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

GIANNA GRAZIANO, individually, and on
behalf of other members of the general public
similarly situated;

Plaintiff,

v.

SYNERGY SHIPPING LLC, a California
corporation; and DOES 1 through 100,
inclusive;

Defendants.

Case No.: 56-2022-00568488-CU-OE-VTA

Assigned for All Purposes to:
Honorable Ronda J. McKaig
Department 41

CLASS ACTION

**PLAINTIFFS' NOTICE OF MOTION
AND MOTION FOR PRELIMINARY
APPROVAL OF CLASS ACTION
SETTLEMENT, CONDITIONAL
CERTIFICATION, APPROVAL OF
CLASS NOTICE, SETTING OF FINAL
APPROVAL HEARING DATE;
MEMORANDUM OF POINTS AND
AUTHORITIES IN SUPPORT THEREOF**

[Declaration of Proposed Class Counsel
(Douglas Han); Declaration of Danielle
Winfield; and [Proposed] Order filed
concurrently herewith]

Hearing Date: March 6, 2024
Hearing Time: 8:30 a.m.
Hearing Place: Department 41

Complaint Filed: July 27, 2022
FAC Filed: June 27, 2023
Trial Date: None Set

1 **PLEASE TAKE NOTICE** that on March 6, 2024 at 8:30 a.m., or as soon as the matter
2 may be heard, before the Honorable Ronda J. McKaig in Department 41 of the Ventura County
3 Superior Court (Hall of Justice), located at 800 South Victoria Avenue, Ventura, California 93003,
4 Plaintiffs Gianna Graziano and Ethan Burch (“Plaintiffs,” “Plaintiff Graziano,” and “Plaintiff
5 Burch”) will and hereby do move for an order:

- 6 • Granting Preliminary Approval of the class action settlement described herein and
7 as set forth in the Class Action and PAGA Settlement Agreement (“Settlement
8 Agreement,” “Settlement,” or “Agreement”), attached as **Exhibit 2** to the
9 declaration of Douglas Han, including, and not limited to, the means of allocation
10 and distribution of funds;
- 11 • Conditionally certifying the Class for settlement purposes only;
- 12 • Appointing Plaintiffs as the class representatives;
- 13 • Appointing Justice Law Corporation as Class Counsel;
- 14 • Approving the Court Approved Notice of Class Action Settlement and Hearing
15 Date for Final Court Approval (“Class Notice”) attached as **Exhibit A** to the
16 Settlement Agreement;
- 17 • Directing the mailing of the Class Notice with a postage-paid return envelope to
18 the Class;
- 19 • Approving the proposed deadlines for the settlement administration process;
- 20 • Approving ILYM Group, Inc. as the Administrator; and
- 21 • Scheduling a hearing to consider whether to grant Final Approval of the Settlement
22 Agreement, at which time the Court will also consider whether to grant Final
23 Approval of the requests for the Class Counsel Fees Payment, Class Counsel
24 Litigation Expenses Payment, Class Representative Service Payments, and
25 Administration Expenses Payment, and approval of the allocation of the Private
26 Attorney General Act of 2004 (“PAGA”) Penalties.

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1 This motion is based upon the following memorandum of points and authorities;
2 Declaration of Proposed Class Counsel (Douglas Han); Declaration of Danielle Winfield;
3 [Proposed] Order filed concurrently with this motion; pleadings and other records on file with the
4 Court in this matter; and such documentary evidence and oral argument as may be presented at the
5 hearing on this motion.

6
7 Dated: January 30, 2024

JUSTICE LAW CORPORATION

8
9 By:  _____

Douglas Han

Attorneys for Plaintiffs

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1 **I. INTRODUCTION**

2 This motion seeks preliminary approval of a non-reversionary proposed wage-and-hour
3 class action settlement by Plaintiffs on behalf of themselves and all current and former hourly-paid
4 or non-exempt employees of Defendant Synergy Shipping LLC (“Defendant”) within the State of
5 California at any time during the period from July 22, 2019, through August 21, 2023 (“Class,”
6 “Class Members,” and “Class Period”). At the time of this filing, the number of Class Members is
7 estimated to be three hundred twenty (320), which was confirmed by Defendant. (Declaration of
8 Douglas Han In Support of Plaintiffs’ Motion for Preliminary Approval of Class Action Settlement
9 (“Han Decl.”), ¶¶ 8-9.)

10 **II. BACKGROUND**

11 On July 27, 2022, Plaintiff Graziano filed a wage-and-hour class action lawsuit in the
12 Superior Court of California, County of Ventura, alleging nine (9) causes of action. (Han Decl.,
13 *supra*, at ¶ 10.)

14 After engaging in discovery, investigations, and negotiations, the Parties remotely attended
15 mediation on May 22, 2023 with the mediator Paul Grossman, resulting in the settlement of this
16 matter via a mediator’s proposal. (Han Decl., *supra*, at ¶ 11.)

17 In line with the settlement, Plaintiff Burch provided written notice to the LWDA and
18 Defendant. (Han Decl., *supra*, at ¶ 12; Exhibit 3.)

19 On June 27, 2023, Plaintiff Graziano then filed a First Amended Complaint that added
20 Plaintiff Burch as a named plaintiff and added the following cause of action: violation of Labor
21 Code section 2698, *et seq.* (PAGA). (Han Decl., *supra*, at ¶ 13; Exhibit 4.)

22 **III. INVESTIGATION/ LITIGATION HISTORY**

23 **a. Discovery, Investigation, and the Parties’ Staunchly Conflicting Positions**

24 Plaintiffs propounded form interrogatories, special interrogatories, requests for admission,
25 and requests for production of documents. (Han Decl., *supra*, at ¶ 15.) The Parties then met and
26 conferred and agreed to engage in an informal exchange of information and then eventually
27 remotely attended mediation. (*Ibid.*)

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1 Defendant produced several documents relating to its policies, practices, and procedures.
2 (Han Decl., *supra*, at ¶ 16.) As part of Defendant’s production, Plaintiffs also reviewed time
3 records, pay records, and information relating to the size and scope of the Class. (*Ibid.*) Putative
4 class members were also located and interviewed to attain a better understanding of the extent and
5 frequency of the alleged day-to-day violations. (*Ibid.*) Finally, the Parties discussed Defendant’s
6 current financial condition and recent financial hardships it has been experiencing. (*Ibid.*)

7 Based on the information provided by Defendant and interviews with putative class
8 members, Plaintiffs contend – and Defendant denies – Defendant: (1) failed to provide employees
9 with legally mandated meal and rest breaks; (2) failed to pay employees for all hours worked; (3)
10 failed to reimburse employees for necessary business expenses; (4) issued noncompliant wage
11 statements; and (5) is liable for waiting time penalties. (Han Decl., *supra*, at ¶¶ 18-24.)

12 **b. The Parties Were Able to Reach an Agreement on Settlement of the Action**

13 **i. The Parties Attended Mediation Which Led to the Settlement**

14 The Parties remotely attended mediation with an experienced mediator on May 22, 2023.
15 (Han Decl., *supra*, at ¶ 25.) During the mediation, the Parties discussed Defendant’s current
16 financial condition and financial hardships it has been experiencing in recent years. (*Ibid.*) Under
17 the auspices of the mediator, the Parties reached a settlement, the terms were memorialized in the
18 Settlement Agreement. (*Id.* at ¶ 25; Exhibits 2, 5.)

19 **ii. The Settlement Was Reached as a Result of Arm’s-Length Negotiations**

20 The Settlement was reached because of arm’s-length negotiations. (Han Decl., *supra*, at ¶
21 27.) Though cordial and professional, the settlement negotiations have always been adversarial
22 and non-collusive in nature. (*Ibid.*) At the mediation, the Parties’ counsel conducted extensive
23 arm’s-length settlement negotiations until an agreement was ultimately reached. (*Ibid.*)

24 Plaintiffs and Class Counsel recognize the expense and length of additional proceedings
25 necessary to continue the litigation through trial and any possible appeals. (Han Decl., *supra*, at ¶
26 28.) Plaintiffs and Class Counsel also considered the uncertainty and risk of further litigation,
27 potential outcome, and difficulties and delays inherent in such litigation. (*Ibid.*) Plaintiffs and
28 Class Counsel also considered Defendant’s present financial condition, financial hardships it has

1 been experiencing in recent years, and its ability to fund a settlement. (Han Decl., *supra*, at ¶ 28.)
2 Based on the foregoing, Plaintiffs and Class Counsel believe the Settlement is a fair, adequate, and
3 reasonable settlement and is in the best interests of Class Members. (*Ibid.*)

4 **iii. The Settlement Is the Result of Thorough Investigation and Discovery**

5 The Parties investigated and evaluated the strengths and weaknesses of the claims and
6 defenses before reaching the Settlement and engaged in research and discovery to support the
7 Settlement. (Han Decl., *supra*, at ¶ 29.) The Settlement was only possible following significant
8 investigation and evaluation of the relevant policies and practices, permitting Class Counsel to
9 engage in a comprehensive analysis of liability and potential damages. (*Ibid.*) This case has
10 reached the stage where the Parties understand “the strength of the case; the reasonableness of the
11 settlement in light of the attendant risks of litigation, and in light of the best possible recovery”
12 sufficient to support the Settlement’s reasonableness, adequacy, and fairness. (Han Decl., *supra*,
13 at ¶ 29; *Boyd v. Bechtel Corp.* (N.D.Cal. 1979) 485 F.Supp. 610, 617.)

14 **c. Terms of the Proposed Settlement**

15 **i. Deductions from the Settlement**

16 The Parties agreed (subject to the Court’s approval) this action be settled and compromised
17 for the non-reversionary total sum of \$85,000 (“Gross Settlement Amount”) which includes: (1)
18 Class Counsel Fees Payment not to exceed \$28,333.33 (1/3 of the Gross Settlement Amount); (2)
19 Class Counsel Litigation Expenses Payment not to exceed \$20,000; (3) Class Representative
20 Service Payments totaling \$10,000; (4) Administration Expenses Payment not to exceed \$10,000;
21 and (5) PAGA Penalties not to exceed \$7,500. (Han Decl., *supra*, at ¶ 26.)

22 **ii. Calculating Settlement Payments**

23 Participating Class Member will receive a proportionate share of the Net Settlement
24 Amount using the formula set forth in the Settlement Agreement. (Han Decl., *supra*, at ¶ 26;
25 Exhibit 2, *supra*, at § C(2)(d).) Individual Class Payments will be allocated twenty percent (20%)
26 to the settlement of wages claims and eighty percent (80%) to the settlement of claims for interest
27 and penalties. (*Id.* at § C(2)(d)(i).)

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1 In addition, the portion of the PAGA Penalties that is to be paid to each Aggrieved
2 Employee shall be determined using the formula set forth in the Settlement Agreement. (Han
3 Decl., *supra*, at ¶ 26; Exhibit 2, *supra*, at § C(2)(e)(i).) Aggrieved Employees' portion of the PAGA
4 Penalties will be allocated as one hundred percent (100%) penalties. (*Id.* at § C(2)(e)(ii).)

5 **iii. Notice to the Class**

6 No later than thirty (30) calendar days after the Court grants Preliminary Approval of the
7 Settlement, Defendant will deliver the Class Data to the Administrator. (Han Decl., *supra*, at ¶ 26;
8 Exhibit 2, *supra*, at § G(4)(a).) No later than fourteen (14) days after receiving the Class Data, the
9 Administrator will send the Class Notice to all Class Members identified in the Class Data via
10 first-class United States Postal Service mail. (*Id.* at § G(4)(c).)

11 **iv. Distribution of Funds**

12 The Gross Settlement Amount will be funded pursuant to the timeline and manner set forth
13 in the Settlement. (Han Decl., *supra*, at ¶ 26; Exhibit 2, *supra*, at §§ D(2), D(3).) The timeline to
14 fund the Gross Settlement Amount is critical for Defendant due to the financial hardships it has
15 been experiencing in recent years. (*Ibid.*) Uncashed settlement checks will be paid to the California
16 Controller's Unclaimed Property Fund. (*Id.* at §§ D(3)(a), D(3)(c).)

17 **v. Release of Claims**

18 Effective on the date when Defendant fully funds the entire Gross Settlement Amount and
19 funds all employer payroll taxes owed on the Wage Portion of the Individual Class Payments, all
20 Participating Class Members, on behalf of themselves and their former and present representatives,
21 agents, attorneys, heirs, administrators, successors, and assigns, release the Released Parties from
22 the Released Class Claims. (Han Decl., *supra*, at ¶ 26; Exhibit 2, *supra*, at § E(2).)

23 Effective on the date when Defendant fully funds the entire Gross Settlement Amount and
24 funds all employer payroll taxes owed on the Wage Portion of the Individual Class Payments, all
25 Participating and Non-Participating Class Members, who are Aggrieved Employees, are deemed
26 to release, on behalf of themselves and their former and present representatives, agents, attorneys,
27 heirs, administrators, successors, and assigns, the Released Parties from the Released PAGA
28 Claims. (Han Decl., *supra*, at ¶ 26; Exhibit 2, *supra*, at § E(3).)

Effective on the date when Defendant fully funds the entire Gross Settlement Amount and funds all employer payroll taxes owed on the Wage Portion of the Individual Class Payments, in addition to the claims released under Sections E(2) and E(3) of the Agreement, Plaintiffs and their former and present spouses, representatives, agents, attorneys, heirs, administrators, successors, and assigns agree to release the Released Parties from Plaintiffs' Release. (Han Decl., *supra*, at ¶ 26; Exhibit 2, *supra*, at § E(1).) Furthermore, Plaintiffs expressly waive and relinquish the provisions, rights, and benefits, if any, of section 1542 of the Civil Code. (*Id.* at § E(1)(a).)

With regards to class action releases, “[A] court may release not only those claims alleged in the complaint and before the court, but also claims which ‘could have been alleged by reason of or in connection with any matter or fact set forth or referred to in’ the complaint.”” (*Amaro v. Anaheim Arena Management, LLC* (2021) 69 Cal.App.5th 521, 537.) The scope of the releases in this case are acceptable because they are limited to the scope of the allegations in the operative complaints. Moreover, the released claims are “‘based on *the identical factual predicate* as that underlying the claims in the settled class action.’” (*Ibid.*) In other words, the released claims do not “‘go beyond the scope of the allegations in the operative complaint’” (*Ibid.*)

d. Counsel for Both Parties Are Experienced in Similar Litigation

The Parties' counsel are experienced in wage-and-hour employment law and class actions. (Han Decl., *supra*, at ¶¶ 2-7; Exhibit 1.) Class Counsel have prosecuted numerous cases on behalf of employees for Labor Code violations and are experienced and qualified to evaluate the class claims, settlement versus trial on a fully informed basis, and viability of the defenses. (*Ibid.*) This experience instructed Class Counsel on the risks and uncertainties of further litigation and guided their determination to endorse the Settlement.¹ (*Ibid.*)

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¹ The final factor mentioned in *Dunk* – the number of objectors – is not determinable until the Class Notice has been provided to the Class, and they have had an opportunity to respond. This information will be provided to the Court in conjunction with the Motion for Final Approval of Class Action Settlement.

1 **IV. ARGUMENT**

2 **a. Class Action Settlements Are Subject to Court Review**

3 California Rules of Court, rule 3.769 requires court approval for class action settlements.²
4 “Before final approval, the court must conduct an inquiry into the fairness of the proposed
5 settlement.” (Cal. Rules of Court, rule 3.769(g).) Rule 3.769 further requires a noticed motion for
6 preliminary approval of class settlements:

7 (a) A settlement or compromise of an entire class action, or a cause of action in
8 a class action, or as to a party, requires the approval of the court after
9 hearing.

10 (c) Any party to a settlement agreement may serve and file a written notice of
11 motion for preliminary approval of the settlement. The settlement
12 agreement and proposed notice to class members must be filed with the
13 motion, and the proposed order must be lodged with the motion.

14 Courts have discretion to approve settlements that are fair, not collusive, and consider “all
15 the normal perils of litigation as well as the additional uncertainties inherent in complex class
16 actions.” (*In re Beef Industry Antitrust Litigation* (5th Cir. 1979) 607 F.2d 167, 179, cert. den. *sub*
17 *nom. Iowa Beef Processors, Inc. v. Meat Price Investigators Ass’n* (1981) 452 U.S. 905.)

18 **b. The Proposed Settlement Is a Reasonable Compromise of Claims**

19 An understanding of the amount in controversy is an important factor in whether the
20 settlement “of the class members’ claims is reasonable in light of the strengths and weaknesses of
21 the claims and the risks of the particular litigation.” (*Kullar v. Foot Locker Retail, Inc.* (2008) 168
22 Cal.App.4th 116, 129; see also *Munoz v. BCI Coca-Cola Bottling Co. of Los Angeles* (2010) 186
23 Cal.App.4th 399, 409.) The most important factor in this regard is ““the strength of the case for
24 plaintiffs on the merits, balanced against the amount offered in settlement.”” (*Kullar*, at p. 130;
25 see also *Munoz*, at p. 409.)

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28 ² The California Supreme Court has also authorized California’s trial courts to use Federal Rule 23 and cases applying it for guidance in considering class issues. (See *Vasquez v. Superior Court* (1971) 4 Cal.3d 800, 821; see *Green v. Obledo* (1981) 29 Cal.3d 126, 145-146.) Where appropriate, the Parties cite Federal Rule 23 and federal case law in addition to California law.

1 *Kullar* instructs the court is not to “decide the merits of the case or to substitute its
2 evaluation of the most appropriate settlement for that of the attorneys.” (*Kullar v. Foot Locker*
3 *Retail, Inc.*, *supra*, 168 Cal.App.4th at p. 133.) *Kullar* does not require a statement of the maximum
4 amount the class could recover if plaintiff prevailed on all his claims, provided there is a record
5 that allows “‘an understanding of the amount that is in controversy and the realistic range of
6 outcomes of the litigation.’” (*Munoz v. BCI Coca-Cola Bottling Co. of Los Angeles*, *supra*, 186
7 Cal.App.4th at p. 409.) “[A]s the court does when it approves a settlement as in good faith under
8 Code of Civil Procedure § 877.6, the court must at least satisfy itself that the class settlement is
9 within the ‘ballpark’ of reasonableness.” (*Kullar*, at p. 133.)

10 **i. The Settlement Amount of \$85,000 Is Fair and Reasonable**

11 The Settlement Agreement was only possible following significant investigation and
12 evaluation of the relevant policies and procedures, as well as the data produced, as referenced in
13 Section III above, permitting Class Counsel to engage in a comprehensive analysis of liability and
14 potential damages. (Han Decl., *supra*, at ¶ 29.)

15 The claims are predicated on the purported: (1) failure to pay overtime wages; (2) failure
16 to pay minimum wages; (3) failure to provide meal and rest breaks and consistently pay applicable
17 premium wages; (4) failure to timely pay wages; (5) failure to issue compliant wage statements;
18 (6) failure to reimburse business expenses; (7) violation of PAGA; and (8) violation of Business
19 & Professions Code section 17200, *et seq.* (Han Decl., *supra*, at ¶ 30.) Defendant vehemently
20 denies the theories of liability. (*Id.* at ¶ 31.)

21 While Plaintiffs believe the case is suitable for certification, uncertainties with respect to
22 certification are always present. (Han Decl., *supra*, at ¶ 32.) As the California Supreme Court
23 ruled in *Sav-On Drug Stores, Inc. v. Superior Court* (2004) 34 Cal.4th 319, class certification is
24 always a matter of the trial court’s sound discretion. (*Ibid.*) Decisions following *Sav-On Drug*
25 *Stores, Inc.* have reached different conclusions concerning certification of wage-and-hour claims.³
26 (*Ibid.*) Thus, the calculations for potential damages were discounted.

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28 ³ (See e.g. *Harris v. Superior Court* (2007) 154 Cal.App.4th 164 [reversing decertification
of class claiming misclassification and ordering summary adjudication in favor of employees],

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Plaintiffs recognized the risk that any PAGA award could be reduced. (Han Decl., *supra*, at ¶ 44.) Many of the causes of action brought were also duplicative of the statutory claims. (*Ibid.*) Allocating \$7,500 to PAGA civil penalties was reasonable given that Defendant is also paying an additional \$77,500 in the class settlement. (*Ibid.*) When PAGA penalties are negotiated in good faith and “there is no indication that [the] amount was the result of self-interest at the expense of other Class Members,” such amounts are reasonable.⁴ (*Ibid.*)

/ / /

⁴ (*Hopson v. Hanesbrands Inc.* (N.D.Cal. Apr. 3, 2009, No. CV-08-0844 EDL) 2009 U.S.Dist.LEXIS 33900, at *24; see e.g. *Nordstrom Com. Cases* (2010) 186 Cal.App.4th 576, 579, “[T]rial court did not abuse its discretion in approving a settlement which does not allocate any damages to the PAGA claims”).)

Considering Defendant's defenses, supporting evidence, position that the case is not suitable for class treatment, and current financial condition and recent financial hardships, the Settlement Agreement is reasonable, adequate, and fair.

c. Discount Analysis Justifies the Settlement

Excluding the civil penalties, which could be completely discretionary, the total estimated potential exposure, assuming certification and prevailing at trial, would be about **\$2,459,678.58** on the low end and around **\$2,521,549.80** on the high end. (Han Decl., *supra*, at ¶ 45.)

Category	Potential Exposure	Certification Risk	Merits Risk	Realistic Exposure
Rest Break Premiums	\$329,805.80	75%	65%	\$28,858.01
Meal Break Premiums	\$659,611.60	65%	65%	\$80,802.42
Overtime/Minimum Wage: Off-the-Clock Work	\$123,677.18 to \$185,548.40	65%	55%	\$19,479.16 to \$29,223.87
Unreimbursed Business Expenses	\$78,560	35%	85%	\$7,659.60
Wage Statement Penalty	\$185,600	70%	70%	\$16,704
Waiting Time Penalty	\$1,082,424	70%	70%	\$97,418.16
MAXIMUM TOTAL EXPOSURE	\$2,459,678.58 to \$2,521,549.80⁵			\$250,921.35 to \$260,666.06⁶

The realistic recovery for this case is about **\$250,921.35** on the low end and **\$260,666.06** on the high end. (Han Decl., *supra*, at ¶ 52.) The Gross Settlement Amount is about three percent (3.37%) of the maximum potential exposure and around thirty-two percent (32.61%) of the maximum realistic exposure at trial. (*Ibid.*) This is reasonable when considering Defendant's present financial condition and recent financial hardships. (*Ibid.*)

The only question at preliminary approval is whether the settlement is within the range of possible approval. (*In re General Motors Corp. Engine Interchange Litigation* (7th Cir. 1979) 594 F.2d 1106, 1124; *Acosta v. TransUnion, LLC* (C.D. Cal. 2007) 240 F.R.D. 564, 575.) "The fact that a proposed settlement may only amount to a fraction of the potential recovery does not, in and

⁵ (Han Decl., *supra*, at ¶¶ 33-39.)

⁶ (*Id.* at ¶¶ 46-51.)

of itself, mean that the proposed settlement is grossly inadequate and should be disapproved.” (*Detroit v. Grinnell Corp.* (2d Cir. 1974) 495 F.2d 448, 455; see also *Linney v. Ceullar Alaska Partnership* (9th Cir. 1998) 151 F.3d 1234, 1242, “[I]t is the very uncertainty of outcome in litigation and avoidance of wasteful and expensive litigation that induce consensual settlements. The proposed settlement is not to be judged against a hypothetical or speculative measure of what might have been achieved by the negotiators”). This settlement is in line with the realistic exposure if Plaintiffs prevailed at trial and provides a significant recovery for Class Members when considering Defendant’s financial condition.

d. Conditional Certification of the Class Is Appropriate

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*, *supra*, 34 Cal.4th at p. 326.) California courts certify class actions if plaintiff identifies “both [1] an ascertainable class and [2] a well-defined community of interest among class members.” (*Ibid.*)

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. (Han Decl., *supra*, at ¶ 53.) Plaintiffs contend their claims are typical of the claims of the Class, and Class Counsel will fairly and adequately protect the interests of the Class. (*Ibid.*) Plaintiffs assert the prosecution of separate actions by individual Class Members would create the risk of inconsistent or varying adjudications. (*Ibid.*)

i. The Proposed 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.)

1 This case involves approximately three hundred twenty (320) Class Members, meaning the
2 Class is sufficiently numerous. (Han Decl., *supra*, at ¶ 54; *Ghazaryan v. Diva Limousine, Ltd.*
3 (2008) 169 Cal.App.4th 1524, 1531, n.5 [finding a proposed class of “as many as 190 current and
4 former employees” is sufficiently numerous].)

5 **ii. Class Members Share a Well-defined Community of Interest**

6 The community of interest requirement “embodies three factors: (1) predominant common
7 questions of law or fact; (2) class representatives with claims or defenses typical of the class; and
8 (3) class representatives who can adequately represent the class.” (*Sav-On Drug Stores, Inc. v.*
9 *Superior Court, supra*, 34 Cal.4th at p. 326.) “[T]he community of interest requirement for
10 certification *does not mandate that class members have uniform or identical claims.*” (*Capitol*
11 *People First v. Department of Developmental Services* (2007) 155 Cal.App.4th 676, 692 (emphasis
12 in original).) Rather, courts focus on the defendant’s internal policies and “pattern and practice . .
13 . in order to assess whether that common behavior toward similarly situated plaintiffs renders class
14 certification appropriate.” (*Ibid.*) The application of each of these factors is discussed below.

15 **1. Common Issues Predominate**

16 The “common issues” requirement “involves analysis of whether the proponent’s ‘theory
17 of recovery’ is likely to prove compatible with class treatment.” (*Capitol People First v.*
18 *Department of Developmental Services, supra*, 155 Cal.App.4th at p. 690.) In other words, courts
19 determine whether the elements necessary to establish liability are susceptible to common proof,
20 even if the class members must individually prove their damages. (*Brinker Restaurant Corp. v.*
21 *Superior Court* (2012) 53 Cal.4th 1004, 1024). These types of claims are regularly granted class
22 certification when the plaintiff can present evidence of common policies. (See e.g. *Jones v. JGC*
23 *Dallas LLC* (N.D.Tex. Nov. 29, 2012, Civil Action No. 3:11-CV-2743-O) 2012 U.S.Dist.LEXIS
24 185042 [certified collective action involving 190 dancers]; *Espinoza v. Galardi South Enters.*
25 (S.D.Fla. Jan. 11, 2016, No. 14-21244-CIV-GOODMAN) 2016 U.S.Dist.LEXIS 2904 [court
26 certified class of dancers on state law claims].)

27 ///

28 ///

1 Plaintiffs assert common issues of fact and law predominate as to each of the claims
2 alleged. (Han Decl., *supra*, at ¶ 55.) Plaintiffs contend all Class Members were subject to the same
3 or similar employment practices, policies, and procedures described in detail above. (*Ibid.*)

4 **2. Plaintiffs' Claims Are Typical of the Class Claims**

5 Typical claims rely on legal theories and facts that are substantially like those of other class
6 members. (*Classen v. Weller* (1983) 145 Cal.App.3d 27, 46.)

7 Plaintiffs are former employees of Defendant and allege they and Class Members were
8 employed by the same company and injured by the common policies and practices related to the
9 claims described above. (Han Decl., *supra*, at ¶ 56.) Plaintiffs seek relief for these claims and
10 derivative claims on behalf of the Class. (*Ibid.*) Thus, the claims arise from the same employment
11 practices and are based on the same legal theories applicable to the Class. (*Ibid.*)

12 **3. Plaintiffs Are Adequate to Represent the Class**

13 Plaintiffs have proven to be adequate class representatives. (Han Decl., *supra*, at ¶ 57.)
14 Plaintiffs conducted themselves diligently and responsibly in representing the Class in this
15 litigation, understand the fiduciary obligations, and actively participated in the prosecution of this
16 case. (*Ibid.*) Plaintiffs spent time in meetings and conferences with Class Counsel to provide them
17 with a complete understanding of the work experience and environment. (*Ibid.*) Plaintiffs have no
18 interest averse to the interests of the other Class Members. (*Ibid.*)

19 **4. Class Action Is Superior for the Fair and Efficient Adjudication** 20 **of this Controversy**

21 A class action is superior to other available means for the fair and efficient adjudication of
22 this controversy. Plaintiffs contend the joinder of all Class Members is impractical and that class
23 treatment will permit many similarly situated persons to prosecute their common claims for
24 settlement purposes simultaneously in a single forum without the duplication of effort and expense
25 that numerous individual actions would necessitate. Because several Class Members are also
26 current employees, Plaintiffs believe fear of retaliation further supports the superiority of class-
27 wide relief as this fear often discourages current employees from seeking legal redress.

28 ///

In deciding whether to approve a proposed class action settlement under Code of Civil Procedure section 382, the Court must find a proposed settlement is “fair, adequate and reasonable.” (*Dunk v. Ford Motor Co.* (1996) 48 Cal.App.4th 1794, 1801.) A proposed class action settlement is presumed fair under the following circumstances: (1) parties reached settlement after arm’s-length negotiations; (2) investigation and discovery were sufficient to allow counsel and the court to act intelligently; (3) counsel is experienced in similar litigation; and (4) percentage of objectors is small. (*Id.* at p. 1802.) All these elements are present here.

If the court has certified the action as a class action, notice of the final approval hearing must be given to class members in the manner specified by the court. The notice must contain an explanation of the proposed settlement and procedures for class members to follow in filing written objections to it and in arranging to appear at the settlement hearing and state any objections to the proposed settlement.

V. CONCLUSION

JUSTICE LAW CORPORATION

By: Douglas Han
Attorneys for Plaintiffs

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f. Notice to the Class Complies with California Rules of Court, Rule 3.769(f)

California Rules of Court, rule 3.769(f), provides:

If the court has certified the action as a class action, notice of the final approval hearing must be given to class members in the manner specified by the court. The notice must contain an explanation of the proposed settlement and procedures for class members to follow in filing written objections to it and in arranging to appear at the settlement hearing and state any objections to the proposed settlement.

The Class Notice meets all these requirements. The Class Notice advises Class Members of their right to participate in the Settlement, how and when to object to or request exclusion from the Settlement, and date, time, and location of the Final Approval Hearing.

Plaintiffs submit the Settlement is in the Class's best interests. Under the applicable class action criteria and guidelines, the Settlement should be preliminarily approved by the Court, Class should be conditionally certified for settlement purposes, and Class Notice should be approved.

JUSTICE LAW CORPORATION

By: DH
Douglas Han
Attorneys for Plaintiffs

**PROOF OF SERVICE
1013A(3) CCP**

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action. My business address is 751 N. Fair Oaks Avenue, Suite 101, Pasadena, CA 91103 and my electronic service address is mluna@justicelawcorp.com

On January 30, 2024, I served the foregoing document described as

PLAINTIFFS' NOTICE OF MOTION AND MOTION FOR PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT, CONDITIONAL CERTIFICATION, APPROVAL OF CLASS NOTICE, SETTING OF FINAL APPROVAL HEARING DATE; MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT THEREOF

for the following case: **Graziano, et al. v. Synergy Shipping LLC**
LWDA/Court Case No.: **LWDA Case No.: CM-959784-23**
Court Case No.: 56-2022-00568488-CU-OE-VTA
Ventura County Superior Court

on interested parties in this action by electronically submitting as follows:

State of California
Labor & Workforce Development Agency
800 Capitol Mall, MIC-55
Sacramento, California 95814

[X] BY ELECTRONIC SUBMISSION

Pursuant to California Senate Bill No. 836, I caused the documents described above to be electronically submitted by and through the procedure stated on the website of the State of California Labor and Workforce Development Agency.

[X] STATE

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on January 30, 2024, at Pasadena, California.



Madison Luna