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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES**

GREGORY BRULE, 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.

CATALINA ISLAND COMPANY, a
California corporation; SANTA
CATALINA ISLAND COMPANY, a
Delaware corporation; and DOES 1
through 100, inclusive,

Defendants.

Case No. 24LBCV00582

Honorable Mark C. Kim
Department S27

CLASS ACTION

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

[Declaration of Plaintiff's Counsel
(Melissa LeBlanc-Mansell); Declaration of
Plaintiff (Gregory Brule); and [Proposed] Order
Granting Preliminary Approval of Class Action
and PAGA Settlement filed concurrently
herewith]

Date: April 8, 2025
Time: 8:30 a.m.
Department: S27
Reservation ID: Specially Set by Court

Complaint Filed: March 21, 2024
FAC Filed: August 19, 2024
Trial Date: None Set

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

PLEASE TAKE NOTICE that on April 8, 2025 at 8:30 a.m., or as soon thereafter as the matter may be heard before the Honorable Mark C. Kim in Department S27 of the Superior Court of the State of California, for the County of Los Angeles, 275 Magnolia Avenue, Long Beach, California 90802, Plaintiff Gregory Brule (“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’ Class Action and PAGA Settlement Agreement and Release (with Proposed Notice of Class and PAGA Action Settlement) (“Settlement,” “Agreement,” or “Settlement Agreement”), attached as “**EXHIBIT 3**” to the Declaration of Melissa LeBlanc-Mansell in Support of Plaintiff’s Motion for Preliminary Approval of Class Action and PAGA Settlement (“LeBlanc-Mansell Decl.”);
- Certifying the proposed Class for settlement purposes;
- Appointing Gregory Brule as Class Representative;
- Appointing Arby Aiwezian, Joanna Ghosh, and Melissa LeBlanc-Mansell of Lawyers for Justice, PC as Class Counsel;
- Approving the proposed Court-Approved Notice of Class Action Settlement and Hearing Date for Final Court Approval (“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.

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

1 This motion is based upon the following memorandum of points and authorities, the
2 Settlement Agreement, the Declarations of Proposed Class Counsel (Melissa LeBlanc-Mansell)
3 and Proposed Class Representative (Gregory Brule) in support thereof, as well as the pleadings
4 and other records on file with the Court in this matter, and such evidence and oral argument as
5 may be presented at the hearing on this motion.

6 Dated: March 27, 2025

LAWYERS for JUSTICE, PC

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8 By: _____
9 Melissa LeBlanc-Mansell
10 *Attorneys for Plaintiff*
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MEMORANDUM OF POINTS AND AUTHORITIES

I. SUMMARY OF MOTION

Plaintiff Gregory Brule (“Plaintiff” or “Class Representative”) seek preliminary approval of the Class Action and PAGA Settlement Agreement and Release (with Proposed Notice of Class and PAGA Action Settlement) (“Settlement,” “Agreement,” or “Settlement Agreement”) entered into by and between Plaintiff, on the one hand, and Defendants Catalina Island Company and Santa Catalina Island Company (together, “Defendants”), on the other hand. Subject to approval by the Court, Plaintiff and Defendants (together, the “Parties”) have agreed to settle the lawsuit for a Gross Settlement Amount of \$985,000.

Plaintiff also seeks to provisionally certify the following Class for settlement purposes, which Defendants do not oppose: (a) All current and former hourly-paid or non-exempt employees who worked for Defendants within the State of California at any time during the period of February 29, 2020 through the date of preliminary court approval of the Settlement; and (b) All current and former salaried maintenance managers or persons who held similar job titles and/or performed similar job duties, who were classified by Defendants as “exempt” and worked for Defendants within the State of California during the period of February 29, 2020 through the date of preliminary court approval of the Settlement (“Class” or “Class Members”).¹ Class Members who do not submit a timely and valid Request for Exclusion from the Class Settlement (“Participating Class Member”) will receive a *pro rata* share of the Net Settlement Amount (“Individual Class Payment”). Each Participating Class Member’s Individual Class Payment will be calculated on a *pro rata* basis based upon the number of weeks each Class Member worked for Defendants on at least one work day and received a wage statement during the Class Period (“Class Workweeks”).²

The Settlement, upon final approval by the Court and funding of the Gross Settlement Amount, as it pertains to Participating Class Members, will operate to resolve the Released Class Claims of Participating Class Members, and as it pertains to Non-Participating Class Members

¹ LeBlanc-Mansell Decl. ¶¶ 7, 13, Exh. 3 (“Settlement Agreement”), ¶ 1.5.; “Class Period” is defined as the time period from February 29, 2020 to the date of preliminary court approval of the Settlement. *See id.*, ¶ 1.13.

² *Id.*, ¶¶ 1.23 & 3.2.4.

who are Aggrieved Employees, will operate to resolve the Released PAGA Claims of the Non-Participating Class Members who are Aggrieved Employees.³

II. PROCEDURAL HISTORY AND FACTUAL BACKGROUND

Defendants provide individual and group experiences to guests and visitors of Santa Catalina Island. Plaintiff is an employee of Defendants who has been classified as both “exempt” and “non-exempt” during the Class Period.

On January 11, 2024, Plaintiff provided written notice to the LWDA and Defendants of the specific provisions of the California Labor Code that were alleged to be violated (“PAGA Notice”).⁴

On March 21, 2024, Plaintiff filed the Complaint for Enforcement Under the Private Attorneys General Act, California Labor Code § 2698, *Et. Seq.* in the Superior Court for the County of Los Angeles, thereby commencing the above-captioned lawsuit, asserting a single cause of action seeking civil penalties under PAGA for alleged violations of the California Labor Code.⁵

On May 6, 2024, the Answer to Plaintiff’s Unverified Complaint for Enforcement Under the Private Attorneys General Act, California Labor Code § 2698, *Et. Seq.* of Defendant Catalina Island Company was filed.⁶

On July 30, 2024, Plaintiff provided an additional written notice to the LWDA and Defendants, adding alleged violations of California Labor Code Section 221 (“Amended PAGA Notice”).⁷

On August 15, 2024, Plaintiff sought leave to file a First Amended Complaint for Damages and Enforcement Under the Private Attorneys General Act, Cal. Lab. Code § 2698, *Et Seq.* (“First Amended Complaint” or “Operative Complaint”), adding class causes of action for: (1) failure to pay overtime pursuant to California Labor Code sections 510 and 1198; (2) failure to provide compliant meal periods and associated premiums in violation of sections 226.7 and 512(a); (3)

³ See *id.*, at ¶ 5.2, for the full scope of the “Released Class Claims;” See *id.*, at ¶ 5.3, for the full scope of the “Released PAGA Claims” and *id.* at ¶ 1.41 for the full scope of the “Released Parties.”

⁴ LeBlanc-Mansell Decl., ¶ 2; Exh. 1.

⁵ *Id.*, ¶3.

⁶ *Id.*, ¶4.

⁷ *Id.*, ¶5, Exh. 2.

1 failure to provide compliant rest periods and associated premiums in violation of section 226.7;
2 (4) failure to pay minimum wages pursuant to sections 1194, 1197, and 1197.1; (5) failure to timely
3 pay wages upon termination in violation of sections 201 and 202; (6) failure to timely pay wages
4 during employment in violation of section 204; (7) failure to provide accurate and itemized wage
5 statements in violation of section 226(a); (8) failure to keep requisite payroll records in violation
6 of section 1174(d); (9) failure to reimburse business expenses in violation of sections 2800 and
7 2802; and (10) violations of California Business and Professions Code § 17200, *et seq.* The Court
8 granted Plaintiff leave to file the proposed First Amended Complaint on August 15, 2024, and
9 Plaintiff filed the First Amended Complaint on August 19, 2024.⁸

10 Plaintiff's core allegations are that Defendants have violated California wage and hour law,
11 including but not limited to laws set forth in the California Labor Code, by engaging in a uniform
12 practice and procedure, with respect to Plaintiff, Class Members, and Aggrieved Employees of,
13 *inter alia*, failing to pay all overtime and minimum wages, at all or at the correct rate of pay, failing
14 to provide compliant meal and rest periods and associated premium pay, failing to timely pay
15 wages during employment and upon termination of employment, failing to provide compliant
16 wage statements, failing to maintain requisite payroll records, and failing to reimburse necessary
17 business expenses, and thereby engaged in unfair business practices in violation of California
18 Business and Professions Code section 17200, *et seq.* and conduct that gives rise to civil penalties
19 pursuant to PAGA. Plaintiff contends that they, and the Class Members, are entitled to, *inter alia*,
20 unpaid wages, penalties (including and not limited to, penalties pursuant to PAGA), and attorneys'
21 fees and costs.⁹

22 The Parties have actively litigated the case since it was commenced on March 21, 2024.¹⁰
23 On August 21, 2024, the Parties participated in arm's-length and informed negotiations with
24 Mediator Honorable Zaven Sinanian (Ret.) ("Mediator"), a respected mediator of complex wage
25 and hour actions.¹¹ Although the case did not settle at the mediation session, the Parties continued
26

27 ⁸ *Id.*, ¶ 6.

28 ⁹ *Id.*, ¶ 28.

¹⁰ *Id.*, ¶ 23, 9:8.

¹¹ *Id.*, at 9: 9-11.

1 settlement negotiations after the mediation session, and with the aid of the Mediator's evaluation,
2 the Parties ultimately reached the Settlement described herein to resolve the case in its entirety.¹²

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

4 Under the terms of the Settlement, Defendants will pay a Gross Settlement Amount of
5 \$985,000 to resolve the case.¹³ Subject to approval by the Court, the Net Settlement Amount will
6 be calculated by deducting the following amounts from the Gross Settlement Amount: (1)
7 attorneys' fees in an amount not to exceed 35% of the Gross Settlement Amount (i.e., \$344,750
8 ("Class Counsel Fees Payment") to Class Counsel, (2) litigation costs and expenses in an amount
9 not to exceed \$25,000 ("Class Counsel Litigation Expenses Payment") to Class Counsel; (3)
10 Settlement Administration Costs, which are currently estimated not to exceed \$11,000 to the
11 Settlement Administrator ("Administration Expenses Payment"); (4) the amount of \$180,000 as
12 civil penalties under PAGA ("PAGA Penalties"); and (5) payment in the amount of up to \$7,500
13 to Plaintiff ("Class Representative Service Payment").¹⁴ The Parties have agreed to retain
14 Simpluris, Inc., ("Simpluris" or "Administrator") to handle the notice and settlement
15 administration process.¹⁵

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

23 The Parties agree, for purposes of this Settlement, that the tax allocation for the Individual
24 Class Payment will be 20% allocated to wages subject to withholdings and 80% allocated to
25

26 ¹² *Id.*, at 9:22-26.

27 ¹³ Settlement Agreement, ¶ 3.1.

28 ¹⁴ *Id.*, ¶¶ 3.2.1, 3.2.2, 3.2.3, & 3.2.5.

¹⁵ *Id.*, ¶ 7.1; LeBlanc-Mansell Decl. ¶ 11.

¹⁶ Settlement Agreement, ¶¶ 3.2.4. & 3.2.4.2.

¹⁷ *Id.*, ¶ 3.2.5.

1 penalties and interest.¹⁸ The Administrator will withhold the employee's share of taxes and
2 withholdings with respect to the wages portion of the Individual Class Payment, and issue checks
3 to Participating Class Members for their Individual Class Payments. Individual PAGA Payments
4 to Aggrieved Employees will be allocated as 100% penalties and will not be subject to
5 withholdings.¹⁹ Defendants will provide the funds for their employer-side taxes related to the
6 Individual Class Payments, in addition to the Gross Settlement Amount.²⁰

7 Individual Class Payment and Individual PAGA Payment checks shall remain valid and
8 negotiable for 180 calendar days from the date of their issuance, and thereafter, shall be canceled.²¹
9 Thereafter, funds from uncashed Individual Class Payment and/or Individual PAGA Payment
10 checks shall be transmitted to the *cy pres* organization, Catalina Island Health Fund.²² The Parties
11 and their counsel have no interest or relationship, financial or otherwise, with Catalina Island
12 Health Fund.²³

13 Any Class Member may request to be excluded from the Class Settlement by mailing a
14 Request for Exclusion postmarked on or before the date that is 60 calendar days from the date of
15 the initial mailing of the Class Notice by the Administrator ("Response Deadline").²⁴ Aggrieved
16 Employees shall be bound to the PAGA Settlement irrespective of whether they exercise their
17 option to opt out of the Class Settlement.²⁵

18 Only Class Members who have not submitted a Request for Exclusion (i.e., Participating
19 Class Members) may object to the Class Settlement by submitting an Objection to the Settlement
20 to the Administrator prior to the Response Deadline or by presenting their objection orally at the
21 Final Approval Hearing, regardless of whether they submitted a written objection.²⁶

22 In order to dispute the number of Class Workweeks and/or PAGA Pay Periods attributable
23 to an individual Class Member and/or Aggrieved Employee, that Class Member and/or Aggrieved
24

25 ¹⁸ *Id.*, ¶ 3.2.4.1.

26 ¹⁹ *Id.*, ¶ 3.2.5.1

27 ²⁰ *Id.*, ¶¶ 3.1 and 4.3.

28 ²¹ Settlement Agreement, ¶ 4.4.1.

²² *Id.*, ¶ 4.4.3; LeBlanc-Mansell Decl. ¶ 11.

²³ Settlement Agreement ¶ 4.4.3; LeBlanc-Mansell Decl. ¶¶ 35 & Exh. 7.

²⁴ Settlement Agreement, ¶ 7.5.1; Exh. A, Page 3.

²⁵ *Id.*, ¶ 5.3; Exh. A, Pages 2-3.

²⁶ *Id.*, ¶ 7.7; Exh. A, Pages 2-3.

Employee must communicate with the Administrator via fax, email, or mail, by the Response Deadline. The Administrator must encourage the challenging Class Member and/or Aggrieved Employee to submit supporting documentation.²⁷

IV. LEGAL STANDARD FOR PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENTS

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).

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.

V. THE COURT SHOULD PRELIMINARILY APPROVE THE SETTLEMENT

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

²⁷ *Id.*, ¶ 7.6; Exh. A, Page 6.

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 v. Apple Computer, Inc.* (2001) 91 Cal.App.4th 224, 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.

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

The Parties have actively litigated the case since it commenced on March 21, 2024. 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.²⁸

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, Defendants, and other sources.²⁹ 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 employment records, Defendants’ Handbooks, earnings statements, company policy acknowledgements, job descriptions, performance reviews, and Defendant’s operations and employment practice, policies, and procedures, among other information and documents.³⁰ Class Counsel had the opportunity to interview Plaintiff and others

²⁸ LeBlanc-Mansell Decl., ¶ 23, Pages 9:8; ¶ 24, 10:1-2; ¶ 25.

²⁹ LeBlanc-Mansell Decl., ¶ 24, 10:2-5.

³⁰ LeBlanc-Mansell Decl., ¶ 24, 10:5-15.

1 to gather facts and to identify potential witnesses. In addition, Class Counsel has extensive
2 experience in California wage-and-hour class actions.³¹

3 The Parties engaged in extensive settlement negotiations and participated in a full-day
4 mediation, conducted by the Honorable Zaven Sinanian (Ret.), a well-respected mediator
5 experienced in mediating complex labor and employment matters.³² In the course of the mediation
6 and settlement discussions, the Parties exchanged extensive information and engaged in
7 discussions regarding their evaluations of the case and various aspects of the case, including but
8 not limited to, the risks and delays of further litigation, including the risks of proceeding with class
9 certification and/or representative adjudication; the law relating to off-the-clock theory, arbitration
10 agreements, regular rate, meal and rest periods, PAGA representative claims, and wage-and-hour
11 enforcement; the evidence produced and analyzed; and the possibility of appeals.³³ During all
12 settlement discussions, the Parties conducted their negotiations at arm's length in an adversarial
13 position.³⁴ Arriving at a settlement that was acceptable to both Parties was not easy. Both sides felt
14 strongly about their ability to prevail at certification and at trial.³⁵ After conducting investigations,
15 informal discovery, extensive settlement negotiations, and with the aid of the mediator's
16 evaluation, the Parties have agreed that the matter is well-suited for settlement given the legal
17 issues relating to Plaintiff's principal claims, as well as the costs and risks to both sides that would
18 attend further litigation.³⁶

19 Although a resolution has been reached, Defendants deny any liability or wrongdoing of
20 any kind associated with the claims alleged in the case and further deny that, for any purpose other
21 than settlement, the case is appropriate for class treatment. Defendants contend, among other
22 things, Plaintiff and the putative class members were paid for all hours worked at the correct rate
23 of pay, Defendants' meal and rest period policies and practices have fully complied with the law
24 and Plaintiff and the putative class members were and are provided the opportunity to take meal
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26 ³¹ *Id.*, ¶¶ 17-21.

27 ³² *Id.*, ¶ 23, 9:8-11.

28 ³³ *Id.*, ¶¶ 23-27

³⁴ *Id.*, ¶23, 9:18-19.

³⁵ *Id.*, ¶23, 9:20-22.

³⁶ *Ibid.*

1 and rest periods in accordance with Defendants' legally compliant policies and practices,
2 Defendants had a written policy providing for reimbursement of reasonable and necessary business
3 expenses and neither Plaintiff nor the putative class members have been required to incur any
4 expenses related to their job for which they have not been reimbursed by Defendants, Defendants
5 provided complete, accurate itemized wage statements, maintained accurate payroll records,
6 Defendants timely paid all wages owed upon the termination of employment, and otherwise
7 complied at all times with the California Labor Code and applicable Wage Orders. Further,
8 Defendants contend that class certification would be inappropriate for any reason other than for
9 settlement. Specifically Defendants contend that if Plaintiff proceeded with his lawsuit and
10 survived summary judgment, the class and representative action allegations would be stricken, no
11 class would be certified in connection with any of Plaintiff's claims, and the action would proceed
12 on an individual basis because, among other reasons, individual issues predominate, Plaintiff is
13 not similarly situated to any of the putative class members, and the case would not be manageable
14 as a representative action.

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

16 The Settlement represents a fair, adequate, and reasonable resolution of the matter.³⁷ The
17 Settlement was calculated using the information and data uncovered during litigation, case
18 investigation, and the informal exchange of information.³⁸ The Settlement takes into account the
19 potential risks and rewards inherent in any case and, in particular, in the matter at issue. Moreover,
20 considering all of the facts and circumstances of the case, the Settlement represents a fair,
21 reasonable, and adequate recovery for the Class, Aggrieved Employees, and the State of
22 California.³⁹

23 Assuming that the Class Counsel Fees Payment, Class Counsel Litigation Expenses
24 Payment, Class Representative Service Payment, PAGA Penalties, and Administration Expenses
25 Payment are approved by the Court and paid in the full amounts provided for by the Settlement,
26 the Settlement provides that the entire Net Settlement Amount will be paid out in full to the

27 ³⁷ *Id.*, ¶ 23, 9:26-28.

28 ³⁸ *Id.*, ¶ 24.

³⁹ *Id.*, ¶23-25.

1 Participating Class Members, and the Net Settlement Amount is currently estimated to be
2 \$416,750.⁴⁰ Additionally, the entire 25% of the PAGA Penalties (i.e., Individual PAGA Payment),
3 which is \$45,000 out of \$180,000, will be distributed to the Aggrieved Employees.

4 The amount of each Participating Class Member's Individual Class Payment will be
5 calculated based on his or her Class Workweeks and the amount of each PAGA Employees'
6 Individual PAGA Payment will be calculated based on his or her PAGA Pay Periods during the
7 PAGA Period.⁴¹ "An allocation formula need only have a reasonable, rational basis [to warrant
8 approval], particularly if recommended by experienced and competent class counsel." *In re*
9 *American Bank Note Holographics, Inc., Securities Litigation* (S.D.N.Y. 2001) 127 F.Supp.2d
10 418, 429-30. Here, the allocation is reasonably related to the number of Class Workweeks and/or
11 PAGA Pay Periods actually worked for Defendants during the relevant period and should be
12 approved.

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

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

21 Pursuant to *Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th 116, the Parties
22 conducted extensive informal discovery and exchanged a large volume of documents, data, and
23 information prior to mediation.⁴³ The information that Class Counsel obtained from Plaintiff,
24 Defendants, and other sources allowed Class Counsel to develop valuation models in order to
25 evaluate the potential value and merit of the claims, and perform a complete evaluation of
26

27 ⁴⁰ LeBlanc-Mansell Decl., ¶ 8, 2:26-27.

28 ⁴¹ Settlement Agreement, ¶¶ 3.2.4. & 3.2.5.1.

⁴² *Id.*, ¶¶ 3.2.4 & 3.2.5.1.

⁴³ LeBlanc-Mansell Decl., ¶ 24, 8:27-10:12.

Defendants’ defenses thereto.⁴⁴ As outlined in the Declaration of Melissa LeBlanc-Mansell, Class Counsel performed an extensive analysis of each and every claim pursuant to *Kullar* prior to entering into the Settlement.⁴⁵

VI. 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.⁴⁶ 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; *see also Rose v. City of Hayward* (1981) 126 Cal.App.3d 926, 934-35 (indicating that a class of 30 to 40 individuals satisfies the numerosity requirement as joinder is not practical at that point). The Class here is estimated to be approximately 1,256 individuals, which is sufficiently numerous.⁴⁷ Further, all Class Members can and will be identified by Defendants to the Administrator through a review of Defendants’ employment records regarding their hourly-paid or non-exempt employees and their salaried

⁴⁴ *Id.*, ¶ 27.

⁴⁵ *Id.*, ¶ 32.

⁴⁶ Settlement Agreement, ¶ 12.1.

⁴⁷ LeBlanc-Mansell Decl. ¶ 14.

1 maintenance managers or similar job title, in California during the Class Period. As such, the Class
2 is ascertainable.⁴⁸

3 **B. The Class Members Share a Well-Defined Community of Interest.**

4 The community of interest requirement “embodies three factors: (1) predominant common
5 questions of law or fact; (2) class representatives with claims or defenses typical of the class; and
6 (3) class representatives who can adequately represent the class.” *Sav-On, supra*, 34 Cal.4th at
7 326. “[T]he community of interest requirement for certification *does not mandate that class*
8 *members have uniform or identical claims.*” *Capitol People First v. Dep’t of Developmental*
9 *Services* (2007) 155 Cal.App.4th 676, 692 (emphasis in original). Rather, courts focus on the
10 defendant’s internal policies and “pattern and practice . . . in order to assess whether that common
11 behavior toward similarly situated plaintiff renders class certification appropriate.” *Id.* (citing *Sav-*
12 *On*, 34 Cal.4th at 333).

13 Here, common issues of law and fact predominate as to each of the claims alleged and
14 asserted in the case. Based on the documents and information obtained through informal discovery
15 and exchange of information in the case, Plaintiff contends that Class Members performed similar
16 job duties and were subject to uniform operations and employment policies, practices, and
17 procedures during the Class Period, including payroll and recordkeeping practices.⁴⁹ As a result,
18 Plaintiff claims that all of the Class Members were uniformly not paid all compensation due to
19 them from Defendants during the time period at issue. Plaintiff maintains that the outcome of this
20 litigation would be determined by Defendants’ alleged uniform operations and employment
21 policies and procedures that applied across their hourly-paid or non-exempt employees and
22 salaried maintenance managers or employees with similar job titles who worked in California
23 during the Class Period.

24 As a member of the Class who was subject to these same policies, practices, and
25 procedures, Plaintiff’s claims are typical of the Class. Moreover, Plaintiff has no interests adverse
26 to the Class. Plaintiff has taken steps to initiate and maintain this action and to ensure that it comes
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28 ⁴⁸ *Id.*, ¶13.

⁴⁹ LeBlanc-Mansell Decl., ¶ 15.

1 to a fair and reasonable resolution.⁵⁰ Importantly, Plaintiff has retained a law firm well-versed in
2 wage and hour class actions, which has at all times represented the best interests of Plaintiff and
3 the Class.⁵¹

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

6 **VII. APPOINTMENT OF CLASS COUNSEL AND ALLOCATION FOR ATTORNEYS'**
7 **FEES & COSTS**

8 Class Counsel has actively litigated the matter for approximately one year.⁵² The ongoing
9 work has been extensive, demanding, and ultimately successful in achieving a substantial
10 settlement resolution in a relatively short amount of time. Class Counsel reviewed a large volume
11 of documents and data and also interviewed and obtained information from Plaintiff and other
12 percipient witnesses, researched applicable law, undertook damages and penalties valuation
13 calculations, and met and conferred with Defendants' counsel regarding the pleadings and the
14 production of information, documents, and data in the course of mediation and settlement
15 discussions.⁵³ Counsel for the Parties also undertook extensive settlement discussions, which
16 included participating in mediation.⁵⁴ Class Counsel is well-experienced in wage-and-hour class
17 action litigation and used that experience to obtain a great result for the Class, Aggrieved
18 Employees, and the State of California.⁵⁵

19 The Settlement establishes a Gross Settlement Amount of \$985,000, and provides for Class
20 Counsel to apply to the Court consisting of attorneys' fees in an amount up to 35% of the Gross
21 Settlement Amount (i.e., \$344,750), and reimbursement of actual costs and expenses in an amount
22 up to \$25,000.⁵⁶ The attorneys' fees provided for by the Settlement are commensurate with: (1)
23 the risk that Class Counsel took in bringing and litigating the case, (2) the extensive time, effort
24

25 ⁵⁰ Declaration of Gregory Brule in Support of Plaintiff's Motion for Preliminary Approval of Class Action
Settlement ("Brule Decl."), ¶ 4.

26 ⁵¹ LeBlanc-Mansell Decl., ¶¶ 17-21.

27 ⁵² *Id.*, ¶ 23, 9:8.

28 ⁵³ *Id.*, ¶ 24, 10:2-17.

⁵⁴ *Id.*, ¶ 23, 9:11-18.

⁵⁵ *Id.*, ¶ 22.

⁵⁶ Settlement Agreement, ¶¶ 3.1 & 3.2.

1 and expense that Class Counsel dedicated to the case, (3) the skill and determination that Class
2 Counsel has shown, (4) the results that Class Counsel has achieved throughout the litigation, (5)
3 the value of the Settlement that Class Counsel has achieved for the Class Members, and (6) the
4 other cases that Class Counsel had to turn down in order to devote its time and efforts to this matter.
5 The proposed Class Notice provides Class Members with notice that an award of the Class Counsel
6 Fees Payment and Class Counsel Litigation Expenses Payment will be sought and the amounts
7 allocated toward the Class Counsel Fees Payment and Class Counsel Litigation Expenses Payment
8 by the Settlement.⁵⁷

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

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

27
28 ⁵⁷ *Id.*, Exh. A, Pages 4-5.

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 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.⁵⁸ 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 Class Counsel Fees Payment and Class Counsel Litigation Expenses Payment and at the Final Approval Hearing. Considering the work performed and the risks incurred, the attorneys’ fees provided for by the Settlement are well within the range of reasonableness for preliminary approval.

VIII. THE PROPOSED CLASS NOTICE IS ADEQUATE

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

⁵⁸ LeBlanc-Mansell Decl., ¶ 9.

The proposed Class Notice describes the Settlement,⁵⁹ the deadlines and procedures to submit an objection to the Class Settlement,⁶⁰ submit a Request for Exclusion from the Class Settlement,⁶¹ and/or dispute regarding Class Workweeks and/or PAGA Pay Periods,⁶² and the date and time set for the Final Approval Hearing.⁶³ The proposed Class Notice summarizes the proceedings to date and the terms and conditions of the Settlement in an informative and coherent manner.⁶⁴ The proposed Class Notice recognizes that the Court has not yet granted final approval of the Settlement.⁶⁵ The proposed Class Notice also appries the Class Members of, *inter alia*, how their Individual Class Payment and, if applicable, Individual PAGA Payment is calculated and the number of Class Workweeks and/or PAGA Pay Periods credited to them.⁶⁶ 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.

IX. APPOINTMENT OF THE SETTLEMENT ADMINISTRATOR

The Parties have selected Simpluris, Inc. as the Administrator. Defendant will provide the Class Data to the Administrator not later than 30 days after the Court grants preliminary approval of the Settlement, which the Administrator shall maintain in confidence, use for no purpose other

⁵⁹ Settlement Agreement, Exh. A, Pages 4-5.

⁶⁰ Settlement Agreement, ¶ 1.43; *Id.*, at Pages 3 & 9. The deadline for objecting to the Class Settlement will be the date that is 60 days after the Settlement Administrator mails the Class Notice, subject to a 14-day extension in the event of a remailed Class Notice.

⁶¹ Settlement Agreement, ¶ 1.43; *Id.*, at Pages 3 & 8. The deadline for opting out of the Class Settlement will be the date that is 60 days after the Settlement Administrator mails the Class Notice, subject to a 14-day extension in the event of a remailed Class Notice.

⁶² *Id.*

⁶³ Settlement Agreement, ¶ 7.8.1; *Id.*, at Pages 3 & 9. The Final Approval Hearing date and time will be inserted in the Class Notice based on the Order Granting Preliminary Approval of Class Action and PAGA Settlement. The Class Notice also notifies Class Members and/or Aggrieved Employees “[i]t’s possible the Court will reschedule the Final Approval Hearing. You should check the Administrator’s Website _____ beforehand or contact Class Counsel to verify the date and time of the Final Approval Hearing.” Simpluris will be responsible for posting information, including, but not limited to, the date, time, and location of the Final Approval Hearing, on a website. *Id.* At Pages 9-10.

⁶⁴ *Id.*, at Pages 3-5.

⁶⁵ *Id.*, at Pages 3 & 9,

⁶⁶ *Id.*, at Page 8.

1 than this settlement, and restrict access to only those employees who require access to effectuate
2 the Settlement.⁶⁷ Within 14 calendar days of receipt of the Class List, the Administrator will mail
3 the Class Notice to each Class Member and Aggrieved Employee.⁶⁸ The Administrator will skip-
4 trace returned Class Notices and re-mail the Class Notice to the new addresses within three
5 business days.⁶⁹ In the case of a re-mailed Class Notice, the Response Deadline will be extended
6 by 14 days from the original Response Deadline.⁷⁰ The Administrator will establish and maintain
7 the use of an internet website to post information of interest to Class Members, including, but not
8 limited to, the date, time, and location for the Final Approval Hearing, copies of the Settlement
9 Agreement, Order Granting Preliminary Approval of Class Action and PAGA Settlement, an
10 exemplar Class Notice, as well as the Final Approval Order and Judgment.⁷¹ The Administrator
11 will receive and process Requests for Exclusion,⁷² objections to the Class Settlement,⁷³ or disputes
12 regarding Class Workweeks and/or PAGA Pay Periods.⁷⁴ In addition, the Administrator will be
13 responsible for printing, distributing, and tracking Class Notices and other documents for the
14 Settlement;⁷⁵ calculating and distributing payments due under the Settlement;⁷⁶ issuing of 1099
15 and W-2 IRS Forms and all required tax reporting, filings, withholdings, and remittances;⁷⁷
16 providing necessary reports and declarations;⁷⁸ and other duties and responsibilities to process the
17 Settlement and as requested by the Parties.⁷⁹ The Administration Expenses Payment is currently
18 estimated to be \$11,000 and will be paid out of the Gross Settlement Amount, subject to approval
19 by the Court.⁸⁰ Accordingly, Plaintiff respectfully requests that the Court appoint Simpluris, Inc.,
20 as the Administrator and direct the mailing of the Class Notice to the Class Members in the manner
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22 ⁶⁷ Settlement Agreement, ¶ 4.2.

23 ⁶⁸ *Id.*, ¶ 7.4.2.

24 ⁶⁹ *Id.*, ¶ 7.4.3.

25 ⁷⁰ *Id.*, ¶ 7.4.4.

26 ⁷¹ *Id.*, ¶ 7.8.1; LeBlanc-Mansell Decl., ¶ 11.

27 ⁷² *Id.* ¶ 7.5.1.

28 ⁷³ *Id.*, ¶ 7.6.

⁷⁴ *Id.*, ¶ 7.7.

⁷⁵ *Id.*, ¶¶ 7.4-7.8.

⁷⁶ *Id.*, ¶¶ 3.2.4 & 3.2.5.1.

⁷⁷ *Ibid.*

⁷⁸ Settlement Agreement, ¶ 7.8.

⁷⁹ *Id.*, ¶ 7.

⁸⁰ Settlement Agreement, ¶ 3.2.3; LeBlanc-Mansell Decl. ¶ 11, 4:4-5..

outlined and based on the proposed deadlines as described herein and set forth in the Settlement Agreement.

X. CLASS REPRESENTATIVE SERVICE PAYMENT

Plaintiff respectfully requests that the Court appoint him as the Class Representative and preliminarily approve a service payment in an amount up to \$7,500.⁸¹ It is within the Court's discretion to award payment to a class representative for their 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 contemplated Class Representative Service Payment is fair and appropriate. Plaintiff spent a substantial amount of time and effort performing services that have benefited the Class, Aggrieved Employees, and the State of California, including and not limited to, producing relevant documents and past employment records and providing the facts and evidence necessary to attempt to prove the allegations and undertook the risks associated with filing a lawsuit.⁸² Plaintiff was available whenever Class Counsel needed him and actively tried to obtain and provide information that would facilitate the pursuit of class and PAGA claims.⁸³ In exchange for the Class Representative Service Payment, Plaintiff will also provide a general release of Plaintiff's individual claims against the Released Parties as well as waive § 1542 of the California Civil Code.⁸⁴ Accordingly, it is appropriate and just for Plaintiff to receive a Class Representative Service Payment, in addition to his individual settlement payment.

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⁸¹ Settlement Agreement, ¶ 3.2.1.

⁸² LeBlanc-Mansell Decl., ¶¶ 10, 16; Brule Decl., ¶ 3.

⁸³ LeBlanc-Mansell Decl., ¶¶ 10, 16; Brule Decl., ¶¶ 3-6.

⁸⁴ Settlement Agreement, ¶ 5.1.1.

XI. CONCLUSION

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 Gregory Brule as Class Representative; appoint Simpluris, Inc., as Administrator; preliminarily approve the allocations for Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, Class Representative Service Payment, PAGA Penalties, and Administration Expenses Payment; approve the proposed Class Notice; direct the Administrator to undertake the notice and settlement administration process in conformity with the deadlines and procedures provided by the Settlement Agreement; and schedule a Final Approval Hearing to take place in approximately 6 months.

Dated: March 27, 2025

LAWYERS *for* JUSTICE, PC

By: 
Melissa LeBlanc-Mansell
Attorneys for Plaintiff