

Edwin Aiwazian (SBN 232943)
Arby Aiwazian (SBN 269827)
Joanna Ghosh (SBN 272479)
LAWYERS for JUSTICE, PC
410 West Arden Avenue, Suite 203
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 SACRAMENTO**

QUENTIN COSTEIU; individually, and on
behalf of other members of the general public
similarly situated and on behalf of other
aggrieved employees pursuant to the
California Private Attorneys General Act;

Plaintiff,

vs.

INTERTEK TESTING SERVICES, an
unknown business entity; INTERTEK USA
INC., an unknown business entity; and
DOES 1 through 100, inclusive,

Defendants.

Case No.: 34-2016-00189662

Honorable Christopher E. Krueger
Department 54

CLASS ACTION

**PLAINTIFF'S MOTION FOR
PRELIMINARY APPROVAL OF
CLASS ACTION SETTLEMENT**

[Declaration of Proposed Class Counsel
(Edwin Aiwazian); Declaration of Proposed
Class Representative (Quentin Costeiu);
and [Proposed] Order filed concurrently
herewith.]

Complaint Filed: January 26, 2016
Trial Date: None Set

Date: March 27, 2019
Time: 9:00 a.m.
Department: 54

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

3 **PLEASE TAKE NOTICE** that on March 27, 2019 at 9:00 a.m., or as soon thereafter
4 as the matter may be heard before the Honorable Christopher E. Krueger in Department 54 of
5 the Superior Court of California for the County of Sacramento, located at 813 6th Street,
6 Sacramento, California, 95814, Plaintiff Quentin Costeiu ("Plaintiff" or "Class Representative")
7 will, and hereby does, move for an order:

- 8 • Granting preliminary approval of the proposed class action settlement described
9 herein and set forth in the Class Action and PAGA Settlement Agreement
10 ("Settlement," "Agreement," or "Settlement Agreement"), attached as "**EXHIBIT 1**"
11 to the Declaration of Edwin Aiwazian, including, but not limited to, the means of
12 allocation and distribution of funds, including and not limited to, the allocations for
13 penalties under the California Labor Code Private Attorneys General Act of 2004
14 ("PAGA Settlement Amount"), attorneys' fees and costs to Class Counsel, Service
15 Award to Plaintiff, and Settlement Administration Costs to Settlement Administrator;
- 16 • Conditionally certifying the Class for settlement purposes;
- 17 • Preliminarily appointing Plaintiff Quentin Costeiu as Class Representative;
- 18 • Preliminarily appointing Lawyers *for* Justice, PC as Class Counsel;
- 19 • Approving the proposed Notice of Settlement of Class Action and Settlement Hearing
20 ("Class Notice"), attached as "**EXHIBIT A**" to the [Proposed] Order Granting
21 Preliminary Approval of Class Action Settlement;
- 22 • Directing the mailing of the Class Notice to the Class Members;
- 23 • Approving the proposed deadlines for the notice and settlement administration
24 process;
- 25 • Approving Simpluris, Inc. as the Settlement Administrator; and
- 26 • Scheduling a hearing to consider whether to grant final approval of the Settlement, at
27 which time the Court will also consider whether to grant final approval of the requests
28 for Attorneys' Fees and Costs, Service Award, and Settlement Administration Costs.

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

4 This motion is based upon the following memorandum of points and authorities, the
5 Settlement Agreement, the Declarations of Proposed Class Counsel (Edwin Aiwarzian) and the
6 Proposed Class Representative (Quentin Costeiu) in support thereof, the pleadings and other
7 records on file with the Court in this matter, and such evidence and oral argument as may be
8 presented at the hearing on this motion.

9 Dated: March 4, 2019

LAWYERS for JUSTICE, PC

10
11 By:


Edwin Aiwarzian
Attorneys for Plaintiff

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MEMORANDUM OF POINTS AND AUTHORITIES

I. SUMMARY OF MOTION

Plaintiff Quentin Costeiu ("Plaintiff" or "Class Representative") seek preliminary approval of the Class Action and PAGA Settlement Agreement ("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 Defendants Intertek USA, Inc. and Intertek Testing Services N.A., Inc. ("Defendants"), on the other hand. Subject to approval by the Court, Plaintiff and Defendants (collectively, the "Parties") have agreed to settle this lawsuit for a Gross Settlement Amount of one million one hundred thousand dollars (\$1,100,000).¹ The Gross Settlement Amount includes the following: (1) Class Member Payments to Settlement Class Members; (2) Settlement Administration Costs to the Settlement Administrator; (3) Service Award to Plaintiff; (4) penalties pursuant to the Private Attorneys General Act in the amount of eleven thousand dollars (\$11,000), of which eight thousand two hundred fifty dollars (\$8,250) will be paid to the Labor and Workforce Development Agency ("LWDA Payment") and two thousand seven hundred fifty dollars (\$2,750) will be included in the Net Settlement Amount for distribution to Settlement Class Members; and (5) attorneys' fees and reimbursement of litigation costs and expenses ("Attorneys' Fees and Costs") to Class Counsel.²

Plaintiff also seeks to preliminarily certify the following Class for settlement purposes, which Defendants do not oppose:

All current and former hourly-paid or non-exempt employees who worked for Defendants within the State of California at any time from January 26, 2012 to the date the Court signs an order granting preliminary approval of the Settlement ("Class" or "Class Members").³

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¹ Settlement Agreement, attached as "EXHIBIT I" to Declaration of Edwin Aiwazian ("Aiwazian Decl."), preface.

² *Id.*, § 5, 6, 7, 8.1, & 9.

³ *Id.*, § 1.2.

1 The Class is estimated to consist of approximately six hundred thirty-one (631)
2 individuals.⁴

3 Class Members who do not submit a timely and valid Request for Exclusion (“Settlement
4 Class Members”) will receive a share of the Net Settlement Amount on a *pro rata* basis based
5 upon the number of weeks in which the Class Members worked as a non-exempt hourly
6 employee in California from January 26, 2012 to the date the Court signs an order granting
7 preliminary approval of the Settlement (“Work Weeks”).⁵ Only the portion of the Net
8 Settlement Amount allocated to Class Members who opt out of the Settlement will be retained
9 by Defendant. The Net Settlement Amount refers to the Gross Settlement Amount, less the
10 following amounts: (1) Settlement Administration Costs to the Settlement Administrator; (2)
11 Service Award to Plaintiff; (3) LWDA Payment to the LWDA; and (4) Attorneys’ Fees and
12 Costs to Class Counsel.⁶

13 The Settlement resolves Plaintiff’s and the Settlement Class Members’ Released Claims
14 against the Released Parties.⁷

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

16 Defendants are a quality assurance provider to industries worldwide, and their services
17 include testing, inspecting, and certifying products. Plaintiff Quentin Costeiu is a former
18 employee of Intertek USA.

19 Plaintiff filed a Class Action Complaint for Damages and Enforcement Under the Private
20 Attorneys General Act, California Labor Code Section 2698, Et Seq. (“Complaint”), against
21 Defendants on January 26, 2016 in the Sacramento County Superior Court, Case No. 34-2016-
22 00189662. On March 18, 2016, Defendants filed an Answer to Plaintiff’s Complaint.

23 On March 21, 2016, Defendants filed a Notice of Removal to the United States District
24 Court and a Request for Judicial Notice in Support of Removal to United States District Court
25 (“Notice of Removal”).

26
27 ⁴ Aiwazian Decl., ¶ 9.

⁵ Settlement Agreement, §§ 1.7 & 5.1.

⁶ *Id.*, § 1.17.

⁷ See *id.* at § 14.1-14.3 for the full scope of the “Released Claims” and “Released Parties.”

1 On April 8, 2016, Plaintiff filed a Motion to Strike Portions of Defendants' Answer to
2 Plaintiff's Complaint ("Motion to Strike").

3 On April 21, 2016, Plaintiff filed a Motion to Remand Pursuant to 28 U.S.C. § 1447
4 ("Motion to Remand").

5 On May 31, 2016, Defendants filed an Opposition to Plaintiff's Motion to Strike and an
6 Opposition to Plaintiff's Motion to Remand.

7 On June 7, 2016, Plaintiff filed a reply paper in support of Motion to Strike and a Reply
8 In Support of his Motion to Remand.

9 On June 14, 2016, the United States District Court, Eastern District of California, granted
10 Plaintiff's Motion to Remand and denied Plaintiff's Motion to Strike.

11 On September 18, 2017, the Parties filed a Joint Notice of Class Action Settlement.

12 Plaintiff's core allegation is that Defendants have violated the California Labor Code
13 and California Business and Professions Code by engaging in a uniform practice and procedure,
14 with respect to Plaintiff and the Class Members, of, *inter alia*, failing to pay all wages due and
15 owing, failing to provide compliant meal period and rest periods and associated premium pay,
16 failing to timely pay wages during employment and upon termination and associated waiting
17 time penalties, failing to provide compliant wage statements, failing to maintain requisite payroll
18 records, and failing to reimburse necessary business expenses, and thereby engaged in unfair
19 business practices under the California Business and Professions Code and owe penalties
20 recoverable under the Private Attorneys General Act ("PAGA"). Plaintiff contends that he, and
21 the Class Members are entitled to, *inter alia*, unpaid wages, penalties (including and not limited
22 to, penalties pursuant to PAGA), and attorneys' fees.

23 Defendants have denied, and continue to deny, any liability and wrongdoing of any kind
24 associated with any of the allegations in the lawsuit, and further deny that the lawsuit is
25 appropriate for class treatment or representative adjudication for any purpose other than for
26 settlement purposes only.

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The Parties have actively litigated this matter since Plaintiff commenced this action on January 26, 2016. On September 29, 2016, the Parties participated in a formal, full-day mediation conducted by the Louis M. Marlin, Esq., a well-regarded mediator experienced in mediating complex labor and employment matters. With the aid of the mediator, the Parties ultimately reached the Settlement described herein to resolve the lawsuit in its entirety.

III. SUMMARY OF THE SETTLEMENT TERMS

Under the terms of the Settlement, Defendants will pay a Gross Settlement Amount in the amount of one million one hundred thousand dollars (\$1,100,000) to resolve the Released Claims of Plaintiff and the Class Members who do not opt out of the Settlement (i.e., Settlement Class Members) with respect to the Released Parties.⁸ 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 three hundred eighty-five thousand dollars (\$385,000) to Class Counsel, which is thirty-five percent (35%) of the Gross Settlement Amount; (2) reimbursement of costs and expenses in an amount not to exceed forty-five thousand dollars (\$45,000) to Class Counsel; (3) Settlement Administration Costs, which are currently estimated not to exceed eighteen thousand five dollars (\$18,500) to the Settlement Administrator; (4) LWDA Payment of eight thousand two hundred fifty dollars (\$8,250) to the Labor and Workforce Development Agency ("LWDA") for its 75% share of the PAGA Settlement Amount; and (5) Service Award in the amount of up to eight thousand dollars (\$8,000) to Plaintiff.⁹ Defendants have agreed to pay employer's portion of payroll taxes separately and in addition to the Gross Settlement Amount. The Parties have agreed to retain Simpluris, Inc. ("Simpluris" or "Settlement Administrator") to handle the notice and settlement administration process.

The Parties have agreed that the Settlement Administrator will determine each Settlement Class Member's *pro rata* share of the available Net Settlement Amount ("Class Member Payment"), in accordance with the Settlement Agreement and as follows:

⁸ Settlement Agreement, §§ 1.14 & 14.

⁹ *Id.*, §§ 5, 6, 7, 8.1, & 9.

- a. The Settlement Administrator will calculate Class Members' Work Weeks based on their start and end dates of employment provided by Defendants.¹⁰
- b. The Settlement Administrator will divide Settlement Class Member's Individual Work Weeks by the total Work Weeks of all of the Class Members, and multiply the result by the Net Settlement Amount to yield the Class Member Payment.¹¹

Each Settlement Class Member's Class Member Payment will be allocated as follows: thirty percent (30%) as wages ("wage portion"), which will be reported on an IRS Form W-2; fifty percent (50%) as penalties and interest, and twenty percent (20%) as reimbursements of alleged non-wage expenses (collectively, "non-wage portion"), which will be reported on an IRS Form 1099.¹² Settlement Class Members will be issued payment of their Class Member Payment subject to reduction for the employee's share of taxes and withholdings with respect to the wage portion.¹³ Defendants' share of payroll taxes with respect to the wage portion of Class Member Payments will be paid separately and in addition to the Gross Settlement Amount.¹⁴

In the event that a Class Member Payment Check is not cashed within one hundred eighty (180) calendar days from the date of issuance, the check will be cancelled.¹⁵ The funds from any cancelled checks will be transmitted to Legal Aid at Work.¹⁶

A Class Member who wishes to be excluded from the Settlement must timely submit a written request to be excluded ("Request for Exclusion") to the Settlement Administrator.¹⁷ To be timely, the Class Member must submit a Request for Exclusion to the Settlement Administrator, on or before the date that is forty-five (45) calendar days after the date of the mailing of the Class Notice ("Response Deadline").¹⁸ A Request for Exclusion must contain: (1) the Class Member's full name, signature, address, the case name and number of the Action;

¹⁰ *Id.*, § 5.1.

¹¹ *Id.*, § 5.1.

¹² *Id.*, § 11.1.

¹³ *Id.*, § 11.1.

¹⁴ *Id.*, § 11.2.

¹⁵ Settlement Agreement, § 10.3.

¹⁶ *Id.*, § 10.3.

¹⁷ *Id.*, §§ 1.20.

¹⁸ *Id.*, § 1.21.

1 and (2) a clear statement that he or she seeks to be excluded from the Settlement.¹⁹ Class
2 Members who submit a valid and timely Request for Exclusion will not be entitled to any
3 recovery under the Settlement and will not be bound by the terms of the Settlement or have any
4 right to object, appeal, or comment thereon.²⁰

5 Only Class Members who do not exclude themselves from the Settlement (i.e.,
6 Settlement Class Members) can object to the Settlement.²¹ All objections must be in writing
7 and must contain: (1) the Class Member's full name, signature, address, the case name and
8 number of the Action; and (2) a clear statement of the basis for his or her objection.²² Any
9 objections submitted by objecting Class Members will be filed with the Court and must be
10 served on the Settlement Administrator not later than the Response Deadline.²³

11 Class Members who disagree with the number of Work Weeks listed in their Class
12 Notice may do so by indicating and explaining such disagreement in writing.²⁴ The written
13 dispute must contain: (1) the Class Member's full name, signature, address, and last four digits
14 of his or her Social Security number; (2) the case name and number of the Action; (3) a clear
15 statement indicating that he or she disputes the number of Work Weeks credited to him or her;
16 and (4) facts supporting the Class Member's dispute, along with supporting materials
17 confirming that the Work Weeks credited to him or her are incorrect.²⁵ The Settlement
18 Administrator will make every effort to resolve such disputes prior to final approval of the
19 Settlement.²⁶

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25 ¹⁹ *Id.*, § 17.1.

26 ²⁰ *Id.*, § 17.2.

27 ²¹ Settlement Agreement, § 16.

28 ²² *Id.*

²³ *Ibid.*

²⁴ *Id.*, §12.

²⁵ *Id.*

²⁶ Settlement Agreement, § 12.

IV. LEGAL STANDARD FOR PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENTS

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

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

Preliminary approval of a settlement does not require a court to make a final determination that the settlement is fair, reasonable, and adequate. Rather, that decision is made only at the final approval stage, after notice of the settlement has been given to the class members and they have had an opportunity to voice their views of the settlement or to exclude themselves from the settlement. Cal. R. Ct. 3.769(g).

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

1 F.2d 448, 456; *Officers for Justice v. Civil Service Commission of City and County of San*
2 *Francisco* (9th Cir. 1982) 688 F.2d 615, 625. Neither formal notice nor a hearing is required
3 for the trial court to grant provisional class certification and preliminary approval; the court may
4 grant such relief upon an informal application by the settling parties, and may conduct any
5 necessary hearing in court or in chambers, at the court's discretion. *Newberg*, § 11.25.

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

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

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

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

3 The Parties actively litigated this matter since the case was commenced on January 26,
4 2016. Both sides used the pre-mediation time period to investigate the veracity, strength, and
5 scope of the claims, and Class Counsel was actively preparing the matter for a motion for class
6 certification.²⁷

7 Prior to engaging in the mediation, the Parties conducted significant investigation into
8 the facts of the case and the Parties engaged in extensive formal and informal discovery, and the
9 exchange, review, and analysis of thousands of pages of documents and data produced by
10 Defendants.²⁸ The volume of data and documents that Class Counsel reviewed and analyzed
11 included and was not limited to: Plaintiff and other Class Members' employment records, a
12 detailed sampling of Class Members' time and pay data, Defendants' Employee Handbook,
13 agreements (including, but not limited to, Six-Hour Meal Period Waiver and Second Meal
14 Period Waiver), acknowledgements (including but not limited to Defendants'
15 Acknowledgement of Receipt of Employee Handbook and Acknowledgement of Meal and Rest
16 Period Policy), internal memoranda, job descriptions, and Defendants' operations and
17 employment practices, forms, procedures, and policies (including but not limited to Defendants'
18 Meal and Rest Period Policy), among other information and documents. Class Counsel
19 interviewed Plaintiff and other Class Members to gather facts and to identify potential
20 witnesses.²⁹ Class Counsel also propounded multiple sets of formal written discovery requests
21 on Defendants, and worked with Plaintiff to respond to discovery requests propounded by
22 Defendants.³⁰ Class Counsel also prepared for and took the deposition of two of Defendants'
23 Person Most Knowledgeable designees as well as prepared for and defended the deposition of
24 Plaintiff Quentin Costeiu.³¹ Counsel for the Parties also met and conferred on numerous
25

26 ²⁷ Aiwazian Decl., ¶¶ 11-13.

27 ²⁸ *Id.*, ¶ 12.

28 ²⁹ *Ibid.*

³⁰ *Ibid.*

³¹ *Ibid.*

occasions, e.g., to discuss issues relating to the pleadings, jurisdiction, motion practice, discovery, and the production of documents and data.³² Class Counsel also drafted Plaintiff's mediation brief, and prepared for and attended court proceedings, settlement negotiations, and the mediation, among other tasks.³³

The Parties engaged in extensive settlement negotiations and participated in a formal, full-day mediation conducted by the Louis M. Marlin, Esq., a well-respected mediator experienced in mediating complex labor and employment matters.³⁴ Prior to and during the mediation and settlement discussions, the Parties exchanged class information and engaged in an intensive discussion regarding their evaluations of the lawsuit and various aspects of the lawsuit, including but not limited to, the risks and delays of further litigation, the risks to the Parties of proceeding with class certification and/or representative adjudication, the law relating to off-the-clock theory, meal and rest periods, wage-and-hour enforcement, and PAGA representative claims, as well as the evidence produced and analyzed, and the possibility of appeals, among other things.³⁵ During all settlement discussions, the Parties conducted their negotiations at arm's length in an adversarial position.³⁶ Arriving at a settlement that was acceptable to both Parties was not easy. Defendants and their counsel felt strongly about their ability to prevail on the merits and at certification, and Plaintiff and Class Counsel believed that they would be able to obtain class certification and prevail at trial.³⁷ After conducting investigations, extensive formal and informal discovery, and extensive settlement negotiations, and with the aid of the mediator's evaluations, the Parties have agreed that the matter is well-suited for settlement given the legal issues relating to Plaintiff's principal claims, as well as the costs and risks to both sides that would attend further litigation.³⁸

///

³² Aiwazian Decl., ¶ 12.

³³ *Ibid.*

³⁴ *Id.*, ¶ 11.

³⁵ *Ibid.*

³⁶ *Ibid.*

³⁷ *Id.*, ¶¶ 16-18.

³⁸ *Ibid.*

The Settlement takes into account the strengths and weaknesses of each side's position and the uncertainty of how the case might have concluded at certification and/or trial.³⁹ The Parties have had the opportunity to interview and obtain information from their respective witnesses.⁴⁰ Counsel for the Parties have also reviewed documents and information relating to Plaintiff's and the Class Members' employment with Defendants and performed significant research into the law concerning class certification, PAGA representative claims, off-the-clock theory, meal and rest periods, wage-and-hour enforcement, Plaintiff's claims, and Defendants' defenses thereto, as well as facts discovered.⁴¹ The Parties have reached the Settlement based on this large volume of facts, evidence, and investigation. In addition, Class Counsel has extensive experience in employment class actions, including significant experience in California wage-and-hour litigation.⁴²

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

The Gross Settlement Amount of one million one hundred thousand dollars (\$1,100,000) represents a fair, adequate, and reasonable resolution of the matter.⁴³ The Settlement was calculated using the information and data uncovered during the litigation, case investigation, as well as the formal and informal exchange of information.⁴⁴ The Settlement takes into account the potential risks and rewards inherent in any case and, in particular, in the case at issue.⁴⁵ Moreover, considering all of the facts and circumstances of the lawsuit, the Settlement represents a fair, reasonable, and adequate recovery for the Class.⁴⁶

Assuming that the Attorneys' Fees and Costs, Service Award, PAGA Settlement 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 six hundred thirty-five thousand two hundred fifty dollars

³⁹ Aiwasian Decl., ¶¶ 16-18.

⁴⁰ *Ibid.*

⁴¹ *Id.*, ¶¶ 11-13 & 16-18.

⁴² *Id.*, ¶¶ 6-7.

⁴³ *Id.*, ¶¶ 11, 13, 14 & 21.

⁴⁴ *Id.*, ¶¶ 11-13.

⁴⁵ *Id.*, ¶¶ 16-18.

⁴⁶ *Id.*, ¶¶ 11, 13, & 21.

1 (\$635,250).⁴⁷ The amount of each Settlement Class Member's Class Member Payment will be
2 calculated based on his or her Work Weeks.⁴⁸ There is no reason to doubt the fairness of the
3 proposed plan of allocation of the settlement funds for purposes of preliminary approval. Even
4 at the final approval stage, "[a]n allocation formula need only have a reasonable, rational basis
5 [to warrant approval], particularly if recommended by experienced and competent class
6 counsel." *In re American Bank Note Holographics, Inc., Securities Litigation* (S.D.N.Y. 2001)
7 127 F.Supp.2d 418, 429-30.

8 In light of the foregoing considerations, Class Counsel believes that the Settlement as a
9 whole is fair, reasonable, and adequate, and is in the best interest of the Class Members.⁴⁹
10 Although the recommendations of Class Counsel are not conclusive, the Court can properly take
11 the recommendations into account, particularly if Class Counsel appears to be competent, and
12 has experience with this type of litigation, and significant discovery and investigation have been
13 completed. *Newberg*, §11.47. Accordingly, the Court should grant preliminary approval of the
14 Settlement.

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

16 Pursuant to *Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th 116, the Parties
17 conducted significant formal and informal discovery and exchanged thousands of pages of
18 documents, data, and information prior to the mediation.⁵⁰ The discovery and information that
19 Class Counsel obtained from Defendants and through other sources allowed Class Counsel to
20 develop valuation models in order to evaluate the potential value and merit of the claims, and
21 perform a complete evaluation of Defendants' defenses thereto.⁵¹ As outlined in the Declaration
22 of Edwin Aiwasian, Class Counsel performed an extensive analysis of each and every claim
23 pursuant to *Kullar* prior to entering into the Settlement.⁵²

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25 ⁴⁷ Aiwasian Decl., ¶ 14.

26 ⁴⁸ Settlement Agreement, § 5.1.1.

27 ⁴⁹ Aiwasian Decl., ¶¶ 11, 13, & 21.

28 ⁵⁰ *Id.*, ¶¶ 11-13 & 18.

⁵¹ *Id.*, ¶ 18.

⁵² Aiwasian Decl., ¶¶ 11-13 & 16-18.

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

2 For settlement purposes, the requisites for establishing class certification are met, and
3 the Parties have stipulated to conditional certification of the Class for settlement purposes only.⁵³
4 California Code of Civil Procedure Section 382 “authorizes class actions when the question is
5 one of a common or general interest, of many persons, or when the Parties are numerous, and it
6 is impracticable to bring them all before the court.” *Sav-On Drug Stores, Inc. v. Superior Court*
7 (2004) 34 Cal.4th 319, 326. California courts certify class actions where the plaintiff identifies
8 “both [1] an ascertainable class and [2] a well-defined community of interest among class
9 members.” *Id.*

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

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

19 “Ascertainability is required in order to give notice to putative class members as to whom
20 the judgment in the action will be *res judicata*.” *Hicks v. Kaufman & Broad Home Corp.* (2001)
21 89 Cal.App.4th 908, 914. “A class is ascertainable if it identifies a group of unnamed plaintiffs
22 by describing a set of common characteristics sufficient to allow a member of that group to
23 identify himself or herself as having a right to recover based on the description.” *Bartold v.*
24 *Glendale Federal Bank* (2000) 81 Cal.App.4th 816, 828. The proposed class must also be
25 sufficiently numerous. *Linder v. Thrifty Oil Co.* (2000) 23 Cal.4th 429, 435.

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28 _____
⁵³ Settlement Agreement, § 2.2.

1 This action involves a class of approximately six hundred thirty-one (631) individuals.⁵⁴
2 This class is sufficiently numerous. *See Rose v. City of Hayward* (1981) 126 Cal.App.3d 926,
3 934-35 (indicating that a class of 30 to 40 individuals satisfies the numerosity requirement as
4 joinder is not practical at that point). Further, all Class Members can and will be identified by
5 Defendants to the Settlement Administrator through a review of Defendants' employment
6 records regarding their current and former hourly-paid or non-exempt employees who worked
7 within California at any time from January 26, 2012 to the date of preliminary approval of the
8 Settlement ("Class Period"). As such, the Class is ascertainable and sufficiently numerous.

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

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

19 The "common issues" requirement "involves analysis of whether the proponent's 'theory
20 of recovery' is likely to prove compatible with class treatment." *Capitol People, supra*, 155
21 Cal.App.4th at 690 (emphasis added) (citing *Sav-On, supra*, 34 Cal.4th at 327). Furthermore,
22 the commonality inquiry centers on the "reasonableness" of the defendants' labor policies as
23 applied to the potential class. *Ghazaryan, supra*, 169 Cal.App.4th at 1534.

24 Here, Plaintiff asserts that common issues of fact and law predominate as to each of the
25 claims alleged and asserted in this lawsuit. Based on the documents and information obtained
26 through formal and informal discovery and exchange of information in this case, Plaintiff
27 contends that all of the non-exempt or hourly-paid employees who worked for Defendants in
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⁵⁴ Aiwazian Decl., ¶ 9.

California were subject to the same or similar job duties and uniform operations and employment practices, policies, and procedures during the time period at issue.⁵⁵ Plaintiff's claims arise from Defendants' alleged uniform policy and systematic scheme, with respect to Plaintiffs and the Class Members, of, *inter alia*, failing to properly pay overtime and minimum wages for all hours worked, failing to provide compliant meal and rest periods and associated premium pay, failing to timely pay wages during and after employment, failing to provide complaint wage statements, failing to maintain requisite payroll records, and failing to reimburse necessary business-related expenses.⁵⁶

Plaintiff also contends that Defendants' payroll and recordkeeping practices with respect to Plaintiff and the Class Members were substantially the same during the time period at issue.⁵⁷ As a result, Plaintiff claims that he and all of the Class Members were uniformly not paid all compensation due to them from Defendants during the time period at issue.⁵⁸

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

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

Class Counsel has litigated the case for nearly three years and was actively preparing for class certification.⁵⁹ The ongoing work has been extensive, demanding, and ultimately successful in achieving a substantial settlement resolution. Class Counsel conducted extensive investigations into the facts of the case and formal and informal discovery, including, and not limited to, propounding multiple sets of formal written discovery requests on Defendants, and working with Plaintiff to respond to discovery requests propounded by Defendants.⁶⁰ Class

⁵⁵ Aiwazian Decl., ¶ 16.

⁵⁶ *Ibid.*

⁵⁷ *Ibid.*

⁵⁸ *Ibid.*

⁵⁹ *Id.*, ¶¶ 11-13.

⁶⁰ *Id.*

Counsel also prepared for and took the deposition of two of Defendants' Person Most Knowledgeable designees and prepared for and defended Defendants' deposition of Plaintiff Quentin Costeiu. Class Counsel reviewed thousands of pages of documents and data⁶¹ and also interviewed and obtained information from Plaintiff and other Class Members, researched applicable law, undertook damages/valuation calculations, and met and conferred with Defendants' counsel regarding the pleadings, motion practice, jurisdiction, discovery, and the production of documents and data prior to mediation.⁶² Counsel for the Parties also undertook extensive settlement discussions, which included participating in a formal, full-day mediation.⁶³ Class Counsel also engaged in motion practice, drafted Plaintiff's mediation brief, and prepared for and attended court proceedings, settlement negotiations, and the mediation, among other tasks.⁶⁴

Class Counsel is well-experienced in wage-and-hour class action litigation and used that experience to obtain a great result for the Class.⁶⁵

The Settlement establishes a Gross Settlement Amount of one million one hundred thousand dollars (\$1,100,000), and provides for Class Counsel to apply to the Court for an award of attorneys' fees in an amount not to exceed three hundred eighty-five thousand dollars (\$385,000) and for litigation costs and expenses in an amount not to exceed forty-five thousand dollars (\$45,000).⁶⁶ The Attorneys' Fees and Costs provided for by the Settlement are commensurate with: (1) the risk that Class Counsel took in bringing and litigating the case, (2) the extensive time, effort and expense that Class Counsel dedicated to the case, (3) the skill and determination that Class Counsel has shown, (4) the results that Class Counsel has achieved throughout the litigation, (5) the value of the Settlement that Class Counsel has achieved for Class Members, and (6) the other cases that Class Counsel had to turn down in order to devote their time and efforts to this matter. The proposed Class Notice provides Class Members with

⁶¹ Aiwazian Decl., ¶ 12.

⁶² *Ibid.*

⁶³ *Id.*, ¶ 11.

⁶⁴ Aiwazian Decl., ¶ 12.

⁶⁵ *Id.*, ¶¶ 6-7.

⁶⁶ Settlement Agreement, § 3.08(a).

1 information about the amount allocated toward Attorneys' Fees and Costs, and that Attorneys'
2 Fees and Costs will be sought, as provided for by the Settlement.⁶⁷

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

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

23 Historically, courts have awarded fees as high as fifty percent (50%) of the settlement,
24 depending on the circumstances of the case. *Newberg*, § 14.03; *see also In re Ampicillin*
25 *AntitPhoenix Litig.* (D.D.C. 1981) 526 F.Supp. 494 (awarding attorneys' fees in the amount of
26 45% of the \$7.3 million settlement); *Beech Cinema, Inc. v. Twentieth-Century Fox Film Corp.*
27 (S.D.N.Y. 1979) 480 F.Supp. 1195 (awarding approximately 53% of the settlement as attorneys'
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⁶⁷ Settlement Agreement, Exh. A.

fees). California courts routinely approve class action attorneys' fee awards "averag[ing] around one-third of the recovery." *Chavez v. Netflix, Inc.* (2008) 162 Cal.App.4th 43, 66 n.11 (lower court found 20 to 40 percent range of contingency fee in marketplace was appropriate in class actions); see also *Estrada v. Dr. Pepper/Seven-Up*, Los Angeles County Superior Court Case No. BC262247 (May 2005) (wage and hour); *Moore v. IKEA*, Los Angeles County Superior Court Case No. BC263646 (Sept. 2006) (wage and hour).

Class Counsel has borne all of the risks and costs of litigation and will not receive any compensation until recovery is obtained.⁶⁸

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 Attorneys' Fees and Costs, as well as at the Final Approval Hearing. Considering the work performed and the risks incurred, the Attorneys' Fees and Costs provided for by the Settlement and to be requested by Class Counsel are well within the range of reasonableness, and should ultimately be approved.

VIII. THE PROPOSED CLASS NOTICE IS ADEQUATE.

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

The proposed Class Notice⁶⁹ describes the Settlement, the deadlines and procedures to submit an objection to the Settlement, Request for Exclusion from the Settlement, and/or dispute regarding Work Weeks, and the date and time set for the Final Approval Hearing.⁷⁰

The proposed Class Notice fulfills the requirement of neutrality in notice procedure. *Newberg*, at § 8.39. "Sufficient information about the case should be provided to enable class members to make an informed decision about their participation." *Manual for Complex*

⁶⁸ Aiwazian Decl., ¶ 19.

⁶⁹ Settlement Agreement, Exh. A.

⁷⁰ *Ibid.*

1 *Litigation* § 21.311 at 413 (4th ed. 2004). The proposed Class Notice summarizes the
2 proceedings to date and the terms and conditions of the Settlement in an informative and
3 coherent manner.⁷¹ The proposed Class Notice recognizes that the Court has not yet granted
4 final approval of the settlement.⁷² The proposed Class Notice also apprises the Class Members
5 of, *inter alia*, how their Class Member Payment is calculated and the number of Work Weeks
6 credited to them.⁷³

7 The proposed Class Notice satisfies all due process requirements and complies with the
8 standards of fairness, completeness, and neutrality. Fed. R. Civ. P. 23(c)(2) and 23(e); *Newberg*,
9 §§ 8.21, 8.39; *Manual*, §§ 21.311, 21.312; see also *Cartt*, *supra*, 50 Cal.App.3d at 960 (“The
10 essentials of due process of law in class suits would appear to be afforded by fair representation
11 in the assertion of claims of class members against the opposing parties in any lawsuit, and
12 notice of the pending suit.”). Accordingly, the Court should approve the proposed Class Notice.

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

14 **ADMINISTRATOR**

15 The Parties have selected Simpluris, Inc. (hereinafter, “Simpluris” or “Settlement
16 Administrator”) to administer the Settlement.

17 The Settlement Administrator will mail the Class Notice to each Class Member by first
18 class U.S. mail.⁷⁴ Prior to mailing the Class Notice, the Settlement Administrator will update
19 the Class Members’ addresses using the United States Postal Service’s National Change of
20 Address (“NCOA”) system.⁷⁵ The Settlement Administrator will receive Requests for
21 Exclusion, objections, and any disputes regarding Work Weeks.⁷⁶

22 The Settlement Administrator will calculate the amounts of the Class Member Payments;
23 deduct and transmit applicable state and/or federal taxes in connection with the wage portion of
24 Class Member Payments; mail the Class Member Payment checks to Settlement Class Members;

25 ⁷¹ Settlement Agreement, Exh. A.

26 ⁷² *Ibid.*

27 ⁷³ *Ibid.*

28 ⁷⁴ *Id.*, § 9.

⁷⁵ Settlement Agreement, § 15.2.3.

⁷⁶ *Ibid.*

1 issue W-2 and 1099 forms; calculate and disburse the Court-awarded amounts for Attorneys'
2 Fees and Costs, Service Award, and LWDA Payment; and perform such other tasks necessary
3 to effectuate the terms of the Settlement Agreement.⁷⁷ The Settlement Administration Costs are
4 currently estimated to be eighteen thousand five hundred dollars (\$18,500) and will be paid out
5 of the Gross Settlement Amount, subject to approval by the Court.⁷⁸

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

10 **X. PROPOSED DEADLINES FOR THE NOTICE AND DISTRIBUTION PROCESS**

11 At this preliminary approval stage, Plaintiff seeks approval of the proposed deadlines for
12 the notice and settlement administration process. *Newberg*, at § 11.26. The notice process
13 entails mailing of the Class Notice, in the form approved by the Court, to all known and
14 reasonably ascertainable Class Members based on Defendants' records.⁷⁹

15 Within fifteen (15) calendar days after the Court grants preliminary approval of the
16 Settlement, Defendants will provide the Settlement Administrator with the following
17 information for each Class Member: full name, employment identification number, last known
18 addresses, last known telephone numbers, Social Security number, and the start and end dates
19 of active employment (collectively, "Class Data List").⁸⁰

20 The Settlement Administrator will update the Class Members' addresses using the
21 United States Postal Service's NCOA system and mail the Class Notice to the Class Members
22 via first class U.S. Mail.⁸¹ Class Members will have forty-five (45) calendar days from the
23 original mailing of the Class Notice to mail a Request for Exclusion, objection, and/or dispute
24 regarding Work Weeks to the Settlement Administrator.⁸²

25 ⁷⁷ Aiwazian Decl., ¶ 15; Settlement Agreement, § 9.

26 ⁷⁸ Settlement Agreement, Exhibit A.

27 ⁷⁹ Settlement Agreement, § 15.2.

28 ⁸⁰ *Id.*, § 15.2.1.

⁸¹ *Id.*, § 15.2.2.

⁸² *Id.*, § 15.2.

1 If the Court grants final approval of the Settlement, Defendants will deliver the Gross
2 Settlement Amount to the Settlement Administrator within twenty (20) calendar days after the
3 Final Effective Date.⁸³ Within thirty (30) calendar days of the Final Effective Date, the
4 Settlement Administrator will distribute: (1) Class Member Payments to Settlement Class
5 Members; (2) the Court-approved Service Award to Plaintiff; (3) the Court-approved
6 Attorneys' Fees and Costs to Class Counsel; (4) the LWDA Payment to the LWDA; and (5) the
7 Court-approved Settlement Administration Costs to itself.⁸⁴

8 In the event that a Class Member Payment check is not cashed or deposited within one
9 hundred eighty (180) days after the date of issuance of the check, the check will be cancelled.⁸⁵
10 The value of cancelled checks will be transmitted to Legal Aid at Work.⁸⁶

11 **XI. APPOINTMENT OF CLASS REPRESENTATIVE AND ALLOCATION FOR**
12 **SERVICE AWARD**

13 Plaintiff Quentin Costeiu respectfully requests that the Court appoint him as the Class
14 Representative and preliminarily approve a Service Award in an amount up to eight thousand
15 dollars (\$8,000) to him as provided for by the Settlement.⁸⁷ It is within the Court's discretion
16 to award payment to a class representative for their efforts and work. *Vranken v. Atlantic*
17 *Richfield Co.* (N.D. Cal. 1995) 901 F.Supp. 294, 299 (approving \$50,000 participation award to
18 a single class representative). The factors that courts may consider in determining whether to
19 make an enhancement payment include: (1) the risk to the class representative in commencing
20 suit, both financial and otherwise; (2) the notoriety and personal difficulties encountered by the
21 class representative; (3) the amount of time and effort spent by the class representative; (4) the
22 duration of the litigation; and (5) the personal benefit (or lack thereof) enjoyed by the class
23 representative as a result of the litigation. *Id.*

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26 ⁸³ *Id.*, § 10. See *id.*, § 1.13 for the definition of "Effective Date."

27 ⁸⁴ Settlement Agreement, § 10.2.

28 ⁸⁵ Settlement Agreement, § 10.3.

⁸⁶ *Id.*, § 10.3.

⁸⁷ *Ibid.*, § 7.

The Service Award to Plaintiff is fair and appropriate. Plaintiff spent a substantial amount of time and effort in producing relevant documents and past employment records and providing the facts and evidence necessary to attempt to prove the allegations including and not limited to, by providing responses to discovery requests and preparing for and attending his deposition.⁸⁸ Plaintiff was available whenever Class Counsel needed him and actively tried to obtain and provide information that would benefit the Class.⁸⁹ Accordingly, it is appropriate and just for Plaintiff to receive a reasonable Service Award for his services on behalf of the Class, in addition to his Class Member Payment.

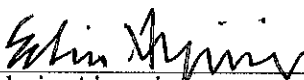
XII. CONCLUSION

For the foregoing reasons, the Court is respectfully requested to grant preliminary approval of the Settlement; conditionally certify the Class for settlement purposes; preliminarily appoint and designate Edwin Aiwazian, Esq., Arby Aiwazian, Esq., and Joanna Ghosh, Esq. of Lawyers for Justice, PC as Class Counsel; preliminarily appoint and designate Plaintiff Quentin Costeiu as Class Representative; appoint Simpluris, Inc. as Settlement Administrator; preliminarily approve the allocations for Attorneys' Fees and Costs, Service Award, PAGA Settlement Amount, and Settlement Administration Costs; approve the proposed Class Notice; direct the Settlement Administrator to undertake the notice and settlement administration process in conformity with the deadlines and procedures provided by the Settlement Agreement; and schedule a Final Approval Hearing to take place in approximately May 2019.

Dated: March 4, 2019

LAWYERS for JUSTICE, PC

By:


Edwin Aiwazian
Attorneys for Plaintiff

⁸⁸ Aiwazian Decl., ¶ 20; Declaration of Quentin Costeiu ("Costeiu Decl."), ¶¶ 3-4.

⁸⁹ Aiwazian Decl., ¶ 20; Costeiu Decl., ¶¶ 3, 4, & 7.