Arby Aiwazian (SBN 269827)
Joanna Ghosh (SBN 272479)
Helene Mayer (SBN 332975)
LAWYERS *for* JUSTICE, PC
450 North Brand Blvd., Suite 900
Glendale, California 91203
Tel: (818) 265-1020 / Fax: (818) 265-1021

Attorneys for Plaintiffs

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN FRANCISCO

FEMI JORDAN, DEJEINER KING, 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;

Plaintiffs,

vs.

LARKIN STREET YOUTH SERVICES, a California corporation; and DOES 1 through 100, inclusive,

Defendants.

Case No. CGC-21-589670

Honorable Richard B. Ulmer Jr.
Department 302

CLASS ACTION

PLAINTIFFS' NOTICE OF MOTION AND MOTION FOR PRELIMINARY APPROVAL OF CLASS AND PAGA ACTION SETTLEMENT AND RELEASE; MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT THEREOF

Date:	March 5, 2025
Time:	9:00 a.m.
Department:	302
Complaint Filed:	February 19, 2021
Trial Date:	None Set

LAWYERS *for* JUSTICE, PC
450 North Brand Blvd., Suite 900
Glendale, California 91203

LAWYERS *for* JUSTICE, PC
450 North Brand Blvd., Suite 900
Glendale, California 91203

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

PLEASE TAKE NOTICE that on March 5, 2025 at 9:00 a.m., or as soon thereafter as the matter may be heard before the Honorable Richard B. Ulmer Jr. in Department 302 of the Superior Court of the State of California, for the County of San Francisco, 400 McAllister Street, San Francisco, California 94102, Plaintiff Femi Jordan and Plaintiff Dejeiner King ("Plaintiffs") will, and hereby does, move for an order:

- Granting preliminary approval of the proposed class and PAGA action settlement described herein and as set forth in the parties' Class and PAGA Action Settlement and Release Agreement ("Settlement," "Agreement," or "Settlement Agreement"), attached as "**EXHIBIT 3**" to the Declaration of Helene Mayer in Support of Plaintiffs' Motion for Preliminary Approval of Class and PAGA Action Settlement and Release;
- Certifying the proposed Class for settlement purposes;
- Appointing Femi Jordan and Dejeiner King as Class Representatives;
- Appointing Arby Aiwazian, Joanna Ghosh, and Helene Mayer of 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 and PAGA Action Settlement and Release, 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 Representatives (Femi Jordan and Dejeiner King) 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 7, 2025

LAWYERS *for* JUSTICE, PC

By: Helene Mayer

Helene Mayer
Attorneys for Plaintiffs

LAWYERS *for* JUSTICE, PC
450 North Brand Blvd., Suite 900
Glendale, California 91203

Table of Contents

LAWYERS *for* JUSTICE, PC
450 North Brand Blvd., Suite 900
Glendale, California 91203

LAWYERS *for* JUSTICE, PC
450 North Brand Blvd., Suite 900
Glendale, California 91203

TABLE OF AUTHORITIES

Cases

Statutes

Other Authorities

Rules

LAWYERS *for* JUSTICE, PC
450 North Brand Blvd., Suite 900
Glendale, California 91203

LAWYERS *for* JUSTICE, PC
450 North Brand Blvd., Suite 900
Glendale, California 91203

MEMORANDUM OF POINTS AND AUTHORITIES

I. SUMMARY OF MOTION

Plaintiff Femi Jordan ("Plaintiff Jordan") and Plaintiff Dejeiner King ("Plaintiff King") (together, "Plaintiffs" or "Class Representatives") seek preliminary approval of the Class and PAGA Action Settlement and Release ("Settlement," "Agreement," or "Settlement Agreement") entered into by and between Plaintiffs, individually and on behalf of all others similarly situated and other aggrieved employees, on the one hand, and Defendant Larkin Street Youth Services ("Defendant"), on the other hand. Subject to approval by the Court, Plaintiffs and Defendant (together, the "Parties") have agreed to settle the lawsuit for a Gross Settlement Amount of $700,000.00.[1]

Plaintiffs also seek to provisionally certify the following Class for settlement purposes, which Defendant does not oppose: All current or former hourly-paid or non-exempt employees of Defendant in California employed at any time 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 ("Participating Class Members") will receive a *pro rata* share of the Net Settlement Amount ("Individual Settlement Share"). The net payment of each Participating Class Member's Individual Settlement Share ("Individual Settlement Payment") will be distributed to Participating Class Members on a *pro rata* basis based upon the number of weeks each Class Member was employed by Defendant as an hourly-paid or non-exempt employee in California during the Class Period ("Workweeks").[3] Aggrieved Employees will also receive a *pro rata* share of the PAGA Fund ("Individual PAGA Payment") based upon the number of Workweeks during the PAGA Period.[4]

The Settlement, upon final approval by the Court and funding of the Gross Settlement Amount, will operate to resolve the Released Class Claims of Plaintiffs and Participating Class

---

[1] Settlement Agreement, attached as **Exhibit 3** to the Declaration of Helene Mayer ("Mayer Decl."), ¶ 4.1.
[2] Settlement Agreement ¶ 1.5; "Class Period" is defined as the time period from February 19, 2017 through the date of Preliminary Approval. See *id.* ¶ 1.7.
[3] *Id.* ¶¶ 6.1 & 7.3.
[4] *Id.* ¶ 7.4

Members and the Released PAGA Claims of the State of California and Aggrieved Employees.[5]

II. PROCEDURAL HISTORY AND FACTUAL BACKGROUND

Defendant is a non-profit provider for young people experiencing homelessness based in San Francisco, California. Plaintiffs are former employees of Defendant.

On December 10, 2020, Plaintiff Jordan provided written notice by certified mail to the LWDA and Defendant of the specific provisions of the California Labor Code that were alleged to be violated ("Jordan PAGA Notice").[6] On February 19, 2021, Plaintiff Jordan filed the Class Action Complaint for Damages in the Superior Court for the County of San Francisco, Case No. CGC-21-589670, thereby commencing the above-captioned lawsuit ("*Jordan* Class Action").[7] On February 24, 2021, Plaintiff Jordan filed a Complaint for Enforcement under the Private Attorneys General Act, California Labor Code § 2698, Et Seq. in the Superior Court for the County of San Francisco, Case No. CGC-21-589915 ("*Jordan* PAGA Action").[8]

On April 7, 2021, Plaintiff King provided written notice by certified mail to the LWDA and Defendant of the specific provisions of the California Labor Code that were alleged to be violated ("King PAGA Notice").[9]

On April 21, 2021, Defendant filed its Answers to Plaintiff Jordan's Class Action Complaint for Damages and Complaint for Enforcement under the Private Attorneys General Act, California Labor Code § 2698, Et Seq., separately.[10]

On June 24, 2021, Plaintiff King filed a Class Action Complaint for Damages & Enforcement Under the Private Attorneys General Act, California Labor Code § 2698, Et Seq. in the Superior Court for the County of San Francisco, Case No. CGC-21-592514 ("*King* Action").[11]

In order to effectuate the terms of the Settlement, the Parties have agreed to consolidate the Actions and deem the *Jordan* Class Action the lead case.[12]

---

[5] See Settlement Agreement ¶ 8.3, for the full scope of the "Released Class Claims;" see *id.* ¶ 8.4, for the full scope of the "Released PAGA Claims;" and *id.* ¶ 1.36, for the full scope of the "Released Parties."
[6] Mayer Decl. ¶ 2 (A true and correct copy of the *Jordan* PAGA Notice is attached as **Exhibit 1** to Mayer Decl.).
[7] *Id.* ¶ 3.
[8] *Id.* ¶ 4.
[9] *Id.* ¶ 5 (A true and correct copy of the *King* PAGA Notice is attached as **Exhibit 2** to Mayer Decl.).
[10] *Id.* ¶ 6.
[11] *Id.* ¶ 7.
[12] *Id.* ¶ 8.

LAWYERS *for* JUSTICE, PC
450 North Brand Blvd., Suite 900
Glendale, California 91203

Plaintiffs' core allegations are that Defendant has violated California wage and hour law, including but not limited to laws set forth in the California Labor Code, by engaging in a uniform practice and procedure, with respect to Plaintiffs, Class Members, and Aggrieved Employees of, *inter alia*, failing to pay all overtime and minimum wages, at all or at the correct rate of pay, failing to provide compliant meal and rest periods and associated premium pay, failing to timely pay wages during employment and upon termination of employment, failing to provide compliant wage statements, failing to maintain requisite payroll records, and failing to reimburse necessary business expenses, and thereby engaged in unfair business practices in violation of California Business and Professions Code section 17200, *et seq*. and conduct that gives rise to penalties pursuant to PAGA. Plaintiffs contend that they, the Class Members, and Aggrieved Employees are entitled to, *inter alia*, unpaid wages, interest, restitution, penalties (including and not limited to, penalties pursuant to PAGA), and attorneys' fees and costs.

The Parties have actively litigated the Action since it was commenced on February 19, 2021. On April 25, 2022, the Parties participated in arm's-length and informed negotiations with Honorable Raul A. Ramirez (Ret.) ("Mediator"), a respected mediator of complex wage and hour actions. After ongoing settlement negotiations, on May 2, 2022, the Parties ultimately reached the Settlement described herein to resolve the Actions in their entirety.[13]

III. <u>SUMMARY OF THE SETTLEMENT TERMS</u>

Under the terms of the Settlement, Defendant will pay a Gross Settlement Amount of $700,000.00 to resolve the Actions.[14] Subject to approval by the Court, the Net Settlement Amount will be calculated by deducting the following amounts from the Gross Settlement Amount: (1) attorneys' fees in an amount not to exceed 35% of the Gross Settlement Amount (i.e., $245,000.00) and litigation costs and expenses in an amount not to exceed $35,000.00 ("Attorneys' Fees and Costs") to Class Counsel; (2) Settlement Administration Costs, which are currently estimated not to exceed $7,500.00 to the Settlement Administrator ("Settlement Administration Costs"); (3) Allocation of $185,000.00 to the PAGA Settlement ("PAGA Settlement Amount"); and (4)

[13] Mayer Decl. ¶ 25.
[14] Settlement Agreement ¶ 4.1.

LAWYERS *for* JUSTICE, PC
450 North Brand Blvd., Suite 900
Glendale, California 91203

payment in the amount of up to $7,500.00 to each of the Plaintiffs, for a total of $15,000.00 ("Class Representative Enhancement Awards").[15] The Gross Settlement Amount will be paid in three payments: $250,000.000 plus Employer Taxes paid within 14 days of the Effective Date ("Payment 1"), $250,000.00 paid within one year of Payment 1 ("Payment 2"), and $200,000.00 paid within two years of Payment 1 ("Payment 3").[16] Individual Settlement Payments and the Class Representative Enhancement Awards will be distributed within 15 days after Payment 1. The PAGA Settlement Amount and Settlement Administration Costs will be distributed within 15 days of Payment 2. The Attorneys' Fees and Costs will be distributed 15 days after Payment 3.[17]

The Parties have agreed to retain Simpluris, Inc. ("Simpluris" or "Settlement Administrator") to handle the notice and settlement administration process.[18] The Parties have agreed that the Settlement Administrator will determine each Participating Class Member's share of the available Net Settlement Amount ("Individual Settlement Share"), in accordance with the Settlement Agreement on a *pro rata* per Workweek basis, which will be adjusted after Final Approval to reflect the total Workweeks worked by the Participating Class Members.[19] The Parties have agreed that the Settlement Administrator will determine each Aggrieved Employees' share of the 25% share of the PAGA Settlement Amount ("Individual PAGA Payment"), in accordance with the Settlement Agreement on a *pro rata* per Workweek basis.[20]

The Parties agree, for purposes of this Settlement, that Individual Settlement Shares will be allocated 33.33% to wages subject to withholdings and 66.66% to penalties, interest, and non-wage damages.[21] The Settlement Administrator will withhold the employees' share of taxes and withholdings with respect to the wages portion of the Individual Settlement Shares, and issue checks to Participating Class Members for their Individual Settlement Payments. Individual PAGA Payments to Aggrieved Employees will be allocated as 100% penalties and will not be subject to withholdings. Defendant will provide the funds for any employer-side taxes related to the

[15] Settlement Agreement ¶¶ 4.2–4.6.
[16] *Id.* ¶ 7.2.
[17] Ibid.
[18] *Id.* ¶ 4.4.
[19] *Id.* ¶ 7.3.
[20] *Id.* ¶ 7.4
[21] *Id.* ¶ 7.3.3.

LAWYERS *for* JUSTICE, PC
450 North Brand Blvd., Suite 900
Glendale, California 91203

LAWYERS *for* JUSTICE, PC
450 North Brand Blvd., Suite 900
Glendale, California 91203

Individual Settlement Shares.[22]

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.[23] Thereafter, funds from uncashed Individual Settlement Payment and/or Individual PAGA Payment checks shall be paid to the *cy pres*, CASA of Alameda County.[24]

Any Class Member may request to be excluded from the Class Settlement by mailing a Request for Exclusion postmarked on or before the date that is 90 calendar days from the date of the initial mailing of the Class Notice by the Settlement Administrator ("Response Deadline").[25] Aggrieved Employees shall be bound to the PAGA Settlement irrespective of whether they exercise their option to opt out of the Class Settlement.[26]

Only Class Members who have not submitted a Request for Exclusion (i.e., Participating Class Members) may object to the Class Settlement by submitting a written Objection to the Settlement Administrator, by mail, prior to the Response Deadline or, in addition to submitting a written Objection, by presenting their objection orally at the Final Approval Hearing, without any prior notice.[27]

In order to dispute the number of Workweeks attributable to an individual Class Member and/or Aggrieved Employee, that Class Member and/or Aggrieved Employee must submit a written dispute letter to the Settlement Administrator that includes information and/or documentation demonstrating that the number of Workweeks he or she contends should be credited to him or her is correct.[28]

IV. <u>LEGAL STANDARD FOR PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENTS</u>

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

---

[22] Settlement Agreement ¶ 7.3.3.
[23] *Id.* ¶¶ 7.3.4 & 7.4.1.
[24] *Id.* ¶¶ 1.12, 7.3.5, & 7.4.1.
[25] *Id.* ¶¶ 1.38 & 6.1.
[26] *Id.* ¶ 6.1.
[27] *Id.* ¶ 6.2.
[28] *Id.* ¶ 6.3.

LAWYERS *for* JUSTICE, PC
450 North Brand Blvd., Suite 900
Glendale, California 91203

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 informal application by the settling parties and may conduct any necessary hearing in court or in chambers, at the court's discretion. *Newberg* § 11.25.

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

The trial court has broad 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 v. Apple Computer, Inc.* (2001) 91 Cal.App.4th 224, 245. Furthermore, courts must give "proper deference to the private consensual decision of the parties." *Hanlon v. Chrysler Corp.* (9th Cir. 1998) 150 F.3d 1011, 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 Action since it commenced on February 19, 2021. Both sides investigated the veracity, strength, and scope of the claims throughout the case.[29]

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 a large volume of documents and data from Plaintiffs, Defendant, and other sources.[30] On May 6, 2021, Class Counsel propounded multiple sets of discovery requests on Defendant for the *Jordan* PAGA Action, including Requests for Production of Documents (Set One), Special Interrogatories (Sets One and Two), and Form Interrogatories—General (Set One).[31] The volume of data and documents that Class Counsel reviewed and analyzed included and was not limited to: a sampling of 25% of Class Members' time and payroll data, Plaintiffs' time and payroll records, Defendant's Employee Handbook, job descriptions, agreements (including Dispute Resolution/Arbitration Agreement, On-Duty Meal Period Agreement, and multiple iterations of Service Employees International Union Local 1021 Collective Bargaining Agreement with Larkin Street Youth Services), Defendant's operations and employment practice, policies, and procedures (including policies on Overtime and Double Time for Non-Exempt Employees, Meal and Rest Periods, Payroll Errors, Time Records, and procedure for use of cellular/wireless telephones), among other information and documents.[32] Class Counsel had the opportunity to interview Plaintiffs and others to gather facts and to identify potential witnesses. In addition, Class Counsel has extensive

[29] Mayer Decl. ¶¶ 25-26.
[30] *Id.* ¶ 26.
[31] Ibid.
[32] Mayer Decl. ¶ 26.

LAWYERS *for* JUSTICE, PC
450 North Brand Blvd., Suite 900
Glendale, California 91203

experience in California wage-and-hour class actions.[33]

The Parties engaged in extensive settlement negotiations and participated in a full-day mediation, conducted by Honorable Raul A. Ramirez (Ret.), a well-respected mediator experienced in mediating complex labor and employment matters.[34] 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, arbitration agreements, collective bargaining agreements, regular rate, meal and rest periods, business expense reimbursements, PAGA representative claims, and wage-and-hour enforcement; the evidence produced and analyzed; and the possibility of appeals.[35] During all settlement discussions, the Parties conducted their negotiations at arm's length in an adversarial position.[36] 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.[37] After conducting investigations, 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 Plaintiffs' principal claims, as well as the costs and risks to both sides that would attend further litigation.[38]

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

The Settlement represents a fair, adequate, and reasonable resolution of the matter.[39] The Settlement was calculated using the information and data uncovered during litigation, case investigation, and the informal exchange of information.[40] The Settlement takes into account the potential risks and rewards inherent in any case and, in particular, in the matter at issue. Moreover,

[33] *Id.* ¶¶ 19-23.
[34] *Id.* ¶ 25.
[35] Ibid.
[36] Ibid.
[37] Mayer Decl. ¶ 25.
[38] Ibid.
[39] *Id.* ¶ 30.
[40] *Id.* ¶ 25.

LAWYERS *for* JUSTICE, PC
450 North Brand Blvd., Suite 900
Glendale, California 91203

considering all of the facts and circumstances of the case, the Settlement represents a fair, reasonable, and adequate recovery for the Class.[41]

Assuming that the Attorneys' Fees and Costs, Class Representative Enhancement Awards, PAGA Settlement Amount, and Settlement Administration Costs are approved by the Court and paid in the full amounts provided for by the Settlement, the Settlement provides for a Net Settlement Amount that is currently estimated to be $212,500.00.[42] Additionally, 25% of the PAGA Settlement Amount ("PAGA Fund"), which is $46,250.00 out of $185,000.00, will be distributed to the Aggrieved Employees (i.e., Individual PAGA Payments). The entire Net Settlement Amount will be fully paid out to the Participating Class Members, in accordance with the Settlement Agreement.

The amount of each Participating Class Member's Individual Settlement Payment and each Aggrieved Employee's Individual PAGA Payment will be calculated based on his or her Workweeks during the Class Period and PAGA Period, respectively.[43] "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 employed by 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, Aggrieved Employees, and the State of California.[44] 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.

---

[41] *Id.* ¶¶ 25-29.
[42] *Id.* ¶ 12.
[43] Settlement Agreement ¶¶ 7.3 & 7.4.
[44] Mayer Decl. ¶ 30.

LAWYERS *for* JUSTICE, PC
450 North Brand Blvd., Suite 900
Glendale, California 91203

LAWYERS *for* JUSTICE, PC
450 North Brand Blvd., Suite 900
Glendale, California 91203

C. The Settlement Is of Significant Value.

Pursuant to *Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th 116, the Parties conducted extensive informal discovery and exchanged a large volume of documents, data, and information prior to mediation.[45] The information that Class Counsel obtained from Plaintiffs, Defendant, and other sources allowed Class Counsel to develop valuation models in order to evaluate the potential value and merit of the claims, and perform a complete evaluation of Defendant's defenses thereto.[46]

VI. CERTIFICATION OF THE CLASS IS APPROPRIATE

The requisites for establishing class certification are met, and the Parties have stipulated to conditional certification of the Class for settlement purposes only.[47] 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.*

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; see also *Rose v. City of Hayward* (1981) 126 Cal.App.3d 926, 934-35 (indicating that a class of 30 to 40 individuals satisfies the numerosity requirement as joinder is not practical at that point). The Class here is estimated to be approximately 404 individuals, which is sufficiently numerous.[48] Further, all Class Members can

---

[45] *Id*. ¶ 25.
[46] Ibid.
[47] Settlement Agreement ¶ 5.6.2.
[48] Mayer Decl. ¶ 16.

and will be identified by Defendant to the Settlement Administrator through a review of Defendant's employment records regarding hourly-paid or non-exempt employees of Defendant in California employed at any time during the Class Period. As such, the Class is ascertainable.[49]

B. <u>The Class Members Share a Well-Defined Community of Interest.</u>

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*, 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 informal discovery and exchange of information in the case, Plaintiffs contend 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.[50] As a result, Plaintiffs claim that all of the Class Members were uniformly not paid all compensation due to them from Defendant during the time period at issue. Plaintiffs maintain 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.

As members of the Class who were subject to these same policies, practices, and procedures, Plaintiffs' claims are typical of the Class. Moreover, Plaintiffs have no interests adverse to the Class. Plaintiffs have taken steps to initiate and maintain this action and to ensure

---

[49] *Id.* ¶ 15.
[50] Mayer Decl. ¶ 17.

LAWYERS *for* JUSTICE, PC
450 North Brand Blvd., Suite 900
Glendale, California 91203

that it comes to a fair and reasonable resolution.[51] Importantly, Plaintiffs have retained a law firm well-versed in wage and hour class actions, which has at all times represented the best interests of Plaintiffs and the Class.[52]

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

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

Class Counsel has litigated the matter for over three years.[53] 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 Plaintiffs and other percipient witnesses, researched applicable law, undertook damages/valuation calculations, and met and conferred with Defendant's counsel regarding the pleadings and the production of documents and data prior to the mediation.[54] Counsel for the Parties also undertook extensive settlement discussions, which included participating in mediation.[55] Class Counsel is well-experienced in wage-and-hour class action litigation and used that experience to obtain a great result for the Class.[56]

The Settlement establishes a Gross Settlement Amount of $700,000.00, and provides for Class Counsel to apply to the Court consisting of attorneys' fees in an amount up to 35% of the Gross Settlement Amount ($245,000.00), and reimbursement of actual costs and expenses in an amount up to $35,000.00.[57] 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,

---

[51] Declaration of Plaintiff Femi Jordan in Support of Plaintiffs' Motion for Preliminary Approval of Class and PAGA Action Settlement and Release ("Jordan Decl.") ¶¶ 2–7; Declaration of Plaintiff Dejeiner King in Support of Plaintiffs' Motion for Preliminary Approval of Class and PAGA Action Settlement and Release ("King Decl.") ¶¶ 2–7.
[52] Mayer Decl. ¶¶ 19-23.
[53] Mayer Decl. ¶ 25.
[54] *Id.* ¶¶ 26-27.
[55] *Id.* ¶ 25.
[56] *Id.* ¶¶ 19-23.
[57] Settlement Agreement ¶ 4.3.

LAWYERS *for* JUSTICE, PC
450 North Brand Blvd., Suite 900
Glendale, California 91203

(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 Attorneys' Fees and Costs will be sought and the amount allocated toward the Attorneys' Fees and Costs by the Settlement.[58]

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

The California Supreme Court has confirmed 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. *Laffitte,* 1 Cal.5th 480 at 486 & 506. The Court has taken the position that while "[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 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

[58] See *id*. Exh. A.

LAWYERS *for* JUSTICE, PC
450 North Brand Blvd., Suite 900
Glendale, California 91203

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, and will receive payment only after all Participating Class Members, Aggrieved Employees, the LWDA, and the Settlement Administrator have been paid.[59] Class Counsel will provide extensive evidence as to the time worked, litigation efforts, and further argument at the time of filing Plaintiffs' Motion for Final Approval of the Settlement and application for the Attorneys' Fees and Costs at the Final Approval Hearing. Considering the work performed and the risks incurred, the attorneys' fees provided for by the Settlement are well within the range of reasonableness for preliminary approval.

VIII. 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

[59] Mayer Decl. ¶ 13; Settlement Agreement, ¶ 7.2.

LAWYERS *for* JUSTICE, PC
450 North Brand Blvd., Suite 900
Glendale, California 91203

submit a Request for Exclusion, Objection to the Class Settlement, and/or a Workweeks Dispute, the claims to be released, and the date and time set for the Final Approval Hearing.[60] The proposed Class Notice summarizes the proceedings to date and the terms and conditions of the Settlement in an informative and coherent manner.[61] The proposed Class Notice recognizes that the Court has not yet granted final approval of the settlement.[62] The proposed Class Notice also apprises the Class Members and Aggrieved Employees of, *inter alia*, how their Individual Settlement Payment and, if applicable, Individual PAGA Payment is calculated and the number of Workweeks credited to them.[63] The proposed Class Notice fulfills the requirement of neutrality in notice procedure. *Newberg* § 8.39.

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

IX. APPOINTMENT OF THE SETTLEMENT ADMINISTRATOR

The Parties have selected Simpluris, Inc. as the Settlement Administrator. Within 14 calendar days of receipt of the Class List, the Settlement Administrator will perform an NCOA check and will mail the Class Notice to each Class Member and Aggrieved Employee.[64] If a Class Notice is returned as non-deliverable within 10 calendar days of initial mailing, the Settlement Administrator shall resend the Class Notice to the forwarding address within three business days.[65] If the returned Class Notice has no forwarding address, the Settlement Administrator shall conduct a single advanced skip-trace and re-mail the Class Notice to the new address within three business days.[66] In the case of a re-mailed Class Notice, the Response Deadline will be extended by 15 calendar days from the original deadline.[67] The Administrator will receive and process Requests

[60] Settlement Agreement, Exh. A.
[61] Ibid.
[62] Ibid.
[63] Settlement Agreement Exh. A.
[64] *Id.* ¶ 5.5.1.
[65] *Id.* ¶ 5.5.2.
[66] *Id.* ¶ 5.5.3.
[67] *Id.* ¶ 5.5.4.

LAWYERS *for* JUSTICE, PC
450 North Brand Blvd., Suite 900
Glendale, California 91203

for Exclusion, Objections, or Workweeks Disputes.[68] In addition, the Settlement Administrator will be responsible for printing, distributing, and tracking Class Notices and other documents for the Settlement; calculating and distributing payments due under the Settlement; issuing of 1099 and W-2 IRS Forms and all required tax reporting, filings, withholdings, and remittances; providing necessary reports and declarations; and other duties and responsibilities to process the Settlement and as requested by the Parties.[69] The Settlement Administration Costs are currently estimated to be $7,500.00 and will be paid out of the Gross Settlement Amount, subject to approval by the Court.[70] Accordingly, Plaintiffs respectfully request that the Court appoint Simpluris, Inc. as the Settlement Administrator and direct the mailing of the Class Notice to the Class Members and Aggrieved Employees in the manner outlined and based on the proposed deadlines as described herein and set forth in the Settlement Agreement.

X. CLASS REPRESENTATIVE ENHANCEMENT AWARDS

Plaintiffs respectfully request that the Court appoint them as the Class Representatives and preliminarily approve the Class Representative Enhancement Awards in an amount up to $7,500.00 to each of the Plaintiffs, for a total of $15,000.00.[71] It is within the Court's discretion to award payments to Class Representatives for their 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 Representatives in commencing suit, both financial and otherwise; (2) the notoriety and personal difficulties encountered by the Class Representatives; (3) the amount of time and effort spent by the Class Representatives; (4) the duration of the litigation; and (5) the personal benefit (or lack thereof) enjoyed by the Class Representatives as a result of the litigation. *Id.*

The Class Representative Enhancement Awards are fair and appropriate. Plaintiffs spent a substantial amount of time and effort in producing relevant documents and past employment

---

[68] *Id*. ¶¶ 6.1–6.3.
[69] *Id.* ¶ 4.4.
[70] Settlement Agreement ¶ 4.4.
[71] *Id.* ¶ 4.2.

LAWYERS *for* JUSTICE, PC
450 North Brand Blvd., Suite 900
Glendale, California 91203

records and providing the facts and evidence necessary to attempt to prove the allegations.[72] Plaintiffs were available whenever Class Counsel needed them and actively tried to obtain and provide information that would facilitate the pursuit of class and PAGA claims.[73] Accordingly, it is appropriate and just for Plaintiffs to receive Class Representative Enhancement Awards for their services on behalf of the Class, Aggrieved Employees, and the State of California, in addition to their individual settlement payments.

XI. CONCLUSION

For the foregoing reasons, Plaintiffs respectfully request that the Court grant Preliminary Approval of the Settlement; conditionally certify the Class for settlement purposes; appoint Lawyers *for* Justice, PC as Class Counsel; appoint Plaintiff Femi Jordan and Plaintiff Dejeiner King as Class Representatives; appoint Simpluris, Inc. as Settlement Administrator; preliminarily approve the allocations for Attorneys' Fees and Costs, Class Representative Enhancement Awards, PAGA Settlement Amount, and Settlement Administration 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 schedule a Final Approval Hearing to take place in approximately six months.

Dated: February 7, 2025

LAWYERS *for* JUSTICE, PC

By: Helene Mayer
Helene Mayer
Attorneys for Plaintiffs

[72] Mayer Decl. ¶ 14; Jordan Decl. ¶¶ 3–4; King Decl. ¶¶ 3–4.
[73] Mayer Decl. ¶ 14; Jordan Decl. ¶ 4; King Decl. ¶ 4.

LAWYERS *for* JUSTICE, PC
450 North Brand Blvd., Suite 900
Glendale, California 91203