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**SUPERIOR COURT OF THE STATE OF CALIFORNIA**

**FOR THE COUNTY OF LOS ANGELES – SPRING STREET COURTHOUSE**

KORINA MILIAN, individually, and on  
behalf of other members of the general public  
similarly situated;

Plaintiffs,

vs.

QUEENSCARE HEALTH CENTERS, a  
California corporation; and DOES 1 through  
100, inclusive,

Defendants.

NALLELY GOMEZ, KORINA MILIAN,  
individually, and on behalf of other  
aggrieved employees pursuant to the  
California Private Attorneys General Act;

Plaintiffs,

vs.

QUEENSCARE HEALTH CENTERS, a  
California corporation; and DOES 1 through  
100, inclusive,

Defendants.

Case No.: 22STCV01359 [*Consolidated  
with Case No. 21STCV44511*]

Honorable Stuart M. Rice  
Department 1

**CLASS ACTION**

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

[Declaration of Proposed Class Counsel  
(Selena Matavosian); and [Proposed] Order  
filed concurrently herewith]

Date: August 22, 2024  
Time: 10:30 a.m.  
Department: 1

*Gomez* Complaint Filed: December 6, 2021  
*Milian* Complaint Filed: January 12, 2022  
*Gomez* FAC Filed: January 12, 2022  
*Gomez* SAC Filed: June 8, 2022  
*Milian* FAC Filed: June 24, 2022  
Trial Date: None Set

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

**PLEASE TAKE NOTICE** that on August 22, 2024 at 10:30 a.m. or as soon thereafter as the matter may be heard before the Honorable Stuart M. Rice in Department 1 of the Superior Court of California for the County of Los Angeles, located at 312 North Spring Street, Los Angeles, California 90012, Plaintiffs Korina Milian and Nallely Gomez (together, “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 Joint Stipulation of Class Action and PAGA Settlement and Release (“Settlement,” “Agreement,” or “Settlement Agreement”), attached as “**EXHIBIT 1**” to the Declaration of Selena Matavosian, 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 Payments to Plaintiffs, and Settlement Administration Costs to the Settlement Administrator;
- Conditionally certifying the Class for settlement purposes;
- Preliminarily appointing Plaintiffs Korina Milian and Nallely Gomez as Class Representatives;
- Preliminarily appointing Arby Aiwazian, Joanna Ghosh, and Selena Matavosian of Lawyers *for* Justice, PC as Class Counsel;
- Approving the proposed Notice of Class Action Settlement (“Notice”), attached as “**EXHIBIT 1**” to the [Proposed] Order Granting Preliminary Approval of Class Action and PAGA Settlement;
- Directing the mailing of the Notice to the Class Members;
- Approving the proposed deadlines for the notice and settlement administration process;
- Approving Simpluris, Inc., as the Settlement Administrator; and

- Scheduling a hearing to 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 Payments to Plaintiffs, and Settlement Administration Costs to the Settlement Administrator.

This Motion is made pursuant to Rule 3.769, Rule 3.764, and Rule 3.1113(e) of the California Rules of Court, which require approval by the Court of a class action settlement and permit the Court to extend the page limit for memoranda.

This motion is based upon the following memorandum of points and authorities, the Settlement Agreement, the Declaration of Proposed Class Counsel (Selena Matavosian) 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 prior to and/or at the hearing on this motion.

Dated: July 31, 2024

**LAWYERS for JUSTICE, PC**

By:



Selena Matavosian  
*Attorneys for Plaintiffs*

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**MEMORANDUM OF POINTS AND AUTHORITIES**

**I. SUMMARY OF MOTION**

Plaintiffs Korina Milian (“Plaintiff Milian”) and Nallely Gomez (“Plaintiff Gomez”) (together, “Plaintiffs” or “Class Representatives”) seek preliminary approval of the Joint Stipulation of Class Action and PAGA Settlement and Release (“Settlement,” “Agreement,” or “Settlement Agreement”) entered into by and between Plaintiffs, individually, and on behalf of all others similarly situated and other aggrieved employees, and Defendant QueensCare Health Centers, presently known as Gracelight Community Health (“Defendant”), on the other hand. Subject to approval by the Court, Plaintiffs and Defendant (collectively, the “Parties”) have agreed to settle the lawsuits for a Gross Settlement Amount of One Million One Hundred Fifty Thousand Dollars and Zero Cents (\$1,150,000.00).<sup>1</sup> The Gross Settlement Amount includes the following: (1) Individual Settlement Payments to Participating Class Members which will be distributed from the Net Settlement Amount<sup>2</sup>; (2) the Enhancement Payments of Fifteen Thousand Dollars and Zero Cents (\$15,000.00) each to Plaintiffs (for a combined total of \$30,000.00)<sup>3</sup>; (3) the Attorneys’ Fees and Costs to Class Counsel, consisting of attorneys’ fees in the amount of thirty-five percent (35%) of the Gross Settlement Amount, or \$402,500.00, and reimbursement of litigation costs and expenses not to exceed Forty Thousand Dollars and Zero Cents (\$40,000.00)<sup>4</sup>; (4) the Settlement Administration Costs to the Settlement Administrator in the amount not to exceed Ten Thousand Dollars and Zero Cents (\$10,000.00);<sup>5</sup> and (5) the amount of Two Hundred Fifty Thousand Dollars and Zero Cents (\$250,000.00) allocated to

<sup>1</sup> Settlement Agreement, attached as “**EXHIBIT 1**” to Declaration of Selena Matavosian (“Matavosian Decl.”), ¶ 30. Defendant will not pay more than the Gross Settlement Amount plus Employer Taxes on the amounts allocated as wages. Defendant estimates that there are 51,089 Workweeks during the period from January 12, 2018 to February 13, 2023. If the number of Workweeks worked by the Class Members increases by more than five percent (5%) during the Class Period (i.e., an increase of more than 2,554 Workweeks), Defendant shall increase the Gross Settlement Amount on a *pro-rata* basis equal to the percentage increase in the number of Workweeks worked by the Class Members above five percent (5%), meaning Defendant will increase the Gross Settlement Amount by the percentage amount above five percent (5%) (e.g., if the number of Workweeks increases by 6% to 54,154 Workweeks, then the Gross Settlement Amount will increase by 1%). For the purpose of this provision, no increases after June 22, 2023, the day the Class Period ends, are to be considered in applying this provision. *See id.*, ¶ 62.

<sup>2</sup> *Id.*, ¶ 32.

<sup>3</sup> *Id.*, ¶ 58.

<sup>4</sup> *Id.*, ¶ 57.

<sup>5</sup> *Id.*, ¶ 59.

penalties under the Private Attorneys General Act (“PAGA”) (“PAGA Penalty Amount”), of which 75% (i.e., \$187,500.00) will be distributed to the California Labor and Workforce Development Agency (“LWDA”) (“LWDA Payment”) and 25% (i.e., \$62,500.00) (“PAGA Member Amount”) will be distributed to all current and former hourly-paid or non-exempt employees of Defendant in California during the PAGA Period (“PAGA Members”).<sup>6</sup>

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 of Defendant in California during the Class Period (“Class” or “Class Members”).<sup>7</sup>

Based on information provided by Defendants, the Class is estimated to consist of approximately four hundred and one (401) individuals.<sup>8</sup>

Class Members who do not submit valid and timely Requests for Exclusion (“Participating Class Member”) will receive a *pro rata* share of the Net Settlement Amount (“Individual Settlement Share”) based upon the number of weeks of employment for each Class Member during the Class Period (“Workweeks”).<sup>9</sup>

All PAGA Members will receive a *pro rata* share of the twenty-five percent (25%) portion of the PAGA Penalty Amount (i.e., PAGA Member Amount) (“Individual PAGA Payment”) based upon the number of Workweeks during the PAGA Period.<sup>10</sup>

The Settlement, if granted preliminary and final approval by the Court, will operate to resolve the Released Class Claims of Plaintiffs and Participating Class Members and the Released PAGA Claims of the State of California and PAGA Members, against the Released Parties.<sup>11</sup>

In order to efficiently present the Court with adequate information to determine whether to grant preliminary approval of the Settlement, Plaintiffs also move for an order permitting the

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<sup>6</sup> Settlement Agreement, ¶¶ 34, 38, 39 & 60. “PAGA Period” is defined as the period from October 2, 2020 through June 22, 2023. *See id.*, ¶ 41.

<sup>7</sup> *Id.*, ¶ 17. “Class Period” is defined as the period from January 12, 2018 through June 22, 2023. *See id.*, ¶ 18.

<sup>8</sup> Matavosian Decl., ¶ 9.

<sup>9</sup> Settlement Agreement, ¶¶ 33, 44 & 54.

<sup>10</sup> *Id.*, ¶¶ 31 & 40.

<sup>11</sup> *Id.*, ¶¶ 84 & 85. *See id.* at ¶ 47 for the full scope of the “Released Class Claims,” *id.* at ¶ 48 for the full scope of the “Released PAGA Claims,” and *id.* at ¶ 49 for the definition of the “Released Parties.”

filing of this single consolidated memorandum, although it exceeds the page limit established by California Rules of Court, Rule 3.1113(d), instead of filing several separate motions.

## **II. PROCEDURAL HISTORY AND FACTUAL BACKGROUND**

Defendant operates health care centers providing medical care, such as adult primary care, pediatric care, dental, vision, women's health, health management programs, specialty care, and pharmacy services to its patients. Plaintiffs Korina Milian and Nallely Gomez are former employees of Defendant.

On September 30, 2021, Plaintiff Gomez provided written notice by online submission to the LWDA and by certified mail to Defendant of the specific provisions of the California Labor Code that were alleged to be violated.

On November 8, 2021, Plaintiff Milian provided written notice by online submission to the LWDA and by certified mail to Defendant of the specific provisions of the California Labor Code that were alleged to be violated.

On December 6, 2021, Plaintiff Gomez filed a Complaint for Enforcement Under the Private Attorney Generals Act, California Labor Code § 2698, Et Seq. ("*Gomez Complaint*"), thereby commencing a representative action against Defendant entitled *Nallely Gomez vs. QueensCare Health Centers*, Superior Court of California for the County of Los Angeles, Case No. 21STCV44511 ("*Gomez PAGA Action*").

On January 12, 2022, Plaintiff Milian filed a Class Action Complaint for Damages ("*Milian Complaint*"), thereby commencing a putative class action against Defendant entitled *Korina Milian vs. QueensCare Health Centers*, Superior Court of California for the County of Los Angeles, Case No. 22STCV01359 (the "*Milian Class Action*") (together with the *Gomez PAGA Action*, the "*Actions*").

On January 12, 2022, Plaintiff Gomez filed a First Amended Complaint for Enforcement Under the Private Attorneys General Act, California Labor Code § 2698, Et Seq. in the *Gomez PAGA Action*, thereby adding Korina Milian as a named plaintiff.

On January 27, 2022, Defendant filed an Answer to the *Gomez Complaint*.

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On June 8, 2022, Plaintiffs filed a Second Amended Complaint for Enforcement Under the Private Attorneys General Act, California Labor Code § 2698, Et Seq. (“*Gomez* Second Amended Complaint”) in the *Gomez* PAGA Action.

On June 24, 2022, Plaintiff Milian filed a First Amended Class Action Complaint for Damages (“*Milian* First Amended Complaint”) in the *Milian* Class Action.

On July 8, 2022, Defendant filed an Answer to the *Gomez* Second Amended Complaint.

On July 26, 2022, Defendant filed an Answer to the *Milian* First Amended Complaint.

On April 2, 2024, by way of a joint stipulation by the Parties, the Court entered an Order, thereby consolidating the *Milian* Class Action and the *Gomez* PAGA Action and deeming the *Milian* Class Action as the lead case.

Plaintiffs’ core allegation is that Defendant has violated the California Labor Code by engaging in a uniform practice and procedure, with respect to Plaintiffs, Class Members, and PAGA Members of, *inter alia*, failing to pay all overtime and minimum wages and associated premium pay, failing to provide compliant meal and rest periods and associated premium pay, failing to timely pay wages during employment and upon termination of employment, failing to provide compliant wage statements, failing to maintain requisite payroll records, and failing to reimburse necessary business expenses, and thereby engaged in unfair business practices in violation of California Business and Professions Code section 17200, *et seq.* and conduct that gives rise to penalties pursuant to PAGA. Plaintiffs contend that they, the Class Members, and the PAGA 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 Actions, and further denies that the Actions are appropriate for class treatment or representative adjudication for any purpose other than for settlement purposes only.

The Parties have actively litigated the Actions since the *Gomez* PAGA Action was commenced on December 6, 2021. On February 13, 2023, the Parties participated in a formal, full-day mediation conducted by Jeffrey Krivis, Esq., a well-regarded mediator experienced in

mediating complex labor and employment matters. With the aid of the mediator's evaluation, the Parties ultimately reached the Settlement described herein to resolve the Actions in their entirety.

### III. SUMMARY OF THE SETTLEMENT TERMS

Under the terms of the Settlement, Defendants will pay a Gross Settlement Amount to resolve the Released Class Claims of Plaintiffs and the Participating Class Members and the Released PAGA Claims of Plaintiffs, PAGA Members, and the State of California with respect to the Released Parties.<sup>12</sup> Subject to approval by the Court, the Net Settlement Amount will be calculated by deducting the following amounts from the Gross Settlement Amount: (1) attorneys' fees in an amount not to exceed Four Hundred Two Thousand Five Hundred Dollars and Zero Cents (i.e., \$402,500.00) (i.e., up to 35% of the Gross Settlement Amount) and reimbursement of costs and expenses in an amount not to exceed Forty Thousand Dollars and Zero Cents (\$40,000.00) to Class Counsel ("Attorneys' Fees and Costs"); (2) settlement administration costs, which are currently estimated not to exceed Ten Thousand Dollars and Zero Cents (\$10,000.00) to the Settlement Administrator ("Settlement Administration Costs"); (3) PAGA Penalty Amount of Two Hundred Fifty Thousand Dollars and Zero Cents (\$250,000.00), of which seventy-five percent (75%) (i.e., \$187,500.00 out of \$250,000.00) will be paid to the LWDA ("LWDA Payment") and twenty-five percent (25%) (i.e., \$62,500.00 out of \$250,000.00) will be distributed to PAGA Members on a *pro rata* basis ("PAGA Member Amount"); and (4) payments in the amount of up to Fifteen Thousand Dollars and Zero Cents (\$15,000.00) each to Plaintiffs Korina Milian and Nallely Gomez (for a combined total of \$30,000.00) ("Enhancement Payments").<sup>13</sup> The Parties have agreed to retain Simpluris, Inc., ("Simpluris" or "Settlement Administrator") to handle the notice and settlement administration process.

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<sup>12</sup> Settlement Agreement, ¶¶ 84 & 85.

<sup>13</sup> *Id.*, ¶¶ 57, 58, 59 & 60.

The Parties have agreed that, at the direction of Plaintiffs' counsel, the Settlement Administrator will determine each Participating Class Member's Individual Settlement Payment, in accordance with the Settlement Agreement and as follows:

- a. The Settlement Administrator will calculate the number of Workweeks per Participating Class Member during the Class Period based on records in Defendant's possession, custody or control.<sup>14</sup>
- b. The Settlement Administrator will calculate the total number of Workweeks for each individual Class Member ("Individual Workweeks"). The Settlement Administrator will calculate the total number of Workweeks for all Class Members during the Class Period ("Class Workweeks").<sup>15</sup>
- c. To determine each Class Member's "Individual Settlement Payment" the Settlement Administrator will use the following formula: Individual Settlement Payment = (Net Settlement Amount ÷ Participating Class Workweeks) x Individual Workweeks for each individual Participating Class Member.<sup>16</sup>

The Parties have agreed that, at the direction of Plaintiffs' counsel, the Settlement Administrator will determine each PAGA Member's *pro rata* share of the PAGA Member Amount (i.e., Individual PAGA Payment), in accordance with the Settlement Agreement and as follows: The PAGA Member Amount will be divided by the total number of Workweeks worked by all PAGA Members during the PAGA Period to produce a "Weekly PAGA Value." The Weekly PAGA Value will be multiplied by the number of Workweeks attributable to the individual PAGA Member to derive his or her Individual PAGA Payment.<sup>17</sup>

All Individual Settlement Payments will be allocated as follows: fifteen percent (15%) will be allocated as wages, which will be reported on an IRS Form W-2, and eighty-five percent (85%) as interest, business expense reimbursement, meal or rest break premiums, and penalties, which will be reported on an IRS Form 1099.<sup>18</sup> The Settlement Administrator will withhold the employee's share of taxes and withholdings with respect to the wages portion of the Individual Settlement Shares, (i.e., Individual Settlement Payment).<sup>19</sup> Each Individual PAGA Payment will be allocated as one hundred percent (100%) penalties and will be reported on an IRS Form-

<sup>14</sup> Settlement Agreement, ¶ 63.a.

<sup>15</sup> *Id.*, ¶ 63.b.

<sup>16</sup> *Id.*, ¶ 63.c.

<sup>17</sup> *Id.*, ¶ 64.

<sup>18</sup> *Id.*, ¶ 79.

<sup>19</sup> *Id.*, ¶ 32.

1 1099 (if applicable) by the Settlement Administrator.<sup>20</sup> The employer's share of employer  
2 payroll taxes and contributions that must be paid in connection with the wages portion of  
3 Individual Settlement Shares ("Employer Taxes") shall be paid by Defendant in addition to the  
4 Gross Settlement Amount.<sup>21</sup>

5 Any checks issued by the Settlement Administrator to Participating Class Members  
6 and/or PAGA Members will expire one hundred eighty (180) calendar days from the date the  
7 check was issued.<sup>22</sup> All uncashed checks will not be reissued and will be sent to the Court  
8 Appointed Special Advocates of Los Angeles ("CASA"), in accordance with California Code of  
9 Civil Procedure section 384.<sup>23</sup>

10 Class Members who wish to be excluded from the Class Settlement must submit a written  
11 letter ("Request for Exclusion") to the Settlement Administrator, by mail, postmarked on or  
12 before the date that is forty-five (45) calendar days from the initial mailing of the Notice by the  
13 Settlement Administrator ("Response Deadline").<sup>24</sup> A Request for Exclusion must: (a) contain  
14 the case name and number of the *Milian* Class Action; (b) be signed by the Class Member; (c)  
15 contain the full name, address, telephone number, and the last four digits of the Social Security  
16 Number of the Class Member requesting exclusion; (d) clearly state that the Class Member  
17 received the Notice, does not wish to participate in the settlement, and wants to be excluded from  
18 the settlement; (e) be returned by first class mail or equivalent to the Settlement Administrator at  
19 the specified address; and, (f) be postmarked on or before the Response Deadline.<sup>25</sup> A Class  
20 Member who does not request exclusion from the settlement will be deemed a Participating  
21 Class Member and will be bound by all terms of the Class Settlement, if the settlement is granted  
22 final approval by the Court.<sup>26</sup> A Class Member who submits a timely and valid Request for  
23 Exclusion will not be bound by the Class Settlement and will not be issued an Individual  
24

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25 <sup>20</sup> Settlement Agreement, ¶ 79.

26 <sup>21</sup> *Id.*, ¶ 25.

27 <sup>22</sup> *Id.*, ¶ 76.

28 <sup>23</sup> *Ibid.*

<sup>24</sup> *Id.*, ¶¶ 50 & 51.

<sup>25</sup> *Id.*, ¶ 50.

<sup>26</sup> *Id.*, ¶¶ 50 & 72.

1 Settlement Payment, however, if the Class Member is also a PAGA Member, he or she will be  
2 bound to the PAGA Settlement as approved by the Court and will still be issued an Individual  
3 PAGA Payment, irrespective of whether they submit a Request for Exclusion.<sup>27</sup>

4 To object to the Class Settlement, Class Members who have not submitted a valid and  
5 timely Request for Exclusion (i.e., Participating Class Members) must submit a written objection  
6 (“Notice of Objection”) to the Settlement Administrator, by fax or mail, on or before the  
7 Response Deadline.<sup>28</sup> A Notice of Objection must include: (a) the case name and number of the  
8 *Milian* Class Action; (b) the objector’s full name, signature, address, telephone number, and the  
9 last four digits of the objector’s Social Security Number; (c) the dates the objector was employed  
10 by Defendant in California; (d) a written statement of all grounds for the objection accompanied  
11 by any legal support for such objection; (e) copies of any papers, briefs, or other documents upon  
12 which the objection is based; and (f) be submitted by fax or mail to the Settlement Administrator  
13 at the specified address and/or facsimile number, postmarked or faxed on or before the Response  
14 Deadline.<sup>29</sup> Alternatively, a Participating Class Member may appear and object at the Final  
15 Approval Hearing regardless of whether they had submitted a Notice of Objection.<sup>30</sup>

16 A Class Member who wishes to dispute the number of Workweeks which have been  
17 credited to him or her, as reflected in their respective Notices, may do so by submitting a written  
18 letter to the Settlement Administrator, by fax or mail, postmarked on or before the Response  
19 Deadline.<sup>31</sup> The written dispute must: (a) contain the case name and number of the *Milian* Class  
20 Action; (b) contain the full name, signature, address, telephone number, and the last four digits  
21 of the Social Security Number of the disputing Class Member; (c) clearly state that the Class  
22 Member disputes the number of Workweeks credited to him or her and what he or she contends  
23 is the correct number to be credited to him or her; (d) include information and/or attaches  
24 documentation demonstrating that the number of Workweeks that he or she contends should be  
25

26 <sup>27</sup> Settlement Agreement, ¶¶ 50 & 72.

27 <sup>28</sup> *Id.*, ¶¶ 37 & 73.

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

<sup>30</sup> *Id.*, ¶ 73.

<sup>31</sup> *Id.*, ¶ 70.

1 credited to him or her are correct; and (e) be returned by fax or mail to the Settlement  
2 Administrator at the specified address and/or facsimile number, postmarked or fax-stamped on or  
3 before the Response Deadline.<sup>32</sup>

4 **IV. LEGAL STANDARD FOR PRELIMINARY APPROVAL OF CLASS ACTION**  
5 **SETTLEMENTS**

6 The settlement of a class action requires approval by the court. *Dunk v. Ford Motor Co.*  
7 (1996) 48 Cal.App.4th 1794, 1800; Cal. Code Civ. Proc. § 1781(f). California courts look to  
8 federal authority for guidance with class action settlements. *Dunk, supra*, 48 Cal.App.4th at  
9 1801, fn.7 (citing *Vasquez v. Superior Court* (1971) 4 Cal.3d 800, 821). The decision to approve  
10 or reject a proposed settlement is within the court's discretion. *Wershba v. Apple Computer, Inc.*  
11 (2001) 91 Cal.App.4th 224, 234-35 ("In general, questions whether a settlement was fair and  
12 reasonable, whether certification of the class was proper, and whether the attorney fee award was  
13 proper are matters addressed to the trial court's broad discretion."). Accordingly, a court's  
14 decision to approve a class action settlement may be reversed only upon a strong showing of  
15 "clear abuse of discretion." *Hanlon v. Chrysler Corp.* (9th Cir. 1998) 150 F.3d 1011, 1026; *Class*  
16 *Plaintiff v. City of Seattle* (9th Cir. 1982) 955 F.2d 1268, 1276.

17 Courts review class action settlements in a two-step process: (1) an earlier conditional  
18 review by the court; and (2) a later detailed review after the period during which notice is  
19 distributed to class members for their comments or objections. Conte & Newberg, *Newberg on*  
20 *Class Actions* § 11.24 (4th Ed. 2002). This procedure, which is commonly utilized by both  
21 federal and state courts, assures class members of the protection of procedural due process  
22 safeguards and enables a court to fulfill its role as the guardian of the interest of the settlement  
23 class.

24 Preliminary approval of a settlement does not require a court to make a final  
25 determination that the settlement is fair, reasonable, and adequate. Rather, that decision is made  
26 only at the final approval stage, after notice of the settlement has been given to the class  
27

28 <sup>32</sup> Settlement Agreement, ¶ 70.

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 proposed settlement.” *Dunk, supra*, 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, supra*, 91 Cal.App.4th at 245. Furthermore, courts give “proper deference to the private consensual decision of the parties.” *Hanlon, supra*, 150 F.3d at 1027 (citation omitted).

The proponent of a class settlement has the burden to show that it is fair and reasonable. *Wershba, supra*, 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, supra*, 48 Cal.App.4th at

1802; *7-Eleven Owners for Fair Franchising v. Southland Corp.* (2000) 85 Cal.App.4th 1135, 1151.

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

5           Class Counsel has actively litigated the Actions since the *Gomez* PAGA Action was  
6 commenced on December 6, 2021. Both sides used the pre-mediation time period to investigate  
7 the veracity, strength, and scope of the claims, and Class Counsel was actively preparing the case  
8 for class certification and trial.<sup>33</sup>

9           Prior to engaging in mediation, Class Counsel conducted significant investigation and  
10 informal and formal discovery regarding the facts of the cases, including and not limited to, the  
11 exchange, review, and analysis of thousands of pages of documents and data obtained from  
12 Defendant, Plaintiffs, and other sources.<sup>34</sup> The volume of data and documents that Class  
13 Counsel reviewed and analyzed included and was not limited to: Plaintiffs’ employment records,  
14 a detailed sampling of Plaintiffs’ and other Class Members’ time data and pay records,  
15 Defendants’ Employee Handbook, Employee Benefits Guide, internal memoranda, earning  
16 statements, time records, job descriptions, internal memoranda, Agreement to Arbitrate  
17 Employment Disputes, company policy acknowledgments (including but not limited to  
18 Contractor Employee Acknowledgement & Confidentiality Agreement, Employment Handbook  
19 Acknowledgement Form, Acknowledgement of Corporate Compliance Program Plan, Consent to  
20 Photograph and Publish, Employee Acknowledgement of Reporting Requirements, and HIPAA  
21 Training Acknowledgement), forms (including but not limited to Personnel Action Form,  
22 Performance Planning and Evaluation Form, Employment Application, and ID Badge  
23 Replacement Acknowledgement Form), procedures, and policies (including but not limited to  
24 Harassment Complaint Procedure, Introduction Period of Employment Policy, Business Expense  
25 Reimbursement, and Policy and Procedure Manual), among other information and documents.<sup>35</sup>

26  
27 <sup>33</sup> Matavosian Decl., ¶¶ 12-14.

28 <sup>34</sup> *Id.*, ¶ 13.

<sup>35</sup> *Ibid.*

On November 3, 2022, Class Counsel defended the deposition of Plaintiff Korina Milian.<sup>36</sup> On January 4, 2023, Class Counsel defended the deposition of Plaintiff Nallely Gomez.<sup>37</sup> Class Counsel had the opportunity to interview Plaintiffs and other class members to gather information regarding the facts and circumstances surrounding Plaintiffs' and putative class members' employment and to identify potential witnesses.<sup>38</sup> Counsel for the Parties also met and conferred on numerous occasions, e.g., to discuss issues relating to the pleadings, discovery, and the production of documents and data prior to the mediation.<sup>39</sup> Class Counsel also drafted pleadings and the mediation brief and prepared for and attended court proceedings, mediation, and settlement negotiations, among other tasks.<sup>40</sup>

The Parties engaged in extensive settlement negotiations and participated in a formal, full-day mediation conducted by Jeffrey Krivis, Esq., a well-respected mediator experienced in mediating complex labor and employment matters.<sup>41</sup> Prior to and during the mediation and settlement discussions, the Parties exchanged class information and engaged in extensive discussions regarding their evaluations of the cases and various aspects of the cases, 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, PAGA representative actions, and wage-and-hour law and enforcement, as well as the evidence produced and analyzed, and the possibility of appeals, among other things.<sup>42</sup> During all settlement discussions, the Parties conducted their negotiations at arm's length in an adversarial position.<sup>43</sup> Arriving at a settlement that was acceptable to all Parties was not easy. Defendant and its counsel felt strongly about their ability to prevail on the merits and at certification, and Plaintiffs and Class Counsel believed that they would be able to

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<sup>36</sup> Matavosian Decl., ¶ 13.

<sup>37</sup> Ibid.

<sup>38</sup> Ibid.

<sup>39</sup> Ibid.

<sup>40</sup> Ibid.

<sup>41</sup> *Id.*, ¶ 12.

<sup>42</sup> Ibid.

<sup>43</sup> Ibid.

1 obtain class certification and prevail at trial.<sup>44</sup> After conducting extensive investigations, formal  
2 and informal discovery, exchange of information, and extensive settlement negotiations, and  
3 with the aid of the mediator's evaluation, the Parties have agreed that the matter is well-suited  
4 for settlement given the legal issues relating to Plaintiffs' principal claims, as well as the costs  
5 and risks to both sides that would attend further litigation.<sup>45</sup>

6 The Settlement takes into account the strengths and weaknesses of each side's position  
7 and the uncertainty of how the cases might have concluded at certification, trial, and/or  
8 appeals.<sup>46</sup> The Parties have had the opportunity to interview and obtain information from their  
9 respective witnesses.<sup>47</sup> Counsel for the Parties have also reviewed documents and information  
10 relating to Plaintiff's and the Class Members' employment with Defendant and performed  
11 significant research into the law concerning class certification, PAGA representative actions, off-  
12 the-clock theory, meal and rest periods, wage-and-hour law and enforcement, Plaintiff's claims,  
13 and Defendant's defenses thereto, as well as facts discovered.<sup>48</sup> The Parties have reached the  
14 Settlement based on this large volume of facts, evidence, and investigation. In addition, Class  
15 Counsel has extensive experience in employment class actions, including significant experience  
16 in California wage-and-hour litigation.<sup>49</sup>

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

18 The Settlement, which provides for a Gross Settlement Amount of One Million One  
19 Hundred Fifty Thousand Dollars and Zero Cents (\$1,150,000.00) represents a fair, adequate, and  
20 reasonable resolution of the matter.<sup>50</sup> The Settlement was calculated using the information and  
21 data uncovered during litigation, case investigation, as well as the formal and informal exchange  
22 of information.<sup>51</sup> The Settlement takes into account the potential risks and rewards inherent in  
23

24 <sup>44</sup> Matavosian Decl., ¶¶ 12, & 17-19.

25 <sup>45</sup> Ibid.

26 <sup>46</sup> Ibid.

27 <sup>47</sup> *Id.*, ¶ 13.

28 <sup>48</sup> *Id.*, ¶¶ 12-14 & 17-19.

<sup>49</sup> *Id.*, ¶¶ 2-7.

<sup>50</sup> *Id.*, ¶¶ 12, 14, 15 & 22.

<sup>51</sup> *Id.*, ¶¶ 12-14.

any case and, in particular, in the matter at issue.<sup>52</sup> Moreover, considering all of the facts and circumstances of the lawsuits, the Settlement represents a fair, reasonable, and adequate recovery for the Class, PAGA Members, and the State of California.<sup>53</sup>

Assuming that the Attorneys' Fees and Costs, Enhancement Payments, PAGA Penalty Amount, and Settlement Administration Costs are approved by the Court and paid in the full amounts provided for by the Settlement, the Settlement provides for a Net Settlement Amount that is currently estimated to be Four Hundred Seventeen Thousand Five Hundred Dollars and Zero Cents (\$417,500.00).<sup>54</sup> Additionally, 75% of the PAGA Penalty Amount (i.e., the LWDA Payment), which is \$187,500.00 out of \$250,000.00, will be distributed to the LWDA and 25% of the PAGA Penalty Amount (i.e., PAGA Member Amount), which is \$62,500.00 out of \$250,000.00, will be distributed on a *pro rata* basis to PAGA Members.<sup>55</sup> As discussed in Part III, *supra*, the entire Net Settlement Amount will be fully paid out to the Participating Class Members and the PAGA Penalty Amount will be fully paid out to the LWDA and PAGA Members, in accordance with the Settlement Agreement. The amount of each Participating Class Member's Individual Settlement Share will be calculated based on his or her Workweeks during the Class Period, and the amount of each PAGA Member's Individual PAGA Payment will be calculated based on his or her Workweeks during the PAGA Period.<sup>56</sup> There is no reason to doubt the fairness of the proposed plan of allocation of the settlement funds for purposes of preliminary approval. Even at the final approval stage, "[a]n allocation formula need only have a reasonable, rational basis [to warrant approval], particularly if recommended by experienced and competent class counsel." *In re American Bank Note Holographics, Inc., Securities Litigation* (S.D.N.Y. 2001) 127 F.Supp.2d 418, 429-30.

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<sup>52</sup> Matavosian Decl., ¶¶ 17-19.

<sup>53</sup> *Id.*, ¶¶ 12, 14 & 22.

<sup>54</sup> *Id.*, ¶ 15.

<sup>55</sup> *Ibid.*

<sup>56</sup> Settlement Agreement, ¶¶ 63 & 64.

1 In light of the foregoing considerations, Class Counsel believes that the Settlement as a  
2 whole is fair, reasonable, and adequate, and is in the best interest of the Class Members.<sup>57</sup>  
3 Although the recommendations of Class Counsel are not conclusive, the Court can properly take  
4 the recommendations into account, particularly if Class Counsel appears to be competent, and  
5 has experience with this type of litigation, and investigation have been completed, as is the case  
6 here. *Newberg*, §11.47. Accordingly, the Court should grant preliminary approval of the  
7 Settlement.

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

9 Pursuant to *Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th 116, the Parties  
10 conducted significant formal and informal discovery and exchanged thousands of pages of  
11 documents, data, and information prior to mediation.<sup>58</sup> The discovery and information that Class  
12 Counsel obtained from Defendant and through other sources allowed Class Counsel to develop  
13 valuation models in order to evaluate the potential value and merit of the claims, and perform a  
14 complete evaluation of Defendant's defenses thereto.<sup>59</sup> As outlined in the Declaration of Selena  
15 Matavosian, Class Counsel performed an extensive analysis of each and every claim pursuant to  
16 *Kullar* prior to entering into the Settlement.<sup>60</sup>

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

18 For settlement purposes, the requisites for establishing class certification are met, and the  
19 Parties have stipulated to conditional certification of the Class for settlement purposes only.<sup>61</sup>  
20 California Code of Civil Procedure Section 382 "authorizes class actions when the question is  
21 one of a common or general interest, of many persons, or when the Parties are numerous, and it  
22 is impracticable to bring them all before the court." *Sav-On Drug Stores, Inc. v. Superior Court*  
23 (2004) 34 Cal.4th 319, 326. California courts certify class actions where the plaintiff identifies  
24  
25

26 <sup>57</sup> Matavosian Decl., ¶¶ 12, 14, & 22.

27 <sup>58</sup> *Id.*, ¶¶ 12-14 & 19.

28 <sup>59</sup> *Id.*, ¶ 19.

<sup>60</sup> *Id.*, ¶¶ 12-14 & 17-19.

<sup>61</sup> Settlement Agreement, ¶ 55.

1 “both [1] an ascertainable class and [2] a well-defined community of interest among class  
2 members.” *Id.*

3 The Class is ascertainable and numerous as to make it impracticable to join all Class  
4 Members, and there are common questions of law and fact that predominate over any questions  
5 affecting any individual Class Member. Further, Plaintiffs’ claims are typical of the claims of  
6 the Class Members, and Class Counsel will fairly and adequately protect the interests of the  
7 Class. Finally, prosecution of separate actions by individual Class Members would create the  
8 risk of inconsistent or varying adjudications, and a class action is superior to other available  
9 means for the fair and efficient adjudication of the cases. The Class is amenable to class  
10 certification for settlement purposes as discussed below.

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

12 “Ascertainability is required in order to give notice to putative class members as to whom  
13 the judgment in the action will be *res judicata*.” *Hicks v. Kaufman & Broad Home Corp.* (2001)  
14 89 Cal.App.4th 908, 914. “A class is ascertainable if it identifies a group of unnamed plaintiffs  
15 by describing a set of common characteristics sufficient to allow a member of that group to  
16 identify himself or herself as having a right to recover based on the description.” *Bartold v.*  
17 *Glendale Federal Bank* (2000) 81 Cal.App.4th 816, 828. The proposed class must also be  
18 sufficiently numerous. *Linder v. Thrifty Oil Co.* (2000) 23 Cal.4th 429, 435.

19 This matter involves a class of approximately four hundred and one (401) individuals.<sup>62</sup>  
20 This class is sufficiently numerous. *See Rose v. City of Hayward* (1981) 126 Cal.App.3d 926,  
21 934-35 (indicating that a class of 30 to 40 individuals satisfies the numerosity requirement as  
22 joinder is not practical at that point). Further, all Class Members can and will be identified by  
23 Defendant to the Settlement Administrator through a review of Defendant’s employment records  
24 regarding hourly-paid or non-exempt employees in California during the Class Period. As such,  
25 the Class is ascertainable and sufficiently numerous.

26 ///

27  
28 <sup>62</sup> Matavosian Decl., ¶ 9.

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

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

11           The “common issues” requirement “involves analysis of whether the proponent’s ‘theory  
12 of recovery’ is likely to prove compatible with class treatment.” *Capitol People, supra*, 155  
13 Cal.App.4th at 690 (emphasis added) (citing *Sav-On, supra*, 34 Cal.4th at 327). Furthermore, the  
14 commonality inquiry centers on the “reasonableness” of the defendant’s labor policies as applied  
15 to the potential class. *Ghazaryan, supra*, 169 Cal.App.4th at 1534.

16           Here, common issues of fact and law predominate as to each of the claims alleged and  
17 asserted in the Actions. Based on the documents and information obtained through informal  
18 discovery and exchange of information in the cases, Plaintiffs contend that Class Members were  
19 subject to the same or similar job duties and uniform operations and employment practices,  
20 policies, and procedures during the time period at issue.<sup>63</sup> Plaintiffs’ claims arise from  
21 Defendant’s alleged uniform policy and systematic scheme, with respect to Plaintiffs and the  
22 Class Members, of, *inter alia*, failing to properly pay overtime and minimum wages for all hours  
23 worked, failing to provide compliant meal and rest periods and associated premium pay, failing  
24 to timely pay wages during employment and upon termination of employment, failing to provide  
25 complaint wage statements, failing to keep requisite payroll records, and failing to reimburse  
26 necessary business-related expenses.<sup>64</sup> Defendant disputes these claims.

27           <sup>63</sup> Matavosian Decl., ¶ 17.

28           <sup>64</sup> *Ibid.*

1 Plaintiffs also contend that Defendant's payroll and recordkeeping practices with respect  
2 to Plaintiffs and the Class Members were substantially the same during the time period at issue.<sup>65</sup>  
3 As a result, Plaintiffs claim that all of the Class Members were uniformly not paid all  
4 compensation due to them from Defendant during the time period at issue.<sup>66</sup> Defendant also  
5 disputes these claims.

6 Plaintiffs maintain that the outcome of this litigation would be determined by  
7 Defendant's alleged uniform operations and employment policies and procedures that applied  
8 across its hourly-paid or non-exempt employees employed by Defendant in California during the  
9 Class Period. Defendant disputes these claims as well. Accordingly, the Court should certify the  
10 Class for settlement purposes only.

11 **VII. APPOINTMENT OF CLASS COUNSEL AND ALLOCATION FOR**  
12 **ATTORNEYS' FEES AND COSTS**

13 Class Counsel has litigated the matter for over two (2) years and was actively preparing  
14 the matter for class certification and trial.<sup>67</sup> The ongoing work has been extensive, demanding,  
15 and ultimately successful in achieving a substantial settlement resolution. Class Counsel  
16 conducted extensive investigations into the facts of the cases and formal and informal discovery.  
17 Class Counsel reviewed thousands of pages of documents and data<sup>68</sup> and also interviewed and  
18 obtained information from Plaintiffs and other Class Members, researched applicable law,  
19 undertook damages/valuation calculations, and met and conferred with Defendant's counsel  
20 regarding the pleadings and the production of documents and data prior to mediation.<sup>69</sup> Counsel  
21 for the Parties also undertook extensive settlement discussions, which included participating in a  
22 formal, full-day mediation.<sup>70</sup>

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24 ///

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25 <sup>65</sup> Matavosian Decl., ¶ 17.

26 <sup>66</sup> Ibid.

27 <sup>67</sup> *Id.*, ¶¶ 12-14.

28 <sup>68</sup> *Id.*, ¶ 13.

<sup>69</sup> Ibid.

<sup>70</sup> *Id.*, ¶ 12.

1 Class Counsel is well-experienced in wage-and-hour class action litigation and used that  
2 experience to obtain a great result for the Class.<sup>71</sup>

3 The Settlement establishes a Gross Settlement Amount of One Million One Hundred  
4 Fifty Thousand Dollars and Zero Cents (\$1,150,000.00), and provides for Class Counsel to apply  
5 to the Court for Attorneys' Fees and Costs consisting of attorneys' fees in an amount not to  
6 exceed thirty-five percent (35%) of the Gross Settlement Amount (i.e., \$402,500.00) and an  
7 amount not to exceed Forty Thousand Dollars and Zero Cents (\$40,000.00) for litigation costs  
8 and expenses.<sup>72</sup> The attorneys' fees provided for by the Settlement are commensurate with: (1)  
9 the risk that Class Counsel took in bringing and litigating the cases, (2) the extensive time, effort  
10 and expense that Class Counsel dedicated to the cases, (3) the skill and determination that Class  
11 Counsel has shown, (4) the results that Class Counsel has achieved throughout the litigation, (5)  
12 the value of the Settlement that Class Counsel has achieved for the Class Members, PAGA  
13 Members, and the State of California, and (6) the other cases that Class Counsel had to turn  
14 down in order to devote its time and efforts to this matter. The proposed Notice provides Class  
15 Members with information about the amount allocated toward the Attorneys' Fees and Costs,  
16 and that an award of the Attorneys' Fees and Costs will be sought, as provided for by the  
17 Settlement.<sup>73</sup>

18 Trial courts have "wide latitude" in assessing the value of attorneys' fees and their  
19 decisions will "not be disturbed on appeal absent a manifest abuse of discretion." *Lealao v.*  
20 *Beneficial Cal., Inc.* (2000) 82 Cal.App.4th 19, 41. Indeed, it is long settled that the "experienced  
21 trial judge is the best judge of the value of professional services rendered in his court." *Ketchum*  
22 *v. Moses* (2001) 24 Cal.4th 1122, 1132. California law provides that attorney fee awards should  
23 be equivalent to fees paid in the legal marketplace to compensate for the result achieved and risk  
24 incurred. *Laffitte v. Robert Half Int'l, Inc.* (2016) 1 Cal.5th 480, 503 (citing *Lealao, supra*, 82  
25 Cal.App.4th at 48-49). In *Lealao*, the court held that when an action leads to a recovery that can  
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27 <sup>71</sup> Matavosian Decl., ¶¶ 2-7.

28 <sup>72</sup> Settlement Agreement, ¶¶ 30 & 57.

<sup>73</sup> *Id.*, Exh. A.

1 be “monetized” with a reasonable degree of certainty, the trial court should “ensure that the fee  
2 awarded is within the range of fees freely negotiated in the legal marketplace in comparable  
3 litigation.” *Id.* at 50. In cases where class members present claims against a settlement fund and  
4 the settlement agreement provides that the defendant agrees to paying the attorneys a percentage  
5 of the same, use of that percentage method is appropriate. *Id.* at 32.

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

13 Historically, courts have awarded fees as high as fifty percent (50%) of the settlement,  
14 depending on the circumstances of the case. *Newberg*, § 14.03; *see also In re Ampicillin Antitrust*  
15 *Litig.* (D.D.C. 1981) 526 F.Supp. 494 (awarding attorneys’ fees in the amount of 45% of the \$7.3  
16 million settlement); *Beech Cinema, Inc. v. Twentieth-Century Fox Film Corp.* (S.D.N.Y. 1979)  
17 480 F.Supp. 1195 (awarding approximately 53% of the settlement as attorneys’ fees). California  
18 courts routinely approve class action attorneys’ fee awards “averag[ing] around one-third of the  
19 recovery.” *Chavez v. Netflix, Inc.* (2008) 162 Cal.App.4th 43, 66 n.11 (lower court found 20 to  
20 40 percent range of contingency fee in marketplace was appropriate in class actions); *see also*  
21 *Estrada v. Dr. Pepper/Seven-Up*, Los Angeles County Superior Court Case No. BC262247 (May  
22 2005) (wage and hour); *Moore v. IKEA*, Los Angeles County Superior Court Case No.  
23 BC263646 (Sept. 2006) (wage and hour).

24 Class Counsel has borne all of the risks and costs of litigation and will not receive any  
25 compensation until recovery is obtained.<sup>74</sup>

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27  
28 <sup>74</sup> Matavosian Decl., ¶ 20.

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 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 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 Notice<sup>75</sup> describes the Settlement, the deadlines and procedures to submit a Notice of Objection, Request for Exclusion, and/or dispute regarding Workweeks, and the date and time set for the Final Approval Hearing.<sup>76</sup>

The proposed 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 Notice summarizes the proceedings to date and the terms and conditions of the Settlement in an informative and coherent manner.<sup>77</sup> The proposed Notice recognizes that the Court has not yet granted final approval of the settlement.<sup>78</sup> The proposed Notice also apprises the Class Members and PAGA Members of, *inter alia*, how their Individual Settlement Share and, if applicable, Individual PAGA Payment is calculated and the number of Workweeks credited to them.<sup>79</sup>

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<sup>75</sup> Settlement Agreement, Exh. A.

<sup>76</sup> Ibid.

<sup>77</sup> Ibid.

<sup>78</sup> Ibid.

<sup>79</sup> Ibid.

The proposed 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 Notice.

**IX. APPOINTMENT OF SIMPLURIS, INC., AS THE SETTLEMENT**  
**ADMINISTRATOR**

The Parties have selected Simpluris, Inc., to administer the Settlement.

Within ten (10) business days after receiving the Class and PAGA List, the Settlement Administrator will mail the Notice to each Class Member and PAGA Member by First-Class United States Postal Service (“USPS”) mail in English.<sup>80</sup> Any Notice Packets returned to the Settlement Administrator as non-deliverable on or before the Response Deadline will be sent within five (5) calendar days via regular First-Class U.S. Mail to the forwarding address affixed thereto and the Settlement Administrator will indicate the date of such re-mailing on the Notice Packet.<sup>81</sup> If no forwarding address is provided, the Settlement Administrator will promptly attempt to determine the correct address using a skip-trace, or other search using the name, address and/or Social Security number of the Class Member involved and will then perform a single re-mailing.<sup>82</sup> In the event a Notice is re-mailed to a Class Member, the Response Deadline for that Class Member shall be extended by fifteen (15) calendar days.<sup>83</sup> The Settlement Administrator will receive and process Requests for Exclusions, Notice of Objection, and disputes regarding Workweeks.<sup>84</sup>

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<sup>80</sup> Settlement Agreement, ¶ 68.a.

<sup>81</sup> *Id.*, ¶ 68.b.

<sup>82</sup> *Ibid.*

<sup>83</sup> *Id.*, ¶ 21.

<sup>84</sup> *Id.*, ¶¶ 70, 71 & 73.

The Settlement Administrator duties will include, calculating the amounts of the Individual Settlement Payments 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 checks to Participating Class Members and Individual PAGA Payment checks to PAGA Members; issue W-2 and 1099 forms and all required tax reporting, filings, withholdings, and remittances, providing necessary reports and declarations; calculate and disburse the Attorneys' Fees and Costs, Enhancement Payments, and LWDA Payment; and perform such other tasks necessary to effectuate the terms of the Settlement Agreement.<sup>85</sup> The Settlement Administration Costs is currently estimated to be Ten Thousand Dollars and Zero Cents (\$10,000.00) and will be paid out of the Gross Settlement Amount, subject to approval by the Court.<sup>86</sup>

Accordingly, Plaintiffs respectfully request that the Court appoint Simpluris as the Settlement Administrator and direct the mailing of the Notice to the Class Members and PAGA 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 Notice, in the form approved by the Court, to all known and reasonably ascertainable Class Members based on Defendants' records.<sup>87</sup>

Within thirty (30) calendar days of Preliminary Approval, Defendant will provide the Settlement Administrator with a list of each Class Member's last-known full name, last-known mailing addresses, last-known telephone numbers, Social Security Number, and Workweek data during the Class Period and, as applicable, during the PAGA Period (collectively referred to as the "Class and PAGA List").<sup>88</sup>

<sup>85</sup> Settlement Agreement, ¶ 59; Matavosian Decl., ¶ 16.

<sup>86</sup> Settlement Agreement, ¶ 59.

<sup>87</sup> *Id.*, ¶ 68.a.

<sup>88</sup> *Id.*, ¶¶ 16 & 67.

Within ten (10) business days after receiving the Class and PAGA List, the Settlement Administrator will perform a search based on the National Change of Address Database, or any other similar services available, for information to update and correct for any known or identifiable address changes, and will mail a Notice in to all Class Members via regular First-Class U.S. Mail, using the most current, known mailing addresses identified by the Settlement Administrator.<sup>89</sup> Any Notice Packets returned to the Settlement Administrator as non-deliverable on or before the Response Deadline will be sent within five (5) calendar days via regular First-Class U.S. Mail to the forwarding address affixed thereto and the Settlement Administrator will indicate the date of such re-mailing on the Notice Packet.<sup>90</sup> If no forwarding address is provided, the Settlement Administrator will promptly attempt to determine the correct address using a skip-trace, or other search using the name, address and/or Social Security number of the Class Member involved and will then perform a single re-mailing.<sup>91</sup> Those Class Members who receive a re-mailed Notice Packet, whether by skip-trace or by request, will have between the later of (a) an additional fifteen (15) calendar days or (b) the Response Deadline to submit a Request for Exclusion, Notice of Objection and/or dispute regarding Workweeks.<sup>92</sup>

Within seven (7) business days after the Effective Date, the Settlement Administrator will provide the Parties with an accounting of the amounts to be paid by Defendant.<sup>93</sup> Defendant will make a one-time deposit of the Gross Settlement Amount, plus an amount sufficient for Employer Taxes, into a Qualified Settlement Account to be established by the Settlement Administrator.<sup>94</sup> Within fourteen (14) business days of the funding of the Gross Settlement Amount and an amount sufficient for Employer Taxes, the Settlement Administrator will issue payments due under the Settlement and approved by the Court, as follows: (a) Individual Settlement Payments to Participating Class Members; (b) Individual PAGA Payments to PAGA Members; (c) LWDA Payment to the LWDA; (d) Enhancement Payments to Plaintiffs; (e)

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<sup>89</sup> Settlement Agreement, ¶ 68.a.

<sup>90</sup> *Id.*, ¶ 68.b.

<sup>91</sup> *Ibid.*

<sup>92</sup> *Ibid.*

<sup>93</sup> *Id.*, ¶ 56. See *id.* at ¶ 24 for the definition of the “Effective Date.”

<sup>94</sup> *Ibid.*

Attorneys' Fees and Costs to Class Counsel; and (f) Settlement Administration Costs to itself (the Settlement Administrator).<sup>95</sup>

Any checks issued by the Settlement Administrator to Participating Class Members and/or PAGA Members will expire one hundred eighty (180) calendar days from the date the check was issued.<sup>96</sup> All uncashed checks will not be reissued and will be sent to the Court Appointed Special Advocates of Los Angeles ("CASA"), in accordance with California Code of Civil Procedure section 384.<sup>97</sup>

**XI. APPOINTMENT OF CLASS REPRESENTATIVES AND ALLOCATION FOR ENHANCEMENT PAYMENTS**

Plaintiffs Korina Milian and Nallely Gomez respectfully request that the Court appoint them as the Class Representatives and preliminarily approve the Enhancement Payments in an amount up to Fifteen Thousand Dollars and Zero Cents (\$15,000.00) each to Plaintiffs Korina Milian and Nallely Gomez (for a combined total of \$30,000.00).<sup>98</sup> It is within the Court's discretion to award payment to a class representative for their efforts and work. *Vranken v. Atlantic Richfield Co.* (N.D. Cal. 1995) 901 F.Supp. 294, 299 (approving \$50,000 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 Payments 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.<sup>99</sup> Plaintiffs were

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<sup>95</sup> Settlement Agreement, ¶ 56.

<sup>96</sup> *Id.*, ¶ 76.

<sup>97</sup> *Ibid.*

<sup>98</sup> *Id.*, ¶ 58.

<sup>99</sup> Matavosian Decl., ¶ 21.

1 available whenever Class Counsel needed them and actively tried to obtain and provide  
2 information that would facilitate the pursuit of the class and PAGA claims.<sup>100</sup> Accordingly, it is  
3 appropriate and just for Plaintiffs to each receive an Enhancement Payment, for their services on  
4 behalf of the Class, PAGA Members, and the State of California, in addition to their individual  
5 settlement payments.

6 **XII. CONCLUSION**

7 For the foregoing reasons, Plaintiffs respectfully request that the Court grant preliminary  
8 approval of the Settlement; conditionally certify the Class for settlement purposes; preliminary  
9 appoint and designate Arby Aiwazian, Joanna Ghosh, and Selena Matavosian of Lawyers *for*  
10 Justice, PC as Class Counsel; preliminary appoint and designate Plaintiffs Korina Milian and  
11 Nallely Gomez as Class Representatives; appoint Simpluris, Inc., as the Settlement  
12 Administrator; preliminarily approve the allocations for Attorneys' Fees and Costs,  
13 Enhancement Payments, PAGA Penalty Amount, and Settlement Administration Costs; approve  
14 the proposed Notice; direct the Settlement Administrator to undertake the notice and settlement  
15 administration process in conformity with the deadlines and procedures provided by the  
16 Settlement Agreement; schedule a Final Approval Hearing to take place in approximately six (6)  
17 months; and permit the filing of a memorandum that exceeds the page limit.

18 Dated: July 31, 2024

**LAWYERS for JUSTICE, PC**

19  
20 By:



21 Selena Matavosian  
22 *Attorneys for Plaintiffs*  
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28 <sup>100</sup> Matavosian Decl., ¶ 21.