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

ASHLEY SIMPSON, individually, and on
behalf of other members of the general public
similarly situated;

Plaintiff,

vs.

CHOICE HOMECARE, INC., a California
corporation; and DOES 1 through 100,
inclusive,

Defendants.

Case No.: 19STCV20172

Honorable Kenneth R. Freeman
Department SSC14

CLASS ACTION

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

[Declaration of Proposed Class Counsel
(Edwin Aiwazian); Declaration of
Proposed Class Representative (Ashley
Simpson); and [Proposed] Order filed
concurrently herewith]

Date: March 30, 2021
Time: 10:00 a.m.
Department: SSC14

Complaint Filed: June 11, 2019
FAC Filed: October 11, 2019
SAC Filed: December 30, 2019
Trial Date: None Set

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

PLEASE TAKE NOTICE that on March 30, 2021 at 10:00 a.m. or as soon thereafter as the matter may be heard before the Honorable Kenneth R. Freeman in Department SSC14 of the Superior Court of California for the County of Los Angeles, located at Spring Street Courthouse, 312 North Spring Street, Los Angeles, California 90012, Plaintiff Ashley Simpson (“Plaintiff” or “Class Representative”) will, and hereby does, move for an order:

- Granting Plaintiff leave to file the [Proposed] Third Amended Class Action Complaint for Damages and Enforcement Under the Private Attorneys General Act, California Labor Code § 2698, Et Seq. (“Third Amended Complaint”) which is attached as “**EXHIBIT 1**” to the [Proposed] Order Granting Preliminary Approval of Class Action Settlement;
- Granting preliminary approval of the proposed class action settlement described herein and as set forth in the Settlement and Release Agreement (“Settlement,” “Agreement,” or “Settlement Agreement”), attached as “**EXHIBIT A**” to the Declaration of Edwin Aiwarzian, including, but not limited to, the means of allocation and distribution of funds, including and not limited to, the allocations for penalties under the California Labor Code Private Attorneys General Act of 2004, Attorneys’ Fees and Costs to Class Counsel, Enhancement Award to Plaintiff, and Administration Costs to the Settlement Administrator;
- Conditionally certifying the Class for settlement purposes;
- Preliminarily appointing Plaintiff Ashley Simpson as Class Representative;
- Preliminarily appointing Lawyers *for* Justice, PC as Class Counsel;
- Approving the proposed Notice of Proposed Settlement and Final Approval Hearing (“Class Notice”), attached as “**EXHIBIT 2**” to the [Proposed] Order Granting Preliminary Approval of Class Action Settlement;
- Directing the mailing of the Class Notice to the Class Members;

- Approving the proposed deadlines for the notice and settlement administration process;
- Approving Simpluris, Inc. as the Settlement Administrator; and
- Scheduling a hearing to consider whether to grant final approval of the Settlement, at which time the Court will also consider whether to grant final approval of the requests for the Attorneys' Fees and Costs to Class Counsel, Enhancement Award for Plaintiff, and Administration Costs to Settlement Administrator.

This motion is made pursuant to Rule 3.769 of the California Rules of Court, which provides for approval by the Court of the settlement of a putative class action and allows the Court to preliminarily certify a class for settlement purposes.

This motion is based upon the following memorandum of points and authorities, the Settlement Agreement, the Declarations of Proposed Class Counsel (Edwin Aiwazian) and Proposed Class Representative (Ashley Simpson) in support thereof, the pleadings and other records on file with the Court in this matter, and such evidence and oral argument as may be presented at the hearing on this motion.

Dated: December 17, 2020

LAWYERS for JUSTICE, PC

By:


Edwin Aiwazian
Attorneys for Plaintiff

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MEMORANDUM OF POINTS AND AUTHORITIES

I. SUMMARY OF MOTION

Plaintiff Ashley Simpson (“Plaintiff” or “Class Representative”) seeks preliminary approval of the Settlement and Release Agreement (“Settlement,” “Agreement,” or “Settlement Agreement”) entered into by and between Plaintiff, individually and on behalf of all others similarly situated and other aggrieved employees, on the one hand, and Defendant Choice Home Care, Inc. (“Defendant”), on the other hand. Subject to approval by the Court, Plaintiff and Defendant (collectively, the “Parties”) have agreed to settle this lawsuit for a Gross Settlement Amount of one million eight hundred thousand dollars (\$1,800,000.00).¹ The Gross Settlement Amount includes the following: (1) Individual Settlement Shares to Settlement Class Members which will be distributed from the Net Settlement Amount²; (2) the Enhancement Award of fifteen thousand dollars (\$15,000.00) to Plaintiff³; (3) the Attorneys’ Fees and Costs to Class Counsel, consisting of attorneys’ fees in the amount of thirty-nine percent (39%) of the Gross Settlement Amount, or \$702,000.00, and reimbursement of litigation costs and expenses not to exceed forty five thousand dollars (\$45,000.00)⁴; (4) the Administration Costs to the Settlement Administrator in the amount not to exceed twenty-five thousand dollars (\$25,000);⁵ and (5) the amount of three hundred twelve thousand dollars (\$312,000.00) allocated to penalties under the Private Attorneys General Act (“PAGA”), of which 75% (i.e., \$234,000.00) will be distributed to the Labor and Workforce Development Agency (“LWDA”) and 25% (i.e., \$78,000.00) will be distributed to Settlement Class Members as a part of the Net Settlement Amount.⁶

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¹ Settlement Agreement, attached as “**EXHIBIT 1**” to Declaration of Edwin Aiwazian (“Aiwazian Decl.”), § B.1.

² *Id.*, § 11.a-b.

³ *Id.*, § B.1.

⁴ *Id.*, § B.1.

⁵ *Id.*, § B.1.

⁶ *Id.*, § B.1.

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

All hourly non-exempt individuals who worked for Defendant from June 11, 2015 through the date of the Court's preliminary approval of the Settlement ("Class" or "Class Members").⁷

The Class is estimated to consist of approximately two thousand six hundred seventeen (2,617) individuals as of December 17, 2020.⁸

Class Members who do not submit a timely and valid request to be excluded from the Settlement ("Settlement Class Member") will receive a share of the Net Settlement Amount ("Individual Settlement Share") on a *pro rata* basis based upon the number of calendar weeks during the period from June 11, 2015 through the date of the Court's preliminary approval of the Settlement in which each Settlement Class Member worked at least one day ("Qualified Workweeks").⁹

The Settlement resolves the Released Claims of Plaintiff and Settlement Class Members, against the Released Parties.¹⁰

II. PROCEDURAL HISTORY AND FACTUAL BACKGROUND

Defendant is a private service organization that provides in-home care to families, children, and adults with special needs. Plaintiff Ashley Simpson is a former employee of Defendant.

On June 11, 2019, Plaintiff filed a Class Action Complaint for Damages in the Los Angeles County Superior Court ("Court"), thereby commencing the above-captioned lawsuit ("Action").

On October 11, 2019, Plaintiff filed a First Amended Class Action Complaint for Damages.

⁷ Settlement Agreement, § A.1.a. "Class Period" is defined as the period of time from June 11, 2015 through the date of the Court's preliminary approval of the Settlement. *See id.*, § A.1.b.

⁸ Aiwazian Decl., ¶ 9; *see also*, Settlement Agreement § B.11.d.

⁹ Settlement Agreement, §§ B.11.a & B.11.b.

¹⁰ *See id.* at §I.1, for the full scope of the "Released Claims." For purposes of this Motion, "Released Parties" means CHC (i.e., Defendant), and its owners, employees, and their insurers, attorneys and all agents thereof.

1 On December 30, 2019, pursuant to stipulation by the Parties and the Court's order
2 thereon, Plaintiff filed a Second Amended Class Action Complaint for Damages.

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

14 On January 30, 2020, Defendant filed an Answer to Plaintiff's Second Amended Class
15 Action Complaint.

16 Defendant has denied, and continues to deny, any liability and wrongdoing of any kind
17 associated with any of the allegations in the Action, and further denies that the Action is
18 appropriate for class treatment or representative adjudication for any purpose other than for
19 settlement purposes only.

20 On September 23, 2019, Plaintiff propounded multiple sets of discovery, including
21 Requests for Production of Documents (Set One), Special Interrogatories (Sets One and Two),
22 and Form Interrogatories (Set One), on Defendant. On March 9, 2020, Defendant propounded
23 Request for Production of Documents (Set One) and Special Interrogatories (Set One) on
24 Plaintiff. On May 11, 2020 Plaintiff served responses to Defendant's Request for Production of
25 Documents (Set One) and Special Interrogatories (Set One). On May 27, 2020, Class Counsel
26 took the deposition of Defendant's person most knowledgeable designee regarding job duties.

27 The Parties have actively litigated the Action since it was commenced on June 11, 2019.
28 On February 7, 2020 and June 17, 2020, the Parties participated in formal, full-day mediation

sessions conducted by T. Warren Jackson, a well-regarded mediator experienced in mediating complex labor and employment matters. With the aid of the mediator's evaluation, after the second mediation session, the Parties ultimately reached the Settlement described herein to resolve the Action in its entirety.

III. REQUEST FOR LEAVE TO FILE AMENDED CONSOLIDATED COMPLAINT

To effectuate the terms of the Settlement Agreement and intent of the Parties, the Parties agree that leave should be granted for Plaintiff to file an amended complaint in the Action in order to, *inter alia*, add a cause of action under PAGA and the Fair Labor Standards Act and effectuate the terms of the Settlement.¹¹ As such, Plaintiff respectfully requests leave to file the Third Amended Class Action Complaint for Damages & Enforcement Under the Private Attorneys General Act, California Labor Code § 2698, *Et Seq.* ("Third Amended Complaint").¹²

IV. SUMMARY OF THE SETTLEMENT TERMS

Under the terms of the Settlement, Defendant will pay a Gross Settlement Amount in installments, as follows: \$600,000 within thirty (30) calendar days after final approval of the Settlement ("First Installment"), \$600,000 within six (6) months from payment of the First Installment ("Second Installment"), and \$600,000 within six (6) months from payment of the Second Installment ("Third Installment").¹³ Subject to approval by the Court, the Net Settlement Amount will be calculated by deducting the following amounts from the Gross Settlement Amount: (1) attorneys' fees in an amount not to exceed seven hundred two thousand dollars (\$702,000.00) (i.e., up to 39% of the Gross Settlement Amount) and reimbursement of costs and expenses in an amount not to exceed forty five thousand dollars (\$45,000.00) to Class Counsel (collectively referred to as the "Attorneys' Fees and Costs"); (2) settlement administration costs, which are currently estimated to be twenty-five thousand dollars (\$25,000) to the Settlement Administrator ("Administration Costs"); (3) payment to the LWDA of its 75% share of the PAGA Amount (i.e., \$234,000.00 out of \$312,000.00) ("LWDA Payment"); and (4) payment in the amount of up to fifteen thousand dollars (\$15,000.00) to Plaintiff Ashley Simpson

¹¹ Aiwazian Decl., ¶ 10.

¹² Settlement Agreement, ¶ A.

¹³ Settlement Agreement, §§ 11.a.& B.4.

1 (“Enhancement Award”).¹⁴ The Parties have agreed to retain Simpluris, Inc. (“Simpluris” or
2 “Settlement Administrator”) to handle the notice and settlement administration process.¹⁵

3 The Parties have agreed that the Settlement Administrator will determine each
4 Settlement Class Member’s share of the available Net Settlement Amount (“Individual
5 Settlement Share”), in accordance with the Settlement Agreement by dividing the Net
6 Settlement Amount by the total number of Qualifying Workweeks worked by all Settlement
7 Class Members to arrive at the “Weekly Amount,” and then will multiplying the Weekly
8 Amount by each Settlement Class Member’s individual number of Qualifying Workweeks.¹⁶

9 Each Settlement Class Member’s Individual Settlement Share will be allocated as
10 follows: twenty percent (20%) as wages (the “wage portion”), which will be reported on an IRS
11 Form W-2; and the remaining eighty percent (80%) as penalties, interest, and other non-wage
12 damages, which will be reported on an IRS Form 1099.¹⁷ Settlement Class Members will be
13 issued payment of their Individual Settlement Share subject to reduction for the employee’s
14 share of payroll taxes and withholdings with respect to the wage portion of each Individual
15 Settlement Share (the net payment is referred to as an “Individual Settlement Payment”).¹⁸
16 Defendant will pay the employer’s portion of payroll taxes and contributions with respect to the
17 wage portion of Individual Settlement Shares (“Employer Taxes”) in addition to the Gross
18 Settlement Amount.¹⁹

19 The Individual Settlement Payment checks will be distributed to Settlement Class
20 Members within twenty-one (21) calendar days after Defendant funds the Second Installment
21 and will be valid for one hundred eighty (180) calendar days from the date of issuance.²⁰
22 Individual Settlement Payment checks that are not cashed or deposited within the 180-day period
23 will be voided.²¹ The funds from such voided checks will be transmitted by the Settlement
24

25 ¹⁴ *Id.*, § B.1.

26 ¹⁵ *Ibid.*

27 ¹⁶ *Id.*, § 11.b.

28 ¹⁷ Settlement Agreement, § 14.c.

¹⁸ *Ibid.*

¹⁹ Settlement Agreement, § B.3.

²⁰ *Id.*, § B.10 & H.2-3.

²¹ *Ibid.*

1 Administrator after the expiration of the 180-day period, and sent to the California State
2 Controller's Office, Unclaimed Property Division, in the name of the Settlement Class Member
3 whose check is voided and in the respective amount of the voided check.²²

4 Class Members who wish to be excluded from the Settlement (i.e., opt out) must send a
5 written request to be excluded from the Settlement ("Request for Exclusion") to the Settlement
6 Administrator by mail, postmarked on or before the date that is forty-five (45) calendar days
7 from the initial mailing of the Class Notice ("Response Deadline"), or in the case of a re-mailed
8 Class Notice, the later of the Response Deadline or fifteen (15) calendar days from the date the
9 Class Notice is re-mailed.²³ A Request for Exclusion must contain: (a) the Class Member's
10 name, address, and telephone number; (b) the case name and number of the Action; (c) the words
11 "Request for Exclusion" or "Opt Out"; and (d) a statement clearly indicating that the Class
12 Member wishes to opt out of the Settlement.²⁴ Class Members who submit a valid and timely
13 Request for Exclusion will not be bound by the terms of the Settlement and Final Approval
14 Order and Judgment.²⁵

15 Class Members who do not exclude themselves from the Settlement (i.e., Settlement
16 Class Members) and who wish to object to the Settlement must submit a written statement of
17 the grounds of objection ("Objection") to the Settlement Administrator on or before the
18 Response Deadline.²⁶ The Objection must: (a) contain the Class Member's full name, address,
19 and signature or his or her attorney; (b) clearly explain why the Class Member objects to the
20 Settlement; (c) attach all supporting papers, if any, which the Class Member is relying on; and
21 (d) state whether the Class Member (or someone on his or her behalf) intends to appear at the
22 Final Approval Hearing.²⁷

23 Class Members who wish to dispute the number of Qualifying Workweeks credited to
24 them in their Class Notice may do so by submitting a written dispute ("Workweeks Dispute")
25

26 ²² *Ibid.*

27 ²³ *Id.*, § C.2,C.6, D1 & Exhibit 2.

28 ²⁴ Settlement Agreement, Exh. B.

²⁵ *Id.* § D.1.

²⁶ *Id.*, § E.1.

²⁷ *Ibid.*

1 to the Settlement Administrator on or before the Response Deadline.²⁸ The Workweeks Dispute
2 must contain: (a) the Class Member's name, address, and telephone number; (b) the case name
3 and number of the Action; (c) the words "Dispute" or "Workweek Dispute"; (d) a clear and
4 concise statement of the number of Qualifying Workweeks the Class Member contends is
5 correct; and (e) any and all supporting documents.²⁹

6 **IV. LEGAL STANDARD FOR PRELIMINARY APPROVAL OF CLASS ACTION**
7 **SETTLEMENTS**

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

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

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27
28 ²⁸ *Id.*, § C.4.

²⁹ Settlement Agreement, Exh. B.

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

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

V. THE COURT SHOULD PRELIMINARILY APPROVE THE SETTLEMENT

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

The proponent of the settlement has the burden to show that it is fair and reasonable. *Wershba, supra*, 91 Cal.App.4th at 245. “A presumption of fairness exists where: (1) the

1 settlement is reached through arm's-length bargaining; (2) investigation and discovery are
2 sufficient to allow counsel and the court to act intelligently; (3) counsel is experienced in similar
3 litigation; and (4) the percentage of objectors is small.” *Id.*; *Dunk, supra*, 48 Cal.App.4th at
4 1802; *7-Eleven Owners for Fair Franchising v. Southland Corp.* (2000) 85 Cal.App.4th 1135,
5 1151.

6 **A. The Settlement Resulted from Arm's-Length Negotiations Based Upon**
7 **Extensive Investigation and Discovery.**

8 The Parties actively litigated the Action since it was commenced on June 11, 2019. Both
9 sides used the pre-mediation time period to investigate the veracity, strength, and scope of the
10 claims, and Class Counsel was actively preparing the case for class certification and trial.³⁰

11 Prior to engaging in mediation, Class Counsel conducted significant investigation and
12 formal and informal discovery regarding the facts of the case, including and not limited to, the
13 exchange, review, and analysis of thousands of pages of documents and data produced by
14 Defendant.³¹ The volume of data and documents that Class Counsel reviewed and analyzed
15 included and was not limited to: employment records of Plaintiff, a detailed sampling of Class
16 Members' time and pay data, multiple iterations of Defendant's Employee Handbook, company
17 policy acknowledgements, internal memoranda, job descriptions, new employee orientation and
18 training checklist, operations and employment practices, forms (including but not limited to
19 Receipt of Job Description), procedures, Defendant's financial documents and data, and
20 policies, among other information and documents.³² Class Counsel interviewed Plaintiff and
21 other Class Members to gather facts and to identify potential witnesses.³³ Class Counsel
22 propounded multiple sets of formal written discovery requests on Defendant, noticed the
23 depositions of Defendant's Person Most Knowledgeable designees regarding organizational
24 structure and job duties, and worked with Plaintiff to provide responses to multiple sets of
25 discovery requests that were propounded by Defendant.³⁴ Class Counsel prepared for and took

26 ³⁰ Aiwazian Decl., ¶¶ 11-13.

27 ³¹ Aiwazian Decl., ¶ 12.

28 ³² *Ibid.*

³³ *Ibid.*

³⁴ *Ibid.*

1 the deposition of Defendant's Person Most Knowledgeable witness.³⁵ Counsel for the Parties
2 also met and conferred on numerous occasions, e.g., to discuss issues relating to the pleadings,
3 discovery, Defendant's financial condition, and the production of documents and data prior to
4 the mediation sessions.³⁶ Class Counsel also drafted Plaintiff's mediation briefs and prepared
5 for and attended court proceedings, settlement negotiations, and the mediation, among other
6 tasks.³⁷

7 The Parties engaged in extensive settlement negotiations and participated in two formal
8 mediations conducted by T. Warren Jackson, a well-respected mediator experienced in
9 mediating complex labor and employment matters.³⁸ Prior to and during the mediations and
10 settlement discussions, the Parties exchanged class information and engaged in an intensive
11 discussion regarding their evaluations of the case and various aspects of the case, including but
12 not limited to, Defendant's financial condition, the risks and delays of further litigation, the risks
13 to the Parties of proceeding with class certification and/or representative adjudication, the law
14 relating to off-the-clock and misclassification theory, the personal attendant exemption under
15 Wage Order 15, meal and rest periods, wage-and-hour enforcement, FLSA, and PAGA
16 representative claims, as well as the evidence produced and analyzed, and the possibility of
17 appeals, among other things.³⁹ During all settlement discussions, the Parties conducted their
18 negotiations at arm's length in an adversarial position.⁴⁰ Arriving at a settlement that was
19 acceptable to both Parties was not easy. Defendant and its counsel felt strongly about their
20 ability to prevail on the merits and at certification, and Plaintiff and Class Counsel believed that
21 they would be able to obtain class certification and prevail at trial.⁴¹ After conducting
22 investigations, significant formal and informal discovery, extensive settlement negotiations, and
23 with the aid of the mediator's evaluation, the Parties have agreed that the matter is well-suited
24

25 ³⁵ *Ibid.*

26 ³⁶ *Ibid.*

27 ³⁷ *Ibid.*

28 ³⁸ *Id.*, ¶ 11.

³⁹ Aiwazian Decl., ¶ 11.

⁴⁰ *Ibid.*

⁴¹ *Id.*, ¶¶ 11, 16-18.

1 for settlement given the legal issues relating to Plaintiff's principal claims, as well as the costs
2 and risks to both sides that would attend further litigation.⁴²

3 The Settlement takes into account the strengths and weaknesses of each side's position
4 and the uncertainty of how the case might have concluded at certification and trial.⁴³ The Parties
5 have had the opportunity to interview and obtain information from their respective witnesses.⁴⁴
6 Counsel for the Parties have also reviewed documents and information relating to Plaintiff's and
7 the Class Members' employment with Defendant and performed significant research into the
8 law concerning class certification, PAGA representative actions, off-the-clock and
9 misclassification theory, the personal attendant exemption, meal and rest periods, wage-and-
10 hour enforcement, Plaintiff's claims, and Defendant's defenses thereto, as well as facts
11 discovered.⁴⁵ The Parties have reached the Settlement based on this large volume of facts,
12 evidence, and investigation. In addition, Class Counsel has extensive experience in employment
13 class actions, including significant experience in California wage-and-hour litigation.⁴⁶

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

15 The Settlement, which provides for a Gross Settlement Amount of one million eight
16 hundred thousand dollars (\$1,800,000.00), represents a fair, adequate, and reasonable resolution
17 of the matter.⁴⁷ The Settlement was calculated using the information and data uncovered during
18 litigation, case investigation, as well as the formal and informal exchange of information.⁴⁸ The
19 Settlement takes into account the potential risks and rewards inherent in any case and, in
20 particular, in the case at issue.⁴⁹ Moreover, considering all of the facts and circumstances of the
21 lawsuit, the Settlement represents a fair, reasonable, and adequate recovery for the Class.⁵⁰

22 Assuming that the Attorneys' Fees and Costs, Enhancement Award, LWDA Payment,
23 and Settlement Administration Costs are approved by the Court and paid in the full amounts

24

⁴² *Ibid.*

25 ⁴³ *Ibid.*

26 ⁴⁴ *Ibid.*

27 ⁴⁵ *Id.*, ¶¶ 11-13 & 16-18.

28 ⁴⁶ Aiwasian Decl., ¶¶ 6-7.

⁴⁷ Aiwasian Decl., ¶¶ 11, 13, 14 & 21.

⁴⁸ *Id.*, ¶¶ 11-13.

⁴⁹ *Id.*, ¶¶ 16-18.

⁵⁰ *Id.*, ¶¶ 11, 13, & 21.

provided for by the Settlement, the Settlement provides for a Net Settlement Amount that is currently estimated to be twenty-five thousand dollars (\$25,000).⁵¹ As discussed in Part III, *supra*, the entire Net Settlement Amount will be fully paid out to the Settlement Class Members, in accordance with the Settlement Agreement. The amount of each Settlement Class Member's Individual Settlement Share will be calculated based on his or her Qualifying Workweeks.⁵² There is no reason to doubt the fairness of the proposed plan of allocation of the settlement funds for purposes of preliminary approval. Even at the final approval stage, "[a]n allocation formula need only have a reasonable, rational basis [to warrant approval], particularly if recommended by experienced and competent class counsel." *In re American Bank Note Holographics, Inc., Securities Litigation* (S.D.N.Y. 2001) 127 F.Supp.2d 418, 429-30.

In light of the foregoing considerations, Class Counsel believes that the Settlement as a whole is fair, reasonable, and adequate, and is in the best interest of the Class Members.⁵³ Although the recommendations of Class Counsel are not conclusive, the Court can properly take the recommendations into account, particularly if Class Counsel appears to be competent, and has experience with this type of litigation, and investigation have been completed, as is the case here. *Newberg*, §11.47. Accordingly, the Court should grant preliminary approval of the Settlement.

C. The Settlement Is of Significant Value.

Pursuant to *Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th 116, the Parties conducted significant formal and informal discovery and exchanged thousands of pages of documents, data, and information prior to mediation.⁵⁴ The documents and information that Class Counsel obtained from Defendant and through other sources allowed Class Counsel to develop valuation models in order to evaluate the potential value and merit of the claims, and perform a complete evaluation of Defendant's defenses thereto.⁵⁵ As outlined in the Declaration

⁵¹ *Id.*, ¶ 14.

⁵² Settlement Agreement, § 11.a-b.

⁵³ Aiwazian Decl., ¶¶ 11, 13, & 21.

⁵⁴ *Id.*, ¶¶ 11-13 & 18.

⁵⁵ *Id.*, ¶ 18.

of Edwin Aiwasian, Class Counsel performed an extensive analysis of each and every claim pursuant to *Kullar* prior to entering into the Settlement.⁵⁶

VI. CERTIFICATION OF THE CLASS IS APPROPRIATE.

For settlement purposes, the requisites for establishing class certification are met, and the Parties have stipulated to conditional certification of the Class for settlement purposes only.⁵⁷ California Code of Civil Procedure Section 382 “authorizes class actions when the question is one of a common or general interest, of many persons, or when the Parties are numerous, and it is impracticable to bring them all before the court.” *Sav-On Drug Stores, Inc. v. Superior Court* (2004) 34 Cal.4th 319, 326. California courts certify class actions where the plaintiff identifies “both [1] an ascertainable class and [2] a well-defined community of interest among class members.” *Id.*

The Class is ascertainable and numerous as to make it impracticable to join all Class Members, and there are common questions of law and fact that predominate over any questions affecting any individual Class Member. Further, Plaintiff’s claims are typical of the claims of the Class Members, and Class Counsel will fairly and adequately protect the interests of the Class. Finally, prosecution of separate actions by individual Class Members would create the risk of inconsistent or varying adjudications, and a class action is superior to other available means for the fair and efficient adjudication of the case. The Class is amenable to class certification for settlement purposes as discussed below.

A. The Class Is Ascertainable and Sufficiently Numerous.

“Ascertainability is required in order to give notice to putative class members as to whom the judgment in the action will be *res judicata*.” *Hicks v. Kaufman & Broad Home Corp.* (2001) 89 Cal.App.4th 908, 914. “A class is ascertainable if it identifies a group of unnamed plaintiffs by describing a set of common characteristics sufficient to allow a member of that group to identify himself or herself as having a right to recover based on the description.” *Bartold v.*

⁵⁶ *Id.*, ¶¶ 11-13 & 16-18.

⁵⁷ Settlement Agreement, § A.1.a.

1 *Glendale Federal Bank* (2000) 81 Cal.App.4th 816, 828. The proposed class must also be
2 sufficiently numerous. *Linder v. Thrifty Oil Co.* (2000) 23 Cal.4th 429, 435.

3 This action involves a class of approximately two thousand six hundred seventeen
4 (2,617) individuals.⁵⁸ This class is sufficiently numerous. *See Rose v. City of Hayward* (1981)
5 126 Cal.App.3d 926, 934-35 (indicating that a class of 30 to 40 individuals satisfies the
6 numerosity requirement as joinder is not practical at that point). Further, all Class Members can
7 and will be identified by Defendant to the Settlement Administrator through a review of
8 Defendant's employment records regarding non-exempt employees in California during the
9 Class Period. As such, the Class is ascertainable and sufficiently numerous.

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

11 The community of interest requirement "embodies three factors: (1) predominant
12 common questions of law or fact; (2) class representative with claims or defenses typical of the
13 class; and (3) class representative who can adequately represent the class." *Sav-On, supra*, 34
14 Cal.4th at 326. "[T]he community of interest requirement for certification *does not mandate*
15 *that class members have uniform or identical claims.*" *Capitol People First v. Dep't of*
16 *Developmental Services* (2007) 155 Cal.App.4th 676, 692 (emphasis in original). Rather, courts
17 focus on the defendant's internal policies and "pattern and practice . . . in order to assess whether
18 that common behavior toward similarly situated plaintiff renders class certification appropriate."
19 *Id.* (citing *Sav-On, supra*, 34 Cal.4th at 333).

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

25 Here, common issues of fact and law predominate as to each of the claims alleged and
26 asserted in the Third Amended Complaint. Based on the documents and information obtained
27 through formal and informal discovery and exchange of information in this case, Plaintiff
28

⁵⁸ Aiwazian Decl., ¶ 9.

1 contends that Class Members were subject to the same uniform operations and employment
2 practices, policies, and procedures during the time period at issue.⁵⁹ Plaintiff's claims arise from
3 Defendant's alleged uniform policy and systematic scheme, with respect to Plaintiff and the
4 Class Members, of, *inter alia*, failing to properly pay overtime and minimum wages for all hours
5 worked, failing to provide compliant meal and rest periods and associated premium pay, failing
6 to timely pay wages during employment and upon termination of employment, failing to provide
7 complaint wage statements, failing to keep requisite payroll records, and failing to reimburse
8 necessary business-related expenses.⁶⁰

9 Plaintiff also contends that Defendant's payroll and recordkeeping practices with respect
10 to Plaintiff and the Class Members were substantially the same during the time period at issue.⁶¹
11 As a result, Plaintiff claims that all of the Class Members were uniformly not paid all
12 compensation due to them from Defendant during the time period at issue.⁶²

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

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

19 Class Counsel has litigated the matter for over a year, and was actively preparing the
20 matter for class certification and trial.⁶³ The ongoing work has been extensive, demanding, and
21 ultimately successful in achieving a substantial settlement resolution. Class Counsel conducted
22 extensive investigations into the facts of the case and formal and informal discovery, including,
23 and not limited to, propounding multiple formal written discovery requests onto Defendant,
24 serving deposition notices, and working with Plaintiff to provide responses to discovery requests
25 that were propounded by Defendant. Class Counsel also took the deposition of Defendant's

26 ⁵⁹ Aiwazian Decl., ¶ 16.

27 ⁶⁰ *Ibid.*

28 ⁶¹ *Ibid.*

⁶² *Ibid.*

⁶³ Aiwazian Decl., ¶¶ 11-13.

Person Most Knowledgeable designee. Class Counsel reviewed thousands of pages of documents and data⁶⁴ and also interviewed and obtained information from Plaintiff and other Class Members, researched applicable law, undertook damages/valuation calculations, and met and conferred with Defendant's counsel regarding the pleadings, discovery, Defendant's financial condition, and the production of documents and data prior to the mediation sessions.⁶⁵ Counsel for the Parties also undertook extensive settlement discussions, which included participating in a two (2) formal mediation sessions.⁶⁶

Class Counsel is well-experienced in wage-and-hour class action litigation and used that experience to obtain a great result for the Class.⁶⁷

The Settlement establishes a Gross Settlement Amount of one million eight hundred thousand dollars (\$1,800,000.00), and provides for Class Counsel to apply to the Court for Attorneys' Fees and Costs, consisting of attorneys' fees in an amount not to exceed thirty-nine percent (39%) of the Gross Settlement Amount (i.e., \$702,000.00) and an amount not to exceed forty five thousand dollars (\$45,000.00) for costs and expenses.⁶⁸ The attorneys' fees provided for by the Settlement is commensurate with: (1) the risk that Class Counsel took in bringing and litigating the case, (2) the extensive time, effort and expense that Class Counsel dedicated to the case, (3) the skill and determination that Class Counsel has shown, (4) the results that Class Counsel has achieved throughout the litigation, (5) the value of the Settlement that Class Counsel has achieved for the Class Members, and (6) the other cases that Class Counsel had to turn down in order to devote its time and efforts to this matter. The proposed Class Notice provides Class Members with information about the amount allocated toward the Attorneys' Fees and Costs, and that an award of the Attorneys' Fees and Costs will be sought, as provided for by the Settlement.⁶⁹

⁶⁴ *Id.*, ¶ 12.

⁶⁵ *Ibid.*

⁶⁶ *Id.*, ¶ 11.

⁶⁷ *Id.*, ¶¶ 6-7.

⁶⁸ Settlement Agreement, § B.1.

⁶⁹ *Id.*, Exh. B.

1 Trial courts have “wide latitude” in assessing the value of attorneys’ fees and their
2 decisions will “not be disturbed on appeal absent a manifest abuse of discretion.” *Lealao v.*
3 *Beneficial Cal., Inc.* (2000) 82 Cal.App.4th 19, 41. Indeed, it is long settled that the
4 “experienced trial judge is the best judge of the value of professional services rendered in his
5 court.” *Ketchum v. Moses* (2001) 24 Cal.4th 1122, 1132. California law provides that attorney
6 fee awards should be equivalent to fees paid in the legal marketplace to compensate for the result
7 achieved and risk incurred. *Laffitte v. Robert Half Int’l, Inc.* (2016) 1 Cal.5th 480, 503 (citing
8 *Lealao, supra*, 82 Cal.App.4th at 48-49). In *Lealao*, the court held that when an action leads to
9 a recovery that can be “monetized” with a reasonable degree of certainty, the trial court should
10 “ensure that the fee awarded is within the range of fees freely negotiated in the legal marketplace
11 in comparable litigation.” *Id.* at 50. In cases where class members present claims against a
12 settlement fund and the settlement agreement provides that the defendant agrees to paying the
13 attorneys a percentage of the same, use of that percentage method is appropriate. *Id.* at 32.

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

21 Historically, courts have awarded fees as high as fifty percent (50%) of the settlement,
22 depending on the circumstances of the case. *Newberg*, § 14.03; *see also In re Ampicillin*
23 *Antitrust Litig.* (D.D.C. 1981) 526 F.Supp. 494 (awarding attorneys’ fees in the amount of 45%
24 of the \$7.3 million settlement); *Beech Cinema, Inc. v. Twentieth-Century Fox Film Corp.*
25 (S.D.N.Y. 1979) 480 F.Supp. 1195 (awarding approximately 53% of the settlement as attorneys’
26 fees). California courts routinely approve class action attorneys’ fee awards “averag[ing] around
27 one-third of the recovery.” *Chavez v. Netflix, Inc.* (2008) 162 Cal.App.4th 43, 66 n.11 (lower
28 court found 20 to 40 percent range of contingency fee in marketplace was appropriate in class

actions); see also *Estrada v. Dr. Pepper/Seven-Up*, Los Angeles County Superior Court Case No. BC262247 (May 2005) (wage and hour); *Moore v. IKEA*, Los Angeles County Superior Court Case No. BC263646 (Sept. 2006) (wage and hour).

Class Counsel has borne all of the risks and costs of litigation and will not receive any compensation until recovery is obtained.⁷⁰

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

VIII. THE PROPOSED CLASS NOTICE IS ADEQUATE.

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

The proposed Class Notice⁷¹ describes the Settlement, the deadlines and procedures to object to the Settlement, request exclusion from the Settlement, and dispute the Qualifying Workweeks credited to each Class Member, and the date and time set for the Final Approval Hearing.⁷²

The proposed Class Notice fulfills the requirement of neutrality in notice procedure. *Newberg*, at § 8.39. "Sufficient information about the case should be provided to enable class members to make an informed decision about their participation." *Manual for Complex Litigation* § 21.311 at 413 (4th ed. 2004). The proposed Class Notice summarizes the proceedings to date and the terms and conditions of the Settlement in an informative and

⁷⁰ Aiwasian Decl., ¶ 19.

⁷¹ Settlement Agreement, Exh. B.

⁷² *Ibid.*

coherent manner.⁷³ The proposed Class Notice recognizes that the Court has not yet granted final approval of the settlement.⁷⁴ The proposed Class Notice also apprises the Class Members of, *inter alia*, how their Individual Settlement Share is calculated and the number of Qualifying Workweeks credited to them.⁷⁵

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

IX. APPOINTMENT OF SIMPLURIS, INC. AS THE SETTLEMENT ADMINISTRATOR

The Parties have selected Simpluris, Inc. to administer the Settlement.

The Settlement Administrator will mail the Class Notice to each Class Member by First-Class U.S. mail.⁷⁶ With respect to any undeliverable Class Notice returned on or before the Response Deadline without a forwarding address, the Settlement Administrator will make reasonable efforts to obtain an updated mailing address, including but not limited to conducting one skip-trace, and re-mail the Class Notice to the Class Member.⁷⁷ The Response Deadline to submit a Request for Exclusion, Objection, or Workweeks Dispute for Class Members to whom a Class Notice is re-sent, after having been returned as undeliverable to the Settlement Administrator, will be fifteen (15) calendar days from the date of the re-mailing or the original forty-five (45) calendar day deadline, whichever is later.⁷⁸ The Settlement Administrator will receive and process Requests for Exclusion, Objections, and any Workweeks Disputes.⁷⁹

⁷³ *Ibid.*

⁷⁴ *Ibid.*

⁷⁵ *Ibid.*

⁷⁶ Settlement Agreement, § C.2.

⁷⁷ Settlement Agreement, § C.6.

⁷⁸ *Ibid.*

⁷⁹ *Id.*, § C.2.

The Settlement Administrator will calculate the amounts of the Individual Settlement Shares; deduct and transmit applicable state and/or federal taxes in connection with the wage portion of Individual Settlement Shares; mail the Individual Settlement Payment checks to Settlement Class Members; issue W-2 and 1099 forms; calculate and disburse the Attorneys' Fees and Costs, Enhancement Award, and LWDA Payment; and perform such other tasks necessary to effectuate the terms of the Settlement Agreement.⁸⁰ The Administration Costs are currently estimated to be twenty-five thousand dollars (\$25,000) and will be paid out of the Gross Settlement Amount, subject to approval by the Court.⁸¹

Accordingly, Plaintiff respectfully requests that the Court appoint Simpluris as the Settlement Administrator and direct the mailing of the Class Notice to the Class Members in the manner outlined and based on the proposed deadlines as described herein and set forth in the Settlement Agreement.

X. PROPOSED DEADLINES FOR THE NOTICE PROCESS

At this preliminary approval stage, plaintiffs seek approval of the proposed deadlines for the notice and settlement administration process. *Newberg*, at § 11.26. The notice process entails mailing of the Class Notice, in the form approved by the Court, to all known and reasonably ascertainable Class Members based on Defendant's records.⁸²

Within fourteen (14) calendar days after the date on which the Court grants preliminary approval of the Settlement, Defendant will provide the Settlement Administrator with the following information for each Class Member: (1) full name; (2) last known mailing address; (3) Social Security number; (4) Qualifying Workweeks; (5) and any and all information necessary to verify the number of Qualifying Workweeks (collectively, "Class List").⁸³

Within seven (7) calendar days of receipt of the Class List, the Settlement Administrator will mail the Class Notice to the Class Members via First-Class U.S. Mail.⁸⁴ Class Members will have until the applicable Response Deadline to mail a Request for Exclusion, mail a dispute

⁸⁰ *Ibid.*; Aiwasian Decl., ¶ 15.

⁸¹ Settlement Agreement, § B.1.

⁸² Settlement Agreement, § C.1.

⁸³ *Id.*, § C.1.

⁸⁴ *Id.*, § C.2.

regarding Qualifying Workweeks, and/or submit an Objection.⁸⁵

Defendant will fund the Gross Settlement Amount in three equal installments as follows: \$600,000 within thirty (30) calendar days after the final approval of the Settlement (“First Installment”), \$600,000 within six (6) months of the First Installment, and \$600,000 within six (6) months of the Second Installment.⁸⁶ Within twenty-one (21) calendar after Defendant funds the Second Installment the following payments will be distributed in the following order of priority: (i) full payment of the Individual Settlement Payments to the Settlement Class Members; (ii) partial payment of the Court-approved LWDA Payment to the LWDA; (iii) full payment of the Court-approved Enhancement Award to Plaintiff; and (iv) partial payment of the Court-approved Administration Costs to the Settlement Administrator.⁸⁷ Within twenty-one (21) calendar days after Defendant funds the Third Installment, the following payments will be distributed in the following order of priority: (i) the remainder of the Court-approved LWDA Payment to the LWDA; (ii) the remainder of the Court-approved Administration Costs to the Settlement Administrator; and (iii) full payment of Attorneys’ Fees and Costs to Class Counsel.⁸⁸

The Individual Settlement Payment checks will remain valid for one hundred and eighty (180) calendar days from the date of their issuance.⁸⁹ Checks that are not negotiated within the 180-day period will be cancelled.⁹⁰ The funds associated with such cancelled checks will be transmitted by the Settlement Administrator after the last day of the 180-day period to the California State Controller’s Office, Unclaimed Property Division.⁹¹

**XI. APPOINTMENT OF CLASS REPRESENTATIVE AND ALLOCATION FOR
ENHANCEMENT AWARD**

Plaintiff Ashley Simpson respectfully requests that the Court appoint her as the Class Representative and preliminarily approve the Enhancement Award in an amount up to fifteen

⁸⁵ *Id.*, § C.6.

⁸⁶ Settlement Agreement, § B.4.

⁸⁷ *Id.*, § H.2 & H.3.

⁸⁸ *Ibid.*

⁸⁹ *Id.*, § B.10.

⁹⁰ *Ibid.*

⁹¹ *Ibid.*

thousand dollars (\$15,000.00) to Plaintiff Ashley Simpson.⁹² It is within the Court's discretion to award payment to a class representative for their efforts and work. *Vranken v. Atlantic Richfield Co.* (N.D. Cal. 1995) 901 F.Supp. 294, 299 (approving \$50,000 participation award to a single class representative). The factors that courts may consider in determining whether to make an enhancement payment include: (1) the risk to the class representative in commencing suit, both financial and otherwise; (2) the notoriety and personal difficulties encountered by the class representative; (3) the amount of time and effort spent by the class representative; (4) the duration of the litigation; and (5) the personal benefit (or lack thereof) enjoyed by the class representative as a result of the litigation. *Id.*

The Enhancement Award is fair and appropriate. Plaintiff spent a substantial amount of time and effort in producing relevant documents and past employment records and providing the facts and evidence necessary to attempt to prove the allegations, including and not limited to, working with Class Counsel to provide responses to multiple sets of discovery requests that were propounded by Defendant.⁹³ Plaintiff was available whenever Class Counsel needed her and actively tried to obtain and provide information that would benefit the Class.⁹⁴ Accordingly, it is appropriate and just for Plaintiff to receive an Enhancement Award for her services on behalf of the Class, in addition to her Individual Settlement Payment.

XII. CONCLUSION

For the foregoing reasons, Plaintiff respectfully requests that the Court grant leave for Plaintiff to file the third Amended Complaint; grant preliminary approval of the Settlement; conditionally certify the Class for settlement purposes; preliminarily appoint and designate Lawyers for Justice, PC as Class Counsel; preliminarily appoint and designate Plaintiff Ashley Simpson as Class Representative; appoint Simpluris, Inc. as Settlement Administrator; preliminarily approve the allocations for Attorneys' Fees and Costs, Enhancement Award, LWDA Payment, and Administration Costs; approve the proposed Class Notice; direct the

⁹² *Id.*, § 12.

⁹³ Aiwazian Decl., ¶ 20; Declaration of Ashley Simpson in Support of Plaintiff's Motion for Preliminary Approval of Class Action Settlement ("Simpson Decl."), ¶ 4.

⁹⁴ Aiwazian Decl., ¶ 20; Simpson Decl., ¶¶ 3-6.

1 Settlement Administrator to undertake the notice and settlement administration process in
2 conformity with the deadlines and procedures provided by the Settlement Agreement; and
3 schedule a Final Approval Hearing to take place in approximately five months after the Court
4 enters an order granting preliminary approval.

5 Dated: December 17, 2020

LAWYERS for JUSTICE, PC

6
7 By:



Edwin Aiwanian
Attorneys for Plaintiff