Arby Aiwazian (SBN 269827)
Joanna Ghosh (SBN 272479)
Vartan Madoyan (SBN 279015)
Jeremy Stern (SBN 351412)
LAWYERS *for* JUSTICE, PC
410 West Arden Avenue, Suite 203
Glendale, California 91203
Tel: (818) 265-1020 / Fax: (818) 265-1021

Attorneys for Plaintiff

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SACRAMENTO

KRYSTAL CAMINA, individually, and on behalf of other members of the general public similarly situated and on behalf of other PAGA Group Members pursuant to the California Private Attorneys General Act; Plaintiff, vs. WOK IN THE PARK LLC, a California limited liability company; CAFETERIA 15L, an unknown business entity; and DOES 1 through 100, inclusive, Defendants.	Case No. 34-2020-00283344-CU-OE-GDS Honorable Lauri A. Damrell Department 22 **<u>CLASS ACTION</u>** **PLAINTIFF'S NOTICE OF MOTION AND MOTION FOR PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT; MEMORANDUM OF POINTS AND AUTHORITIES** [Declaration of Proposed Class Counsel (Jeremy Stern); Declaration of Proposed Class Representative (Kystal Camina) and [Proposed] Order filed concurrently herewith] Date: June 7, 2024 Time: 9:00 a.m. Department: 22 Complaint Filed: August 12, 2020 Trial Date: None Set

LAWYERS *for* JUSTICE, PC
410 West Arden Avenue, Suite 203
Glendale, California 91203

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

PLEASE TAKE NOTICE that on June 7, 2024, at 9:00 a.m. or as soon thereafter as the matter may be heard before the Honorable Lauri A. Damrell in Department 22 of the Superior Court of California for the County of Sacramento, located at 720 9th St, Sacramento, California 95814, Plaintiff Krystal Camina ("Plaintiff" or "Class Representative") will, and hereby does, move for an order:

- Granting preliminary approval of the proposed class action settlement described herein and as set forth in the Class and Representative Action Settlement Agreement and Release ("Settlement," "Agreement," or "Settlement Agreement"), attached as "**EXHIBIT 1**" to the Declaration of Jeremy Stern, 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, Enhancement Award to Plaintiff, and Settlement Administrator Costs to the Settlement Administrator;
- Conditionally certifying the Class for settlement purposes;
- Preliminarily appointing Plaintiff Krystal Camina as Class Representative;
- Preliminarily appointing Arby Aiwazian, Joanna Ghosh, Vartan Madoyan, and Jeremy Stern of Lawyers *for* Justice, PC as Class Counsel;
- Approving the proposed Notice of Class and Representative Action and Proposed 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;
- 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, Enhancement Award for Plaintiff, and Settlement Administrator Costs to the Settlement Administrator.

This Motion is made pursuant to Rule 3.769, Rule 3.764, 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 (Jeremy Stern) and Proposed Class Representative (Krystal Camina) 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: February 27, 2024

LAWYERS *for* JUSTICE, PC

By: ______________________________
Jeremy Stern
Attorneys for Plaintiff

LAWYERS *for* JUSTICE, PC
410 West Arden Avenue, Suite 203
Glendale, California 91203

TABLE OF CONTENTS

LAWYERS *for* JUSTICE, PC
410 West Arden Avenue, Suite 203
Glendale, California 91203

TABLE OF AUTHORITIES

Cases

LAWYERS *for* JUSTICE, PC
410 West Arden Avenue, Suite 203
Glendale, California 91203

Statutes

Other Authorities

Rules

LAWYERS *for* JUSTICE, PC
410 West Arden Avenue, Suite 203
Glendale, California 91203

LAWYERS for JUSTICE, PC
410 West Arden Avenue, Suite 203
Glendale, California 91203

MEMORANDUM OF POINTS AND AUTHORITIES

I. SUMMARY OF MOTION

Plaintiff Krystal Camina ("Plaintiff," "Plaintiff Camina," or "Class Representative") seeks preliminary approval of the Class and Representative Action Settlement Agreement and Release ("Settlement," "Agreement," or "Settlement Agreement") entered into by and between Plaintiff, individually and on behalf of all others similarly situated and other PAGA Group Members, on the one hand, and Defendants Wok in the Park, LLC, and Cafeteria 15L (together, "Defendants") on the other hand. Subject to approval by the Court, Plaintiff and Defendants (collectively, the "Parties") have agreed to settle this lawsuit for a Settlement Sum of Seven Hundred Twenty Thousand Dollars and Zero Cents ($720,000.00).[1] The Settlement Sum includes the following: (1) Individual Settlement Payments to Participating Class Members which will be distributed from the Net Settlement Sum[2]; (2) the Enhancement Award of Ten Thousand Dollars and Zero Cents ($10,000.00) to Plaintiff[3]; (3) the Class Counsel Attorneys' Fees and Costs, consisting of attorneys' fees in the amount of thirty-five percent (35%) of the Settlement Sum, (i.e. $252,000.00, if the Settlement Sum remains $720,000.00), and Class Counsel costs, not to exceed Twenty-Five Thousand Dollars and Zero Cents ($25,000.00)[4]; (4) the Settlement Administrator Costs to the Settlement Administrator in the amount not to exceed Thirteen Thousand Dollars and Zero Cents ($13,000.00);[5] and (5) the PAGA Penalties of One Hundred Thousand Dollars and Zero Cents ($100,000.00) allocated to penalties under the Private Attorneys General Act ("PAGA"), of which 75% (i.e., $75,000.00) will be distributed to the Labor and Workforce Development Agency ("LWDA") ("LWDA Payment") and 25% (i.e., $25,000.00) will be distributed to all Class Members employed by Defendants at any time during the PAGA Period ("PAGA Group Members").[6]

---

[1] Settlement Agreement, attached as "**EXHIBIT 1**" to Declaration of Jeremy Stern ("Stern Decl."), ¶ C.2.
[2] *Id.*, ¶ C.2.f.
[3] *Id.*, ¶ C.2.a.
[4] *Id.*, ¶ C.2.c.
[5] *Id.*, ¶ C.2.b.
[6] *Id.*, ¶¶ C.2.d & B.26. "PAGA Period" is defined as the period from September 10, 2019, through April 22, 2022.

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

> All individuals who are or were employed by Defendants as hourly non-exempt employees in California from August 12, 2016 through April 22, 2022 ("Class, "Class Members," or "Settlement Class Members").[7]

Based on information provided by Defendant, as of August 16, 2023, the Class is estimated to consist of approximately 574 individuals.[8]

Class Members who do not submit a timely and valid Request for Exclusion ("Participating Class Members") will receive a share of the Net Settlement Sum ("Individual Settlement Share") on a *pro rata* basis based upon the number of weeks each Class Member was employed by Defendants as an hourly-paid or non-exempt employee in California during the Class Period ("Workweeks").[9]

In order to efficiently present the Court with adequate information to determine whether to grant preliminary approval of the Settlement, Plaintiff also moves for an order permitting the filing of this single consolidated memorandum, although it exceeds the page limit established by California Rules of Court, Rule 3.1113(d), instead of filing several separate motions.

II. PROCEDURAL HISTORY AND FACTUAL BACKGROUND

Defendants are a casual dining restaurant located in Sacramento, California, part of a larger group of restaurants known as the MAC Hospitality Group. Plaintiff Krystal Camina worked for Defendants from approximately April 2019 to approximately June 2019 as an hourly paid Server.

On August 12, 2020, Plaintiff Camina filed her Class Action Complaint against Defendants in Sacramento County Superior Court ("Court"), thereby commencing the above-captioned lawsuit ("Action").

On September 10, 2020, Plaintiff Camina submitted a letter to the LWDA and Defendant, providing notice of her intent to pursue civil penalties against Defendants under PAGA for multiple alleged violations of California Labor Code ("PAGA Notice").

---

[7] Settlement Agreement, ¶ B.4. "Class Period" is defined as the time period from 12, 2016 through April 22, 2022.
[8] Ibid.
[9] Settlement Agreement, ¶ B.20.

LAWYERS *for* JUSTICE, PC
410 West Arden Avenue, Suite 203
Glendale, California 91203

On November 17, 2020, Plaintiff Camina filed a Complaint for Enforcement Under the Private Attorneys General Act, California Labor Code § 2698, Et Seq. against Defendants in a case entitled *Krystal Camina v. Wok in the Park, LLC; Cafeteria I5L,* Sacramento Superior Court Case No, 34-2020-00289018-CU-OE-GDS ("*Camina* PAGA Action").

On October 22, 2020, Defendants filed an Answer to Plaintiffs' Class Action Complaint.

On June 23, 2021, Defendants filed an Answer to Plaintiff's Complaint for Enforcement Under the Private Attorneys General Act, California Labor Code § 2698, Et Seq.

On February 17, 2022, the Parties mediated the Actions with mediator Lynn S. Frank, Esq. of Frank and Feder Mediators (the "Mediator"), a respected mediator of complex wage and hour actions, and with the assistance of the Mediator's evaluations, the Parties reached the settlement that is memorialized in this Agreement.

Plaintiff's core allegation is that Defendants have violated the California Labor Code by engaging in a uniform practice and procedure, with respect to Plaintiff and the Class Members, of, *inter alia*, failing to pay all overtime and minimum wages**,** 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 expenses, and thereby engaged in unfair business practices in violation of California Business and Professions Code section 17200, *et seq.* and conduct that gives rise to penalties pursuant to PAGA. Plaintiff contends that she, and the Class Members and PAGA Group Members, are entitled to, *inter alia*, unpaid wages, penalties (including and not limited to, penalties pursuant to PAGA), and attorneys' fees.

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

Plaintiff's Counsel has actively litigated the Action since it was commenced on August 12, 2020. On February 17, 2020, counsel for the Parties participated in a formal, full-day

LAWYERS *for* JUSTICE, PC
410 West Arden Avenue, Suite 203
Glendale, California 91203

mediation conducted by Lynn S. Frank, Esq. (the "Mediator"), 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 Settlement described herein to resolve the Action in its entirety.

III. SUMMARY OF THE SETTLEMENT TERMS

Under the terms of the Settlement, Defendants will pay a Settlement Sum to resolve the Released Class Claims of Plaintiff and the Class Members who do not submit a timely and valid Request for Exclusion (i.e., Participating Class Members) and the Released PAGA Claims of the State of California and the PAGA Group Members with respect to the Released Parties.[10] Subject to approval by the Court, the Net Settlement Sum will be calculated by deducting the following amounts from the Settlement Sum: (1) the Attorneys' Fees and Costs, consisting of attorneys' fees in the amount of thirty-five percent (35%) of the Settlement Sum, (i.e. $252,000.00, if the Settlement Sum remains $720,000.00), and reimbursement of litigation costs not to exceed Twenty-Five Thousand Dollars and Zero Cents ($25,000.00)[11]; (2) Settlement Administrator Costs, which are currently estimated not to exceed Thirteen Thousand Dollars and Zero Cents ($13,000.00) to the Settlement Administrator ("Settlement Administrator Costs"); (3) One Hundred Thousand Dollars and Zero Cents ($100,000.00) allocated to penalties under PAGA ("PAGA Penalties"); and (4) payment in the amount of up to Ten Thousand Dollars and Zero Cents ($10,00.00) to Plaintiff Krystal Camina ("Enhancement Award").[12] The Parties have agreed to retain Simpluris, Inc. ("Simpluris" or "Settlement Administrator") to handle the notice and settlement administration process.

The Parties have agreed that the Settlement Administrator will determine each Participating Class Member's *pro rata* share of the available Net Settlement Sum ("Individual Settlement Share"), in accordance with the Settlement Agreement and as follows:

a. All Participating Class Members will receive a portion of the Net Settlement Sum on a pro rata basis, based on the number of Workweeks credited to them.
b. The Individual Settlement Shares will be determined by the Settlement Administrator by taking the number of Workweeks each individual Participating Class Member

[10] Settlement Agreement, ¶ C.3.
[11] *Id*., ¶ C.2.c.
[12] Settlement Agreement, ¶ C.2.a.

LAWYERS *for* JUSTICE, PC
410 West Arden Avenue, Suite 203
Glendale, California 91203

worked during the Class Period and dividing that by the total number of Workweeks all Participating Class Members worked during the Class Period and multiplying that fraction by the Net Settlement Sum.[13]

The Parties have agreed that the Settlement Administrator will determine each Aggrieved Employee's *pro rata* share of the twenty-five percent (25%) portion of the PAGA Penalties ("Individual PAGA Payment"), in accordance with the Settlement Agreement and as follows: the Settlement Administrator by will take the number of Pay Periods each PAGA Group Member worked during the PAGA Period and divide that by the total number of Pay Period all PAGA Group Members worked during the PAGA Period and multiply that fraction by the PAGA Employees' Portion.[14]

Each Individual Settlement Share will be allocated as follows: twenty percent (20%) as wages, which will be reported on an IRS Form W-2; and eighty percent (80%) as penalties, interest, and non-wage damages, which will be reported on an IRS Form 1099. All settlement payments paid to Participating Class Members, PAGA Group Members, and the Named Plaintiff, will be paid in a net amount after applicable employee's and employer's share of state and federal payroll taxes, withholdings and contributions, have been deducted.[15] Any payment for an Individual PAGA Payment will be allocated as one hundred percent (100%) penalties, will not be subject to taxes or withholdings, and will be reported on an IRS Form-1099, if necessary.[16]

Each Individual Settlement Payment and Individual PAGA Payment check shall prominently state the date (not less than one hundred twenty (120) calendar days after the date of mailing) when the check will be voided. After the Check-Cashing Deadline, the checks will be voided and will not be reissued, and any remaining funds associated with checks issued to Participating Class Members and PAGA Group Members will be paid out in accordance with California Code of Civil Procedure section 384(b) to My Sister's House, located in Sacramento, California as the *cy pres* beneficiary.[17] The Parties, Class Counsel, and Defense Counsel

---

[13] *Id.*, ¶ C.2.f.
[14] *Id.*, ¶¶ C.2.d.
[15] *Id.*, ¶¶ C.5.d.
[16] Settlement Agreement ¶ C.5.d.
[17] Settlement Agreement, ¶ C.5.p.

LAWYERS *for* JUSTICE, PC
410 West Arden Avenue, Suite 203
Glendale, California 91203

LAWYERS *for* JUSTICE, PC
410 West Arden Avenue, Suite 203
Glendale, California 91203

represent that they have no interest or relationship, financial or otherwise, with the intended Cy Pres Recipient.[18]

Any Class Member wishing to be excluded from the Class Settlement must submit a written letter ("Request for Exclusion") to the Settlement Administrator, by mail, postmarked on or before the date that is forty-five (45) calendar days from the initial mailing of the Class Notice by the Settlement Administrator ("Response Deadline"), unless the 45th day falls on a Sunday or Federal Holiday, in which case the Response Deadline will be extended to the next day on which the US. Postal Service is open.[19] In the event that the Class Notice is re-mailed to a Settlement Class Member, the Response Deadline for that Settlement Class Member will be extended to the date that is fifteen (15) calendar days after the original Response Deadline.[20] A Request for Exclusion is a written letter indicating a request to be excluded from the Class Settlement, which must: (a) contain the case name and number of the Class Action; (b) contain the Settlement Class Member's full name, signature, address, telephone number, and last four (4) digits of his or her Social Security number; (c) contain a clear written statement indicating that the Class Member seeks exclusion from the Class Settlement; and (d) be submitted by mail to the Settlement Administrator at the specified address, postmarked on or before the Response Deadline.[21] Any Class Member who submits a timely and valid Request for Exclusion will not be bound by the Class Settlement and will not be issued an Individual Settlement Payment.[22] Notwithstanding the above, all PAGA Group Members will be bound to the PAGA Settlement and will be issued their Individual PAGA Payment, irrespective of whether they submit a Request for Exclusion.[23]

To object to the Class Settlement, Class Members who have not opted out of the Class Settlement (i.e., Participating Class Members) must submit a timely and complete written objection to the Settlement Administrator, by email or mail. In the alternative, Participating

---

[18] Ibid.
[19] *Id.*, ¶ B.35.
[20] Ibid.
[21] Settlement Agreement, ¶ B.34.
[22] *Id.*, ¶ B.30.
[23] *Id.*, ¶ B.29.

LAWYERS for JUSTICE, PC
410 West Arden Avenue, Suite 203
Glendale, California 91203

Class Members may appear in Court (or hire an attorney to appear in Court) to present verbal objections at the Final Approval Hearing. A Participating Class Member who elects to send a written objection to the Administrator must do so not later than the Response Deadline.[24]

Written objections to the Class Settlement must contain at least the following: (a) contain the case name and number of the Class Action; (b) contain the Settlement Class Member's full name, signature, address, telephone number, and last four (4) digits of his or her Social Security number; (c) contain a written statement of all grounds for the objection accompanied by any legal support for such objection; (d) contain copies of any papers, briefs, or other documents upon which the objection is based; and (e) be submitted by mail to the Settlement Administrator at the specified address, postmarked on or before the Response Deadline.[25]

The Class Notice will include a procedure by which a Class Member may dispute the number of workweeks allocated to the Class Member by submitting a written dispute sent via U.S. Mail to the Settlement Administrator postmarked no later than the Response Deadline ("Workweek Dispute").[26] To be valid, a Workweek Dispute must contain the following: (a) contain the case name and number of the Class Action; (b) contain the Settlement Class Member's full name, signature, address, telephone number, and last four (4) digits of his or her Social Security number; (c) clearly state that the Settlement Class Member disputes of the number of Workweeks credited to him or her and what he or she contends is the correct number to be credited to him or her; (d) attach any documentation that he or she has to support the dispute; and (e) be submitted by mail to the Settlement Administrator at the specified address, postmarked on or before the Response Deadline.[27] No Workweek Dispute shall be effective or considered for any purpose unless it is timely mailed by U.S. mail to and received by the Settlement Administrator as provided above. Defendants shall have the right to respond to the Workweek Dispute by any Class Member. All information and documents relating to any such disputes will be provided to Class Counsel. The Settlement Administrator will investigate and

---

[24] Settlement Agreement, Exh. A.
[25] Settlement Agreement, ¶ B.23.
[26] *Id.*, ¶ B.35.
[27] Settlement Agreement, ¶ B.40.

will have the final decision on Workweeks Disputes.[28]

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.

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).

[28] *Id.*, ¶ C.5.j.

LAWYERS *for* JUSTICE, PC
410 West Arden Avenue, Suite 203
Glendale, California 91203

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. <u>THE COURT SHOULD PRELIMINARILY APPROVE THE SETTLEMENT</u>

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

LAWYERS *for* JUSTICE, PC
410 West Arden Avenue, Suite 203
Glendale, California 91203

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

Class Counsel has actively litigated the Action since it was commenced on October 1, 2021. Both sides used the pre-mediation time period to investigate the veracity, strength, and scope of the claims, and Class Counsel was actively preparing the case for class certification and trial.[29]

Prior to engaging in mediation, Class Counsel conducted significant investigation and formal and informal discovery regarding the facts of the case, including and not limited to, the exchange, review, and analysis a large volume of documents and data produced by Defendant.[30] The large volume of documents and data that Plaintiff's Counsel reviewed and analyzed included and was not limited to: Plaintiff's employment records, (including, and not limited to, time records, earnings records, job application, resume, W-4, Employment Eligibility verification form, Arbitration agreement, employer handbook acknowledgement form), a random sampling of Class Members' time data and wage records, Defendants' operations and employment practices, forms, procedures, and policies (including, and not limited to, Employee Handbook, Job descriptions), among other information and documents.[31] Class Counsel interviewed Plaintiff and conducted investigations to gather information regarding the facts and circumstances surrounding Plaintiff's and putative class members' employment and to identify potential witnesses.[32] Counsel for the Parties also met and conferred on numerous occasions, e.g., to discuss issues relating to the pleadings, discovery, and the production of documents and data prior to the mediation.[33] Class Counsel also drafted pleadings and the mediation brief, and prepared for and attended court proceedings, settlement negotiations, and the mediation, among other tasks.[34]

---

[29] Stern Decl., ¶¶ 13-15.
[30] Stern Decl., ¶ 14.
[31] Ibid.
[32] Stern Decl., ¶ 14.
[33] Ibid.
[34] Ibid.

LAWYERS for JUSTICE, PC
410 West Arden Avenue, Suite 203
Glendale, California 91203

The Parties engaged in extensive settlement negotiations and participated in a formal, full-day mediation conducted by Lynn S. Frank, Esq. (the "Mediator"), a well-respected mediator experienced in mediating complex labor and employment matters.[35] In the course of mediation and settlement discussions, counsel for the Parties exchanged extensive information and engaged in discussions regarding their evaluations of the case and various aspects of the case, including but not limited to, Defendants' financial condition, the risks and delays of further litigation, the risks to the Parties of proceeding with class certification and/or representative adjudication, the law relating to off-the-clock theory, meal and rest periods, wage-and-hour law and enforcement, and PAGA representative claims, as well as the evidence produced and analyzed, and the possibility of appeals, among other things.[36] During all settlement discussions, both sides conducted their negotiations at arm's length in an adversarial position.[37] Arriving at a settlement that was acceptable to both sides was not easy. Defendants and its counsel felt strongly about their ability to prevail on the merits and at certification, and Plaintiff and Plaintiff's Counsel believed that they would be able to obtain class certification and prevail at trial.[38] After conducting extensive investigations, formal and informal discovery, exchange of information, and 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.[39]

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, trial, and/or appeals.[40] The Parties have had the opportunity to interview and obtain information from their respective witnesses.[41] Counsel for the Parties have also reviewed documents and information relating to Plaintiff's and the Class Members' employment with Defendants and performed significant

---

[35] Stern Decl., ¶ 13.
[36] Ibid.
[37] Ibid.
[38] *Id.*, ¶¶ 13, 19-2.
[39] Stern Decl., ¶¶ 13, 19-20.
[40] Stern Decl., ¶ 13.
[41] Ibid.

LAWYERS *for* JUSTICE, PC
410 West Arden Avenue, Suite 203
Glendale, California 91203

research into the law concerning class certification, PAGA representative actions, off-the-clock theory, meal and rest periods, wage-and-hour law and enforcement, Plaintiff's claims, and Defendants' defenses thereto, as well as facts discovered.[42] The Settlement was based on this large volume of facts, evidence, and investigation. In addition, Class Counsel has extensive experience in employment class actions, including significant experience in California wage-and-hour litigation.[43]

B. <u>The Settlement Is Fair, Reasonable, and Adequate.</u>

The Settlement, which provides for a Settlement Sum of Seven Hundred Twenty Thousand Dollars ($720,000.00), represents a fair, adequate, and reasonable resolution of the matter.[44] The Settlement was calculated using the information and data uncovered during litigation, case investigation, as well as the formal and informal exchange of information.[45] The Settlement takes into account the potential risks and rewards inherent in any case and, in particular, in the case at issue.[46] Moreover, considering all of the facts and circumstances of the lawsuit, the Settlement represents a fair, reasonable, and adequate recovery for the Class, PAGA Group Members, and the State of California.[47]

Assuming that the Attorneys' Fees and Costs, Enhancement Award, Settlement Administrator Costs, and allocation of PAGA Penalties are approved by the Court and paid in the full amounts provided for by the Settlement, the Settlement provides for a Net Settlement Sum that is currently estimated to be Three Hundred Twenty Thousand Dollars and Zero Cents ($320,000.00).[48] Additionally, 75% of PAGA Penalties (i.e., the LWDA Payment), which is $75,000.00 out of $100,000.00, will be distributed to the LWDA and 25% of PAGA Penalties, which is $25,000.00 out of $100,000.00, will be distributed to PAGA Group Members on a *pro rata* basis, based on PAGA Pay Periods during the PAGA Period (i.e., Individual PAGA Payment). As discussed in Part III, *supra*, the entire Net Settlement Sum will be fully paid out

[42] Stern Decl., ¶¶ 13-15 & 18-20.
[43] *Id.*, ¶¶ 2-8.
[44] *Id.*, ¶¶ 13, 15, 16, & 26.
[45] *Id.*, ¶¶ 12-14.
[46] *Id.*, ¶¶ 17-19.
[47] *Id.*, ¶¶ 12, 14, & 25.
[48] *Id.*, ¶ 16.

LAWYERS *for* JUSTICE, PC
410 West Arden Avenue, Suite 203
Glendale, California 91203

to the Participating Class Members and the PAGA Penalties will be fully paid out to the LWDA and PAGA Group Members, in accordance with the Settlement Agreement. The amount of each Participating Class Member's Individual Settlement Share will be calculated based on his or her Workweeks, and the amount of each PAGA Group Members Individual PAGA Payment will be calculated based on his or her Pay Periods during the PAGA Period.[49] 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, the State of California, and PAGA Group Members.[50] 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. <u>The Settlement Is of Significant Value.</u>

Pursuant to *Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th 116, the Parties conducted extensive formal and informal discovery and exchanged a large volume of documents, data, and information prior to mediation.[51] The discovery and information that Class Counsel obtained from Defendants 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 Defendants' defenses thereto.[52] As outlined in the Declaration of Jeremy

---

[49] Settlement Agreement, ¶ B.25.
[50] Stern Decl., ¶¶ 13, 14, & 25.
[51] Stern Decl., ¶¶ 12-14 & 19.
[52] *Id.*, ¶ 19.

LAWYERS *for* JUSTICE, PC
410 West Arden Avenue, Suite 203
Glendale, California 91203

Stern, Class Counsel performed an extensive analysis of each and every claim pursuant to *Kullar* prior to entering into the Settlement.[53]

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.[54] 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.*

[53] Stern Decl., ¶¶ 12-14 & 17-19.
[54] Settlement Agreement, ¶ C.17.

LAWYERS for JUSTICE, PC
410 West Arden Avenue, Suite 203
Glendale, California 91203

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

This action involves a class of approximately five hundred seventy-four (574) individuals.[55] This class is sufficiently numerous. *See Rose v. City of Hayward* (1981) 126 Cal.App.3d 926, 934-35 (indicating that a class of 30 to 40 individuals satisfies the numerosity requirement as joinder is not practical at that point). Further, all Class Members can and will be identified by Defendants to the Settlement Administrator through a review of Defendants' employment records regarding hourly-paid or non-exempt employees in California during the Class Period. As such, the Class is ascertainable and sufficiently numerous.

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

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

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

Here, common issues of fact and law predominate as to each of the claims alleged and asserted in the Operative Complaint. Based on the documents and information obtained through formal and informal discovery and exchange of information in this case, Plaintiff contends that

[55] Settlement Agreement, ¶ B.4.

LAWYERS *for* JUSTICE, PC
410 West Arden Avenue, Suite 203
Glendale, California 91203

Class Members were subject to the same or similar job duties and uniform operations and employment practices, policies, and procedures during the time period at issue.[56] Plaintiff's claims arise from Defendants' 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 complaint wage statements, failing to keep requisite payroll records, and failing to reimburse necessary business-related expenses.[57]

Plaintiff also contends that Defendants' payroll and recordkeeping practices with respect to Plaintiff and the Class Members were substantially the same during the time period at issue.[58] As a result, Plaintiff claims that all of the Class Members were uniformly not paid all compensation due to them from Defendants during the time period at issue.[59]

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

VII. <u>APPOINTMENT OF CLASS COUNSEL AND ALLOCATION FOR ATTORNEYS' FEES AND COSTS</u>

Class Counsel has litigated the matter for more than three years and was actively preparing for class certification and trial.[60] 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. Class Counsel reviewed a large volume of documents and data[61] and also interviewed and obtained information from Plaintiff and other Class Members, researched applicable law, undertook

---

[56] Stern Decl., ¶ 18.
[57] Ibid.
[58] Ibid.
[59] Ibid.
[60] *Id.*, ¶¶ 13-15.
[61] *Id.*, ¶ 14.

LAWYERS *for* JUSTICE, PC
410 West Arden Avenue, Suite 203
Glendale, California 91203

damages/valuation calculations, and met and conferred with Defendants' counsel regarding the pleadings and the production of documents and data prior to mediation.[62] Counsel for the Parties also undertook extensive settlement discussions, which included participating in a formal, full-day mediation.[63]

Class Counsel is well-experienced in wage-and-hour class action litigation and used that experience to obtain a great result for the Class.[64]

The Settlement establishes a Settlement Sum of Seven Hundred Twenty Thousand Dollars ($720,000.00), 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-five percent (35%) of the Settlement Sum (i.e., $252,000.00) and reimbursement of litigation costs in an amount not to exceed Twenty-Five Thousand Dollars ($25,000.00) for costs and expenses.[65] 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, State of California, and PAGA Group Members, and (6) the other cases that Class Counsel had to turn down in order to devote their 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.[66]

Trial courts have "wide latitude" in assessing the value of attorneys' fees and their decisions will "not be disturbed on appeal absent a manifest abuse of discretion." *Lealao v. Beneficial Cal., Inc.* (2000) 82 Cal.App.4th 19, 41. Indeed, it is long settled that the "experienced trial judge is the best judge of the value of professional services rendered in his court." *Ketchum v. Moses* (2001) 24 Cal.4th 1122, 1132. California law provides that attorney

---

[62] Stern Decl., ¶ 14.
[63] *Id.*, ¶ 13.
[64] *Id.*, ¶¶ 2-8.
[65] Settlement Agreement, ¶ C.2.c.
[66] Settlement Agreement, Exh. A.

LAWYERS *for* JUSTICE, PC
410 West Arden Avenue, Suite 203
Glendale, California 91203

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

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

Historically, courts have awarded fees as high as fifty percent (50%) of the settlement, depending on the circumstances of the case. *Newberg*, § 14.03; *see also In re Ampicillin Antitrust Litig.* (D.D.C. 1981) 526 F.Supp. 494 (awarding attorneys' fees in the amount of 45% of the $7.3 million settlement); *Beech Cinema, Inc. v. Twentieth-Century Fox Film Corp.* (S.D.N.Y. 1979) 480 F.Supp. 1195 (awarding approximately 53% of the settlement as attorneys' fees). California courts routinely approve class action attorneys' fee awards "averag[ing] around one-third of the recovery." *Chavez v. Netflix, Inc.* (2008) 162 Cal.App.4th 43, 66 n.11 (lower 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.[67]

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 Attorneys' Fees and Costs 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 Notice[68] describes the Settlement, the deadlines and procedures to submit a Notice of Objection, Request for Exclusion, and/or dispute regarding Workweeks and/or PAGA Workweeks, and the date and time set for the Final Approval Hearing.[69]

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 coherent manner.[70] The proposed Class Notice recognizes that the Court has not yet granted final approval of the settlement.[71] The proposed Class Notice also apprises the Class Members and PAGA Group Members of, *inter alia*, how their Individual Settlement Share and Individual

---

[67] Stern Decl., ¶ 21.
[68] Settlement Agreement, Exh. A.
[69] Ibid.
[70] Ibid.
[71] Ibid.

LAWYERS *for* JUSTICE, PC
410 West Arden Avenue, Suite 203
Glendale, California 91203

PAGA Payment is calculated and the number of Workweeks and Pay Periods credited to them.[72]

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 AS THE SETTLEMENT ADMINISTRATOR

The Parties have selected Simpluris to administer the Settlement.

The Settlement Administrator will mail the Class Notice to each Class Member by First-Class U.S. mail in English and Spanish Requests for Exclusion, and/or Objections (i.e., the Response Deadline).[73] For any Class Notice returned prior to the Response Deadline, as undeliverable or notifying the Settlement Administrator that the Settlement Class Member is no longer at the address, the Settlement Administrator shall perform a skip-trace on that individual and re-mail the Class Notice within three (3) business days of receiving information that the mailing was undeliverable or the Settlement Class Member was no longer at the address, to the new address found under the skip-trace. Individuals who have Class Notices re-mailed to them shall have their Response Deadline extended by fifteen (15) calendar days.[74]

The Settlement Administrator will calculate the amounts of the Individual Settlement Shares and Individual PAGA Payments; 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 Participating Class Members and Individual PAGA Payment checks to PAGA Group Members; issue W-2 and 1099 forms; calculate and disburse the Attorneys' Fees and Costs, Enhancement Award, and PAGA Penalties; and perform such other tasks necessary to effectuate the terms of the Settlement Agreement.[75] The Settlement

[72] Settlement Agreement, Exh. A.
[73] *Id.*, ¶ C.5.a.
[74] *Id.*, ¶ C.5.i.
[75] Settlement Agreement, ¶ C.5.

LAWYERS *for* JUSTICE, PC
410 West Arden Avenue, Suite 203
Glendale, California 91203

Administrator Costs are currently estimated not to exceed Thirteen Thousand Dollars and Zero Cents ($13,000.00) and will be paid out of the Settlement Sum, subject to approval by the Court.[76]

Accordingly, Plaintiff respectfully request 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 Defendants' records.[77]

Within twenty-one (21) calendar days from the date the Court preliminarily approves this Agreement, the Settlement Administrator will provide the Parties the spreadsheet showing the Settlement Administrator's calculations for anticipated payments to Settlement Class Members, the allocation of Workweeks to Settlement Class Members, anticipated payments to PAGA Group Members, and the allocation of Pay Periods to PAGA Group Members. The Settlement Administrator may redact any identifying information and instead use an employee number to differentiate Settlement Class Members or PAGA Group Members (except as to the named Plaintiff in the Action) in order to protect Settlement Class Members' or PAGA Group Members' confidential information.[78]

Within thirty (30) calendar days from the date the Court preliminarily approves this Agreement, the Settlement Administrator will perform a National Change of Address ("NCOA") check for Settlement Class Members' and PAGA Group Members' most current addresses based on the information provided by Defendants and will mail the Court approved Class Notice to the Settlement Class Members and PAGA Group Members. The Settlement

[76] Settlement Agreement, ¶ C.2.b.
[77] *Id.*, ¶ 64.
[78] Settlement Agreement, ¶ C.5.h.

LAWYERS *for* JUSTICE, PC
410 West Arden Avenue, Suite 203
Glendale, California 91203

Class Members will have forty-five (45) days from the date of mailing the Class Notice in which to postmark Workweek Disputes, Requests for Exclusion, and/or Objections (i.e., the Response Deadline).[79]

For any Class Notice returned prior to the Response Deadline, as undeliverable or notifying the Settlement Administrator that the Settlement Class Member is no longer at the address, the Settlement Administrator shall perform a skip-trace on that individual and re-mail the Class Notice within three (3) business days of receiving information that the mailing was undeliverable or the Settlement Class Member was no longer at the address, to the new address found under the skip-trace. Individuals who have Class Notices re-mailed to them shall have their Response Deadline extended by fifteen (15) calendar days.[80]

Within thirty (30) calendar days of the Effective Date, Defendants will make a one-time deposit of the gross Settlement Sum plus an amount sufficient for Employer Taxes into a settlement account to be established by the Settlement Administrator.[81] Within seven (7) calendar days after Defendants deposit the Settlement Sum and Employer Taxes in the account established by the Settlement Administrator, the Settlement Administrator, only upon approval by the Parties of the final distribution amounts (which approval shall not be withheld unless there is a material error or inconsistency in the manner of calculation such that it does not conform to the Court's Final Approval Order and Judgment), will mail to Participating Class Members their Individual Settlement Payments and will mail to PAGA Group Members their Individual PAGA Payments. The Settlement Administrator will also distribute the Court-approved Attorneys' Fees and Costs to Class Counsel, Representative Enhancement Award to Plaintiff, LWDA Payment to the LWDA, and the Settlement Administrator Costs to itself, at this time.[82]

Each Individual Settlement Payment and Individual PAGA Payment check will be valid and negotiable for one hundred twenty (120) calendar days from the date the checks are issued,

[79] Settlement Agreement, ¶ C.5.i.
[80] Ibid.
[81] *Id.*, ¶ C.5.n.
[82] Settlement Agreement, ¶ C.5.o.

LAWYERS *for* JUSTICE, PC
410 West Arden Avenue, Suite 203
Glendale, California 91203

LAWYERS for JUSTICE, PC
410 West Arden Avenue, Suite 203
Glendale, California 91203

and thereafter, shall be cancelled.[83] Pursuant to California Code of Civil Procedure Section 384, any remaining funds associated with checks issued to Participating Class Members and PAGA Group Members will be paid out in accordance with California Code of Civil Procedure section 384(b) to My Sister's House, located in Sacramento, California as the *cy pres* beneficiary.[84]

XI. APPOINTMENT OF CLASS REPRESENTATIVE AND ALLOCATION FOR CLASS REPRESENTATITVE SERVICE PAYMENT

Plaintiff Krystal Camina respectfully requests that the Court appoint him as the Class Representative and preliminarily approve the Enhancement Award in an amount up to Ten Thousand Dollars and Zero Cents ($10,000.00).[85] 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 Award 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 time and effort in producing relevant documents and past employment records and providing the facts and evidence necessary to attempt to prove the allegations.[86] Plaintiff was available whenever Class Counsel needed him and actively tried to obtain and provide information that would facilitate the pursuit of the class and PAGA claims.[87] Accordingly, it is appropriate and just for Plaintiff to receive an Enhancement Award for his services on behalf of the Class, PAGA Group

---

[83] Settlement Agreement, ¶ C.5.p.
[84] Ibid.
[85] *Id.*, ¶ C.2.a.
[86] Stern Decl., ¶ 22; Declaration of Krystal Camina in Support of Plaintiff's Motion for Preliminary Approval of Class Action Settlement ("Camina Decl."), ¶¶ 3-5.
[87] Stern Decl., ¶ 22; Declaration of Krystal Camina, ¶ 3-4.

Members, and the State of California, in addition to his 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; preliminary appoint and designate Arby Aiwazian, Joanna Ghosh, Vartan Madoyan, and Jeremy Stern of Lawyers *for* Justice, PC as Class Counsel; preliminary appoint and designate Plaintiff Krystal Camina as Class Representative; appoint Simpluris as the Settlement Administrator; preliminarily approve the allocations for Attorneys' Fees and Costs, Enhancement Award, Settlement Administrator Costs, and allocation of PAGA Penalties; approve the proposed Class Notice; direct the Settlement Administrator to undertake the notice and settlement administration process in conformity with the deadlines and procedures provided by the Settlement Agreement; schedule a Final Approval Hearing to take place in approximately six (6) months; and permit the filing of a memorandum that exceeds the page limit.

Dated: February 27, 2024

LAWYERS *for* JUSTICE, PC

By: ______________________________

Jeremy Stern
Attorneys for Plaintiff

LAWYERS *for* JUSTICE, PC
410 West Arden Avenue, Suite 203
Glendale, California 91203