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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF ORANGE**

PATRICIA BURROLA, NATHAN
RODRIGUEZ, KIRSTIE ROSSMAN,
individually, and on behalf of other members
of the general public similarly situated;

Plaintiffs,

vs.

OX CAR CARE, INC., a Delaware
corporation; and DOES 1 through 100,
inclusive,

Defendants.

PATRICIA BURROLA, individual, and on
behalf of other aggrieved employees pursuant
to the California Private Attorneys General
Act,

Plaintiff,

vs.

OX CAR CARE, INC., a Delaware
corporation; and DOES 1 through 100,
inclusive,

Defendants.

Case No.: 30-2021-01216803-CU-OE-CXC
[*Consolidated with* Case No.
20-2021-01228564-CU-OE-CXC]

Honorable Layne H. Melzer
Department CX102

CLASS ACTION

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

[Declaration of Proposed Class Counsel
(Daniel Bass); Declarations of Proposed Class
Representatives (Patricia Burrola, Nathan
Rodriguez, and Kirstie Rossman); and
[Proposed] Order filed concurrently
herewith]

Reservation ID: 74938063
Hearing Date: November 5, 2026
Hearing Time: 2:00 p.m.
Department: CX102

Complaint Filed: August 16, 2021
FAC Filed: May 4, 2022
Trial Date: None Set

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

PLEASE TAKE NOTICE that on November 5, 2026 at 2:00 p.m. or as soon thereafter as the matter may be heard before the Honorable Layne H. Melzer in Department CX-102 of the Superior Court of California for the County of Orange, located at 751 West Santa Ana Blvd., Santa Ana, California 92701, Plaintiffs Patricia Burrola, Nathan Rodriguez, and Kirstie Rossman (“Plaintiffs” or “Class Representatives”) will, and hereby do, move for an order:

- Granting preliminary approval of the proposed class action settlement described herein and as set forth in the Class and Representative Action Settlement Agreement and Release of Claims (“Settlement,” “Agreement,” or “Settlement Agreement”), attached as “**EXHIBIT 2**” to the Declaration of Daniel Bass in Support of Plaintiffs’ Motion for Preliminary Approval of Class and Representative Action Settlement;
- Certifying the proposed Class for settlement purposes;
- Appointing Plaintiffs Patricia Burrola, Nathan Rodriguez, and Kirstie Rossman as Class Representatives;
- Appointing Arby Aiwazian, Joanna Ghosh, Daniel Bass, and Brian St. John of Lawyers *for* Justice, PC as Class Counsel;
- Approving the proposed Notice of Class Action Settlement (“Class Notice”), attached as “**EXHIBIT 2**” of the [Proposed] Order Granting Preliminary Approval of Class and Representative Action Settlement, and directing the mailing thereof in accordance with the Settlement Agreement;
- Approving ILYM Group, 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.

1 This motion is based upon the following memorandum of points and authorities, the
2 Settlement Agreement, the Declaration of Proposed Class Counsel (Daniel Bass) and Proposed
3 Class Representatives (Patricia Burrola, Nathan Rodriguez, and Kirstie Rossman) in support
4 thereof, as well as the pleadings and other records on file with the Court in this matter, and such
5 evidence and oral argument as may be presented at the hearing on this motion.

6
7 Dated: August 25, 2026

LAWYERS for JUSTICE, PC

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9 By:



10 Daniel Bass
11 *Attorneys for Plaintiffs*
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MEMORANDUM OF POINTS AND AUTHORITIES

I. SUMMARY OF MOTION

Plaintiffs Patricia Burrola, Nathan Rodriguez, and Kirstie Rossman (“Plaintiffs” or “Class Representatives”) seek preliminary approval of the Class and Representative Action Settlement Agreement and Release of Claims (“Settlement,” “Agreement,” or “Settlement Agreement”) entered into by and between (1) Patricia Burrola, individually and on behalf of the Class and State of California pursuant to PAGA, (2) Nathan Rodriguez, individually and on behalf of the Class, (3) Kirstie Rossman, individually and on behalf of the Class, and (4) Ox Car Care, Inc. (“Defendant”). Subject to approval by the Court, Plaintiffs and Defendant (collectively, the “Parties”) have agreed to settle the lawsuits for a Total Settlement Amount of \$437,500.00.¹

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

All current and former hourly-paid or non-exempt employees who worked for Defendant within the state of California at any time during the Class Release Period (“Class” or “Class Members”).²

Class Members who do not submit a timely and valid Request for Exclusion from the Class Settlement (“Settlement Class Member”) will receive a *pro rata* share of the Net Settlement Amount (“Individual Settlement Share”). The net payment of each Settlement Class Member’s Individual Settlement Share (“Individual Settlement Payment”) will be distributed to Settlement Class Members on a *pro rata* basis based upon the number of workweeks in which a Class Member was employed by Defendant in the State of California during the Class Release Period, and received any regular pay (“Workweek” or “Eligible Workweek”).³

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¹ Settlement Agreement, attached as “EXHIBIT 2” to Declaration of Daniel Bass in Support of Motion for Preliminary Approval (“Bass Decl.”), § 1.43. Based on its records, Defendant represents that there are 13,685 workweeks during the period from August 16, 2017, to February 14, 2025. Should the qualifying workweeks increase beyond 10% worked by the Class Members during the Class Release Period, then Defendant shall increase the Total Settlement Amount on a pro-rata basis equal to the percentage increase in the number of workweeks worked by the Class Members above 10% (e.g., if the number of workweeks increases by 11% to 15,190 workweeks, the Total Settlement Amount will increase by 1%). *See id.*, § 2.6.

² *Id.*, § 1.6. “Class Release Period” is defined as the period from August 16, 2017, through April 20, 2025. *See id.*, § 1.7 [Incorrectly numbered in settlement agreement as a second § 1.6.]

³ *Id.*, §§ 1.14, 4.11, & 4.11.1.

The Settlement, upon final approval by the Court and funding of the Total Settlement Amount, will operate to resolve the Released Class Claims of Plaintiffs and Settlement Class Members and the Released PAGA Claims of the PAGA Members on behalf of the State.⁴

II. PROCEDURAL HISTORY AND FACTUAL BACKGROUND

Defendant is an automobile warranty plan provider, which sells and fulfills those plans. Defendant's warranty plans provide for service by certified mechanics, 24/7 roadside assistance, courtesy towing, among other services. Plaintiffs are former employees of Defendant.

On August 16, 2021, Plaintiff Patricia Burrola filed the Class Action Complaint for Damages in the Superior Court for the County of Orange, thereby commencing the above-captioned lawsuit, case no. 30-2021-01216803-CU-OE-CXC ("Class Action").⁵

On August 21, 2021, Plaintiff Patricia Burrola 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 ("PAGA Notice"). Aside from confirmation of receipt of the PAGA Notice, the LWDA did not respond to the PAGA Notice.⁶

On October 28, 2021, Plaintiff Patricia Burrola filed the Complaint for Enforcement Under The Private Attorneys General Act, California Labor Code § 2698, *Et Seq.* in the Superior Court for the County of Orange, thereby commencing case no. 20-2021-01228564-CU-OE-CXC ("PAGA Action").⁷

On March 21, 2022, Ox Car Care, Inc. ("Defendant") filed its Answer to Plaintiffs' Class Action Complaint for Damages. And its answer to Plaintiff Patricia Burrola's Complaint for Enforcement Under the Private Attorneys General Act, California Labor Code § 2698, *Et Seq.*⁸

On April 22, 2022, Parties sought leave to file a First Amended Class Action Complaint for Damages ("Operative Complaint"), adding Nathan Rodriguez, and Kirstie Rossman as

⁴ Settlement Agreement, at §§ 5.1 and 5.2. See *id.* at § 1.37 for the full scope of the "Released Class Claims" *id.* at § 1.39 for the full scope of the "Released PAGA Claims," and *id.* at § 1.38 for the definition of the "Released Parties."

⁵ Bass Decl. ¶ 2.

⁶ *Id.*, ¶ 3, Exh. 1.

⁷ *Id.*, ¶ 4.

⁸ *Id.*, ¶ 5.

1 Plaintiffs to the action. The Court granted Plaintiff leave to file the proposed First Amended
2 Complaint on May 22, 2022, and Plaintiffs filed the First Amended Complaint on May 4, 2022.⁹

3 On or about May 2, 2022, Defendant filed its Motion for an Order Consolidating Case
4 No. 30-2021-01228564 with Case No. 30-2021-01216803 (together, the “Actions”). Following
5 Plaintiffs’ opposition thereto the Court granted the Defendant’s motion and consolidated the
6 Actions on or about September 2, 2022.¹⁰

7 Plaintiffs’ core allegations are that Defendant has violated California wage and hour law,
8 including but not limited to laws set forth in the California Labor Code, by engaging in a uniform
9 practice and procedure, with respect to Plaintiffs, Class Members, and PAGA Members of, *inter*
10 *alia*, failing to pay all overtime and minimum wages, at all or at the correct rate of pay, failing to
11 provide compliant meal and rest periods and associated premium pay, failing to timely pay
12 wages during employment and upon termination of employment, failing to provide compliant
13 wage statements, failing to maintain requisite payroll records, and failing to reimburse necessary
14 business expenses, and thereby engaged in unfair business practices in violation of California
15 Business and Professions Code section 17200, *et seq.*, and conduct giving rise to civil penalties
16 recoverable under the Private Attorneys General Act of 2004 (California Labor Code sections
17 2698, *et seq.*). Plaintiffs contend that they, and the Class Members, are entitled to, *inter alia*,
18 unpaid wages, penalties (including and not limited to, penalties pursuant to PAGA), and
19 attorneys’ fees and costs.¹¹

20 The Parties have actively litigated the Actions since they were commenced on August 16,
21 2021 and August 21, 2021. On February 14, 2025, the Parties participated in arm's-length and
22 informed negotiations with Mediator Doug Leach ("Mediator"), a respected mediator of complex
23 wage and hour actions.¹² With the aid of the mediator, the Parties reached the Settlement
24 described herein to resolve the Actions in its entirety.¹³

25
26 ⁹ *Id.*, ¶ 6.

27 ¹⁰ *Id.*, ¶ 7.

28 ¹¹ Bass Decl., ¶¶ 18, 32

¹² Bass Decl., ¶ 8.

¹³ Bass Decl., ¶¶ 8, 27, 30.

III. SUMMARY OF THE SETTLEMENT TERMS

Under the terms of the Settlement, Defendant will pay a Total Settlement Amount of \$437,500.00 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 Total Settlement Amount: (1) attorneys' fees in an amount not to exceed 35% of the Total Settlement Amount (i.e., \$153,125.00 if the Total Settlement Amount remains \$437,500.00) and litigation costs and expenses in an amount not to exceed \$25,000.00 ("Class Counsel Payment") to Class Counsel; (2) Administrative Costs, which are currently estimated not to exceed \$13,000.00 to the Settlement Administrator ("Administrative Costs"); (3) PAGA Penalty Amount of \$65,000.00 ("PAGA Penalty Amount"); and (4) payments in the amount of up to \$7,500.00 to each of the Plaintiffs ("Enhancement Awards").¹⁵ The Parties have agreed to retain ILYM Group, Inc. ("ILYM" or "Settlement Administrator") to handle the notice and settlement administration process.¹⁶

The Parties have agreed that the Settlement Administrator will determine each Settlement Class Member's share of the available Net Settlement Amount ("Individual Settlement Share"), in accordance with the Settlement Agreement calculated by dividing the number of Eligible Workweeks attributed to the Settlement Class Member by all Eligible Workweeks attributed to members of the Settlement Class.¹⁷ The Parties have agreed that the Settlement Administrator will determine each PAGA Member's share of the 25% share of the PAGA Penalty Amount, in accordance with the Settlement Agreement on a pro rata per Eligible Pay Period in the PAGA Release Period.¹⁸

The Parties agree, for purposes of this Settlement, that Individual Settlement Payment will be allocated 20% to wages subject to withholdings and 80% to penalties, interest and non-wage damages.¹⁹ The Settlement Administrator will withhold the employee's share of taxes and

¹⁴ Settlement Agreement, §§ 1.43, 5.1 and 5.2.

¹⁵ *Id.*, §§ 1.2, 1.16, 1.43, 1.5, 4.10, 4.8 and 4.9.

¹⁶ *Id.*, § 1.41.

¹⁷ *Id.*, § 4.11.1.

¹⁸ *Id.*, § 4.10.3.

¹⁹ *Id.*, § 4.11.3

1 withholdings with respect to the wages portion of the Individual Settlement Share, and issue
2 checks to Settlement Class Members for their Individual Settlement Payments. Each Individual
3 PAGA Payment will be allocated as 100% penalties and will not be subjected to withholdings.²⁰
4 Defendant will provide the funds for any employer-side taxes related to the Individual Settlement
5 Shares.²¹

6 Individual Settlement Payment and Individual PAGA Payment checks will be negotiable
7 for 180 calendar days from the date of their issuance, and thereafter, shall be canceled.²²
8 Thereafter, funds from uncashed Individual Settlement Payment and/or Individual PAGA
9 Payment checks shall be transmitted to Legal Aid at Work the Parties proposed *cy pres*
10 recipient.²³

11 Any Class Member may request to be excluded from the Class Settlement by mailing a
12 Request for Exclusion postmarked on or before the date that is forty-five (45) calendar days from
13 the date of the initial mailing of the Class Notice by the Settlement Administrator (“Response
14 Deadline”).²⁴ PAGA Employees shall be bound to the PAGA Settlement irrespective of whether
15 they exercise their option to opt out of the Class Settlement.²⁵

16 Only Class Members who have not submitted a Request for Exclusion (i.e., Settlement
17 Class Member) may object to the Class Settlement by submitting a Notice of Objection, to the
18 Settlement Administrator prior to the Response Deadline.²⁶ Class Members who are re-mailed
19 their Class Notice will have an additional forty-five (45) calendar days from the original
20 Response Deadline to postmark and submit their written Requests for Exclusion or Objections to
21 the Settlement Administrator.²⁷

22 In order to dispute the number of Eligible Workweeks and/or Eligible Pay Periods
23 attributable to an individual Class Member and/or PAGA Member, that Class Member and/or

24 ²⁰ Settlement Agreement, § 4.11.3.

25 ²¹ *Id.*, § 1.43.

26 ²² *Id.*, § 4.11.2.

27 ²³ *Ibid.*

28 ²⁴ *Id.*, § 4.1.1.

²⁵ *Id.*, § 4.2.3.

²⁶ *Id.*, §§ 4.1.1 & 4.3

²⁷ *Id.*, § 4.1.1.

PAGA Member must submit a written letter to the Settlement Administrator that contains (1) the name and case number of the Actions (or reasonable portion thereof), (2) the Class Member's full name, current address, current telephone number, the last four digits of the Class Member's Social Security number, and signature, (3) contain a clear statement indicating that the Class Member disputes the number of Eligible Workweeks and/or Eligible Pay Periods credited to the Class Member; (4) and any documentation that supports a different number of Eligible Workweeks and/or Eligible Pay Periods.²⁸

IV. LEGAL STANDARD FOR PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENTS

The settlement of a class action requires approval by the court. *Dunk v. Ford Motor Co.* (1996) 48 Cal.App.4th 1794, 1800; Cal. Code Civ. Proc. § 1781(f). Courts review class action settlements in a two-step process: (1) an earlier conditional review by the court; and (2) a later detailed review after the period during which notice is distributed to class members for their comments or objections. Conte & Newberg, *Newberg on Class Actions* § 11.24 (4th Ed. 2002). Preliminary approval of a settlement does not require a court to make a final determination that the settlement is fair, reasonable, and adequate. Rather, that decision is made only 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.

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²⁸ Settlement Agreement , § 4.11.1.

V. **THE COURT SHOULD PRELIMINARY APPROVE THE SETTLEMENT**

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 give “proper deference to the private consensual decision of the parties.” *Hanlon*, 150 F.3d at 1027 (citation omitted).

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

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

The Parties have actively litigated the Actions since they commenced on August 16, 2021 and October 28, 2021. Both sides investigated the veracity, strength, and scope of the claims throughout the cases, and Class Counsel was actively preparing the matter for class certification and trial.²⁹

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²⁹ Bass Decl., ¶¶ 2-8 & 27-29.

1 Class Counsel conducted significant investigation and formal and informal discovery
2 regarding the facts of the cases, including and not limited to, the exchange, review, and analysis
3 of over a thousand pages of documents and data from Plaintiffs, Defendant, and other sources.³⁰
4 The volume of data and documents that Class Counsel reviewed and analyzed included and was
5 not limited to Plaintiffs' and other Class Members' employment records, a detailed sampling of
6 Class Members' time and pay data, Defendant's Employee Handbook, company policy
7 acknowledgements, internal memoranda, Defendant's operations and employment practices,
8 forms (including but not limited to Defendant's Receipt & Return of Company Property form,
9 Absence Request form,), procedures (including but not limited to Monthly Parking Agreements),
10 and policies (including but not limited to Trade Secret Agreement), among other information and
11 documents. Class Counsel had the opportunity to interview Plaintiffs and other Class Members
12 to gather facts and to identify potential witnesses.³¹ Class Counsel had the opportunity to
13 interview Plaintiffs and others to gather facts and to identify potential witnesses.³² In addition,
14 Class Counsel has extensive experience in California wage-and-hour class actions.³³

15 The Parties engaged in extensive settlement negotiations and participated in a full-day
16 mediation conducted by Doug Leach, Esq., a well-respected mediator experienced in mediating
17 complex labor and employment matters.³⁴ Prior to and during the mediation and settlement
18 negotiations, the Parties exchanged extensive information and engaged in discussions regarding
19 their evaluations of the cases and various aspects of the cases, including but not limited to, the
20 risks and delays of further litigation, the law relating to off-the-clock theory, regular rate,
21 rounding, meal and rest periods, PAGA representative claims, and state wage-and-hour law and
22 enforcement, as well as the evidence produced and analyzed, and the possibility of appeals,
23 among other things.³⁵ During all settlement discussions, the Parties conducted their negotiations
24

25 ³⁰ Bass Decl., ¶¶ 27-28.

26 ³¹ *Id.*, ¶ 28.

27 ³² *Id.*, ¶¶ 28-29.

28 ³³ *Id.*, ¶¶ 20-25.

³⁴ *Id.*, ¶ 27

³⁵ *Ibid.*

1 at arm's length in an adversarial position.³⁶ Arriving at a settlement that was acceptable to both
2 Parties was not easy. Both sides felt strongly about their ability to prevail at certification and at
3 trial.³⁷ After conducting investigations, formal and informal discovery, extensive settlement
4 negotiations, and with the aid of the mediator's evaluation, the Parties have agreed that the matter
5 is well-suited for settlement given the legal issues relating to Plaintiffs' principal claims, as well
6 as the costs and risks to both sides that would attend further litigation.³⁸

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

8 The Settlement represents a fair, adequate, and reasonable resolution of the matter.³⁹ The
9 Settlement was calculated using the information and data uncovered during litigation, case
10 investigation, and the formal and informal exchange of information.⁴⁰ The Settlement takes into
11 account the potential risks and rewards inherent in any case and, in particular, in the matter at
12 issue.⁴¹ Moreover, considering all of the facts and circumstances of the lawsuits, the Settlement
13 represents a fair, reasonable, and adequate recovery for the Class.⁴²

14 Assuming that the Class Counsel Payment, Enhancement Awards, PAGA Penalty
15 Amount, and Settlement Administration Costs are approved by the Court and paid in the full
16 amounts provided for by the Settlement, the Settlement provides for a Net Settlement Amount
17 that is currently estimated to be \$158,875.00.⁴³ Additionally, 25% of the PAGA Penalty Amount
18 (i.e., Individual PAGA Payment), which is \$16,250.00 out of \$65,000.00, will be distributed to
19 the PAGA Members, for their respective portion of the PAGA Penalty Amount. The entire Net
20 Settlement Amount will be fully paid out to the Settlement Class Members, in accordance with
21 the Settlement Agreement.

22 The amount of each Settlement Class Member's Individual Settlement Share and each
23 PAGA Employee's Individual PAGA Payment will be calculated based on their Eligible

24 ³⁶ Bass Decl., ¶ 27.

25 ³⁷ Ibid.

26 ³⁸ Ibid.

27 ³⁹ *Id.*, ¶¶ 27, 29, 31 & 38.

28 ⁴⁰ *Id.*, ¶¶ 27-28 & 32-37.

⁴¹ *Id.*, ¶¶ 36-38.

⁴² *Id.*, ¶¶ 27, 29, 31, & 37-38.

⁴³ *Id.*, ¶ 11.

1 Workweeks and/or Eligible Pay Periods during the Class Period and PAGA Period,
2 respectively.⁴⁴ “An allocation formula need only have a reasonable, rational basis [to warrant
3 approval], particularly if recommended by experienced and competent class counsel.” *In re*
4 *American Bank Note Holographics, Inc., Securities Litigation* (S.D.N.Y. 2001) 127 F.Supp.2d
5 418, 429-30. Here, the allocation is reasonably related to the number of Workweeks and/or Pay
6 Periods employed by Defendant where Class Members received regular pay from Defendant
7 during the relevant period and should be approved.

8 In light of the foregoing considerations, Class Counsel believes that the Settlement as a
9 whole is fair, reasonable, and adequate, and is in the best interest of the Class Members, PAGA
10 Members, and the State of California.⁴⁵ Although the recommendations of Class Counsel are not
11 conclusive, the Court can properly take the recommendations into account, particularly if Class
12 Counsel appear to be competent, and have experience with this type of litigation, and
13 investigation have been completed, as is the case here. *Newberg*, §11.47. Accordingly, the Court
14 should grant preliminary approval of the Settlement.

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

16 Pursuant to *Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th 116, the Parties
17 conducted extensive formal and informal discovery and exchanged over a thousand pages of
18 documents, data, and information prior to mediation.⁴⁶ The information that Class Counsel
19 obtained from Plaintiffs, Defendant, and other sources allowed Class Counsel to develop
20 valuation models in order to evaluate the potential value and merit of the claims, and perform a
21 complete evaluation of Defendant's defenses thereto.⁴⁷ As outlined in the Declaration of Daniel
22 Bass, Class Counsel performed an extensive analysis of each and every claim pursuant to *Kullar*
23 prior to entering into the Settlement.⁴⁸

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26 ⁴⁴ Settlement Agreement, §§ 4.10.3 & 4.11.1.

27 ⁴⁵ Bass Decl., ¶ 38.

28 ⁴⁶ Bass Decl., ¶¶ 28 & 31.

⁴⁷ *Id.*, ¶¶ 32-37.

⁴⁸ *Id.*, ¶ 36.

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.⁴⁹ 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 944 individuals, which is sufficiently numerous.⁵⁰ 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 or non-exempt employees of Defendant in California employed during the Class Release Period. As such, the Class is ascertainable and sufficiently numerous.

B. **The 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

⁴⁹ Settlement Agreement, § 2.5.

⁵⁰ Bass Decl., ¶ 17.

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 formal and informal discovery and exchange of information in the cases, 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.⁵¹ 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 in California employed during the Class Release 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 the Actions and to ensure that it comes to a fair and reasonable resolution.⁵² 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.⁵³

⁵¹ Bass Decl., ¶ 18.

⁵² Declaration of Patricia Burrola in Support of Plaintiffs’ Motion for Preliminary Approval of Class and Representative Action Settlement (“Burrola Decl.”), ¶¶ 3-4; Declaration of Nathan Rodriguez in Support of Plaintiffs’ Motion for Preliminary Approval of Class and Representative Action Settlement (“Rodriguez Decl.”), ¶¶ 3-4; Declaration of Kirstie Rossman in Support of Plaintiffs’ Motion for Preliminary Approval of Class and Representative Action Settlement (“Rossman Decl.”), ¶¶ 3-4.

⁵³ Bass Decl., ¶¶ 37-38.

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 AND COSTS

Class Counsel has litigated the matter for over 4 years and was actively preparing the matter for class certification and trial.⁵⁴ The ongoing work has been extensive, demanding, and ultimately successful in achieving a substantial settlement resolution. Class Counsel reviewed over a thousand pages of documents and data⁵⁵ 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 mediation.⁵⁶ Counsel for the Parties also undertook extensive settlement discussions, which included participating in mediation.⁵⁷

Class Counsel is well-experienced in wage-and-hour class action litigation and used that experience to obtain a great result for the Class.⁵⁸

The Settlement establishes a Total Settlement Amount of \$437,500.00, and provides for Class Counsel to apply to the Court consisting of attorneys' fees in an amount not to exceed 35% of the Total Settlement Amount (i.e., \$153,125.00 if the Total Settlement Amount remains \$437,500.00) and reimbursement of actual costs and expenses in an amount up to \$25,000.00.⁵⁹ The attorneys' fees provided for by the Settlement are commensurate with: (1) the risk that Class Counsel took in bringing and litigating the cases, (2) the extensive time, effort and expense that Class Counsel dedicated to the cases, (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, PAGA Members, and the State of California, and (6) the other cases that Class Counsel had to turn down in order to devote

⁵⁴ Bass Decl., ¶¶ 27-28.

⁵⁵ *Id.*, ¶¶ 28 & 31.

⁵⁶ *Id.*, ¶¶ 32-37.

⁵⁷ *Id.*, ¶ 27.

⁵⁸ *Id.*, ¶¶ 20-25.

⁵⁹ Settlement Agreement, § 4.8.

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.⁶⁰

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.” *Id.* 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, supra*, 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 fifty percent (50%) of the settlement, depending on the circumstances of the case. *Newberg*, § 14.03; *see also In re Ampicillin Antitrust Litig.* (D.D.C. 1981) 526 F.Supp. 494 (awarding attorneys’ fees in the amount of 45% of the \$7.3 million settlement); *Beech Cinema, Inc. v. Twentieth-Century Fox Film Corp.* (S.D.N.Y. 1979) 480 F.Supp. 1195 (awarding approximately 53% of the settlement as attorneys’

⁶⁰ Settlement Agreement, Exh. A.

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.⁶¹

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 submit an objection to the Class Settlement, submit a Request for Exclusion from the Class Settlement, and/or dispute regarding Eligible Workweeks and/or Eligible Pay Periods, and the date and time set for the Final Approval Hearing.⁶² The proposed Class Notice summarizes the proceedings to date and the terms and conditions of the Settlement in an

⁶¹ Bass Decl., ¶ 12.

⁶² Settlement Agreement, Exh. A.

informative and coherent manner.⁶³ The proposed Class Notice recognizes that the Court has not yet granted final approval of the settlement.⁶⁴ The proposed Class Notice also apprises the Class Members and PAGA Members of, *inter alia*, how their Individual Settlement Share and if applicable, their Individual PAGA Payment is calculated and the number of Eligible Workweeks and/or Eligible Pay Periods credited to them.⁶⁵ The proposed Class Notice fulfills the requirement of neutrality in notice procedure. *Newberg*, at § 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*, *supra*, 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 ILYM Group, Inc. as the Settlement Administrator. Within 15 calendar days of receipt of the Class Data and List, the Settlement Administrator will perform an NCOA check and will mail the Class Notice to each Class Member and PAGA Member.⁶⁶ The Settlement Administrator will skip-trace returned Class Notice and re-mail the Class Notice to the new addresses within ten (10) calendar days.⁶⁷ Class Members who are re-mailed their Class Notice will have an additional forty-five (45) calendar days from the original Response Deadline to postmark and submit their written Requests for Exclusion or Objections to the Settlement Administrator.⁶⁸ The Administrator will receive and process Request for Exclusion, Objections, and any disputes of Eligible Workweeks and/or Eligible Pay Periods.⁶⁹ 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,

⁶³ Settlement Agreement, Exh. A..

⁶⁴ *Ibid*.

⁶⁵ *Ibid*.

⁶⁶ *Id.*, § 3.4.

⁶⁷ *Ibid*.

⁶⁸ *Id.*, § 4.1.1.

⁶⁹ *Id.*, §§ 4.1.1, 4.3, & 4.11.1.

withholdings, and remittances; providing necessary reports and declarations; and other duties and responsibilities to process the Settlement and as requested by the Parties.⁷⁰ The Settlement Administration Costs is currently estimated to be \$13,000.00 and will be paid out of the Total Settlement Amount, subject to approval by the Court.⁷¹ Accordingly, Plaintiffs respectfully request that the Court appoint ILYM Group, Inc. as the Settlement Administrator and direct the mailing of the Class Notice to the Class Members and PAGA Members in the manner outlined and based on the proposed deadlines as described herein and in the Settlement Agreement.

XI. CLASS REPRESENTATIVE ENHANCEMENT AWARDS

Plaintiffs respectfully request that the Court appoint them as Class Representatives and preliminarily approve the Enhancement Awards in an amount up to \$7,500.00 each.⁷² It is within the Court's discretion to award payment 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 Awards include: (1) the risk to the Class Representative in commencing suit, both financial and otherwise; (2) the notoriety and personal difficulties encountered by the Class Representative; (3) the amount of time and effort spent by the Class Representative; (4) the duration of the litigation; and (5) the personal benefit (or lack thereof) enjoyed by the Class Representative as a result of the litigation. *Id.*

The Enhancement Awards are fair and appropriate. Plaintiffs 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.⁷³ Plaintiffs were available whenever Class Counsel needed them and actively tried to obtain and provide information that would facilitate the pursuit of the class and PAGA claims.⁷⁴ Accordingly, it is appropriate and just for Plaintiffs to receive \$7,500.00 each for their services on behalf of the Class, PAGA Employees, and the State of California, in addition to their Individual Settlement Payments.

⁷⁰ Settlement Agreement, §§ 1.2 & 3.2.

⁷¹ *Id.*, § 1.2.

⁷² *Id.*, § 4.9.

⁷³ Bass Decl., ¶ 13; Burrola Decl., ¶ 3; Rodriguez Decl., ¶ 3; Kirstie Decl., ¶ 3

⁷⁴ Bass Decl., ¶ 13; Burrola Decl., ¶ 4; Rodriguez Decl., ¶ 4; Kirstie Decl., ¶ 4

XII. CONCLUSION

For the foregoing reasons, Plaintiffs respectfully request that the Court grant Preliminary Approval of the Settlement; conditionally certify the Class for settlement purposes; preliminary appoint and designate Lawyers *for* Justice, PC as Class Counsel; appoint Plaintiffs Patricia Burrola, Nathan Rodriguez, and Kirstie Rossman as Class Representatives; appoint ILYM Group, Inc. as Settlement Administrator; preliminarily approve the allocations for Attorneys Fees and Costs, Enhancement Awards, PAGA Penalty 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 to schedule a Final Approval Hearing to take place in approximately 7 months from preliminary approval.

Dated: August 25, 2026

LAWYERS *for* JUSTICE, PC

By: _____



Daniel Bass
Attorneys for Plaintiffs