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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES—SPRING STREET COURTHOUSE**

DAMIAN VANN, 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.

PRISM HOSPITALITY, LP, an unknown
business entity; PRISM HOTELS &
RESORTS, and unknown business entity;
HYATT REGENCY LOS ANGELES
INTERNATIONAL AIRPORT, an
unknown business entity; SWC CA LAX,
LLC, an unknown business entity; and
DOES 2 through 100, inclusive,

Defendants.

Case No.: 21STCV07019

Honorable Stuart M. Rice
Department SSC1

CLASS ACTION

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

[Declaration of Proposed Class Counsel (Yasmin
Hosseini); Declaration of Proposed Class
Representative (Damian Vann); and [Proposed]
Order filed concurrently herewith]

Date: February 19, 2025
Time: 10:30 a.m.
Department: SSC1

Complaint Filed: February 23, 2021
FAC Filed: December 10, 2024
Trial Date: None Set

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

3 **PLEASE TAKE NOTICE** that on February 19, 2025 at 10:30 a.m., or as soon thereafter
4 as the matter may be heard before the Honorable Stuart M. Rice in Department SSC1 of the
5 Superior Court of the State of California, for the County of Los Angeles, 312 North Spring
6 Street, Los Angeles, California 90012, Plaintiff Damian Vann (“Plaintiff”) will, and hereby do,
7 move for an order:

- 8 • Granting preliminary approval of the proposed class action and PAGA settlement
9 described herein and as set forth in the parties’ Stipulation of Class Action and PAGA
10 Settlement (“Settlement,” “Agreement,” or “Settlement Agreement”), attached as
11 “**EXHIBIT 1**” to the Declaration of Yasmin Hosseini in Support of Plaintiff’s Motion
12 for Preliminary Approval of Class Action Settlement, including, but not limited to,
13 the proposed total maximum settlement amount, means of allocation and distribution
14 of funds, the allocations for penalties under the California Labor Code Private
15 Attorneys General Act of 2004, Attorneys’ Fees and Costs to Class Counsel,
16 Enhancement Payment to Plaintiff, and Settlement Administration Costs to the
17 Settlement Administrator;
- 18 • Certifying the proposed Class for settlement purposes only;
- 19 • Preliminarily appointing Damian Vann as Class Representative;
- 20 • Preliminarily appointing Arby Aiwazian, Joanna Ghosh, and Yasmin Hosseini of
21 *Lawyers for Justice, PC* as Class Counsel;
- 22 • Approving the proposed Notice of Class Action Settlement (“Class Notice”), attached
23 as “**EXHIBIT A**” to the [Proposed] Order Granting Preliminary Approval of Class
24 Action and PAGA Settlement;
- 25 • Directing the mailing of the Class Notice to the Class Members;
- 26 • Approving the proposed deadlines for the notice and administration process;
- 27 • Approving Phoenix Settlement Administrators as the Settlement Administrator; and
- 28 • Scheduling a hearing to consider final approval of the Settlement, at which time the

1 Court will also consider whether to grant final approval of the requests for the
2 Attorneys' Fees and Costs to Class Counsel, Enhancement Payment to Plaintiff,
3 Settlement Administration Costs to the Settlement Administrator, and PAGA Penalty
4 Amount.

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

9 This motion is based upon the following memorandum of points and authorities; the
10 Settlement Agreement; the Declarations of Proposed Class Counsel (Yasmin Hosseini) and
11 Proposed Class Representative (Damian Vann) in support thereof; as well as the pleadings and
12 other records on file with the Court in this matter, and such evidence and oral argument as may
13 be presented at the hearing on this motion.

14
15 Dated: December 12, 2024

LAWYERS for JUSTICE, PC

16
17 By: _____


Yasmin Hosseini
Attorneys for Plaintiff

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MEMORANDUM OF POINTS AND AUTHORITIES

I. SUMMARY OF MOTION

Plaintiff Damian Vann (“Plaintiff or “Class Representative”) seeks preliminary approval of the Stipulation of Class Action and PAGA Settlement (“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 Prism Hospitality, LP and SWC CA LAX dba Hyatt Regency Los Angeles International Airport (together, “Defendants”), on the other hand. Subject to approval by the Court, Plaintiff and Defendants (collectively, the “Parties”) have agreed to settle the lawsuit for a Gross Settlement Amount of One Million Two Hundred Thousand Dollars (\$1,200,000.00).¹ The Gross Settlement Amount includes the following: (1) Individual Settlement Payments to Settlement Class Members²; (2) Enhancement Payment to Plaintiff in the amount of Twelve Thousand Dollars and Zero Cents (\$12,500.00)³; (3) attorneys’ fees in the amount of one-third (1/3) of the Gross Settlement Amount, or \$400,000.00 if the Gross Settlement Amount remains \$1,200,000.00, and reimbursement of any actual litigation costs and expenses not to exceed Thirty-Five Thousand Dollars and Zero Cents (\$35,000.00) (together, “Attorneys’ Fees and Costs”) to Class Counsel⁴; (4) the Settlement Administration Costs to the Settlement Administrator in the amount estimated to be up to Twenty Thousand Dollars and Zero Cents (\$20,000.00);⁵ and (5) the amount of One Hundred Fifty Thousand Dollars and Zero Cents

¹ Settlement Agreement, attached as “**EXHIBIT 1**” to Declaration of Yasmin Hosseini (“Hosseini Decl.”), ¶ 8.p. Defendants represents that there were approximately 65,780 Workweeks during the period February 23, 2017 to March 18, 2023 (i.e., the Class Period). If it is determined that the total number of Workweeks during the Class Period actually exceeds 65,780 by more than ten percent (10%) (i.e., if the total number of Workweeks for the stated period exceed 72,358), then, the Gross Settlement Amount will be increased on a proportional basis by the same number of percentage points above ten percent (10%) (e.g., if the number of Workweeks for the time period of February 23, 2017 to March 18, 2023 actually exceeds 65,780 by 11% to 73,016 Workweeks, the Gross Settlement Amount will increase by 1%). As an alternative to paying an increased Gross Settlement Amount, Defendants may select an earlier end date for the Class Period which brings the total workweeks below 72,358 Workweeks. If Defendants opt to select an earlier end date for the Class Period, Defendants must notify Class Counsel of their decision to do so at least thirty (30) calendar days before the Preliminary Approval hearing date, ¶ 38.

² *Id.*, ¶ 8.r.

³ *Id.*, ¶ 13.

⁴ *Id.*, ¶ 12.

⁵ *Id.*, ¶ 14.

1 (\$150,000.00) allocated to resolution of Plaintiffs' Private Attorneys General Act ("PAGA")
2 claim, of which 75% (i.e., \$112,500.00) will be distributed to the Labor and Workforce
3 Development Agency ("LWDA") and 25% (i.e., \$37,500.00) will be distributed to all current
4 and former non-exempt Prism employees who worked at Hyatt Regency LAX within the State
5 of California at any time during the PAGA Period ("PAGA Members").⁶

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

8 All non-exempt, hourly Prism employees who worked at Hyatt Regency LAX
9 within the State of California between February 23, 2017 through March 18, 2023.
10 ("Class" or "Class Members").⁷

11 Class Members who do not submit a timely and valid request to be excluded from the
12 Class Settlement ("Settlement Class Member") will receive a *pro rata* share of the Net
13 Settlement Amount ("Individual Settlement Share"). Individual Settlement Payments will be
14 distributed to Settlement Class Members on a *pro rata* basis based upon the number of weeks
15 each Class Member worked for Defendant Prism as an hourly-paid or non-exempt employee
16 within California during the Class Period and the ("Workweeks").⁸

17 PAGA Members will receive a *pro rata* share ("Individual PAGA Payment") of the
18 twenty-five percent (25%) portion of the PAGA Penalty Amount (i.e., \$37,500.00), based on
19 the number of weeks each PAGA Member worked for Defendant Prism as an hourly-paid or
20 non-exempt employee within California during the PAGA Period.

21 The Settlement, if granted preliminary and final approval by the Court, will operate to
22 resolve the Released Class Claims of Plaintiff and Settlement Class Members, and the Released
23 PAGA Claims of Plaintiff, PAGA Members, and the State of California, against the Released
24 Parties.⁹

25 ///

26 ⁶ Settlement Agreement, ¶ 8.x.; "PAGA Period" is defined as the period from and including February 23, 2017
through March 18, 2023. *See id.*, ¶ 8.aa.

27 ⁷ *Id.*, ¶ 8.d.; "Class Period" is defined as the time from and including February 23, 2017 through March 18, 2023.
See id., ¶ 8.f.

28 ⁸ *Id.*, ¶ 8.mm.

⁹ *See id.*, at ¶ 8.ee, for the full scope of the "Released Class Claims" and *id.* at ¶ 8.ff, for the full scope of the
"Released PAGA Claims."

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

2 On February 23, 2021, Plaintiff Damian Vann filed a Class Action Complaint for
3 Damages in the Superior Court of California for the County of Los Angeles, Case No.
4 21STCV07019, thereby commencing the above-captioned lawsuit.

5 On February 16, 2023, the Parties participated in a formal, full-day mediation conducted
6 by Mark S. Rudy, Esq., a well-regarded mediator experienced in mediating complex labor and
7 employment matters. With the aid of the mediator's evaluation, the Parties ultimately reached
8 the Settlement described herein to resolve the Action in its entirety.

9 On May 8, 2023, Plaintiff Damian Vann provided written notice by certified mail to the
10 LWDA and Defendant of the specific provisions of the California Labor Code that were alleged
11 to be violated ("PAGA Notice").

12 On December 10, 2024, Plaintiff filed the First Amended Class Action Complaint for
13 Damages and Enforcement Under the Private Attorneys General Act, California Labor Code §
14 2698, Et Seq., adding SWC CA LAX, LLC as a named defendant and adding a cause of action
15 asserting a violation under PAGA ("Operative Complaint").

16 Plaintiff's core allegation is that Defendants have violated California wage and hour law,
17 including but not limited to laws set forth in the California Labor Code, by engaging in a uniform
18 practice and procedure, with respect to Plaintiff, Class Members, and PAGA Members of, *inter*
19 *alia*, failing to pay all overtime and minimum wages, failing to provide compliant meal and rest
20 periods and associated premium pay, failing to timely pay wages during employment and upon
21 termination of employment, failing to provide compliant wage statements, failing to maintain
22 requisite payroll records, and failing to reimburse necessary business expenses, and thereby
23 engaged in unfair business practices in violation of California Business and Professions Code
24 section 17200, et seq. and conduct that gives rise to penalties pursuant to PAGA (with those
25 exempt employees allegedly being misclassified by Defendants, which resulted in and led to
26 California wage and hour violations). Plaintiff contends that he, and the Class Members, are
27 entitled to, *inter alia*, unpaid wages, penalties (including and not limited to, penalties pursuant
28 to PAGA), and attorneys' fees and costs.

Defendants have denied, and continues to deny, any liability and wrongdoing of any kind associated with any of the allegations in the Operative Complaint, and further denies that the Action is appropriate for class treatment or representative adjudication for any purpose other than for settlement purposes only.

III. SUMMARY OF THE SETTLEMENT TERMS

Under the terms of the Settlement, Defendant will pay a Gross Settlement Amount to resolve the Action.¹⁰ 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 one-third (1/3) of the Gross Settlement Amount (i.e., \$400,000.00, if the Gross Settlement Amount remains \$1,200,000.00) and costs and expenses in an amount not to exceed Thirty-Five Thousand Dollars and Zero Cents (\$35,000.00) ("Attorneys' Fees and Costs") to Class Counsel; (2) Settlement Administration Costs, which are currently estimated not to exceed Twenty Thousand Dollars and Zero Cents (\$20,000.00) to the Settlement Administrator ("Settlement Administration Costs"); (3) PAGA Penalty Amount of One Hundred Fifty Thousand Dollars and Zero Cents (\$150,000.00) ("PAGA Penalty Amount"); and (4) payment in the amount of up to Twelve Thousand Five Hundred Dollars and Zero Cents (\$12,500.00) to Plaintiff ("Enhancement Payment").¹¹ The Parties have agreed to retain Phoenix Settlement Administrators ("Phoenix" or "Settlement Administrator") to handle the notice and settlement administration process.¹²

The Parties have agreed that the Settlement Administrator will determine each Settlement Class Member's share of the available Net Settlement Amount (i.e., Individual Settlement Share), in accordance with the Settlement Agreement and as follows:

- a. After Preliminary Approval of the Settlement, the Settlement Administrator will divide the Net Settlement Amount by the Workweeks of all Class Members during the Class Period to yield the "Estimated Workweek Value," and multiply each Class Member's individual Workweeks during the Class Period by the Estimated Workweek Value to yield his or her estimated Individual Settlement Share that he or she may be eligible to receive under the Class Settlement.¹³

¹⁰ Settlement Agreement, ¶ 11.

¹¹ *Id.*, ¶¶ 12, 13, 14, and 15.

¹² *Id.*, ¶ 8.kk.

¹³ *Id.*, ¶ 16.a.i.

- b. After the Final Approval of the Settlement, the Settlement Administrator will divide the final Net Settlement Amount by the Workweeks of all Settlement Class Members during the Class Period to yield the “Final Workweek Value,” and multiply each Settlement Class Member’s individual Workweeks during the Class Period by the Final Workweek Value to yield his or her Individual Settlement Share.¹⁴

The Parties have agreed that the Settlement Administrator will determine each PAGA Member’s share of the 25% share of the PAGA Penalty Amount, in accordance with the Settlement Agreement and as follows:

- a. The Settlement Administrator will divide 25% of the PAGA Penalty Amount by the total number of Workweeks of all PAGA Members during the PAGA Period to yield the “PAGA Workweek Value,” and multiply each PAGA Member’s individual Workweeks during the PAGA Period by the PAGA Workweek Value to yield his or her Individual PAGA Payment that he or she may be eligible to receive under the PAGA Settlement.¹⁵

Each Individual Settlement Share will be allocated as follows: twenty percent (20%) wages, which will be reported on an IRS W-2 Form by the Settlement Administrator, and eighty percent (80%) penalties, interest, and other non-wage damages will be reported on IRS 1099 Forms by the Settlement Administrator.¹⁶ The employer’s share of taxes and contributions on the wages portion of Individual Settlement Shares will be paid separately and in addition to the Gross Settlement Amount.¹⁷ The Settlement Administrator will withhold the employee’s share of taxes and withholdings with respect to the wages portion of the Individual Settlement Shares, and issues checks to Settlement Class Members for their Individual Settlement Payments (i.e., payment of their Individual Settlement Share net of these taxes and withholdings). Any payment for an Individual PAGA Payment will be allocated as one hundred percent (100%) penalties, will not be subject to taxes or withholdings, and will be reported on an IRS Form-1099, if necessary, by the Settlement Administrator.¹⁸ The Settlement Administrator will be responsible for undertaking appropriate deductions, required tax reporting, and issuing the Individual Settlement Payments by way of check to the Settlement Class Members and the Individual

¹⁴ Settlement Agreement, ¶ 16.a.ii.

¹⁵ *Id.*, ¶ 16.b.iii.

¹⁶ *Id.*, ¶ 26.

¹⁷ *Ibid.*

¹⁸ *Id.*, ¶ 26.

PAGA Payments by way of check to the PAGA Members, in accordance with this Settlement Agreement.¹⁹ The Settlement Administrator may, at its discretion, distribute the Individual Settlement Payment and Individual PAGA Payment by way of a single check that combines both payments (if applicable).²⁰

Each Individual Settlement Payment and Individual PAGA Payment check will be valid and negotiable for one hundred and eighty (180) calendar days from the date the checks are issued, and thereafter, shall be cancelled.²¹ All funds associated with such cancelled checks will be transmitted to the State Controller's Office, Unclaimed Property Division in the name of the Settlement Class Member and/or PAGA Member.²²

Any Class Member wishing to be excluded from the Class Settlement must submit timely and valid Request for Exclusion to the Settlement Administrator, by mail, postmarked no later than sixty (60) calendar days from the initial mailing of the Class Notice by the Settlement Administrator ("Response Deadline").²³ A Request for Exclusion must: (a) contain the case name and number of the Action; (b) be signed by the Class Member; (c) contain the full name, address, telephone number, and the last four digits of the Social Security Number of the Class Member requesting exclusion; (d) clearly state that the Class Member does not wish to be included in the Class Settlement; and (e) be returned by mail to the Settlement Administrator at the specified address, postmarked on or before the Response Deadline.²⁴ All PAGA Members will be bound to the PAGA Settlement and will be issued their Individual PAGA Payment, irrespective of whether they submit a Request for Exclusion.²⁵

To object to the Class Settlement, Class Members who have not opted out of the Settlement (i.e., Settlement Class Members) may submit a timely and complete written objection ("Notice of Objection") to the Settlement Administrator, by mail, on or before the Response

¹⁹ Settlement Agreement, ¶ 21.

²⁰ Ibid.

²¹ Ibid.

²² Ibid.

²³ *Id.*, ¶ 8.ii. & 22.

²⁴ *Id.*, ¶ 8.hh.

²⁵ *Id.*, ¶ 22.

Deadline.²⁶ Settlement Class Members who wish to object to the Class Settlement may submit a Notice of Objection which must include: (a) the case name and number of the Action; (b) the objector's full name, signature, address, telephone number, and the last four digits of his or her Social Security number; (c) a written statement of all grounds for the objection accompanied by any legal support for such objection; and (d) copies of any papers, briefs, or other documents upon which the objection is based; and returned by mail to the Settlement Administrator at the specified address, postmarked on or before the Response Deadline.²⁷ Settlement Class Members may also present their objection at the Final Approval Hearing, regardless of whether they submit a written objection.²⁸

Class Members and PAGA Members will have an opportunity to dispute the number of Workweeks to which they have been credited, as reflected in their respective Class Notices (i.e., Workweek Dispute).²⁹ A Workweeks Dispute must: (a) contains the case name and number of the Action, (b) is signed by the Class Member, (c) contains the full name, address, telephone number, and the last four digits of the Social Security Number of the disputing Class Member and/or PAGA Member, (d) clearly states that the Class Member and/or PAGA Member disputes the number of Workweeks credited to him or her during the Class Period and/or PAGA Period and what he or she contends is the correct number(s) to be credited to him or her, (e) includes information and/or attaches documentation demonstrating that the number of Workweeks that he or she contends should be credited to him or her for the Class Period and/or PAGA Period are correct, and (f) is returned by mail to the Settlement Administrator at the specified address, postmarked on or before the Response Deadline.³⁰

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

²⁶ Settlement Agreement, ¶ 23.

²⁷ *Id.*, ¶ 8.v.

²⁸ *Id.* ¶ 23.

²⁹ *Id.*, ¶ 20.

³⁰ *Id.*, ¶ 8.nn.

1 federal authority for guidance with class action settlements. *Dunk, supra*, 48 Cal.App.4th at
2 1801, fn.7 (citing *Vasquez v. Superior Court* (1971) 4 Cal.3d 800, 821). The decision to approve
3 or reject a proposed settlement is within the court’s discretion. *Wershba v. Apple Computer, Inc.*
4 (2001) 91 Cal.App.4th 224, 234-35 (“In general, questions whether a settlement was fair and
5 reasonable, whether certification of the class was proper, and whether the attorney fee award
6 was proper are matters addressed to the trial court’s broad discretion.”). Accordingly, a court’s
7 decision to approve a class action settlement may be reversed only upon a strong showing of
8 “clear abuse of discretion.” *Hanlon v. Chrysler Corp.* (9th Cir. 1998) 150 F.3d 1011, 1026;
9 *Class Plaintiffs v. City of Seattle* (9th Cir. 1982) 955 F.2d 1268, 1276.

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

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

22 In considering a potential class settlement, a court need not reach any ultimate
23 conclusions on the issues of fact and law which underlie the merits of the dispute and need not
24 engage in a trial on the merits. See *City of Detroit v. Grinnell Corporation* (2d Cir. 1974) 495
25 F.2d 448, 456; *Officers for Justice v. Civil Service Commission of City and County of San*
26 *Francisco* (9th Cir. 1982) 688 F.2d 615, 625. Neither formal notice nor a hearing is required for
27 the trial court to grant provisional class certification and preliminary approval; the court may
28

grant such relief upon an informal application by the settling parties and may conduct any necessary hearing in court or in chambers, at the court's discretion. *Newberg*, § 11.25.

V. THE COURT SHOULD PRELIMINARILY APPROVE THE SETTLEMENT

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

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

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

The Parties actively litigated the Action since it was commenced on February 23, 2021. Both sides used the pre-mediation time period to investigate the veracity, strength, and scope of the claims, and Class Counsel was actively preparing the matter for class certification and trial.³¹

³¹ Hosseini Decl., ¶ 11.

Prior to engaging in mediation, 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 a large volume of documents and data produced by Defendants.³² The volume of data and documents that Class Counsel reviewed and analyzed included and was not limited to Plaintiff's and other Class Members time and pay data, Defendants' Employee Guidelines, company policy acknowledgements (e.g., Certificate of Meal Period and Rest Break Compliance for Time Record, Acknowledgement of Receipt of California Addendum to the Prism Employee Guidelines, Acknowledgement of Receipt of CA Meal Period and Rest Break Policy, Tip Reporting Policy Acknowledgement), new hire checklist, orientation checklist, job descriptions, time records, Defendants' operations and employment practice, policies, and procedures (Meal and Rest Period Issue Notice, Liberty Mutual Group MPN, Meal Period Waiver, Second Meal Period Waiver, Standard Operating Procedures, Tip Reporting Guidelines and Helpful Hints), among other information and documents. Class Counsel had the opportunity to interview Plaintiff and other Class Members to gather facts and to identify potential witnesses. Counsel for the Parties also met and conferred on numerous occasions, e.g., to discuss issues relating to the pleadings, discovery, and the production of documents and data prior to the mediation. Class Counsel also drafted pleadings and the mediation brief and prepared for and attended court proceedings, mediation, and settlement negotiations, among other tasks.³³

As referenced above, the Parties engaged in extensive settlement negotiations and participated in a formal, full-day mediation conducted by Mark S. Rudy, 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 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, the risks to the Parties of proceeding with class certification and/or representative adjudication, the law relating to off-

³² Ibid.

³³ Hosseini Decl., ¶ 11.

³⁴ *Id.*, ¶ 10.

the-clock theory, meal and rest periods, PAGA representative claims, and wage-and-hour enforcement, 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 its counsel felt strongly about their ability to prevail on the merits and at certification, and Plaintiff and Class Counsel believed that they would be able to obtain class certification and prevail at trial.³⁷ 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.³⁸

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, trial, and/or appeals.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 actions, 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

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³⁵ Ibid.

³⁶ Ibid.

³⁷ Ibid.

³⁸ Ibid.

³⁹ Hosseini Decl., ¶ 17.

⁴⁰ Ibid.

⁴¹ *Id.*, ¶12.

⁴² *Id.*, ¶¶ 7 a-nn.

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

2 The Settlement, which provides for a Gross Settlement Amount of One Million Two
3 Hundred Thousand Dollars (\$1,200,000.00), represents a fair, adequate, and reasonable
4 resolution of the matter.⁴³ The Settlement was calculated using the information and data
5 uncovered during litigation, case investigation, as well as the formal and informal exchange of
6 information.⁴⁴ The Settlement takes into account the potential risks and rewards inherent in any
7 case and, in particular, in the matter at issue. Moreover, considering all of the facts and
8 circumstances of the case, the Settlement represents a fair, reasonable, and adequate recovery
9 for the Class.⁴⁵

10 Assuming that the Attorneys' Fees and Costs, Enhancement Payment, PAGA Penalty
11 Amount, and Settlement Administration Costs are approved by the Court and paid in the full
12 amounts provided for by the Settlement, the Settlement provides for a Net Settlement Amount
13 that is currently estimated to be Five Hundred Seventy Thousand Dollars (\$582,500.00).⁴⁶
14 Additionally, 25% of the PAGA Penalty Amount (i.e., Individual PAGA Payment), which is
15 \$37,500.00 out of \$150,000.00, will be distributed to the PAGA Members, for their respective
16 portion of the PAGA Penalty Amount. As discussed in Part III, *supra*, the entire Net Settlement
17 Amount will be fully paid out to the Settlement Class Members, in accordance with the
18 Settlement Agreement. The amount of each Settlement Class Member's Individual Settlement
19 Share will be calculated based on his or her Workweeks during the Class Period, and the amount
20 of each PAGA Member's Individual PAGA Payment will be calculated based on his or her
21 Workweeks during the PAGA Period.⁴⁷ There is no reason to doubt the fairness of the proposed
22 plan of allocation of the settlement funds for purposes of preliminary approval. Even at the final
23 approval stage, "[a]n allocation formula need only have a reasonable, rational basis [to warrant
24 approval], particularly if recommended by experienced and competent class counsel." *In re*

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⁴³ Hosseini Decl., ¶ 13.

27 ⁴⁴ *Id.*, ¶ 11.

28 ⁴⁵ *Id.*, ¶¶ 12.

⁴⁶ Settlement Agreement, ¶ 8.u.

⁴⁷ *Id.*, ¶¶ 16.a & 16.b.

American Bank Note Holographics, Inc., Securities Litigation (S.D.N.Y. 2001) 127 F.Supp.2d 418, 429-30.

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, PAGA Members, and the State of California.⁴⁸ Although the recommendations of Class Counsel are not conclusive, the Court can properly take the recommendations into account, particularly if Class Counsel appears to be competent, and has 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 large volume of documents, data, and information prior to the mediation.⁴⁹ The discovery and information that Class Counsel obtained from Defendants, Plaintiff, and other sources allowed Class Counsel to develop valuation models in order to evaluate the potential value and merit of the claims, and perform a complete evaluation of Defendants' defenses thereto.⁵⁰ As outlined in the Declaration of Yasmin Hosseini, Class Counsel performed an extensive analysis of each and every claim pursuant to *Kullar* prior to entering into the Settlement.⁵¹

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VI. CERTIFICATION OF THE CLASS IS APPROPRIATE

For settlement purposes, the requisites for establishing class certification are met, and the Parties have stipulated to conditional certification of the Class for settlement purposes only.⁵² California Code of Civil Procedure Section 382 "authorizes class actions when the question is

⁴⁸ Hosseini Decl., ¶ 12.

⁴⁹ *Id.*, ¶ 11.

⁵⁰ *Id.*, ¶ 12.

⁵¹ *Id.*, ¶ 17.

⁵² Settlement Agreement, ¶ 9.

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

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

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.

This class is sufficiently numerous *See 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). Further, all Class Members can and will be identified by Defendants to the Settlement Administrator through a review of Defendants’ employment records regarding hourly-paid or non-exempt employees in California during the Class Period. As such, the Class is ascertainable and sufficiently numerous.

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

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

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

16 Here, common issues of fact and law predominate as to each of the claims alleged and
17 asserted in the Action. Based on the documents and information obtained through formal and
18 informal discovery and exchange of information in the case, Plaintiff contends that Class
19 Members were subject to the same or similar job duties and uniform operations and employment
20 practices, policies, and procedures during the time period at issue.⁵³ Plaintiff’s claims arise from
21 Defendants’ alleged uniform policy and systematic scheme, with respect to Plaintiff and the
22 Class Members, of, *inter alia*, failing to properly pay overtime and minimum wages for all hours
23 worked, failing to provide compliant meal and rest periods and associated premium pay, failing
24 to timely pay wages during employment and upon termination of employment, failing to provide
25 complaint wage statements, failing to keep requisite payroll records, and failing to reimburse
26 necessary business-related expenses.⁵⁴

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28 ⁵³ Hosseini Decl., ¶ 15.

⁵⁴ *Id.*

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.⁵⁵ As a result, Plaintiff claims that all of the Class Members were uniformly not paid all compensation due to them from Defendants during the time period at issue.⁵⁶

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

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

Class Counsel has litigated the matter for over three (3) years, and was actively preparing the matter for class certification and trial.⁵⁷ The ongoing work has been extensive, demanding, and ultimately successful in achieving a substantial settlement resolution. Class Counsel reviewed a large volume of documents and data⁵⁸ 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 and the production of documents and data prior to mediation.⁵⁹ Counsel for the Parties also undertook extensive settlement discussions and mediation.⁶⁰

Class Counsel is well-experienced in wage-and-hour class action litigation and used that experience to obtain a great result for the Class.⁶¹

The Settlement establishes a Gross Settlement Amount of One Million Two Hundred Thousand Dollars (\$1,200,000.00), and provides for Class Counsel to apply to the Court for attorneys' fees in an amount of one-third (1/3) of the Gross Settlement Amount (i.e., \$400,000.00), and costs and expenses in an amount not to exceed Thirty-Five Thousand Dollars

⁵⁵ Ibid.

⁵⁶ Ibid.

⁵⁷ Hosseini Decl., ¶ 10.

⁵⁸ *Id.*, ¶ 11.

⁵⁹ Ibid.

⁶⁰ Ibid.

⁶¹ *Id.*, ¶ 7.

1 and Zero Cents (\$35,000.00).⁶² The attorneys’ fees provided for by the Settlement is
2 commensurate with: (1) the risk that Class Counsel took in bringing and litigating the case, (2)
3 the extensive time, effort and expense that Class Counsel dedicated to the case, (3) the skill and
4 determination that Class Counsel has shown, (4) the results that Class Counsel has achieved
5 throughout the litigation, (5) the value of the Settlement that Class Counsel has achieved for the
6 Class Members, and (6) the other cases that Class Counsel had to turn down in order to devote
7 its time and efforts to this matter. The proposed Class Notice provides Class Members with
8 information about the amount allocated toward the Attorneys’ Fees and Costs, and that an award
9 of the Attorneys’ Fees and Costs will be sought, as provided for by the Settlement.⁶³

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

23 The propriety of calculating and awarding attorneys’ fees as a percentage of a settlement
24 that has, by litigation, been preserved or recovered for the benefit of others, has been confirmed
25 by the California Supreme Court. *Laffitte, supra*, 1 Cal.5th 480 at 486 & 506. The California
26 Supreme Court has taken the position that “[t]rial courts have discretion to conduct a lodestar
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28 ⁶² Settlement Agreement, ¶ 12.

⁶³ *Ibid.*

cross-check on a percentage fee,” “they also retain the discretion to forgo a lodestar cross-check and use other means to evaluate the reasonableness of a requested percentage fee[,]” and “[t]he percentage of fund method survives in California.” *Id.* (internal quotation marks omitted).

Historically, courts have awarded fees as high as fifty percent (50%) of the settlement, depending on the circumstances of the case. *Newberg*, § 14.03; *see also In re Ampicillin Antitrust Litig.* (D.D.C. 1981) 526 F.Supp. 494 (awarding attorneys’ fees in the amount of 45% of the \$7.3 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.⁶⁴

Class Counsel will provide extensive evidence as to the time worked, litigation efforts, and further argument at the time of filing Plaintiff’s motion for final approval of the Settlement and application for the Attorneys’ Fees and Costs at the Final Approval Hearing. Considering the work performed and the risks incurred, the attorneys’ fees provided for by the Settlement and to be requested by Class Counsel are well within the range of reasonableness.

VIII. THE PROPOSED CLASS NOTICE IS ADEQUATE

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

⁶⁴ Hosseini Decl., ¶ 18.

1 The proposed Class Notice⁶⁵ describes the Settlement, the deadlines and procedures to
2 submit an Notice of Objection to the Class Settlement, submit a Request for Exclusion from the
3 Class Settlement, and/or Workweeks Dispute, and the date and time set for the Final Approval
4 Hearing.⁶⁶

5 The proposed Class Notice fulfills the requirement of neutrality in notice procedure.
6 *Newberg*, at § 8.39. “Sufficient information about the case should be provided to enable class
7 members to make an informed decision about their participation.” *Manual for Complex*
8 *Litigation* § 21.311 at 413 (4th ed. 2004). The proposed Class Notice summarizes the
9 proceedings to date and the terms and conditions of the Settlement in an informative and
10 coherent manner.⁶⁷ The proposed Class Notice recognizes that the Court has not yet granted
11 final approval of the settlement.⁶⁸ The proposed Class Notice also apprises the Class Members
12 and PAGA Members of, *inter alia*, how their Individual Settlement Payment and, if applicable,
13 Individual PAGA Payment is calculated and the number of Workweeks credited to them.⁶⁹

14 The proposed Class Notice satisfies all due process requirements and complies with the
15 standards of fairness, completeness, and neutrality. Fed. R. Civ. P. 23(c)(2) and 23(e); *Newberg*,
16 §§ 8.21, 8.39; *Manual*, §§ 21.311, 21.312; see also *Cartt, supra*, 50 Cal.App.3d at 960 (“The
17 essentials of due process of law in class suits would appear to be afforded by fair representation
18 in the assertion of claims of class members against the opposing parties in any lawsuit, and
19 notice of the pending suit.”). Accordingly, the Court should approve the proposed Class Notice.

20 **IX. APPOINTMENT OF PHOENIX SETTLEMENT ADMINISTRATORS AS THE**
21 **SETTLEMENT ADMINISTRATOR**

22 The Parties have selected Phoenix Settlement Administrator to administer the
23 Settlement.

24 The Settlement Administrator will mail the Class Notice to each Class Member and
25 PAGA Member by First-Class U.S. mail within fourteen (14) calendar days after receipt of the

26 ⁶⁵ Settlement Agreement, Exh. A.

27 ⁶⁶ Ibid.

28 ⁶⁷ Ibid.

⁶⁸ Ibid.

⁶⁹ Ibid.

Class List from Defendants.⁷⁰ With respect to Class Notices that are returned as undeliverable with a forwarding address on or before the Response Deadline, the Settlement Administrator will re-mail the Class Notice within five (5) calendar days to the forwarding address.⁷¹ With respect to Class Notices that are returned as undeliverable without a forwarding address on or before the Response Deadline, the Settlement Administrator will search for an alternate address by way of skip-trace and re-mail the Class Notice within five (5) calendar days. In the event that a Class Notice is re-mailed to a Class Member, the Response Deadline for that Class Member shall be extended by fifteen (15) calendar days from the initial mailing of the Class Notice.⁷² The Settlement Administrator will receive and process Requests for Exclusion, Notice of Objections, or Workweeks Disputes.⁷³

The Settlement Administrator will be responsible for translating the Class Notice into Spanish, printing, distributing, and tracking Class Notices and other documents for this 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 set forth herein to process this settlement, and as requested by the Parties.⁷⁴ The Settlement Administration Costs are currently estimated to be Twenty Thousand Dollars and Zero Cents (\$20,000.00) and will be paid out of the Gross Settlement Amount, subject to approval by the Court.⁷⁵

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

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⁷⁰ Settlement Agreement ¶ 19.a.

⁷¹ *Id.*, ¶ 19.b.

⁷² *Ibid.*

⁷³ *Id.*, ¶¶ 20, 22 and 13.

⁷⁴ *Id.*, ¶ 14.

⁷⁵ *Ibid.*

X. PROPOSED DEADLINES FOR THE NOTICE PROCESS

At this preliminary approval stage, Plaintiff seeks approval of the proposed deadlines for the notice and settlement administration process. *Newberg*, at § 11.26. The notice process entails mailing of the Class Notice, in the form approved by the Court, to all known and reasonably ascertainable Class Members and PAGA Members based on Defendant's records.⁷⁶

Within twenty-one (21) calendar days of Preliminary Approval, Defendants will provide the Class List to the Settlement Administrator with the following information for each Class Member and/or PAGA Member's full name, last known mailing address, Social Security Number, and start dates and end dates worked for Defendants during the Class Period and, if applicable, during the PAGA Period, the number of Workweeks for the time period February 23, 2017 through March 18, 2023, and such other information and data as necessary for the Settlement Administrator to independently calculate the Workweeks (collectively, "Class List").⁷⁷

Within fourteen (14) calendar days of receipt of the Class List, the Settlement Administrator will mail the Class Notice to the Class Members via First-Class U.S. Mail.⁷⁸ With respect to Class Notices that are returned as undeliverable with a forwarding address on or before the Response Deadline, the Settlement Administrator will re-mail the Class Notice within five (5) calendar days to the forwarding address. With respect to Class Notices that are returned as undeliverable without a forwarding address on or before the Response Deadline, the Settlement Administrator will search for an alternate address by way of skip-trace and re-mail the Class Notice within five (5) calendar days.⁷⁹ Class Members will have until the applicable Response Deadline to submit a Request for Exclusion, Workweeks Dispute, and/or Notice of Objection.⁸⁰ In the event that a Class Notice is re-mailed to a Class Member, the Response Deadline for that Class Member shall be extended by fifteen (15) calendar days from the initial mailing of the Class Notice.⁸¹

⁷⁶ Settlement Agreement, ¶ 19.a.

⁷⁷ *Id.*, ¶¶ 8.c. & 18.

⁷⁸ *Id.*, ¶ 19.a.

⁷⁹ *Id.*, ¶ 19.b.

⁸⁰ *Id.*, ¶ 8.ii.

⁸¹ *Ibid.*

1 Within fifteen (15) calendar days after the Effective Date, the Settlement Administrator
2 will provide the Parties with an accounting of the amounts to be paid by Defendants pursuant to
3 the terms of the Settlement Agreement.⁸² Within thirty (30) calendar days of the Effective Date,
4 Defendants will make a one-time deposit of the Gross Settlement Amount, along with any
5 employer-side tax obligations associated with the Gross Settlement Amount, into a settlement
6 account to be established by the Settlement Administrator.⁸³ Within seven (7) calendar days of
7 the funding of Gross Settlement Amount, the Settlement Administrator will issue payments due
8 under the Settlement and approved by the Court, as follows: (a) Individual Settlement Payments
9 to Settlement Class Members; (b) Individual PAGA Payments to PAGA Members; (c) LWDA
10 Payment to the LWDA; (d) Enhancement Payment to Plaintiff; (e) Attorneys' Fees and Costs to
11 Class Counsel; and (f) Settlement Administration Costs to the Settlement Administrator.⁸⁴

12 Each Individual Settlement Payment and Individual PAGA Payment check will be valid
13 and negotiable for one hundred and eighty (180) calendar days from the date the checks are
14 issued, and thereafter, shall be cancelled.⁸⁵ All funds associated with such cancelled checks will
15 be transmitted to the State Controller's Office, Unclaimed Property Division in the name of the
16 Settlement Class Member and/or PAGA Member.⁸⁶

17 **XI. APPOINTMENT OF CLASS REPRESENTATIVE AND ALLOCATION FOR**
18 **ENHANCEMENTS PAYMENT**

19 Plaintiff Damian Vann respectfully requests that the Court appoint him as the Class
20 Representative and preliminarily approve the Enhancement Payment in an amount up to Twelve
21 Thousand Five Hundred Dollars and Zero Cents (\$12,500.00).⁸⁷ It is within the Court's
22 discretion to award payment to a Class Representatives for their efforts and work. *Vranken v.*
23 *Atlantic Richfield Co.* (N.D. Cal. 1995) 901 F.Supp. 294, 299 (approving \$50,000 participation
24 award to a single Class Representatives). The factors that courts may consider in determining

25
26 ⁸² Settlement Agreement, ¶ 11.

27 ⁸³ Ibid.

28 ⁸⁴ Ibid.

⁸⁵ *Id.*, ¶ 21.

⁸⁶ Ibid.

⁸⁷ *Id.*, ¶ 13.

whether to make an Enhancement Payment include: (1) the risk to the Class Representatives in commencing suit, both financial and otherwise; (2) the notoriety and personal difficulties encountered by the Class Representatives; (3) the amount of time and effort spent by the Class Representatives; (4) the duration of the litigation; and (5) the personal benefit (or lack thereof) enjoyed by the Class Representatives as a result of the litigation. *Id.*

The Enhancement Payment is fair and appropriate. Plaintiff spent a substantial amount of time and effort in producing relevant documents and past employment records and providing the facts and evidence necessary to attempt to prove the allegations.⁸⁸ Plaintiff was available whenever Class Counsel needed him and actively tried to obtain and provide information that would facilitate the pursuit of class and PAGA claims.⁸⁹ Accordingly, it is appropriate and just for Plaintiff to receive an Enhancement Payment for his services on behalf of the Class, PAGA Members, and the State of California, in addition to his individual settlement payments.

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⁸⁸ Hosseini Decl., ¶ 19; Declaration of Damian Vann in Support of Plaintiff's Motion for Preliminary Approval of Class Action Settlement ("Vann Decl."), ¶ 4.

⁸⁹ Hosseini Decl., ¶ 19; Vann Decl., ¶¶ 3-6.

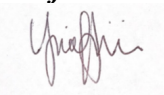
XII. CONCLUSION

For the foregoing reasons, Plaintiff respectfully requests that the Court grant Preliminary Approval of the Settlement; conditionally certify the Class for settlement purposes; preliminary appoint and designate Lawyers *for* Justice, PC as Class Counsel; preliminary appoint and designate Plaintiff Damian Vann as Class Representative; appoint Phoenix Settlement Administrators as Settlement Administrator; preliminarily approve the allocations for Attorneys' Fees and Costs, Enhancement Payment, PAGA Penalty 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; schedule a Final Approval Hearing to take place in approximately six (6) months.

Dated: December 12, 2024

LAWYERS *for* JUSTICE, PC

By:



Yasmin Hosseini
Attorneys for Plaintiff