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**SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE COUNTY OF LOS ANGELES-TORRANCE COURTHOUSE**

JOANA FLORES, 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.

ALLIANCE GROUND INTERNATIONAL  
LLC; Delaware limited liability company;  
and DOES 1 through 100, inclusive,

Defendants.

Case No.: 21TRCV00424

Honorable Douglas W. Stern  
Department B

**CLASS ACTION**

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

[Declaration of Proposed Class Counsel  
(Vartan Madoyan); Declaration of  
Proposed Class Representative (Joana  
Flores); and [Proposed] Order filed  
concurrently herewith]

Date: June 13, 2024  
Time: 8:30 a.m.  
Department: B

**RES ID: 975166282879**

Complaint Filed: June 10, 2021  
Trial Date: None Set

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

**PLEASE TAKE NOTICE** that on June 13, 2024 at 8:30 a.m. or as soon thereafter as the matter may be heard before the Honorable Douglas W. Stern in Department B of the Superior Court of California for the County of Los Angeles, located at 825 Maple Avenue, Torrance, California, 90503, Plaintiff Joana Flores (“Plaintiff” or “Class Representative”) will, and hereby does, move for an order:

- Granting preliminary approval of the proposed class action settlement described herein and as set forth in the Class Action and PAGA Settlement Agreement and Class Notice (“Settlement” or “Agreement,” or “Settlement Agreement”) attached as **“EXHIBIT 1”** to the Declaration of Vartan Madoyan, 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, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, Class Representative Service Payment to Plaintiff, and Administration Expenses Payment;
- Conditionally certifying the Settlement Class for settlement purposes;
- Preliminarily appointing Plaintiff Joana Flores as Class Representative;
- Preliminarily appointing Edwin Aiwazian, Arby Aiwazian, Joanna Ghosh, and Vartan Madoyan 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 Action Settlement;
- Directing the mailing of the Class Notice to the Class Members;
- Approving the proposed deadlines for the notice and settlement administration process;
- Approving Simpluris, Inc., as the Settlement Administrator; and

- Scheduling a hearing to decide 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 Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, Administration Expenses Payment, and Class Representative Service Payment. This Motion is made pursuant to Rule 3.769 and Rule 3.1113(e) of the California Rules of Court, which require approval by the Court of the settlement of a putative class action, 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 (Vartan Madoyan) and Proposed Class Representative (Joana Flores) in support thereof, the pleadings and other records on file with the Court in this matter, and such evidence and oral argument as may be presented at the hearing on this motion.

Dated: May 9, 2024

**LAWYERS for JUSTICE, PC**

By:   
Vartan Madoyan  
Attorney for Plaintiff

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## MEMORANDUM OF POINTS AND AUTHORITIES

### I. SUMMARY OF MOTION

Plaintiff Joana Flores (“Plaintiff” or “Class Representative”) seeks preliminary approval of the Stipulation of Class Action and PAGA Settlement (“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 Alliance Ground International, LLC (“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 Gross Settlement Amount of One Million and Eight Hundred Thousand Dollars (**\$1,800,000.00**).<sup>1</sup> The Gross Settlement Amount includes the following: (1) Individual Settlement Shares to Participating Class Members which will be distributed from the Net Settlement Amount<sup>2</sup>; (2) the Class Representative Service Payment (**\$10,000.00**) to Plaintiff<sup>3</sup>; (3) the Class Counsel Fees Payment, consisting of attorneys’ fees in the amount of thirty-five percent (35%) of the Gross Settlement Amount (currently estimated to be **\$630,000.00**), and Class Counsel Litigation Expenses Payment not to exceed Twenty Five Thousand Dollars (**\$25,000.00**)<sup>4</sup>; (4) the Administration Expenses Payment not to exceed Seventeen Thousand and Five Hundred and Fifty Eight Dollars (**\$17,558.00**);<sup>5</sup> and (5) the amount of Two Hundred Thousand Dollars (**\$200,000.00**) allocated to penalties under the Private Attorneys General Act (“PAGA”), of which 75% (i.e., **\$150,000.00**) will be distributed to the Labor and Workforce Development Agency (“LWDA”) and 25% (i.e., **\$50,000.00**) will be distributed to Aggrieved Employees on a *pro rata* basis based on Aggrieved Employees’ PAGA Pay Periods during the PAGA Period.<sup>6</sup>

<sup>1</sup> Settlement Agreement, attached as “**EXHIBIT I**” to Declaration of Vartan Madoyan (“Madoyan Decl.”), ¶ 3.1. Pursuant to Paragraph 4.1 of the Settlement Agreement, the Gross Settlement Amount may increase based on the escalator provision.

<sup>2</sup> *Id.*, ¶ 3.2.4.

<sup>3</sup> *Id.*, ¶ 3.2.1.

<sup>4</sup> *Id.*, ¶ 3.2.2.

<sup>5</sup> *Id.*, ¶ 3.2.3.

<sup>6</sup> *Id.*, ¶ 3.2.4.3. “PAGA Period,” means the period commencing on April 5, 2020 and ending 90 days following the execution of the Settlement Agreement or through Preliminary Approval, whichever is earlier. Provided, however, that the PAGA Period may be adjusted pursuant to Paragraph 4.1 of the Settlement Agreement. *See id.*, ¶ 1.31.

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

All current and former hourly-paid or non-exempt employees who worked for Defendant in the State of California at any time during the Settlement Class Period.<sup>7</sup>

Participating Class Members who do not submit a timely and valid Request for Exclusion will receive a share of the Net Settlement Amount (“Individual Settlement Share”) on a *pro rata* share of the Net Settlement Amount calculated according to the number of Workweeks worked during the Class Period.”).<sup>8</sup> Aggrieved Employees will receive a share of the 25% portion of the PAGA Penalty Amount (“Individual PAGA Payment”) on a pro-rata basis, based on the number of Workweeks during the PAGA Period.<sup>9</sup>

The Settlement resolves the Released Class Claims of Plaintiff and Participating Class Members, and the Released PAGA Claims of Plaintiff, Aggrieved Employees, and the State of California, against the Released Parties.<sup>10</sup>

## II. PROCEDURAL HISTORY AND FACTUAL BACKGROUND

Defendant is a cargo ground handling company operating in the United States, including in California. Plaintiff has worked as a non-exempt, hourly employee of Defendant.

On April 5, 2021, Plaintiff submitted notice to the California Labor & Workforce Development Agency (“LWDA”) and Defendant of her intent to pursue civil penalties under the Private Attorneys General Act, Cal. Labor Code § 2698, *et seq.* (“PAGA”).

On June 10, 2021, Plaintiff filed a Complaint for Enforcement Under the Private Attorneys General Act in the Los Angeles County Superior Court (“*Flores* PAGA Action”).

On May 9, 2024, Plaintiff filed a first amended complaint (“FAC”), asserting both wage and hour class action and PAGA claims against Defendant.

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<sup>7</sup> Settlement Agreement, ¶ 1.5. “Class Period” is defined as the period from January 27, 2019 through and including the date of Preliminary Approval. Provided, however, that the Class Period may be adjusted pursuant to the escalator clause provision located at Paragraph 4.1 of the Settlement Agreement. *See id.*, ¶ 1.12.

<sup>8</sup> Settlement Agreement, ¶¶ 1.23, 1.35.

<sup>9</sup> *Id.*, ¶ 1.24.

<sup>10</sup> *See id.* at ¶ 5 “Release of Claims.” For the full scope of “Plaintiff’s Release” see ¶ 5.1, for the full scope of “Release by Participating Class Members” see ¶ 5.2, for the full scope of “Release by Aggrieved Employees” see ¶ 5.3, and for the definition of “Released Parties” see ¶ 1.39.

Plaintiff's core allegations are that Defendant violated the California Labor Code by engaging in a uniform practice and procedure, with respect to Plaintiff, Class Members, and Aggrieved Employees, 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, failure to produce employment records, and failing to reimburse necessary business expenses, failure to accurately calculate and pay vacation time, and thereby engaged in unfair business practices in violation of California Business and Professions Code section 17200, *et seq.* and conduct that gives rise to penalties pursuant to PAGA. Plaintiff contends that she, the Class Members, and Aggrieved Employees are entitled to, *inter alia*, unpaid wages, penalties (including and not limited to, penalties pursuant to PAGA with respect to Aggrieved Employees), and attorneys' fees and costs.

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

The Parties have actively litigated the Action. On September 22, 2022, the Parties participated in a forma mediation conducted by Eve Wagner, 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 Actions in their entirety.

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

Under the terms of the Settlement, Defendant will pay a Gross Settlement Amount to resolve the Released Class Claims of Plaintiff and the Class Members who do not submit a timely and valid request to be excluded from the Class Settlement (i.e., Participating Class Members) and the Released PAGA Claims of Plaintiff, Aggrieved Employees, and the State of California, with respect to the Released Parties.<sup>11</sup> Subject to approval by the Court, the Net

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<sup>11</sup> Settlement Agreement, ¶¶ 1.35, 3, & 5.

Settlement Amount will be calculated by deducting the following amounts from the Total Settlement Amount: (1) Class Counsel Fees Payment in an amount 35% of the Total Settlement Amount of Six Hundred and Thirty Thousand Dollars (currently estimated to be **\$630,000.00**) and Class Counsel Litigation Expenses Payment in an amount not to exceed Twenty-Five Thousand Dollars (**\$25,000.00**) to Class Counsel; (2) Settlement Administration Costs, which are currently estimated not to exceed Seventeen Thousand and Five Hundred and Fifty-Eight Dollars (**\$17,558.00**) to the Settlement Administrator (“Administration Expenses Payment”); (3) PAGA Penalty Amount (**\$200,000.00**), of which 75% will be distributed to the LWDA (i.e., **\$150,000.00**) (“LWDA Payment”) and the remaining 25% (i.e., **\$50,000.00**) will be distributed to Aggrieved Employees; and (4) payment in the amount of up to Ten Thousand Dollars (**\$10,000.00**) to Plaintiff Joana Flores (“Class Representative Service Payment”).<sup>12</sup> The Parties have agreed to retain Simpluris, Inc., (“Simpluris” or “Settlement Administrator”) to handle the notice and settlement administration process.<sup>13</sup>

The Parties have agreed that the Settlement Administrator will determine each Participating Class Member Share and Individual PAGA Payments, in accordance with the Settlement Agreement and as follows:

- a. After Preliminary Approval of the Settlement, “An Individual Class Payment calculated by (a) dividing the Net Settlement Amount by the total number of Workweeks worked by all participating Class Members during the Class Period and (b) multiplying the result by each Participating Class Member’s Work weeks”;<sup>14</sup> and
- b. “The Administrator, will calculate Individual PAGA Payment by (a) dividing the amount of the Aggrieved Employee’s 25% share of PAGA Penalties by the total number of PAGA Pay Periods worked by all Aggrieved Employees during the PAGA Period and (b) multiplying the result by each Aggrieved Employee’s PAGA Periods.”<sup>15</sup>

The Parties have agreed that the Individual PAGA Payments will be calculated and apportioned from the 25% of the PAGA Penalty Amount payable to Aggrieved Employees, based on the Aggrieved Employees’ PAGA Pay Periods during the PAGA Period as follows: the Settlement Administrator will use each Aggrieved Employee’s pro rata share of the 25% of

<sup>12</sup> Settlement Agreement, ¶ 1.28.

<sup>13</sup> *Id.*, ¶ 1.2.

<sup>14</sup> *Id.*, ¶ 3.2.4.

<sup>15</sup> *Id.*, ¶ 3.2.4.4.

the PAGA Penalties calculated according to the number of PAGA Pay Periods worked during the PAGA Period.<sup>16</sup>

Each Participating Class Member's Individual Settlement Share will be allocated as follows: twenty-five percent (25%) as wages, which will be reported on an IRS Form W-2; and the remaining seventy-five percent (75%) as penalties and interest, which will be reported on an IRS Form 1099.<sup>17</sup> One hundred percent (100%) of each Individual PAGA Payment shall represent civil penalties.<sup>18</sup> The Settlement Administrator will withhold the employee's 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.<sup>19</sup> The employer's share of taxes and contributions on the wages portion of Individual Settlement Shares will be paid separately and in addition to the Total Settlement Amount.<sup>20</sup>

Each Individual Settlement Payment and Individual PAGA Payment check will be valid and negotiable for one hundred and eighty (180) calendar days from the date the checks are issued, and thereafter, shall be cancelled.<sup>21</sup> All funds associated with such cancelled checks will be transmitted to the California Controller's Unclaimed Property Fund in the name of the Class Member, thereby leaving no "unpaid residue" in accordance with California Code of Civil Procedure section 384.<sup>22</sup>

Class Members who wish to be excluded from the Class Settlement (i.e., opt out) must submit a timely, written letter to be excluded from the Class Settlement ("Request for Exclusion") to the Settlement Administrator, by mail, postmarked no later than sixty (60) days after from the initial mailing of the Class Notice ("Response Deadline").<sup>23</sup> The Request for Exclusion must: (a) contain Class Member's name, address and email address or telephone number, and (b) be timely faxed, emailed, or postmarked by the Response Deadline.<sup>24</sup> A Class

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<sup>16</sup> *Id.*, ¶ 1.23.

<sup>17</sup> Settlement Agreement, ¶ 3.2.4.1.

<sup>18</sup> *Id.*, ¶ 3.2.4.1.

<sup>19</sup> *Id.*, ¶ 3.2.4.1.

<sup>20</sup> *Id.*, ¶ 1.22.

<sup>21</sup> *Id.*, ¶ 4.4.1.

<sup>22</sup> *Id.*, ¶ 4.4.3.

<sup>23</sup> *Id.*, ¶ 7.5.

<sup>24</sup> *Id.*, ¶ 7.5.1.

Member who timely submits a valid Request for Exclusion will not participate in, or be bound by, the Class Settlement and will not be issued any payment pursuant to the Class Settlement, and will not have any right to object, appeal, or comment thereon.<sup>25</sup> Aggrieved Employees shall be bound to the PAGA Settlement irrespective of whether they exercise their option to opt out of the Class Settlement.<sup>26</sup>

Only Class Members who do not exclude themselves from the Class Settlement (i.e., Participating Class Members) may object to the Class Settlement<sup>27</sup> by submitting a written objection to the Class Settlement (“Notice of Objection”) to the Settlement Administrator, by fax, email, or mail, on or before the Response Deadline, or by directly presenting his or her objection orally to the Court at the Final Approval Hearing with or without submitting a written objection to the Class Settlement.<sup>28</sup> The Notice of Objection must identify the Action as “*Joana Flores v. Alliance Ground International, LLC*” and include the class members name, current address, telephone number, and approximate dates of employment for Defendant and the class members signature. Alternatively, a Participating Class Member can object (personally or through an attorney) by attending the Final Approval Hearing.<sup>29</sup>

Class Members and Aggrieved Employees will have an opportunity to dispute the number of Workweeks to which they have been credited, as reflected in their respective Class Notices.<sup>30</sup> In order to dispute Workweeks, Class Members and/or Aggrieved Employees may submit a written letter to the Settlement Administrator via fax, email or mail. The Administrator will encourage the challenging Class Member to submit supporting documentation. In the absence of any contrary documentation, the Administrator is entitled to presume that the Workweeks contained in the Class Notice are correct so long as they are consistent with the Class Data.<sup>31</sup> The Administrator’s determination of each Class Member’s allocation of

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<sup>25</sup> Settlement Agreement, ¶ 7.5.4.

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

<sup>27</sup> *Id.*, ¶ 7.7.1.

<sup>28</sup> *Id.*, ¶ 7.7.2.

<sup>29</sup> *Ibid.*

<sup>30</sup> *Id.*, ¶ 7.6.

<sup>31</sup> *Ibid.*

Workweeks and/or PAGA Pay Periods shall be final and not appealable or otherwise susceptible to challenge.<sup>32</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 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).

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

1 In considering a potential class settlement, a court need not reach any ultimate  
2 conclusions on the issues of fact and law which underlie the merits of the dispute and need not  
3 engage in a trial on the merits. See *City of Detroit v. Grinnell Corporation* (2d Cir. 1974) 495  
4 F.2d 448, 456; *Officers for Justice v. Civil Service Commission of City and County of San*  
5 *Francisco* (9th Cir. 1982) 688 F.2d 615, 625. Neither formal notice nor a hearing is required  
6 for the trial court to grant provisional class certification and preliminary approval; the court may  
7 grant such relief upon an informal application by the settling parties and may conduct any  
8 necessary hearing in court or in chambers, at the court's discretion. *Newberg*, § 11.25.

9 **V. THE COURT SHOULD PRELIMINARILY APPROVE THE SETTLEMENT**

10 The trial court has broad powers to determine whether a proposed settlement is fair under  
11 the circumstances of the case. *Dunk v. Ford Motor Co.* (1996) 48 Cal.App.4th 1794. To make  
12 this fairness determination, courts must consider several relevant factors, including "the strength  
13 of the plaintiff's case, the risk, expense, complexity and likely duration of further litigation, the  
14 risk of maintaining class action status through trial, the amount offered in settlement, the extent  
15 of discovery completed and the stage of the proceedings, the experience and view of counsel,  
16 the presence of a governmental participant, and the reaction of the class members to the  
17 proposed settlement." *Dunk, supra*, 48 Cal.App.4th at 1801. "The list of factors is not exclusive  
18 and the court is free to engage in a balancing and weighing of the factors depending on the  
19 circumstances of each case." *Wershba, supra*, 91 Cal.App.4th at 245. Furthermore, courts give  
20 "proper deference to the private consensual decision of the parties." *Hanlon, supra*, 150 F.3d at  
21 1027 (citation omitted).

22 The proponent of the settlement has the burden to show that it is fair and reasonable.  
23 *Wershba, supra*, 91 Cal.App.4th at 245. "A presumption of fairness exists where: (1) the  
24 settlement is reached through arm's-length bargaining; (2) investigation and discovery are  
25 sufficient to allow counsel and the court to act intelligently; (3) counsel is experienced in similar  
26 litigation; and (4) the percentage of objectors is small." *Id.*; *Dunk, supra*, 48 Cal.App.4th at  
27 1802; *7-Eleven Owners for Fair Franchising v. Southland Corp.* (2000) 85 Cal.App.4th 1135,  
28 1151.

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

3           The Parties actively litigated the Action since it was commenced on June 6, 2021. Both  
4 sides used the pre-mediation time period to investigate the veracity, strength, and scope of the  
5 claims, and Class Counsel was actively preparing the case for trial.<sup>33</sup>

6           Prior to engaging in mediation, Class Counsel conducted significant investigation,  
7 propounded formal discovery, and exchange significant informal discovery regarding the facts  
8 of the case, including and not limited to, the exchange, review, and analysis of a large volume  
9 of documents and data produced by Defendant.<sup>34</sup> The volume of data and documents that Class  
10 Counsel reviewed and analyzed included and was not limited to: employment records of  
11 Plaintiff, earning statements, payroll reports, company policy acknowledgements, multiple  
12 versions of Defendant’s Employee Handbook and relevant wage and hour policies, and  
13 timekeeping and payroll records for class members and aggrieved employees, among other  
14 information and documents.<sup>35</sup> Class Counsel interviewed Plaintiff and investigated her claims.<sup>36</sup>  
15 Counsel for the Parties also met and conferred on numerous occasions, e.g., to discuss issues  
16 relating to the pleadings, discovery, and the production of documents and data prior to the  
17 mediation.<sup>37</sup> Class Counsel also drafted Plaintiff’s pleadings and mediation brief and prepared  
18 for and attended court proceedings, settlement negotiations, and the mediation, among other  
19 tasks.<sup>38</sup>

20           The Parties engaged in extensive settlement negotiations and participated in a formal,  
21 full-day mediation conducted by Eve Wagner, Esq., a well-respected mediator experienced in  
22 mediating complex labor and employment matters.<sup>39</sup> In the course of litigation and in connection  
23 with mediation and settlement discussions, the Parties exchanged a large volume of information  
24 for the class members and aggrieved employees and engaged in an intensive discussion

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<sup>33</sup> Madoyan Decl., ¶¶ 10-12.

26           <sup>34</sup> *Id.*, ¶ 11.

27           <sup>35</sup> *Ibid.*

28           <sup>36</sup> *Ibid.*

<sup>37</sup> *Ibid.*

<sup>38</sup> *Ibid.*

<sup>39</sup> *Id.*, ¶ 10.

1 regarding their evaluations of the case and various aspects of the case, including but not limited  
2 to, the risks and delays of further litigation, the risks to the Parties of proceeding with class  
3 certification and/or representative adjudication, the law relating to off-the-clock theory, meal  
4 and rest periods, wage-and-hour enforcement, and PAGA representative claims, as well as the  
5 evidence produced and analyzed, and the possibility of appeals, among other things.<sup>40</sup> During  
6 all settlement discussions, the Parties conducted their negotiations at arm's length in an  
7 adversarial position.<sup>41</sup> Arriving at a settlement that was acceptable to both Parties was not easy.  
8 Defendant and its counsel felt strongly about its ability to prevail on the merits and at  
9 certification, and Plaintiff and Class Counsel believed that they would be able to obtain class  
10 certification and prevail at trial.<sup>42</sup> After conducting investigations, propounding formal  
11 discovery, exchanging significant informal discovery, conducting extensive settlement  
12 negotiations, and with the aid of the mediator's evaluation, the Parties have agreed that the matter  
13 is well-suited for settlement given the legal issues relating to Plaintiff's principal claims, as well  
14 as the costs and risks to both sides that would attend further litigation.<sup>43</sup>

15 The Settlement takes into account the strengths and weaknesses of each side's position  
16 and the uncertainty of how the case might have concluded at certification and trial.<sup>44</sup> The Parties  
17 have had the opportunity to gather facts and to identify potential witnesses.<sup>45</sup> Counsel for the  
18 Parties have also reviewed documents and information relating to Plaintiff's and the Class  
19 Members' and Aggrieved Employees' employment with Defendant and performed significant  
20 research into the law concerning PAGA representative actions, class-certification, off-the-clock  
21 theory, meal and rest periods, wage-and-hour enforcement, Plaintiff's claims, and Defendant's  
22 defenses thereto, as well as facts discovered.<sup>46</sup> The Parties have reached the Settlement based  
23 on this large volume of facts, evidence, and investigation. In addition, Class Counsel has  
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25 <sup>40</sup> Madoyan Decl., ¶ 10.

26 <sup>41</sup> *Ibid.*

27 <sup>42</sup> *Id.*, ¶¶ 10.

28 <sup>43</sup> *Ibid.*

<sup>44</sup> *Ibid.*

<sup>45</sup> *Ibid.*

<sup>46</sup> *Id.*, ¶¶ 10-12.

extensive experience in employment class actions, including significant experience in California wage-and-hour litigation.<sup>47</sup>

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

The Settlement, which provides for a Gross Settlement Amount of One Million and Eight Hundred Thousand Dollars (\$1,800,000.00), represents a fair, adequate, and reasonable resolution of the matter.<sup>48</sup> The Settlement was calculated using the information and data uncovered during litigation, case investigation, as well as the informal exchange of information.<sup>49</sup> The Settlement takes into account the potential risks and rewards inherent in any case and, in particular, in the case at issue.<sup>50</sup> Moreover, considering all of the facts and circumstances of the lawsuit, the Settlement represents a fair, reasonable, and adequate recovery for the Settlement Class.<sup>51</sup>

Assuming that the Class Counsel Fees Payment and Class Counsel Litigation Expenses Payment, Class Representative Service Payment, PAGA Penalty Amount, and Administration Expenses Payment 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 Nine Hundred Seventeen Thousand and Four Hundred and Forty-Two Dollars and Zero Cents (\$917,442.00).<sup>52</sup> As discussed in Part III, *supra*, 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 Share will be calculated by dividing the Net Settlement Amount by the total number of Workweeks worked by all Participating Class Members during the Class Period and (b) multiplying the result by each Participating Class Member's Workweeks.<sup>53</sup> Further, the amount of each PAGA Payment will be calculated by dividing the amount of the Aggrieved Employee's 25% share of the PAGA Penalties by the total number of PAGA Pay Periods worked by all Aggrieved Employees during

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<sup>47</sup> Madoyan Decl., ¶¶ 1-7.

<sup>48</sup> *Id.*, ¶¶ 10, 12, & 13; Settlement Agreement ¶ 1.22.

<sup>49</sup> *Id.*, ¶¶ 10-12.

<sup>50</sup> *Id.*, ¶¶ 10, 17.

<sup>51</sup> *Id.*, ¶¶ 10, 12, 18, & 21.

<sup>52</sup> Settlement Agreement ¶ 3 Monetary Terms.

<sup>53</sup> *Id.*, ¶ 3.2.4.

the PAGA Period and by multiplying the result by each Aggrieved Employee's PAGA Pay Periods.<sup>54</sup> There is no reason to doubt the fairness of the proposed plan of allocation of the settlement funds for purposes of preliminary approval. Even at the final approval stage, "[a]n allocation formula need only have a reasonable, rational basis [to warrant approval], particularly if recommended by experienced and competent class counsel." *In re American Bank Note Holographics, Inc., Securities Litigation* (S.D.N.Y. 2001) 127 F.Supp.2d 418, 429-30.

In light of the foregoing considerations, Class Counsel believes that the Settlement as a whole is fair, reasonable, and adequate, and is in the best interest of the Class Members.<sup>55</sup> Although the recommendations of Class Counsel are not conclusive, the Court can properly take the recommendations into account, particularly if Class Counsel appears to be competent, and has experience with this type of litigation, and investigation have been completed, as is the case here. *Newberg*, §11.47. Accordingly, the Court should grant preliminary approval of the Settlement.

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

Pursuant to *Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th 116, the Parties conducted significant informal discovery and exchanged a large volume of documents, data, and information in the course of litigation and in connection with mediation and settlement negotiations.<sup>56</sup> The discovery and information that Class Counsel obtained from Defendant and through other sources allowed Class Counsel to develop valuation models in order to evaluate the potential value and merit of the claims, and perform a complete evaluation of Defendant's defenses thereto.<sup>57</sup> As outlined in the Declaration of Vartan Madoyan, Class Counsel performed an extensive analysis of each and every claim pursuant to *Kullar* prior to entering into the Settlement.<sup>58</sup>

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<sup>54</sup> Settlement Agreement ¶ 3.2.4.4.

<sup>55</sup> Madoyan Decl., ¶¶ 10, 12, 18 & 21.

<sup>56</sup> *Id.*, ¶¶ 10-12 & 18.

<sup>57</sup> *Id.*, ¶ 18.

<sup>58</sup> *Id.*, ¶¶ 10-12 & 16-18.

VI. **CERTIFICATION OF THE SETTLEMENT CLASS IS APPROPRIATE**

For settlement purposes, the requisites for establishing class certification are met, and the Parties have stipulated to conditional certification of the Settlement Class for settlement purposes only.<sup>59</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 Settlement 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 Settlement 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 Settlement 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.

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<sup>59</sup> Settlement Agreement ¶ 11.1.

This class is sufficiently numerous. *See Rose v. City of Hayward* (1981) 126 Cal.App.3d 926, 934-35 (indicating that a class of 30 to 40 individuals satisfies the numerosity requirement as joinder is not practical at that point). Further, all Class Members can and will be identified by Defendant to the Settlement Administrator through a review of Defendant's employment records regarding hourly-paid and non-exempt employees in California during the Class Period. As such, the Settlement 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 Actions. 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>60</sup> Plaintiff's claims arise from Defendant's alleged uniform policy and systematic scheme, with respect to Plaintiff and the

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<sup>60</sup> Madoyan Decl., ¶ 16.

Class Members, of, *inter alia*, failing to properly pay overtime and minimum wages for all hours worked, failing to provide compliant meal and rest periods and associated premium pay, failing to timely pay wages during employment and upon termination of employment, failing to provide complaint wage statements, failing to keep requisite payroll records, and failing to reimburse necessary business-related expenses.<sup>61</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>62</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>63</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 and non-exempt employees who worked in California during the Class Period. Accordingly, the Court should certify the Settlement Class for settlement purposes only.

**VII. APPOINTMENT OF CLASS COUNSEL AND ALLOCATION FOR CLASS COUNSEL FEES PAYMENT AND CLASS COUNSEL LITIGATION EXPENSES PAYMENT**

Class Counsel has litigated the matter for over two (2) years, and was actively preparing the matter for trial.<sup>64</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, propounded formal discovery, and exchanged significant informal discovery. Class Counsel reviewed a large volume of documents and data<sup>65</sup> and also interviewed and obtained information from Plaintiff and other sources, 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

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<sup>61</sup> Madoyan Decl., ¶ 16.

<sup>62</sup> *Ibid.*

<sup>63</sup> *Ibid.*

<sup>64</sup> *Id.*, ¶¶ 10-12.

<sup>65</sup> *Id.*, ¶ 11.

mediation.<sup>66</sup> Counsel for the Parties also undertook extensive settlement discussions, which included participating in a formal, full-day mediation.<sup>67</sup>

Class Counsel is well-experienced in wage-and-hour class action litigation and used that experience to obtain a great result for the Settlement Class.<sup>68</sup>

The Settlement establishes a Gross Settlement Amount of One Million and Eight Hundred Thousand Dollars (**\$1,800,000.00**), and provides for Class Counsel to apply to the Court for Class Counsel Fees Payment, consisting of attorneys' fees in an amount not to exceed thirty-five percent (35%) of the Gross Settlement Amount (currently estimated to be **\$630,000.00**) and an amount not to exceed Twenty-Five Thousand Dollars and Zero Cents (**\$25,000.00**) for Class Counsel Litigation Expenses Payment.<sup>69</sup> The Class Counsel Fees Payment provided for by the Settlement is commensurate with: (1) the risk that Class Counsel took in bringing and litigating the case, (2) the extensive time, effort and expense that Class Counsel dedicated to the case, (3) the skill and determination that Class Counsel has shown, (4) the results that Class Counsel has achieved throughout the litigation, (5) the value of the Settlement that Class Counsel has achieved for the Class Members, 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 with information about the amount allocated toward Class Counsel Fees Payments for the attorneys' fees and for Class Counsel Fees Payments consisting of litigation expenses, and that an award of such fees will be sought, as provided for by the Settlement.<sup>70</sup>

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*

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<sup>66</sup> *Id.*, 11, 12, & 18.

<sup>67</sup> *Id.*, ¶ 10.

<sup>68</sup> *Id.*, ¶¶ 1-7.

<sup>69</sup> Settlement Agreement, ¶¶ 3.1, 3.2.2.

<sup>70</sup> Settlement Agreement, Exh. A, pages 23-33 (Court Approved Notice of Class Action Settlement and Hearing Date for Final Court Approval).

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

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

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

#### VIII. THE PROPOSED CLASS NOTICE IS ADEQUATE

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

The proposed Class Notice<sup>72</sup> describes the Settlement, the deadlines and procedures to mail a Notice of Objection to the Class Settlement, Request for Exclusion from the Class Settlement, and/or disputes regarding Workweeks, and the date and time set for the Final Approval Hearing.<sup>73</sup>

The proposed Class Notice fulfills the requirement of neutrality in notice procedure. *Newberg*, at § 8.39. "Sufficient information about the case should be provided to enable class members to make an informed decision about their participation." *Manual for Complex Litigation* § 21.311 at 413 (4th ed. 2004). The proposed Class Notice summarizes the proceedings to date and the terms and conditions of the Settlement in an informative and coherent manner.<sup>74</sup> The proposed Class Notice recognizes that the Court has not yet granted final approval of the settlement.<sup>75</sup> The proposed Class Notice also apprises the Class Members

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<sup>71</sup> Madoyan Decl., ¶ 19.

<sup>72</sup> Settlement Agreement, Exh. A, pages 23- 33 (Court Approved Notice of Class Action Settlement and Hearing Date for Final Court Approval).

<sup>73</sup> *Ibid.*

<sup>74</sup> *Ibid.*

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

of, *inter alia*, how their Individual Settlement Share is calculated and the number of Workweeks credited to them.<sup>76</sup>

The proposed Class Notice satisfies all due process requirements and complies with the standards of fairness, completeness, and neutrality. Fed. R. Civ. P. 23(c)(2) and 23(e); *Newberg*, §§ 8.21, 8.39; *Manual*, §§ 21.311, 21.312; see also *Cartt*, *supra*, 50 Cal.App.3d at 960 (“The essentials of due process of law in class suits would appear to be afforded by fair representation in the assertion of claims of class members against the opposing parties in any lawsuit, and notice of the pending suit.”). Accordingly, the Court should approve the proposed Class Notice.

#### **IX. APPOINTMENT OF SIMPLURIS AS THE SETTLEMENT ADMINISTRATOR**

The Parties have selected Simpluris Inc., to administer the Settlement.<sup>77</sup> The Settlement Administrator will mail the Class Notice to all identified Class Members by First-Class U.S. mail.<sup>78</sup> With respect to Class Notices that are returned as undeliverable with a forwarding address on or before the Response Deadline, the Settlement Administrator will re-mail the Class Notice within three (3) business days.<sup>79</sup> With respect to Class Notices that are returned as undeliverable without a forwarding address on or before the Response Deadline, the Settlement Administrator shall conduct a Class Member Address Search and re-mail the Class Notice to the most current address obtained.<sup>80</sup> The Administrator has no obligation to make further attempts to locate or send Class Notice to Class Members whose Class Notice is returned by the USPS a second time.<sup>81</sup> In the event that a Class Notice is re-mailed to a Class Member, the Response Deadline for that Class Member shall be extended by fourteen (14) calendar days from the original deadline.<sup>82</sup> The Settlement Administrator will receive and process Requests for Exclusion, Notice of Objections, and dispute regarding Workweeks.<sup>83</sup>

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<sup>76</sup> *Ibid.*

<sup>77</sup> Settlement Agreement ¶ 7.1.

<sup>78</sup> Settlement Agreement, ¶ 7.4.2.

<sup>79</sup> *Id.*, ¶ 7.4.3.

<sup>80</sup> *Ibid.*

<sup>81</sup> *Ibid.*

<sup>82</sup> *Id.*, ¶ 7.4.4.

<sup>83</sup> *Id.*, ¶¶ 7.5, 7.6, & 7.7.

The Settlement Administrator's duties will include translating the Class Notice into Spanish, printing, distributing, and tracking Class Notices and other documents for this settlement, calculation 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 set forth herein to process this settlement, and as requested by the Parties.<sup>84</sup> The Settlement Administration Costs are currently estimated to be Seventeen Thousand Dollars and Five Hundred and Fifty-Eight (\$17,558.00) and will be paid out of the Gross Settlement Amount, subject to approval by the Court.<sup>85</sup>

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

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

At this preliminary approval stage, plaintiff seeks approval of the proposed deadlines for the notice and settlement administration process. *Newberg*, at § 11.26. The "Class Notice" process means the Court approved notice of a class action settlement and hearing date for final court approval, to be mailed to Class Members in English with a Spanish translation in the form, without material variation.<sup>86</sup>

Within twenty (20) calendar days of Preliminary Approval, Defendant will provide the Settlement Administrator with a complete list of all Class Members and Aggrieved Employees which includes each of their: names, last known mailing addresses, Social Security Numbers, and number of Class Period Workweeks, and PAGA Pay Periods.<sup>87</sup>

Within fourteen (14) calendar days after receiving the Class Data from Defendant, the Settlement Administrator will perform a search based on the National Change of Address

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<sup>84</sup> Settlement Agreement, ¶ 7.

<sup>85</sup> *Id.*, ¶ 3.2.3.

<sup>86</sup> *Id.*, ¶ 1.12.

<sup>87</sup> *Id.*, ¶¶ 1.8 & 4.2.

Database or any other similar services available, for information to update and correct for any known or identifiable address changes, and will mail a Class Notice to all Class Members via First-Class U.S. Mail.<sup>88</sup> With respect to Class Notices that are returned as undeliverable with a forwarding address on or before the Response Deadline, the Settlement Administrator will re-mail the Class Notice with three (3) business days.<sup>89</sup> With respect to Class Notices that are returned as undeliverable without a forwarding address 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>90</sup> Class Members will have until the applicable Response Deadline to mail a Request for Exclusion, disputes regarding Workweeks, and/or a Notice of Objection.<sup>91</sup>

Defendant will fund the Gross Settlement Amount by way of two (2) installments: (1) within sixty (61) days after the Court enters Final Approval; and (2) the second payment due six (6) months after the first payment.<sup>92</sup> Each installment will be an equal installment of Nine Hundred Thousand Dollars (\$900,000.00). Defendant shall also deposit with the third-party administrator the employer's share of payroll taxes by no later than the deadline for the second installment payment.<sup>93</sup> Within ten (10) calendar days of the Administrator disbursing all funds in the Gross Settlement Amount, the Administrator will provide Class Counsel and Defense Counsel with a final report detailing its disbursements by employee identification number only of all payments made under this Agreement.<sup>94</sup> Within 14 days after Defendant funds the full amount of the Gross Settlement Amount, the Administrator will mail checks for all Individual Class Payments, all Individual PAGA Payments, the LWDA PAGA Payment, the Administration Expenses Payment, the Class Counsel Fees Payment, the Class Counsel Litigation Expenses Payment, and the Class Representative Service Payment.<sup>95</sup>

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<sup>88</sup> *Id.*, ¶¶ 1.10 & 7.4.2.

<sup>89</sup> *Id.*, ¶ 7.4.3.

<sup>90</sup> *Id.*, ¶¶ 1.10 & 7.4.3.

<sup>91</sup> *Id.*, ¶ 7.4.4.

<sup>92</sup> *Id.*, ¶ 4.3.

<sup>93</sup> *Ibid.*

<sup>94</sup> *Id.*, ¶ 7.8.6.

<sup>95</sup> *Id.*, ¶ 4.4.

Each Individual Settlement Payment and Individual PAGA Payment check will be valid and negotiable for one hundred and eighty (180) calendar days from the date the checks are issued, and thereafter, shall be cancelled.<sup>96</sup> All funds associated with such cancelled checks will be transmitted to the California Controller's Unclaimed Property Fund in the name of the Class Member, thereby leaving no "unpaid residue" subject to the requirements of California Code of Civil Procedure Section 384, subd. (b).<sup>97</sup>

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

Plaintiff respectfully requests that the Court appoint her as the Class Representative and preliminarily approve the Class Representative Service Payment in an amount up to Ten Thousand Dollars (\$10,000.00).<sup>98</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 \$50,000.00 participation award to a single class representative). The factors that courts may consider in determining whether to make a class representative service 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 Class Representative Service 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>99</sup> 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.<sup>100</sup> Further,

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<sup>96</sup> *Id.*, ¶ 4.4.1.

<sup>97</sup> Settlement Agreement, ¶¶ 4.4.1 & 4.4.3.

<sup>98</sup> *Id.*, ¶ 3.2.1.

<sup>99</sup> Madoyan Decl., ¶ 20; Declaration of Joana Flores in Support of Plaintiff's Motion for Preliminary Approval of Class Action and PAGA Settlement ("Flores Decl."), ¶ 5-7.

<sup>100</sup> Madoyan Decl., ¶ 20; Flores Decl., ¶¶ 6.

Plaintiff commenced her action while still employed against Defendant, and currently is still employed by Defendant, and brought this action despite fear of retaliation.<sup>101</sup> Accordingly, it is appropriate and just for Plaintiff to receive a Class Representative Service Payment for her services on behalf of the Settlement Class, Aggrieved Employees, and the State of California, in addition to her individual settlement payments.

## **XII. CONCLUSION**

For the foregoing reasons, Plaintiff respectfully requests that the Court grant preliminary approval of the Settlement; conditionally certify the Settlement Class for settlement purposes; preliminary appoint and designate Lawyers *for* Justice, PC as Class Counsel; preliminary appoint and designate Plaintiff Joana Flores as Class Representative; appoint Simpluris as Settlement Administrator; preliminarily approve the allocations for Class Counsel Fees Payment and Class Counsel Litigation Expenses Payment, Class Representative Service Payment, PAGA Penalty Amount, and Administration Expenses Payment; approve the proposed Class Notice; direct the Settlement Administrator to undertake the notice and settlement administration process in conformity with the deadlines and procedures provided by the Settlement Agreement; schedule a Final Approval Hearing to take place in approximately five (5) months.

Dated: May 9, 2024

**LAWYERS *for* JUSTICE, PC**

By:   
Vartan Madoyan  
Attorney for Plaintiff

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<sup>101</sup> Flores Decl., ¶ 2.



# Journal Technologies Court Portal

## Make a Reservation

JOANA FLORES, INDIVIDUALLY, AND ON BEHALF OF OTHER AGGRIEVED EMPLOYEES  
PURSUANT vs ALLIANCE GROUND INTERNATIONAL LLC, A DELAWARE LIMITED LIABILITY  
COMPANY

Case Number: 21TRCV00424 Case Type: Civil Unlimited Category: Other Employment Complaint Case  
Date Filed: 2021-06-10 Location: Torrance Courthouse - Department B

### Reservation

Case Name:

JOANA FLORES, INDIVIDUALLY, AND ON BEHALF OF  
OTHER AGGRIEVED EMPLOYEES PURSUANT vs  
ALLIANCE GROUND INTERNATIONAL LLC, A  
DELAWARE LIMITED LIABILITY COMPANY

Case Number:

21TRCV00424

Type:

Motion re: (Motion for Preliminary Approval)

Status:

RESERVED

Filing Party:

Joana Flores, individually, and on behalf of other  
aggrieved employees pursuant (Plaintiff)

Location:

Torrance Courthouse - Department B

Date/Time:

06/13/2024 8:30 AM

Number of Motions:

1

Reservation ID:

975166282879

Confirmation Code:

CR-WY9705MKRL9OTYFZU

### Fees

| Description                 | Fee  | Qty | Amount |
|-----------------------------|------|-----|--------|
| Motion re: (name extension) | 0.00 | 1   | 0.00   |
| TOTAL                       |      |     | \$0.00 |

### Payment

Amount:

\$0.00

Type:

NOFEE

Account Number:

n/a

Authorization:

n/a

Payment Date:

1969-12-31

**Chat**

 [Print Receipt](#)

[+ Reserve Another Hearing](#)

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