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

SINORA FREELAND, individually, and on
behalf of other members of the general
public similarly situated;

Plaintiff,

vs.

MOMENTUM FOR MENTAL HEALTH,
a California corporation; and DOES 1
through 100, inclusive,

Defendants.

Case No. 21CV376550

Honorable Theodore C. Zayner
Department 19

CLASS ACTION

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

Date: August 6, 2025

Time: 1:30 p.m.

Department: 19

Complaint Filed: February 26, 2021

Trial Date: None Set

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

PLEASE TAKE NOTICE that as soon thereafter as the matter may be heard before the Honorable Theodore C. Zayner in Department 19 of the Superior Court of the State of California, for the County of Santa Clara, 191 N. First Street, San Jose, California 95113, Plaintiff Sinora Freeland (“Plaintiff”) 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 parties’ Joint Stipulation of Class Action and PAGA Settlement and Release of Claims (“Settlement,” “Agreement,” or “Settlement Agreement”), attached as “**EXHIBIT 1**” to the Declaration of Helene Mayer in Support of Plaintiff’s Motion for Preliminary Approval of Class Action and PAGA Settlement;
- Certifying the proposed Class for settlement purposes;
- Appointing Sinora Freeland as Class Representative;
- Appointing Edwin Aiwazian, Arby Aiwazian, Joanna Gosh, and Helene Mayer of Lawyers for Justice, PC as Class Counsel;
- Approving the proposed Notice of Class Action Settlement and Hearing Date for Court Approval (“Class Notice”), attached as “**EXHIBIT A**” to the [Proposed] Order Granting Preliminary Approval of Class Action and PAGA Settlement, and directing the mailing thereof in accordance with the Settlement Agreement;
- Approving Simpluris, Inc., as the Settlement Administrator; and
- Scheduling a hearing to consider final approval of the Settlement.

This Motion is made pursuant to Rule 3.769 of the California Rules of Court, which require approval by the Court of the settlement of a putative class action, and Rule 3.1113(e), which allows the Court to preliminarily certify a class for settlement purposes, and permits 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 (Helene Mayer) and Proposed Class Representative (Sinora Freeland) in support thereof; as well as 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, 2025

LAWYERS for JUSTICE, PC

By: Helene Mayer
Helene Mayer
Attorneys for Plaintiff

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MEMORANDUM OF POINTS AND AUTHORITIES

I. SUMMARY OF MOTION

Plaintiff Sinora Freeland (“Plaintiff” or “Class Representative”) seek preliminary approval of the Joint Stipulation of Class Action and PAGA Settlement and Release of Claims (“Settlement,” “Agreement,” or “Settlement Agreement”) entered into by and between Plaintiff, individually and on behalf of other members of the general public similarly situated and the State of California (as a private attorney general pursuant to the Private Attorneys General Act, Cal. Lab. Code § 2698, *et seq.*), on the one hand, and Defendant Momentum for Mental Health (“Defendant”), on the other hand. Subject to approval by the Court, Plaintiff and Defendant (together, the “Parties”) have agreed to settle the lawsuit for a Total Settlement Amount of \$1,725,000.00.¹

Plaintiff also seeks to provisionally certify the following Class for settlement purposes, which Defendant does not oppose: all current and former non-exempt employees of Defendant in California employed during the Class Period (“Class” or “Class Members”).² Class Members who do not submit a timely and valid Request for Exclusion from the Class Settlement (“Settlement Class Members”) will receive a *pro rata* share of the Net Settlement Amount (“Individual Settlement Payment”).³ The net payment of each Settlement Class Member’s Individual Settlement Payment will be distributed to Settlement Class Members on a *pro rata* basis based upon the number of weeks in which each Class Member actively employed as a non-exempt employee for Defendant in the State of California during the Class Period, calculated by the Settlement Administrator and based on information from Defendant’s records (“Workweeks”).⁴

¹ Settlement Agreement, attached as “**EXHIBIT 1**” to Declaration of Helene Mayer (“Mayer Decl.”), ¶ I.OO. Defendant represented that there were 131,000 Workweeks during the period from February 26, 2017, through October 30, 2023. Should the Workweeks during the Class Period increase by more than 10% of 131,000 (i.e., more than 144,100 Workweeks), Defendant shall have the option to: (1) increase the Net Settlement Amount on a *pro-rata* basis equal to the percentage increase in the number of Workweeks worked by the Class Members above 10%, meaning Defendant will increase the Net Settlement Amount by the percentage amount above 10% (e.g., if the number of Workweeks increase by 11% to 145,410 workweeks, the Net Settlement Amount will increase by 1%); or (2) adjust the end date of the Class Period so that it includes no more than 144,100 workweeks. *See id.*, ¶ IV.CC.

² *Id.*, ¶ I.B.; “Class Period” is defined as the time period from February 26, 2017, through October 30, 2023. *See id.*, ¶ I.F.

³ *Id.*, ¶¶ I.S & I.NN.

⁴ *Id.*, ¶ I.PP.

The Settlement, upon final approval by the Court and funding of the Total Settlement Amount, will operate to resolve the Released Class Claims of Plaintiff and Settlement Class Members and the Released PAGA Claims of the PAGA Group Members and State of California.⁵

II. PROCEDURAL HISTORY AND FACTUAL BACKGROUND

Defendant is a behavioral health care facility that provides a variety of therapy and care services. Defendant's services include addiction treatment, acute outpatient care, adult outpatient care, crisis residential treatment, and adult residential treatment. Defendant provides psychiatric care, individual or group therapy, skill development, and symptom and medication management. Plaintiff is a former employee of Defendant.

On February 26, 2021, Plaintiff filed the Class Action Complaint for Damages (the "Operative Complaint") Case No. 21CV376550 ("*Freeland* Class Action") in the Superior Court for the County of Santa Clara, thereby commencing the above-captioned lawsuit.⁶

On April 12, 2021, Plaintiff provided notice by online submission to the Labor and Workforce Development Agency ("LWDA") and by certified mail to Defendant of the specific provisions of the California Labor Code that were allegedly violated pursuant to California Labor Code § 2699.3 (a) ("LWDA Notice), thereby commencing LWDA Case No. LWDA-CM-829047-21.⁷

On June 16, 2021, Plaintiff filed a Complaint for Enforcement Under the Private Attorneys General Act, California Labor Code § 2698, *Et Seq.* ("PAGA Complaint"), Case No. 21CV384331 ("*Freeland* PAGA Action") (together with the *Freeland* Class Action, the "Actions") in Santa Clara County Superior Court, alleging violations of the Private Attorneys General Act, California Labor Code § 2698, *et seq.*⁸

On July 23, 2021, Defendant filed its Answer to Plaintiff's Class Action Complaint for Damages.⁹

⁵ Settlement Agreement, IV.A & IV.B. *See id.*, at ¶ I.HH, for the full scope of the "Released Class Claims;" *id.*, at ¶ I.II, for the full scope of the "Released PAGA Claims;" and *id.* at ¶ I.JJ for the full scope of the "Released Parties."

⁶ Mayer Decl., ¶ 2.

⁷ *Id.*, ¶ 3.

⁸ *Id.*, ¶ 4.

⁹ *Id.*, ¶ 5.

1 On November 29, 2021, Defendant filed its Answer to Plaintiff's PAGA Complaint.¹⁰

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

13 Class Counsel conducted extensive investigation, discovery, review and analysis of
14 data and documents, and evaluation concerning the claims set forth in the Actions.¹²

15 The Parties have actively litigated the Action since it was commenced on February 26,
16 2021. On April 3, 2023, the Parties participated in arm's-length and informed negotiations with
17 Mediator Amy D. Hogue (ret.) ("Mediator"), a respected mediator of complex wage and hour
18 actions.¹³ With the aid of the Mediator's evaluation, the Parties ultimately reached the Settlement
19 described herein to resolve the Actions in their entirety.¹⁴

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

21 Under the terms of the Settlement, Defendant will pay a Total Settlement Amount of
22 \$1,725,000.00 to resolve the Actions.¹⁵ Subject to approval by the Court, the Net Settlement
23 Amount will be calculated by deducting the following amounts from the Total Settlement Amount:
24 (1) attorneys' fees in an amount not to exceed 35% of the Total Settlement Amount (i.e.,

25
26 ¹⁰ Mayer Decl., ¶ 6.

27 ¹¹ *Id.*, ¶ 17.

28 ¹² *Id.*, ¶ 7.

¹³ *Id.*, ¶ 8.

¹⁴ *Ibid.*

¹⁵ Settlement Agreement, ¶ I.OO.

\$603,750.00, if the Total Settlement Amount remains \$1,725,000.00) and litigation costs and expenses in an amount not to exceed \$30,000.00 (“Class Counsel Award”) to Class Counsel; (2) Settlement Administrator Costs, which are currently estimated not to exceed \$10,000.00 to the Settlement Administrator (“Settlement Administrator Costs”); (3) PAGA Penalty Amount of \$400,000.00 (“PAGA Penalty Amount”); and (4) payment in the amount of up to \$10,000.00 to Plaintiff (“Enhancement Award”).¹⁶ The Parties have agreed to retain Simpluris, Inc., (“Simpluris” or “Settlement Administrator”) to handle the notice and settlement administration process.¹⁷

The Parties have agreed that the Settlement Administrator will determine each Settlement Class Member’s share of the available Net Settlement Amount (“Individual Settlement Payment”)¹⁸, in accordance with the Settlement Agreement as and follows:

1. After preliminary approval of the Settlement, the Settlement Administrator will divide the Net Settlement Amount by the Workweeks of all Class Members to yield the “Estimated Workweek Value,” and multiply each Class Member’s individual Workweeks by the Estimated Workweek Value to yield hers, his, or their estimated Individual Settlement Payment that she, he, or they may be eligible to receive under the Class Settlement.¹⁹
2. After final approval of the Settlement, the Settlement Administrator will divide the final Net Settlement Amount by the Workweeks of all Settlement Class Members to yield the “Final Workweek Value,” and multiply each Settlement Class Member’s individual Workweeks by the Final Workweek Value to yield hers, his, or their estimated Individual Settlement Payment.²⁰

The Parties have agreed that the Settlement Administrator will determine each PAGA Group Member’s share of the 25% share of the PAGA Penalty Amount (“Individual PAGA Payment”)²¹, in accordance with the Settlement Agreement and as follows:

1. The Settlement Administrator will divide the PAGA Group Member Amount, i.e., 25% of the PAGA Penalty Amount, by the total number of Pay Periods of all PAGA Group Members to yield the “PAGA Pay Period Value,” and multiply each PAGA Group Member’s individual Pay Periods by the PAGA Pay Period Value to yield hers, his, or their Individual PAGA Payment.²²

///

¹⁶ Settlement Agreement, ¶ IV.U, IV.V, IV.W, IV.Y.

¹⁷ *Id.*, ¶ I.34.

¹⁸ *Id.*, ¶ I.S.

¹⁹ *Id.*, ¶ IV.Q.a.

²⁰ *Id.*, ¶ IV.Q.b.

²¹ *Id.*, ¶ I.R.

²² *Id.*, ¶ IV.S.

The Parties agree, for purposes of this Settlement, that Individual Settlement Payments will be allocated 20% to wages subject to withholdings and 80% to interest, penalties, and non-wage damages.²³ The Settlement Administrator will withhold the employee's share of taxes and withholdings with respect to the wages portion of the Individual Settlement Payments, and issue checks to Settlement Class Members for their Individual Settlement Payments net these withholdings.²⁴ Individual PAGA Payments to PAGA Group Members will be allocated as 100% penalties and will not be subject to withholdings.²⁵ Defendant will provide the funds for any employer-side taxes related to the Individual Settlement Payments.²⁶

Individual Settlement Payment and Individual PAGA Payment checks shall remain valid and negotiable for 180 calendar days from the date of their issuance, and thereafter, shall be canceled.²⁷ Thereafter, funds from uncashed Individual Settlement Payment and/or Individual PAGA Payment checks shall be distributed by the Settlement Administrator, in accordance with California Code of Civil Procedure section 384, to Mental Health America of California (<https://www.mhac.org>), after the Court enters an order approving the Parties' stipulation to amend the Final Approval Order and Judgment.²⁸ Mental Health America of California is a non-profit organization that assists and encourages communities, families and individuals to experience hope, wellness and recovery from mental health and substance use disorder issues.

Any Class Member may request to be excluded from the Class Settlement by mailing a written letter indicating a request to be excluded from the Class Settlement ("Request for Exclusion") postmarked on or before the date that is 60 calendar days from the date of the initial mailing of the Class Notice by the Settlement Administrator ("Response Deadline").²⁹ PAGA Group Members shall be bound to the PAGA Settlement irrespective of whether they exercise their option to opt out of the Class Settlement.³⁰

²³ Settlement Agreement, ¶ IV.R.

²⁴ *Ibid.*

²⁵ *Id.*, ¶ IV.S.

²⁶ *Id.*, ¶ IV.O.1.

²⁷ *Id.*, ¶ IV.T.

²⁸ *Ibid.*

²⁹ *Id.*, ¶¶ I.KK & I.LL.

³⁰ *Id.*, ¶ IV.L.

Only Class Members who have not submitted a Request for Exclusion (i.e., Settlement Class Members) may object to the Class Settlement by submitting a written objection to the Class Settlement (“Notice of Objection”) to the Settlement Administrator prior to the Response Deadline or by presenting their objection orally at the Final Approval Hearing, regardless of whether they submitted a written objection.³¹

In order to dispute the number of Workweeks attributable to an individual Class Member, that Class Member must submit a written letter disputing the pre-printed information on the Class Notice as to her, his, or their Workweeks during the Class Period (“Workweeks Dispute”) to the Settlement Administrator and include, among other things, copies of any supporting evidence they may have.³²

IV. LEGAL STANDARD FOR PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENTS

The settlement of a class action requires approval by the court. *Dunk v. Ford Motor Co.* (1996) 48 Cal.App.4th 1794, 1800; Cal. Code Civ. Proc. § 1781(f). 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). 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 at the final approval stage. 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

³¹ Settlement Agreement, ¶¶ I.W, I.NN, & IV.M.

³² *Id.*, ¶¶ I.QQ & IV.K.

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.

The trial court has broad discretion to determine whether a proposed settlement is fair under the circumstances of the case. *Dunk*, 48 Cal.App.4th at 1800. 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*, 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*, 91 Cal.App.4th at 245. Furthermore, courts must give "proper deference to the private consensual decision of the parties." *Hanlon*, 150 F.3d at 1027 (citation omitted).

The proponent of the settlement has the burden to show that it is fair and reasonable. *Wershba*, 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*, 48 Cal.App.4th at 1802; *7-Eleven Owners for Fair Franchising v. Southland Corp.* (2000) 85 Cal.App.4th 1135, 1151.

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

The Parties have actively litigated the Actions since the *Freeland* Class Action commenced on February 26, 2021. Both sides investigated the veracity, strength, and scope of the claims throughout the case, and Class Counsel was actively preparing the matter for class certification and trial.³³

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 of

³³ Mayer Decl., ¶ 25.

1 a large volume of documents and data from Plaintiff, Defendant, and other sources.³⁴ The volume
2 of data and documents that Class Counsel reviewed and analyzed included and was not limited to:
3 a sampling of Class Members' time and payroll data, Plaintiff's personnel records, earning
4 statements, company policy acknowledgements (e.g., Meal and Rest Period Policy and
5 Acknowledgement), job descriptions, Defendant's operations and employment practice, policies,
6 and procedures (e.g., Expense Reimbursement Form, Meal Periods and Rest Periods, Arbitration
7 Agreement, Agreement to Waive Off Duty Meal Break on NOC Shift, Personnel Policy
8 Guidelines, Attendance and Reporting Time, Standards of Performance and Discipline, Training
9 and Education, Work Week and Overtime Compensation, Time Cards and Time Clock, Final
10 Paycheck, Cellular Telephones, Service Employees International Union Local 2019-2022
11 Collective Bargaining Agreement with Momentum for Mental Health), among other information
12 and documents.³⁵ Class Counsel had the opportunity to interview Plaintiff and others to gather
13 facts and to identify potential witnesses.³⁶ Class Counsel served multiple sets of formal written
14 discovery requests, including Requests for Production of Documents (Set One); Special
15 Interrogatories (Sets One and Two); and Form Interrogatories - General (Set One), on Defendant
16 and reviewed Defendant's responses thereto.³⁷ Class Counsel noticed the deposition of
17 Defendant's person most knowledgeable regarding job duties and organizational structure.³⁸ Class
18 Counsel prepared Plaintiff's responses to the formal written discovery requests served by
19 Defendant on Plaintiff, including Requests for Production of Documents (Set One).³⁹ Class
20 Counsel also prepared for and defended the deposition of Plaintiff.⁴⁰ Counsel for the Parties also
21 met and conferred on numerous occasions, e.g., to discuss issues relating to the pleadings,
22 discovery, and the production of documents and data prior to the mediation.⁴¹ Class Counsel also
23 drafted pleadings and the mediation brief and prepared for and attended court proceedings,
24

25 ³⁴ Mayer Decl., ¶ 26.

26 ³⁵ Ibid.

27 ³⁶ Ibid.

28 ³⁷ Ibid.

³⁸ Ibid.

³⁹ Ibid.

⁴⁰ Ibid.

⁴¹ Ibid.

mediation, and settlement negotiations, among other tasks.⁴² In addition, Class Counsel has extensive experience in California wage-and-hour class actions.⁴³

The Parties engaged in extensive settlement negotiations and participated in a full-day mediation, conducted by Amy D. Hogue (ret.), a well-respected mediator experienced in mediating complex labor and employment matters.⁴⁴ Prior to and during the mediation and settlement discussions, 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, the risks and delays of further litigation, including the risks of proceeding with class certification and/or representative adjudication; the law relating to off-the-clock theory, regular rate, meal and rest periods, PAGA representative claims, and wage-and-hour enforcement; the evidence produced and analyzed; and the possibility of appeals.⁴⁵ During all settlement discussions, the Parties conducted their negotiations at arm's length in an adversarial position.⁴⁶ Arriving at a settlement that was acceptable to both Parties was not easy. Both sides felt strongly about their ability to prevail at certification and at trial.⁴⁷ After conducting investigations, informal discovery, extensive settlement negotiations, and with the aid of the mediator's evaluation, the Parties have agreed that the matter is well-suited for settlement given the legal issues relating to Plaintiff's principal claims, as well as the costs and risks to both sides that would attend further litigation.⁴⁸

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

The Settlement represents a fair, adequate, and reasonable resolution of the matter.⁴⁹ The Settlement was calculated using the information and data uncovered during litigation, case investigation, and the formal and informal exchange of information.⁵⁰ The Settlement takes into account the potential risks and rewards inherent in any case and, in particular, in the matter at issue. Moreover, considering all of the facts and circumstances of the case, the Settlement

⁴² Mayer Decl., ¶ 26.

⁴³ *Id.*, ¶¶ 19-23.

⁴⁴ *Id.*, ¶ 25.

⁴⁵ *Ibid.*

⁴⁶ *Ibid.*

⁴⁷ *Ibid.*

⁴⁸ *Ibid.*

⁴⁹ *Id.*, ¶ 30.

⁵⁰ *Id.*, ¶¶ 25-26.

represents a fair, reasonable, and adequate recovery for the Class.⁵¹

Assuming that the Class Counsel Award, Enhancement Award, PAGA Penalty Amount, and Settlement Administrator Costs are approved by the Court and paid in the full amounts provided for by the Settlement, the Settlement provides for a Net Settlement Amount that is currently estimated to be \$671,250.00.⁵² Additionally, 25% of the PAGA Penalty Amount (i.e., PAGA Group Member Amount), which is \$100,000.00 of \$400,000.00, will be distributed to the PAGA Group Members.⁵³ The entire Net Settlement Amount will be fully paid out to the Settlement Class Members, in accordance with the Settlement Agreement.⁵⁴

The amount of each Settlement Class Member's Individual Settlement Payment and each PAGA Group Member's Individual PAGA Payment will be calculated based on his or her Workweeks and/or PAGA Pay Periods during the Class Period and PAGA Period, respectively.⁵⁵ "An 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. Here, the allocation is reasonably related to the number of Workweeks during the Class Period and/or PAGA Pay Periods actually worked for Defendant during the relevant period and should be approved.

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, PAGA Group Members, and the State of California.⁵⁶ 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.

⁵¹ Mayer Decl., ¶ 30.

⁵² *Id.*, ¶ 10.

⁵³ *Ibid.*

⁵⁴ *Ibid.*

⁵⁵ Settlement Agreement, ¶ IV.Q & IV.Y.

⁵⁶ Mayer Decl., ¶ 30.

1 **V. CERTIFICATION OF THE CLASS IS APPROPRIATE**

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

9 **A. The Class Is Ascertainable and Sufficiently Numerous.**

10 “Ascertaining is required in order to give notice to putative class members as to whom
11 the judgment in the action will be *res judicata*.” *Hicks v. Kaufman & Broad Home Corp.* (2001)
12 89 Cal.App.4th 908, 914. “A class is ascertainable if it identifies a group of unnamed Plaintiffs by
13 describing a set of common characteristics sufficient to allow a member of that group to identify
14 himself or herself as having a right to recover based on the description.” *Bartold v. Glendale*
15 *Federal Bank* (2000) 81 Cal.App.4th 816, 828. The proposed Class must also be sufficiently
16 numerous. *Linder v. Thrifty Oil Co.* (2000) 23 Cal.4th 429, 435; *see also Rose v. City of Hayward*
17 (1981) 126 Cal.App.3d 926, 934-35 (indicating that a class of 30 to 40 individuals satisfies the
18 numerosity requirement as joinder is not practical at that point). At the time of mediation, the Class
19 was estimated to be approximately 1,150 individuals, which is sufficiently numerous.⁵⁸ Further,
20 all Class Members can and will be identified by Defendant to the Settlement Administrator through
21 a review of Defendant’s employment records regarding non-exempt employees of Defendant in
22 California during the Class Period. As such, the Class is ascertainable.⁵⁹

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

24 The community of interest requirement “embodies three factors: (1) predominant common
25 questions of law or fact; (2) Class Representative with claims or defenses typical of the class; and
26 (3) Class Representative who can adequately represent the class.” *Sav-On, supra*, 34 Cal.4th at

27 ⁵⁷ Settlement Agreement, ¶ III.

28 ⁵⁸ Mayer Decl., ¶ 16.

⁵⁹ *Id.*, ¶ 15.

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*, 34 Cal.4th at 333).

Here, common issues of law and fact predominate as to each of the claims alleged and asserted in the Actions. Based on the documents and information obtained through formal and informal discovery and exchange of information in the case, Plaintiff contends that Class Members performed similar job duties and were subject to uniform operations and employment policies, practices, and procedures during the Class Period, including payroll and recordkeeping practices.⁶⁰ 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.⁶¹ 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.⁶²

As a member of the Class who was subject to these same policies, practices, and procedures, Plaintiff’s claims are typical of the Class. Moreover, Plaintiff has no interests adverse to the Class. Plaintiff has taken steps to initiate and maintain this action and to ensure that it comes to a fair and reasonable resolution.⁶³ Importantly, Plaintiff has retained a law firm well-versed in wage and hour class actions, which has at all times represented the best interests of Plaintiff and the Class.⁶⁴

Accordingly, the proposed Class shares a community of interest, and the Court should certify the Class for settlement purposes only.

⁶⁰ Mayer Decl., ¶ 17.

⁶¹ *Ibid.*

⁶² *Ibid.*

⁶³ Declaration of Sinora Freeland in Support of Plaintiff’s Motion for Preliminary Approval of Class Action Settlement (“Freeland Decl.”), ¶¶ 2-6.

⁶⁴ Mayer Decl., ¶¶ 19-23.

VI. APPOINTMENT OF CLASS COUNSEL AND ALLOCATION FOR CLASS COUNSEL AWARD

Class Counsel has litigated the matter for over three years and was actively preparing the matter for class certification and trial.⁶⁵ The ongoing work has been extensive, demanding, and ultimately successful in achieving a substantial settlement resolution. Class Counsel reviewed a large volume of documents and data and also interviewed and obtained information from Plaintiff and other percipient witnesses, 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 the mediation.⁶⁶ Counsel for the Parties also undertook extensive settlement discussions, which included participating in mediation.⁶⁷ Class Counsel is well-experienced in wage-and-hour class action litigation and used that experience to obtain a great result for the Class.⁶⁸

The Settlement establishes a Total Settlement Amount of \$1,725,000.00, and provides for Class Counsel to apply to the Court consisting of attorneys' fees in an amount up to 35% of the Total Settlement Amount (i.e., \$603,750.00 if the Total Settlement Amount remains \$1,725,000.00), and reimbursement of actual costs and expenses in an amount up to \$30,000.00.⁶⁹ The attorneys' fees provided for by the Settlement are commensurate with: (1) the risk that Class Counsel took in bringing and litigating the case, (2) the extensive time, effort and expense that Class Counsel dedicated to the case, (3) the skill and determination that Class Counsel has shown, (4) the results that Class Counsel has achieved throughout the litigation, (5) the value of the Settlement that Class Counsel has achieved for the Class Members, and (6) the other cases that Class Counsel had to turn down in order to devote its time and efforts to this matter. The proposed Class Notice provides Class Members that an award of the Class Counsel Award will be sought and the amount allocated toward the Class Counsel Award by the Settlement.⁷⁰

⁶⁵ *Id.*, ¶ 25.

⁶⁶ *Id.*, ¶ 26.

⁶⁷ *Id.*, ¶ 25.

⁶⁸ *Id.*, ¶¶ 19-23.

⁶⁹ Settlement Agreement, ¶ IV.V.

⁷⁰ Settlement Agreement, Exh. A.

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

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

19 Historically, courts have awarded fees as high as fifty percent (50%) of the settlement,
20 depending on the circumstances of the case. *Newberg*, § 14.03; *see also In re Ampicillin Antitrust*
21 *Litig.* (D.D.C. 1981) 526 F.Supp. 494 (awarding attorneys’ fees in the amount of 45% of the \$7.3
22 million settlement); *Beech Cinema, Inc. v. Twentieth-Century Fox Film Corp.* (S.D.N.Y. 1979)
23 480 F.Supp. 1195 (awarding approximately 53% of the settlement as attorneys’ fees). California
24 courts routinely approve class action attorneys’ fee awards “averag[ing] around one-third of the
25 recovery.” *Chavez v. Netflix, Inc.* (2008) 162 Cal.App.4th 43, 66 n.11 (lower court found 20 to 40
26 percent range of contingency fee in marketplace was appropriate in class actions); *see also Estrada*
27 *v. Dr. Pepper/Seven-Up*, Los Angeles County Superior Court Case No. BC262247 (May 2005)
28 (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.⁷¹ 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 Class Counsel Award at the Final Approval Hearing. Considering the work performed and the risks incurred, the attorneys' fees provided for by the Settlement are well within the range of reasonableness for preliminary approval.

VII. THE PROPOSED CLASS NOTICE IS ADEQUATE

California statutory authority 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). "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 describes the Settlement, the deadlines and procedures to object to the Class Settlement, opt out the Class Settlement, and/or dispute Workweeks, and the date and time set for the Final Approval Hearing.⁷² The proposed Class Notice summarizes the proceedings to date and the terms and conditions of the Settlement in an informative and coherent manner.⁷³ The proposed Class Notice recognizes that the Court has not yet granted final approval of the Settlement.⁷⁴ The proposed Class Notice also apprises the Class Members and PAGA Group Members of, *inter alia*, how their Individual Settlement Payment and, if applicable, Individual PAGA Payment is calculated and the number of Workweeks and/or PAGA Pay Periods credited

⁷¹ Mayer Decl., ¶ 11.

⁷² Settlement Agreement, Exh. A.

⁷³ Ibid.

⁷⁴ Settlement Agreement, Exh. A.

1 to them.⁷⁵ The proposed Class Notice fulfills the requirement of neutrality in notice procedure.
2 *Newberg*, at § 8.39.

3 Thus, the proposed Class Notice satisfies all due process requirements and complies with
4 the standards of fairness, completeness, and neutrality. Fed. R. Civ. P. 23(c)(2) and 23(e);
5 *Newberg*, §§ 8.21, 8.39; *Manual*, §§ 21.311, 21.312; see also *Cartt*, *supra*, 50 Cal.App.3d at 960.
6 Accordingly, the Court should approve the proposed Class Notice.

7 **VIII. APPOINTMENT OF THE SETTLEMENT ADMINISTRATOR**

8 The Parties have selected Simpluris, Inc. as the Settlement Administrator. Within 14
9 calendar days of receipt of the Class Data and List, the Settlement Administrator shall mail copies
10 of the Class Notice to all Class Members via regular First-Class U.S. Mail with a return postage-
11 paid envelope.⁷⁶ The Settlement Administrator shall exercise its best judgment to determine the
12 current mailing address for each Class Member, including performing a skip-trace to identify any
13 updated addresses.⁷⁷ Class Members who receive a re-mailed Class Notice shall have their
14 Response Deadline extended by the longer of 14 calendar days from the date of re-mailing or the
15 remaining original Response Deadline period.⁷⁸ The Administrator will receive and process
16 Requests for Exclusion, Notices of Objection, or Workweeks Disputes.⁷⁹ In addition, the
17 Settlement Administrator will be responsible processing and mailing payments to Plaintiff, Class
18 Counsel, Settlement Class Members, and PAGA Group Members; printing, and mailing Class
19 Notices and tax forms to the Class Members and PAGA Group Members as directed by the Court;
20 providing declaration(s) as necessary in support of preliminary and/or final approval of this
21 Settlement; and other tasks as the Parties mutually agree or the Court orders the Settlement
22 Administrator to perform.⁸⁰ The Settlement Administration Costs are currently estimated to be
23 \$10,000.00 and will be paid out of the Total Settlement Amount, subject to approval by the Court.⁸¹
24 Accordingly, Plaintiff respectfully requests that the Court appoint Simpluris, Inc., as the

25 _____
26 ⁷⁵ Ibid.

27 ⁷⁶ *Id.*, ¶ IV.I.

28 ⁷⁷ Ibid.

⁷⁸ *Id.*, ¶ IV.J.

⁷⁹ *Id.*, ¶ IV.X.

⁸⁰ Settlement Agreement, ¶ IV.X.

⁸¹ *Id.*, ¶ IMM.

Settlement Administrator and direct the mailing of the Class Notice to the Class Members and PAGA Group Members in the manner outlined and based on the proposed deadlines as described herein and set forth in the Settlement Agreement.

IX. CLASS REPRESENTATIVE ENHANCEMENT AWARD

Plaintiff respectfully requests that the Court appoint her as the Class Representative and preliminarily approve the Enhancement Award in an amount up to \$10,000.00.⁸² It is within the Court's discretion to award payment to a Class Representative for her efforts and work. *Vranken v. Atlantic Richfield Co.* (N.D. Cal. 1995) 901 F.Supp. 294, 299. 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 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.⁸³ Plaintiff was available whenever Class Counsel needed her and actively tried to obtain and provide information that would facilitate the pursuit of class and PAGA claims.⁸⁴ Plaintiff spend significant time preparing responses and producing documents in response to Defendant's formal discovery request.⁸⁵ In addition, Plaintiff prepared for and attended a deposition.⁸⁶ Accordingly, it is appropriate and just for Plaintiff to receive an Enhancement Award for her services on behalf of the Class, PAGA Group Members, and the State of California, in addition to her individual settlement payments.

X. CONCLUSION

For the foregoing reasons, Plaintiff respectfully requests that the Court grant Preliminary Approval of the Settlement; conditionally certify the Class for settlement purposes; appoint

⁸² *Id.*, ¶ I.L.

⁸³ Mayer Decl., ¶ 12; Freeland Decl., ¶¶ 2-6.

⁸⁴ *Ibid.*

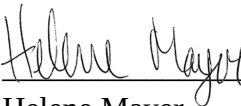
⁸⁵ Mayer Decl., ¶ 12; Freeland Decl., ¶ 4.

⁸⁶ *Ibid.*

Lawyers *for* Justice, PC as Class Counsel; appoint Plaintiff Sinora Freeland as Class Representative; appoint Simpluris, Inc., as Settlement Administrator; preliminarily approve the allocations for Class Counsel Award, Enhancement Award, PAGA Penalty Amount, and Settlement Administrator Costs; 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; and to schedule a Final Approval Hearing to take place in approximately 6 months.

Dated: February 27, 2025

LAWYERS *for* JUSTICE, PC

By: 
Helene Mayer
Attorneys for Plaintiff