

Edwin Aiwazian (SBN 232943)
Arby Aiwazian (SBN 269827)
Joanna Ghosh (SBN 272479)
Helene Mayer (SBN 332975)
LAWYERS for JUSTICE, PC
450 North Brand Blvd., Suite 900
Glendale, California 91203
Tel: (818) 265-1020 / Fax: (818) 265-1021

Attorneys for Plaintiff

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

SYDNEY BRIEN, individually, and on
behalf of other members of the general
public similarly situated;

Plaintiff,

vs.

MISSION AMBULANCE, INC., a
California corporation; and DOES 1
through 100, inclusive,

Defendants.

Case No. CVRI2203269

Honorable Harold W. Hopp
Department 1

CLASS ACTION

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

Date: June 30, 2025
Time: 8:30 a.m.
Department: 1

Complaint Filed: August 4, 2022
Trial Date: None Set

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

3 **PLEASE TAKE NOTICE** that on June 30, 2025 at 8:30 a.m., or as soon thereafter as the
4 matter may be heard before the Honorable Harold W. Hopp in Department 1 of the Superior Court
5 of the State of California, for the County of Riverside, 4050 Main Street, Riverside, CA 92501,
6 Plaintiff Sydney Brien (“Plaintiff”) will, and hereby does, move for an order:

- 7 • Granting preliminary approval of the proposed class action settlement described herein
8 and as set forth in the parties’ Class Action and PAGA Settlement and Release of
9 Claims (“Settlement,” “Agreement,” or “Settlement Agreement”), attached as
10 “**EXHIBIT 2**” to the Declaration of Helene Mayer in Support of Plaintiff’s Motion for
11 Preliminary Approval of Class Action and PAGA Settlement
12 • Certifying the proposed Class for settlement purposes;
13 • Appointing Sydney Brien as Class Representative;
14 • Appointing Edwin Aiwazian, Arby Aiwazian, Joanna Ghosh, Vartan Madoyan, and
15 Helene Mayer of Lawyers *for* Justice, PC as Class Counsel;
16 • Approving the proposed Notice of Class Action Settlement (“Class Notice”),
17 Exclusion Form, and Objection Form, attached as “**EXHIBIT A**,” “**EXHIBIT C**,”
18 “**EXHIBIT C**,” respectively, to the [Proposed] Order Granting Preliminary Approval
19 of Class Action and PAGA Settlement, and directing the mailing thereof in accordance
20 with the Settlement Agreement;
21 • Approving Simpluris, Inc., as the Settlement Administrator; and
22 • Scheduling a hearing to consider final approval of the Settlement.

23 This Motion is made pursuant to Rule 3.769 of the California Rules of Court, which require
24 approval by the Court of the settlement of a putative class action, and Rule 3.1113(e), which allows
25 the Court to preliminarily certify a class for settlement purposes, and permits the Court to extend
26 the page limit for memoranda.

27 This motion is based upon the following memorandum of points and authorities; the
28 Settlement Agreement; the Declarations of Proposed Class Counsel (Helene Mayer) and Proposed

1 Class Representative (Sydney Brien) in support thereof; as well as the pleadings and other records
2 on file with the Court in these matters, and such evidence and oral argument as may be presented
3 at the hearing on this motion.

4 Dated: May 21, 2025

LAWYERS for JUSTICE, PC

5
6 By: Helene Mayer
7 Helene Mayer
8 *Attorneys for Plaintiff*
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

TABLE OF CONTENTS

I.	SUMMARY OF MOTION.....	1
II.	PROCEDURAL HISTORY AND FACTUAL BACKGROUND.....	2
III.	SUMMARY OF THE SETTLEMENT TERMS	3
IV.	LEGAL STANDARD FOR PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENTS.....	6
A.	The Settlement Resulted from Arm’s-Length Negotiations Based Upon Extensive Investigation and Discovery.....	7
B.	The Settlement Is Fair, Reasonable, and Adequate.	8
C.	The Settlement Is of Significant Value.	9
V.	CERTIFICATION OF THE CLASS IS APPROPRIATE	10
A.	The Class Is Ascertainable and Sufficiently Numerous.....	10
B.	The Class Members Share a Well-Defined Community of Interest.....	11
VI.	APPOINTMENT OF CLASS COUNSEL AND ALLOCATION FOR ATTORNEYS’ FEES & COSTS	12
VII.	THE PROPOSED NOTICE PACKET IS ADEQUATE	14
VIII.	APPOINTMENT OF THE SETTLEMENT ADMINISTRATOR	15
IX.	CLASS REPRESENTATIVE ENHANCEMENT AWARD.....	16
X.	CONCLUSION.....	17

TABLE OF AUTHORITIES

Cases

<i>7-Eleven Owners for Fair Franchising v. Southland Corp.</i> (2000) 85 Cal.App.4th 1135.....	7
<i>Bartold v. Glendale Federal Bank</i> (2000) 81 Cal.App.4th 816.....	11
<i>Beech Cinema, Inc. v. Twentieth-Century Fox Film Corp.</i> (S.D.N.Y. 1979) 480 F.Supp. 1195..	14
<i>Capitol People First v. Department of Developmental Services</i> (2007) 155 Cal.App.4th 676....	11
<i>Cartt v. Superior Court</i> (1975) 50 Cal.App.3d 960	15
<i>Chavez v. Netflix, Inc.</i> (2008) 162 Cal.App.4th 43	14
<i>City of Detroit v. Grinnell Corporation</i> (2d Cir. 1974) 495 F.2d 448	7
<i>Dunk v. Ford Motor Co.</i> (1996) 48 Cal.App.4th 1794.....	6, 7
<i>Estrada v. Dr. Pepper/Seven-Up</i> , Los Angeles County Superior Court, Case No. BC 262247 (May 2005).....	14
<i>Hicks v. Kaufman & Broad Home Corp.</i> (2001) 89 Cal.App.4th 908	11
<i>In re American Bank Note Holographics, Inc., Securities Litigation</i> (S.D.N.Y. 2001) 127 F.Supp.2d 418	10
<i>In re Ampicillin Antitrust Litigation</i> (D. D.C. 1981) 526 F.Supp. 494	14
<i>Ketchum v. Moses</i> (2001) 24 Cal.4th 1122	13
<i>Kullar v. Foot Locker Retail, Inc.</i> (2008) 168 Cal.App.4th 116.....	10
<i>Laffitte v. Robert Half Int’l, Inc.</i> (2016) 1 Cal.5th 480.....	13, 14
<i>Lealao v. Beneficial Cal., Inc.</i> (2000) 82 Cal.App.4th 19	13, 14
<i>Linder v. Thrifty Oil Co.</i> (2000) 23 Cal.4th 429	11
<i>Mendoza v. United States</i> (9th Cir. 1980) 623 F.2d 1338	15
<i>Moore v. IKEA</i> , Los Angeles Superior Court, Case No. BC 263646 (Sept. 2006).....	14
<i>Officers for Justice v. Civil Service Commission of City and County of San Francisco</i> (9th Cir. 1982) 688 F.2d 615.....	7
<i>Rose v. City of Hayward</i> (1981) 126 Cal.App.3d 926.....	11
<i>Sav-On Drug Stores, Inc. v. Superior Court</i> (2004) 34 Cal.4th 319	10, 11
<i>Vranken v. Atlantic Richfield Co.</i> (N.D. Cal. 1995) 901 F.Supp. 294.....	17

Statutes

Cal. Code Civ. Proc. § 1781.....	15
Cal. Code Civ. Proc. § 1781(f).....	6

Other Authorities

Conte & Newberg, Newberg on Class Actions § 11.25 (4th Ed.).....	7
Conte & Newberg, Newberg on Class Actions § 11.47 (4th Ed.).....	10
Conte & Newberg, Newberg on Class Actions § 14.03 (4th Ed.).....	14
Conte & Newberg, Newberg on Class Actions § 8.21 (4th Ed.)	15
Conte & Newberg, Newberg on Class Actions § 8.29 (4th Ed.)	15
<i>Manual for Complex Litigation</i> § 21.311 (4th ed. 2007).....	15
<i>Manual for Complex Litigation</i> § 21.312 (4th ed. 2007).....	15

Rules

Fed. R. Civ. P. 23(c)(2).....	15
-------------------------------	----

MEMORANDUM OF POINTS AND AUTHORITIES

I. SUMMARY OF MOTION

Plaintiff Sydney Brien (“Plaintiff” or “Class Representative”) seeks preliminary approval of the Class Action and PAGA Settlement and Release of Claims (“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 Mission Ambulance, Inc. (“Defendant”), on the other hand. Subject to approval by the Court, Plaintiff and Defendant (together, the “Parties”) have agreed to settle the lawsuit for a Total Settlement Fund of \$650,000.00.¹

Plaintiff also seeks 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 employed within the State of California at any time during the Class Period (“Class” or “Class Members”).² Class Members who do not submit a timely and valid Opt-Out Request from the Class Settlement (“Participating Class Member”) will receive a *pro rata* share of the Net Settlement Amount (“Individual Settlement Payment”).³ The net payment of each Participating Class Member’s Individual Settlement Payment will be distributed to Participating Class Members on a *pro rata* basis based upon the number of weeks each Class Member worked for Defendant as an hourly-paid or non-exempt employee within the state of California during the Class Period, which will be calculated by the Settlement Administrator by using timecard records to calculate each week in which a Class Member logged 10 or more hours worked (“Workweeks”).⁴

The Settlement, upon final approval by the Court and funding of the Total Settlement Fund, will operate to resolve the Class Released Claims of Plaintiff and Participating Class Members and

¹ Settlement Agreement, attached as Exhibit 2 to Declaration of Helene Mayer (“Mayer Decl.”), ¶ 39. Defendant represented that there were 64,000 Workweeks during the period from August 4, 2018 to October 10, 2022. Should the Workweeks during the Class Period increase by more than 5% of 64,000 (i.e., more than 3,200 Workweeks), the Class Release Period shall end on the day that the total Workweeks reaches 67,200. *Id.*, ¶ 55.

² *Id.*, ¶ 6. “Class Period” is defined as the time period from August 4, 2018 through the date of the Preliminary Approval Order, or as of the date of termination pursuant to Paragraph 55 of the Settlement Agreement, whichever is sooner. *See id.* ¶ 9.

³ *Id.*, ¶¶ 20, 22, and 32.

⁴ *Id.*, ¶¶ 40 and 56.e.i.

the PAGA Released Claims of the State of California against the Released Parties.⁵

II. PROCEDURAL HISTORY AND FACTUAL BACKGROUND

Defendant provides basic and advanced critical care medical transportation services. Plaintiff is a former employee of Defendant.

On May 31, 2022, Plaintiff provided written notice by certified mail to the Labor and Workforce Development Agency (“LWDA”), by online submission, and to Defendant, by certified mail, of the specific provisions of the California Labor Code that were violated, thereby commencing LWDA Case No. LWDA-CM-886536-22 (“PAGA Notice”).⁶

On August 4, 2022, Plaintiff filed a putative Class Action Complaint for Damages in the Superior Court for the County of Riverside, thereby commencing the above-captioned lawsuit (“Action”).⁷

On August 4, 2022, Plaintiff Sydney Brien filed a Complaint for Enforcement Under the Private Attorneys General Act, California Labor Code § 2698, Et Seq. (“PAGA Complaint”) against Defendant in the case entitled *Sydney Brien v. Mission Ambulance, Inc.*, Riverside County Superior Court Case No. CVSW2205165, for civil penalties under PAGA (“PAGA Action”) (together with the Action, the “Actions”).⁸

On October 13, 2022, Defendant filed its Answer to Plaintiff’s Class Action Complaint for Damages.⁹

On October 13, 2022, Defendant filed its Answer to Plaintiff’s Complaint for Enforcement Under the Private Attorneys General Act.¹⁰

Plaintiff’s core allegations are that Defendant has violated California wage and hour law, including but not limited to laws set forth in the California Labor Code, by engaging in a uniform practice and procedure, with respect to Plaintiff, Class Members, and Aggrieved Employees of,

⁵ Settlement Agreement, ¶¶ 50 and 51. For the full scope of the “Class Released Claims,” see *id.*, at ¶ 10; for the full scope of the “Released PAGA Claims,” see *id.*, at ¶ 27; and for the full definition of the “Released Parties,” see *id.*, at ¶ 35.

⁶ Mayer Decl., ¶ 2.

⁷ *Id.*, ¶ 3.

⁸ *Id.*, ¶ 4.

⁹ *Id.*, ¶ 5.

¹⁰ *Id.*, ¶ 6.

1 *inter alia*, failing to pay all overtime and minimum wages, at all or at the correct rate of pay, failing
2 to provide compliant meal and rest periods and associated premium pay, failing to timely pay
3 wages during employment and upon termination of employment, failing to provide compliant
4 wage statements, failing to maintain requisite payroll records, and failing to reimburse necessary
5 business expenses, and thereby engaged in unfair business practices in violation of California
6 Business and Professions Code section 17200, et seq. and conduct that gives rise to penalties
7 pursuant to PAGA. Plaintiff contends that she, and the Class Members, are entitled to, *inter alia*,
8 unpaid wages, penalties (including and not limited to, penalties pursuant to PAGA), and attorneys'
9 fees and costs.¹¹

10 The Parties have actively litigated the Actions since they were commenced on August 4,
11 2022. On October 10, 2022, the Parties participated in arm's-length and informed negotiations
12 with Mediator Eve Wagner, Esq. ("Mediator"), a respected mediator of complex wage and hour
13 actions. With the aid of the Mediator's evaluation, the Parties ultimately reached the Settlement
14 described herein to resolve the Actions in their entirety.¹²

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

16 Under the terms of the Settlement, Defendant will pay a Total Settlement Fund of
17 \$650,000.00 to resolve the Actions.¹³ Subject to approval by the Court, the Net Settlement Amount
18 will be calculated by deducting the following amounts from the Total Settlement Fund: (1)
19 attorneys' fees in an amount not to exceed 35% of the Total Settlement Fund (i.e., \$227,500.00, if
20 the Total Settlement Fund remains \$650,000.00) and litigation costs and expenses in an amount
21 not to exceed \$30,000.00 ("Attorneys' Fees and Costs") to Class Counsel; (2) Settlement
22 Administration Costs, which are currently estimated not to exceed \$15,000.00 to the Settlement
23 Administrator ("Settlement Administration Costs"); (3) PAGA Penalty Amount of \$75,000.00
24 ("PAGA Penalty Amount"); and (4) payment in the amount of up to \$7,500.00 to Plaintiff
25
26
27

28 ¹¹ Mayer Decl., ¶ 28.

¹² *Id.*, ¶ 23.

¹³ Settlement Agreement, ¶ 39.

1 (“Enhancement Award”).¹⁴ The Parties have agreed to retain Simpluris, Inc., (“Simpluris” or
2 “Settlement Administrator”) to handle the notice and settlement administration process.¹⁵

3 The Parties have agreed that the Settlement Administrator will determine each Participating
4 Class Member’s share of the available Net Settlement Amount (“Individual Settlement Payment”),
5 in accordance with the Settlement Agreement and as follows:

- 6 a. Each Participating Class Member’s Individual Settlement Payment will be
7 calculated by the Settlement Administrator by dividing the Participating
8 Class Member’s number of Workweeks during the Class Period by the total
number of Workweeks of all Participating Class Members during the Class
Period and multiplying this figure by the Net Settlement Amount.¹⁶

9 The Parties have agreed that the Settlement Administrator will determine each Aggrieved
10 Employees’ share of the 25% share of the PAGA Penalty Amount (“Aggrieved Employee
11 Amount”), in accordance with the Settlement Agreement in accordance with the Settlement
12 Agreement and as follows¹⁷:

- 13 b. Each Aggrieved Employee’s Individual PAGA Payment will be calculated
14 by the Settlement Administrator by dividing the Aggrieved Employee’s
15 number of Workweeks during the PAGA Period only by the total number
of Workweeks of all Aggrieved Employees during the PAGA Period and
multiplying this figure by the Aggrieved Employee Amount.¹⁸

16 The Parties agree, for purposes of this Settlement, that Individual Settlement Payments will
17 be allocated 20% to wages subject to withholdings and 80% to penalties, interest, and non-wage
18 damages.¹⁹ The Settlement Administrator will withhold the employee’s share of taxes and
19 withholdings with respect to the wages portion of the Individual Settlement Payments, and issue
20 checks to Participating Class Members for their Individual Settlement Payments.²⁰ Individual
21 PAGA Payments to Aggrieved Employees will be allocated as 100% penalties and will not be
22 subject to withholdings.²¹ Defendant will provide the funds for any employer-side taxes related to
23 the Individual Settlement Payments.²²

24 ¹⁴ Settlement Agreement, ¶¶ 4, 16, 28, 37, and 56.a-56.d.

25 ¹⁵ *Id.*, ¶ 38.

26 ¹⁶ Settlement Agreement, ¶ 56.e.i.

27 ¹⁷ *Id.*, ¶ 28.

28 ¹⁸ *Id.*, ¶ 56.e.ii.

¹⁹ *Id.*, ¶ 58.a.

²⁰ *Ibid.*

²¹ *Ibid.*

²² *Ibid.*

Individual Settlement Payment and Individual PAGA Payment checks shall remain valid and negotiable for 180 calendar days from the date of their issuance, and thereafter, shall be canceled.²³ Pursuant to California Code of Civil Procedure Section 384, all funds associated with such cancelled checks will be transmitted to Riverside Legal Aid.²⁴ Riverside Legal Aid is a non-profit organization that provides access to justice at no cost to qualified low-income residents of Riverside County through legal services, education and counseling. The Parties and their counsel each represent that they do not have any significant affiliation or involvement with the proposed *cy pres* recipient.

Any Class Member may request to be excluded from the Class Settlement by mailing an letter indicating a request to be excluded from the Class Settlement (“Opt-Out Request”) postmarked on or before the date that is 60 calendar days from the date of the initial mailing of the Class Notice by the Settlement Administrator (“Response Deadline”).²⁵ Aggrieved Employees shall be bound to the PAGA Settlement irrespective of whether they exercise their option to opt out of the Class Settlement.²⁶

Only Class Members who have not submitted an Opt-Out Request (i.e., Participating Class Members) may object to the Class Settlement by submitting a letter or other written communication submitted by a Class Member to the Settlement Administrator that contains a clear statement by the Class Member that he or she is objecting to any of the terms of the Class Settlement (“Objection”) prior to the Response Deadline by submitting a written Objection or by presenting their objection orally at the Final Approval Hearing, regardless of whether they submitted a written objection.²⁷

In order to dispute the number of Workweeks attributable to an individual Class Member, that Class Member must submit a written letter disputing the pre-printed information on the Class

²³ Settlement Agreement, ¶ 63.f.

²⁴ Ibid.

²⁵ *Id.*, ¶¶ 26 and 36.

²⁶ *Id.*, ¶ 61.

²⁷ *Id.*, ¶¶ 24 and 62.

1 Notice as to his or her Workweeks during the Class Period (“Workweeks Dispute”) to the
2 Settlement Administrator and include copies of any supporting evidence they may have.²⁸

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

5 The settlement of a class action requires approval by the court. *Dunk v. Ford Motor Co.*
6 (1996) 48 Cal.App.4th 1794, 1800; Cal. Code Civ. Proc. § 1781(f). Courts review class action
7 settlements in a two-step process: (1) an earlier conditional review by the court; and (2) a later
8 detailed review after the period during which notice is distributed to class members for their
9 comments or objections. Conte & Newberg, *Newberg on Class Actions* § 11.24 (4th Ed. 2002).
10 Preliminary approval of a settlement does not require a court to make a final determination that
11 the settlement is fair, reasonable, and adequate. Rather, that decision is made at the final approval
12 stage. Cal. R. Ct. 3.769(g).

13 In considering a potential class settlement, a court need not reach any ultimate conclusions
14 on the issues of fact and law which underlie the merits of the dispute and need not engage in a trial
15 on the merits. See *City of Detroit v. Grinnell Corporation* (2d Cir. 1974) 495 F.2d 448, 456;
16 *Officers for Justice v. Civil Service Commission of City and County of San Francisco* (9th Cir.
17 1982) 688 F.2d 615, 625. Neither formal notice nor a hearing is required for the trial court to grant
18 provisional class certification and preliminary approval; the court may grant such relief upon an
19 informal application by the settling parties and may conduct any necessary hearing in court or in
20 chambers, at the court’s discretion. *Newberg*, § 11.25.

21 The trial court has broad discretion to determine whether a proposed settlement is fair under
22 the circumstances of the case. *Dunk*, 48 Cal.App.4th at 1800. To make this fairness determination,
23 courts must consider several relevant factors, including “the strength of the Plaintiff’s case, the
24 risk, expense, complexity and likely duration of further litigation, the risk of maintaining class
25 action status through trial, the amount offered in settlement, the extent of discovery completed and
26 the stage of the proceedings, the experience and view of counsel, the presence of a governmental
27 participant, and the reaction of the class members to the proposed settlement.” *Dunk*, 48

28 ²⁸ Settlement Agreement, ¶¶ 41 and 60.

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

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

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

The Parties have actively litigated the Actions since they commenced on August 4, 2022. Both sides investigated the veracity, strength, and scope of the claims throughout the cases, and Class Counsel was actively preparing the matters for class certification and trial.²⁹

Class Counsel conducted significant investigation and informal discovery regarding the facts of the cases, including and not limited to, the exchange, review, and analysis of a large volume of documents and data from Plaintiff, Defendant, and other sources.³⁰ The volume of data and documents that Class Counsel reviewed and analyzed included and was not limited to: a sampling of Class Members’ time and payroll data, Plaintiff’s personnel records, Defendant’s Handbooks, earning statements, company policy acknowledgements job descriptions, Defendant’s operations and employment practice, policies, and procedures, among other information and documents.³¹ Class Counsel had the opportunity to interview Plaintiff and others to gather facts and to identify potential witnesses. In addition, Class Counsel has extensive experience in California wage-and-hour class actions.³²

²⁹ Mayer Decl., ¶ 23.

³⁰ *Ibid.*

³¹ Mayer Decl., ¶ 24.

³² *Id.*, ¶¶ 21 a-qq.

The Parties engaged in extensive settlement negotiations and participated in a full-day mediation, conducted by Eve Wagner, Esq., a well-respected mediator experienced in mediating complex labor and employment matters.³³ Prior to and during the mediation and settlement discussions, the Parties exchanged extensive information and engaged in 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, including the risks of proceeding with class certification and/or representative adjudication; the law relating to off-the-clock theory, meal and rest periods, PAGA representative claims, and wage-and-hour enforcement; the evidence produced and analyzed; and the possibility of appeals.³⁴ During all settlement discussions, the Parties conducted their negotiations at arm's length in an adversarial position.³⁵ Arriving at a settlement that was acceptable to both Parties was not easy. Both sides felt strongly about their ability to prevail at certification and at trial.³⁶ After conducting investigations, informal discovery, extensive settlement negotiations, and with the aid of the mediator's evaluation, the Parties have agreed that the matters are 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.³⁷

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

The Settlement represents a fair, adequate, and reasonable resolution of the matters.³⁸ The Settlement was calculated using the information and data uncovered during litigation, case investigation, and the informal exchange of information.³⁹ The Settlement takes into account the potential risks and rewards inherent in any case and, in particular, in the matters at issue. Moreover, considering all of the facts and circumstances of the cases, the Settlement represents a fair, reasonable, and adequate recovery for the Class.⁴⁰

Assuming that the Attorneys' Fees and Costs, Enhancement Award, PAGA Penalty Amount, and Settlement Administration Costs are approved by the Court and paid in the full

³³ Mayer Decl., ¶ 23.

³⁴ Ibid.

³⁵ Ibid.

³⁶ Ibid.

³⁷ Ibid.

³⁸ *Id.*, ¶ 23.

³⁹ *Id.*, ¶ 32.

⁴⁰ Ibid.

1 amounts provided for by the Settlement, the Settlement provides for a Net Settlement Amount that
2 is currently estimated to be \$295,000.00.⁴¹ Additionally, 25% of the PAGA Penalty Amount (i.e.,
3 Aggrieved Employee Amount), which is \$18,750.00 out of \$75,000.00, will be distributed to the
4 Aggrieved Employees. The entire Net Settlement Amount will be fully paid out to the Participating
5 Class Members, in accordance with the Settlement Agreement.

6 The amount of each Participating Class Member's Individual Settlement Payment and each
7 Aggrieved Employee's Individual PAGA Payment will be calculated by the Settlement
8 Administrator by dividing the Participating Class Member's number of Workweeks during the
9 Class Period by the total number of Workweeks of all Participating Class Members during the
10 Class Period and multiplying this figure by the Net Settlement Amount respectively.⁴² "An
11 allocation formula need only have a reasonable, rational basis [to warrant approval], particularly
12 if recommended by experienced and competent class counsel." *In re American Bank Note*
13 *Holographics, Inc., Securities Litigation* (S.D.N.Y. 2001) 127 F.Supp.2d 418, 429-30. Here, the
14 allocation is reasonably related to the number of Workweeks actually worked for Defendant during
15 the relevant period and should be approved.

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, Aggrieved
18 Employees, and the State of California.⁴³ Although the recommendations of Class Counsel are not
19 conclusive, the Court can properly take the recommendations into account, particularly if Class
20 Counsel appears to be competent, and has experience with this type of litigation, and investigation
21 have been completed, as is the case here. *Newberg*, §11.47. Accordingly, the Court should grant
22 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 extensive informal discovery and exchanged a large volume of documents, data, and
26

27 ⁴¹ Mayer Decl., ¶ 7.

28 ⁴² Settlement Agreement, ¶ 56.

⁴³ *Id.*, ¶ 25.

information prior to mediation.⁴⁴ The information that Class Counsel obtained from Plaintiff, Defendant, and other sources allowed Class Counsel to develop valuation models in order to evaluate the potential value and merit of the claims, and perform a complete evaluation of Defendant's defenses thereto.⁴⁵ As outlined in the Declaration of Helene Mayer, Class Counsel performed an extensive analysis of each and every claim pursuant to *Kullar* prior to entering into the Settlement.⁴⁶

V. CERTIFICATION OF THE CLASS IS APPROPRIATE

The requisites for establishing class certification are met, and the Parties have stipulated to conditional certification of the Class for settlement purposes only.⁴⁷ California Code of Civil Procedure Section 382 "authorizes class actions when the question is one of a common or general interest, of many persons, or when the Parties are numerous, and it is impracticable to bring them all before the court." *Sav-On Drug Stores, Inc. v. Superior Court* (2004) 34 Cal.4th 319, 326. California courts certify class actions where the Plaintiff identifies "both [1] an ascertainable class and [2] a well-defined community of interest among class members." *Id.*

A. The Class Is Ascertainable and Sufficiently Numerous.

"Ascertainability is required in order to give notice to putative class members as to whom the judgment in the action will be *res judicata*." *Hicks v. Kaufman & Broad Home Corp.* (2001) 89 Cal.App.4th 908, 914. "A class is ascertainable if it identifies a group of unnamed Plaintiffs by describing a set of common characteristics sufficient to allow a member of that group to identify himself or herself as having a right to recover based on the description." *Bartold v. Glendale Federal Bank* (2000) 81 Cal.App.4th 816, 828. The proposed Class must also be sufficiently numerous. *Linder v. Thrifty Oil Co.* (2000) 23 Cal.4th 429, 435; *see also Rose v. City of Hayward* (1981) 126 Cal.App.3d 926, 934-35 (indicating that a class of 30 to 40 individuals satisfies the numerosity requirement as joinder is not practical at that point). The Class here is estimated to be approximately 461 individuals, which is sufficiently numerous.⁴⁸ Further, all Class Members can

⁴⁴ Mayer Decl., ¶ 24.

⁴⁵ *Id.*, ¶ 32.

⁴⁶ *Id.*, ¶ 32.

⁴⁷ Settlement Agreement, ¶ 81(b).

⁴⁸ Mayer Decl. ¶ 13.

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

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

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

14 Here, common issues of law and fact predominate as to each of the claims alleged and
15 asserted in the Actions. Based on the documents and information obtained through informal
16 discovery and exchange of information in the cases, Plaintiff contends that Class Members
17 performed similar job duties and were subject to uniform operations and employment policies,
18 practices, and procedures during the Class Period, including payroll and recordkeeping practices.⁵⁰
19 As a result, Plaintiff claims that all of the Class Members were uniformly not paid all compensation
20 due to them from Defendant during the time period at issue. Plaintiff maintains that the outcome
21 of these litigations would be determined by Defendant's alleged uniform operations and
22 employment policies and procedures that applied across its hourly-paid or non-exempt employees
23 who worked in California during the Class Period.

24 As a member of the Class who was subject to these same policies, practices, and
25 procedures, Plaintiff's claims are typical of the Class. Moreover, Plaintiff has no interests adverse
26 to the Class. Plaintiff has taken steps to initiate and maintain this action and to ensure that it comes
27

28 ⁴⁹ Mayer Decl., ¶ 12.

⁵⁰ *Id.*, ¶ 14.

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

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

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

Class Counsel has litigated Plaintiff's lawsuits for over two years and was actively preparing the matters for class certification and trial.⁵³ The ongoing work has been extensive, demanding, and ultimately successful in achieving a substantial settlement resolution. Class Counsel reviewed a large volume of documents and data and also interviewed and obtained information from Plaintiff, researched applicable law, undertook damages/valuation calculations, and met and conferred with Defendant's counsel regarding the pleadings and the production of documents and data prior to the mediation.⁵⁴ Counsel for the Parties also undertook extensive settlement discussions, which included participating in mediation.⁵⁵ Class Counsel is well-experienced in wage-and-hour class action litigation and used that experience to obtain a great result for the Class.⁵⁶

The Settlement establishes a Total Settlement Fund of \$650,000.00, and provides for Class Counsel to apply to the Court consisting of attorneys' fees in an amount up to 35% of the Gross Settlement Amount (i.e., \$227,500.00 if the Total Settlement Fund remains \$650,000.00), and reimbursement of actual costs and expenses in an amount up to \$30,000.00.⁵⁷ The attorneys' fees provided for by the Settlement are commensurate with: (1) the risk that Class Counsel took in bringing and litigating the cases, (2) the extensive time, effort and expense that Class Counsel

⁵¹ Declaration of Sydney Brien in Support of Plaintiff's Motion for Preliminary Approval of Class Action Settlement ("Brien Decl."), ¶ 4.

⁵² Mayer Decl., ¶ 23-24.

⁵³ *Id.*, ¶ 23.

⁵⁴ *Ibid.*

⁵⁵ *Ibid.*

⁵⁶ *Id.*, ¶ 21.

⁵⁷ Settlement Agreement, ¶ 4.

dedicated to the cases, (3) the skill and determination that Class Counsel has shown, (4) the results that Class Counsel has achieved throughout the litigations, (5) the value of the Settlement that Class Counsel has achieved for the Class Members, and (6) the other cases that Class Counsel had to turn down in order to devote its time and efforts to these matters. The proposed Class Notice provides Class Members that an award of the Attorneys' Fees and Costs will be sought and the amount allocated toward the Attorneys' Fees and Costs by the Settlement.⁵⁸

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

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

Historically, courts have awarded fees as high as fifty percent (50%) of the settlement, depending on the circumstances of the case. *Newberg*, § 14.03; *see also In re Ampicillin Antitrust Litig.* (D.D.C. 1981) 526 F.Supp. 494 (awarding attorneys' fees in the amount of 45% of the \$7.3

⁵⁸ Settlement Agreement, Exh. A.

million settlement); *Beech Cinema, Inc. v. Twentieth-Century Fox Film Corp.* (S.D.N.Y. 1979) 480 F.Supp. 1195 (awarding approximately 53% of the settlement as attorneys’ 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.⁵⁹ 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 at the Final Approval Hearing. Considering the work performed and the risks incurred, the attorneys’ fees provided for by the Settlement are well within the range of reasonableness for preliminary approval.

VII. THE PROPOSED NOTICE PACKET IS ADEQUATE

California statutory authority and case law vests the Court with broad discretion in fashioning appropriate class notice. See Cal. Code Civ. Proc. § 1781; *Cartt v. Superior Court* (1975) 50 Cal.App.3d 960, 973-74. A class notice is adequate if it “present[s] a fair recital of the subject matter and proposed terms” of the Settlement. *Mendoza v. United States* (9th Cir. 1980) 623 F.2d 1338, 1351 (quoting *Marshall v. Holiday Magic* (9th Cir. 1977) 550 F.2d 1173, 1177). “Sufficient information about the case should be provided to enable class members to make an informed decision about their participation.” *Manual for Complex Litigation* § 21.311 at 413 (4th ed. 2004).

The proposed Class Notice describes the Settlement, the deadlines and procedures to submit a Notice of Objection to the Class Settlement, submit a Request for Exclusion from the Class Settlement, and/or dispute regarding Workweeks and/or PAGA Pay Periods, and the date

⁵⁹ Mayer Decl., ¶ 8.

1 and time set for the Final Approval Hearing.⁶⁰ The proposed Class Notice summarizes the
2 proceedings to date and the terms and conditions of the Settlement in an informative and coherent
3 manner.⁶¹ The proposed Class Notice recognizes that the Court has not yet granted final approval
4 of the settlement.⁶² The proposed Class Notice also apprises the Class Members and PAGA
5 Employees of, *inter alia*, how their Individual Settlement Payment and, if applicable, Individual
6 PAGA Payment is calculated and the number of Workweeks and/or PAGA Pay Periods credited
7 to them.⁶³ The proposed Class Notice fulfills the requirement of neutrality in notice procedure.
8 *Newberg*, at § 8.39.

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

13 **VIII. APPOINTMENT OF THE SETTLEMENT ADMINISTRATOR**

14 The Parties have selected Simpluris, Inc. as the Settlement Administrator. Within 14
15 calendar days of receipt of the Class List, the Settlement Administrator will mail the Notice Packet
16 in English and Spanish to each Class Member via First Class Mail.⁶⁴ The Settlement Administrator
17 will re-mail any Notice Packet returned by the United States Postal Service, on or before the
18 Response Deadline, with a forwarding address promptly.⁶⁵ The Settlement Administrator will use
19 the appropriate skip tracing and National Change of Address searches to increase the likelihood of
20 delivery of the Notice Packet to Class Members, and to re-mail the Notice Packets returned by the
21 Postal Service, on or before the Response Deadline, without a forwarding address upon locating
22 new or alternate addresses after a reasonable search, within five (5) calendar days.⁶⁶ In the case of
23 a re-mailed Class Notice, the Response Deadline shall be extended by 15 calendar days from the
24

25 ⁶⁰ Settlement Agreement, Exh. A.

26 ⁶¹ *Ibid.*

27 ⁶² *Ibid.*

28 ⁶³ *Id.*, ¶ 59.a.

⁶⁴ *Id.*, ¶ 59.a.

⁶⁵ *Id.*, ¶ 59.b.

⁶⁶ Settlement Agreement, ¶ 59.c.

1 initial Response Deadline.⁶⁷ The Settlement Administrator will receive and process Opt-Out
2 Requests, Objections, and Workweeks Disputes.⁶⁸ In addition, the Settlement Administrator will
3 be responsible for printing, distributing, and tracking Notice Packets and other documents for the
4 Settlement; calculating and distributing payments due under the Settlement; issuing of 1099 and
5 W-2 IRS Forms and all required tax reporting, filings, withholdings, and remittances; providing
6 necessary reports and declarations; and other duties and responsibilities to process the Settlement
7 and as requested by the Parties.⁶⁹ The Settlement Administration Costs are currently estimated to
8 be \$15,000.00 and will be paid out of the Total Settlement Fund, subject to approval by the Court.⁷⁰
9 Accordingly, Plaintiff respectfully requests that the Court appoint Simpluris, Inc., as the
10 Settlement Administrator and direct the mailing of the Notice Packet to the Class Members in the
11 manner outlined and based on the proposed deadlines as described herein and set forth in the
12 Settlement Agreement.

13 **IX. CLASS REPRESENTATIVE ENHANCEMENT AWARD**

14 Plaintiff respectfully requests that the Court appoint her as the Class Representative and
15 preliminarily approve the Enhancement Award in an amount up to \$7,500.00.⁷¹ It is within the
16 Court's discretion to award payment to a Class Representative for her efforts and work. *Vranken*
17 *v. Atlantic Richfield Co.* (N.D. Cal. 1995) 901 F.Supp. 294, 299. The factors that courts may
18 consider in determining whether to make an Enhancement Award include: (1) the risk to the Class
19 Representative in commencing suit, both financial and otherwise; (2) the notoriety and personal
20 difficulties encountered by the Class Representative; (3) the amount of time and effort spent by
21 the Class Representative; (4) the duration of the litigation; and (5) the personal benefit (or lack
22 thereof) enjoyed by the Class Representative as a result of the litigation. *Id.*

23 The Enhancement Award is fair and appropriate. Plaintiff spent a substantial amount of
24 time and effort in producing relevant documents and past employment records and providing the
25

26 ⁶⁷ Settlement Agreement, ¶ 36.

27 ⁶⁸ *Id.*, ¶¶ 60, 61, and 62.

28 ⁶⁹ *Id.*, ¶ 56.b.

⁷⁰ *Id.*, ¶ 37.

⁷¹ *Id.*, ¶ 16 and 56.c.

facts and evidence necessary to attempt to prove the allegations.⁷² Plaintiff was available whenever Class Counsel needed her and actively tried to obtain and provide information that would facilitate the pursuit of class and PAGA claims.⁷³ Accordingly, it is appropriate and just for Plaintiff to receive an Enhancement Award for her services on behalf of the Class, Aggrieved Employees, and the State of California, in addition to her individual settlement payments.

X. CONCLUSION

For the foregoing reasons, Plaintiff respectfully requests that the Court grant Preliminary Approval of the Settlement; conditionally certify the Class for settlement purposes; appoint Lawyers for Justice, PC as Class Counsel; appoint Plaintiff Sydney Brien as Class Representative; appoint Simpluris, Inc., as Settlement Administrator; preliminarily approve the allocations for Attorneys' Fees and Costs, Enhancement Award, PAGA Penalty Amount, and Settlement Administration Costs; approve the proposed Notice Packet; direct the Settlement Administrator to undertake the notice and settlement administration process in conformity with the deadlines and procedures provided by the Settlement Agreement; and to schedule a Final Approval Hearing to take place in approximately 6 months.

Dated: May 21, 2025

LAWYERS for JUSTICE, PC

By: Helene Mayer
Helene Mayer
Attorneys for Plaintiff

⁷² Mayer Decl., ¶¶ 9, 15; Brien Decl., ¶ 3.

⁷³ Mayer Decl., ¶¶ 9, 15; Brien Decl., ¶¶ 3-5.