

Arby Aiwazian (SBN 269827)
Joanna Ghosh (SBN 272479)
Tara Zabehi (SBN 314706)
Stephen James Wilson (SBN 357365)
LAWYERS for JUSTICE, PC
450 North Brand Blvd., Suite 900
Glendale, California 91203
Tel: (818) 265-1020 / Fax: (818) 265-1021

Attorneys for Plaintiff Diana Rodriguez

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SANTA BARBARA**

DIANA RODRIGUEZ, 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.

VISITING NURSE & HOSPICE CARE, an
unknown business entity; VISITING NURSE
& HOSPICE CARE OF SANTA
BARBARA, a California corporation; VNA
HEALTH, an unknown business entity;
PERSONAL CARE SERVICES, an
unknown business entity; and DOES 1
through 100, inclusive,

Defendants.

Case No.: 22CV05104

Honorable Donna Geck
Department 4

CLASS ACTION

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

[Declaration of Proposed Class Counsel
(Tara Zabehi); Declaration of Proposed Class
Representative (Diana Rodriguez); and
[Proposed] Order filed concurrently
herewith]

Date: February 6, 2026
Time: 10:00 a.m.
Department: 4

Complaint Filed: December 21, 2021
FAC Filed: February 6, 2025
Trial Date: None Set

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

PLEASE TAKE NOTICE that on February 6, 2026, at 10:00a.m. or as soon thereafter as the matter may be heard before the Honorable Donna Geck in Department 4 of the Superior Court of California for the County of Santa Barbara, located at 1100 Anacapa Street, Santa Barbara CA, 93101, Plaintiff Diana Rodriguez (“Plaintiff” or “Class Representative”) will, and hereby does, move for an order:

- Granting preliminary approval of the proposed class action settlement described herein and as set forth in the Class Action and PAGA Settlement and Release Agreement (“Settlement,” “Agreement,” or “Settlement Agreement”), attached as “**EXHIBIT 2**” to the Declaration of Tara Zabehi in Support of Plaintiff’s Motion for Preliminary Approval of Class Action and PAGA Settlement;
- Certifying the proposed Class for settlement purposes;
- Appointing Plaintiff Diana Rodriguez as Class Representative;
- Appointing Arby Aiwezian, Joanna Ghosh, and Tara Zabehi of Lawyers *for* Justice, PC as Class Counsel;
- Approving the proposed Notice of Class Action Settlement (“Class Notice”), attached as “**EXHIBIT 1**” to the [Proposed] Order Granting Preliminary Approval of Class Action Settlement, and directing the mailing thereof in accordance with the Settlement Agreement;
- Approving Simpluris Inc. as the Settlement Administrator; and
- Scheduling a hearing to consider final approval of the Settlement.

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

This motion is based upon the following memorandum of points and authorities, the Settlement Agreement, the Declaration of Proposed Class Counsel (Tara Zabehi) and Proposed

1 Class Representative (Diana Rodriguez) in support thereof, as well as the pleadings and other
2 records on file with the Court in this matter, and such evidence and oral argument as may be
3 presented at the hearing on this motion.

4
5 Dated: September 11, 2025

LAWYERS for JUSTICE, PC

6
7 By:



Tara Zabehi
Attorneys for Plaintiff Diana Rodriguez

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MEMORANDUM OF POINTS AND AUTHORITIES

I. SUMMARY OF MOTION

Plaintiff Diana Rodriguez (“Plaintiff” or “Class Representative”) seeks preliminary approval of the Class Action and PAGA Settlement and Release Agreement (“Settlement,” “Agreement,” or “Settlement Agreement”) entered into by and between Plaintiff, individually and on behalf of all others similarly situated, on the one hand, and Defendant Visiting Nurse & Hospice Care of Santa Barbara¹ (“Defendant”), on the other hand. Subject to approval by the Court, Plaintiff and Defendant (collectively, the “Parties”) have agreed to settle the lawsuits for a Gross Settlement Amount of \$699,999.00.

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

All current and former non-exempt, hourly employees of Defendant who worked in California during the Class Period (“Class” or “Class Members”)²

Class Members who do not submit a timely and valid Request for Exclusion from the Class Settlement (“Participating Class Member”) will receive a pro rata share of the Net Settlement Amount (“Individual Class Payment”) based upon the number of weeks each Class Member worked for Defendant as a non-exempt, hourly-paid employee in California during the Class Period (“Workweeks”).³

The Settlement, upon final approval by the Court and funding of the Gross Settlement Amount, will operate to resolve the Released Class Claims of Plaintiff and Participating Class Members and the Released PAGA Claims of the State of California.⁴

II. PROCEDURAL HISTORY AND FACTUAL BACKGROUND

On December 21, 2022, Plaintiff filed the Class Action Complaint for Damages in the Superior Court for the County of Santa Barbara, thereby commencing the above-captioned

¹ While the Operative Complaint is filed against multiple named entities, Defendant informed Plaintiff that Defendant is the employer, and others are fictitious business names or were erroneously sued

² Class Action and PAGA Settlement and Release Agreement (“Settlement Agreement”) § 1.9. “Class Period” is defined as the period from December 21, 2018 through the date of Preliminary Approval. See *id.*, § 1.12.

³ Settlement Agreement, §§ 1.22, 1.23, 1.36, and 1.45.

⁴ *Id.*, at §§ 6.1-6.3. See *id.* at § 6.2 for the full scope of the “Release by Participating Class Members”, *id.* at § 6.3 for the full scope of the “Released by Aggrieved Employees and the State of California,” and *id.* at § 1.42 for the definition of the “Released Parties.”

lawsuit.⁵ On February 22, 2023, Defendant filed its Answer to Plaintiff's Class Action Complaint for Damages.⁶ On September 6, 2023, Plaintiff provided written notice by certified mail to the LWDA and Defendant of the specific provisions of the California Labor Code that were alleged to be violated ("PAGA Notice").⁷ The parties stipulated to and the Court granted Plaintiff leave to file a First Amended Complaint for Damages and Enforcement Under the Private Attorneys General Act, Cal. Lab. Code § 2698, *Et Seq.* ("Operative Complaint"), adding a PAGA cause of action on February 6, 2025.⁸

Plaintiff's core allegations are that Defendant has violated California wage and hour law, including but not limited to laws set forth in the California Labor Code, by engaging in a uniform practice and procedure, with respect to Plaintiff, Class Members of, *inter alia*, failing to pay all overtime and minimum wages, at all or at the correct rate of pay, failing to provide compliant meal and rest periods and associated premium pay, failing to timely pay wages during employment and upon termination of employment, failing to provide compliant wage statements, failing to maintain requisite payroll records, and failing to reimburse necessary business expenses, and thereby engaged in unfair business practices in violation of California Business and Professions Code section 17200, *et seq.* Plaintiff contends that she, and the Class Members, are entitled to, *inter alia*, unpaid wages, penalties, and attorneys' fees and costs.⁹

The Parties have actively litigated the Action since it commenced. On March 22, 2024, the Parties participated in arm's-length and informed negotiations with Mediator Henry Bongiovi, Esq. ("Mediator"), a respected mediator of complex wage and hour actions.¹⁰ With the aid of the mediator, the Parties reached the Settlement described herein to resolve the Action in its entirety.¹¹

///

⁵ Declaration of Tara Zabehe ("Zabehe Decl.") ¶ 2.

⁶ *Id.*, ¶ 3.

⁷ *Id.*, ¶ 4, Exh. 1.

⁸ *Id.*, ¶ 5.

⁹ *Id.*, ¶ 28.

¹⁰ Settlement Agreement, § 2.2.

¹¹ *Id.*, § 2.2.

1 **III. SUMMARY OF THE SETTLEMENT TERMS**

2 Under the terms of the Settlement, Defendant will pay a Gross Settlement Amount of
3 \$699,999.00 to resolve the Action.¹² Subject to approval by the Court, the Net Settlement
4 Amount will be calculated by deducting the following amounts from the Gross Settlement
5 Amount: (1) attorneys' fees in an amount not to exceed 40% of the Gross Settlement Amount
6 (i.e., \$279,999.60) and litigation costs and expenses in an amount not to exceed \$15,000.00
7 ("Class Counsel Fees and Litigation Costs Payment") to Class Counsel; (2) Settlement
8 Administration Costs, which are currently estimated not to exceed \$8,000.00 to the
9 Administrator ("Administration Costs"); (3) PAGA Payment of \$15,000.00 ("PAGA Payment");
10 and (4) payment in the amount of up to \$7,500.00 to Plaintiff ("Class Representative Service
11 Payment").¹³ The Parties have agreed to retain Simpluris Inc. ("Simpluris" or "Administrator")
12 to handle the notice and settlement administration process.¹⁴

13 The Parties have agreed that the Administrator will determine each Participating Class
14 Member's share of the Net Settlement Amount ("Individual Class Payment"), in accordance with
15 the Settlement Agreement on a *pro rata* per Workweeks basis, which will be adjusted after Final
16 Approval to reflect the total Workweeks worked by Participating Class Members.¹⁵ The Parties
17 have agreed that the Administrator will determine each Aggrieved Employee's share of the 25%
18 share of the PAGA Payment ("Individual PAGA Payment"), in accordance with the Settlement
19 Agreement on a *pro rata* basis.¹⁶

20 The Parties agree, for purposes of this Settlement, that Individual Class Payments will be
21 allocated 15% to wages subject to withholdings and 85% to penalties, interest, and non-wage
22 damages.¹⁷ The Administrator will withhold the employee's share of taxes and withholdings
23 with respect to the wages portion of the Individual Settlement Share, and issue checks to
24

25 ¹² Settlement Agreement, § 4.2.

26 ¹³ *Id.*, §§ 4.2.1-4.2.3.

27 ¹⁴ *Id.*, § 1.2.

28 ¹⁵ *Id.*, § 4.2.4.

¹⁶ *Id.*, § 4.2.4.5.

¹⁷ *Id.*, § 4.2.4.3.

1 Participating Class Members for their Individual Class Payments.¹⁸ Individual PAGA Payments
2 to Aggrieved Employees will be allocated as non-wages and reported on IRS Form 1099.¹⁹
3 Defendant will provide the funds for any employer-side taxes related to the Individual Class
4 Payments.²⁰

5 Checks for the Individual Class Payments and Individual PAGA Payments will be
6 negotiable for 180 calendar days from the date of their issuance, and thereafter, shall be
7 canceled.²¹ Thereafter, funds from uncashed Individual Class Payments and Individual PAGA
8 Payments shall be transmitted to the California Controller's Unclaimed Property Fund in the
9 name of the Class Member and/or Aggrieved Employee to whom the checks were issued.²²

10 Any Class Member may request to be excluded from the Class Settlement by mailing a
11 Request for Exclusion postmarked on or before the date that is 45 calendar days from the date of
12 the initial mailing of the Class Notice by the Administrator ("Response Deadline").²³ Aggrieved
13 Employees shall be bound to the PAGA Released Claims irrespective of whether they exercise
14 their option to opt out of the Class Settlement.²⁴

15 Only Class Members who have not submitted a Request for Exclusion (i.e., Participating
16 Class Members) may object to the Class Settlement by submitting a Notice of Objection, to the
17 Administrator prior to the Response Deadline or by presenting their objection orally at the Final
18 Approval hearing, regardless of whether they submitted a written objection.²⁵

19 In order to dispute the number of Workweeks attributable to an individual Class Member,
20 that Class Member must submit a written dispute via mail or email to the Administrator, and
21 include copies of any supporting evidence they may have.²⁶

22
23
24 ¹⁸ Settlement Agreement, § 4.2.4.3.

25 ¹⁹ *Id.*

26 ²⁰ *Id.*, § 4.1.

27 ²¹ *Id.*, § 5.3.1.

28 ²² *Id.*, § 5.3.3.

²³ *Id.*, §§ 1.43 and 1.44.

²⁴ *Id.*, § 6.3.

²⁵ *Id.*, §§ 1.43 and 1.44.

²⁶ *Id.*, § 8.5.

1 **IV. LEGAL STANDARD FOR PRELIMINARY APPROVAL OF CLASS ACTION**
2 **SETTLEMENTS**

3 The settlement of a class action requires approval by the court. *Dunk v. Ford Motor Co.*
4 (1996) 48 Cal.App.4th 1794, 1800; Cal. Code Civ. Proc. § 1781(f). Preliminary approval of a
5 settlement does not require a court to make a final determination that the settlement is fair,
6 reasonable, and adequate. Rather, that decision is made only at the final approval stage. Cal. R.
7 Ct. 3.769(g).

8 In considering a potential class settlement, a court need not reach any ultimate
9 conclusions on the issues of fact and law which underlie the merits of the dispute and need not
10 engage in a trial on the merits. See *City of Detroit v. Grinnell Corporation* (2d Cir. 1974) 495
11 F.2d 448, 456.

12 **V. THE COURT SHOULD PRELIMINARY APPROVE THE SETTLEMENT**

13 The trial court has broad discretion to determine whether a proposed settlement is fair
14 under the circumstances of the case. *Dunk*, 48 Cal.App.4th at 1800. To make this fairness
15 determination, courts must consider several relevant factors, including “the strength of the
16 Plaintiff’s case, the risk, expense, complexity and likely duration of further litigation, the risk of
17 maintaining class action status through trial, the amount offered in settlement, the extent of
18 discovery completed and the stage of the proceedings, the experience and view of counsel, the
19 presence of a governmental participant, and the reaction of the class members to the proposed
20 settlement.” *Dunk*, 48 Cal.App.4th at 1801. Furthermore, courts give “proper deference to the
21 private consensual decision of the parties.” *Hanlon v. Chrysler Corp.* (9th Cir. 1998) 150 F.3d
22 1011, 1027 (citation omitted).

23 The proponent of the settlement has the burden to show that it is fair and reasonable.
24 *Wershba v. Apple Computer, Inc.* (2001) 91 Cal.App.4th 224, 245. “A presumption of fairness
25 exists where: (1) the settlement is reached through arm’s-length bargaining; (2) investigation and
26 discovery are sufficient to allow counsel and the court to act intelligently; (3) counsel is
27 experienced in similar litigation; and (4) the percentage of objectors is small.” *Id.*; *Dunk*, 48
28 Cal.App.4th at 1802; *7-Eleven Owners for Fair Franchising v. Southland Corp.* (2000) 85

1 Cal.App.4th 1135, 1151.

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

4 The Parties have actively litigated the Action since it commenced on December 21,
5 2022. Both sides investigated the veracity, strength, and scope of the claims throughout the case,
6 and Class Counsel was actively preparing the matter for class certification and trial.²⁷

7 Class Counsel conducted significant investigation and formal and informal discovery
8 regarding the facts of the case, including and not limited to, the exchange, review, and analysis
9 of thousands of pages of documents and data from Plaintiff, Defendant, and other sources.²⁸ The
10 volume of data and documents that Class Counsel reviewed and analyzed included and was not
11 limited to: Plaintiff's employment records, a detailed sampling of Plaintiff's and other Class
12 Members' time data and pay records, Defendant's Employee Handbook, internal memoranda,
13 new hire orientation checklists, job descriptions, company policy acknowledgements (including
14 but not limited to Employee Handbook Acknowledgment and Acknowledgment of Receipt of
15 Policies), forms (including but not limited to Application for Employment, Employee Change of
16 Status, and New Employee Handout), procedures, and policies (including but not limited to At-
17 Will Employment Agreement and Non-Harassment Policy), among other information and
18 documents.²⁹ Class Counsel had the opportunity to interview Plaintiff and others to gather facts
19 and to identify potential witnesses.³⁰ In addition, Class Counsel has extensive experience in
20 California wage-and-hour class actions.³¹

21 The Parties engaged in extensive settlement negotiations and participated in a full-day
22 mediation conducted by Henry Bongiovi, Esq., a well-respected mediator experienced in
23 mediating complex labor and employment matters.³² Prior to and during the mediation and
24 settlement negotiations, the Parties exchanged extensive information and engaged in discussions

25 ²⁷ Zabehe Decl., ¶¶ 23-24.

26 ²⁸ *Ibid.*

27 ²⁹ *Ibid.*

28 ³⁰ *Id.*, ¶ 24.

³¹ *Id.*, ¶¶ 16-21.

³² *Id.*, ¶ 23.

1 regarding their evaluations of the case and various aspects of the case, including but not limited
2 to, the risks and delays of further litigation, including the risks of proceeding with class
3 certification, the law relating to off-the-clock theory, regular rate, meal and rest periods, and
4 wage-and-hour enforcement; the evidence produced and analyzed; and the possibility of
5 appeals.³³ During all settlement discussions, the Parties conducted their negotiations at arm's
6 length in an adversarial position.³⁴ The Parties have agreed that the matter is well-suited for
7 settlement given the legal issues relating to Plaintiff's principal claims, as well as the costs and
8 risks to both sides that would attend further litigation.³⁵

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

10 The Settlement represents a fair, adequate, and reasonable resolution of the matter.³⁶ The
11 Settlement was calculated using the information and data uncovered during litigation, case
12 investigation, and the formal and informal exchange of information.³⁷ Moreover, considering all
13 of the facts and circumstances of the lawsuit, the Settlement represents a fair, reasonable, and
14 adequate recovery for the Class.³⁸

15 Assuming that the Class Counsel Fees and Litigation Costs Payment, Class
16 Representative Service Payment, PAGA Payment, and Administration Costs are approved by the
17 Court and paid in the full amounts provided for by the Settlement, the Settlement provides for a
18 Net Settlement Amount that is currently estimated to be \$374,499.40.³⁹ Additionally, 25% of the
19 PAGA Payment (i.e. Employee PAGA Amount), which is \$3,750.00 out of \$15,000 will be
20 distributed to the Aggrieved Employees.⁴⁰ The entire Net Settlement Amount will be fully paid
21 out to the Participating Class Members in accordance with the Settlement Agreement.

22 The amount of each Participating Class Member's Individual Class Payment and each
23 Aggrieved Employee's Individual PAGA Payment will be calculated based on their Workweeks

24 ³³ Zabehe Decl., ¶ 23.

25 ³⁴ *Id.*

26 ³⁵ *Id.*

27 ³⁶ *Id.*, ¶ 25.

28 ³⁷ *Id.*, ¶¶ 23-24.

³⁸ *Id.*, ¶ 25.

³⁹ *Id.*, ¶ 7.

⁴⁰ Settlement Agreement, § 4.2.4.5.

1 during the Class Period and PAGA Period, respectively.⁴¹ “An allocation formula need only have
2 a reasonable, rational basis [to warrant approval], particularly if recommended by experienced
3 and competent class counsel.” *In re American Bank Note Holographics, Inc., Securities*
4 *Litigation* (S.D.N.Y. 2001) 127 F.Supp.2d 418, 429-30. Here, the allocation is reasonably
5 related to the number of Workweeks actually worked for Defendant during the relevant period
6 and should be approved.

7 In light of the foregoing considerations, Class Counsel believes that the Settlement as a
8 whole is fair, reasonable, and adequate, and is in the best interest of the Class Members,
9 Aggrieved Employees, and the State of California.⁴² Although the recommendations of Class
10 Counsel are not conclusive, the Court can properly take the recommendations into account,
11 particularly if Class Counsel appear to be competent, and have experience with this type of
12 litigation, and investigation have been completed, as is the case here. *Newberg*, §11.47.
13 Accordingly, the Court should grant preliminary approval of the Settlement.

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

15 Pursuant to *Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th 116, the Parties
16 conducted extensive discovery and exchanged a large volume of documents, data, and
17 information prior to mediation.⁴³ The information that Class Counsel obtained from Plaintiff,
18 Defendant, and other sources allowed Class Counsel to develop valuation models in order to
19 evaluate the potential value and merit of the claims, and perform a complete evaluation of
20 Defendant’s defenses thereto.⁴⁴ As outlined in Dec. of Tara Zabehi, Class Counsel performed an
21 extensive analysis of each claim pursuant to *Kullar* prior to entering into the Settlement.⁴⁵

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

23 The requisites for establishing class certification are met, and the Parties have stipulated
24 to conditional certification of the Class for settlement purposes only.⁴⁶ California Code of Civil

25 ⁴¹ Settlement Agreement, §§ 1.22 & 1.24.

26 ⁴² Zabehi Decl., ¶¶ 23-27.

27 ⁴³ *Id.*, ¶ 23-24.

28 ⁴⁴ *Id.*, ¶¶ 28-31.

⁴⁵ *Id.*, ¶ 32.

⁴⁶ Settlement Agreement, § 2.8.

Procedure Section 382 “authorizes class actions when the question is one of a common or general interest, of many persons, or when the Parties are numerous, and it is impracticable to bring them all before the court.” *Sav-On Drug Stores, Inc. v. Superior Court* (2004) 34 Cal.4th 319, 326.

A. The Class Is Ascertainable and Sufficiently Numerous.

“Ascertainability is required in order to give notice to putative class members as to whom the judgment in the action will be *res judicata*.” *Hicks v. Kaufman & Broad Home Corp.* (2001) 89 Cal.App.4th 908, 914. “A class is ascertainable if it identifies a group of unnamed Plaintiffs by describing a set of common characteristics sufficient to allow a member of that group to identify himself or herself as having a right to recover based on the description.” *Bartold v. Glendale Federal Bank* (2000) 81 Cal.App.4th 816, 828. The proposed Class must also be sufficiently numerous. *Linder v. Thrifty Oil Co.* (2000) 23 Cal.4th 429, 435; see also *Rose v. City of Hayward* (1981) 126 Cal.App.3d 926, 934-35 (indicating that a class of 30 to 40 individuals satisfies the numerosity requirement as joinder is not practical at that point). The Class here is estimated to be approximately 548 individuals, which is sufficiently numerous.⁴⁷ Further, all Class Members can and will be identified by Defendant to the Administrator through a review of Defendant’s employment records regarding hourly-paid or non-exempt employees in California during the Class Period. As such, the Class is ascertainable and sufficiently numerous.

B. The Share a Well-Defined Community of Interest.

The community of interest requirement “embodies three factors: (1) predominant common questions of law or fact; (2) Class Representative with claims or defenses typical of the class; and (3) Class Representative who can adequately represent the class.” *Sav-On, supra*, 34 Cal.4th at 326. “[T]he community of interest requirement for certification *does not mandate that class members have uniform or identical claims.*” *Capitol People First v. Dep’t of Developmental Services* (2007) 155 Cal.App.4th 676, 692 (emphasis in original). Rather, courts

⁴⁷ Zabehi Decl., ¶ 13.

1 focus on the Defendant’s internal policies and “pattern and practice... in order to assess whether
2 that common behavior toward similarly situated Plaintiff renders class certification appropriate.”
3 *Id.* (citing *Sav-On*, 34 Cal.4th at 333).

4 Here, common issues of law and fact predominate as to each of the claims alleged and
5 asserted in the Action. Based on the documents and information obtained through formal and
6 informal discovery and exchange of information in the case, Plaintiff contends that Class
7 Members performed similar job duties and were subject to uniform operations and employment
8 policies, practices, and procedures during the Class Period, including payroll and recordkeeping
9 practices.⁴⁸ As a result, Plaintiff claims that all of the Class Members were uniformly not paid
10 all compensation due to them from Defendant during the time period at issue. Plaintiff maintains
11 that the outcome of this litigation would be determined by Defendant’s alleged uniform
12 operations and employment policies and procedures that applied across its hourly-paid or non-
13 exempt employees who worked in California during the Class Period. Defendant denies all of
14 these allegations and denies that this case is suitable for class treatment.

15 Plaintiff contends that as a member of the Class who was subject to these same policies,
16 practices, and procedures, Plaintiff’s claims are typical of the Class. Moreover, Plaintiff has no
17 interests adverse to the Class. Plaintiff has taken steps to initiate and maintain this action and to
18 ensure that it comes to a fair and reasonable resolution.⁴⁹ Importantly, Plaintiff has retained a
19 law firm well-versed in wage and hour class actions, which has at all times represented the best
20 interests of Plaintiff and the Class.⁵⁰

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

23 **VII. APPOINTMENT OF CLASS COUNSEL AND ALLOCATION FOR CLASS**
24 **COUNSEL FEES AND LITIGATION COSTS PAYMENT**

25 Class Counsel has litigated the matter for almost 3 years and was actively preparing the

26 ⁴⁸ Zabehi Decl., ¶ 14.

27 ⁴⁹ Declaration of Diana Rodriguez in Support of Plaintiffs’ Motion for Preliminary Approval of Class Action and
PAGA Settlement (“Rodriguez Decl.”), ¶¶ 2-5.

28 ⁵⁰ Zabehi Decl., ¶¶ 16-21.

1 matter for class certification and trial.⁵¹ The ongoing work has been extensive, demanding, and
2 ultimately successful in achieving a substantial settlement resolution. Class Counsel reviewed
3 thousands of pages of documents and data⁵² and also interviewed and obtained information from
4 Plaintiff and other percipient witnesses, researched applicable law, undertook damages/valuation
5 calculations, and met and conferred with Defendant's counsel regarding the pleadings and the
6 production of documents and data prior to mediation.⁵³ Counsel for the Parties also undertook
7 extensive settlement discussions, which included participating in mediation.⁵⁴ Class Counsel is
8 well-experienced in wage-and-hour class action litigation and used that experience to obtain a
9 great result for the Class.⁵⁵

10 The Settlement establishes a Gross Settlement Amount of \$699,999.00, and provides for
11 Class Counsel to apply to the Court consisting of attorneys' fees in an amount not to exceed 40%
12 of the Gross Settlement Amount (i.e., \$279,999.60) and reimbursement of actual costs and
13 expenses in an amount up to \$15,000.00.⁵⁶ The Class Counsel Fees Payment provided for by the
14 Settlement are commensurate with: (1) the risk that Class Counsel took in bringing and litigating
15 the case, (2) the extensive time, effort and expense that Class Counsel dedicated to the case, (3)
16 the skill and determination that Class Counsel has shown, (4) the results that Class Counsel has
17 achieved throughout the litigation, (5) the value of the Settlement that Class Counsel has
18 achieved for the Class Members, and (6) the other cases that Class Counsel had to turn down in
19 order to devote its time and efforts to this matter. The proposed Class Notice provides Class
20 Members that an award of the Class Counsel Fees and Litigation Costs Payment will be sought,
21 and the amount allocated toward the Class Counsel Fees and Litigation Costs Payment by the
22 Settlement.⁵⁷

23
24
25 ⁵¹ Zabehi Decl., ¶ 23.

26 ⁵² *Id.*, ¶ 24.

27 ⁵³ *Ibid.*

28 ⁵⁴ *Id.*, ¶ 23.

⁵⁵ Zabehi Decl., ¶¶ 16-21.

⁵⁶ Settlement Agreement, § 4.2.2.

⁵⁷ Settlement Agreement, Exh. A.

1 Trial courts have “wide latitude” in assessing the value of attorneys’ fees and their
2 decisions will “not be disturbed on appeal absent a manifest abuse of discretion.” *Lealao v.*
3 *Beneficial Cal., Inc.* (2000) 82 Cal.App.4th 19, 41. Indeed, it is long settled that the
4 “experienced trial judge is the best judge of the value of professional services rendered in his
5 court.” *Ketchum v. Moses* (2001) 24 Cal.4th 1122, 1132. California law provides that attorney
6 fee awards should be equivalent to fees paid in the legal marketplace to compensate for the result
7 achieved and risk incurred. *Laffitte v. Robert Half Int’l, Inc.* (2016) 1 Cal.5th 480, 503 (citing
8 *Lealao*, 82 Cal.App.4th at 48-49).

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

16 Historically, courts have awarded fees as high as fifty percent (50%) of the settlement,
17 depending on the circumstances of the case. *Newberg*, § 14.03; see also *In re Ampicillin*
18 *Antitrust Litig.* (D.D.C. 1981) 526 F.Supp. 494 (awarding attorneys’ fees in the amount of 45%
19 of the \$7.3 million settlement). California courts routinely approve class action attorneys’ fee
20 awards “averag[ing] around one-third of the recovery.” *Chavez v. Netflix, Inc.* (2008) 162
21 Cal.App.4th 43, 66 n.11 (lower court found 20 to 40 percent range of contingency fee in
22 marketplace was appropriate in class actions).

23 Class Counsel has borne all of the risks and costs of litigation and will not receive any
24 compensation until recovery is obtained.⁵⁸ Class Counsel will provide extensive evidence as to
25 the time worked, litigation efforts, and further argument at the time of filing Plaintiff’s Motion
26 for Final Approval of the Settlement and application for the Class Counsel Fees and Litigation
27

28 ⁵⁸ Zabehi Decl., ¶ 8.

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

VIII. THE PROPOSED CLASS NOTICE IS ADEQUATE

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

The proposed Class Notice describes the Settlement, the deadlines and procedures to submit an objection to the Class Settlement, submit a Request for Exclusion from the Class Settlement, and/or dispute regarding Workweeks, and the date and time set for the Final Approval Hearing.⁵⁹ The proposed Class Notice summarizes the proceedings to date and the terms and conditions of the Settlement in an informative and coherent manner.⁶⁰ The proposed Class Notice recognizes that the Court has not yet granted final approval of the settlement.⁶¹ The proposed Class Notice also apprises the Class Members of, *inter alia*, how their Individual Class Payment is calculated and the number of Workweeks credited to them.⁶² The proposed Class Notice fulfills the requirement of neutrality in notice procedure. *Newberg*, at § 8.39.

Thus, the proposed Class Notice satisfies all due process requirements and complies with the standards of fairness, completeness, and neutrality. Fed. R. Civ. P. 23(c)(2) and 23(e); *Newberg*, §§ 8.21, 8.39. Accordingly, the Court should approve the proposed Class Notice.

IX. APPOINTMENT OF THE SETTLEMENT ADMINISTRATOR

The Parties have selected Simpluris Inc. as the Administrator. Within 14 calendar days of receipt of the Class Data, the Administrator will mail the Class Notice to each Class Member

⁵⁹ Settlement Agreement, Exh. A.

⁶⁰ *Ibid.*

⁶¹ *Ibid.*

⁶² *Ibid.*

and Aggrieved Employee.⁶³ No later than 3 business days after the Administrator's receipt of any Class Notice returned as undelivered, the Administrator shall re-mail the Class Notice using any forwarding address provided by the USPS.⁶⁴ If the USPS does not provide a forwarding address, the Administrator will conduct a Class Member Address Search and re-mail the Class Notice to the most current address obtained.⁶⁵ In the case of a re-mailed Class Notice, the Response Deadline will be extended an additional 14 calendar days beyond the initial 45 calendar day deadline.⁶⁶ The Administrator will receive and process Requests for Exclusion, Notices of Objection, and any challenges to Workweeks.⁶⁷ In addition, the Administrator will be responsible for printing, distributing, and tracking Class Notices and other documents for the Settlement; calculating and distributing payments due under the Settlement; issuing of 1099 and W-2 IRS Forms and all required tax reporting, filings, withholdings, and remittances; providing necessary reports and declarations; and other duties and responsibilities to process the Settlement and as requested by the Parties.⁶⁸ The Administration Costs is currently estimated to be \$8,000.00 and will be paid out of the Gross Settlement Amount, subject to approval by the Court.⁶⁹ Accordingly, Plaintiff respectfully requests that the Court appoint Simpluris Inc. as the Administrator and direct the mailing of the Class Notice to the Class Members and Aggrieved Employees in the manner outlined and based on the proposed deadlines as described herein and set forth in the Settlement Agreement.

XI. CLASS REPRESENTATIVE SERVICE PAYMENT

Plaintiff respectfully requests that the Court appoint her as the Class Representative and preliminarily approve the Class Representative Service Payment in an amount up to \$7,500.00.⁷⁰ It is within the Court's discretion to award payment to a Class Representative for her efforts and work. *Vranken v. Atlantic Richfield Co.* (N.D. Cal. 1995) 901 F.Supp. 294, 299. The factors that

⁶³ Settlement Agreement, § 8.3.2.

⁶⁴ *Id.*, § 8.3.3.

⁶⁵ *Id.*

⁶⁶ *Id.*, § 8.3.4.

⁶⁷ *Id.*, §§ 8.4-8.6.

⁶⁸ Zabehi Decl., ¶ 10.

⁶⁹ Settlement Agreement, § 4.2.3.

⁷⁰ Settlement Agreement, § 4.2.1.

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

The Class Representative Service Payment is fair and appropriate. Plaintiff spent a substantial amount of time and effort producing relevant documents and past employment records and providing the facts and evidence necessary to attempt to prove the allegations.⁷¹ Plaintiff was available whenever Class Counsel needed her and actively tried to obtain and provide information that would facilitate the pursuit of the claims.⁷² Accordingly, it is appropriate and just for Plaintiff to receive \$7,500.00 for her services on behalf of the Class, Aggrieved Employees, and the State of California, in addition to her Individual Settlement and PAGA Payments.

XII. CONCLUSION

For the foregoing reasons, Plaintiff respectfully requests that the Court grant Preliminary Approval of the Settlement.

Dated: September 11, 2025

LAWYERS for JUSTICE, PC

By: _____


Tara Zabehi
Attorneys for Plaintiff Diana Rodriguez

⁷¹ Zabehi Decl., ¶ 9; Rodriguez Decl., ¶¶ 3-4.

⁷² Zabehi Decl., ¶ 9; Rodriguez Decl., ¶¶ 2-5.