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SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF MONTEREY

ANALLELI DELEON, individually, and on
behalf of other members of the general public
similarly situated;

Plaintiff,

v.

CLINICA DE SALUD DEL VALLE DE
SALINAS, a California nonprofit corporation;
and DOES 1 through 100, inclusive;

Defendants.

Case No.: 23CV002600

Assigned for All Purposes to:
Honorable Vanessa W. Vallarta
Department 13A

CLASS ACTION

**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 Joan Graff; and
[Proposed] Order filed concurrently herewith]

Hearing Date: December 6, 2024
Hearing Time: 8:30 a.m.
Hearing Place: Department 13A

Complaint Filed: August 10, 2023
FAC Filed: October 2, 2024
Trial Date: None Set

1 **PLEASE TAKE NOTICE** that on December 6, 2024 at 8:30 a.m., or as soon as the matter
2 may be heard, before the Honorable Vanessa W. Vallarta in Department 13A of the Monterey
3 County Superior Court located at 1200 Aguajito Road Monterey, California 93940, Plaintiff
4 Analleli Deleon (“Plaintiff”) will and hereby does move for an order:

- 5 • Granting Preliminary Approval of the class action settlement described herein and
6 as set forth in the Class Action and PAGA Settlement Agreement (“Settlement
7 Agreement,” “Settlement,” or “Agreement”), attached as **Exhibit 2** to the
8 Declaration of Douglas Han, including, and not limited to, the means of allocation
9 and distribution of funds;
- 10 • Conditionally certifying the Class for settlement purposes only;
- 11 • Appointing Plaintiff as the class representative;
- 12 • Appointing Justice Law Corporation as Class Counsel;
- 13 • Approving the Court Approved Notice of Class Action Settlement and Hearing
14 Date for Final Court Approval (“Class Notice”) attached as **Exhibit A** to the
15 Settlement Agreement;
- 16 • Directing the mailing of the Class Notice with a postage-paid return envelope to
17 the Class;
- 18 • Approving the proposed deadlines for the settlement administration process;
- 19 • Approving Phoenix Class Action Administration Solutions as the Administrator;
20 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 Payment,
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 **I. INTRODUCTION**

2 This motion seeks preliminary approval of a non-reversionary proposed wage-and-hour
3 class action settlement by Plaintiff on behalf of herself and all current and former hourly-paid or
4 non-exempt employees of Defendant Clinica de Salud del Valle de Salinas (“Defendant”) within
5 the State of California at any time during the period from August 10, 2019, through September 1,
6 2024 (“Class,” “Class Members,” and “Class Period”). At the time of this filing, the number of
7 Class Members is estimated to be four hundred seventy-six (476), which was confirmed by
8 Defendant. (Declaration of Douglas Han In Support of Motion for Preliminary Approval of Class
9 Action Settlement (“Han Decl.”), ¶¶ 8, 9.)

10 **II. BACKGROUND**

11 On June 2, 2023, Jennifer Urias provided written notice to the California Labor and
12 Workforce Development Agency (“LWDA”). (Han Decl., *supra*, at ¶ 10; Exhibit 3.)

13 On August 10, 2023, Jennifer Urias filed a wage-and-hour class action lawsuit in the
14 Superior Court of California, County of Monterey, alleging nine (9) causes of action. (Han Decl.,
15 *supra*, at ¶ 11; Exhibit 4.)

16 After engaging in discovery, investigations, and negotiations, on August 1, 2024, the
17 Parties remotely attended mediation with the mediator Lynn Frank that resulted in the settlement
18 of this matter. (Han Decl., *supra*, at ¶ 12.)

19 On September 19, 2024, Plaintiff provided written notice to the LWDA. (Han Decl., *supra*,
20 at ¶ 13; Exhibit 5.)

21 On October 2, 2024, a First Amended Complaint was filed adjusting the “class” and
22 “aggrieved employees” definitions, updating the factual allegations underlying the causes of
23 action, and replacing Jennifer Urias with Plaintiff as the named plaintiff. (Han Decl., *supra*, at ¶
24 14; Exhibit 6.)

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III. INVESTIGATION/ LITIGATION HISTORY

a. Discovery, Investigation, and the Parties' Staunchly Conflicting Positions

After initiating this lawsuit, the Parties engaged in discovery. (Han Decl., *supra*, at ¶ 16.) Plaintiff drafted and propounded form interrogatories, special interrogatories, requests for admission, and requests for production of documents. (*Ibid.*) The Parties met and conferred and agreed to engage in the informal exchange of information and remotely attended mediation. (*Ibid.*)

Prior to the mediation, Defendant produced several documents relating to its policies, practices, and procedures. (Han Decl., *supra*, at ¶ 17.) As part of Defendant's production, Plaintiff also reviewed time records, pay records, and information relating to the size and scope of the Class. (*Ibid.*) Putative class members were also located and interviewed to attain a better understanding of the extent and frequency of the alleged day-to-day violations. (*Ibid.*)

Based on the information provided by Defendant and interviews with putative class members, Plaintiff contends – and Defendant denies – Defendant: (1) failed to provide employees with legally mandated meal and rest breaks; (2) failed to pay employees for all hours worked; (3) failed to include non-discretionary bonuses in employees' regular rate of pay; (4) maintained an improper rounding practice; (5) failed to reimburse employees for necessary business expenses; (6) issued noncompliant wage statements; and (7) is liable for waiting time penalties. (Han Decl., *supra*, at ¶¶ 19-27.)

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

i. The Parties Attended Mediation Which Led to the Settlement

The Parties remotely attended mediation with an experienced mediator. (Han Decl., *supra*, at ¶ 28.) Under the auspices of the mediator, the Parties reached a settlement, the terms were memorialized in the Settlement Agreement. (*Id.* at ¶ 28; Exhibits 2, 7.)

ii. The Settlement Was Reached as a Result of Arm's-Length Negotiations

The Settlement was reached because of arm's-length negotiations. (Han Decl., *supra*, at ¶ 31.) Though cordial and professional, the settlement negotiations have always been adversarial and non-collusive in nature. (*Ibid.*) At the mediation, the Parties' counsel conducted extensive arm's-length settlement negotiations until an agreement was ultimately reached. (*Ibid.*)

1 Plaintiff and Class Counsel recognize the expense and length of additional proceedings
2 necessary to continue the litigation through trial and any possible appeals. (Han Decl., *supra*, at ¶
3 32.) Plaintiff and Class Counsel also considered the uncertainty and risk of further litigation,
4 potential outcome, and difficulties and delays inherent in such litigation. (*Ibid.*) Based on the
5 foregoing, Plaintiff and Class Counsel believe that the Settlement is a fair, adequate, and
6 reasonable settlement and is in the best interests of the Class Members. (*Ibid.*)

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

8 The Parties investigated and evaluated the strengths and weaknesses of the claims and
9 defenses before reaching the Settlement and engaged in research and discovery to support the
10 Settlement. (Han Decl., *supra*, at ¶ 33.) The Settlement was only possible following significant
11 investigation and evaluation of the relevant policies and practices, permitting Class Counsel to
12 engage in a comprehensive analysis of liability and potential damages. (*Ibid.*) This case has
13 reached the stage where the Parties understand “the strength of the case; the reasonableness of the
14 settlement in light of the attendant risks of litigation, and in light of the best possible recovery”
15 sufficient to support the Settlement’s reasonableness, adequacy, and fairness. (Han Decl., *supra*,
16 at ¶ 33; *Boyd v. Bechtel Corp.* (N.D.Cal. 1979) 485 F.Supp. 610, 617.)

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

18 **i. Deductions from the Settlement**

19 The Parties agreed (subject to the Court’s approval) this action be settled and compromised
20 for the non-reversionary total sum of \$1,000,000 (“Gross Settlement Amount”) which includes:
21 (1) Class Counsel Fees Payment up to \$350,000 (35% of the Gross Settlement Amount); (2) Class
22 Counsel Litigation Expenses Payment up to \$30,000; (3) Class Representative Service Payment
23 up to \$10,000; (4) Administration Expenses Payment up to \$15,000; and (5) PAGA Penalties up
24 to \$50,000. (Han Decl., *supra*, at ¶ 29.)

25 **ii. Calculating Settlement Payments**

26 After all Court-approved deductions from the Gross Settlement Amount, it is estimated
27 \$545,000 (“Net Settlement Amount”) will be paid to Participating Class Members – with a gross
28 *average* Individual Class Payment estimated at \$1,144.96. (Han Decl., *supra*, at ¶ 30.)

1 The Participating Class Members will receive a proportionate share of the Net Settlement
2 Amount using the formula set forth in the Settlement Agreement. (Han Decl., *supra*, at ¶ 28;
3 Exhibit 2, *supra*, at § C(2)(d).) Individual Class Payments will be allocated twenty percent (20%)
4 to the settlement of wage claims and eighty percent (80%) to the settlement of claims for interests
5 and penalties. (*Id.* at § C(2)(d)(i).)

6 The portion of the PAGA Penalties that is to be paid to each Aggrieved Employee shall be
7 determined using the formula set forth in the Settlement Agreement. (Han Decl., *supra*, at ¶ 28;
8 Exhibit 2, *supra*, at § C(2)(e)(i).) Aggrieved Employees' portion of the PAGA Penalties will be
9 allocated as one hundred percent (100%) penalties. (*Id.* at § C(2)(e)(ii).)

10 **iii. Notice to the Class**

11 No later than fourteen (14) business days after the Court grants Preliminary Approval of
12 the Settlement, Defendant will deliver the Class Data to the Administrator. (Han Decl., *supra*, at ¶
13 28; Exhibit 2, *supra*, at § G(4)(a).) No later than fourteen (14) calendar days after receiving the
14 Class Data, the Administrator will send the Class Notice with a translation to all Class Members
15 identified in the Class Data via first-class United States Postal Service mail. (*Id.* at § G(4)(c).)

16 **iv. Distribution of Funds**

17 The Gross Settlement Amount will be funded and distributed pursuant to the timeline and
18 manner set forth in the Settlement. (Han Decl., *supra*, at ¶ 28; Exhibit 2, *supra*, at §§ D(2), D(3).)
19 Uncashed settlement checks will be canceled and transmitted to the *cy pres* recipient Legal Aid At
20 Work. (*Id.* at §§ D(3)(a), D(3)(c).)

21 **v. Release of Claims**

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

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

7 Effective on the date when Defendant fully funds the entire Gross Settlement Amount and
8 funds all employer payroll taxes owed on the Wage Portion of the Individual Class Payments,
9 Plaintiff and her former and present spouses, representatives, agents, attorneys, heirs,
10 administrators, successors, and assigns generally releases and discharges the Released Parties from
11 the Plaintiff's Release. (Han Decl., *supra*, at ¶ 28; Exhibit 2, *supra*, at § E(1).) Furthermore,
12 Plaintiff expressly waives and relinquishes the provisions, rights, and benefits, if any, of section
13 1542 of the Civil Code. (*Id.* at § E(1)(a).)

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

22 **d. Counsel for Both Parties Are Experienced in Similar Litigation**

23 The Parties' counsel are experienced in wage-and-hour employment law and class actions.
24 (Han Decl., *supra*, at ¶¶ 2-7; Exhibit 1.) Class Counsel have prosecuted numerous cases on behalf
25 of employees for Labor Code violations and are experienced and qualified to evaluate the class
26 claims, settlement versus trial on a fully informed basis, and viability of the defenses. (*Ibid.*) This
27
28

1 experience instructed Class Counsel on the risks and uncertainties of further litigation and guided
2 their determination to endorse the Settlement.¹ (Han Decl., *supra*, at ¶¶ 2-7; Exhibit 1.)

3 **IV. ARGUMENT**

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

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

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

11 . . .

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

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

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

21 An understanding of the amount in controversy is an important factor in whether the
22 settlement “of the class members’ claims is reasonable in light of the strengths and weaknesses of
23 the claims and the risks of the particular litigation.” (*Kullar v. Foot Locker Retail, Inc.* (2008) 168

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

28 ² The California Supreme Court has authorized California’s trial courts to use Federal Rule
23 and cases applying it for guidance in considering class issues. (*Vasquez v. Superior Court*
(1971) 4 Cal.3d 800, 821; *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.

Cal.App.4th 116, 129; see also *Munoz v. BCI Coca-Cola Bottling Co. of Los Angeles* (2010) 186 Cal.App.4th 399, 409.) The most important factor in this regard is ““the strength of the case for plaintiffs on the merits, balanced against the amount offered in settlement.”” (*Kullar v. Foot Locker Retail, Inc.*, *supra*, 168 Cal.App.4th at p. 130; see also *Munoz v. BCI Coca-Cola Bottling Co. of Los Angeles*, *supra*, 186 Cal.App.4th at p. 409.)

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

i. The Settlement Amount of \$1,000,000 Is Fair and Reasonable

The Settlement Agreement was only possible following significant investigation and evaluation of the relevant policies and procedures, as well as the data produced, as referenced in Section III above, permitting Class Counsel to engage in a comprehensive analysis of liability and potential damages. (Han Decl., *supra*, at ¶ 33.)

The claims are predicated on the purported: (1) failure to properly calculate and pay overtime wages; (2) failure to pay minimum wages; (3) failure to provide meal and rest breaks and consistently and properly pay applicable premium wages; (4) failure to timely pay wages; (5) failure to issue compliant wage statements; (6) failure to reimburse business expenses; (7) violation of PAGA; and (8) violation of Business & Professions Code section 17200. (Han Decl., *supra*, at ¶ 34.) Defendant vehemently denies the theories of liability. (*Id.* at ¶ 35.)

While Plaintiff believes that the case is suitable for certification, uncertainties with respect to certification are always present. (Han Decl., *supra*, at ¶ 36.) As the California Supreme Court ruled in *Sav-On Drug Stores, Inc. v. Superior Court* (2004) 34 Cal.4th 319, class certification is

1 always a matter of the trial court's sound discretion. (*Ibid.*) Decisions following *Sav-On Drug*
2 *Stores, Inc.* have reached different conclusions concerning certification of wage-and-hour claims.³
3 (Han Decl., *supra*, at ¶ 36.) Thus, the calculations for potential damages were discounted.

4 **ii. The PAGA Penalties of \$50,000 Is Reasonable**

5 The provisions of the Labor Code potentially triggering PAGA penalties include Labor
6 Code sections 201, 202, 203, 204, 210, 218.5, 221, 226(a), 226.3, 226.7, 246, 432.5, 510, 512(a),
7 551, 552, 558, 1174(d), 1194, 1197, 1197.1, 1198, 2800, and 2802. (Han Decl., *supra*, at ¶ 46.)
8 Defendant asserted that, regardless of the results of the underlying causes of action, PAGA
9 penalties are not mandatory but permissive and discretionary. (*Ibid.*) Defendant also maintained
10 that it had a strong argument that it would be unjust to award maximum PAGA penalties given the
11 law's current unsettled state concerning PAGA penalties. (Han Decl., *supra*, at ¶ 46; *Thurman v.*
12 *Bayshore Transit Mgmt.* (2012) 203 Cal.App.4th 1112 [reducing penalties by 30% under this
13 authority].) Furthermore, Defendant argued that without stacking and limited to the initial
14 violation, the PAGA penalties would be limited to about **\$28,600** (286 employees x \$100 penalty
15 for initial violation) on the low end and **\$200,200** (286 employees x \$100 penalty for initial
16 violation x 7 theories of recovery) on the high end. (Han Decl., *supra*, at ¶¶ 47-49.)

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24 ³ (See e.g. *Harris v. Superior Court* (2007) 154 Cal.App.4th 164 [reversing decertification
25 of class claiming misclassification and ordering summary adjudication in favor of employees],
26 review granted Nov. 28, 2007, (2007) 171 P.3d 545 [not cited as precedent, but rather for
27 illustrative purposes only]; *Walsh v. IKON Office Solutions, Inc.* (2007) 148 Cal.App.4th 1440
28 [affirming decertification of class claiming misclassification]; *Aguiar v. Cintas Corp. No. 2* (2006)
144 Cal.App.4th 121 [reversing denial of certification]; *Dunbar v. Albertson's Inc.* (2006) 141
Cal.App.4th 1422 [affirming denial of certification].)

Plaintiff recognized that the risk that any PAGA award could be reduced. (Han Decl., *supra*, at ¶ 50.) Many of the causes of action brought were also duplicative of the statutory claims. (*Ibid.*) Allocating \$50,000 to PAGA civil penalties was reasonable given that Defendant is also paying an additional \$950,000 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.*)

Considering the defenses, supporting evidence, and position that the case is not suitable for class treatment, 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 **\$5,133,547.32** on the low end and around **\$5,725,007.17** on the high end. (Han Decl., *supra*, at ¶ 51.)

Category	Potential Exposure	Certification Risk	Merits Risk	Realistic Exposure
Rest Break Premiums	\$1,606,411.16	70%	60%	\$192,769.34
Meal Break Premiums	\$78,507.40	60%	50%	\$15,701.48
Overtime/Minimum Wage: Off-the-Clock Work	\$1,182,398.59 to \$1,773,858.44	50%	50%	\$295,599.65 to \$443,464.61
Regular Rate	\$29,810.23	30%	50%	\$10,433.58
Rounding	\$25,871.14	30%	50%	\$9,054.90
Unreimbursed Business Expenses	\$38,080	20%	70%	\$9,139.20
Wage Statement Penalty	\$958,100	50%	50%	\$239,525
Waiting Time Penalty	\$1,214,368.80	50%	50%	\$303,592.20
MAXIMUM TOTAL EXPOSURE	\$5,133,547.32 to \$5,725,007.17⁵			\$1,075,815.35 to \$1,223,680.31⁶

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”).)

⁵ (Han Decl., *supra*, at ¶¶ 37-45.)

⁶ (*Id.* at ¶¶ 52-59.)

1 The realistic recovery for this case is about **\$1,075,815.35** on the low end and
2 **\$1,223,680.31** on the high end. (Han Decl., *supra*, at ¶ 60.) The Gross Settlement Amount is about
3 seventeen percent (17.47%) of the maximum potential exposure and around eighty-one percent
4 (81.72%) of the maximum realistic exposure at trial, which is an excellent settlement. (*Ibid.*)

5 The only question at preliminary approval is whether the settlement is within the range of
6 possible approval. (*In re General Motors Corp. Engine Interchange Litigation* (7th Cir. 1979) 594
7 F.2d 1106, 1124; *Acosta v. TransUnion, LLC* (C.D. Cal. 2007) 240 F.R.D. 564, 575.) “The fact
8 that a proposed settlement may only amount to a fraction of the potential recovery does not, in and
9 of itself, mean that the proposed settlement is grossly inadequate and should be disapproved.”
10 (*Detroit v. Grinnell Corp.* (2d Cir. 1974) 495 F.2d 448, 455; see also *Linney v. Cellular Alaska*
11 *P’ship* (9th Cir. 1998) 151 F.3d 1234, 1242, “[I]t is the very uncertainty of outcome in litigation
12 and avoidance of wasteful and expensive litigation that induce consensual settlements. The
13 proposed settlement is not to be judged against a hypothetical or speculative measure of what
14 might have been achieved by the negotiators”). This settlement is in line with the realistic exposure
15 if Plaintiff prevailed at trial and provides a significant recovery for the Class Members.

16 **d. Conditional Certification of the Class Is Appropriate**

17 Code of Civil Procedure section 382 “authorizes class actions ‘when the question is one of
18 a common or general interest, of many persons, or when the parties are numerous, and it is
19 impracticable to bring them all before the court.’” (*Sav-On Drug Stores, Inc. v. Superior Court*,
20 *supra*, 34 Cal.4th at p. 326.) California courts certify class actions if plaintiff identifies “both [1]
21 an ascertainable class and [2] a well-defined community of interest among class members.” (*Ibid.*)

22 The Class is ascertainable and numerous as to make it impracticable to join all Class
23 Members, and there are common questions of law and fact that predominate over any questions
24 affecting any individual Class Member. (Han Decl., *supra*, at ¶ 61.) Plaintiff contends that her
25 claims are typical of the claims of the Class, and Class Counsel will fairly and adequately protect
26 the interests of the Class Members. (*Ibid.*) Plaintiff asserts that the prosecution of separate actions
27 by individual Class Members would create the risk of inconsistent or varying adjudications. (*Ibid.*)
28

1 **i. The Proposed Class Is Ascertainable and Sufficiently Numerous**

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

9 This case involves approximately four hundred seventy-six (476) Class Members, meaning
10 that the Class is sufficiently numerous. (Han Decl., *supra*, at ¶ 62; *Ghazaryan v. Diva Limousine,*
11 *Ltd.* (2008) 169 Cal.App.4th 1524, 1531, n.5 [finding a proposed class of “as many as 190 current
12 and former employees” is sufficiently numerous].)

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

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

23 **1. Common Issues Predominate**

24 The “common issues” requirement “involves analysis of whether the proponent’s ‘theory
25 of recovery’ is likely to prove compatible with class treatment.” (*Capitol People First v.*
26 *Department of Developmental Services, supra*, 155 Cal.App.4th at p. 690.) In other words, courts
27 determine whether the elements necessary to establish liability are susceptible to common proof,
28 even if the class members must individually prove their damages. (*Brinker Restaurant Corp. v.*

1 *Superior Court* (2012) 53 Cal.4th 1004, 1024). These types of claims are regularly granted class
2 certification when the plaintiff can present evidence of common policies. (See e.g. *Jones v. JGC*
3 *Dallas LLC* (N.D.Tex. Nov. 29, 2012, Civil Action No. 3:11-CV-2743-O) 2012 U.S.Dist.LEXIS
4 185042 [certified collective action involving 190 dancers]; *Espinoza v. Galardi South Enters.*
5 (S.D.Fla. Jan. 11, 2016, No. 14-21244-CIV-GOODMAN) 2016 U.S.Dist.LEXIS 2904 [court
6 certified class of dancers on state law claims].)

7 Plaintiff asserts that common issues of fact and law predominate as to each of the claims
8 alleged. (Han Decl., *supra*, at ¶ 63.) Plaintiff contends that all Class Members were subject to the
9 same or similar employment practices, policies, and procedures described in detail above. (*Ibid.*)

10 **2. Plaintiff's Claims Are Typical of the Class Claims**

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

13 Plaintiff is a former employee of Defendant and alleges that she and the Class Members were
14 employed by the same company and injured by the common policies and practices related to the
15 claims described above. (Han Decl., *supra*, at ¶ 64.) Plaintiff seeks relief for these claims and
16 derivative claims on behalf of the Class. (*Ibid.*) Thus, the claims arise from the same employment
17 practices and are based on the same legal theories applicable to the Class. (*Ibid.*)

18 **3. Plaintiff Is Adequate to Represent the Class**

19 Plaintiff has proven to be an adequate class representative. (Han Decl., *supra*, at ¶ 65.)
20 Plaintiff conducted herself diligently and responsibly in representing the Class, understands the
21 fiduciary obligations, and actively participated in the prosecution of this case. (*Ibid.*) Plaintiff spent
22 time in meetings and conferences with Class Counsel to provide them with a complete
23 understanding of the work experience and environment. (*Ibid.*) Plaintiff also has no interest adverse
24 to the interests of the other Class Members. (*Ibid.*)

25 ///

26 ///

27 ///

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

3 A class action is superior to other available means for the fair and efficient adjudication of
4 this controversy. Plaintiff contends that the joinder of all Class Members is impractical and that
5 class treatment will permit many similarly situated persons to prosecute their common claims for
6 settlement purposes simultaneously in a single forum without the duplication of effort and expense
7 that numerous individual actions would necessitate. Because several Class Members are also
8 current employees, Plaintiff believes that fear of retaliation further supports the superiority of
9 class-wide relief as this fear often discourages current employees from seeking legal redress.

10 **e. The Settlement Is Fair, Reasonable, and Adequate**

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

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

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

20 If the court has certified the action as a class action, notice of the final approval
21 hearing must be given to class members in the manner specified by the court. The
22 notice must contain an explanation of the proposed settlement and procedures for
23 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.

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

27 ///

28 ///

1 **V. CONCLUSION**

2 Plaintiff submits the Settlement is in the Class's best interests. Under the applicable class
3 action criteria and guidelines, the Settlement should be preliminarily approved by the Court, Class
4 should be conditionally certified for settlement purposes, and Class Notice should be approved.
5

6 Dated: October 23, 2024

JUSTICE LAW CORPORATION

7 By: 
8 Douglas Han
9 *Attorneys for Plaintiff*
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STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

On October 23, 2024, I served the foregoing document described as

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

[X] BY ELECTRONIC SUBMISSION

[X] STATE

Executed on October 23, 2024, at Pasadena, California.

Shushi

Sophia Hanneyan