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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SAN BERNARDINO

MARCUS TRAMMEL, 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.

BEAR SPRINGS HOTEL, an unknown business entity; and DOES 1 through 100, inclusive,

Defendants.

Case No.: CIVSB2316296

Honorable Stephanie Tanada
Department S33

<u>CLASS ACTION</u>

PLAINTIFF'S FIRST AMENDED NOTICE OF MOTION AND MOTION FOR PRELIMINARY APPROVAL OF CLASS ACTION AND PAGA SETTLEMENT; MEMORANDUM OF POINTS AND AUTHORITIES[1]

[Declaration of Proposed Class Counsel (Maria Halwadjian); Declaration of Proposed Class Representative (Marcus Trammel); Declaration of April Tumakay; and [First Amended Proposed] Order filed concurrently herewith]

Hearing Date:	May 26, 2026
Hearing Time:	8:30 a.m.
Department:	S33
Complaint Filed:	July 18, 2023
Trial Date:	None Set

[1] Per the Court's Order dated February 27, 2026, a redlined version of this document with "track changes" turned on is attached as Exhibit 6 to the First Amended Declaration of Maria Halwadjian in Support of Plaintiff's First Amended Motion for Preliminary Approval of Class Action and PAGA Settlement.

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

PLEASE TAKE NOTICE that on May 26, 2026, at 8:30 a.m. or as soon thereafter as the matter may be heard before the Honorable Stephanie Tanada in Department S33 of the Superior Court of California for the County of San Bernardino, located at 247 W. Third Street, San Bernardino, California 92415, Plaintiff Marcus Trammel ("Plaintiff" or "Class Representative") will, and hereby does, move for an order:

- Granting preliminary approval of the proposed class action settlement described herein and as set forth in the Class Action and PAGA Settlement Agreement and Class Notice and Amendment No. 1 to Class Action and PAGA Settlement Agreement and Class Notice (together, "Settlement," "Agreement," or "Settlement Agreement"), attached as "**EXHIBIT 2**" and "**EXHIBIT 3**" to the First Amended Declaration of Maria Halwadjian in Support of Plaintiff's First Amended Motion for Preliminary Approval of Class Action and PAGA Settlement;
- Certifying the proposed Class for settlement purposes;
- Appointing Plaintiff Marcus Trammel as Class Representative;
- Appointing Arby Aiwazian, Joanna Ghosh, Brian J. St. John, and Maria Halwadjian of Lawyers *for* Justice, PC as Class Counsel;
- Approving the proposed Court Approved Notice of Class Action Settlement and Hearing Date for Final Court Approval ("Class Notice"), Objection Form, and Request for Exclusion Form (collectively, "Notice Packet"), attached as "**EXHIBIT 3**," "**EXHIBIT 4**," and "**EXHIIBT 5**," respectively, to the [First Amended Proposed] Order Granting Preliminary Approval of Class Action and PAGA Settlement, and directing the mailing thereof in accordance with the Settlement Agreement;
- Approving Phoenix Class Action Administration Solutions as the Administrator; and
- Scheduling a hearing to consider final approval of the Settlement.

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

This motion is based upon the following memorandum of points and authorities, the Settlement Agreement, the Declarations of Proposed Class Counsel (Maria Halwadjian), April Tumakay, and Proposed Class Representative (Marcus Trammel) in support thereof, as well as the pleadings and other records on file with the Court in this matter, and such evidence and oral argument as may be presented at the hearing on this motion.

Dated: April 27, 2026 **LAWYERS *for* JUSTICE, PC**

By: Maria Halwadjian
Selena Matavosian
Maria Halwadjian
Attorneys for Plaintiff Marcus Trammel

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MEMORANDUM OF POINTS AND AUTHORITIES

I. SUMMARY OF MOTION

Plaintiff Marcus Trammel ("Plaintiff" or "Class Representative") seeks preliminary approval of the Class Action and PAGA Settlement Agreement and Class Notice ("Original Agreement") and Amendment No. 1 to Class Action and PAGA Settlement Agreement and Class Notice ("Amendment No. 1" or "Amendment No. 1 to Settlement Agreement") (together, "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 Hakwaanain, LLC dba Bear Springs Hotel ("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 Gross Settlement Amount of $695,000.00.[2]

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 California employees who worked for Defendant at any time during the Class Period ("Class" or "Class Members").[3]

Class Members who do not submit a timely and valid Request for Exclusion from the Class Settlement ("Participating Class Member") will receive a *pro rata* share of the Net Settlement Amount ("Individual Class Payment"). The net payment of each Participating Class Member's Individual Class 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 for at least one day, during the Class Period, though Defendant may exclude, if feasible, where a Class Member did not record any time in Defendant's timekeeping system, including vacation and leave weeks as a non-exempt ("Workweeks").[4]

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[2] Original Agreement, attached as "**EXHIBIT 2**" to First Amended Declaration of Maria Halwadjian ("Declaration of Maria Halwadjian" or "Halwadjian Decl."), ¶ 1.22. If the number of Workweeks between July 18, 2019 and February 4, 2025 exceeds 17,030 by more than 10% (i.e., greater than 18,733), Defendant shall have the option to either (i) increase the Gross Settlement Amount on a *pro rata* basis equal to the percentage increase in the number of workweeks worked by the Class members above 10% (for example, if the number of workweeks increases by 11%, the Gross Settlement Amount will increase by 1%), or (ii) shorten the release period to an earlier date at which only the represented number of workweeks plus 10% are covered by the Class Period. *See id.*, ¶ 8.

[3] *Id.*, ¶ 1.5. "Class Period" is defined as the period from July 18, 2019 to February 4, 2025, or the date of Preliminary Approval, whichever is sooner. *See id.*, ¶ 1.11.

[4] Original Agreement, ¶¶ 1.23 and 1.46.

The Settlement, upon final approval by the Court and funding of the Gross Settlement Amount, will operate to resolve the Released Class Claims of Plaintiff and Participating Class Members and the Released PAGA Claims of the State of California.[5]

II. PROCEDURAL HISTORY AND FACTUAL BACKGROUND

Defendant is the Inland Empire's newest full-service boutique hotel, offering 105 guest rooms and amenities such as a restaurant, bar and lounge, and outdoors terrace with a pool, spa, and fire pit. Plaintiff is a former employee of Defendant.

On May 11, 2023, Plaintiff provided written notice by certified mail to the California Labor Workforce and Development Agency ("LWDA") and Defendant of the specific provisions of the California Labor Code that were alleged to be violated ("PAGA Notice").[6]

On July 18, 2023, Plaintiff filed his Class Action Complaint for Damages and Enforcement Under the Private Attorneys General Act, Cal. Lab. Code § 2698, *Et Seq*. in the Superior Court for the County of San Bernardino ("Complaint"), thereby commencing the above-captioned lawsuit.[7]

On September 25, 2023, Defendant filed its Answer to Plaintiff's Complaint.[8]

On February 14, 2024, Plaintiff propounded formal written discovery onto Defendant, which included Form Interrogatories – General (Set One), Requests for Production of Documents (Set One), Special Interrogatories (Set One), and Special Interrogatories (Set Two). On this same day, Plaintiff served his Notice of Deposition of Person Most Knowledgeable at Defendant and Requests for Production of Documents (Job Duties), and Notice of Deposition of Person Most Knowledgeable at Defendant and Requests for Production of Documents (Organizational Structure) (together, "Plaintiff's Notices").[9]

On March 22, 2024, Defendant served its Objections to Plaintiff's Notices.[10]

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[5] Original Agreement, at ¶¶ 5.2 and 5.3. See *id*. at ¶ 5.2 for the full scope of the "Released Class Claims", *id*. at ¶ 5.3 for the full scope of the "Released PAGA Claims," and *id.* at ¶ 1.44 for the definition of the "Released Parties."
[6] Halwadjian Decl., ¶ 2, Exh. 1.
[7] *Id*., ¶ 3.
[8] *Id*., ¶ 4.
[9] *Id*., ¶ 5.
[10] *Id*., ¶ 6.

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On May 17, 2024, Defendant served responses to Plaintiff's Form Interrogatories – General (Set One), Requests for Production of Documents (Set One), Special Interrogatories (Set One), and Special Interrogatories (Set Two).[11]

On January 21, 2025, the Parties submitted a Joint Notice of Settlement and Stipulation to Vacate Trial Date and Associated Deadlines. On that same day, the Court issued an order vacating the trial date and associated deadlines.[12]

On January 16, 2026, Plaintiff filed his Motion for Preliminary Approval of Class Action and PAGA Settlement ("Motion for Preliminary Approval"), along with supporting documents, thereby seeking approval of the Class Action and PAGA Settlement Agreement and Class Notice (i.e., Original Agreement) entered into by and between the Parties.[13]

On February 27, 2026, the Court issued the Order Continuing Plaintiff's Motion for Preliminary Approval of Class Action and PAGA Settlement and Order for Revisions ("February 27, 2026 Order"), thereby raising multiple points of inquiry with respect to the Motion for Preliminary Approval, setting a deadline for Plaintiff to file supplemental papers by April 27, 2026, and continuing the hearing on the Motion for Preliminary Approval to May 26, 2026 at 8:30 a.m. in Department S33 of the above-captioned Court.[14]

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, *inter alia*, failing to pay all overtime and minimum wages, at all or at the correct rate of pay, failing to provide compliant meal and rest periods and associated premium pay, failing to timely pay wages during employment and upon termination of employment, failing to provide compliant wage statements, failing to maintain requisite payroll records, and failing to reimburse necessary business expenses, and thereby engaged in unfair business practices in violation of California Business and Professions Code section 17200, *et seq*., and conduct giving rise to civil

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[11] Halwadjian Decl., ¶ 7.
[12] *Id*., ¶ 8.
[13] *Id*., ¶ 9.
[14] *Id*., ¶ 10.

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penalties recoverable under the Private Attorneys General Act of 2004 (California Labor Code sections 2698, et seq.). Plaintiff contends that he, and the Class Members, are entitled to, *inter alia*, unpaid wages, penalties (including and not limited to, penalties pursuant to PAGA), and attorneys' fees and costs.[15]

The Parties have actively litigated the Action since it was commenced on July 18, 2023. On November 6, 2024, the Parties participated in arm's-length and informed negotiations with Mediator Daniel Turner, Esq. ("Mediator"), a respected mediator of complex wage and hour actions.[16] With the aid of the mediator, the Parties reached the Settlement described herein to resolve the Action in its entirety.[17]

III. SUMMARY OF THE SETTLEMENT TERMS

Under the terms of the Settlement, Defendant will pay a Gross Settlement Amount of $650,000.00 to resolve the Action.[18] 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 thirty-five percent (35%) of the Gross Settlement Amount (i.e., $243,000.00 if the Gross Settlement Amount remains $650,000.00) ("Class Counsel Fees Payment") and litigation costs and expenses in an amount not to exceed $20,000.00 ("Class Counsel Litigation Expenses Payment") to Class Counsel; (2) Administration Expenses Payment, which are currently estimated not to exceed $8,000.00 to the Administrator ("Administration Expenses Payment"); (3) PAGA Penalties of $75,000.00 ("PAGA Penalties"); payment in the amount of up to $7,500.00 to Plaintiff ("Class Representative Service Payment").[19] The Parties have agreed to retain Phoenix Class Action Administration Solutions ("Phoenix" or "Administrator") to handle the notice and settlement administration process.[20]

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[15] Halwadjian Decl., ¶ 19.
[16] *Id.*, ¶ 28.
[17] *Id.*
[18] Original Agreement, ¶¶ 1.22 and 3.1.
[19] *Id.*, ¶¶ 3.2.1, 3.2.2, 3.2.3, and 3.2.5.
[20] *Id.*, ¶ 1.2.

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The Parties have agreed that the Administrator will determine each Participating Class Member's share of the available Net Settlement Amount ("Individual Class Payment"), in accordance with the Settlement Agreement on a *pro rata* per Workweeks basis, which will be adjusted after Final Approval to reflect the total Workweeks worked by Participating Class Members.[21] The Parties have agreed that the Administrator will determine each Aggrieved Employee's *pro rata* share of the twenty-five percent (25%) share of the PAGA Penalties, in accordance with the Settlement Agreement on a *pro rata* per PAGA Pay Periods basis.[22]

The Parties agree, for purposes of this Settlement, that Individual Class Payments will be allocated twenty percent (20%) to wages subject to withholdings and eighty percent (80%) to penalties and interest.[23] The Administrator will withhold the employee's share of taxes and withholdings with respect to the wages portion of the Individual Class Payment, and issue checks to Participating Class Members for their Individual Class Payments. Aggrieved employees assume full responsibility and liability for any taxes owed on their Individual PAGA Payment.[24] Defendant will provide the funds for any employer-side taxes related to the Individual Class Payments.[25]

Individual Class Payment and Individual PAGA Payment checks will be negotiable for 180 calendar days from the date of their issuance, and thereafter, shall be cancelled.[26] Thereafter, funds from uncashed Individual Class Payment and/or Individual PAGA Payment checks shall be transmitted to the California Controller's Unclaimed Property Fund in the name of each Class Member and/or Aggrieved Employee to whom the checks were issued.[27]

Any Class Member may request to be excluded from the Class Settlement by submitting a written request to be excluded from the Class Settlement or a Request for Exclusion Form ("Request for Exclusion"), postmarked on or before the date that is sixty (60) calendar days from the date of the initial mailing of the Notice Packet by the Administrator, plus an additional

[21] Original Agreement, ¶ 3.2.4.
[22] *Id.*, ¶ 3.2.5.1.
[23] *Id.*, ¶ 3.2.4.1.
[24] *Id.*, ¶ 3.2.5.1.
[25] *Id.*, ¶ 3.1.
[26] *Id.*, ¶ 4.4.1 (a).
[27] *Id.*, ¶ 4.4.1 (c).

fourteen (14) calendar days for Class Members whose Notice Packet is re-mailed ("Response Deadline").[28] Aggrieved Employees shall be bound to the PAGA Settlement irrespective of whether they exercise their option to opt out of the Class Settlement.[29]

Only Class Members who have not submitted a Request for Exclusion (i.e., Participating Class Member) may object to the Class Settlement by submitting a written objection or Objection Form ("Objection") to the Administrator prior to the Response Deadline or by presenting their objection orally at the Final Approval hearing, regardless of whether they submitted a written objection.[30]

In order to dispute the number of Workweeks and/or PAGA Pay Periods attributable to an individual Class Member and/or Aggrieved Employee, that Class Member and/or Aggrieved Employee must communicate with the Administrator, via fax, email, or mail, and include copies of any supporting documentation they may have.[31]

IV. <u>LEGAL STANDARD FOR PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENTS</u>

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

In considering a potential class settlement, a court need not reach any ultimate conclusions on the issues of fact and law which underlie the merits of the dispute and need not engage in a trial on the merits. See *City of Detroit v. Grinnell Corporation* (2d Cir. 1974) 495

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[28] Original Agreement, ¶ 1.44; Amendment No. 1, attached as "**EXHIBIT 3**" to the Declaration of Maria Halwadjian, ¶¶ B and I.
[29] Original Agreement, ¶ 7.5.4.
[30] Original Agreement, ¶¶ 7.7.1; Amendment No. 1, ¶¶ A and L.
[31] Amendment No. 1, ¶ K.

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

V. THE COURT SHOULD PRELIMINARY APPROVE THE SETTLEMENT

The trial court has broad discretion to determine whether a proposed settlement is fair under the circumstances of the case. *Dunk*, 48 Cal.App.4th at 1800. To make this fairness determination, courts must consider several relevant factors, including "the strength of the Plaintiff's case, the risk, expense, complexity and likely duration of further litigation, the risk of maintaining class action status through trial, the amount offered in settlement, the extent of discovery completed and the stage of the proceedings, the experience and view of counsel, the presence of a governmental participant, and the reaction of the class members to the proposed settlement." *Dunk*, 48 Cal.App.4th at 1801. "The list of factors is not exclusive and the court is free to engage in a balancing and weighing of the factors depending on the circumstances of each case." *Wershba v. Apple Computer, Inc.* (2001) 91 Cal.App.4th 224, 245. Furthermore, courts give "proper deference to the private consensual decision of the parties." *Hanlon*, 150 F.3d at 1027 (citation omitted).

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

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

The Parties have actively litigated the Action since it commenced on July 18, 2023. Both sides investigated the veracity, strength, and scope of the claims throughout the case, and Class

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Counsel was actively preparing the matter for class certification and trial.[32]

Class Counsel conducted significant investigation and formal and informal discovery regarding the facts of the case, including and not limited to, the exchange, review, and analysis of thousands of pages of documents and data from Plaintiff, Defendant, and other sources.[33] The volume of data and documents that Class Counsel reviewed and analyzed included and was not limited to: Plaintiffs' employment records, a detailed sampling of Plaintiffs' and other Class Members' time data and pay records, Defendant's Employee Handbook, internal memoranda, Employee Orientation Checklist, job descriptions, company policy acknowledgements (including but not limited to Disclosure and Authorization acknowledgment, Human Resources Policies and Procedures acknowledgment, Workers' Compensation acknowledgement, General Handbook Acknowledgment, Final Paycheck Acknowledgement), forms (including but not limited to Employment Application, Acceptance of Offer Letter of Employment, performance review sheets), procedures (including but not limited to Human Resources Policies and Procedures, Final Wages Beneficiary Designation Form) among other information and documents.[34] Class Counsel had the opportunity to interview Plaintiff and others to gather facts and to identify potential witnesses.[35] In addition, Class Counsel has extensive experience in California wage-and-hour class actions.[36]

The Parties engaged in extensive settlement negotiations and participated in a full-day mediation conducted by Daniel Turner, Esq., a well-respected mediator experienced in mediating complex labor and employment matters.[37] Prior to and during the mediation and settlement negotiations, the Parties exchanged extensive information and engaged in discussions regarding their evaluations of the case and various aspects of the case, 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, regular

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[32] Halwadjian Decl., ¶¶ 27-30.
[33] *Id.*, ¶ 29.
[34] Ibid.
[35] Ibid.
[36] *Id.*, ¶¶ 21-26.
[37] *Id.*, ¶ 28.

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rate, meal and rest periods, PAGA representative claims, and wage-and-hour enforcement; the evidence produced and analyzed; and the possibility of appeals.[38] During all settlement discussions, the Parties conducted their negotiations at arm's length in an adversarial position.[39] Arriving at a settlement that was acceptable to both Parties was not easy. Both sides felt strongly about their ability to prevail at certification and at trial.[40] After conducting investigations, formal and informal discovery, extensive settlement negotiations, and with the aid of the mediator's evaluation, the Parties have agreed that the matter is well-suited for settlement given the legal issues relating to Plaintiff's principal claims, as well as the costs and risks to both sides that would attend further litigation.[41]

B. <u>The Settlement Is Fair, Reasonable, and Adequate.</u>

The Settlement represents a fair, adequate, and reasonable resolution of the matter.[42] The Settlement was calculated using the information and data uncovered during litigation, case investigation, and the formal and informal exchange of information.[43] The Settlement takes into account the potential risks and rewards inherent in any case and, in particular, in the matter at issue.[44] Moreover, considering all of the facts and circumstances of the lawsuit, the Settlement represents a fair, reasonable, and adequate recovery for the Class.[45]

Assuming that the Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, Class Representative Service Payment, PAGA Penalties, and Administration Expenses Payment 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 $339,000.00, with an estimated average Individual Class Payment of $1,319.07, estimated high Individual Class Payment of $5,754.00, and estimated low Individual Class Payment of $19.91.[46] Additionally, twenty-five percent (25%) of the PAGA Penalties (i.e., Individual

[38] Halwadjian Decl., ¶ 28.
[39] Ibid.
[40] Ibid.
[41] Ibid.
[42] *Id.*, ¶¶ 28, 30, 48, and 58.
[43] *Id.*, ¶ 29.
[44] *Id.*, ¶¶ 28, and 37-38.
[45] *Id.*, ¶¶ 28, 30, 48, and 58.
[46] *Id.*, ¶ 12.

PAGA Payment), which is $18,750.00 out of $75,000.00, will be distributed to the Aggrieved Employees. The estimated average Individual PAGA Payment is $115.74, the estimated high Individual PAGA Payment is $637.58, and the estimated low Individual PAGA Payment is $4.49.[47] The entire Net Settlement Amount will be fully paid out to the Participating Class Member, in accordance with the Settlement Agreement.

The amount of each Participating Class Member's Individual Class Payment and each Aggrieved Employee's Individual PAGA Payment will be calculated based on their Workweeks and/or PAGA Pay Periods during the Class Period and PAGA Period, respectively.[48] "An allocation formula need only have a reasonable, rational basis [to warrant approval], particularly if recommended by experienced and competent class counsel." *In re American Bank Note Holographics, Inc., Securities Litigation* (S.D.N.Y. 2001) 127 F.Supp.2d 418, 429-30. Here, the allocation is reasonably related to the number of Workweeks and/or PAGA Pay Periods actually worked for Defendant during the relevant period and should be approved.

In light of the foregoing considerations, Class Counsel believes that the Settlement as a whole is fair, reasonable, and adequate, and is in the best interest of the Class Members, Aggrieved Employees, and the State of California.[49] Although the recommendations of Class Counsel are not conclusive, the Court can properly take the recommendations into account, particularly if Class Counsel appear to be competent, and have experience with this type of litigation, and investigation have been completed, as is the case here. *Newberg,* §11.47. Accordingly, the Court should grant preliminary approval of the Settlement.

C. The Settlement Is of Significant Value.

Pursuant to *Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th 116, the Parties conducted extensive formal and informal discovery and exchanged a volume of documents, data, and information prior to mediation.[50] The information that Class Counsel obtained from Plaintiff, Defendant, and other sources allowed Class Counsel to develop valuation models in

[47] Halwadjian Decl., ¶ 12.
[48] Original Agreement, ¶¶ 1.23 and 1.34.
[49] Halwadjian Decl., ¶¶ 28, 30, 48, and 58.
[50] *Id.*, ¶¶ 29 and 44.

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order to evaluate the potential value and merit of the claims, and perform a complete evaluation of Defendant's defenses thereto.[51] As outlined in the Declaration of Maria Halwadjian, Class Counsel performed an extensive analysis of each and every claim pursuant to *Kullar* prior to entering into the Settlement.[52]

VI. CERTIFICATION OF THE CLASS IS APPROPRIATE

The requisites for establishing class certification are met, and the Parties have stipulated to conditional certification of the Class for settlement purposes only.[53] 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 257 individuals, which is sufficiently numerous.[54] Further, all Class Members can and will be identified by Defendant to the Administrator through a review of Defendant's employment records regarding hourly-paid or non-exempt California

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[51] Halwadjian Decl., ¶¶ 28-37.
[52] *Id.*, ¶¶ 37-38.
[53] Original Agreement, ¶ 12.1.
[54] Halwadjian Decl., ¶ 34.

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employees who worked for Defendant at any time during the Class Period. As such, the Class is ascertainable and sufficiently numerous.

B. <u>The Class Members Share a Well-Defined Community of Interest.</u>

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

Here, common issues of law and fact predominate as to each of the claims alleged and asserted in the Action. Based on the documents and information obtained through formal and informal discovery and exchange of information in the case, Plaintiff contends that Class Members performed similar job duties and were subject to uniform operations and employment policies, practices, and procedures during the Class Period, including payroll and recordkeeping practices.[55] As a result, Plaintiffs claim that all of the Class Members were uniformly not paid all compensation due to them from Defendant during the time period at issue. Plaintiff maintains that the outcome of this litigation would be determined by Defendant's alleged uniform operations and employment policies and procedures that applied across its hourly-paid or non-exempt California employees who worked for Defendant at any time during the Class Period.

As a member of the Class who was subject to these same policies, practices, and procedures, Plaintiff's claims are typical of the Class. Moreover, Plaintiff has no interests adverse to the Class. Plaintiff has taken steps to initiate and maintain this action and to ensure that it comes to a fair and reasonable resolution.[56] Importantly, Plaintiff has retained a law firm

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[55] Halwadjian Decl., ¶ 19.

[56] Declaration of Marcus Trammel in Support of Plaintiff's First Amended Motion for Preliminary Approval of Class Action and PAGA Settlement ("Trammel Decl."), ¶¶ 2-6.

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well-versed in wage and hour class actions, which has at all times represented the best interests of Plaintiff and the Class.[57]

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

VII. APPOINTMENT OF CLASS COUNSEL AND ALLOCATION FOR CLASS COUNSEL FEES PAYMENT AND CLASS COUNSEL LITIGATION EXPENSES PAYMENT

Class Counsel has litigated the matter for over three (3) years and was actively preparing the matter for class certification and trial.[58] The ongoing work has been extensive, demanding, and ultimately successful in achieving a substantial settlement resolution. Class Counsel reviewed a volume of documents and data[59] and also interviewed and obtained information from Plaintiff and other percipient witnesses, researched applicable law, undertook damages/valuation calculations, and met and conferred with Defendant's counsel regarding the pleadings and the production of documents and data prior to mediation.[60] Counsel for the Parties also undertook extensive settlement discussions, which included participating in mediation.[61]

Class Counsel is well-experienced in wage-and-hour class action litigation and used that experience to obtain a great result for the Class.[62]

The Settlement establishes a Gross Settlement Amount of $695,000.00, and provides for Class Counsel to apply to the Court consisting of attorneys' fees in an amount not to exceed thirty-five percent (35%) of the Gross Settlement Amount (i.e., $243,000.00 if the Gross Settlement Amount remains $695,000.00) and reimbursement of actual costs and expenses in an amount up to $20,000.00.[63] The attorneys' fees 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

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57 Halwadjian Decl., ¶¶ 21-26.
58 *Id.*, ¶ 28.
59 *Id.*, ¶ 29.
60 Ibid.
61 *Id.*, ¶ 31.
62 *Id.*, ¶¶ 21-26.
63 Original Agreement, ¶¶ 3.1 & 3.2.2.

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determination that Class Counsel has shown, (4) the results that Class Counsel has achieved throughout the litigation, (5) the value of the Settlement that Class Counsel has achieved for the Class Members, Aggrieved Employees, and the State of California, and (6) the other cases that Class Counsel had to turn down in order to devote its time and efforts to this matter. The proposed Class Notice provides Class Members that an award of the Class Counsel Fees Payment and Class Counsel Litigation Expenses Payment will be sought, and the amount allocated toward the Class Counsel Fees Payment and Class Counsel Litigation Expenses Payment by the Settlement.[64]

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

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

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[64] Amendment No. 1, Exh. A.

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Historically, courts have awarded fees as high as fifty percent (50%) of the settlement, depending on the circumstances of the case. *Newberg*, § 14.03; *see also In re Ampicillin Antitrust Litig.* (D.D.C. 1981) 526 F.Supp. 494 (awarding attorneys' fees in the amount of 45% of the $7.3 million settlement); *Beech Cinema, Inc. v. Twentieth-Century Fox Film Corp.* (S.D.N.Y. 1979) 480 F.Supp. 1195 (awarding approximately 53% of the settlement as attorneys' 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.[65]

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 Class Counsel Fees Payment and Class Counsel Litigation Expenses Payment at the Final Approval Hearing. Considering the work performed and the risks incurred, the attorneys' fees provided for by the Settlement are well within the range of reasonableness for preliminary approval.

VIII. THE PROPOSED CLASS NOTICE IS ADEQUATE

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

"Sufficient information about the case should be provided to enable class members to

[65] Halwadjian Decl., ¶ 13.

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make an informed decision about their participation." *Manual for Complex Litigation* § 21.311 at 413 (4th ed. 2004). The proposed Class Notice describes the Settlement, the deadlines and procedures to submit an Objection to the Class Settlement, submit a Request for Exclusion from the Class Settlement, and/or dispute regarding Workweeks and/or PAGA Pay Periods, and the date and time set for the Final Approval Hearing.[66] The proposed Class Notice summarizes the proceedings to date and the terms and conditions of the Settlement in an informative and coherent manner.[67] The proposed Class Notice recognizes that the Court has not yet granted final approval of the settlement.[68] The proposed Class Notice also apprises the Class Members and Aggrieved Employees of, *inter alia*, how their Individual Class Payment and if applicable, their Individual PAGA Payment is calculated and the number of Workweeks and/or PAGA Pay Periods credited to them.[69] The proposed Class Notice fulfills the requirement of neutrality in notice procedure. *Newberg*, at § 8.39.

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

IX. <u>APPOINTMENT OF THE ADMINISTRATOR</u>

The Parties have selected Phoenix Class Action Administration Solutions as the Administrator. Within fourteen (14) calendar days of receipt of the Class Data, the Administrator will perform an NCOA check and will mail the Notice Packet to each Class Member and Aggrieved Employee in English only because Defendant distributed its company policies to its employees in English only, and has no reason to believe that any of the Cass Members cannot read or speak English.[70] Not later than three (3) business days after the Administrator's receipt of any Notice Packet returned by the USPS as undelivered, the Administrator shall remail the

[66] Amendment No. 1, Exh. A.
[67] Ibid.
[68] Ibid.
[69] Ibid.
[70] Amendment No. 1, ¶ E; Halwadjian Decl., ¶ 11; Declaration of April Tumakay in Support of Motion for Preliminary Approval of Class Action Settlement ("Tumukay Decl."), ¶¶ 4-6.

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Notice Packet using any forwarding address provided by the USPS.[71] If the USPS does not provide a forwarding address, the Administrator shall conduct a Class Member Address Search, and re-mail the Notice Packets to the most current address obtained.[72] In the case of a re-mailed Notice Packet, the Response Deadline will be extended an additional fourteen (14) days beyond the sixty (60) days otherwise provided in the Notice Packet.[73] The Administrator will receive and process Request for Exclusions, Objections, and any challenges to Workweeks and/or PAGA Pay Periods.[74] In addition, the Administrator will be responsible for printing, distributing, and tracking Notice Packets and other documents for the Settlement; calculating and distributing payments due under the Settlement; issuing of 1099 and W-2 IRS Forms and all required tax reporting, filings, withholdings, and remittances; providing necessary reports and declarations; and other duties and responsibilities to process the Settlement and as requested by the Parties.[75] The Administration Expenses Payment is currently estimated to be $8,000.00 and will be paid out of the Gross Settlement Amount, subject to approval by the Court.[76] Accordingly, Plaintiff respectfully requests that the Court appoint Phoenix Class Action Administration Solutions as the Administrator and direct the mailing of the Notice Packet to the Class Members and Aggrieved Employee in the manner outlined and based on the proposed deadlines as described herein and set forth in the Settlement Agreement.

XI. <u>CLASS REPRESENTATIVE SERVICE PAYMENT</u>

Plaintiff respectfully requests that the Court appoint him as the Class Representative and preliminarily approve the Class Representative Service Payment in an amount up to $10,000.00.[77] It is within the Court's discretion to award payment to a Class Representative for his efforts and work. *Vranken v. Atlantic Richfield Co.* (N.D. Cal. 1995) 901 F.Supp. 294, 299. The factors that courts may consider in determining whether to make a Class Representative Service Payment include: (1) the risk to the Class Representative in commencing suit, both

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[71] Amendment No. 1, ¶ F.
[72] Ibid.
[73] *Id.*, ¶ G.
[74] *Id.*, ¶ I, K, and L.
[75] *Id.*, ¶¶ C, E, F, K, N, and O.
[76] Original Agreement, ¶ 3.2.3.
[77] *Id.*, ¶ 3.2.1.

financial and otherwise; (2) the notoriety and personal difficulties encountered by the Class Representative; (3) the amount of time and effort spent by the Class Representative; (4) the duration of the litigation; and (5) the personal benefit (or lack thereof) enjoyed by the Class Representative as a result of the litigation. *Id*.

The Class Representative Service Payment is fair and appropriate. Plaintiff spent a substantial amount of time and effort in producing relevant documents and past employment records and providing the facts and evidence necessary to attempt to prove the allegations.[78] Plaintiff was available whenever Class Counsel needed him and actively tried to obtain and provide information that would facilitate the pursuit of the class and PAGA claims.[79] Accordingly, it is appropriate and just for Plaintiff to receive $10,000.00 for his services on behalf of the Class, Aggrieved Employees, and the State of California, in addition to their Individual Class Payment.

XII. CONCLUSION

For the foregoing reasons, Plaintiff respectfully requests that the Court grant Preliminary Approval of the Settlement; conditionally certify the Class for settlement purposes; preliminary appoint and designate Lawyers *for* Justice, PC as Class Counsel; appoint Plaintiff Marcus Trammel as the Class Representative; appoint Phoenix Class Action Administration Solutions as Administrator; preliminarily approve the allocations for Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, Class Representative Service Payment, PAGA Penalties, and Administration Expenses Payment; approve the proposed Notice Packet; direct the 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 six (6) months.

Dated: April 27, 2026

LAWYERS *for* JUSTICE, PC

By: *Maria Halwadjian*

Selena Matavosian
Maria Halwadjian
Attorneys for Plaintiff Marcus Trammel

[78] Halwadjian Decl., ¶¶ 14, 47-51; Trammel Decl., ¶¶ 3-4.
[79] Halwadjian Decl., ¶¶14, 47-51; Trammel Decl., ¶¶ 3-6.

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