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

REGINIA SAM, 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.

CONCORDANCE HEALTHCARE
SOLUTIONS, LLC, an unknown business
entity; and DOES 1 through 100, inclusive,

Defendants.

Case No.: CVRI2102017

Honorable Craig G. Riemer
Department 1

CLASS ACTION

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

[Declaration of Proposed Class Counsel
(Janardana Burns); Declaration of
Proposed Class Representative (Reginia
Sam); Declaration of Defendant's
Counsel (Christopher W. Decker);
Declaration of Defendant (Doreen
Nersesian); Declaration of Proposed
Settlement Administrator (Michael
Moore); Compliance Chart; and
[Proposed] Order filed concurrently
herewith]

Reservation No. 228226958054
Date: November 15, 2022
Time: 8:30 a.m.
Department: 1

Complaint Filed: April 29, 2021
FAC Filed: March 9, 2022
Trial Date: None Set

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

PLEASE TAKE NOTICE that on November 15, 2022, at 8:30 a.m. or as soon thereafter as the matter may be heard before the Honorable Craig G. Riemer in Department 1 of the Superior Court of California for the County of Riverside, located at 4050 Main Street, Riverside California 92501, Plaintiff Regina Sam (“Plaintiff” or “Class Representative”) will, and hereby does, move for an order:

- Granting preliminary approval of the proposed class action settlement described herein and as set forth in the Joint Stipulation of Class Action and PAGA Settlement and Release (“Settlement,” “Agreement,” or “Settlement Agreement”), attached as **“EXHIBIT 1”** to the Declaration of Janardana Burns in Support of Plaintiff’s Motion for Preliminary Approval of Class Action Settlement, 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, Attorneys’ Fees and Costs to Class Counsel, Enhancement Payment to Plaintiff, and Settlement Administration Costs to the Administrator;
- Conditionally certifying the Class for settlement purposes;
- Preliminarily appointing Plaintiff Regina Sam as Class Representative;
- Preliminarily appointing Lawyers *for* Justice, PC as Class Counsel;
- Approving the proposed Notice of Class Action Settlement (“Class Notice”), Objection Form, and Exclusion Form (together, “Notice Packet”), attached as **“EXHIBIT A”, “EXHIBIT B”, “EXHIBIT C”** to the [Proposed] Order Granting Preliminary Approval of Class Action Settlement;
- Directing the mailing of the Class Notice to the Class Members;
- Approving the proposed deadlines for the notice and settlement administration process;
- Approving Phoenix Settlement Administrators as the Administrator; and

///

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

This motion is made pursuant to Rule 3.769 of the California Rules of Court, which provides for approval by the Court of the settlement of a putative class action and allows the Court to preliminarily certify a class for settlement purposes.

This motion is based upon the following memorandum of points and authorities, the Settlement Agreement, the Declarations of Proposed Class Counsel (Janardana Burns), Proposed Class Representative (Reginia Sam), and Proposed Administrator (Michael Moore), 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: September 26, 2022

LAWYERS for JUSTICE, PC

By:



Janardana Burns
Attorneys for Plaintiff

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MEMORANDUM OF POINTS AND AUTHORITIES

I. SUMMARY OF MOTION

Plaintiff Reginia Sam (“Plaintiff” or “Class Representative”) seeks preliminary approval of the Joint Stipulation of Class Action and PAGA Settlement and Release (“Settlement,” “Agreement,” or “Settlement Agreement”) entered into by and between Plaintiff, individually and on behalf of all others similarly situated and other aggrieved employees, on the one hand, and Defendant Concordance Healthcare Solutions, 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 Maximum Settlement Amount of four hundred fifty thousand dollars and no cents (\$450,000.00).¹ The Maximum Settlement Amount includes the following: (1) Individual Settlement Shares to Settlement Class Members which will be distributed from the Net Settlement Amount²; (2) the Enhancement Payment of seven thousand five hundred dollars and no cents (\$7,500.00) to Plaintiff³; (3) the Attorneys’ Fees and Costs to Class Counsel, consisting of attorneys’ fees in the amount of thirty-five percent (35%) of the Maximum Settlement Amount, or \$157,500.00, and reimbursement of litigation costs and expenses not to exceed twenty-five thousand dollars and no cents (\$25,000.00)⁴; (4) the Settlement Administration Costs to the Administrator in the amount not to exceed seven thousand dollars and no cents (\$7,000.00)⁵; and (5) the amount of sixty-seven thousand five hundred dollars and no cents (\$67,500.00) allocated to penalties under the Private Attorneys General Act (“PAGA”), of which 75% (i.e., \$50,675.00) will be distributed to the Labor and Workforce Development Agency (“LWDA”) and 25% (i.e., \$16,875.00) will be distributed to all current and former non-exempt employees who were employed by Defendant California at any time during the PAGA Period (“PAGA Employees”).⁶

¹ Settlement Agreement, attached as “**EXHIBIT 1**” to Declaration of Janardana Burns (“Burns Decl.”), ¶ 6.v.

² *Id.*, ¶ 6.w.

³ *Id.*, ¶ 6.n. & 11.

⁴ *Id.*, ¶ 6.a.

⁵ *Id.*, ¶ 6.nn. & 12.

⁶ *Id.*, ¶ 6.aa; “PAGA Period” is defined as the period of time from September 7, 2019 through January 12, 2022. See *id.*, ¶ 6.bb.

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

All current and former non-exempt employees who were employed by Defendant within the State of California at any time during the Class Period (“Class” or “Class Members”).⁷

The Class is estimated to consist of approximately one hundred thirty-four (134) individuals.⁸

Class Members who do not submit a timely and valid request to be excluded from the Settlement (“Settlement Class Members”) will receive a share of the Net Settlement Amount (“Individual Settlement Share”) on a *pro rata* basis based upon the number of workweeks each Settlement Class Member worked for Defendant as a non-exempt employee in California during the Class Period (“Workweeks”).⁹

The Settlement resolves the Released Class Claims of Plaintiff and Settlement Class Members and the Released PAGA Claims of Plaintiff, the State of California (with respect to PAGA Employees), and PAGA Employees, against the Released Parties.¹⁰

II. PROCEDURAL HISTORY AND FACTUAL BACKGROUND

Defendant provides technology and solutions to support logistics, contracts, and processes for the medical supply and healthcare industry. Plaintiff Reginia Sam is a former employee of Defendant.

On April 29, 2021, Plaintiff filed a Class Action Complaint for Damages in the Riverside County Superior Court (“Court”), thereby commencing the above-captioned lawsuit (“Action”).

⁷ Settlement Agreement, ¶ 6.f. “Class Period” is defined as the period of time from April 29, 2017 through January 12, 2022. *See id.*, ¶ RECITALS.

⁸ Burns Decl., ¶ 9.

⁹ Settlement Agreement, ¶¶ 6.pp.

¹⁰ *See id.* at ¶ 6.hh., for the full scope of the “Released Class Claims,” *id.* at ¶ 6.ii. for the full scope of the “Released PAGA Claims,” and *id.* at ¶ 6.jj., “Released Parties” are defined as Defendant its officers, directors, employees, and agents, and Seneca Medical Holdings, Inc. Seneca Medical Holdings, Inc is a part owner of Concordance Health Solutions, LLC, and employs certain individuals who also serve in leadership roles for Concordance. While none of these individuals are hourly employees who work or have worked in California, their leadership roles for Concordance could support an argument that Seneca is a joint employer and/or integrated enterprise with Concordance and, therefore, could be liable for violations of the California Labor Code suffered by Concordance’s California hourly employees. In that case, Concordance would be denied the benefit of its bargain in this settlement, as a related entity would be at risk of liability for the same claims Concordance is settling and releasing in the settlement.

On March 9, 2022, Plaintiff filed a First Amended Class Action Complaint for Damages and Enforcement Under the Private Attorneys General Act, Cal. Labor Code § 2698, *Et Seq.* (“Operative Complaint”). On April 8, 2022, Defendant filed an Answer to Plaintiff’s First Amended Class Action Complaint.

The moving and supporting papers for the Motion for Preliminary Approval includes a full copy of the Parties’ Settlement Agreement which is attached as “EXHIBIT 1” to the Declaration of Janardana Burns in Support of Plaintiff’s Motion for Preliminary Approval of Class Action Settlement, to the Court for filing and also to the Labor and Workforce Development Agency. The submission of these papers to the Labor and Workforce Development Agency was undertaken by way of online submission on the labor agency’s website (<http://www.dir.ca.gov/Private-Attorneys-General-Act/Private-Attorneys-General-Act.html>).

The Proof of Service filed concurrently with Plaintiff’s Motion for Preliminary Approval reflects submission of the papers to the Labor and Workforce Development Agency. A search of the Department of Industrial Relations’ PAGA Notice Public Search database will also confirm that the submission of the papers was completed to the labor agency.

Plaintiff’s core allegation is that Defendant has violated the California Labor Code by engaging in a uniform practice and procedure, with respect to Plaintiff and the Class Members, of, *inter alia*, failing to pay all overtime and minimum wages, failing to provide compliant meal and rest periods and associated premium pay, failing to timely pay wages during employment and upon termination of employment, failing to provide compliant wage statements, failing to maintain requisite payroll records, and failing to reimburse necessary business expenses, and 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, and the Class Members, are entitled to, *inter alia*, unpaid wages, penalties (including and not limited to, penalties pursuant to PAGA), and attorneys’ fees.

Defendant has denied, and continues to deny, any liability and wrongdoing of any kind associated with any of the allegations in the Action, and further denies that the Action is

appropriate for class treatment or representative adjudication for any purpose other than for settlement purposes only. More specifically, Defendant asserts that the proposed class lacks a well-defined community of interest, requiring individualized questions and proof. Defendant further points out that the Company policies at issue in this case are, on their face, compliant with California state law. Defendant also pointed to the lack of evidence of any meal and/or rest periods that were not provided. Furthermore, Defendant asserts that its payroll systems ensure compliance with the specific overtime requirements for California. Finally, Defendants assert that Plaintiff's PAGA claim is not manageable pursuant to *Wesson v. Staples the Office Superstore, LLC*.

The Parties have actively litigated the Action since it was commenced on April 29, 2021. On October 12, 2021, the Parties participated in a formal, full-day mediation conducted by Warren Jackson, Esq., a well-regarded mediator experienced in mediating complex labor and employment matters. With the aid of the mediator's evaluation, the Parties ultimately reached the Settlement described herein to resolve the Action in its entirety.

III. SUMMARY OF THE SETTLEMENT TERMS

Under the terms of the Settlement, Defendant will pay a Maximum Settlement Amount to resolve the Released Class Claims of Plaintiff and the Class Members who do not submit a timely and valid request to be excluded from the Settlement (i.e., Settlement Class Members) and the Released PAGA Claims of Plaintiff, the State of California (with respect to PAGA Employees), and PAGA Employees, with respect to the Released Parties.¹¹ Subject to approval by the Court, the Net Settlement Amount will be calculated by deducting the following amounts from the Maximum Settlement Amount: (1) attorneys' fees in an amount not to exceed one hundred fifty-seven thousand five hundred dollars and no cents (\$157,500.00) (i.e., up to 35% of the Maximum Settlement Amount) and reimbursement of costs and expenses in an amount up to twenty-five thousand dollars and no cents (\$25,000.00) to Class Counsel (collectively referred to as the "Attorneys' Fees and Costs"); (2) settlement administration costs, which are up to seven thousand dollars and no cents (\$7,000.00) to the Administrator ("Settlement

¹¹ Settlement Agreement, ¶ 6.v.

Administration Costs”); (3) the PAGA Allocation (\$67,500.00); and (4) payment in the amount of up to seven thousand five hundred dollars and no cents (\$7,500.00) to Plaintiff Reginia Sam (“Enhancement Payment”).¹² The Parties have agreed to retain Phoenix Settlement Administrators (“Phoenix” or “Administrator”) to handle the notice and settlement administration process.

The Parties have agreed that the Administrator will determine each Settlement Class Member’s share of the available Net Settlement Amount (“Individual Settlement Share”), in accordance with the Settlement Agreement and as follows: After Preliminary Approval of the Settlement, the Settlement Administrator will divide the estimated Net Settlement Amount by the Workweeks of all Class Members to yield the “Estimated Workweek Value,” and multiply each Class Member’s individual Workweeks by the Estimated Workweek Value to yield his or her estimated Individual Settlement Share.¹³ After Final Approval of the Settlement, the Settlement Administrator will divide the final Net Settlement Amount by the Workweeks of all Settlement Class Members to yield the “Final Workweek Value,” and multiply each Settlement Class Member’s individual Workweeks by the Final Workweek Value to yield his or her Individual Settlement Share.¹⁴

The Parties have agreed that the Settlement Administrator will determine each PAGA Employee’s *pro rata* share of the twenty-five percent (25%) portion of the PAGA Amount (“PAGA Employee Amount”) that an PAGA Employee is eligible to receive for the PAGA Settlement (“Individual PAGA Payment”), in accordance with the Settlement Agreement by dividing the PAGA Employee Amount by the total number of Workweeks of all PAGA Employee during the PAGA Period to yield the “PAGA Workweek Value,” and multiply each PAGA Employee’s individual Workweeks during the PAGA Period by the PAGA Workweek Value to yield his or her Individual PAGA Payment.¹⁵

¹² Settlement Agreement, ¶¶ 6.a., 6.nn., 6.aa., & 6.n.

¹³ *Id.*, ¶ 14.a.

¹⁴ *Id.*, ¶ 14.b.

¹⁵ *Id.*, ¶ 15.

Each Individual Settlement Share will be allocated as follows: twenty percent (20%) as wages, which will be reported on an IRS Form W-2 and eighty percent (80%) as penalties, interest, and non-wage damages, which will be reported on an IRS Form 1099.¹⁶ The 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 Settlement Class Members for their Individual Settlement Share net of these taxes and withholdings (the net payment is referred to as "Individual Settlement Payment").¹⁷ The employee's share of taxes and withholdings with respect to the wages portion of the Individual Settlement Shares (i.e., payroll taxes) is included in the Maximum Settlement Amount.¹⁸ The employer's share of taxes and withholdings with respect to the wages portion of the Individual Settlement Shares will be paid separately and in addition to the Maximum Settlement Amount. The Individual PAGA Payments will be considered one hundred percent (100%) penalties and will be reported on an IRS Form 1099.¹⁹ When issuing payments, the Settlement Administrator may combine the Individual Settlement Payment and Individual PAGA Payment into one check if the intended recipient for both payments is one individual.²⁰

Settlement Class Members and PAGA Employees shall have one hundred and eighty (180) calendar days to cash their respective settlement checks.²¹ Any checks not negotiated within the 180-day period will be cancelled and will not be reissued.²² All funds associated with cancelled checks will be distributed to the Controller of the State of California to be held pursuant to the Unclaimed Property Law, California Civil Code § 1500, *et seq.*, for the benefit of those Settlement Class Members who did not cash, deposit, or otherwise negotiate their checks until such time that they claim their property.²³ The Settlement Administrator shall mail a reminder postcard to any Settlement Class Member and/or PAGA Employee whose Individual

¹⁶ Settlement Agreement, ¶ 24.

¹⁷ *Ibid.*

¹⁸ *Ibid.*

¹⁹ *Ibid.*

²⁰ *Id.*, ¶ 19.

²¹ *Ibid.*

²² *Ibid.*

²³ *Ibid.*

Settlement Payment and/or Individual PAGA Payment check has not been negotiated within sixty (60) calendar days after the date of mailing.²⁴

Any Class Member wishing to be excluded from the Settlement must submit a timely and complete Exclusion Form or a written letter indicating a request to be excluded from the Settlement (together, “Request for Exclusion”) to the Administrator by mail, postmarked on or before forty-five (45) calendar days from the date of mailing the Class Notice, Objection Form, and Exclusion Form (together, “Notice Packet”) (“Response Deadline”), or in the case of a re-mailed Notice Packet, an additional fifteen (15) calendar days.²⁵ To be valid, an Exclusion Form must be complete and a written Request for Exclusion must: (a) contain the case name and number of the Action; (b) contain the Class Member’s full name, signature, address, telephone number, and last four (4) digits of Social Security Number; (c) contain a clear written statement indicating that the Class Member seeks exclusion from the Class Settlement. The proposed Exclusion Form that is attached as “EXHIBIT B” to the [Proposed] Order Granting Preliminary Approval of Class Action Settlement includes this information. Any Class Member who validly requests to be excluded from the Settlement will no longer be a Class Member and will not have any right to object, appeal, or comment on the Settlement.²⁶

To object to the Settlement, a Class Member who does not opt out of the Settlement (i.e., Settlement Class Member) must submit a complete and timely Objection Form or a written objection (together, “Objection”) to the Administrator on or before the Response Deadline, or in the case of a re-mailed Notice Packet, the extended Response Deadline.²⁷ To be valid, an Objection Form must be complete and a written objection to the Settlement must be in writing and must: (a) contain the case name and number of the Action; (b) contain the Class Member’s full name, signature, address, telephone number, and last four (4) digits of Social Security Number; (c) contain a written statement of all grounds for the objection accompanied by any legal support for such objection; and (d) contain copies of any papers, briefs, or other documents

²⁴ Settlement Agreement, ¶ 19.

²⁵ *Id.*, ¶¶ 6.kk., 6.ll., & 20.

²⁶ *Id.*, ¶ 6.kk. & 20.

²⁷ *Id.*, ¶ 6.y. & 21.

upon which the objection is based.²⁸ The proposed Objection Form is attached as “EXHIBIT C” to the [Proposed] Order Granting Preliminary Approval of Class Action Settlement includes this information.

Class Members will have an opportunity to dispute the number of Workweeks to which they have been credited, as reflected in their respective Class Notices.²⁹ In order to dispute Workweeks, Class Members must submit a written letter to the Administrator that: (a) contains the case name and number of the Action; (b) contain the Class Member’s full name, signature, address, telephone number, and last four (4) digits of Social Security Number; (c) clearly state that the Class Member disputes of the number of Workweeks credited to him or her and what he or she contends is the correct number to be credited to him or her; (d) attach any documentation that he or she has to support the dispute; and (e) be submitted by mail to the Settlement Administrator at the specified address, postmarked on or before the Response Deadline.³⁰

V. 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.

²⁸ Settlement Agreement, ¶ 6.y.

²⁹ *Id.*, ¶ 6.qq. & 18.c.

³⁰ *Id.*, ¶ 6.qq. & 18.c.

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).

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

V. THE COURT SHOULD PRELIMINARILY APPROVE THE SETTLEMENT

The trial court has broad powers to determine whether a proposed settlement is fair under the circumstances of the case. *Dunk v. Ford Motor Co.* (1996) 48 Cal.App.4th 1794. To make this fairness determination, courts must consider several relevant factors, including “the strength of the plaintiff’s case, the risk, expense, complexity and likely duration of further litigation, the risk of maintaining class action status through trial, the amount offered in settlement, the extent of discovery completed and the stage of the proceedings, the experience and view of counsel, the presence of a governmental participant, and the reaction of the class members to the

1 proposed settlement.” *Dunk, supra*, 48 Cal.App.4th at 1801. “The list of factors is not exclusive
2 and the court is free to engage in a balancing and weighing of the factors depending on the
3 circumstances of each case.” *Wershba, supra*, 91 Cal.App.4th at 245. Furthermore, courts give
4 “proper deference to the private consensual decision of the parties.” *Hanlon, supra*, 150 F.3d
5 at 1027 (citation omitted).

6 The proponent of the settlement has the burden to show that it is fair and reasonable.
7 *Wershba, supra*, 91 Cal.App.4th at 245. “A presumption of fairness exists where: (1) the
8 settlement is reached through arm’s-length bargaining; (2) investigation and discovery are
9 sufficient to allow counsel and the court to act intelligently; (3) counsel is experienced in similar
10 litigation; and (4) the percentage of objectors is small.” *Id.*; *Dunk, supra*, 48 Cal.App.4th at
11 1802; *7-Eleven Owners for Fair Franchising v. Southland Corp.* (2000) 85 Cal.App.4th 1135,
12 1151.

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

15 The Parties actively litigated the Action since it was commenced on April 29, 2021.
16 Both sides used the pre-mediation time period to investigate the veracity, strength, and scope of
17 the claims, and Class Counsel was actively preparing the case for class certification and trial.³¹

18 Prior to engaging in mediation, Class Counsel conducted significant investigation and
19 informal discovery regarding the facts of the case, including and not limited to, the exchange,
20 review, and analysis of thousands of pages of documents and data produced by Defendant.³²
21 The volume of data and documents that Class Counsel reviewed and analyzed included and was
22 not limited to: Plaintiff and other Class Members’ employment records, a detailed sampling of
23 Class Members’ time and pay data (including, but not limited to, Timecard Records, Payroll
24 Journal, and Defendant’s Earnings Codes), Concordance Healthcare Solutions Employee
25 Handbook, company policy acknowledgements (including, but not limited to, Employee
26 Handbook Acknowledgement and Receipt, Receipt of Employee Handbook and Benefit
27

28 ³¹ Burns Decl., ¶¶ 11-13.

³² *Id.*, ¶ 12.

Summary), job descriptions, Defendant's operations and employment practices, forms (including, but not limited to, Employee Status Change Form and Direct Deposit Form), and policies (including, but not limited to, Clock In & Out Policy, Rounding Policy, Overtime Pay Policy, and Termination Matrix Procedures), among other information and documents.³³ Class Counsel interviewed Plaintiff and other Class Members to gather facts and to identify potential witnesses.³⁴ Counsel for the Parties also met and conferred on numerous occasions, e.g., to discuss issues relating to the pleadings, and the production of documents and data prior to the mediation.³⁵ Class Counsel also drafted Plaintiff's mediation brief and prepared for and attended court proceedings, settlement negotiations, and the mediation, among other tasks.³⁶

The Parties engaged in extensive settlement negotiations and participated in a formal, full-day mediation conducted by Warren Jackson, Esq., a well-respected mediator experienced in mediating complex labor and employment matters.³⁷ Prior to and during the mediations and settlement discussion, the Parties exchanged class information and engaged in an intensive discussion regarding their evaluations of the case and various aspects of the case, including but not limited to, the risks and delays of further litigation, the risks to the Parties of proceeding with class certification and/or representative adjudication, the law relating to off-the-clock theory, meal and rest periods, wage-and-hour law and enforcement, and PAGA representative claims, as well as the evidence produced and analyzed, and the possibility of appeals, among other things.³⁸ During all settlement discussions, the Parties conducted their negotiations at arm's length in an adversarial position.³⁹ Arriving at a settlement that was acceptable to both Parties was not easy. Defendant and its counsel felt strongly about their ability to prevail on the merits and at certification, and Plaintiff and Class Counsel believed that they would be able to obtain class certification and prevail at trial.⁴⁰ After conducting investigations, significant

³³ Burns Decl., ¶ 12.

³⁴ *Ibid.*

³⁵ *Ibid.*

³⁶ *Ibid.*

³⁷ *Id.*, ¶ 11.

³⁸ *Ibid.*

³⁹ *Ibid.*

⁴⁰ *Id.*, ¶¶ 11, 16-18.

informal discovery, extensive settlement negotiations, and with the aid of the mediator's evaluation, the Parties have agreed that the matter is well-suited for settlement given the legal issues relating to Plaintiff's principal claims, as well as the costs and risks to both sides that would attend further litigation.⁴¹

The Settlement takes into account the strengths and weaknesses of each side's position and the uncertainty of how the case might have concluded at certification and trial.⁴² The Parties have had the opportunity to interview and obtain information from their respective witnesses.⁴³ Counsel for the Parties have also reviewed documents and information relating to Plaintiff's and the Class Members' employment with Defendant and performed significant research into the law concerning class certification, PAGA representative actions, off-the-clock theory, meal and rest periods, wage-and-hour law and enforcement, Plaintiff's claims, and Defendant's defenses thereto, as well as facts discovered.⁴⁴ The Parties have reached the Settlement based on this large volume of facts, evidence, and investigation. In addition, Class Counsel has extensive experience in employment class actions, including significant experience in California wage-and-hour litigation.⁴⁵

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

The Settlement, which provides for a Maximum Settlement Amount of four hundred fifty thousand dollars and no cents (\$450,000.00), represents a fair, adequate, and reasonable resolution of the matter.⁴⁶ The Settlement was calculated using the information and data uncovered during litigation, case investigation, as well as the informal exchange of information.⁴⁷ The Settlement takes into account the potential risks and rewards inherent in any case and, in particular, in the case at issue.⁴⁸ Moreover, considering all of the facts and

⁴¹ Burns Decl., ¶¶ 11, 16-18.

⁴² *Ibid.*

⁴³ *Ibid.*

⁴⁴ *Id.*, ¶¶ 11-13 & 16-18.

⁴⁵ *Id.*, ¶¶ 6-7.

⁴⁶ *Id.*, ¶¶ 11, 13, 14 & 80.

⁴⁷ *Id.*, ¶¶ 11-13.

⁴⁸ *Id.*, ¶¶ 16-18.

1 circumstances of the lawsuit, the Settlement represents a fair, reasonable, and adequate recovery
2 for the Class.⁴⁹

3 Assuming that the Attorneys' Fees and Costs, Enhancement Payment, PAGA
4 Allocation, and Settlement Administration Costs are approved by the Court and paid in the full
5 amounts provided for by the Settlement, the Settlement provides for a Net Settlement Amount
6 that is currently estimated to be one hundred eighty-five thousand five hundred dollars and no
7 cents (\$185,500.00).⁵⁰ As discussed in Part III, *supra*, the entire Net Settlement Amount will
8 be fully paid out to the Settlement Class Members, in accordance with the Settlement
9 Agreement. The amount of each Settlement Class Member's Individual Settlement Share will
10 be calculated based on his or her Workweeks.⁵¹ There is no reason to doubt the fairness of the
11 proposed plan of allocation of the settlement funds for purposes of preliminary approval. Even
12 at the final approval stage, "[a]n allocation formula need only have a reasonable, rational basis
13 [to warrant approval], particularly if recommended by experienced and competent class
14 counsel." *In re American Bank Note Holographics, Inc., Securities Litigation* (S.D.N.Y. 2001)
15 127 F.Supp.2d 418, 429-30.

16 In light of the foregoing considerations, Class Counsel believes that the Settlement as a
17 whole is fair, reasonable, and adequate, and is in the best interest of the Class Members, PAGA
18 Employees, and the State of California.⁵² Although the recommendations of Class Counsel are
19 not conclusive, the Court can properly take the recommendations into account, particularly if
20 Class Counsel appears to be competent, and has experience with this type of litigation, and
21 investigation have been completed, as is the case here. *Newberg*, §11.47. Accordingly, the
22 Court should grant preliminary approval of the Settlement.

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

24 Pursuant to *Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th 116, the Parties
25 conducted significant informal discovery and exchanged thousands of pages of documents, data,
26

27 ⁴⁹ Burns Decl., ¶¶ 11, 13, & 80.

28 ⁵⁰ *Id.*, ¶ 14.

⁵¹ Settlement Agreement, ¶ 14.

⁵² Burns Decl., ¶¶ 11, 13, & 80.

1 and information prior to mediation.⁵³ The discovery and information that Class Counsel
2 obtained from Defendant, Plaintiff, and other sources allowed Class Counsel to develop
3 valuation models in order to evaluate the potential value and merit of the claims, and perform a
4 complete evaluation of Defendant's defenses thereto.⁵⁴ As outlined in the Declaration of
5 Janardana Burns, Class Counsel performed an extensive analysis of each and every claim
6 pursuant to *Kullar* prior to entering into the Settlement.⁵⁵

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

8 For settlement purposes, the requisites for establishing class certification are met, and
9 the Parties have stipulated to conditional certification of the Class for settlement purposes only.⁵⁶
10 California Code of Civil Procedure Section 382 "authorizes class actions when the question is
11 one of a common or general interest, of many persons, or when the Parties are numerous, and it
12 is impracticable to bring them all before the court." *Sav-On Drug Stores, Inc. v. Superior Court*
13 (2004) 34 Cal.4th 319, 326. California courts certify class actions where the plaintiff identifies
14 "both [1] an ascertainable class and [2] a well-defined community of interest among class
15 members." *Id.*

16 The Class is ascertainable and numerous as to make it impracticable to join all Class
17 Members, and there are common questions of law and fact that predominate over any questions
18 affecting any individual Class Member. Further, Plaintiff's claims are typical of the claims of
19 the Class Members, and Class Counsel will fairly and adequately protect the interests of the
20 Class. Finally, prosecution of separate actions by individual Class Members would create the
21 risk of inconsistent or varying adjudications, and a class action is superior to other available
22 means for the fair and efficient adjudication of the case. The Class is amenable to class
23 certification for settlement purposes as discussed below.

24 ///

25 ///

26
27 ⁵³ Burns Decl., ¶¶ 11-13 & 18.

28 ⁵⁴ *Id.*, ¶ 18.

⁵⁵ *Id.*, ¶¶ 11-13 & 16-18.

⁵⁶ Settlement Agreement, ¶ RECITALS.

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

2 “Ascertainability is required in order to give notice to putative class members as to whom
3 the judgment in the action will be *res judicata*.” *Hicks v. Kaufman & Broad Home Corp.* (2001)
4 89 Cal.App.4th 908, 914. “A class is ascertainable if it identifies a group of unnamed plaintiffs
5 by describing a set of common characteristics sufficient to allow a member of that group to
6 identify himself or herself as having a right to recover based on the description.” *Bartold v.*
7 *Glendale Federal Bank* (2000) 81 Cal.App.4th 816, 828. The proposed class must also be
8 sufficiently numerous. *Linder v. Thrifty Oil Co.* (2000) 23 Cal.4th 429, 435.

9 This action involves a class of approximately four hundred thirty-nine (439)
10 individuals.⁵⁷ This class is sufficiently numerous. *See Rose v. City of Hayward* (1981) 126
11 Cal.App.3d 926, 934-35 (indicating that a class of 30 to 40 individuals satisfies the numerosity
12 requirement as joinder is not practical at that point). Further, all Class Members can and will
13 be identified by Defendant to the Administrator through a review of Defendant’s employment
14 records regarding hourly-paid or non-exempt employees in California during the Class Period.
15 As such, the Class is ascertainable and sufficiently numerous.

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

17 The community of interest requirement “embodies three factors: (1) predominant
18 common questions of law or fact; (2) class representative with claims or defenses typical of the
19 class; and (3) class representative who can adequately represent the class.” *Sav-On, supra*, 34
20 Cal.4th at 326. “[T]he community of interest requirement for certification *does not mandate*
21 *that class members have uniform or identical claims.*” *Capitol People First v. Dep’t of*
22 *Developmental Services* (2007) 155 Cal.App.4th 676, 692 (emphasis in original). Rather, courts
23 focus on the Defendant’s internal policies and “pattern and practice . . . in order to assess whether
24 that common behavior toward similarly situated plaintiff renders class certification appropriate.”
25 *Id.* (citing *Sav-On, supra*, 34 Cal.4th at 333).

26 The “common issues” requirement “involves analysis of whether the proponent’s ‘theory
27 of recovery’ is likely to prove compatible with class treatment.” *Capitol People, supra*, 155
28

⁵⁷ Burns Decl., ¶ 9.

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 Operative Complaint. 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.⁵⁸ Plaintiff’s claims arise from Defendant’s alleged uniform policy and systematic scheme, with respect to Plaintiff and the Class Members, of, *inter alia*, failing to properly pay overtime and minimum wages for all hours 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.⁵⁹

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.⁶⁰ As a result, Plaintiff claims that all of the Class Members were uniformly not paid all compensation due to them from Defendant during the time period at issue.⁶¹

Plaintiff maintains that the outcome of this litigation would be determined by Defendant’s alleged uniform operations and employment policies and procedures that applied across its hourly-paid or non-exempt employees who worked in California during the Class Period. Accordingly, the Court should certify the Class for settlement purposes only.

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

Class Counsel has litigated the matter for over two years, and was actively preparing the

⁵⁸ Burns Decl., ¶ 16.

⁵⁹ *Ibid.*

⁶⁰ *Ibid.*

⁶¹ *Ibid.*

1 matter for class certification and trial.⁶² The ongoing work has been extensive, demanding, and
2 ultimately successful in achieving a substantial settlement resolution. Class Counsel conducted
3 extensive investigations into the facts of the case and informal discovery. Class Counsel
4 reviewed thousands of pages of documents and data⁶³ and also interviewed and obtained
5 information from Plaintiff and other Class Members, researched applicable law, undertook
6 damages/valuation calculations, and met and conferred with Defendant's counsel regarding the
7 pleadings and the production of documents and data prior to mediation.⁶⁴ Counsel for the Parties
8 also undertook extensive settlement discussions, which included participating in a formal, full-
9 day mediation.⁶⁵

10 Class Counsel is well-experienced in wage-and-hour class action litigation and used that
11 experience to obtain a great result for the Class.⁶⁶

12 The Settlement establishes a Maximum Settlement Amount of four hundred fifty
13 thousand dollars and no cents (\$450,000.00), and provides for Class Counsel to apply to the
14 Court for Attorneys' Fees and Costs, consisting of attorneys' fees in an amount not to exceed
15 thirty-five percent (35%) of the Maximum Settlement Amount (i.e., \$157,500.00) and an
16 amount not to exceed twenty-five thousand dollars and no cents (\$25,000.00) for costs and
17 expenses.⁶⁷ The attorneys' fees provided for by the Settlement is commensurate with: (1) the
18 risk that Class Counsel took in bringing and litigating the case, (2) the extensive time, effort and
19 expense that Class Counsel dedicated to the case, (3) the skill and determination that Class
20 Counsel has shown, (4) the results that Class Counsel has achieved throughout the litigation, (5)
21 the value of the Settlement that Class Counsel has achieved for the Class Members, and (6) the
22 other cases that Class Counsel had to turn down in order to devote their time and efforts to this
23 matter. The proposed Class Notice provides Class Members with information about the amount
24

25
26 ⁶² Burns Decl., ¶¶ 11-13.

27 ⁶³ *Id.*, ¶ 12.

28 ⁶⁴ *Ibid.*

⁶⁵ *Id.*, ¶ 11.

⁶⁶ *Id.*, ¶¶ 6-7.

⁶⁷ Settlement Agreement, ¶¶ 6.v. & 10.

1 allocated toward the Attorneys' Fees and Costs, and that an award of the Attorneys' Fees and
2 Costs will be sought, as provided for by the Settlement.⁶⁸

3 Trial courts have "wide latitude" in assessing the value of attorneys' fees and their
4 decisions will "not be disturbed on appeal absent a manifest abuse of discretion." *Lealao v.*
5 *Beneficial Cal., Inc.* (2000) 82 Cal.App.4th 19, 41. Indeed, it is long settled that the
6 "experienced trial judge is the best judge of the value of professional services rendered in his
7 court." *Ketchum v. Moses* (2001) 24 Cal.4th 1122, 1132. California law provides that attorney
8 fee awards should be equivalent to fees paid in the legal marketplace to compensate for the result
9 achieved and risk incurred. *Laffitte v. Robert Half Int'l, Inc.* (2016) 1 Cal.5th 480, 503 (citing
10 *Lealao, supra*, 82 Cal.App.4th at 48-49). In *Lealao*, the court held that when an action leads to
11 a recovery that can be "monetized" with a reasonable degree of certainty, the trial court should
12 "ensure that the fee awarded is within the range of fees freely negotiated in the legal marketplace
13 in comparable litigation." *Id.* at 50. In cases where class members present claims against a
14 settlement fund and the settlement agreement provides that the defendant agrees to paying the
15 attorneys a percentage of the same, use of that percentage method is appropriate. *Id.* at 32.

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

23 Historically, courts have awarded fees as high as fifty percent (50%) of the settlement,
24 depending on the circumstances of the case. *Newberg*, § 14.03; *see also In re Ampicillin*
25 *Antitrust Litig.* (D.D.C. 1981) 526 F.Supp. 494 (awarding attorneys' fees in the amount of 45%
26 of the \$7.3 million settlement); *Beech Cinema, Inc. v. Twentieth-Century Fox Film Corp.*
27 (S.D.N.Y. 1979) 480 F.Supp. 1195 (awarding approximately 53% of the settlement as attorneys'
28

⁶⁸ 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.⁶⁹

Class Counsel will provide extensive evidence as to the time worked, litigation efforts, and further argument at the time of filing Plaintiff's motion for final approval of the Settlement and application for the Attorneys' Fees and Costs and at the Final Approval Hearing. 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 Notice⁷⁰ describes the Settlement, the deadlines and procedures to submit an Objection, a Request for Exclusion, and/or a dispute regarding Workweeks, and the date and time set for the Final Approval Hearing.⁷¹

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

⁶⁹ Burns Decl., ¶ 19.

⁷⁰ Settlement Agreement, Exh. A.

⁷¹ *Ibid.*

proceedings to date and the terms and conditions of the Settlement in an informative and coherent manner.⁷² The proposed Class Notice recognizes that the Court has not yet granted final approval of the settlement.⁷³ The proposed Class Notice also apprises the Class Members of, *inter alia*, how their Individual Settlement Share and/or Individual PAGA Payment is calculated and the number of Workweeks credited to them.⁷⁴

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 PHOENIX SETTLEMENT ADMINISTRATORS AS THE ADMINISTRATOR

The Parties have selected Phoenix to administer the Settlement.

The Administrator will mail the Notice Packet in English and Spanish to each Class Member by First-Class U.S. mail.⁷⁵ The Administrator will receive and process Requests for Exclusion, Objections, and any disputes regarding Workweeks.⁷⁶

The Administrator will calculate the amounts of the Individual Settlement Shares and Individual PAGA Payments; deduct and transmit applicable state and/or federal taxes in connection with the wage portion of Individual Settlement Shares; mail the Individual Settlement Payment and Individual PAGA Payment checks to Settlement Class Members and PAGA Employees; issue W-2 and 1099 forms; calculate and disburse the Attorneys’ Fees and Costs, Enhancement Payment, and LWDA Payment; and perform such other tasks necessary to effectuate the terms of the Settlement Agreement.⁷⁷ The Settlement Administration Costs are

⁷² Settlement Agreement, Exh. A.

⁷³ *Ibid.*

⁷⁴ *Ibid.*

⁷⁵ *Id.*, ¶ 18.

⁷⁶ *Id.*, ¶ 12.

⁷⁷ *Ibid.*; Burns Decl., ¶ 15.

currently estimated to be seven thousand dollars and no cents (\$7,000.00) and will be paid out of the Maximum Settlement Amount, subject to approval by the Court.⁷⁸

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

X. PROPOSED DEADLINES FOR THE NOTICE PROCESS

At this preliminary approval stage, plaintiffs seek approval of the proposed deadlines for the notice and settlement administration process. *Newberg*, at § 11.26. The notice process entails mailing of the Class Notice, in the form approved by the Court, to all known and reasonably ascertainable Class Members based on Defendant's records.⁷⁹

Within twenty-one (21) calendar days after the date that the Court grants preliminary approval of the Agreement, Defendant shall provide a list of all Class Members and all necessary information to the Administrator to locate Class Members and process payments, including, but not limited to, each Class Member's last-known full name, mailing address, telephone number, Social Security Number, dates employed as a non-exempt employee of Defendant in California during the Class Period, and such other information as is necessary for the Settlement Administrator to calculate Workweeks ("Class List").⁸⁰

Within fourteen (14) calendar days from the date the Court preliminarily approves the Agreement, the Administrator will perform a National Change of Address ("NCOA") check for Class Members' most current addresses based on the information provided by Defendant and will mail the Court-approved Notice Packet to the Class Members.⁸¹ For any Notice Packets that are returned as undeliverable or notifying the Administrator that the Class Member is no longer at the address, the Administrator shall perform a skip-trace on that individual and re-mail the Notice Packet within five (5) business days of receiving information that the mailing was

⁷⁸ Settlement Agreement, ¶ 12.

⁷⁹ *Id.*, ¶¶ 6.e., 6.x., & 18.

⁸⁰ *Id.*, ¶ 6.c.

⁸¹ *Id.*, ¶ 18.

undeliverable or the Class Member was no longer at the address to the new address found in under the skip-trace.⁸² Class Members will have until the Response Deadline, or the Extended Response Deadline in the case of a re-mailed Notice Packet, to either contest the number of Workweeks allocated to them, request to opt out of the Settlement, or object to the Settlement.⁸³

Within thirty (30) calendar days after the Effective Date, Defendant shall deposit the Maximum Settlement Amount (\$450,000.00) in a Qualified Settlement Fund account established by the Settlement Administrator.⁸⁴ Within seven (7) calendar days after the Maximum Settlement Amount is transmitted to the Administrator, subject to the Parties' approval of the final distribution amounts, the Settlement Administrator will distribute the Individual Settlement Shares to Settlement Class Members, Individual PAGA Payments to PAGA Employees, Attorneys' Fees and Costs to Class Counsel, Enhancement Payment to Plaintiff, Settlement Administration Costs to itself, and payment to the LWDA of its 75% share of the PAGA Allocation (i.e., \$50,625.00 out of \$67,500.00) ("LWDA Payment").⁸⁵

Settlement Class Members and PAGA Employees shall have one hundred and eighty (180) calendar days to cash their respective settlement checks under the Agreement.⁸⁶ Any checks not negotiated within the 180-day period will be cancelled.⁸⁷ All funds remaining in the Qualified Settlement Fund in connection with cancelled checks shall be distributed to the Controller of the State of California to be held pursuant to the Unclaimed Property Law, California Civil Code § 1500 *et seq.*, for the benefit of those Settlement Class Members who did not cash, deposit, or otherwise negotiate their checks until such time that they claim their property.

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⁸² Settlement Agreement, ¶ 18.b.

⁸³ *Id.*, ¶ 6.ll.

⁸⁴ *Id.*, ¶ 9.

⁸⁵ *Id.*, ¶ 9.

⁸⁶ *Id.*, ¶ 19.

⁸⁷ *Ibid.*

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

Plaintiff Reginia Sam respectfully requests that the Court appoint her as the Class Representative and preliminarily approve the Enhancement Payment in an amount up to seven thousand five hundred dollars and no cents (\$7,500.00) to Plaintiff Reginia Sam.⁸⁸ It is within the Court's discretion to award payment to a class representative for their efforts and work. *Vranken v. Atlantic Richfield Co.* (N.D. Cal. 1995) 901 F.Supp. 294, 299 (approving \$50,000 participation award to a single class representative). The factors that courts may consider in determining whether to make an enhancement payment include: (1) the risk to the class representative in commencing suit, both financial and otherwise; (2) the notoriety and personal difficulties encountered by the class representative; (3) the amount of time and effort spent by the class representative; (4) the duration of the litigation; and (5) the personal benefit (or lack thereof) enjoyed by the class representative as a result of the litigation. *Id.*

The Enhancement 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.⁸⁹ Plaintiff was available whenever Class Counsel needed her and actively tried to obtain and provide information that would benefit the Class.⁹⁰ Accordingly, it is appropriate and just for Plaintiff to receive an Enhancement Payment for his services on behalf of the Class, PAGA Employees, and the State of California, in addition to her Individual Settlement Share and Individual PAGA Payment.

XII. CONCLUSION

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

⁸⁸ Settlement Agreement, ¶ 11.

⁸⁹ Burns Decl., ¶ 20; Declaration of Reginia Sam in Support of Plaintiff's Motion for Preliminary Approval of Class Action Settlement ("Sam Decl."), ¶ 4.

⁹⁰ Burns Decl., ¶ 20; Sam Decl., ¶¶ 3-6.

Administrators as Administrator; preliminarily approve the allocations for Attorneys' Fees and Costs, Enhancement Payment, LWDA Payment, and Settlement Administration Costs; approve the proposed Class Notice, Exclusion Form, Objection Form and direct the mailing of the Notice Packet to the Class; approve the manner and method for Class Members to request exclusion from the Settlement and object to the Settlement as contained herein and within the Notice Packet; schedule a Final Approval Hearing to take place in approximately six (6) months; and permit the filing of a memorandum that exceeds the page limit.

Dated: September 26, 2022

LAWYERS for JUSTICE, PC

By:



Janardana Burns
Attorneys for Plaintiff

View a Reservation

Reservation
Reservation ID: 228226958054
Reservation Type: Motion for Preliminary Approval of Class Action Settlement
Case Number: CVRI2102017
Case Title: SAM vs CONCORDANCE HEALTHCARE SOLUTIONS LLC
Filing Party: REGINIA SAM (Plaintiff)
Location: Historic Court House - Department 1
Date/Time: November 15th 2022, 8:30AM
Status: RESERVED
Number of Motions: 1

Motions
Motion for Preliminary Approval of Class Action Settlement
 Reschedule >
 Cancel >

Reservation History		
Status	Date	Status

Acti

Chat

Status Date	Status	Action
09/08/2022 7:37PM	Reserved by User Date: November 15th 2022, 8:30AM Location: Historic Court House - Department 1 Motions: 1	\$ View Receipt

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