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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES—SPRING STREET COURTHOUSE

LAIJAYNA CASEY, individually, and on
behalf of other members of the general
public similarly situated and on behalf of
other aggrieved employees pursuant to the
California Private Attorneys General Act;

Plaintiff,

vs.

CAINE & WEINER COMPANY INC., a
California corporation; and DOES 1
through 100, inclusive,

Defendants.

Case No.: 20STCV36086

Honorable Carolyn B. Kuhl
Department SSC-12

CLASS ACTION

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

[Declaration of Proposed Class Counsel (Yasmin
Hosseini); Declaration of Proposed Class
Representative (Laijayna Casey); and [Proposed]
Order filed concurrently herewith]

Date: July 12, 2022
Time: 10:30 a.m.
Department: SSC-12

Complaint Filed September 22, 2020
FAC Filed: April 27, 2022
Trial Date: None Set

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

PLEASE TAKE NOTICE that on July 12, 2022, at 10:30 a.m., or as soon thereafter as the matter may be heard before the Honorable Carolyn B. Kuhl in Department 12 of the Superior Court of California for the County of Los Angeles located at the Spring Street Courthouse, 312 North Spring Street, Los Angeles, California 90012, Plaintiff Laijayna Casey (“Plaintiff” or “Class Representative”) will, and hereby does, move for an order:

- Granting preliminary approval of the proposed class and representative action settlement described herein and as set forth in the Joint Stipulation of Class Action and PAGA Settlement and Release (“Settlement,” “Agreement,” or “Settlement Agreement”), attached as “**EXHIBIT 1**” to the Declaration of Yasmin Hosseini, including, but not limited to, the means of allocation and distribution of funds, the allocations for penalties under the California Labor Code Private Attorneys General Act of 2004 (“PAGA Payment”), Attorneys’ Fees and Costs, Enhancement Payment, and Settlement Administration Costs;
- Conditionally certifying the Class for settlement purposes;
- Preliminarily appointing Plaintiff Laijayna Casey as Class Representative;
- Preliminarily appointing Lawyers *for* Justice, PC as Class Counsel;
- Approving the proposed Notice of Class Action Settlement (“Class Notice”), attached as “**EXHIBIT A**” to the [Proposed] Order Granting Preliminary Approval of Class Action Settlement;
- Directing the mailing of the Class Notice to the Class Members and PAGA Members;
- Approving the proposed deadlines for the notice and settlement administration process;
- Approving Phoenix Class Action Administration Solutions 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 and award

Attorneys' Fees and Costs to Class Counsel, Class Enhancement Payment to Plaintiff,
and Settlement Administration Costs to Settlement Administrator.

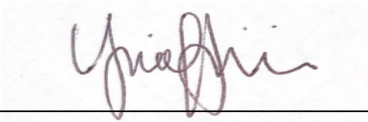
This motion is made pursuant to Rule 3.769 and Rule 3.1113(e) of the California Rules
of Court, which require approval by the Court of a class action settlement and permit the Court
to extend the page limit for memoranda.

This motion is based upon the following memorandum of points and authorities, the
Settlement Agreement, the Declarations of Proposed Class Counsel (Yasmin Hosseini) and the
Proposed Class Representative (Laijayna Casey) 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: May 31, 2022

LAWYERS for JUSTICE, PC

By: _____


Yasmin Hosseini
Attorneys for Plaintiff

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MEMORANDUM OF POINTS AND AUTHORITIES

I. SUMMARY OF MOTION

Plaintiff Laijayna Casey (“Plaintiff” or “Class Representative”) seeks preliminary approval of the Joint Stipulation of Class Action and PAGA Settlement and Release (“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 Caine & Weiner Company, 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 Total Settlement Amount of Nine Hundred Thousand Dollars (\$900,000.00).¹ The Total Settlement Amount includes the following: (1) Individual Settlement Shares to Settlement Class Members²; (2) the Enhancement Payment of Seven Thousand Five Hundred Dollars (\$7,500.00) to Plaintiff³; (3) the Attorneys’ Fees and Costs to Class Counsel, consisting of attorneys’ fees in the amount of thirty-five percent (35%) of the Total Settlement Amount, or \$315,000.00, and reimbursement of litigation costs and expenses not to exceed Twenty-Six Thousand Dollars (\$26,000.00)⁴; (4) Settlement Administration Costs to Settlement Administrator⁵; and (5) the amount of One Hundred Eighty Thousand Dollars (\$180,000.00)⁶ allocated towards penalties under the Private Attorneys General Act (“PAGA Payment”), of which seventy-five percent (75%), or One Hundred Thirty-Five Thousand Dollars (\$135,000.00)⁷, will be distributed to the Labor and Workforce Development Agency (“LWDA”) and twenty-five percent (25%), or Forty-Five Thousand Dollars (\$45,000.00)⁸, will be distributed to PAGA Members on a *pro-rata* basis.

///

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¹ Settlement Agreement, attached as “**EXHIBIT 1**” to Declaration of Yasmin Hosseini (“Hosseini Decl.”), ¶ 6.ll.

² *Id.*, ¶ 6.r.

³ *Id.*, ¶¶ 6.m & 11.

⁴ *Id.*, ¶ 10

⁵ *Id.*, ¶ 6.jj.

⁶ *Id.*, ¶ 6.x.

⁷ *Ibid.*

⁸ *Ibid.*

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

All current and former hourly-paid or nonexempt employees employed by Defendant who worked in the office in California at any time from September 22, 2016, through January 1, 2022.⁹

Based on information provided by Defendant, as of April 2022, the Class is estimated to consist of approximately five hundred and nine (509) individuals.¹⁰

Class Members who do not submit a timely and valid Request for Exclusion from the Class Settlement (“Settlement Class Members”) will receive a share of the Net Settlement Amount (“Individual Settlement Share”) on a *pro rata* basis based upon the number of days between the start and end dates of employment as an hourly-paid or non-exempt employee in the office in California during the Class Period, and dividing by seven (7) (“Workweeks”).¹¹ All current and former hourly-paid or non-exempt employees employed by Defendant who worked in the office in California at any time from September 18, 2019 through January 1, 2022 (“PAGA Members”) will receive a share of the 25% portion of the PAGA Payment (“Individual PAGA Payment”) on a *pro rata* basis based upon the number of days between the start and end dates of employment as an hourly-paid or non-exempt employee in the office in California during the period from September 18, 2019 through January 1, 2022, and dividing by seven (7) (“PAGA Workweeks”).¹²

The Settlement, if granted preliminary and final approval by the Court, will operate to resolve the Released Class Claims of Plaintiff and Settlement Class Members and the Released PAGA Claims of Plaintiff and PAGA Members, against the Released Parties.¹³

II. PROCEDURAL HISTORY AND FACTUAL BACKGROUND

Defendant Caine & Weiner Company Inc. contracts with companies to provide credit and collections services. Plaintiff Laijayna Casey is a former employee of Defendant.

⁹ Settlement Agreement, ¶ 6.d.

¹⁰ Hosseini Decl., ¶ 9.

¹¹ Settlement Agreement, ¶¶ 6.r, 6.kk, & 6.mm.

¹² *Id.*, ¶¶ 6.p, 6.w, & 6.aa.

¹³ See *Id.* at ¶ 6.dd, for the full scope of the “Released Class Claims” and ¶ 6.ee, for the full scope of the “Released PAGA Claims,” and *Id.* at ¶ 6.ff, for the definition of the “Released Parties.”

On September 18, 2020, Plaintiff provided written notice by certified mail to the Labor and Workforce Development Agency and Defendant, on the specific provisions of the California Labor Code that were violated and her intent to pursue civil penalties against Defendant (“LWDA Notice”).

On September 22, 2020, Plaintiff filed a Class Action Complaint for Damages against Defendant in the Superior Court of California for the County of Los Angeles, Case No. 20STCV36086 (“Action”).

On November 23, 2020, Plaintiff filed a Complaint for Enforcement Under the Private Attorneys General Act, California Labor Code § 2698, Et Seq. against Defendant in the Superior Court of California for the County of Los Angeles, Case No. 20VECV01380 (“Casey PAGA Action”).

On June 3, 2021, Defendant filed an Answer to Plaintiff’s Complaint for Enforcement Under the Private Attorneys General Act, California Labor Code § 2698, Et Seq.

On April 27, 2022, Plaintiff filed a First Amended Class Action Complaint for Damages and Enforcement Under the Private Attorneys General Act, California Labor Code § 2698, Et Seq. in the Action, adding her PAGA cause of action to the Action (“Operative Complaint”).

Plaintiff’s core allegation is that Defendant has violated the California Labor Code and Industrial Welfare Commission Wage Orders, by engaging in a uniform practice and procedure, with respect to Plaintiff, Class Members, and PAGA Members of, *inter alia*, failing to pay minimum wages, failing to pay overtime wages, failing to provide compliant meal period and rest periods and associated premium pay, failing to provide compliant wage statements, failing to maintain requisite payroll records, and failing to reimburse necessary business expenses, and thereby engaged in unfair business practices under the California Business and Professions Code and conduct that gives rise to civil penalties recoverable under PAGA. Plaintiff contends that she, the Class Members, and the PAGA Members are entitled to, *inter alia*, unpaid wages, penalties (including, and not limited to, penalties pursuant to PAGA), and attorneys’ fees.

Defendant has denied, and continues to deny, any liability and wrongdoing of any kind associated with Plaintiff’s allegations, and further denies that Plaintiff’s claims or the Action are

appropriate for class treatment or representative adjudication for any purpose other than for settlement purposes only.

The Parties have actively litigated this matter since the Action was commenced on September 22, 2020. On October 27, 2021, the Parties participated in a formal, full-day mediation conducted by Paul Grossman, Esq., a well-regarded mediator experienced in mediating complex labor and employment matters. With the aid of the mediator's evaluation, the Parties ultimately reached the proposed Settlement described herein to resolve this Action in its entirety.

III. SUMMARY OF THE SETTLEMENT TERMS

Under the terms of the Settlement, Defendant will pay a Total Settlement Amount to resolve the Released Class Claims of Plaintiff and the Class Members who do not request exclusion from the Settlement (i.e., Settlement Class Members) and Released PAGA Claims of Plaintiff and PAGA Members with respect to the Released Parties.¹⁴ Subject to approval by the Court, the Net Settlement Amount will be calculated by deducting the following amounts from the Total Settlement Amount: (1) Attorneys' Fees and Costs, which consists of attorneys' fees in an amount not to exceed thirty-five percent (35%) of the Total Settlement Amount (i.e., \$315,000 if the Total Settlement Amount remains \$900,000.00), and reimbursement of costs and expenses in an amount not to exceed Twenty Sixty Thousand Dollars (\$26,000.00) to Class Counsel (collectively referred to as the "Attorneys' Fees and Costs"); (2) Settlement Administration Costs, which are currently estimated not to exceed Ten Thousand Dollars (\$10,000.00) to the Settlement Administrator ("Settlement Administration Costs"); (3) PAGA Payment in the amount of One Hundred Eighty Thousand Dollars (\$180,000.00), of which seventy-five percent (75%), or \$135,000.00, will be paid to the State of California Labor Workforce Development Agency ("LWDA Payment") and twenty-five percent (25%), or \$45,000, will be distributed to the PAGA Members on a *pro rata* basis; and (4) payment in the amount of up to Seven Thousand Five Hundred Dollars (\$7,500) to Plaintiff ("Enhancement

¹⁴ Settlement Agreement, ¶ 6.ll.

Payment”).¹⁵ The Parties have agreed to retain Phoenix Class Action Administration Solutions (“Phoenix” or “Settlement Administrator”) to handle the notice and settlement administration process.

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

a. After Preliminary Approval of the Settlement, the Settlement Administrator will divide the Net Settlement Amount by the Workweeks of all Class Members to yield the “Estimated Workweek Value,” and multiply each Class Member’s individual Workweeks by the Estimated Workweek Value to yield his or her Individual Settlement Share that he or she may be eligible to receive under the Class Settlement.¹⁶

b. After Final Approval of the Settlement, the Settlement Administrator will divide final Net Settlement Amount by the Workweeks of all Settlement Class Members to yield the “Final Workweek Value,” and multiply each Settlement Class Member’s individual Workweeks by the Final Workweek Value to yield his or her Individual Settlement Share.¹⁷

The Parties have agreed that the Settlement Administrator will determine each PAGA Member’s share of the available 25% portion of the PAGA Payment (i.e., Individual PAGA Payment), in accordance with the Settlement Agreement and as follows:

a. The Settlement Administrator will divide the 25% portion of the PAGA Payment attributed to PAGA Members, i.e., \$45,000.00, by the PAGA Workweeks worked by all PAGA Members during the PAGA Period (“Total PAGA Workweeks”) resulting in the PAGA Workweek Value and then multiplying the PAGA Workweek Value by the number of PAGA Workweeks worked by each individual PAGA Member during the PAGA Period.¹⁸

Each Settlement Class Member’s Individual Settlement Share will be allocated as follows: one-third (1/3) wages, which will be reported on an IRS Form W-2; and two-thirds (2/3) non-wages damages, penalties, and interest, which will be reported on an IRS Form 1099 (if necessary).¹⁹ Settlement Class Members will be issued payment of their Individual Settlement Share subject to reduction for the employee’s share of taxes and withholdings with respect to the wage portion of each Individual Settlement Share (the net payment is referred to as “Individual Settlement Payment”).²⁰ The Parties further agree that the Individual PAGA Payments distributed to each PAGA Member will be allocated as one hundred percent (100%)

¹⁵ Settlement Agreement, ¶¶ 9, 10, & 11.

¹⁶ *Id.*, ¶ 14.a.

¹⁷ *Id.*, ¶ 14.b.

¹⁸ *Id.*, ¶ 15.

¹⁹ *Id.*, ¶ 26.

²⁰ *Ibid.*

penalties, will be paid without reduction for taxes and withholdings, and will be reported on an IRS Form 1099 (if necessary). Defendant will pay the employer's share of payroll taxes and contributions with respect to the wage portion of Individual Settlement Shares in addition to the Total Settlement Amount.²¹

The Individual Settlement Payments checks issued to Settlement Class Members and Individual PAGA Payment checks issued to PAGA Members will be valid and negotiable for one hundred eighty (180) calendar days from the date of issuance, and thereafter, shall be cancelled.²² All funds associated with such cancelled checks will be distributed by the Settlement Administrator, in accordance with California Code of Civil Procedure section 384, to Legal Aid at Work.²³ Settlement Class Members whose Individual Settlement Payment checks are uncashed shall, nevertheless, be bound to the Class Settlement, and PAGA Members whose Individual PAGA Payment checks are uncashed shall, nevertheless, be bound to the PAGA Settlement.

Class Members who wish to be excluded from the Class Settlement (i.e., opt out) must submit a written request for exclusion ("Request for Exclusion") to the Settlement Administrator.²⁴ To be timely, the Class Member must mail a Request for Exclusion to the Settlement Administrator, postmarked on or before the date that is sixty (60) calendar days from the initial mailing of the Class Notice or, in the case of re-mailed Class Notice, the Response Deadline for that Class Member shall be the extended by fifteen (15) calendar days ("Response Deadline").²⁵ A Request for Exclusion must: (a) state the case name and number of the Action; (b) be signed by the Class Member; (c) state the full name, address, telephone number, and the last four digits of the Social Security Number of the Class Member requesting exclusion; (d) state that the Class Member does not wish to be included in the Class Settlement; and (e) be returned by mail to the Settlement Administrator at the specified address, postmarked on or

²¹ Settlement Agreement, ¶ 26.

²² *Id.*, ¶ 20.

²³ *Ibid.*

²⁴ *Id.*, ¶ 21.

²⁵ *Id.*, ¶¶ 6.hh & 21.

1 before the Response Deadline.²⁶ Class Members who submit a valid and timely Request for
2 Exclusion will not be bound by the terms of the Class Settlement.²⁷ PAGA Members shall be
3 bound to the PAGA Settlement irrespective of whether they submit a Request for Exclusion and
4 exercise their option to opt out of the Class Settlement.

5 Class Members who do not exclude themselves from the Class Settlement (i.e.,
6 Settlement Class Members) may object to the Class Settlement in writing, by submitting a
7 written objection (“Notice of Objection”) to the Settlement Administrator on or before the
8 Response Deadline.²⁸ The Notice of Objection must: (a) state the case name and number of the
9 Action; (b) state the objecting Class Member’s full name, address, telephone number, and the
10 last four digits of his or her Social Security Number, (c) state all grounds for the objection
11 accompanied by any legal or factual support for such objection, (d) state the full name,
12 address, and telephone number of any legal representative representing the Class Member with
13 respect to the objection; (e) contain copies of any papers, briefs, or other documents upon
14 which the objection is based; (f) be signed by the Class Member; and (g) be returned by mail
15 to the Settlement Administrator at the specified address, postmarked on or before the Response
16 Deadline.²⁹ Settlement Class Members who submit a Notice of Objection may also present their
17 objection at the Final Approval Hearing.³⁰

18 Class Members and PAGA Members who wish to dispute the number of Workweeks
19 and/or PAGA Workweeks to which they have been credited, as reflected in their respective
20 Class Notices, may do so by mailing a written dispute to the Settlement Administrator on or
21 before the Response Deadline.³¹ A valid dispute: (a) states the case name and number of the
22 Action, (b) is signed by the Class Member and/or PAGA Member, (c) states the full name,
23 address, telephone number, and the last four digits of the Social Security Number of the
24 disputing Class Member and/or PAGA Member, (d) states that the Class Member and/or
25

26 ²⁶ Settlement Agreement, ¶ 6.gg.

27 ²⁷ *Ibid.*

28 ²⁸ *Id.*, ¶ 23.

29 ²⁹ *Id.*, ¶ 6.u.

30 ³⁰ *Id.*, ¶ 23.

31 ³¹ *Id.*, ¶ 19.

PAGA Member disputes the number of Workweeks and/or PAGA Workweeks credited to him or her and what he or she contends is the correct number that should be credited to him or her, (e) includes information and/or attaches documentation demonstrating that the number of Workweeks and/or PAGA Workweeks that he or she contends should be credited to him or her is correct, and (f) is returned by mail to the Settlement Administrator at the specified address, postmarked on or before the Response Deadline.³²

IV. LEGAL STANDARD FOR PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENTS

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

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

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³² Settlement Agreement, ¶ 19.

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 this matter since it was commenced on September 22, 2020.
9 Both sides used the pre-settlement time period to investigate the veracity, strength, and scope of
10 the claims, and Class Counsel was actively preparing the matter for a motion for class
11 certification.³³

12 Prior to reaching the Settlement, Class Counsel conducted investigation into the facts of
13 the case and engaged in informal discovery and review and analysis of documents and data
14 produced by Defendant.³⁴ The volume of data and documents that Class Counsel reviewed and
15 analyzed included, and was not limited to: Plaintiff's employment records, a detailed sampling
16 of Class Members' time and pay data, multiple iterations of Defendant's Employee Handbook,
17 company policy acknowledgements (Handbook Acknowledgement, At-Will
18 Acknowledgement, Discrimination, Harassment, Bullying and Retaliation Acknowledgement,
19 Duty-Free Meal and Rest Period Acknowledgement, Communications Acknowledgement,
20 National Labor Relations Act Acknowledgment, and Internet/Company Property
21 Acknowledgment), internal memoranda, job descriptions, Defendant's operations and
22 employment practices, procedures, and policies (including but not limited to, Employment-At-
23 Will Statement, Policy Against Harassment, Authorization for Background Checks, Employee
24 Non-Disclosure Agreement, Software Code of Ethics, Defendant's ID Badge Policy, Company
25 Dress Code Reminder memoranda, California Confidential Information Agreement, and
26 Confidentiality and Invention Assignment Agreement), among other information and
27

28 ³³ Hosseini Decl., ¶¶ 11-13.

³⁴ *Id.*, ¶ 12.

documents.³⁵ Class Counsel interviewed Plaintiff and other Class Members to gather facts and to identify potential witnesses.³⁶ Counsel for the Parties also met and conferred on numerous occasions, e.g., to discuss issues relating to the pleadings and the production of documents and data.³⁷ Class Counsel also drafted pleadings and Plaintiff's mediation brief prepared for and attended court proceedings, mediation, and settlement negotiations, among other tasks.³⁸

The Parties also engaged in extensive settlement negotiations and participated in a formal, full-day mediation conducted by Paul Grossman, Esq., a well-respected mediator experienced in mediating complex labor and employment matters.³⁹ Prior to and during the settlement discussions, the Parties exchanged class information and engaged in an intensive discussion regarding their evaluations of the case and various aspects of the case, including but not limited to, the risks and delays of further litigation, the risks to the Parties of proceeding with representative adjudication and class certification, the law relating to off-the-clock theory, meal and rest periods, PAGA representative actions, and wage-and-hour law and enforcement, as well as the evidence produced and analyzed, and the possibility of appeals, among other things.⁴⁰ During all settlement discussions, the Parties conducted their negotiations at arm's length in an adversarial position.⁴¹ Arriving at a settlement that was acceptable to both Parties was not easy. Defendant and their counsel felt strongly about their ability to prevail on the merits and at certification, and Plaintiff and Class Counsel believed that they would be able to obtain class certification and prevail at trial.⁴² After conducting investigations, extensive informal discovery and exchange of information, extensive settlement negotiations, and with the aid of the mediator's evaluation, the Parties have agreed that the matter is well-suited for settlement given the legal issues relating to Plaintiff's principal claims, as well as the costs and risks to both sides that would attend further litigation.⁴³

³⁵ Hosseini Decl., ¶ 12.

³⁶ *Ibid.*

³⁷ *Ibid.*

³⁸ *Ibid.*

³⁹ *Id.*, ¶ 11.

⁴⁰ *Ibid.*

⁴¹ *Ibid.*

⁴² *Ibid.*

⁴³ *Ibid.*

The Settlement takes into account the strengths and weaknesses of each side's position and the uncertainty of how the case might have concluded at certification and trial.⁴⁴ The Parties have had the opportunity to interview and obtain information from their respective witnesses.⁴⁵ Counsel for the Parties have also reviewed documents and information relating to Plaintiff's, Class Members', and PAGA Members' employment with Defendant and performed significant research into the law concerning PAGA representative actions, class certification, off-the-clock theory, meal and rest periods, wage-and-hour law and enforcement, Plaintiff's claims, and Defendant's defenses thereto, as well as facts discovered.⁴⁶ The Parties have reached the Settlement based on this large volume of facts, evidence, and investigation. In addition, Class Counsel have extensive experience in employment class actions, including significant experience in California wage-and-hour litigation.⁴⁷

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

The Total Settlement Amount of Nine Hundred Thousand Dollars (\$900,000.00) represents a fair, adequate, and reasonable resolution of this case.⁴⁸ The Settlement was calculated using the information and data uncovered during the litigation, case investigation, as well as the informal exchange of information.⁴⁹ The Settlement takes into account the potential risks and rewards inherent in any case and, in particular, in the case at issue.⁵⁰ Moreover, considering all of the facts and circumstances of the lawsuit, the Settlement represents a fair, reasonable, and adequate recovery for the Class.⁵¹

Assuming that the Attorneys' Fees and Costs, Enhancement Payment, PAGA Payment, and Settlement Administration Costs are approved by the Court and paid in the full amounts provided for by the Settlement, the Settlement provides for a Net Settlement Amount that is currently estimated to be Three Hundred Sixty-One Thousand Five Hundred Dollars

⁴⁴ Hosseini Decl., ¶¶ 18 & 23-26.

⁴⁵ *Ibid.*

⁴⁶ *Id.*, ¶¶ 11-13.

⁴⁷ *Id.*, ¶¶ 6-7.

⁴⁸ *Id.*, ¶ 14.

⁴⁹ *Id.*, ¶¶ 11-13.

⁵⁰ *Id.*, ¶¶ 16-18 & 23-26.

⁵¹ *Id.*, ¶¶ 11, 13, & 27.

1 (\$361,500.00), to Settlement Class Members.⁵² Additionally, 25% of the PAGA Payment,
2 which is \$45,000 out of \$180,000, will be distributed to PAGA Members. As discussed in Part
3 III, *supra*, the entire Net Settlement Amount will be fully paid out to the Settlement Class
4 Members, in accordance with the Settlement Agreement. The amount of each Settlement Class
5 Member's Individual Settlement Share and each PAGA Member's Individual PAGA Payment
6 will be calculated based on their Workweeks and PAGA Workweeks, respectively.⁵³ There is
7 no reason to doubt the fairness of the proposed plan of allocation of the settlement funds for
8 purposes of preliminary approval. Even at the final approval stage, "[a]n allocation formula
9 need only have a reasonable, rational basis [to warrant approval], particularly if recommended
10 by experienced and competent class counsel." *In re American Bank Note Holographics, Inc.*,
11 *Securities Litigation* (S.D.N.Y. 2001) 127 F.Supp.2d 418, 429-30.

12 In light of the foregoing considerations, Class Counsel believes that the Settlement as a
13 whole is fair, reasonable, and adequate, and is in the best interest of the Class Members, PAGA
14 Members, and the State of California.⁵⁴ Although the recommendations of Class Counsel are
15 not conclusive, the Court can properly take the recommendations into account, particularly if
16 Class Counsel appears to be competent, and has experience with this type of litigation, and
17 investigation has been completed, as is the case here. *Newberg*, §11.47. Accordingly, the Court
18 should grant preliminary approval of the Settlement.

19 **C. The Settlement Is of Significant Value.**

20 Pursuant to *Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th 116, the Parties
21 conducted significant informal discovery and exchanged a large volume of pages of documents,
22 data, and information prior to mediation.⁵⁵ The documents, discovery, and information that
23 Class Counsel obtained from Defendant, Plaintiff, and other sources allowed Class Counsel to
24 develop valuation models in order to evaluate the potential value and merit of the claims, and
25 perform a complete evaluation of Defendant's defenses thereto.⁵⁶ As outlined in the Declaration
26

27 ⁵² Settlement Agreement, ¶ 6.t.

28 ⁵³ *Id.*, ¶¶ 6.x., 13, & 15.

⁵⁴ Hosseini Decl., ¶¶ 11, 12, & 27.

⁵⁵ *Id.*, ¶¶ 11-13 & 18.

⁵⁶ *Id.*, ¶ 18 & 23-26.

of Yasmin Hosseini, Class Counsel performed an extensive analysis of each and every claim pursuant to *Kullar* prior to entering into the Settlement.⁵⁷

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.⁵⁸ 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 so 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.*

⁵⁷ Hosseini Decl., ¶¶ 11-13, 16-18, & 23-26.

⁵⁸ Settlement Agreement, ¶ 7.

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 five hundred and nine (509) individuals.⁵⁹
4 This class is sufficiently numerous. See *Rose v. City of Hayward* (1981) 126 Cal.App.3d 926,
5 934-35 (indicating that a class of 30 to 40 individuals satisfies the numerosity requirement as
6 joinder is not practical at that point). Further, all Class Members can and will be identified by
7 Defendant to the Settlement Administrator through a review of Defendant's employment
8 records. As such, the Class is ascertainable and sufficiently numerous.

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

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

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

24 Here, common issues of fact and law predominate as to each of the claims alleged and
25 asserted in this lawsuit. Based on the documents and information obtained through informal
26 discovery and exchange of information in this case, Plaintiff contends that all of the putative
27 class members were subject to the same or similar employment practices, policies, and
28

⁵⁹ Hosseini Decl., ¶ 9.

procedures during the time period at issue.⁶⁰ Plaintiff's claims arise from Defendant's alleged uniform policy and systematic scheme, with respect to Plaintiff and the Class Members, of, *inter alia*, failing to properly pay overtime and minimum wages for all hours worked, failing to provide compliant meal and rest periods and associated premium pay, failing to timely pay wages during employment and upon termination of employment, failing to provide compliant wage statements, failing to maintain requisite payroll records, and failing to reimburse necessary business-related expenses.⁶¹

Plaintiff also contends that Defendant's payroll and recordkeeping practices with respect to Plaintiff and the Class Members were substantially the same during the time period at issue.⁶² As a result of the alleged conduct, Plaintiff claims that all of the Class Members were uniformly not paid all compensation due to them from Defendant during the time period at issue.⁶³

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

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

Class Counsel has litigated the Action for nearly two years and was actively preparing the matter for class certification and trial.⁶⁴ The ongoing work has been extensive, demanding, and ultimately successful in achieving a substantial settlement resolution. Class Counsel conducted extensive investigations into the facts of the case and informal discovery.⁶⁵ Class Counsel reviewed a large volume of documents and data⁶⁶ and also interviewed and obtained information from Plaintiff and other Class Members, researched applicable law, undertook

⁶⁰ Hosseini Decl., ¶ 16.

⁶¹ *Ibid.*

⁶² *Ibid.*

⁶³ *Ibid.*

⁶⁴ *Id.*, ¶¶ 11-13.

⁶⁵ *Id.*, ¶ 12.

⁶⁶ *Ibid.*

1 damages/valuation calculations, and met and conferred with Defendant’s counsel regarding the
2 pleadings, and the production of documents and data prior to mediation.⁶⁷ Counsel for the
3 Parties also undertook extensive settlement discussions, which included participating in a
4 formal, full-day mediation.⁶⁸

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

7 The Settlement establishes a Total Settlement Amount of Nine Hundred Thousand
8 Dollars (\$900,000.00), and provides for Class Counsel to apply to the Court for an award in an
9 amount not to exceed thirty-five percent (35%) of the Total Settlement Amount (i.e.,
10 \$315,000.00) for attorneys’ fees, and for an amount not to exceed Twenty-Six Thousand Dollars
11 (\$26,000.00) for reimbursement of actual litigation costs and expenses (collectively,
12 “Attorneys’ Fees and Costs”).⁷⁰ The attorneys’ fees provided for by the Settlement are
13 commensurate with (1) the risk that Class Counsel took in bringing and litigating this case, (2)
14 the extensive time, effort and expense that Class Counsel dedicated to the case, (3) the skill and
15 determination that Class Counsel has shown, (4) the results that Class Counsel achieved
16 throughout the litigation, (5) the value of the Settlement that Class Counsel achieved for the
17 Class Members, PAGA Members, and the State of California, and (6) the other cases that Class
18 Counsel had to turn down in order to devote time and efforts to this matter. The proposed Class
19 Notice provides the Class Members and PAGA Members with information about the amount
20 allocated toward Attorneys’ Fees and Costs, and that an award of the Attorneys’ Fees and Costs
21 will be sought, as provided for by the Settlement.⁷¹

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

26 ⁶⁷ Hosseini Decl., ¶ 12.

27 ⁶⁸ *Id.*, ¶ 11.

28 ⁶⁹ *Id.*, ¶¶ 6-7.

⁷⁰ Settlement Agreement, ¶¶ 6.a & 10.

⁷¹ *Id.*, Exh. A.

1 v. *Moses* (2001) 24 Cal.4th 1122, 1132. California law provides that attorney fee awards should
2 be equivalent to fees paid in the legal marketplace to compensate for the result achieved and risk
3 incurred. *Laffitte v. Robert Half Int'l, Inc.* (2016) 1 Cal.5th 480, 503 (citing *Lealao, supra*, 82
4 Cal.App.4th at 48-49). In *Lealao*, the court held that when an action leads to a recovery that can
5 be “monetized” with a reasonable degree of certainty, the trial court should “ensure that the fee
6 awarded is within the range of fees freely negotiated in the legal marketplace in comparable
7 litigation.” *Id.* At 50. In cases where class members present claims against a settlement fund
8 and the settlement agreement provides that the defendant agrees to paying the attorneys a
9 percentage of the same, use of that percentage method is appropriate. *Id.* At 32.

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

17 Historically, courts have awarded fees as high as fifty percent (50%) of the settlement,
18 depending on the circumstances of the case. *Newberg*, § 14.03; see also *In re Ampicillin*
19 *Antitrust Litig.* (D.D.C. 1981) 526 F.Supp. 494 (awarding attorneys’ fees in the amount of 45%
20 of the \$7.3 million settlement amount); *Beech Cinema, Inc. v. Twentieth-Century Fox Film*
21 *Corp.* (S.D.N.Y. 1979) 480 F.Supp. 1195 (awarding approximately 53% of the settlement
22 amount as attorneys’ fees). California courts routinely approve class action attorneys’ fee
23 awards “averag[ing] around one-third of the recovery.” *Chavez v. Netflix, Inc.* (2008) 162
24 Cal.App.4th 43, 66 n.11 (lower court found 20 to 40 percent range of contingency fee in
25 marketplace was appropriate in class actions); see also *Estrada v. Dr. Pepper/Seven-Up*, Los
26 Angeles County Superior Court Case No. BC262247 (May 2005) (wage and hour); *Moore v.*
27 *IKEA*, Los Angeles Superior Court Case No. BC263646 (Sept. 2006) (wage and hour).

28 ///

1 Class Counsel has borne all the risks and costs of litigation and will not receive any
2 compensation until recovery is obtained in the Action.⁷²

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

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

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

14 The proposed Class Notice⁷³ describes the Settlement, the deadlines and procedures to
15 submit a Notice of Objection to the Class Settlement, Request for Exclusion from the Class
16 Settlement, or dispute regarding Workweeks and/or PAGA Workweeks, and the date and time
17 set for the Final Approval Hearing.⁷⁴

18 The proposed Class Notice fulfills the requirement of neutrality in notice procedure.
19 *Newberg*, at § 8.39. "Sufficient information about the case should be provided to enable class
20 members to make an informed decision about their participation." *Manual for Complex*
21 *Litigation* § 21.311 at 413 (4th ed. 2004). The proposed Class Notice summarizes the
22 proceedings to date and the terms and conditions of the Settlement in an informative and
23 coherent manner.⁷⁵ The proposed Class Notice recognizes that the Court has not yet granted
24 final approval of the Settlement.⁷⁶ The proposed Class Notice also apprises the Class Members
25 of, *inter alia*, how their Individual Settlement Share and, if applicable, their Individual PAGA

26 ⁷² Hosseini Decl., ¶ 19.

27 ⁷³ Settlement Agreement, Exh. A.

28 ⁷⁴ *Ibid.*

⁷⁵ *Ibid.*

⁷⁶ *Ibid.*

1 Payment are calculated and the number of Workweeks and/or PAGA Workweeks credited to
2 them.⁷⁷

3 The proposed Class Notice satisfies all due process requirements and complies with the
4 standards of fairness, completeness, and neutrality. Fed. R. Civ. P. 23(c)(2); *Newberg*, §§ 8.21,
5 8.29; *Manual*, §§ 21.311, 21.312; see also *Cartt, supra*, 50 Cal.App.3d at 960 (“The essentials
6 of due process of law in class suits would appear to be afforded by fair representation in the
7 assertion of claims of class members against the opposing parties in any lawsuit, and notice of
8 the pending suit.”). Accordingly, the Court should approve the proposed Class Notice.

9 **IX. APPOINTMENT OF PHOENIX CLASS ACTION ADMINISTRATION**
10 **SOLUTIONS AS THE SETTLEMENT ADMINISTRATOR**

11 The Parties have selected Phoenix Class Action Administration Solutions to administer
12 the Settlement.

13 The Settlement Administrator will mail the Class Notice to each Class Member and
14 PAGA Member by First Class U.S. Mail.⁷⁸ With respect to any undeliverable Class Notices
15 returned to the Settlement Administrator on or before the Response Deadline, the Settlement
16 Administrator will search for an alternate address by way of skip-trace and re-mail the Class
17 Notice to the Class Member and/or PAGA Member within five (5) calendar days.⁷⁹ The
18 Settlement Administrator will receive Requests for Exclusion, Notices of Objection, and any
19 disputes regarding Workweeks and/or PAGA Workweeks.⁸⁰

20 The Settlement Administrator will calculate the amounts of the Individual Settlement
21 Shares and Individual PAGA Payments; deduct and transmit applicable state and/or federal
22 taxes in connection with the wage portion of Individual Settlement Shares; mail the Individual
23 Settlement Payment checks to the Settlement Class Members and the Individual PAGA Payment
24 checks to the PAGA Members; issue W-2 and 1099 forms; calculate and disburse the Attorneys’
25 Fees and Costs, Enhancement Payment, and LWDA Payment; and perform such other tasks
26

27 ⁷⁷ Settlement Agreement, Exh. A.

28 ⁷⁸ Settlement Agreement, ¶ 18.a.

⁷⁹ *Id.*, ¶ 18.b.

⁸⁰ *Id.*, ¶¶ 19, 21, & 23.

necessary to effectuate the terms of the Settlement Agreement.⁸¹ The Settlement Administration Costs are currently estimated to be Ten Thousand Dollars (\$10,000) and will be paid out of the Total Settlement Amount, subject to approval by the Court.⁸²

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

X. PROPOSED DEADLINES FOR THE NOTICE PROCESS

At this preliminary approval stage, plaintiff seeks approval of the proposed deadlines for the notice and settlement administration process. *Newberg*, at § 11.26. The notice process entails mailing of the Class Notice, in the form approved by the Court, to all known and reasonably ascertainable Class Members based on Defendant's records.⁸³

Within thirty (30) calendar days after the date on which the Court grants preliminary approval of the Settlement, Defendant will provide the Settlement Administrator with a complete list of all Class Members and PAGA Members which will be formatted in a readable Microsoft Office Excel spreadsheet and will include (to the extent available) each Class Member's and PAGA Member's full name, last-known mailing address, Social Security Number, start and end dates worked for Defendant in the office as an hourly-paid or non-exempt employee in California during the Class Period and PAGA Period, and such other information as is necessary for the Settlement Administrator to calculate Workweeks and PAGA Workweeks (collectively, "Class Data and List").⁸⁴

Within fourteen (14) calendar days of receipt of the Class Data and List, the Settlement Administrator will perform a search based on the National Change of Address Database or any other similar services available, such as provided by Experian, for information to update and correct for any known identifiable address changes, and will mail the Class Notice in English to

⁸¹ Settlement Agreement, ¶ 12; Hosseini Decl., ¶ 15.

⁸² Settlement Agreement, ¶ 12.

⁸³ *Ibid.*

⁸⁴ *Id.*, ¶ 6.c.

all Class Members and PAGA Members via First Class U.S. Mail, using the most current, known mailing address identified by the Settlement Administrator.⁸⁵ With respect to Class Notices that are returned as undeliverable to the Settlement Administrator on or before the Response Deadline, the Settlement Administrator will search for an alternate address by way of skip-trace and re-mail the Class Notice within five (5) calendar days.⁸⁶ Class Members and PAGA Members will have until the Response Deadline, or extended Response Deadline (if applicable), to mail a Request for Exclusion, Notice of Objection, or dispute regarding Workweeks to the Settlement Administrator.⁸⁷

Defendant will make a one-time deposit of the Total Settlement Amount, together with an amount sufficient to pay Employer Taxes, within thirty (30) calendar days after the Effective Date into a Qualified Settlement Fund (“QSF”) created by the Settlement Administrator.⁸⁸ Within seven (7) calendar days after Defendant deposits the funds comprising the Total Settlement Amount into a QSF, the Settlement Administrator will issue payments due under the Settlement and approved by the Court, as follows: (a) Individual Settlement Payments to Settlement Class Members; (b) Individual PAGA Payments to PAGA Members; (c) LWDA Payment to the Labor Workforce Development Agency; (d) Enhancement Payment to Plaintiff; (e) Attorneys’ Fees and Costs to Class Counsel; and (f) Settlement Administration Costs to itself.⁸⁹

The Individual Settlement Payment checks and Individual PAGA Payment checks will remain valid and negotiable for one hundred and eighty (180) calendar days from the date of their issuance.⁹⁰ Checks that are not negotiated within the 180-day period will be cancelled. The funds associated with such cancelled checks will be distributed to Legal Aid at Work.⁹¹

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⁸⁵ Settlement Agreement, ¶ 18.a.

⁸⁶ *Id.*, ¶ 18.b.

⁸⁷ *Id.*, ¶ 6.hh.

⁸⁸ *Id.*, ¶ 9.

⁸⁹ *Ibid.*

⁹⁰ *Id.*, ¶ 20.

⁹¹ *Ibid.*

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

Plaintiff Laijayna Casey respectfully requests that the Court appoint her as the Class Representative and preliminarily approve the Enhancement Payment in an amount up to Seven Thousand Five Hundred Dollars (\$7,500) to Plaintiff.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 (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 Payment to Plaintiff 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.⁹³ Plaintiff was available whenever Class Counsel needed her and actively tried to obtain and provide information that would facilitate the pursuit of class and PAGA claims.⁹⁴ Accordingly, it is appropriate and just for Plaintiff to receive an Enhancement Payment for her services on behalf of the Class, in addition to her Individual Settlement Payment and Individual PAGA Payment.

XII. CONCLUSION

For the foregoing reasons, Plaintiff respectfully requests that the Court grant preliminary approval of the Settlement; conditionally certify the Class for settlement purposes; preliminarily appoint and designate Lawyers for Justice, PC as Class Counsel; preliminarily appoint and

⁹² Settlement Agreement, ¶¶ 6.m & 11.

⁹³ Hosseini Decl., ¶ 20; Declaration of Laijayna Casey in Support of Plaintiff's Motion for Preliminary Approval of Class Action Settlement ("Casey Decl."), ¶¶ 3-4.

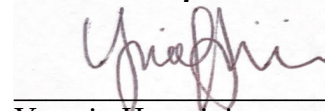
⁹⁴ Hosseini Decl., ¶ 20; Casey Decl., ¶¶ 3, 4, & 6.

1 designate Plaintiff Laijayna Casey as Class Representative; appoint Phoenix Class Action
2 Administration Solutions as Settlement Administrator; preliminarily approve the allocations for
3 Attorneys' Fees and Costs, Enhancement Payment, PAGA Payment, and Settlement
4 Administration Costs; approve the proposed Class Notice; direct the Settlement Administrator
5 to undertake the notice and settlement administration process in conformity with the deadlines
6 and procedures provided by the Settlement Agreement; schedule a Final Approval Hearing to
7 take place in approximately six (6) months.

8 Dated: May 31, 2022

LAWYERS for JUSTICE, PC

9
10 By:



Yasmin Hosseini
Attorneys for Plaintiff