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

COURTNEY REESE, 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.

ASIAN BOX PALO ALTO LLC., a California  
limited liability company; ASIAN BOX, an  
unknown business entity; and DOES 1 through  
100, inclusive,

Defendants.

Case No.: 19CV346589

Honorable Sunil R. Kulkarni  
Department 1

**CLASS ACTION**

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

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

Date: August 11, 2022  
Time: 1:30 p.m.  
Department: 1

Complaint Filed: April 18, 2019  
FAC Filed: September 29, 2021  
Trial Date: None Set

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

**PLEASE TAKE NOTICE** that on August 11, 2022 at 1:30 p.m. or as soon thereafter as the matter may be heard before the Honorable Sunil R. Kulkarni in Department 1 of the Superior Court of California for the County of Santa Clara, located at 191 North Street San Jose, CA 95113, Plaintiff Courtney Reese (“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 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, including and not limited to, the allocations for penalties under the California Labor Code Private Attorneys General Act of 2004 (“PAGA Payment”), Attorneys’ Fees and Costs to Class Counsel, Incentive Payment to Plaintiff, and Settlement Administration Costs to the Settlement Administrator;
- Conditionally certifying the Class for settlement purposes;
- Preliminarily appointing Plaintiff Courtney Reese 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;
- Approving the proposed deadlines for the notice and settlement administration process;
- Approving Phoenix Settlement Administrators as the Settlement Administrator; and

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- Scheduling a hearing to consider whether to grant final approval of the Settlement, at which time the Court will also consider whether to grant final approval of the requests for the Attorneys' Fees and Costs to Class Counsel, Incentive Payment for Plaintiff, and Settlement Administration Costs to Settlement Administrator.

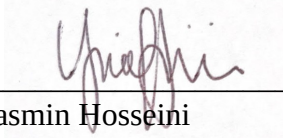
This motion is made pursuant to Rule 3.769 and Rule 3.1113(e) of the California Rules of Court, which provides for approval by the Court of a class action settlement and permit the Court to extend the page limit for memoranda.

This motion is based upon the following memorandum of points and authorities, the Settlement Agreement, the Declarations of Proposed Class Counsel (Yasmin Hosseini) and Proposed Class Representative (Courtney Reese) 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: July 15, 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 Courtney Reese (“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 Asian Box Palo Alto (“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 Maximum Settlement Amount of three hundred thousand dollars and no cents (\$300,000.00).<sup>1</sup> The Maximum Settlement Amount includes the following: (1) the Net Settlement Amount, (2) Attorneys’ Fees and Costs to Class Counsel, consisting of attorneys’ fees in the amount of one-third (1/3) of the Maximum Settlement Amount, or \$100,000.00, and reimbursement of litigation costs and expenses not to exceed twenty-five thousand dollars and no cents (\$25,000.00)<sup>2</sup>; (3) the Incentive Payment of eight thousand dollars and no cents (\$8,000.00) to Plaintiff<sup>3</sup>; (4) the Settlement Administration Costs to the Settlement Administrator in the amount not to exceed eight thousand dollars and no cents (\$8,000.00)<sup>4</sup>; and (4) the amount of fifty thousand dollars and no cents (\$50,000.00) allocated to penalties under the Private Attorneys General Act (“PAGA”), of which 75% (i.e., \$37,500.00) will be distributed to the Labor and Workforce Development Agency (“LWDA”) and 25% (i.e., \$12,500.00) will be distributed to Settlement Class Members as a part of the Net Settlement Amount.<sup>5</sup>

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

<sup>1</sup> Settlement Agreement, attached as “**EXHIBIT 1**” to Declaration of Yasmin Hosseini (“Hosseini Decl.”), ¶ 19.

<sup>2</sup> *Id.*, ¶¶ 3 & 41.

<sup>3</sup> *Id.*, ¶ 16 & 42.

<sup>4</sup> *Id.*, ¶ 43.

<sup>5</sup> *Id.*, ¶¶ 22 & 44.

All current and former hourly-paid or non-exempt employees who worked for Defendant's restaurant location in Mountain View, California, at any time during the Class Period ("Class Members" or "Class").<sup>6</sup>

Class Members who do not submit a timely and valid request to be excluded from the Settlement ("Settlement Class Member") will receive a share of the Net Settlement Amount ("Individual Settlement Share") on a *pro rata* basis based upon the number of weeks, or fraction thereof, which a Class Member worked at Defendant's restaurant location in Mountain View, California, in an hourly-paid or non-exempt position at any time during the Class Period. Each Class Member shall be credited with at least one (1) Workweek ("Workweeks").<sup>7</sup>

The Settlement, if granted preliminary and final approval by the Court, will operate to resolve the Released Claims of Plaintiff and Settlement Class Members, against the Released Parties.<sup>8</sup>

## **II. PROCEDURAL HISTORY AND FACTUAL BACKGROUND**

Defendant is a restaurant specializing in Vietnamese curry inspired by Asian street stalls. Plaintiff Courtney Reese is a former employee of Defendant.

On April 18, 2019, Plaintiff filed a Class Action Complaint for Damages ("Complaint") in the Santa Clara County Superior Court ("Court"), thereby commencing the above-captioned lawsuit ("Action").

On September 29, 2021, Plaintiff filed a First Amended Class Action Complaint for Damages and Enforcement under the Private Attorneys General Act, Cal. Labor Code § 2698 Et Seq. ("Operative Complaint").

Plaintiff's core allegation is that Defendant has 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

<sup>6</sup> Settlement Agreement, ¶ 5. "Class Period" is defined as the period of time from April 18, 2015 through February 2, 2021. *See id.*, ¶ 8.

<sup>7</sup> *Id.*, ¶ 32.

<sup>8</sup> *See id.*, ¶ 26, for the full scope of the "Released Claims," and *id.* at ¶ 27 for the definition of the "Released Parties."

thereby engaged in unfair business practices in violation of California Business and Professions Code and conduct that gives rise to civil penalties recoverable under PAGA. Plaintiff contends that she, and the Class 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 any of the allegations in the Action, and further denies that the Action is appropriate for class treatment for any purpose other than for settlement purposes only.

The Parties have actively litigated the Action since it was commenced on April 18, 2019. On February 2, 2021, the Parties participated in a formal, full-day mediation conducted by Jeffrey A. Ross, 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 Settlement described herein to resolve the Action in its entirety.

### **III. SUMMARY OF THE SETTLEMENT TERMS**

Under the terms of the Settlement, Defendant will pay a Maximum Settlement Amount to resolve the Released Claims of Plaintiff and the Class Members who do not submit a timely and valid request to be excluded from the Settlement (i.e., Settlement Class Member) with respect to the Released Parties.<sup>9</sup> Subject to approval by the Court, the Net Settlement Amount will be calculated by deducting the following amounts from the Maximum Settlement Amount: (1) attorneys' fees in an amount not to exceed one hundred thousand dollars and no cents (\$100,000.00) (i.e., up to 1/3 of the Maximum Settlement Amount) and reimbursement of costs and expenses in an amount not to exceed twenty-five thousand dollars and no cents (\$25,000.00) to Class Counsel (collectively referred to as the "Attorneys' Fees and Costs"); (2) settlement administration costs, which are currently estimated not to exceed eight thousand dollars and no cents (\$8,000.00) to the Settlement Administrator ("Settlement Administration Costs"); (3) payment to the LWDA of its 75% share of the PAGA Payment (i.e., 37,500.00 out of \$50,000.00) ("LWDA Payment"); and (4) payment in the amount of up to eight thousand dollars

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<sup>9</sup> Settlement Agreement, ¶ 51.

1 and no cents (\$8,000.00) to Plaintiff Courtney Reese (“Incentive Payment”).<sup>10</sup> The Parties have  
2 agreed to retain Phoenix Settlement Administrators (“Settlement Administrator”) to handle the  
3 notice and settlement administration process.

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

- 7 a. After Preliminary Approval of the Settlement, the Settlement Administrator will  
8 determine the Workweeks of each Class Member, divide the Net Settlement Amount  
9 by the Workweeks of all Class Members to yield the “Estimated Workweek Value,”  
10 and multiply each Class Member’s individual Workweeks by the Estimated  
11 Workweek Value to yield his or her estimated Individual Settlement Share that he or  
12 she may be eligible to receive under the Settlement.<sup>11</sup>
- 13 b. After the Final Approval of the Settlement, the Settlement Administrator will divide  
14 the final Net Settlement Amount by the Workweeks of all Settlement Class Members  
15 to yield the “Final Workweek Value,” and multiply each Settlement Class Member’s  
16 individual Workweeks by the Final Workweek Value to yield his or her Individual  
17 Settlement Share.<sup>12</sup>

18 Each Settlement Class Member’s Individual Settlement Share will be allocated as  
19 follows: one-third (1/3) as wages which will be reported on an IRS Form W-2; and the remaining  
20 two-thirds (2/3) as penalties, interest, and other non-wage damages, which will be reported on  
21 an IRS Form 1099.<sup>13</sup> Settlement Class Members will be issued payment of their Individual  
22 Settlement Share subject to reduction for the employee’s share of taxes and withholdings with  
23 respect to the wage portion of each Individual Settlement Share (the net payment is referred to  
24 as an “Individual Settlement Payment”).<sup>14</sup> Defendant will pay the employer’s share of taxes and  
25 contributions in connection with the wages portion of Individual Settlement Shares (“Employer  
26 Taxes”) in addition to the Maximum Settlement Amount.<sup>15</sup>

27 The Individual Settlement Payment checks issued to Settlement Class Members will be  
28 valid and negotiable for one hundred eighty (180) calendar days from the date of issuance of the

<sup>10</sup> Settlement Agreement, ¶ 20; see also, ¶¶ 3, 16, 22, 41, 42, 43, & 44.

<sup>11</sup> *Id.*, ¶ 45(a).

<sup>12</sup> *Id.*, ¶ 45(b).

<sup>13</sup> *Id.*, ¶ 55.

<sup>14</sup> *Id.*, ¶ 18.

<sup>15</sup> *Id.*, ¶ 55.

check, and after this time period, the checks(s) will be cancelled.<sup>16</sup> The funds from associated with such cancelled checks will be transmitted to the Legal Services of Northern California.<sup>17</sup>

Class Members who wish to be excluded from the Settlement (i.e., opt out) must submit a written request for exclusion (“Request for Exclusion”) to the Settlement Administrator. To be timely, the Class Member must mail a written request for exclusion to the Settlement Administrator, postmarked on or before the date that is forty-five (45) calendar days from the initial mailing of the Class Notice (“Response Deadline”).<sup>18</sup> A Request for Exclusion must: (a) contain the case name and number of Action; (b) be signed by the Class Member; (c) contain the full name, address, telephone number, and last four (4) digits of the Social Security Number of the Class Member requesting exclusion; (d) clearly state that the Class Member does not wish to be included in the Settlement; and (e) be returned by fax or mail to the Settlement Administrator at the specified address and/or facsimile number, postmarked or fax-stamped on or before the Response Deadline.<sup>19</sup> Any Class Member who submits a Request for Exclusion is prohibited from making any objection to the Settlement Agreement.<sup>20</sup>

Settlement Class Members who wish to object to the Settlement may submit his or her objection in writing (“Notice of Objection”) to the Settlement Administrator on or before the Response Deadline or directly present his or her objection orally to the Court at the Final Approval Hearing.<sup>21</sup> The Notice of Objection must: (a) contain the case name and number of the Action; (b) be signed by the objecting Settlement Class Member; (c) contain the full name, address, telephone number of the objecting Settlement Class Member; (d) clearly state all grounds for the objection accompanied by any legal support for such objection; and (e) attach copies of any papers, briefs, or other documents upon which the objection is based.<sup>22</sup>

Class Members who wish to dispute the number of Workweeks to which they have been credited, as reflected in their respective Class Notices, may do so by mailing a written letter to

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<sup>16</sup> Settlement Agreement, ¶ 40.

<sup>17</sup> *Ibid.*

<sup>18</sup> *Id.*, ¶¶ 28 & 29.

<sup>19</sup> *Id.*, ¶ 50.

<sup>20</sup> *Ibid.*

<sup>21</sup> *Id.*, ¶ 52.

<sup>22</sup> *Id.*, ¶ 21.

the Settlement Administrator on or before the Response Deadline.<sup>23</sup> The letter must: (a) contain the case name and number of the Action; (b) be signed by the Class Member; (c) contain the full name, address, telephone number, and last four (4) digits of the Social Security Number of the disputing Class Member; (d) clearly state that the Class Member disputes 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; (e) include information and/or attaches documentation demonstrating that the number of Workweeks that he or she contends should be credited to him or her are correct; and (f) is returned by fax or mail to the Settlement Administrator at the specified address and/or facsimile number, postmarked or fax-stamped on or before the Response Deadline.<sup>24</sup>

#### 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

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<sup>23</sup> Settlement Agreement, ¶ 49.

<sup>24</sup> *Id.*, ¶¶ 33 & 49.

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).

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

1 at 1027 (citation omitted).

2 The proponent of the settlement has the burden to show that it is fair and reasonable.  
3 *Wershba, supra*, 91 Cal.App.4th at 245. “A presumption of fairness exists where: (1) the  
4 settlement is reached through arm’s-length bargaining; (2) investigation and discovery are  
5 sufficient to allow counsel and the court to act intelligently; (3) counsel is experienced in similar  
6 litigation; and (4) the percentage of objectors is small.” *Id.*; *Dunk, supra*, 48 Cal.App.4th at  
7 1802; *7-Eleven Owners for Fair Franchising v. Southland Corp.* (2000) 85 Cal.App.4th 1135,  
8 1151.

9 **A. The Settlement Resulted from Arm’s-Length Negotiations Based Upon**  
10 **Extensive Investigation and Discovery.**

11 The Parties actively litigated the Action since it was commenced on April 18, 2019.  
12 Both sides used the pre-mediation time period to investigate the veracity, strength, and scope of  
13 the claims, and Class Counsel was actively preparing the case for class certification and trial.<sup>25</sup>

14 Prior to engaging in mediation, Class Counsel conducted significant investigation and  
15 informal discovery regarding the facts of the case, including and not limited to, the exchange,  
16 review, and analysis of a large volume of documents and data produced by Defendant.<sup>26</sup> The  
17 volume of data and documents that Class Counsel reviewed and analyzed included and was not  
18 limited to: Plaintiff and other Class Members’ employment records, a detailed sampling of Class  
19 Members time and pay data, multiple iterations of Defendant’s Employee Handbook, company  
20 policy acknowledgements, job descriptions, Defendant’s operations and employment practices,  
21 procedures, and policies (including but not limited to Arbitration of Disputes, Direct Deposit  
22 Authorization and Agreement, Sexual Harassment Policy, Meal Policy, and ServSafe California  
23 Food Handler Assessment certificate), among other information and documents.<sup>27</sup> Class  
24 Counsel interviewed Plaintiff and other Class Members to gather facts and to identify potential  
25 witnesses.<sup>28</sup> Counsel for the Parties met and conferred on numerous occasions, e.g., to discuss  
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27 <sup>25</sup> Hosseini Decl., ¶¶ 10-12.

28 <sup>26</sup> *Id.*, ¶ 11.

<sup>27</sup> *Ibid.*

<sup>28</sup> *Ibid.*

1 issues relating to the pleadings, documents and data prior to the mediation.<sup>29</sup> Class Counsel also  
2 drafted Plaintiff's mediation brief and prepared for and attended court proceedings, settlement  
3 negotiations, and the mediation, among other tasks.<sup>30</sup>

4 The Parties engaged in extensive settlement negotiations and participated in a formal,  
5 full-day mediation conducted by Jeffrey A. Ross, Esq., a well-respected mediator experienced  
6 in mediating complex labor and employment matters.<sup>31</sup> Prior to and during the mediation and  
7 settlement discussions, the Parties exchanged class information and engaged in an intensive  
8 discussion regarding their evaluations of the case and various aspects of the case, including but  
9 not limited to, Defendant's financial condition, the risks and delays of further litigation, the risks  
10 to the Parties of proceeding with class certification, the law relating to off-the-clock theory,  
11 meal and rest periods, and wage-and-hour law and enforcement, and PAGA representative  
12 claims, as well as the evidence produced and analyzed, and the possibility of appeals, among  
13 other things.<sup>32</sup> During all settlement discussions, the Parties conducted their negotiations at  
14 arm's length in an adversarial position.<sup>33</sup> Arriving at a settlement that was acceptable to both  
15 Parties was not easy. Defendant and its counsel felt strongly about their ability to prevail on the  
16 merits and at certification, and Plaintiff and Class Counsel believed that they would be able to  
17 obtain class certification and prevail at trial.<sup>34</sup> After conducting investigations, significant  
18 informal discovery and exchange of information, extensive settlement negotiations, and with  
19 the aid of the mediator's evaluation, the Parties have agreed that the matter is well-suited for  
20 settlement given the legal issues relating to Plaintiff's principal claims, as well as the costs and  
21 risks to both sides that would attend further litigation.<sup>35</sup>

22 The Settlement takes into account the strengths and weaknesses of each side's position  
23 and the uncertainty of how the case might have concluded at certification and trial.<sup>36</sup> The Parties  
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25 <sup>29</sup> Hosseini Decl., ¶ 12.

26 <sup>30</sup> *Ibid.*

27 <sup>31</sup> *Id.*, ¶ 10.

28 <sup>32</sup> *Ibid.*

<sup>33</sup> *Ibid.*

<sup>34</sup> *Ibid.*

<sup>35</sup> *Id.*, ¶¶ 10 & 17.

<sup>36</sup> *Id.*, ¶¶ 16 & 17.

1 have had the opportunity to interview and obtain information from their respective witnesses.<sup>37</sup>  
2 Counsel for the Parties have also reviewed documents and information relating to Plaintiff's and  
3 the Class Members' employment with Defendant and performed significant research into the  
4 law concerning class certification, off-the-clock theory, meal and rest periods, wage-and-hour  
5 law and enforcement, Plaintiff's claims, and Defendant's defenses thereto, as well as facts  
6 discovered.<sup>38</sup> The Parties have reached the Settlement based on this large volume of facts,  
7 evidence, and investigation. In addition, Class Counsel has extensive experience in employment  
8 class actions, including significant experience in California wage-and-hour litigation.<sup>39</sup>

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

10 The Settlement, which provides for a Maximum Settlement Amount of three hundred  
11 thousand dollars and no cents (\$300,000.00), represents a fair, adequate, and reasonable  
12 resolution of the matter.<sup>40</sup> The Settlement was calculated using the information and data  
13 uncovered during litigation, case investigation, as well as the informal exchange of  
14 information.<sup>41</sup> The Settlement takes into account the potential risks and rewards inherent in any  
15 case and, in particular, in the case at issue.<sup>42</sup> Moreover, considering all of the facts and  
16 circumstances of the lawsuit, the Settlement represents a fair, reasonable, and adequate recovery  
17 for the Class.<sup>43</sup>

18 Assuming that the Attorneys' Fees and Costs, Incentive Payment, LWDA Payment, and  
19 Settlement Administration Costs are approved by the Court and paid in the full amounts  
20 provided for by the Settlement, the Settlement provides for a Net Settlement Amount that is  
21 currently estimated to be one hundred twenty-one thousand five hundred dollars and no cents  
22 (\$121,500.00).<sup>44</sup> As discussed in Part III, *supra*, the entire Net Settlement Amount will be fully  
23 paid out to the Settlement Class Members, in accordance with the Settlement Agreement. The  
24

25 <sup>37</sup> Hosseini Decl., ¶ 17.

26 <sup>38</sup> *Id.*, ¶¶ 10 & 12.

27 <sup>39</sup> *Id.*, ¶¶ 2-7.

28 <sup>40</sup> *Id.*, ¶ 13.

<sup>41</sup> *Id.*, ¶¶ 10 & 11.

<sup>42</sup> *Id.*, ¶ 10.

<sup>43</sup> *Id.*, ¶¶ 10, 12, 17 & 24

<sup>44</sup> *Id.*, ¶ 13.

1 amount of each Settlement Class Member's Individual Settlement Share will be calculated based  
2 on his or her Workweeks.<sup>45</sup> There is no reason to doubt the fairness of the proposed plan of  
3 allocation of the settlement funds for purposes of preliminary approval. Even at the final  
4 approval stage, "[a]n allocation formula need only have a reasonable, rational basis [to warrant  
5 approval], particularly if recommended by experienced and competent class counsel." *In re*  
6 *American Bank Note Holographics, Inc., Securities Litigation* (S.D.N.Y. 2001) 127 F.Supp.2d  
7 418, 429-30.

8 In light of the foregoing considerations, Class Counsel believes that the Settlement as a  
9 whole is fair, reasonable, and adequate, and is in the best interest of the Class Members and the  
10 State of California.<sup>46</sup> Although the recommendations of Class Counsel are not conclusive, the  
11 Court can properly take the recommendations into account, particularly if Class Counsel appears  
12 to be competent, and has experience with this type of litigation, and investigation have been  
13 completed, as is the case here. *Newberg*, §11.47. Accordingly, the Court should grant  
14 preliminary approval of the Settlement.

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

16 Pursuant to *Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th 116, the Parties  
17 conducted significant informal discovery and exchanged a large volume of documents, data,  
18 and information prior to mediation.<sup>47</sup> The discovery and information that Class Counsel  
19 obtained from Defendant and through other sources allowed Class Counsel to develop valuation  
20 models in order to evaluate the potential value and merit of the claims, and perform a complete  
21 evaluation of Defendant's defenses thereto.<sup>48</sup> As outlined in the Declaration of Yasmin  
22 Hosseini, Class Counsel performed an extensive analysis of each and every claim pursuant to  
23 *Kullar* prior to entering into the Settlement.<sup>49</sup>

24 ///

25 ///

26 <sup>45</sup> Settlement Agreement, ¶ 45.

27 <sup>46</sup> Hosseini Decl., ¶¶ 10, 12, 17 & 24.

28 <sup>47</sup> *Id.*, ¶¶ 11, 17.

<sup>48</sup> *Id.*, ¶ 17.

<sup>49</sup> *Id.*, ¶¶ 9-12 & 15-17.

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.<sup>50</sup> 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. 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 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

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<sup>50</sup> Settlement Agreement, ¶ 34.

as joinder is not practical at that point). Further, all Class Members can and will be identified by Defendant to the Settlement Administrator through a review of Defendant's employment records regarding hourly-paid and non-exempt employees who worked for Defendant's restraint location in Mountain View, California at any time 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 lawsuit. Based on the documents and information obtained through informal discovery and exchange of information in this case, Plaintiff contends that 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.<sup>51</sup> 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

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<sup>51</sup> Hosseini Decl., ¶ 15.

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.<sup>52</sup>

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.<sup>53</sup> As a result, 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.<sup>54</sup>

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 hourly-paid or non-exempt employees who worked in 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 matter for over three years and was actively preparing the matter for class certification and trial.<sup>55</sup> 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<sup>56</sup> and also interviewed and obtained information from Plaintiff and other Class Members, researched applicable law, undertook damages/valuation calculations, and met and conferred with Defendant's counsel regarding the pleadings, discovery, and the production of documents and data prior to mediation.<sup>57</sup> Counsel for the Parties also undertook extensive settlement discussions, which included participating in a formal, full-day mediation.<sup>58</sup>

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<sup>52</sup> Hosseini Decl., ¶¶ 15 & 20.

<sup>53</sup> *Id.*, ¶ 15.

<sup>54</sup> *Ibid.*

<sup>55</sup> *Id.*, ¶ 10.

<sup>56</sup> *Id.*, ¶¶ 10, 11 & 17.

<sup>57</sup> *Id.*, ¶ 11.

<sup>58</sup> *Id.*, ¶ 10.

1 Class Counsel is well-experienced in wage-and-hour class action litigation and used that  
2 experience to obtain a great result for the Class.<sup>59</sup>

3 The Settlement establishes a Maximum Settlement Amount of three hundred thousand  
4 dollars and no cents (\$300,000.00), and provides for Class Counsel to apply to the Court for  
5 Attorneys' Fees and Costs, consisting of attorneys' fees in an amount not to exceed one-third  
6 (1/3) of the Maximum Settlement Amount (i.e., \$100,000.00) and an amount not to exceed  
7 twenty-five thousand dollars and no cents (\$25,000.00) for costs and expenses.<sup>60</sup> The attorneys'  
8 fees provided for by the Settlement are commensurate with: (1) the risk that Class Counsel took  
9 in bringing and litigating the case, (2) the extensive time, effort and expense that Class Counsel  
10 dedicated to the case, (3) the skill and determination that Class Counsel has shown, (4) the  
11 results that Class Counsel has achieved throughout the litigation, (5) the value of the Settlement  
12 that Class Counsel has achieved for the Class Members, and (6) the other cases that Class  
13 Counsel had to turn down in order to devote its time and efforts to this matter. The proposed  
14 Class Notice provides Class Members with information about the amount allocated toward the  
15 Attorneys' Fees and Costs, and that an award of the Attorneys' Fees and Costs will be sought,  
16 as provided for by the Settlement.<sup>61</sup>

17 Trial courts have "wide latitude" in assessing the value of attorneys' fees and their  
18 decisions will "not be disturbed on appeal absent a manifest abuse of discretion." *Lealao v.*  
19 *Beneficial Cal., Inc.* (2000) 82 Cal.App.4th 19, 41. Indeed, it is long settled that the  
20 "experienced trial judge is the best judge of the value of professional services rendered in his  
21 court." *Ketchum v. Moses* (2001) 24 Cal.4th 1122, 1132. California law provides that attorney  
22 fee awards should be equivalent to fees paid in the legal marketplace to compensate for the result  
23 achieved and risk incurred. *Laffitte v. Robert Half Int'l, Inc.* (2016) 1 Cal.5th 480, 503 (citing  
24 *Lealao, supra*, 82 Cal.App.4th at 48-49). In *Lealao*, the court held that when an action leads to  
25 a recovery that can be "monetized" with a reasonable degree of certainty, the trial court should  
26 "ensure that the fee awarded is within the range of fees freely negotiated in the legal marketplace

27 <sup>59</sup> Hosseini Decl., ¶¶ 2-7.

28 <sup>60</sup> Settlement Agreement, ¶ 41.

<sup>61</sup> *Id.*, Exh. A.

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.<sup>62</sup>

Class Counsel will provide extensive evidence as to the time worked, litigation efforts, and further argument at the time of filing Plaintiff’s motion for final approval of the Settlement and application for the Attorneys’ Fees and Costs and at the Final Approval Hearing.

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<sup>62</sup> Hosseini Decl., ¶ 18.

1 Considering the work performed and the risks incurred, the attorneys' fees provided for by the  
2 Settlement and to be requested by Class Counsel are well within the range of reasonableness.

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

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

9 The proposed Class Notice<sup>63</sup> describes the Settlement, the deadlines and procedures to  
10 submit a Notice of Objection to the Settlement, Request for Exclusion from the Settlement,  
11 and/or dispute regarding Workweeks, and the date and time set for the Final Approval Hearing.<sup>64</sup>

12 The proposed Class Notice fulfills the requirement of neutrality in notice procedure.  
13 *Newberg*, at § 8.39. "Sufficient information about the case should be provided to enable class  
14 members to make an informed decision about their participation." *Manual for Complex*  
15 *Litigation* § 21.311 at 413 (4th ed. 2004). The proposed Class Notice summarizes the  
16 proceedings to date and the terms and conditions of the Settlement in an informative and  
17 coherent manner.<sup>65</sup> The proposed Class Notice recognizes that the Court has not yet granted  
18 final approval of the settlement.<sup>66</sup> The proposed Class Notice also apprises the Class Members  
19 of, *inter alia*, how their Individual Settlement Share is calculated, and the number of Workweeks  
20 credited to them.<sup>67</sup>

21 The proposed Class Notice satisfies all due process requirements and complies with the  
22 standards of fairness, completeness, and neutrality. Fed. R. Civ. P. 23(c)(2) and 23(e); *Newberg*,  
23 §§ 8.21, 8.39; *Manual*, §§ 21.311, 21.312; see also *Cartt, supra*, 50 Cal.App.3d at 960 ("The  
24 essentials of due process of law in class suits would appear to be afforded by fair representation  
25

26 <sup>63</sup> Settlement Agreement, Exh. A.

27 <sup>64</sup> *Ibid.*

28 <sup>65</sup> *Ibid.*

<sup>66</sup> *Ibid.*

<sup>67</sup> *Ibid.*

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 PHOENIX SETTLEMENT ADMINISTRATOR AS THE SETTLEMENT ADMINISTRATOR**

The Parties have selected Phoenix Settlement Administrator to administer the Settlement.

The Settlement Administrator will mail the Class Notice to each Class Member by First-Class U.S. mail.<sup>68</sup> Any undeliverable Class Notice that is returned to the Settlement Administrator with as undeliverable 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 with five (5) calendar days.<sup>69</sup> The Response Deadline to submit a Request for Exclusion, Notice of Objection, and/or Workweeks Dispute for Class Members to whom a Class Notice is re-mailed, will be extended fifteen (15) calendar days.<sup>70</sup> The Settlement Administrator will receive and process Requests for Exclusion, Notice of Objections, and any Workweeks Dispute.<sup>71</sup>

The Settlement Administrator will calculate the amounts of the Individual Settlement Shares; undertake filings and remittances in connection with the employee’s share of taxes on the wages portion of Individual Settlement Shares and the Employer Taxes, that are necessary for administration of the Settlement; mail the Individual Settlement Payment checks to Settlement Class Members; issue W-2 and 1099 forms; calculate and disburse the Attorneys’ Fees and Costs to Class Counsel, Incentive Payment to Plaintiff, and Settlement Administration Costs to itself ; and perform such other tasks necessary to effectuate the terms of the Settlement Agreement.<sup>72</sup> The Settlement Administration Costs are currently estimated not to exceed eight

<sup>68</sup> Settlement Agreement, ¶ 48(a).

<sup>69</sup> *Id.*, ¶ 48(b).

<sup>70</sup> *Id.*, ¶ 29.

<sup>71</sup> *Id.*, ¶¶ 49, 50 & 52.

<sup>72</sup> *Id.*, ¶¶ 39, 40, 45, 55 & 56.

thousand dollars and no cents (\$8,000.00) and will be paid out of the Maximum Settlement Amount, subject to approval by the Court.<sup>73</sup>

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

**X. PROPOSED DEADLINES FOR THE NOTICE PROCESS**

At this preliminary approval stage, plaintiffs seek approval of the proposed deadlines for the notice and settlement administration process. *Newberg*, at § 11.26. The notice process entails mailing of the Class Notice, in the form approved by the Court, to all known and reasonably ascertainable Class Members based on Defendant's records.<sup>74</sup>

Within ten (10) business days of Preliminary Approval, Defendant will provide the Settlement Administrator with the following information for each Class Member: (1) full name; (2) last known mailing address; (3) Social Security Number; (4) the number of Workweeks of each Class Member (collectively, "Class Data").<sup>75</sup>

Within ten (10) business days after receiving the Class Data from Defendant, 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 or identifiable address changes, and will mail a Class Notice substantially in the form attached as "**Exhibit A**" to this Settlement Agreement, to all Class Members via First-Class U.S. Mail, using the most current, known mailing addresses identified by the Settlement Administrator. With respect to Class Notices that are returned as undeliverable 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.<sup>76</sup> Class Members will have until the Response Deadline, or extended Response Deadline

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<sup>73</sup> Settlement Agreement, ¶ 43.

<sup>74</sup> *Id.*, ¶ 48(a).

<sup>75</sup> *Ibid.*

<sup>76</sup> *Id.*, ¶ 48(a) & (b).

(if applicable), to mail a Request for Exclusion, dispute regarding Workweeks, and/or Notice of Objection to the Settlement Administrator.<sup>77</sup>

Within thirty (30) calendar days of the Effective Date, Defendant will make a first deposit of one-half (1/2) of the Maximum Settlement Amount (i.e., one hundred fifty thousand dollars and no cents (\$150,000.00)) into the qualified settlement account established by the Settlement Administrator (the “First Payment”).<sup>78</sup> Within six (6) months of the First Payment, Defendant will make a second deposit for the remaining one-half of the Maximum Settlement Amount (i.e., one hundred fifty thousand dollars and no cents (\$150,000.00)) into the qualified settlement account established by the Settlement Administrator (“Second Payment”).<sup>79</sup>

No later than ten (10) calendar days after Defendant funds the First Payment, the following payments will be distributed in the following order of priority from the First Payment: (i) full payment of the Individual Settlement Payments to Settlement Class Members; (ii) full payment of the Court-approved Incentive Payment to the Class Representative; (iii) partial payment of one-half (1/2) of the Settlement Administration Costs to the Settlement Administrator; and (vi) partial payment of the Court-approved Attorneys’ Fees and Costs to Class Counsel, to the extent possible.<sup>80</sup> No later than ten (10) calendar days after Defendant funds the Second Payment, the following payments will be distributed in the following order of priority from the Second Payment: (i) full payment of the LWDA Payment to the LWDA; (ii) payment of the remaining one-half (1/2) of Settlement Administration Costs to the Settlement Administrator; and (iii) payment of the remaining Attorneys’ Fees and Costs to Class Counsel.<sup>81</sup>

Each Individual Settlement Payment check will be valid and negotiable for one hundred and eighty (180) calendar days from the date of their issuance.<sup>82</sup> Checks that are not negotiated within 180-day period will be cancelled.<sup>83</sup> The funds associated with such cancelled checks will

<sup>77</sup> Settlement Agreement, ¶¶ 29, 33, 49 & 50.

<sup>78</sup> *Id.*, ¶ 38(a).

<sup>79</sup> *Id.*, ¶ 38(b).

<sup>80</sup> *Id.*, ¶ 39(a).

<sup>81</sup> *Id.*, ¶ 39(b).

<sup>82</sup> *Id.*, ¶ 40.

<sup>83</sup> *Ibid.*

be transmitted to Legal Services of Northern California.<sup>84</sup>

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

Plaintiff Courtney Reese respectfully requests that the Court appoint her as the Class Representative and preliminarily approve the Incentive Payment in an amount up to eight thousand dollars and no cents (\$8,000.00) to Plaintiff.<sup>85</sup> It is within the Court's discretion to award payment to a class representative for their efforts and work. *Vranken v. Atlantic Richfield Co.* (N.D. Cal. 1995) 901 F.Supp. 294, 299 (approving \$50,000 participation award to a single class representative). The factors that courts may consider in determining whether to make an enhancement payment include: (1) the risk to the class representative in commencing suit, both financial and otherwise; (2) the notoriety and personal difficulties encountered by the class representative; (3) the amount of time and effort spent by the class representative; (4) the duration of the litigation; and (5) the personal benefit (or lack thereof) enjoyed by the class representative as a result of the litigation. *Id.*

The Incentive Payment 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.<sup>86</sup> Plaintiff was available whenever Class Counsel needed her and actively tried to obtain and provide information that would benefit the Class.<sup>87</sup> Accordingly, it is appropriate and just for Plaintiff to receive an Incentive Payment for her services on behalf of the Class, in addition to her Individual Settlement Payment.

**XII. CONCLUSION**

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

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<sup>84</sup> Settlement Agreement, ¶ 40.

<sup>85</sup> *Id.*, ¶ 42.

<sup>86</sup> Hosseini Decl., ¶ 19; Declaration of Courtney Reese in Support of Plaintiff's Motion for Preliminary Approval of Class Action Settlement ("Reese Decl."), ¶ 4.

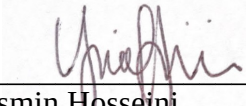
<sup>87</sup> Hosseini Decl., ¶ 19; Reese Decl., ¶¶ 3-6.

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

8  
9 Dated: July 15, 2022

**LAWYERS for JUSTICE, PC**

10  
11 By:

  
Yasmin Hosseini  
Attorneys for Plaintiff