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7
8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
9 **FOR THE COUNTY OF RIVERSIDE**

10
11 DENNISHA LAMPKIN, an individual and on
behalf of all others similarly situated;

12 Plaintiff,

13 vs.
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15 SUNSTATES SECURITY, INC., a Delaware
corporation; and DOES 1 through 50,

16 Defendants.
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Case No.: CVRI2305600

[Assigned for All Purposes to:
Hon. Harold W. Hopp, Dept. 1]

**NOTICE OF MOTION AND MOTION
FOR FINAL APPROVAL OF CLASS
ACTION SETTLEMENT;
MEMORANDUM OF POINTS AND
AUTHORITIES IN SUPPORT**

[Filed Concurrently with Declarations of
William C. Sung, Tiffany L. Luu, Dennisha
Lampkin, and Simpluris Inc. in Support
Thereof, and [Proposed] Order]

DATE: December 18, 2024

TIME: 8:30 a.m.

DEPT: 1

Reservation No.: Per August 19, 2024
Order Granting Preliminary Approval

Action Filed: October 18, 2023

Trial Date: Not Set

1 TO THE HONORABLE COURT, DEFENDANT, AND ITS COUNSEL OF RECORD:
2 PLEASE TAKE NOTICE THAT on December 18, 2024 at 8:30 a.m. in Department 1 of the
3 Superior Court of the State of California for the County of Riverside, Historic Courthouse located at
4 4050 Main Street, Riverside, CA 92501, before the Honorable Harold W. Hopp, Judge presiding,
5 Plaintiff DENNISHA LAMPKIN (“Plaintiff”) will and hereby does move the Court for an Order:
6 (1) Granting final approval to the Class and PAGA Action Settlement Agreement (“Settlement
7 “Agreement”) between Plaintiff and Defendant SUNSTATES SECURITY, INC. (“Defendant”); (2)
8 approving distribution of the settlement funds to class members pursuant to the terms of the
9 Settlement Agreement; (3) approving Plaintiff’s request for an award of the class representative
10 enhancements of \$10,000.00 to Plaintiff pursuant to the terms of the Settlement Agreement; (4)
11 approving Class Counsel’s request for an award to Class Counsel in the amount of \$181,333.33 for
12 attorneys’ fees and reimbursement of actual costs in the amount of \$10,944.22 pursuant to the terms
13 of the Settlement Agreement; (5) approving Plaintiff’s request for payment of the claims
14 administration costs to Simpluris, Inc. in the amount of \$9,000.00 with payment pursuant to the
15 terms of the Settlement Agreement; (6) entering final judgment as to all members of the Class in
16 this action; and (7) setting a Compliance Hearing date on September 18, 2025 with a deadline to file
17 a compliance declaration on or before September 11, 2025.

18 This Motion is made pursuant to Rule 3.769 of the California Rules of Court, which
19 provides for court approval of the settlement of a class action and authorizes the Court to grant final
20 certification of a class for settlement purposes. The basis for this Motion, filed without any
21 opposition from Defendant, is that the proposed settlement is fair, adequate, and reasonable and the
22 procedures proposed by the Parties are adequate to ensure the opportunity of class members to
23 participate in, opt out of, or object to the settlement.

24 This Motion will be based on this Notice, concurrently filed herewith, the Memorandum of
25 Points and Authorities, the Settlement Agreement, the supporting Declarations of William C. Sung,
26 Tiffany L. Luu, Dennisha Lampkin, and Markus Bulthuis on behalf of Simpluris, Inc., and upon the
27 oral arguments of counsel (should there be any) and on the complete records and file herein.

28 ///

1 DATED: November 13, 2024

Respectfully submitted,

2 **JUSTICE FOR WORKERS, P.C.**

3
4
5 By:



6 William C. Sung, Esq.

7 Tiffany L. Luu, Esq.

8 Attorneys for Plaintiff DENNISHA LAMPKIN

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1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. INTRODUCTION**

3 Plaintiff DENNISHA LAMPKIN (“Plaintiff”) and Defendant SUNSTATES SECURITY,
4 INC. (“Defendant”) (collectively, “Parties”) entered into the Class and PAGA Action Settlement
5 Agreement (“Settlement Agreement”) which was filed with this Court on June 21, 2024. The
6 Settlement Agreement disposes of all of the claims alleged by Plaintiff. On October 18, 2023,
7 Plaintiff filed the Class Action Complaint in Riverside Superior Court (Case No. CVRI2305600) on
8 behalf of herself and all similarly situated individuals against Defendant. In the operative Second
9 Amended Complaint (“SAC”), Plaintiff alleges the following causes of action (1) Meal Period
10 Violations; (2) Rest Period Violations; (3) Wage Statement Penalties; (4) Waiting Time Penalties;
11 (5) Unfair Competition; (6) Civil Penalties Under the California Private Attorneys General Act,
12 California Labor Code § 2699.3, *et seq.* (the “PAGA”); (7) Minimum Wage Violations; (8)
13 Overtime Wage Violations; (9) Failure to Reimburse Business Expenses; (10) Failure to Timely Pay
14 Wages and Maintain Required Records; and (11) Unlawful Deductions.

15 The terms of the settlement provide that Defendant shall pay a Gross Settlement Amount of
16 \$544,000.00, which will be distributed to the class on a non-reversionary basis without the need to
17 submit claim forms. (Class and PAGA Action Settlement Agreement (“Settlement Agreement”) at
18 I.R.) The settlement was achieved after extensive litigation, a full-day mediation well-respected
19 mediator, Steven G. Pearl, Esq.

20 This Court preliminarily approved this Settlement on August 19, 2024. The Order Granting
21 Preliminary Approval of Class Action Settlement and Setting a Final Approval Hearing, signed on
22 August 19, 2024, directed distribution of class notice packet and scheduling the hearing for final
23 approval of settlement (the “Preliminary Approval Order”). As directed by the Court, the Settlement
24 Administrator distributed the Class Notice. (Declaration of Markus Bulthuis on behalf of Simpluris,
25 Inc. [“Admin Decl.”] ¶¶ 3-9, Ex. A.) There are no objections and no Class Members opted out of
26 the Settlement. (*Id.* at ¶¶ 12-13.) Thus, there is a 100% participation rate. Therefore, an inference
27 can be made that the Class supports the Court’s Preliminary Approval Order finding that the
28 Settlement was fair and reasonable. In sum, the Court may confirm its preliminary approval as this

1 process supports the Court’s initial finding that the Settlement is fair and reasonable.

2 In addition, for the same reasons as set forth earlier in Plaintiff’s Motion for Preliminary
3 Approval of Class Action Settlement, the following represent the basic points previously covered
4 supporting approval of the Settlement: the total number of Participating Class Members is 480
5 individuals, (*id.* at ¶ 11); the Net Settlement Amount to be paid to Participating Class Members and
6 Aggrieved Employees is \$295,222.45, (*id.* at ¶ 10); and the estimated average Settlement Share to
7 Participating Class Members is \$589.01 with the highest estimated Settlement Share of \$3,215.16
8 and lowest of \$17.67, (*id.* at ¶ 11). With this additional information, the Court should grant Final
9 Approval consistent with the Preliminary Approval Order.

10 **II. CLASS MEMBERS WERE PROVIDED PROPER NOTICE OF THE**
11 **SETTLEMENT (CMO (H)(5)(a))**

12 The notice procedures required by the Preliminary Approval Order have been followed and
13 satisfy all due process rights of Class Members. The Preliminary Approval Order contemplated that
14 the Notice of Pendency of Class Action and Proposed Settlement along with an objection and opt
15 out form (“Class Notice”), as approved in the Preliminary Approval Order, be sent to all Class
16 Members by first class mail, as specified in the Settlement. The Preliminary Approval Order
17 approved Simpluris, Inc. (“Settlement Administrator”) to serve as the Settlement Administrator.

18 Class Notice was provided to Class Members, as required by the Preliminary Approval
19 Order. The Settlement Administrator received a Class Member mailing list from Defendant’s
20 counsel that included Class Members, and on September 17, 2024, each of the 480 Class Members
21 identified on the mailing list was sent the Class Notice via first class mail. (Admin Decl. ¶¶ 6-8,
22 Ex. A.) A total of 57 Class Notices were returned by the Post Office, of which 44 Class Notices
23 were re-mailed based on newly discovered addresses obtained through skip-traces. (*Id.* at ¶ 9.) To
24 date, 13 Class Notices remain undeliverable. (*Ibid.*)

25 The Class Notice specifically directed Class Members to the Court and Class Counsel,
26 where they could further receive information regarding the Settlement. The provision of sending the
27 Class Notice to Class Members as described above meets the requirements for the “best notice
28 practicable” in this case as necessary to protect the due process rights of class members. (*See, e.g.,*

1 *Phillips Petroleum Co. v. Shutts* (1985) 472 U.S. 797, 811-12 [provision of “best notice practicable”
2 with description of the litigation and explanation of opt-out rights satisfies due process]; *Eisen v.*
3 *Carlisle & Jacquelin* (1974) 417 U.S. 156, 174-75 [individual notice must be sent to class members
4 who can be identified through reasonable means]; *Mullane v. Central Hanover Bank & Trust Co.*
5 (1950) 339 U.S. 306, 314 [best practicable notice is that which is “reasonably calculated, under all
6 the circumstances, to apprise interested parties of the pendency of the action and afford them an
7 opportunity to present their objections”].) The Court, therefore, may proceed to determine the
8 fairness and adequacy of the Settlement and order its approval, secure in the knowledge that all
9 absent Class Members have been given the opportunity to participate fully in the settlement process.

10 **III. THE SETTLEMENT TERMS ARE FAIR, ADEQUATE AND REASONABLE, AND**
11 **THE SETTLEMENT SHOULD BE GIVEN FINAL APPROVAL**

12 **A. Strength of Plaintiff’s Case and Likelihood of Certifying the Class**

13 Under California law, there are two basic requirements which must exist to sustain a class
14 action: “[t]he first is existence of an ascertainable class, and the second is a well-defined community
15 of interest in the questions of law and fact involved.” (*Vasquez v. Sup. Ct.*(1971) 4 Cal.3d 800, 809.)

16 **1. The Class is Ascertainable and Sufficiently Numerous**

17 Whether a class is “ascertainable” within the meaning of Code of Civil Procedure section
18 382 “is determined by examining (1) class definition, (2) the size of the class, and (3) the means
19 available for identifying the class members.” (*Reyes v. San Diego County Board of Supervisors*
20 (1987) 196 Cal. App. 3d 1263, 1271.) Here, the Class is defined as follows:

21 “Defendant's current and former non-exempt employees in California who were
22 employed at any time during the Class Period (defined as October 18, 2019 to May
15, 2024).”

23 (Settlement Agreement ¶¶ I.C., I.I.)

24 Based on this objective definition, Defendant was able to identify 480 individuals who fall
25 within this definition. As such, the class is ascertainable. Further, as to numerosity, there is no
26 minimum number of class members required as a matter of law for maintenance of a class action.
27 (*Rose v. City of Hayward* (1981) 126 Cal. App. 3d 926.) The size of the claims involved, and any
28 public interest factors in the case may be determinative. (*Id.* at p. 934.) “Numerosity” is met when a

1 plaintiff demonstrates the “impracticability” of joinder. (Fed. Rules Civ. Proc.23(a)(1); *Harris v.*
2 *Palm Springs Alpine Estates, Inc.* (9th Cir. 1964) 329 F.2d 909, 913-14.) In *Bowles v. Superior*
3 *Court* (1955) 28 Cal.2d 574, a class was certified with only 10 members.

4 Given that there are 480 members that comprise of the Class, this is far more than the
5 minimum required to certify a class. Within the context of manageability, the issue is whether there
6 exists sufficient means for identifying class members at the remedial stage. (*Reyes v. San Diego*
7 *County Board of Supervisors*, supra, 196 Cal.App.3d at pp. 1274-75.) Class members were
8 identified by Defendant, and Class Notice was provided to all of the above class members.

9 **2. There Is a Community of Interest**

10 The “community of interest” requirement embodies three separate factors: (1) predominant
11 common questions of law or fact; (2) class representatives whose claims are typical of the class; and
12 (3) class representatives who can adequately represent the class. (*Richmond v. Dart Industries, Inc.*,
13 (1981) 29 Cal.3d. 462, 470; *Reese v. Wal-Mart Stores, Inc.* (1999) 73 Cal. App. 4th 1225, 1234.)

14 “The ultimate question in every case of this type [class actions] is whether ... the issues
15 which may be jointly tried, when compared with those requiring separate adjudication, are so
16 numerous and substantial that the maintenance of a class action would be advantageous to the
17 judicial process and to the litigants.” (*Lockheed Martin Corp. v. Sup. Ct. (Carrillo)* (2003) 29
18 Cal.4th 1096, 1104-05.) Here, Plaintiff alleges that Defendant has policies or practices that violated
19 the Labor Code by failing to provide meal and rest period, pay minimum and overtime wages for all
20 hours worked, provide accurate itemized wage statements, pay all wages due upon separation of
21 employment, reimburse business expenses, and maintain employment records.

22 The purported class representative’s claim must be “typical” but not necessarily identical to
23 the claims of other class members; it is sufficient that the representative is similarly situated so that
24 he or she will have the motive to litigate on behalf of the class. (*Classen v. Weller* (1983) 145
25 Cal.App.3d 27, 45.) Courts look to whether class members have similar injuries, “whether the
26 action is based on conduct which is not unique to the named Plaintiff,” and whether other class
27 members were injured by the same conduct. (*Hannon v. Dataproducts Corp.* (9th Cir. 1992) 976
28 F.2d 497, 508; *Schwartz v. Harp* (C.D.Cal. 1985) 108 F.R.D. 279, 282.) The purpose of the

1 typicality requirement “is to assure that the interest of the named representative aligns with the
2 interests of the class.” *Hannon v. Dataproducts Corp.*, *supra*, 976 F.2d at p. 508.) Here, Plaintiff
3 was employed by Defendant and, like all of the other Class Members, she alleges she was not
4 provided compliant meal and rest break periods, not pay wages for all hours worked, failed to
5 receive reimbursement of business expenses, received inaccurate wage statements, and failed to
6 receive all wages upon separation of employment. (Declaration of Dennisha Lampkin [“Lampkin
7 Decl.”], ¶¶ 2-4.) Thus, Plaintiff’s claims are typical to those of Class Members.

8 **3. Plaintiff Adequately Represented the Class**

9 The class representative, through qualified counsel, must be capable of “vigorously and
10 tenaciously” protecting the interests of the class members. (*Simons v. Horowitz* (1984) 151
11 Cal.App.3d 834, 846.) Since the judgment rendered in a class action will bar further relief to the
12 class members, the representative plaintiff must assert all claims reasonably expected to be raised
13 by members of the class. (*City of San Jose v. Sup. Ct. (Lands Unlimited)* (1974) 12 Cal.3d 447,
14 464.) Here, Plaintiff does not have any interests adverse to the class, nor has any such issues been
15 raised or presented. (Lampkin Decl. ¶ 5.) Plaintiff has taken all necessary steps to represent the
16 interests of the Class by giving up potential individual claims to proceed with this action as a class
17 action. (*Id.* at ¶¶ 6-8.) Plaintiff has made herself available to answer questions, gather and provide
18 documents, review and execute the settlement agreement this declaration and previous declarations
19 filed with the court. (*Id.* at ¶ 7.) Plaintiff will continue to make herself available to review any other
20 documents needed to bring this matter to conclusion and estimates that she has spent 19 hours in
21 prosecution of this action. (*Ibid.*) Thus, Plaintiff has adequately represented the Class.

22 To proceed as a class, there are two requirements which must be met: ascertainability and
23 community of interest. (*See Daar v. Yellow Cab Co.* (1967) 67 Cal.2d. 695, 704) “The community
24 of interest requirement embodies three factors: (1) predominant common questions of law or fact;
25 (2) class representatives with claims or defenses typical of the class; and (3) class representatives
26 who can adequately represent the class.” (*Richmond v. Dart Industries* (1981) 29 Cal.3d. 462, 470.)
27 This Court previously granted conditional certification of the Class pursuant to the Preliminary
28 Approval Order. Thus, Plaintiff meets all of the factors for class certification.

1 **B. The Terms of the Settlement and Its Reception By Class Members Support the**
2 **Conclusion that the Settlement Is Fair, Adequate, and Reasonable**

3 Without reiterating Plaintiff’s showing that the Settlement and the negotiation process that
4 led up to it was fair and adequate as set forth in detail in the Motion for Preliminary Approval of
5 Class Action Settlement, Plaintiff highlights the following facts. The Agreement was the product of
6 negotiation between highly able and experienced attorneys on both sides who possessed the relevant
7 data and extensive legal research which they had carefully analyzed. (Declaration of William C.
8 Sung [“Sung Decl.”], ¶¶ 8-12.) The resolution of this case was reached only after the parties
9 engaged in substantial investigation and mediation. (*Ibid.*) The results after mailing of the Class
10 Notice support confirmation of the Court’s preliminary approval of the Settlement with final
11 approval, as there are no objections or disputes to the current Settlement and no requests for
12 exclusion. (Admin Decl. , ¶¶ 12-13.) Thus, the Court may appropriately infer that the class action
13 settlement is fair, adequate and reasonable when, among other reasons, few class members object to
14 it. (*See Class Plaintiff v. City of Seattle* (9th Cir. 1992) 955 F.2d 1268, 1291.) The Court should
15 further construe the lack of any objection to this current settlement as an indication that Class
16 Members themselves view the settlement as fair, adequate, and reasonable.

17 **C. Under Well-Established Legal Principles, the Court Should Grant Final**
18 **Approval of the Settlement**

19 **1. Standard Of Review**

20 On a motion for final approval of a class action settlement under Civil Code §1781(f), a
21 court’s inquiry is whether the settlement is “fair, adequate and reasonable.”¹ (*Officers for Justice*
22 *v. Civil Serv. Comm’n* (9th Cir. 1982) 688 F.2d 615, 625, cert. denied subnom., *Byrd v. Civil Serv.*
23 *Comm’n*, (1983) 459 U.S. 1217.) A settlement is fair, adequate and reasonable, and therefore merits
24 final approval, when “the interests of the class are better served by the settlement than by further
25 litigation.” (*See Manual for Complex Litigation Fourth* (Fed. Judicial Center 2004) (“Manual”), §
26 21.6 at 309.) The law favors settlement, particularly in class actions and other complex cases, where
27

28 ¹ Both Civil Code §1781(f) and Rule 23 have been expressly authorized by the California Supreme Court for use in all California class action litigation. (*See Vasquez v. Superior Court* (1971) 4 Cal. 3d 800, 820-821.)

1 substantial resources can be conserved by avoiding the time, cost, and rigors of formal litigation.
2 (See 4 Newberg on Class Actions 4th § 11.41 (2008); *Chemical Bank v. City of Seattle*, 955 F.2d
3 1268, 1276; *Van Bronkhorst v. Safeco Corp.* (9th Cir. 1976) 529 F.2d 943, 950.)

4 Although the Court possesses “broad discretion” in determining that a proposed class action
5 settlement is fair, the Court’s role must be limited to the extent necessary to reach a reasoned
6 judgment that the agreement is not the product of fraud or overreaching by, or collusion between,
7 the negotiating parties, and that the settlement, taken as a whole, is fair, reasonable and adequate to
8 all concerned. (See *Officers for Justice v. Civil Serv. Comm’n*, supra 688 F.2d at 625.) Accordingly,
9 the Court should give due regard to what is otherwise a “private consensual agreement” between the
10 parties. (*Id.*; see also *Church v. Consolidated Freightways, Inc.* (N.D. Cal. 1993) 1993 WL 149840;
11 *In re Wash. Pub. Power Supply Sys. Sec. Litig.* (D. Ariz. 1989) 720 F.Supp. 1379, aff’d sub nom.,
12 *Class Plaintiff v. City of Seattle* (9th Cir. 1992) 955 F.2d 1268; Manual § 21.61 at 309 [“The
13 judicial role in reviewing a proposed settlement is critical, but limited to approving the proposed
14 settlement, disapproving it, or imposing conditions on it. The judge cannot rewrite the agreement”].)

15 A court’s approval of a class action settlement will only be reversed for a clear abuse of
16 discretion. (See *Dunk v. Ford Motor Co.* (1996) 48 Cal. App. 4th 1794, 1801; see also *Officers for*
17 *Justice v. Civil Serv. Comm’n*, supra, 688 F.2d at p. 626 (“reverse only upon a strong showing that
18 the district court’s decision was a clear abuse of discretion”); *Chemical Bank*, supra, 955 F.2d at
19 1276; *Ackerman v. Kassar*, 1993 WL 326453 (9th Cir. 1993); *Linney v. Cellular Alaska P’ship* (9th
20 Cir. 1998) 151 F.3d 1234, 1238.)

21 “It cannot be overemphasized that neither the trial court in approving the settlement
22 nor this Court in reviewing that approval have the right or duty to reach any ultimate
23 conclusions on the issues of fact and law which underlie the merits of the dispute. It
24 is well settled that in the judicial consideration of proposed settlements, ‘the [trial]
judge does not try out or attempt to decide the merits of the controversy,’ [citation]
and the appellate court ‘need not and should not reach any dispositive conclusions
on the admittedly unsettled legal issue.’”

25 (*7-Eleven Owners for Fair Franchising v. Southland Corp.* (2000) 85 Cal. App. 4th 1135, 1146.)

26 **2. The Settlement Is Presumed to Be Fair**

27 The Court should begin its analysis with the presumption that the settlement is fair and
28 should be approved:

[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.

(*Dunk v. Ford Motor Co.*(1996) 48 Cal. App. 4th 1794, 1802; *7-Eleven Owners for Fair Franchising*, supra, 85 Cal. App. 4th at p. 1146; *accord*, *Ellis v. Naval Air Rework Facility* (N.D. Cal. 1980) 87 F.R.D. 15, 18; *In re Wash. Pub Power Supply*, supra, 720 F.Supp. at p. 1387.)

Here, the Settlement warrants approval and carries a presumption of fairness. As stated in the Motion for Preliminary Approval, this Settlement was negotiated after engaging in informal and formal written discovery, including class records and statistics that allowed Plaintiff to extrapolate the potential damages that could be awarded to Plaintiff and the Class. (Sung Decl., ¶¶ 8-9.) Furthermore, Class Counsel are highly experienced in this type of litigation. (Sung Decl., ¶¶ 14-19; and Declaration of Tiffany L. Luu ("Luu Decl."), ¶¶ 2-6.)

3. Two-Way Fees and Costs and Other Risks Inherent in Continued Litigation Favor Final Approval

To assess the fairness, adequacy and reasonableness of a class action settlement, the Court also should weigh the immediacy and certainty of substantial settlement proceeds against the risks inherent in continued litigation. (*See also In re General Motors Corp.* (3d Cir. 1995) 55 F.3d 768, 806 ["present value of the damages Plaintiff would likely recover if successful, appropriately discounted for the risk of not prevailing, should be compared with the amount of the proposed settlement" (internal citations omitted)]; *Girsh v. Jepson* (3d Cir. 1975) 521 F.2d 153, 157; *Boyd v. Bechtel Corp.* (N.D. Cal. 1979) 485 F. Supp. 610, 616-17.)

If Plaintiff pursued this case without settlement and failed to prevail, Plaintiff may have faced liability for Defendant's costs. As such, should any Class Members want to bring individual claims on the same causes of action, they would each face the uncertainty of prevailing and the possibility of paying costs to Defendant. Accordingly, such claims likely would not be brought by many of these current and former employees of Defendant. Thus, this lawsuit achieves a true benefit for the Class that they might not otherwise get or seek as individuals. Here, given that a fair and reasonable settlement has been reached, neither Plaintiff nor any Class Members will be required to

1 pay for Defendant's litigation fees and costs.

2 The risks of this case were weighed by Class Counsel and should be considered a significant
3 issue by the Court in its determination of final approval. Class Counsel obtained a very substantial
4 settlement for the Class that results in a fair recovery which at the same time provides for finality
5 and no risk of costs by the Class or Plaintiff.

6 The Settlement also affords the Class prompt, fair relief, while avoiding significant legal and
7 factual battles that otherwise may have prevented the Class from obtaining any recovery at all.
8 Class Counsel believe that the case that they have litigated against Defendant involved a significant
9 violation of Labor Codes under various theories of liability. While Class Counsel believe the Class
10 Members' claims are meritorious and can be successfully litigated, they are experienced and fully
11 understand the inherent risks and uncertainty involved with such matters as the resolution of class
12 certification, the outcome of a potential trial, and the outcome of any appeals that would inevitably
13 follow should the Class prevail at trial. Class Counsel has also assessed the same risks in connection
14 with the Settlement. Because the Settlement provides immediate and substantial relief, without the
15 attendant risks and delay of continued litigation – not to mention the threat of litigation costs –
16 Class Counsel believes that the Settlement warrants the Court's final approval.

17 **4. The Complexity, Expense and Likely Duration of Continued Litigation**
18 **Against Defendant Favor Final Approval**

19 Another factor considered by courts in approving a settlement is the complexity, expense,
20 and likely duration of the litigation. (*See Officers for Justice v. Civil Serv. Comm'n, supra*, 688 F.2d
21 at 625; *Girsh v Jepson, supra*, 521 F.2d at 157.) In applying this factor, the Court must weigh the
22 benefits of the settlement against the expense and delay involved in achieving an equivalent or more
23 favorable result at trial. (*See Young v. Katz* (5th Cir. 1971) 447 F.2d 431, 433-434.)

24 As noted above, continued litigation could have led to appeals even if the Class prevails. On
25 the other hand, the Settlement that was reached provides to all Class Members – regardless of their
26 means – fair relief in a prompt and efficient manner. Were the Court to deny final approval, the
27 Class Members would be left without a remedy as a practical matter and courts across the State
28 would have to address the issues presented here in a piecemeal, costly, and time-consuming manner.

1 The Settlement in this case is therefore consistent with the “overriding public interest in settling and
2 quieting litigation” that is “particularly true in class action suits.” (See *Van Bronkhorst v. Safeco*
3 *Corp.*, *supra*, 529 F.2d at 950 (footnote omitted); see also 4 Newberg at § 11.41.) Thus, had the
4 case not settled, the case would have proceeded to trial with potentially longer litigation for appeals.

5 **5. The Opinion of Experienced Counsel Favors Final Approval**

6 The endorsement of qualified and well-informed counsel of a settlement as fair, reasonable,
7 and adequate is entitled to significant weight by the Court in its final approval determination. See,
8 e.g., *Officers for Justice v. Civil Serv. Comm’n*, *supra*, 688 F.2d at p. 625.) Class Counsel support
9 the Settlement as fair, reasonable and adequate, and in the best interest of the Class Members as a
10 whole. (Sung Decl. ¶¶ 11-12.) Defendant’s counsel is also in favor of this Settlement.

11 **6. Investigation, Mediation, and the Settlement Discussions Undertaken in**
12 **This Action Favor Final Approval**

13 As to meal and rest periods, Plaintiff alleges that the agreement is unenforceable because she
14 and Class Members were coerced into signing the agreement and risked losing their jobs if they
15 revoke the agreement because Defendant did not have any posts which allowed for off-duty meal
16 periods. (SAC at ¶¶ 10-12.) Plaintiff alleges Class Members were required to take rest periods on
17 duty and on call at their posts. (SAC at ¶ 13.) However, Defendant contends it has compliant written
18 policies, the On-Duty Meal Agreement complies with the Wage Order, (see Lampkin Decl. ¶ 3, Ex.
19 A), employees could revoke the agreement because Defendant offered posts with break relievers
20 where employees could take off-duty meal periods, including in Rialto and Riverside close to where
21 Plaintiff was posted, and employees may leave their posts for rest periods, (Sung Decl. ¶10.)

22 For unpaid wages and deductions, Plaintiff alleges that Class Members are due unpaid wages,
23 including overtime, due to Defendant’s unlawful rounding practices and Defendant unlawfully
24 deducted on-duty meal and rest periods from hours worked. (SAC at ¶¶ 16, 71.) However,
25 Defendant contends that during most of the Class Period, employees, including Plaintiff, recorded
26 their own hours worked on handwritten timesheets and calculated hour worked based on the time
27 written down by employees voluntarily without any deductions for meal and rest periods unless
28 employees clocked out for meal periods. (Sung Decl. ¶10.) Defendant further contends, starting in

1 January 2024, Defendant began the transition to electronic timekeeping system called TeamTime,
2 the transition completed during the week of March 15, 2024, employees clock in and out using an
3 onsite mobile device or backup landline, and TeamTime recorded and paid employees based on
4 actual time clocked and did not round time punches. (*Ibid.*)

5 Plaintiff alleges that Class Members are due unreimbursed business expenses for using their
6 personal cellphones, vehicles for work, and purchase of uniforms. (SAC at ¶ 17.) Defendant
7 contends that employees were provided shirts and hats with Sunstates logos and purchased generic
8 black pants which are non-reimbursable, were provided with radios and landline phones, and were
9 not required to use their personal cars other than commuting to work. (Sung Decl. ¶10.)

10 While Plaintiff believes her claims have merit, Plaintiff recognizes that if the Court finds the
11 On-Duty Meal Agreement is enforceable, then it would award nothing on the meal period claims
12 and Defendant’s defenses based on its meal and rest period policies and timekeeping and
13 reimbursement practices could present a hurdle to class certification and classwide liability. (*Ibid.*)

14 Plaintiff alleges that Defendant failed to provide compliant wage statements and all wages due
15 upon separation of employment because the wage statements failed to accurately state the rate of pay
16 and hours worked as a result of unpaid wages and meal and rest period premiums and is owed
17 statutory penalties. (SAC at ¶ 14.) For wage statement penalties under Labor Code § 226(e) and
18 waiting time penalties under Labor Code § 203, Defendant contends that it would not be subject to
19 statutory penalties based on a good-faith defense since its policies and practices were legally
20 compliant. (Sung Decl. ¶10.) Notably, Defendant relied on the appellate decision of *Naranjo v.*
21 *Spectrum Security Services, Inc.* (2023) 88 Cal.App.5th 937, 951, for the proposition that an
22 employer’s good-faith defenses precludes a “willfulness” finding under Labor Code § 203 and a
23 “knowing and intentional” finding under Labor Code § 226(e) for the imposition of statutory
24 penalties (and this holding has now been affirmed by the California Supreme Court in *Naranjo v.*
25 *Spectrum Security Services, Inc.* (May 6, 2024) 15 Cal.5th 1056). (*Ibid.*) Thus, the Court will be
26 bound by *Naranjo* and could find that statutory penalties are precluded by Defendant’s good-faith
27 defenses. (*Ibid.*)

28 ///

1 PAGA penalties are also subject to any good-faith defenses that Defendant may raise. (*Ibid.*)
2 Moreover, PAGA penalties are discretionary and subject to reduction by this Court. (*Ibid.*) Pursuant
3 to Labor Code § 2699(f)(2), the Court can decline to award the full amount of PAGA penalties
4 where “. . . if, based on the facts and circumstances of the particular case, to do otherwise, would
5 result in an award that is unjust, arbitrary and oppressive, or confiscatory.” (*Ibid.*) Indeed, courts
6 have affirmed the reduction of PAGA penalties in the past. (*Ibid.*) As shown in *Carrington v.*
7 *Starbucks Corp.* (2018) 30 Cal.App.5th 504, 517, the Court of Appeal affirmed the trial court’s
8 reduction of PAGA penalties by 90%, citing the employer’s good-faith attempt at complying with
9 the law. (Sung Decl. ¶10.) Defendant argued that based on their compliant policies and practices
10 and the fact that class recovery is available, the Court will significantly reduce any award of PAGA
11 penalties based on its good-faith compliance with the Labor Code. (*Ibid.*)

12 The total maximum exposure for class claims amounts to approximately \$6,039,025.42.
13 (*Id.* at ¶¶ 9-10.) On the on-duty meal period claim, if the Court finds the On-Duty Meal Agreements
14 were enforceable, then it would award nothing in damages, and Plaintiff believes there is at least a
15 risk factor of 50%, if not higher, bringing the realistic recovery to \$779,070.58. (*Id.* at ¶ 10.) For on-
16 duty rest breaks, there is no document to support Plaintiff’s claims, Defendant has facially
17 compliant rest periods, and some Class Members might testify they were able to leave their posts
18 for rest periods; therefore, there is at least a 50% risk factor, bringing the realistic recovery to
19 \$623,256.46. (*Ibid.*) For the unpaid wages claims based on unlawful rounding and deductions and
20 unreimbursed business expenses, there is at least a 75% risk factor based on Defendant’s defenses
21 as discussed above, bringing the realistic recovery for these claims to \$439,554.22. (*Ibid.*) Given the
22 California Supreme Court’s decision in *Naranjo*, there is a 75% risk factor that the Court might find
23 Defendant’s good-faith defenses preclude wage statement and waiting time penalties, bringing the
24 realistic damages to \$291,131.56. (*Ibid.*) Total PAGA penalties amounted to \$5,726,950. (*Ibid.*)
25 However, if the Court were to reduce the PAGA penalties by 90% similar to *Carrington*, the PAGA
26 penalties exposure would amount to approximately \$572,695. (*Ibid.*)

27 While the Parties disagree on the application of the law to the facts, each Party recognized in
28 negotiations that, if taken to class certification and trial, the other Party would at least have

1 reasonable arguments, such that the Gross Settlement Amount to which the Parties ultimately
2 agreed was reasonable. (*Ibid.*) Thus, the total realistic class damages and PAGA penalties are
3 \$2,861,521.94. (*Ibid.*) The Gross Settlement Amount is 19% of the realistic class and PAGA
4 recovery and well within the reasonable range of settlement for class/PAGA actions. (*Ibid.*)

5 **IV. THE REQUESTED CLASS REPRESENTATIVE ENHANCEMENT SHOULD BE**
6 **APPROVED (CMO#1 (H)(2))**

7 Plaintiff requests an enhancement of \$10,000.00. As shown in the supporting declaration,
8 Plaintiff has not previously been a named plaintiff in any other class action cases. (Lampkin Decl. ¶
9 6.) Plaintiff understood that the filing of this action was a matter of public action and this was being
10 prosecuted on a class and representative basis. (*Id.* at ¶ 7.) Plaintiff further understood that class
11 actions would take longer in litigation than an individual action and undertook such risks. (*Ibid.*)
12 Plaintiff did not incur any expenses but has expended a significant amount of time on this matter.
13 (*Ibid.*) Plaintiff spent approximately 19 hours prosecuting this case, including discussing this matter
14 with Counsel on a number of occasions, providing substantive information regarding Defendant's
15 practices, and providing documents related to her own claims and the claims of the Class. (*Ibid.*)

16 Importantly, Plaintiff was a current employee of Defendant and had been employed for two
17 months when she filed this Action against Defendant. (*Id.* at ¶ 8.) Plaintiff took a significant risk to
18 her employment by prosecuting this Action on behalf of Class Members. (*Ibid.*) Plaintiff believes,
19 as a result of her filing the Action, she was treated differently than her coworkers, including being
20 passed over for a promotion to a supervisor. (*Ibid.*) Plaintiff has resigned from her employment with
21 Defendant. (*Ibid.*) Furthermore, Plaintiff will be providing a general release of her individual
22 claims, something that the Class Members did not have to do. (*Id.* at ¶ 9.)

23 Plaintiff is not receiving any other benefits, other than being a Class Member and the
24 enhancement that she is seeking. As a Class Member, Plaintiff expects to receive \$546.18 as her
25 Class and PAGA Shares. (*Id.* at ¶ 10.) There are no objections to Plaintiff's enhancement requests
26 by the Class. Thus, Plaintiff believes that she satisfies all of the factors to justify her enhancement
27 request for \$10,000.00 and that her enhancement request is fair and reasonable.

28 ///

1 **V. THE REQUESTED ATTORNEYS' FEES AND COSTS SHOULD BE APPROVED**
2 **(CMO #1 (H)(3) & (4))**

3 **A. Class Counsel Seek a Percentage Fee Award Under Well-Established Case Law**

4 Class Counsel seeks a fee award \$181,333.33, calculated as one-third (1/3) of the total value
5 of the Settlement for the successful prosecution and resolution of this Action. Under California law,
6 the award of attorneys' fees in common fund wage and hour class action settlements should start
7 with the percentage method. *See Laffitte v. Robert Half Int'l*, 1 Cal. 5th 480, 503 (2016) (“[W]hen
8 class action litigation establishes a monetary fund for the benefit of the class members, and the trial
9 court in its equitable powers awards class counsel a fee out of that fund, the court may determine
10 the amount of a reasonable fee by choosing an appropriate percentage of the fund created.”) Under
11 the “percentage of the fund” method, the Court’s objective remains to “mimic the market” in fixing
12 a reasonable fee. *See Gaskill v. Gordon*, 160 F.3d 361, 363 (7th Cir. 1998) (“When a fee is set by a
13 court rather than by contract, the object is to set it at a level that will approximate what the market
14 will set. . . . The judge, in other words, is trying to mimic the market in legal services.”)

15 The California Supreme Court in *Laffitte* affirmed a fee award representing one-third (or
16 33.33%) of the fund. (*Laffitte*, 1 Cal. 5th at 506.) This was based on a lodestar amount that required
17 a multiplier of 2.13. (*Id.* at 487.) As the Court held, only when the multiplier is “extraordinarily
18 high or low [should] the trial court [] consider whether the percentage method should be adjusted so
19 as to bring the imputed multiplier within a justifiable range.” *Id.* at 505.

20 Moreover, in the *Laffitte* intermediate court decision, the court observed that “33 1/3 percent
21 of the common fund is consistent with, and in the range of, awards in other class action lawsuits.”
22 (*Laffitte v. Robert Half Int'l* (2014) 231 Cal.App. 4th 860, 871.) Here, the fee award representing
23 one-third of the fund clearly falls within that range and is consistent with other comprehensive
24 surveys of class action settlements and fee awards. (*See Fitzpatrick, An Empirical Study of Class*
25 *Action Settlements and Their Fee Award*, 7 J. Empirical Leg. Stud. 811, 833 (2010) [analyzing 444
26 cases between 2006-2007 and concluding that “[m]ost fee awards were between 25 percent and 35
27 percent, with almost no awards more than 35 percent.”]; Eisenberg & Miller, *Attorney Fees in Class*
28 *Action Settlements: An Empirical Study: 1993-2008*, 7 J. of Empirical Leg. Stud. 248, 262, fn.16

1 (2010) [independent studies of class action litigation nationwide conclude that fees representing
2 one-third of the total recovery is consistent with market rates].) The results delivered by Class
3 Counsel supports the requested percentage of the fund as Class Counsel secured a \$544,000
4 common fund settlement for 480 Class Members.

5 Furthermore, “the response of the class members to attorneys’ fee notice, though not
6 decisive, is relevant to the . . . reasonable determination” regarding fees. (*Swedish Hospital v.*
7 *Shalala* (D.C. Cir. 1993) 1 F.3d 1261, 1272.) A positive response rate tends to suggest that the
8 court’s “approximation of the market” for fees is well supported. (*Id.* at p. 1269.) Here, the Class
9 Notice specifically notified Class Members that Class Counsel would be seeking one-third of the
10 settlement fund as attorney’s fees. To date, no Class Member has opted out or objected to the
11 settlement. This strong favorable response also supports the requested fees.

12 Finally, for Class Counsel, the fees here were wholly contingent in nature and the case
13 presented far more risk than the usual contingent fee case. Among the risks was the cost inherent in
14 class action litigation, as well as a potentially drawn-out battle with a defendant that has retained
15 premier defense counsel. Moreover, one of Class Counsel’s main theories of liability challenges the
16 enforceability of Defendant’s on-duty meal period agreement, which is a novel theory and presents
17 an “all or nothing” proposition to Class Counsel, thereby significantly increasing the risks of
18 litigation to Class Counsel who are prosecuting this class action on a contingency fee basis.

19 **B. Class Counsel’s Lodestar Supports Granting the Attorney’s Fees Requested**

20 As a secondary backup support for the “percentage of the fund” method, courts have
21 discretion to “cross-check” the fees awarded through the lodestar method. However, the California
22 Supreme Court “emphasize[d] [that] the lodestar calculation, when used in this manner, does not
23 override the trial court’s primary determination of the fee as a percentage of the common fund and
24 thus does not impose an absolute maximum or minimum on the potential fee award.” (*Laffitte*, 1
25 Cal. 5th at 505.) The Supreme Court in *Laffitte* stated: “If the multiplier calculated by means of a
26 lodestar cross-check is extraordinarily high or low, the trial court should consider whether the
27 percentage used should be adjusted so as to bring the imputed multiplier within a justifiable range,
28 but the court is not necessarily required to make such an adjustment.” (*Ibid.* [emphasis added].)

1 Indeed, cross-checks are not required; in many cases, performing a cross-check “undermines” one
2 of the primary reasons for using the percentage method: aligning counsel’s incentives with the
3 benefits delivered to the class and discouraging protracted litigation. (*Id.* at 506 [finding trial courts
4 “retain the discretion to forgo a lodestar cross-check”].)

5 Class Counsel’s lodestar is more than the fees being sought. To date, 180.1 hours have been
6 expended by Class Counsel in this case. (Sung Decl. at ¶ 21, Ex. 2; Luu Decl. ¶ , Ex. 1.) Moreover,
7 Class Counsel expects to incur approximately 20 additional hours of attorney time in finalizing this
8 settlement. (Sung Decl. at ¶ 21, Ex. 2, Marder Decl. ¶ 8, Ex. a.) Class Counsel request an hourly
9 rate of \$800 per hour for William Sung and \$450 per hour for Tiffany Luu, which are reasonable in
10 light of their respective skills, wage and hour class action litigation experience, reputation, and fee
11 awards to other attorneys of similar experience in California. (Sung Decl. at ¶¶ 14-20, Exs. 1-2; Luu
12 Decl. ¶¶ 2-7.)

13 Furthermore, courts are quite liberal in the evidence required to prove an attorney’s hours.
14 Detailed time records are not required. An attorney’s testimony alone may suffice: “Testimony of
15 an attorney as to the number of hours worked on a particular case is sufficient evidence to support
16 an award of attorney fees, even in the absence of detailed time records.” (*Martino v. Denevi* (1986)
17 182 Cal. App. 3d 553, 559.) Reasonable hours include, in addition to time spent during litigation,
18 the time spent before the action is filed, including time spent interviewing the clients, investigating
19 the facts and the law, and preparing the initial pleadings. (*New York Gaslight Club, Inc. v. Carey*
20 (1980) 447 U.S. 54, 62.) Further, the fee award should include fees incurred to establish and defend
21 the attorneys’ fee claim. (*Serrano v. Unruh* (1982) 32 Cal. 3d 621, 639.) Thus, Class Counsel
22 requests that the court find that these hours were reasonable in this litigation.

23 A reasonable hourly rate is the prevailing rate charged by attorneys of similar skill and
24 experience in the relevant community. (*PLCM Group, Inc. v. Drexler* (2000) 22 Cal.4th 1084,
25 1095.) The court may consider other factors when determining a reasonable hourly rate, *e.g.*, the
26 attorney’s skill and experience, the nature of the work performed, the relevant area of expertise and
27 the attorney’s customary billing rates. (*Flannery v. California Highway Patrol* (1998) 61
28 Cal.App.4th 629, 632-633.) Here, Class Counsel’s skill and experience justify the requested rate. As

1 shown in the supporting declarations, Class Counsel’s practice focuses on representing employees
2 in employment matters, particularly wage and hour cases and have been previously certified as class
3 counsel by other courts. (Sung Decl., ¶¶ 14-20, Exs. 1-2; Luu Decl. ¶¶ 2-7.)

4 Based on the hours and applicable rate, the total lodestar to be expended by Class Counsel
5 through finalizing this settlement will be approximately \$138,590.00, which is a 1.31 lodestar
6 multiplier to the requested fee award of \$181,333.33. The California Supreme Court found that “2
7 to 4” is a reasonable range for multipliers on a cross-check. (*Laffitte*, 23l Cal. App. 4th at 881-82.)
8 Thus, Plaintiff’s 1.31 multiplier further supports Plaintiff’s request for one-third of the common
9 fund. As such, the requested fee award is fair and reasonable and should be awarded in its entirety.
10 Class Counsel risked not only a great deal of time, but also a great deal of expense to ensure the
11 successful litigation of this action on behalf of all Class Members. For such reasonable, Class
12 Counsel’s request for attorneys’ fees in the amount of \$181,333.33 is fair, reasonable, and adequate.

13 **VI. THE COURT SHOULD APPROVE THE REQUEST FOR COSTS**

14 In addition to Class Counsel’s lodestar, Class Counsel has also expended \$10,958.38 in
15 litigation related costs, which have been detailed in the supporting declaration of Class Counsel.
16 (Sung Decl. ¶ 22, Ex. 3.) Pursuant to the Settlement Agreement, Class Counsel may seek
17 reimbursement of costs up to \$20,000, (Settlement Agreement at III.B.2), and the requests costs are
18 substantially less than the agreed upon \$20,000. Thus, the cost request should be approved.

19 **VII. THE SETTLEMENT ADMINISTRATOR’S FEES AND COSTS SHOULD BE**
20 **APPROVED (CMO#1 (H)(5))**

21 Pursuant to the terms of the Settlement Agreement, the fees and costs of the Settlement
22 Administrator, are to be paid out of the common fund. As shown on the Admin Declaration, the
23 settlement administration fees are based on a flat-sum amount of \$9,000. (Admin Decl. ¶ 14, Ex. C.)
24 To date, the Settlement Administrator has spent time (i) preparing, printing, and mailing the Notice
25 Packet, including updating mailing addresses utilizing the National Change of Address Database;
26 (ii) receiving returned Notice Packets, performing skip traces on the returned notices, and remailing
27 the Notice Packets; (iii) providing call center support to Class Members via a toll-free telephone
28 number; and (iv) providing weekly reports. (*Id.* at ¶¶ 3-9.) After the final approval, the Settlement

1 Administrator will continue with the calculation of the settlement checks, issuance and mailing of
2 those settlement checks, etc., and preparation of the necessary tax reporting on such payments. (*Id.*
3 at ¶ 14.) The Administrator will mail the Individual Settlement payments in an envelope that bears
4 the notation “YOUR CLASS ACTION SETTLEMENT CHECK IS ENCLOSED”; posting a copy
5 of the Order and Judgment of Final Approval of Class Action Settlement on its website; and provide
6 a compliance report and declaration regarding the total amount of uncashed checks and further
7 distribute the uncashed funds consistent with the Settlement Agreement. (*See* [Proposed] Order and
8 Judgment of Final Approval of Class Action Settlement.) All of these duties are included in the
9 agreed-upon flat fee of \$9,000. Thus, the Settlement Administrator’s fees should be approved.

10 **VIII. LWDA HAS BEEN PROVIDED WITH NOTICE OF THIS HEARING**

11 Plaintiff gave notice to the LWDA by uploading a copy of the Order Granting Preliminary
12 Approval of Class Action Settlement and this Motion and Proposed Order. (Sung Decl. ¶ 23.)

13 **IX. CONCLUSION**

14 For all the foregoing reasons, and on the basis of the authorities cited herein, Plaintiff
15 respectfully submits that the standards for final approval have been met, and the terms of the
16 Settlement Agreement are fair, adequate and reasonable.

17 Accordingly, Plaintiff respectfully requests that the Court enter an Order in the form
18 proposed and submitted:

- 19 1. Granting final approval to the proposed Settlement;
- 20 2. Approving distribution of the settlement funds to the Class Members pursuant to the
21 terms of the Settlement Agreement;
- 22 3. Approving Plaintiff’s request for an award of the class representative enhancement
23 of \$10,000;
- 24 4. Approving attorney’s fees award in the amount of \$181,333.33 to Justice for
25 Workers, P.C.;
- 26 5. Approving attorney’s costs award in the amount of \$10,944.22 to Class Counsel;
- 27 6. Approving Plaintiff’s request for payment of the settlement administration costs to
28 the Settlement Administrator in the amount of \$9,000;

1 7. Approving that the funds from any checks returned as undeliverable, and any checks
2 not negotiated within 180 days, shall be transmitted to the California State Controller's office in the
3 name of the Class Member.

4 8. Setting a non-appearance compliance hearing on September 18, 2025 with a deadline
5 to file a compliance declaration on or before September 11, 2025; and

6 9. Entering final judgment as to all members of the Class.

7
8 DATED: November 19, 2024

Respectfully submitted,

9 **JUSTICE FOR WORKERS, P.C.**

10
11
12 By: 

13 William C. Sung, Esq.

Tiffany L. Luu, Esq.

14 Attorneys for Plaintiff DENNISHA LAMPKIN
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