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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF RIVERSIDE

LOLITA GALVAN, 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. INLAND RESPITE, INC., a California corporation; and DOES 1 through 100, inclusive, Defendants.	Case No. CVRI2103857 Honorable Harold W. Hopp Department 1 **<u>CLASS ACTION</u>** **PLAINTIFF'S NOTICE OF MOTION AND MOTION FOR PRELIMINARY APPROVAL OF CLASS ACTION AND PAGA SETTLEMENT; MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT THEREOF** Date: May 12, 2025 Time: 8:30 a.m. Department: 1 Complaint Filed: August 24, 2021 FAC Filed: December 16, 2024 Trial Date: None Set

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

PLEASE TAKE NOTICE that on May 12, 2025 at 8:30 a.m., or as soon thereafter as the matter may be heard before the Honorable Harold W. Hopp in Department 1 of the Superior Court of the State of California, for the County of Riverside, 4050 Main Street, Riverside, California 92501, Plaintiff Lolita Galvan ("Plaintiff") 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 parties' Joint Stipulation of Class Action and PAGA Settlement and Release ("Settlement," "Agreement," or "Settlement Agreement"), attached as "**EXHIBIT 2**" to the Declaration of Yasmin Hosseini in Support of Plaintiff's Motion for Preliminary Approval of Class Action and PAGA Settlement;
- Certifying the proposed Class for settlement purposes;
- Appointing Lolita Galvan as Class Representative;
- Appointing Arby Aiwazian, Joanna Ghosh, Yasmin Hosseini, and Arianna Razi of Lawyers *for* Justice, PC as Class Counsel;
- Approving the proposed Notice of Class Action Settlement ("Class Notice"), attached as "**EXHIBIT A**" to the [Proposed] Order Granting Preliminary Approval of Class Action and PAGA 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, at which time the Court will also consider whether to grant final approval of the requests for the Attorneys' Fees and Costs to Class Counsel, Class Representative Enhancement Award to Plaintiff, Settlement Administration Costs to the Settlement Administrator, and PAGA Penalty Amount.

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

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the Court to preliminarily certify a class for settlement purposes, and permits the Court to extend the page limit for memoranda.

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

Dated: April 18, 2025

LAWYERS *for* JUSTICE, PC

By: ______________________

Yasmin Hosseini
Arianna Razi
Attorneys for Plaintiff

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MEMORANDUM OF POINTS AND AUTHORITIES

I. SUMMARY OF MOTION

Plaintiff Lolita Galvan ("Plaintiff" or "Class Representative") seeks preliminary approval of the Joint Stipulation of Class Action and PAGA Settlement and Release ("Settlement," "Agreement," or "Settlement Agreement") entered into by and between Plaintiff, individually and on behalf of all others similarly situated and other aggrieved employees, on the one hand, and Defendant Inland Respite, Inc. ("Defendant"), on the other hand. Subject to approval by the Court, Plaintiff and Defendant (together, the "Parties") have agreed to settle the lawsuit for a Total Settlement Amount of $4,275,000.00.[1]

Plaintiff also seeks to provisionally certify the following Class for settlement purposes, which Defendant does not oppose: all current and former hourly-paid or nonexempt employees of Defendant within the State of California who performed work for Defendant at any time 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 ("Settlement Class Member") will receive a *pro rata* share of the Net Settlement Amount ("Individual Settlement Share").[3] The net payment of each Settlement Class Member's Individual Settlement Share ("Individual Settlement Payment") will be distributed to Settlement Class Members on a *pro rata* basis based upon the number of calendar pay periods each Class Member performed work for Defendant as an hourly-paid or non-exempt employee in California during the Class Period, which will be calculated by the Settlement Administrator by verifying the number of bi-weekly wage statements received by each Class Member during the Class Period ("Pay Periods").[4]

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[1] Settlement Agreement, attached as Exhibit 2 to Declaration of Yasmin Hosseini ("Hosseini Decl."), ¶ 8.nn. Defendant represented at the mediations that Class Members worked 950,207 workweeks during the period from August 24, 2017, to and including October 31, 2023. Should the number of workweeks increase beyond 10% during the Class Period (i.e. increase beyond 1,045,227 workweeks), then Defendant shall increase the Total Settlement Amount on a *pro rata* basis equal to the percentage increase in the number of workweeks above 10% (e.g., if the number of workweeks increases by 11% to 1,054,729 workweeks, the Total Settlement Amount will increase by 1%). *Id.*, ¶ 37.

[2] *Id.*, ¶ 6. "Class Period" is defined as the time period from August 24, 2017, through March 20, 2024. *See id.* ¶ 8.f.

[3] *Id.*, ¶¶ 8.r, 8.ii, and 8.mm.

[4] *Id.*, ¶¶ 8.q and 8.bb. "Pay Periods" means any pay period for which a Class Member received a wage statement, during the Class Period. *See id.* ¶ 8.bb.

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PAGA Group Members will receive a *pro rata* share ("Individual PAGA Payment") of the twenty-five percent (25%) portion of the PAGA Penalty Amount (i.e., $53,437.50), based on the number of Pay Periods during the PAGA Period.

The Settlement, upon final approval by the Court and funding of the Total Settlement Amount, will operate to resolve the Released Class Claims of Plaintiff and Settlement Class Members and the Released PAGA Claims of Plaintiff, PAGA Group Members, and the State of California with respect to the PAGA Group Members, against the Released Parties.[5]

II. PROCEDURAL HISTORY AND FACTUAL BACKGROUND

Defendant provides in-home care for children and adults with developmental disabilities throughout Southern California. Plaintiff is a former employee of Defendant.

On August 24, 2021, Plaintiff filed a putative Class Action Complaint for Damages in the Superior Court for the County of Riverside, thereby commencing the above-captioned lawsuit ("Action").[6]

On January 11, 2022, Defendant filed its Answer to Plaintiff's Class Action Complaint for Damages.[7]

On September 6, 2023, Plaintiff provided written notice to the Labor and Workforce Development Agency ("LWDA") and Defendant of the specific provisions of the California Labor Code that were violated, thereby commencing LWDA Case No. LWDA-CM-980048-23 ("PAGA Notice").[8]

On December 16, 2024, Plaintiff Lolita Galvan filed a First Amended Class Action Complaint for Damages and Enforcement Under the Private Attorneys General Act, California Labor Code § 2698, Et Seq. ("First Amended Complaint" or "Operative Complaint") against Defendant in the above-captioned lawsuit.[9]

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[5] Settlement Agreement, ¶¶ 31.a and 31.b. For the full scope of the "Released Class Claims," s*ee id.*, at ¶ 8.ff; for the full scope of the "Released PAGA Claims," s*ee id.*, at ¶ 8.gg; and for the full definition of the "Released Parties," s*ee id.*, at ¶ 8.hh.
[6] Hosseini Decl., ¶ 2.
[7] *Id.*, ¶ 3.
[8] *Id.*, ¶ 4.
[9] *Id.*, ¶ 5.

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Plaintiff's core allegations are that Defendant has violated California wage and hour law, including but not limited to laws set forth in the California Labor Code, by engaging in a uniform practice and procedure, with respect to Plaintiff, Class Members, and PAGA Group 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. and conduct that gives rise to penalties pursuant to PAGA. Plaintiff contends that she, and the Class Members, are entitled to, *inter alia*, unpaid wages, penalties (including and not limited to, penalties pursuant to PAGA), and attorneys' fees and costs.[10]

The Parties have actively litigated the Action since it was commenced on August 24, 2021. On October 31, 2023 and November 9, 2023, the Parties participated in arm's-length and informed negotiations with the Honorable Lesley Green (Ret.) ("Mediator"), a respected mediator of complex wage and hour actions. With the aid of the Mediator's evaluation, the Parties ultimately reached the Settlement described herein to resolve the Action in its entirety.[11]

III. SUMMARY OF THE SETTLEMENT TERMS

Under the terms of the Settlement, Defendant will pay a Total Settlement Amount of $4,275,000.00 to resolve the Action.[12] Subject to approval by the Court, the Net Settlement Amount will be calculated by deducting the following amounts from the Total Settlement Amount: (1) attorneys' fees in an amount not to exceed 35% of the Total Settlement Amount (i.e., $1,496,250.00, if the Total Settlement Amount remains $4,275,000.00) and litigation costs and expenses in an amount not to exceed $15,000.00 ("Attorneys' Fees and Costs") to Class Counsel; (2) Settlement Administration Costs, which are currently estimated not to exceed $35,000.00 to the Settlement Administrator ("Settlement Administration Costs"); (3) PAGA Penalty Amount of

[10] Hosseini Decl., ¶ 26.
[11] *Id.*, ¶ 22.
[12] Settlement Agreement, ¶ 8.nn.

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$213,750.00 (“PAGA Penalty Amount”); and (4) payment in the amount of up to $15,000.00 to Plaintiff (“Class Representative Enhancement Award”).[13] The Parties have agreed to retain Simpluris, Inc., (“Simpluris” or “Settlement Administrator”) to handle the notice and settlement administration process.[14]

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

a. After Preliminary Approval of the Settlement, to determine the estimated Individual Settlement Shares (for purposes of mailing the Class Notice), the Settlement Administrator will use the following formula: Net Settlement Amount will be divided by the aggregate total number of Pay Periods of all Class Members, resulting in the “Estimated Pay Period Value.” Each Class Member’s estimated Individual Settlement Share will then be calculated by multiplying each individual Class Member’s total number of Pay Periods by the Estimated Pay Period Value.

b. After Final Approval of the Settlement, to determine the final Individual Settlement Share (for purposes of distribution of payments under the Settlement), the Settlement Administrator will divide the final, Court-approved Net Settlement Amount by the Pay Periods of all Settlement Class Members to yield the “Final Pay Period Value,” and multiply each Settlement Class Member’s individual Pay Periods by the Final Pay Period Value to yield his or her Individual Settlement Share.[15]

The Parties have agreed that the Settlement Administrator will determine each PAGA Group Member’s share of the 25% share of the PAGA Penalty Amount (“PAGA Group Member Amount”), in accordance with the Settlement Agreement and as follows[16]:

a. The Settlement Administrator will divide the PAGA Group Member Amount, i.e., 25% of the PAGA Penalty Amount, by the total number of PAGA Pay Periods of all PAGA Group Members to yield the “PAGA Pay Period Value,” and multiply each PAGA Group Member’s individual Pay Periods by the PAGA Aggrieved Pay Period Value to yield his or her Individual PAGA Payment.[17]

The Parties agree, for purposes of this Settlement, that Individual Settlement Shares will be allocated 20% to wages (“Wage Portion”) subject to taxes and withholdings, and 80% to

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[13] *Id.*, ¶¶ 12, 13, 14, and 15.
[14] *Id.*, ¶ 8.kk.
[15] Settlement Agreement, ¶¶ 16.a and 16.b.
[16] *Id.*, ¶ 8.x.
[17] *Id.*, ¶ 17.

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penalties, interest, and non-wage damages ("Non-Wage Portion").[18] The Settlement Administrator will withhold the employee's share of taxes and withholdings with respect to the wages portion of the Individual Settlement Shares, and issue checks to Settlement Class Members for their Individual Settlement Payments (i.e., payment of their Individual Settlement Share net of the employee's share of taxes and withholdings on the wages portion of their Individual Settlement Share).[19] Individual PAGA Payments to PAGA Group Members will be allocated as 100% penalties and will not be subject to withholdings.[20] The Employer Taxes will be paid separately and in addition to the Total Settlement Amount.[21]

Individual Settlement Payment and Individual PAGA Payment checks shall remain valid and negotiable for 180 calendar days from the date of their issuance, and thereafter, shall be canceled.[22] All funds remaining in the Qualified Settlement Fund in connection with canceled checks shall be distributed to the Controller of the State of California to be held pursuant to the Unclaimed Property Law, California Civil Code § 1500 *et seq.*, in the names of and for the benefit of those Settlement Class Members and/or PAGA Group Members who did not cash, deposit, or otherwise negotiate their checks, until such time that they claim their property.[23] The Parties agree that this disposition results in no "unpaid residue" under California Civil Procedure Code § 384, as the entire Net Settlement Amount will be paid out to Settlement Class Members, whether or not they all cash, deposit, or otherwise negotiate their settlement payment checks.[24]

Any Class Member may submit a written request to be excluded from the Class Settlement ("Request for Exclusion") by submitting a timely and valid Request for Exclusion to the Settlement Administrator by mail, postmarked on or before the date that is 60 calendar days from the date of the initial mailing of the Class Notice by the Settlement Administrator ("Response Deadline").[25]

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[18] *Id.*, ¶ 26.
[19] Ibid.
[20] Ibid.
[21] Ibid.
[22] *Id.*, ¶ 21.
[23] Ibid.
[24] Ibid.
[25] Settlement Agreement, ¶¶ 8.ii and 8.jj.

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PAGA Group Members shall be bound to the PAGA Settlement irrespective of whether they submit a Request for Exclusion from the Class Settlement.[26]

Only Class Members who have not submitted a timely and valid Request for Exclusion from the Class Settlement (i.e., Settlement Class Members) may object to the Class Settlement orally at the Final Approval Hearing and/or in writing on or before the Response Deadline ("Objection").[27] A written Objection must be submitted by mail to the Settlement Administrator at the specified address, postmarked on or before the Response Deadline, containing all information required by the Settlement Agreement.[28]

In order to dispute the number of Pay Periods attributable to an individual Class Member and/or PAGA Group Member, that Class Member and/or PAGA Group Member must submit a written letter disputing the preprinted information on the Class Notice as to his or her Pay Periods and/or PAGA Pay Periods ("Pay Periods Dispute") by mail to the Settlement Administrator at the specified address, postmarked on or before the Response Deadline, and include copies of any supporting evidence they may have.[29]

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

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

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[26] *Id.*, ¶ 22.
[27] *Id.*, ¶ 8.u.
[28] *Id.*, ¶ 23.
[29] *Id.*, ¶¶ 8.cc and 20.c.

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In considering a potential class settlement, a court need not reach any ultimate conclusions on the issues of fact and law which underlie the merits of the dispute and need not engage in a trial on the merits. See *City of Detroit v. Grinnell Corporation* (2d Cir. 1974) 495 F.2d 448, 456; *Officers for Justice v. Civil Service Commission of City and County of San Francisco* (9th Cir. 1982) 688 F.2d 615, 625. Neither formal notice nor a hearing is required for the trial court to grant provisional class certification and preliminary approval; the court may grant such relief upon an informal application by the settling parties and may conduct any necessary hearing in court or in chambers, at the court's discretion. *Newberg*, § 11.25.

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

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

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

The Parties have actively litigated the Action since it commenced on August 24, 2021. Both sides investigated the veracity, strength, and scope of the claims throughout the case, and Class Counsel was actively preparing the matter for class certification and trial.[30]

Class Counsel conducted significant investigation and informal discovery regarding the facts of the case, including and not limited to, the exchange, review, and analysis of a large volume of documents and data from Plaintiff, Defendant, and other sources.[31] The volume of data and documents that Class Counsel reviewed and analyzed included and was not limited to: a sampling of Class Members' time and payroll data, Plaintiff's personnel records, Defendant's Handbook, earning statements, company policy acknowledgements (including but not limited to On-Duty Meal Period Agreement, Employee Handbook Acknowledgment/Agreement, Time Card Procedures Acknowledgment, Acknowledgment of Sick Leave Policy Receipt, Confidentiality Agreement, At-Will Statement, Child and Elder/Dependent Adult Abuse Reporting Law Acknowledgment, Sexual Harassment Acknowledgment, California Code of Regulations Client Right's Acknowledgement/Receipt, California Welfare & Institutions Code Client Right's Acknowledgement/Receipt, Acknowledgment of Safety Policy), job descriptions, Defendant's operations and employment practice, policies, and procedures (including but not limited to Non-Discrimination Policy, Drug-Free Work Place Procedure, Direct Deposit Set-Up Form), among other information and documents.[32] Class Counsel had the opportunity to interview Plaintiff and others to gather facts and to identify potential witnesses. In addition, Class Counsel has extensive experience in California wage-and-hour class actions.[33]

The Parties engaged in extensive settlement negotiations and participated in two (2) full-day mediations, conducted by the Honorable Lesley Green (Ret.), a well-respected mediator experienced in mediating complex labor and employment matters.[34] Prior to and during the mediations and settlement discussions, the Parties exchanged extensive information and engaged

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[30] Hosseini Decl., ¶ 19.
[31] *Id.*, ¶ 20.
[32] Ibid.
[33] *Id.*, ¶¶ 13-17.
[34] *Id.*, ¶ 19.

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in discussions regarding their evaluations of the case and various aspects of the case, including but not limited to, the risks and delays of further litigation, including the risks of proceeding with class certification and/or representative adjudication; the law relating to off-the-clock theory, meal and rest periods, PAGA representative claims, and wage-and-hour enforcement; the evidence produced and analyzed; and the possibility of appeals.[35] During all settlement discussions, the Parties conducted their negotiations at arm's length in an adversarial position.[36] Arriving at a settlement that was acceptable to both Parties was not easy. Both sides felt strongly about their ability to prevail at certification and at trial.[37] After conducting investigations, formal and informal discovery, extensive settlement negotiations, and with the aid of the mediator's evaluation, the Parties have agreed that the matter is well-suited for settlement given the legal issues relating to Plaintiff's principal claims, as well as the costs and risks to both sides that would attend further litigation.[38]

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

The Settlement represents a fair, adequate, and reasonable resolution of the matter.[39] The Settlement was calculated using the information and data uncovered during litigation, case investigation, and the formal and informal exchange of information.[40] The Settlement takes into account the potential risks and rewards inherent in any case and, in particular, in the matter at issue. Moreover, considering all of the facts and circumstances of the case, the Settlement represents a fair, reasonable, and adequate recovery for the Class.[41]

Assuming that the Attorneys' Fees and Costs, Class Representative Enhancement Award, PAGA Penalty Amount, and Settlement Administration Costs are approved by the Court and paid in the full amounts provided for by the Settlement, the Settlement provides for a Net Settlement Amount that is currently estimated to be $2,500,000.00.[42] Additionally, 25% of the PAGA Penalty Amount (i.e., PAGA Group Member Amount), which is $53,437.50 out of $213,750.00, will be

[35] Ibid.
[36] Ibid.
[37] Ibid.
[38] Hosseini Decl., ¶ 19.
[39] Ibid.
[40] Ibid.
[41] *Id.*, ¶ 30.
[42] Hosseini Decl., ¶ 8.

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distributed to the PAGA Group Members. The entire Net Settlement Amount will be fully paid out to the Settlement Class Members, in accordance with the Settlement Agreement.

The amount of each Settlement Class Member's Individual Settlement Share and each PAGA Group Members's Individual PAGA Payment will be calculated by the Settlement Administrator by dividing the final, Court-approved Net Settlement Amount by the Pay Periods of all Settlement Class Members to yield the "Final Pay Period Value," and multiplying each Settlement Class Member's individual Pay Periods by the Final Pay Period Value to yield his or her Individual Settlement Share.[43] "An allocation formula need only have a reasonable, rational basis [to warrant approval], particularly if recommended by experienced and competent class counsel." *In re American Bank Note Holographics, Inc., Securities Litigation* (S.D.N.Y. 2001) 127 F.Supp.2d 418, 429-30. Here, the allocation is reasonably related to the number of Pay Periods actually worked for Defendant during the relevant period and should be approved.

In light of the foregoing considerations, Class Counsel believes that the Settlement as a whole is fair, reasonable, and adequate, and is in the best interest of the Class Members, and State of California.[44] Although the recommendations of Class Counsel are not conclusive, the Court can properly take the recommendations into account, particularly if Class Counsel appears to be competent, and has experience with this type of litigation, and investigation have been completed, as is the case here. *Newberg*, §11.47. Accordingly, the Court should grant preliminary approval of the Settlement.

C. **<u>The Settlement Is of Significant Value.</u>**

Pursuant to *Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th 116, the Parties conducted extensive formal and informal discovery and exchanged a large volume of documents, data, and information prior to the mediations.[45] The information that Class Counsel obtained from Plaintiff, Defendant, and other sources allowed Class Counsel to develop valuation models in order to evaluate the potential value and merit of the claims, and perform a complete evaluation of

[43] Settlement Agreement, ¶ 16.b.
[44] Hosseini Decl., ¶ 30.
[45] *Id.*, ¶ 20.

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Defendant's defenses thereto.[46] As outlined in the Declaration of Yasmin Hosseini, Class Counsel performed an extensive analysis of each and every claim pursuant to *Kullar* prior to entering into the Settlement.[47]

V. CERTIFICATION OF THE CLASS IS APPROPRIATE

The requisites for establishing class certification are met, and the Parties have stipulated to conditional certification of the Class for settlement purposes only.[48] California Code of Civil Procedure Section 382 "authorizes class actions when the question is one of a common or general interest, of many persons, or when the Parties are numerous, and it is impracticable to bring them all before the court." *Sav-On Drug Stores, Inc. v. Superior Court* (2004) 34 Cal.4th 319, 326. California courts certify class actions where the Plaintiff identifies "both [1] an ascertainable class and [2] a well-defined community of interest among class members." *Id.*

A. The Class Is Ascertainable and Sufficiently Numerous.

"Ascertainability is required in order to give notice to putative class members as to whom the judgment in the action will be *res judicata*." *Hicks v. Kaufman & Broad Home Corp.* (2001) 89 Cal.App.4th 908, 914. "A class is ascertainable if it identifies a group of unnamed Plaintiffs by describing a set of common characteristics sufficient to allow a member of that group to identify himself or herself as having a right to recover based on the description." *Bartold v. Glendale Federal Bank* (2000) 81 Cal.App.4th 816, 828. The proposed Class must also be sufficiently numerous. *Linder v. Thrifty Oil Co.* (2000) 23 Cal.4th 429, 435; s*ee 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 7,037 individuals, which is sufficiently numerous.[49] Further, all Class Members can and will be identified by Defendant to the Settlement Administrator through a review of Defendant's employment records regarding hourly-paid or non-exempt employees of Defendant in California during the Class Period. As such, the Class is ascertainable.[50]

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[46] *Id.*, ¶ 23.
[47] *Id.*, ¶ 28 a-j.
[48] Settlement Agreement, ¶ 9.
[49] Hosseini Decl. ¶ 7.
[50] *Id.*, ¶ 19.

B. **The Class Members 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 focus on the Defendant's internal policies and "pattern and practice . . . in order to assess whether that common behavior toward similarly situated Plaintiff renders class certification appropriate." *Id.* (citing *Sav-On*, 34 Cal.4th at 333).

Here, common issues of law and fact predominate as to each of the claims alleged and asserted in the Action. Based on the documents and information obtained through informal discovery and exchange of information in the case, Plaintiff contends that Class Members performed similar job duties and were subject to uniform operations and employment policies, practices, and procedures during the Class Period, including payroll and recordkeeping practices.[51] As a result, Plaintiff claims that all of the Class Members were uniformly not paid all compensation due to them from Defendant during the time period at issue. Plaintiff maintains that the outcome of this litigation would be determined by Defendant's alleged uniform operations and employment policies and procedures that applied across its hourly-paid or non-exempt employees who worked in California during the Class Period.

As a member of the Class who was subject to these same policies, practices, and procedures, Plaintiff's claims are typical of the Class. Moreover, Plaintiff has no interests adverse to the Class. Plaintiff has taken steps to initiate and maintain this action and to ensure that it comes to a fair and reasonable resolution.[52] Importantly, Plaintiff has retained a law firm well-versed in wage and hour class actions, which has at all times represented the best interests of Plaintiff and the Class.[53]

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[51] Hosseini Decl., ¶ 24.
[52] Declaration of Plaintiff Lolita Galvan in Support of Plaintiff's Motion for Preliminary Approval of Class Action and PAGA Settlement ("Galvan Decl."), ¶ 4.
[53] Hosseini Decl., ¶ 22-23.

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

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

Class Counsel has litigated Plaintiff's lawsuit for over three (3) years and was actively preparing the matter for class certification and trial.[54] The ongoing work has been extensive, demanding, and ultimately successful in achieving a substantial settlement resolution. Class Counsel reviewed a large volume of documents and data and also interviewed and obtained information from Plaintiff, researched applicable law, undertook damages/valuation calculations, and met and conferred with Defendant's counsel regarding the pleadings and the production of documents and data prior to the mediations.[55] Counsel for the Parties also undertook extensive settlement discussions, which included participating in two (2) mediations.[56] Class Counsel is well-experienced in wage-and-hour class action litigation and used that experience to obtain a great result for the Class.[57]

The Settlement establishes a Total Settlement Amount of $4,275,000.00, and provides for Class Counsel to apply to the Court consisting of attorneys' fees in an amount up to 35% of the Total Settlement Amount (i.e., $1,496,250.00 if the Total Settlement Amount remains $4,275,000.00), and reimbursement of actual costs and expenses in an amount up to $15,000.00.[58] The attorneys' fees provided for by the Settlement are commensurate with: (1) the risk that Class Counsel took in bringing and litigating the case, (2) the extensive time, effort and expense that Class Counsel dedicated to the case, (3) the skill and determination that Class Counsel has shown, (4) the results that Class Counsel has achieved throughout the litigation, (5) the value of the Settlement that Class Counsel has achieved for the Class Members, and (6) the other cases that Class Counsel had to turn down in order to devote its time and efforts to this matter. The proposed

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[54] *Id.*, ¶ 19.
[55] *Id.*, ¶¶ 19-20.
[56] *Id.*, ¶ 19.
[57] *Id.*, ¶¶ 13-17.
[58] Settlement Agreement, ¶ 12.

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Class Notice provides Class Members that an award of the Attorneys' Fees and Costs will be sought and the amount allocated toward the Attorneys' Fees and Costs by the Settlement.[59]

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

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

Historically, courts have awarded fees as high as fifty percent (50%) of the settlement, depending on the circumstances of the case. *Newberg*, § 14.03; *see also In re Ampicillin Antitrust Litig.* (D.D.C. 1981) 526 F.Supp. 494 (awarding attorneys' fees in the amount of 45% of the $7.3 million settlement); *Beech Cinema, Inc. v. Twentieth-Century Fox Film Corp.* (S.D.N.Y. 1979) 480 F.Supp. 1195 (awarding approximately 53% of the settlement as attorneys' fees). California courts routinely approve class action attorneys' fee awards "averag[ing] around one-third of the recovery." *Chavez v. Netflix, Inc.* (2008) 162 Cal.App.4th 43, 66 n.11 (lower court found 20 to 40

[59] *Id.*, Exh. A.

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percent range of contingency fee in marketplace was appropriate in class actions); see also *Estrada v. Dr. Pepper/Seven-Up*, Los Angeles County Superior Court Case No. BC262247 (May 2005) (wage and hour); *Moore v. IKEA*, Los Angeles County Superior Court Case No. BC263646 (Sept. 2006) (wage and hour).

Class Counsel has borne all of the risks and costs of litigation and will not receive any compensation until recovery is obtained.[60] Class Counsel will provide extensive evidence as to the time worked, litigation efforts, and further argument at the time of filing Plaintiff's Motion for Final Approval of the Settlement and application for the Attorneys' Fees and Costs at the Final Approval Hearing. Considering the work performed and the risks incurred, the attorneys' fees provided for by the Settlement are well within the range of reasonableness for preliminary approval.

VII. <u>THE PROPOSED CLASS NOTICE IS ADEQUATE</u>

California statutory authority and case law vests the Court with broad discretion in fashioning appropriate class notice. See Cal. Code Civ. Proc. § 1781; *Cartt v. Superior Court* (1975) 50 Cal.App.3d 960, 973-74. A class notice is adequate if it "present[s] a fair recital of the subject matter and proposed terms" of the Settlement. *Mendoza v. United States* (9th Cir. 1980) 623 F.2d 1338, 1351 (quoting *Marshall v. Holiday Magic* (9th Cir. 1977) 550 F.2d 1173, 1177). "Sufficient information about the case should be provided to enable class members to make an informed decision about their participation." *Manual for Complex Litigation* § 21.311 at 413 (4th ed. 2004).

The proposed Class Notice describes the Settlement, the deadlines and procedures to submit an Objection to the Class Settlement, submit a Request for Exclusion from the Class Settlement, and/or Pay Periods Dispute regarding Pay Periods and/or PAGA Pay Periods, and the date and time set for the Final Approval Hearing.[61] The proposed Class Notice summarizes the proceedings to date and the terms and conditions of the Settlement in an informative and coherent manner.[62] The proposed Class Notice recognizes that the Court has not yet granted final approval

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[60] Hosseini Decl., ¶ 9.
[61] Settlement Agreement, Exh. A.
[62] Ibid.

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of the settlement.[63] The proposed Class Notice also apprises the Class Members and PAGA Group Members of, *inter alia*, how their Individual Settlement Payment and, if applicable, Individual PAGA Payment is calculated and the number of Pay Periods and/or PAGA Pay Periods credited to them.[64] The proposed Class Notice fulfills the requirement of neutrality in notice procedure. *Newberg*, at § 8.39.

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

VIII. <u>APPOINTMENT OF THE SETTLEMENT ADMINISTRATOR</u>

The Parties have selected Simpluris, Inc. as the Settlement Administrator. Within 14 calendar days of receipt of the Class List, the Settlement Administrator will perform a search based on the National Change of Address Database or any other similar services available, such as provided by Experian, for information to update and correct for any known or identifiable address changes, and will mail the Court-approved Class Notice in English and Spanish to all Class Members via First-Class U.S. Mail, using the most current, known mailing addresses identified by the Settlement Administrator.[65] With respect to Class Notices that are returned as undeliverable on or before the Response Deadline, the Settlement Administrator will re-mail the Class Notices within five (5) calendar days to any forwarding address that is indicated on the returned Class Notice, or in the event that no such forwarding address is indicated, then, the Settlement Administrator will search for an alternate address by way of skip-trace and, if an alternate address is located, will re-mail the Class Notice within five (5) calendar days.[66] In the event that a Class Notice is re-mailed to a Class Member, the Response Deadline for that Class Member shall be extended by 15 calendar days from the initial Response Deadline.[67] The Settlement Administrator

[63] Ibid.
[64] Ibid.
[65] *Id.*, ¶ 20.a.
[66] *Id.*, ¶ 20.b.
[67] *Id.*, ¶ 8.jj.

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will receive and process Requests for Exclusion, Objections, and Pay Periods Disputes.[68] In addition, the Settlement Administrator will be responsible for translating the Class Notice into Spanish, printing, distributing, and tracking Class Notices and other documents for this Settlement, calculating and distributing payments due under the Settlement, issuing of 1099 and W-2 IRS Forms and all required tax reporting, filings, withholdings, and remittances, providing necessary reports and declarations, and other duties and responsibilities set forth herein to process the Settlement, and as requested by the Parties.[69] The Settlement Administration Costs are currently estimated to be $35,000.00 and will be paid out of the Total Settlement Amount, subject to approval by the Court.[70] Accordingly, Plaintiff respectfully requests that the Court appoint Simpluris, Inc., as the Settlement Administrator and direct the mailing of the Class Notice to the Class Members in the manner outlined and based on the proposed deadlines as described herein and set forth in the Settlement Agreement.

IX. CLASS REPRESENTATIVE ENHANCEMENT AWARD

Plaintiff respectfully requests that the Court appoint her as the Class Representative and preliminarily approve the Class Representative Enhancement Award in an amount up to $15,000.00.[71] 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 courts may consider in determining whether to make an Enhancement Award 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 Enhancement Award is fair and appropriate. Plaintiff spent a substantial amount of time and effort in producing relevant documents and past employment

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[68] Settlement Agreement, ¶¶ 20.c, 22, and 23.
[69] *Id.*, ¶ 14.
[70] Ibid.
[71] *Id.*, ¶ 13.

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records and providing the facts and evidence necessary to attempt to prove the allegations.[72] Plaintiff was available whenever Class Counsel needed her and actively tried to obtain and provide information that would facilitate the pursuit of class and PAGA claims.[73] Accordingly, it is appropriate and just for Plaintiff to receive a Class Representative Enhancement Award for her services on behalf of the Class, PAGA Group Members, and the State of California, in addition to her individual settlement payments.

X. <u>CONCLUSION</u>

For the foregoing reasons, Plaintiff respectfully requests that the Court grant Preliminary Approval of the Settlement; conditionally certify the Class for settlement purposes; appoint Lawyers *for* Justice, PC as Class Counsel; appoint Plaintiff Lolita Galvan as Class Representative; appoint Simpluris, Inc., as Settlement Administrator; preliminarily approve the allocations for Attorneys' Fees and Costs, Class Representative Enhancement Award, PAGA Penalty Amount, and Settlement Administration Costs; approve the proposed Class Notice; direct the Settlement Administrator to undertake the notice and settlement administration process in conformity with the deadlines and procedures provided by the Settlement Agreement; and to schedule a Final Approval Hearing to take place in approximately 6 months.

Dated: April 18, 2025

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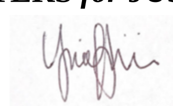

By: ______________________________

Yasmin Hosseini
Arianna Razi
Attorneys for Plaintiff

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[72] Hosseini Decl., ¶ 10; Declaration of Plaintiff Lolita Galvan in Support of Plaintiff's Motion for Preliminary Approval of Class Action and PAGA Settlement ("Galvan Decl."), ¶ 3.

[73] Hosseini Decl., ¶ 10; Galvan Decl., ¶¶ 3-5.

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