void date, the Settlement
12 Administrator will send any funds from uncashed checks to Legal Aid at Work.⁷⁶ Legal Aid at
13 Work provides pro bono representation in various areas including workers' rights.⁷⁷ None of the
14 Parties nor their counsel has any interest in the governance or work of Legal Aid at Work.⁷⁸

15 **L. Overlapping cases.**

16 There are no other known related pending cases that will be affected by this settlement.⁷⁹

17 **M. Notice of the PAGA settlement to the LWDA.**

18 Because the Parties have agreed to settle the PAGA claims in this action, Class Counsel has
19 sent Plaintiff's motion for preliminary approval, this memorandum, the Grover Declaration, with
20 its exhibits including the Stipulation, the Declaration of Robert Spencer and the proposed order to
21 the LWDA.⁸⁰

22
23
24 ⁷¹ Ex. A at §§ I.F, III.M.4; *see also*, §§ I.E, I.W; *see* Grover Decl. at ¶ 51.

⁷² Grover Decl. at ¶ 51.

⁷³ Ex. A at § III.M.4.c.

⁷⁴ Ex. A at § III.M.6; *see also*, Bui Declaration at ¶ 9.

⁷⁵ Ex. A at § III.M.2.e.

⁷⁶ Ex. A at § III.M.2.e; Grover Decl. at ¶ 47. *See* <https://legalaidatwork.org>.

⁷⁷ Grover Decl. at ¶ 47. *See* <https://legalaidatwork.org>.

⁷⁸ Grover Decl. at ¶ 47; Kuchinsky Decl. at ¶ 19; Declaration of William Klein submitted herewith
at ¶¶ 3-4.

⁷⁹ Grover Decl. at ¶ 48.

⁸⁰ *See* Declaration of Robert Spencer filed with Plaintiff's motion for preliminary approval.

N. Tax treatment.

The Stipulation provides that the Individual Settlement Payments shall be allocated and treated as one-third alleged statutory penalties and interest and two-thirds wages.⁸¹ For tax purposes, Individual PAGA Payments shall be allocated and treated as 100% statutory penalties.⁸² Defendant shall be responsible for paying the employer's share of payroll taxes (above and beyond the \$1,750,000 MSA).⁸³ The Settlement Administrator shall be responsible for timely issuing to Settlement Class Members a form W-2 for amounts deemed "wages" and Form 1099s for the non-wage portion if needed.⁸⁴

IV. LEGAL ANALYSIS

A. Two-step approval process.

Any settlement of class litigation must be reviewed and approved by the Court.⁸⁵ This is done in two steps: (1) an early (preliminary) review by the trial court, and (2) a final review after notice has been distributed to the Class Members for their comment or objections.

Manual for Complex Litigation (Fourth) § 21.632 states:

Review of a proposed class action settlement generally involves two hearings. First, counsel submit the proposed terms of settlement and the judge makes a preliminary fairness evaluation. In some cases, this initial evaluation can be made on the basis of information already known, supplemented as necessary by briefs, motions, or informal presentations by parties. If the case is presented for both class certification and settlement approval, the certification hearing and preliminary fairness evaluation can usually be combined. The judge should make a preliminary determination that the proposed class satisfies the criteria set out in Rule 23(a) and at least one of the subsections of Rule 23(b). ... The judge must make a preliminary determination on the fairness, reasonableness, and adequacy of the settlement terms and must direct the preparation of notice of the certification, proposed settlement, and date of the final fairness hearing. In settlement classes, however, it is often prudent to hear not only from counsel but also from the named plaintiffs, from other parties, and from attorneys

⁸¹ Ex. A at § III.M.2.c; *see also*, § I.S; Grover Decl. at ¶ 49.

⁸² Ex. A at § III.M.2.c.

⁸³ Ex. A at § III.M.1, *see also*, § I.V; Grover Decl. at ¶ 49.

⁸⁴ Ex. A at § III.M.2.c; Grover Decl. at ¶ 49.

⁸⁵ Cal. Rules of Court 3.769; Fed. R. Civ. Pro. 23(e). The California Supreme Court has authorized California's trial courts to use Federal Rule 23 and cases applying it for guidance in considering class issues. *See Vasquez v. Superior Court* (1971) 4 Cal.3d 800, 821; *Green v. Obledo* (1981) 29 Cal.3d 126, 145-146. Where appropriate, therefore, Plaintiff cites Federal Rule 23 and federal case law in addition to California law.

who represent individual class members but did not participate in the settlement negotiations.

Thus, the preliminary approval by the trial court is simply a conditional finding that the settlement appears to be within the range of acceptable settlements. As Professor Newberg comments, “[t]he strength of the findings made by a judge at a preliminary hearing or conference concerning a tentative settlement proposal may vary. The court may find that the settlement proposal contains some merit, is within the range of reasonableness required for a settlement offer or is presumptively valid subject only to any objections that may be raised at a final hearing.”⁸⁶

Here, the Parties have reached an agreement, which Plaintiff now submits to this Court, in connection with this Motion. The Stipulation sets forth all terms of the agreement reached by the Parties.⁸⁷

B. Procedures for Settlement Before Class Certification.

Pursuant to Cal. Rules of Court 3.769, the parties also may, at the preliminary approval stage, request that the court provisionally approve certification of the class – conditional upon final approval of the settlement. “[P]re-certification settlements are routinely approved if found to be fair and reasonable.”⁸⁸

The strength of the findings made by a judge at a preliminary hearing or conference concerning a tentative settlement proposal . . . may be set out in conditional orders granting tentative approval to the various items submitted to the court. Three basic rulings are often conditionally entered at this preliminary hearing. These conditional rulings may approve a temporary settlement class, the proposed settlement, and the class counsel’s application for fees and expenses.⁸⁹

Each such condition is appropriate here (although, as mentioned, the parties do not hereby seek final approval of the award to proposed Class Counsel, which will be addressed at the final approval

⁸⁶ 4 Alba Conte & Herbert B. Newberg, Newberg on Class Actions, § 11.26 (4th ed. 2002).

⁸⁷ See Ex. A; Grover Decl. at ¶ 11.

⁸⁸ *Wershba v. Apple Computer, Inc.* (2001) 91 Cal.App.4th 224, 244, *overruled on other grounds by Hernandez v. Restoration Hardware, Inc.* (2018) 4 Cal. 5th 260, 269; *accord Dunk, supra*, 48 Cal. App. 4th at 1803 (although the settlement was reached before any “adversary certification,” the court was satisfied that it was “fair, adequate and reasonable.”); *see also, In re Baldwin-United Corp.* (S.D.N.Y. 1984) 105 F.R.D. 475, 478 (“many courts have employed this practice in the name of judicial efficiency in order to facilitate apparently beneficial settlement proposals.”).

⁸⁹ 4 Newberg on Class Actions, at § 11.26.

stage).

1. The proposed Class should be certified solely for settlement purposes.

It is well established that trial courts should use a lower standard for determining the propriety of certifying a settlement class, as opposed to a litigation class.⁹⁰ The reason for this is that no trial is anticipated in a settlement class, so the case management issues inherent in determining if the class should be certified need not be confronted.⁹¹ The proposed settlement class meets all requirements for certification of a settlement class, as discussed below.⁹²

a) The proposed settlement Class is ascertainable and too numerous to make joinder practicable.

The proposed settlement Class is ascertainable. The Class definition, the total size of the Class and the means for identifying the members of the Class determine whether it is ascertainable.⁹³ In this case, the members of the proposed settlement Class are identifiable from Defendant's records.⁹⁴

Further, the size of the proposed Class is sufficiently numerous to warrant certification. According to Defendant's records, there are approximately 1,450 proposed Class Members.⁹⁵

b) Questions of law and fact common to members of the settlement Class predominate.

As detailed in Plaintiff's class certification motion, Plaintiff contends that the proposed Class Members' claims all stem from a common set of circumstances. All Class Members worked for Defendant as hourly, non-exempt registered nurses in California during the relevant time period. Plaintiff contends that all Class Members were subject to Defendant's uniform practices and policies, including those regarding the payment of wages, meal periods, rest breaks, wage statements and termination pay. Those uniform policies and practices are at the core of Plaintiff's allegations that Defendant violated the Labor Code and create questions of law and fact common

⁹⁰ *Dunk, supra*, 48 Cal. App. 4th at 1807, n. 19.

⁹¹ *See, Amchem Products, Inc. v. Windsor* (1987) 521 U.S. 591, 620.

⁹² *See* Ex. A at § II.A; Grover Decl. at ¶¶ 40-45.

⁹³ *See e.g., Reyes v. Board of Supervisors* (1987) 196 Cal.App.3d 1263, 1274, citing *Vasquez, supra*, 4 Cal.3d at 821-22.

⁹⁴ Grover Decl. at ¶ 42.

⁹⁵ *See* Grover Decl. at ¶¶ 10, 42.

1 to all Class Members. All Class Members seek the same legal remedies under the same state laws.⁹⁶

2 Furthermore, the common questions regarding Defendant's wage payment policies and
3 practices regarding payment of wages, meal periods, rest breaks and termination pay are among the
4 key issues that will determine Defendant's alleged liability to the proposed settlement Class.
5 Plaintiff contends that common questions will predominate over any individual questions that may
6 arise. Under these circumstances, the requirements that common questions of law and/or fact exist
7 among the proposed Class Members and will predominate over individual questions are satisfied
8 for purposes of certifying the Class for settlement.⁹⁷

9 **c) The Proposed Class Representative's Claims are typical of the**
10 **Class Members' Claims.**

11 A class representative's claims are typical when they arise from the same event or course
12 of conduct that gives rise to the claims of the class, and are based on the same legal theory.⁹⁸ In
13 this case, the named Plaintiff contends that she, like all Class Members, worked for Defendant in
14 California as an hourly, non-exempt registered nurse and was subject to Defendant's uniform
15 policies and practices regarding pay, meal periods, rest breaks, wage statements, and termination
16 pay. Thus, Plaintiff's claims and the Class Members' claims arise from the same course of
17 conduct.⁹⁹

18 **d) The Proposed Class Representative will adequately represent**
19 **the Class.**

20 The named Plaintiff also has demonstrated that she will aggressively and competently assert
21 the Class Members' interests.¹⁰⁰ Plaintiff has retained competent counsel, experienced in litigating
22 class action claims in the wage and hour context.¹⁰¹ Thus, the Court should conditionally certify
23 the proposed Class solely for settlement purposes.

24 **C. The settlement is fair and reasonable and not the result of fraud or collusion.**

25 "The trial court operates under a presumption of fairness when the settlement is the result

26 ⁹⁶ Grover Decl. at ¶ 43.

27 ⁹⁷ *Id.*

28 ⁹⁸ *Classen v. Weller* (1983) 145 Cal.App.3d 27, 46-47.

⁹⁹ Grover Decl. at ¶ 44.

¹⁰⁰ Grover Decl. at ¶ 45; Kuchinsky Decl. at ¶¶ 4-5; *see generally*, Manalo Decl.

¹⁰¹ *See* Grover Decl. at ¶¶ 2-4, 45; Kuchinsky Decl. at ¶¶ 6-9; Klein Decl. at ¶¶ 2, 5.

of arm's-length negotiation, investigation and discovery that are sufficient to permit counsel and the court to act intelligently, counsel are experienced in similar litigation, and the percentage of objectors is small."¹⁰² While the recommendations of counsel proposing the settlement are not conclusive, the Court can properly take them into account, particularly where, as here, such counsel have been involved in substantial formal and informal discovery and negotiations, appear to be competent, have experience with this type of litigation, and have exchanged substantial, relevant information with the opposing party.¹⁰³ Here, both Plaintiff's counsel and Defendant's counsel have a great deal of experience in wage and hour matters and class action litigation.¹⁰⁴ Moreover, both Class Counsel and defense counsel conducted an extensive investigation of the factual allegations involved in this case. The Parties have engaged in the exchange of relevant documents, records and other information necessary to evaluate the strengths and weaknesses of the case. Each side has apprised the other of their respective factual contentions, legal theories and defenses, resulting in extensive arm's-length negotiations – including formal mediation with an experienced mediator -- taking place between the Parties.¹⁰⁵

Plaintiff believes the settlement for each Class Member to be fair, reasonable and adequate, given the inherent risk of litigation and the costs of pursuing such litigation.¹⁰⁶ The settlement shall finally resolve all claims arising out of the claims that were expressly pleaded in the operative First Amended Complaint, *i.e.*, Labor Code §§ 201-203, 226, 226.7, 510, 512, 1194 and related provisions of Wage Order 5 claims, together with interest, fees, and costs related to those claims.¹⁰⁷ The release period for the Released Claims shall be the same as the Class Period, *i.e.*, the time period from and including October 22, 2019 through June 1, 2025.¹⁰⁸ The settlement also finally

¹⁰² *In re Microsoft I-V Cases* (2006) 135 Cal.App.4th 706, 723, citing *Dunk, supra*, 48 Cal.App.4th at 1801-02, which cited *Officers for Justice v. Civil Service Com'n*, (9th Cir. 1982) 688 F.2d 615, 625; *see also, e.g., Wershba, supra*, 91 Cal.App.4th at 245 (similar).

¹⁰³ *See Wershba, supra*, 91 Cal.App.4th at 245; *In re Paine Webber Ltd. P'ships Litig.* (S.D.N.Y. 1997) 171 F.R.D. 104, 125 (“[s]o long as the integrity of the arm's length negotiation process is preserved, however, a strong initial presumption of fairness attaches to the proposed settlement . . . and ‘great weight’ is accorded to the recommendations of counsel, who are most closely acquainted with the facts of the underlying litigation.” (internal citations omitted)).

¹⁰⁴ *See Grover Decl.* at ¶¶ 2-4, 45; *Kuchinsky Decl.* at ¶¶ 6-9; *Klein Decl.* at ¶ 2.

¹⁰⁵ *Grover Decl.* at ¶¶ 8-11, 37-38; *Kuchinsky Decl.* at ¶¶ 10-16; *see Ex. A* at § II.B.

¹⁰⁶ *Grover Decl.* at ¶¶ 15-39; *Kuchinsky Decl.* at ¶¶ 17-18.

¹⁰⁷ *See Ex. A* at § III.B; *see also*, §§ I.MM, I.NN; *see Ex. B*.

¹⁰⁸ *See Ex. A* at § III.B; *see also*, § I.I.

1 resolves any and all PAGA claims alleged in the First Amended Complaint for civil penalties,
2 attorneys' fees, and litigation costs during the PAGA Period.¹⁰⁹

3 The settlement also compensates the named Plaintiff with a reasonable Incentive
4 Award/General Release Payment, taking into consideration the risks, time, effort, and expenses she
5 incurred in coming forward to provide invaluable information, negotiate, and litigate this matter on
6 behalf of all Class Members against her former employer.¹¹⁰ The named Plaintiff also will provide
7 a General Release of her individual claims against Defendant.¹¹¹

8 Fairness of the settlement is further demonstrated by the uncertainty and risks to Plaintiff
9 involved both in not prevailing on one or more of the causes of action or theories alleged in the
10 complaint and in non-certification.¹¹² Defendant disputes Plaintiff's ability to certify a class and
11 to prove that Defendant is liable to the Class for its policies and practices pertaining to regular and
12 overtime pay, meal periods and rest breaks, wage statements, and termination pay.¹¹³ The recent
13 *Allison* decision affirming the decertification of registered nurses' meal and rest break class claims
14 highlights the risks of non-certification.¹¹⁴ Were a class not certified, it is unlikely that any Class
15 Member would maintain an individual action against Defendant.¹¹⁵

16 Moreover, it is established that settlements that are only a small percentage of a *theoretical*
17 recovery do not preclude a court from finding that a settlement is fair. Courts regularly find that
18 settlements for substantially less than the plaintiff's theoretical maximum damages are fair and
19 reasonable, especially when considering factors such as the defendant's defenses and the
20 uncertainties, risks and delay involved in litigation.¹¹⁶

21 Despite the asserted fairness of the settlement terms, should any proposed Class Member,
22 upon reviewing the Notice of proposed settlement, object to the terms of the settlement as set forth

23 ¹⁰⁹ Ex. A at § III.D, *see also*, §§ I.Z, I.AA, I.BB, I.CC, III.M.5.

24 ¹¹⁰ Ex. A at §§ III.M.3, I.J, I.K; Grover Decl. at ¶¶ 33, 46; Manalo Decl. at ¶¶ 4-17.

25 ¹¹¹ Ex. A at § III.C; *see also*, §§ I.J, I.K, III.M.3.a; Grover Decl. at ¶ 46.

26 ¹¹² Grover Decl. at ¶¶ 15-25, 38-39; Kuchinsky Decl. at ¶¶ 17-18.

27 ¹¹³ *See* Grover Decl. at ¶ 39, *see also*, ¶¶ 15, 17, 20, 41.

28 ¹¹⁴ *See Allison, supra*, 112 Cal. App. 5th at 218-20; Kuchinsky Decl. at ¶ 18.

¹¹⁵ *See* Grover Decl. at ¶ 39.

¹¹⁶ *See e.g., Wershba, supra*, 91 Cal.App.4th at 246-47, 250-51; *7-Eleven Owners for Fair Franchising v. Southland Corp.* (2000) 85 Cal.App.4th 1135, 1150; *Glass v. UBS Fin. Servs.*, No. C-06-4068 MMC (N.D. Cal. Jan. 26, 2007) 2007 U.S. Dist. LEXIS 8476, at *13, *aff'd*, (9th Cir. 2009) 331 F. App'x 452.

in the Stipulation, each has the right to submit a request for exclusion (*i.e.*, opt out) from the settlement, pursuant to which the Class Member would retain any claim he or she may have against Defendant.¹¹⁷ Moreover, Class Members who do not opt out may object to one or more of the settlement terms set forth in the Stipulation.¹¹⁸

D. The PAGA Payment is reasonable and warrants approval.

Labor Code § 2699(l)(2) requires court approval of any PAGA settlement. Class action requirements do not apply to PAGA actions.¹¹⁹ “PAGA has no notice requirements for unnamed aggrieved employees, nor may such employees opt out of a PAGA action.”¹²⁰ The circumstances of the settlement, rather than the amount allocated to PAGA claims, determine whether a PAGA settlement is appropriate.¹²¹

As part of the final approval process, Plaintiff will seek the Court’s approval of the PAGA portion of the Settlement, including the \$50,000 PAGA Payment, the distribution plan for the PAGA Payment and the PAGA Release.¹²²

V. CONCLUSION

Based on the foregoing, Plaintiff requests that this Court, as part of its preliminary approval of the settlement, do the following:

1. Review the proposed Stipulation setting forth the settlement terms;
2. Consider whether the proposed settlement preliminarily appears to be fair, reasonable and adequate;
3. Confirm that the proposed settlement Class preliminarily appears to meet the applicable certification criteria;
4. Preliminarily approve the Stipulation;
5. Appoint Joanne Manalo as settlement Class Representative and appoint Eric A. Grover and David M. Watson of Keller Grover LLP, Alexei Kuchinsky of Kuchinsky Law Office,

¹¹⁷ Ex. A at § III.K.7.

¹¹⁸ Ex. A at § III.K.8.

¹¹⁹ *Arias v. Superior Court* (2009) 46 Cal.4th 969, 975 (“class action ... requirements need not be met” in PAGA actions).

¹²⁰ *Baumann, supra*, 747 F.3d at 1122.

¹²¹ *Nordstrom Com’n Cases* (2010) 186 Cal.App.4th 576, 589.

¹²² Ex. A at § III.M.5, *see also*, §§ I.R, I.AA, I.BB, I.CC, III.D; Grover Decl. at ¶ 32, n.7.

1 P.C., and William P. Klein of Klein Law Group, P.C. as Class Counsel solely for settlement
2 purposes;

3 6. Approve Simpluris, Inc. as Settlement Administrator to handle the notice and
4 settlement procedures as set forth more particularly in the Stipulation; and

5 7. Enter an Order provisionally approving the proposed settlement class on a non-
6 mandatory basis, approve the proposed Notice to be distributed to Class Members, and direct the
7 Notice to be given to Class Members in accordance with the procedure set forth in the Stipulation.

8
9 Respectfully submitted,

10 Dated: September 29, 2025

KELLER GROVER LLP

11
12
13 By: 

14 ERIC A. GROVER

15 Attorneys for Plaintiff and proposed Class Counsel
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PROOF OF SERVICE

I, JOEY GONZALEZ, am employed in the County of San Francisco, State of California. I am over the age of eighteen and not a party to the within action. My business address is 1965 Market Street, San Francisco, California 94103. On **September 29, 2025**, in the case of *Manalo v. Regional Medical Center of San Jose* Santa Clara County Superior Court Case No: 20CV371934, I served the foregoing document(s):

PLAINTIFF'S NOTICE OF MOTION AND MOTION FOR PRELIMINARY APPROVAL OF CLASS AND PAGA ACTION SETTLEMENT AND MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT THEREOF

on the interested party(ies) below, using the following means:

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☒	(BY ELECTRONIC SERVICE) by electronically mailing a true and correct copy in PDF format through our electronic mail system to the email address(es) set forth above, or as stated on the attached service list per agreement between the parties.
☒	(STATE) I declare under penalty of perjury under the laws of the State of California that the above is true and correct.


JOEY GONZALEZ