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**SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE COUNTY OF SACRAMENTO**

SONIA CARRINGTON, individually, and  
on behalf of other members of the general  
public similarly situated and other  
aggrieved employees pursuant to the  
California Private Attorneys General Act;

Plaintiff,

vs.

7400 24<sup>TH</sup> STREET, LLC, a California  
limited liability company; and DOES 1  
through 100, inclusive,

Defendants.

Case No. 34-2021-00304901

Honorable Lauri A. Damrell  
Department 22

**CLASS ACTION**

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

[Declaration of Proposed Class Counsel  
(Elizabeth Parker-Fawley); Declaration of  
Proposed Class Representative (Sonia  
Carrington); and [Proposed] Order filed  
concurrently herewith]

Date: September 13, 2024  
Time: 9:00 a.m.  
Department: 22

Complaint Filed: July 26, 2021  
FAC Filed: August 19, 2024  
Trial Date: None Set

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

3                   **PLEASE TAKE NOTICE** that on September 13, 2024 at 9:00 a.m., or as soon thereafter  
4 as the matter may be heard before the Honorable Lauri A. Damrell in Department 22 of the  
5 Superior Court of the State of California, for the County of Sacramento, 720 9th Street,  
6 Sacramento, California 95814, Plaintiff Sonia Carrington (“Plaintiff”) will, and hereby does, move  
7 for an order:

- 8                   • Granting preliminary approval of the proposed class action settlement described herein  
9 and as set forth in the parties’ Joint Stipulation of Class and PAGA Action Settlement  
10 (“Settlement,” “Agreement,” or “Settlement Agreement”), attached as “**EXHIBIT 2**”  
11 to the Declaration of Elizabeth Parker-Fawley in Support of Plaintiff’s Motion for  
12 Preliminary Approval of Class Action Settlement, including, but not limited to, the  
13 proposed total settlement amount, means of allocation and distribution of funds, the  
14 allocations for penalties under the California Labor Code Private Attorneys General  
15 Act of 2004, Attorneys’ Fees and Costs to Class Counsel, Enhancement Award to  
16 Plaintiff, and Settlement Administration Costs to the Settlement Administrator;
- 17                   • Certifying the proposed Class for settlement purposes only;
- 18                   • Preliminarily appointing Sonia Carrington as Class Representative;
- 19                   • Preliminarily appointing Arby Aiwazian, Joanna Ghosh, Elizabeth Parker-Fawley,  
20 Yasmin Hosseini and Ryan Slinger of Lawyers *for* Justice, PC as Class Counsel;
- 21                   • Approving the proposed Notice of Class Action Settlement (“Class Notice”), attached  
22 as “**EXHIBIT A**” to the [Proposed] Order Granting Preliminary Approval of Class  
23 Action Settlement;
- 24                   • Directing the mailing of the Class Notice to the Class Members;
- 25                   • Approving the proposed deadlines for the notice and administration process;
- 26                   • Approving Simpluris, Inc., as the Settlement Administrator; and
- 27                   • Scheduling a hearing to consider final approval of the Settlement, at which time the  
28 Court will also consider whether to grant final approval of the requests for the

Attorneys' Fees and Costs to Class Counsel, Enhancement Award to Plaintiff, Settlement Administration Costs to the Settlement Administrator, and PAGA Allocation.

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

Pursuant to Local Rule 1.06 (A), the court will make a tentative ruling on the merits of this matter by 2:00 p.m., the court day before the hearing. The complete text of the tentative ruling may be downloaded off the court's website. If the party does not have online access, they may call the dedicated phone number for the department as referenced in the local telephone directory between the hours of 2:00 p.m. and 4:00 p.m. on the court day before the hearing and receive the tentative ruling. If you do not call the court and the opposing party by 4:00 p.m. the court day before the hearing, no hearing will be held.

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

Dated: August 21, 2024

**LAWYERS for JUSTICE, PC**



By: \_\_\_\_\_

Ryan Slinger  
Attorneys for Plaintiff

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**MEMORANDUM OF POINTS AND AUTHORITIES**

**I. SUMMARY OF MOTION**

Plaintiff Sonia Carrington (“Plaintiff” or “Class Representative”) seek preliminary approval of the Joint Stipulation of Class and PAGA Action Settlement (“Settlement,” “Agreement,” or “Settlement Agreement”) entered into by and between Plaintiff, individually and on behalf of all others similarly situated and other aggrieved employees, on the one hand, and Defendant 7400 24<sup>th</sup> Street, LLC (“Defendant”), on the other hand. Subject to approval by the Court, Plaintiff and Defendant (together, the “Parties”) have agreed to settle the lawsuit for a Gross Settlement Amount of \$750,000.00.<sup>1</sup> The Gross Settlement Amount includes the following: (1) Individual Settlement Payments to Settlement Class Members<sup>2</sup>; (2) Enhancement Award to Plaintiff in the amount of \$7,500.00<sup>3</sup>; (3) attorneys’ fees in the amount of 35% of the Gross Settlement Amount, or \$262,500.00 if the Gross Settlement Amount remains \$750,000.00, and reimbursement of any actual litigation costs and expenses not to exceed \$20,000.00 (“Attorneys’ Fees and Costs”) to Class Counsel<sup>4</sup>; (4) the Settlement Administration Costs to the Settlement Administrator in the amount estimated to be up to \$10,000.00;<sup>5</sup> and (5) the amount of \$100,000.00 allocated to resolution of Plaintiff’s Private Attorneys General Act (“PAGA”) claim, of which 75% (i.e., \$75,000.00) will be distributed to the Labor and Workforce Development Agency (“LWDA”) and 25% (i.e., \$25,000.00) will be distributed to all current and former hourly-paid or non-exempt employees of Defendant within the State of California employed at any time during the PAGA Period (“PAGA Employees”).<sup>6</sup>

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<sup>1</sup> Settlement Agreement, attached as Exhibit 2 to Declaration of Elizabeth Parker-Fawley (“Parker-Fawley Decl.”), ¶ 17. Defendant represented that there were 46,000 Workweeks during the period from July 26, 2017 to February 22, 2023. Should the Workweeks during the Class Period increase by more than 10% of 46,000 (i.e., more than 50,600 Workweeks), Defendant shall have the option to: (1) increase the Gross Settlement Amount on a *pro rata* basis equal to the percentage increase in the number of Workweeks worked by the Class Members above 10% (e.g., if the number of Workweeks increase by 11% to 51,060 workweeks, the Gross Settlement Amount will increase by 1%); or (2) end the Class Period on the day that the total Workweeks reach 51,060 Workweeks, so long as Defendant informs Class Counsel and the Settlement Administrator that it will so end the Class Period at least three court days prior to the mailing of the Class Notice. ¶ 63.

<sup>2</sup> *Id.*, ¶ 19.

<sup>3</sup> *Id.*, ¶ 65.

<sup>4</sup> *Id.*, ¶ 64.

<sup>5</sup> *Id.*, ¶ 67.

<sup>6</sup> *Id.*, ¶¶ 68 & 26; “PAGA Period” is defined as the period from July 26, 2020 through October 29, 2023. *See id.*, ¶ 28.

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

All current or former hourly-paid or non-exempt employees of Defendant within the State of California employed at any time during the Class Period (“Class” or “Class Members”).<sup>7</sup>

Class Members who do not submit a timely and valid Request for Exclusion from the Class Settlement (“Settlement Class Member”) will receive a *pro rata* share of the Net Settlement Amount (“Individual Settlement Share”). The net payment of each Settlement Class Member’s Individual Settlement Share (“Individual Settlement Payment”) will be distributed to Settlement Class Members on a *pro rata* basis based upon the number of weeks each Class Member and/or PAGA Employee worked at least one shift for Defendant as an hourly-paid or non-exempt employee in California during the Class Period and/or PAGA Period (“Workweeks”).<sup>8</sup>

PAGA Employees will receive a *pro rata* share of the 25% portion of the PAGA Allocation (“Individual PAGA Payment”) based on any pay period during which a PAGA Employee worked for Defendant in California for at least one day during the PAGA Period (“PAGA Pay Periods”).<sup>9</sup>

The Settlement, upon final approval by the Court and funding of the Gross Settlement Amount, will operate to resolve the Released Class Claims of Plaintiff and Settlement Class Members, and the Released PAGA Claims of Plaintiff, PAGA Employees, and the State of California, against the Released Parties.<sup>10</sup>

## **II. PROCEDURAL HISTORY AND FACTUAL BACKGROUND**

Defendant is a long-term care facility that provides a variety of therapy and care services. Defendant’s services include skilled nursing, rehabilitation, post-acute care, social activities, social services, and long-term care. Defendant provides physical, occupational, and speech therapy. Plaintiff is a former employee of Defendant.

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<sup>7</sup> Settlement Agreement, ¶ 4.; “Class Period” is defined as the time period from July 26, 2017 to October 29, 2023. *See id.*, ¶ 7.

<sup>8</sup> *Id.*, ¶¶ 19, 20, 39 and 40.

<sup>9</sup> *Id.*, ¶¶ 18 and 29.

<sup>10</sup> *See id.*, at ¶ 32, for the full scope of the “Released Class Claims;” *See id.*, at ¶ 33, for the full scope of the “Released PAGA Claims” and *id.* at ¶ 34 for the full scope of the “Released Parties.”

1 On July 26, 2021, Plaintiff filed the Class Action Complaint for Damages in the Superior  
2 Court for the County of Sacramento thereby commencing the above-captioned lawsuit.<sup>11</sup>

3 On October 12, 2021, Defendant filed its Answer to Plaintiff's Class Action Complaint for  
4 Damages.<sup>12</sup>

5 On May 30, 2024, Plaintiff provided written notice by certified mail to the LWDA and  
6 Defendant of the specific provisions of the California Labor Code that were alleged to be violated  
7 ("PAGA Notice").<sup>13</sup>

8 On August 7, 2024, the Parties sought leave for Plaintiff to file a First Amended Complaint  
9 for Damages and Enforcement Under the Private Attorneys General Act, Cal. Lab. Code § 2698,  
10 *Et Seq.* ("Operative Complaint"), adding a PAGA cause of action. The Court granted Plaintiff  
11 leave to file the proposed First Amended Complaint on August 13, 2024, and Plaintiff filed the  
12 First Amended Complaint on August 19, 2024.<sup>14</sup>

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

25  
26  
27 <sup>11</sup> Parker-Fawley Decl. ¶ 2.

<sup>12</sup> *Id.*, ¶ 3.

<sup>13</sup> *Id.*, ¶ 4, Exh. 1.

<sup>14</sup> *Id.*, ¶ 5.

<sup>15</sup> *Id.*, ¶ 28.

Defendant has denied, and continues to deny, any liability and wrongdoing of any kind associated with any of the allegations in the Action, and further denies that the Action is appropriate for class treatment or representative adjudication for any purpose other than for settlement purposes only.

The Parties have actively litigated the Actions since the Action was commenced on July 26, 2021. On February 24, 2023, the Parties participated in arm's-length and informed negotiations with Mediator Eve Wagner, Esq. ("Mediator"), a respected mediator of complex wage and hour actions. With the aid of the Mediator's evaluation, the Parties ultimately reached the Settlement described herein to resolve the Actions in their entirety.<sup>16</sup>

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

Under the terms of the Settlement, Defendant will pay a Gross Settlement Amount to resolve the Action.<sup>17</sup> Subject to approval by the Court, the Net Settlement Amount will be calculated by deducting the following amounts from the Gross Settlement Amount: (1) attorneys' fees in an amount not to exceed 35% of the Gross Settlement Amount (i.e., \$262,500.00, if the Gross Settlement Amount remains \$750,000.00) and litigation costs and expenses in an amount not to exceed \$20,000.00 ("Attorneys' Fees and Costs") to Class Counsel; (2) Settlement Administration Costs, which are currently estimated not to exceed \$10,000.00 to the Settlement Administrator ("Settlement Administration Costs"); (3) PAGA Allocation of \$100,000.00 ("PAGA Allocation"); and (4) payment in the amount of up to \$7,500.00 to Plaintiff ("Enhancement Award").<sup>18</sup> The Parties have agreed to retain Simpluris, Inc., ("Simpluris" or "Settlement Administrator") to handle the notice and settlement administration process.<sup>19</sup>

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

- a. After Preliminary Approval, the Settlement Administrator will divide the Net Settlement Amount by the Workweeks of all Class Members during the Class Period

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<sup>16</sup> Parker-Fawley Decl., ¶ 23.

<sup>17</sup> Settlement Agreement, ¶ 54.

<sup>18</sup> *Id.*, ¶¶ 64, 65, 67 and 68.

<sup>19</sup> *Id.*, ¶ 37.

to yield the “Estimated Workweek Value,” and multiply each Class Member’s individual Workweeks during the Class Period by the Estimated Workweek Value to yield his or her estimated Individual Settlement Share that he or she may be eligible to receive under the Class Settlement.<sup>20</sup>

- b. After Final Approval, the Settlement Administrator will divide the final Net Settlement Amount by the Workweeks of all Settlement Class Members during the Class Period to yield the “Final Workweek Value,” and multiply each Settlement Class Member’s individual Workweeks during the Class Period by the Final Workweek Value to yield his or her Individual Settlement Share.<sup>21</sup>

The Parties have agreed that the Settlement Administrator will determine each PAGA Employees’ share of the 25% share of the PAGA Allocation, in accordance with the Settlement Agreement and as follows:

- a. The Settlement Administrator will divide the 25% of the PAGA Allocation by the total number of Workweeks during the PAGA Period for all PAGA Employees to yield the “PAGA Workweek Value,” and multiply each PAGA Employee’s individual Workweeks during the PAGA Period by the PAGA Workweek Value to yield his or her Individual PAGA Payment.<sup>22</sup>

The Parties agree, for purposes of this Settlement, that Individual Settlement Payments be allocated 20% to wages subject to withholdings for which IRS W-2 Forms shall be issued by the Settlement Administrator and 80% to penalties and interest, for which IRS 1099 Forms shall be issued by the Settlement Administrator.<sup>23</sup> The Settlement Administrator will withhold the employee’s share of taxes and withholdings with respect to the wages portion of the Individual Settlement Shares, and issue checks to Settlement Class Members for their Individual Settlement Payments (i.e., payment of their Individual Settlement Share net of these taxes and withholdings). Individual PAGA Payments to PAGA Employees will be allocated as 100% penalties, will not be subject to withholdings, and will be reported on an IRS Form-1099. The Settlement Administrator will be separately responsible for any employer payroll taxes after advising Defendant of the total amount owed, in aggregate, as employer-side payroll taxes and receiving a lump sum payment from Defendant in that amount when the Gross Settlement Amount is delivered to the Settlement Administrator.<sup>24</sup>

<sup>20</sup> Settlement Agreement, ¶ 59(a).

<sup>21</sup> *Id.*, ¶ 59(b).

<sup>22</sup> *Id.*, ¶ 60.

<sup>23</sup> *Id.*, ¶ 61.

<sup>24</sup> *Id.*, ¶ 58.

Individual Settlement Payment and Individual PAGA Payment checks shall remain valid and negotiable for one hundred eighty (180) calendar days from the date of their issuance, and thereafter, shall be canceled.<sup>25</sup> Funds from un-cashed or abandoned Individual Settlement Payment and/or Individual PAGA Payment checks, based on a 180-day void date, shall be transmitted to the California State Controller's Office for Unclaimed Property in the name of each Class Member and/or PAGA Employee who failed to cash their Individual Settlement Payment and/or Individual PAGA Payment check prior to the void date.<sup>26</sup>

Any Class Member may request to be excluded from the Class Settlement by mailing a Request for Exclusion, by mail, postmarked on or before the date that is 45 calendar days from the date of the initial mailing of the Class Notice by the Settlement Administrator ("Response Deadline").<sup>27</sup> A Request for Exclusion must: (a) contain the case name and number of the Action; (b) be signed by the Class Member; (c) state the full name, address, telephone number, and the last four digits of the Social Security Number of the Class Member requesting exclusion; (d) clearly state that the Class Member does not wish to be included in the Class Settlement; and (e) be returned by mail to the Settlement Administrator at the specified address, postmarked on or before the Response Deadline.<sup>28</sup> PAGA Employees shall be bound to the PAGA Settlement irrespective of whether they exercise their option to opt out of the Class Settlement.<sup>29</sup>

Only Class Members who have not submitted a Request for Exclusion (i.e., Settlement Class Members) may object to the Class Settlement by submitting a Notice of Objection to the Settlement Administrator prior to the Response Deadline or by presenting their objection orally at the Final Approval Hearing, regardless of whether they submitted a written objection.<sup>30</sup> A Notice of Objection must: (a) include the case name and number of the Action; (b) include the objector's full name, signature, address, telephone number, and last four digits of their Social Security Number; (c) include a written statement of all grounds for the objection accompanied by any legal

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<sup>25</sup> Settlement Agreement, ¶ 76.

<sup>26</sup> *Id.*, ¶ 77.

<sup>27</sup> *Id.*, ¶¶ 36 & 72.

<sup>28</sup> *Id.*, ¶ 35.

<sup>29</sup> *Id.*, ¶ 69.

<sup>30</sup> *Id.*, ¶ 73.

1 or factual support for such objection; (d) attach copies of any papers, briefs, or other documents  
2 upon which the objection is based; and (e) be returned by mail to the Settlement Administrator at  
3 the specified address, postmarked on or before the Response Deadline.<sup>31</sup>

4 In order to dispute the number of Workweeks attributable to an individual Class Members  
5 and/or PAGA Employee, that Class Member and/or PAGA Employee must submit a written letter  
6 to the Settlement Administrator that: (a) contains the case name and number of the Action, (b) is  
7 signed by the Class Member and/or PAGA Employee, (c) contains the full name, address,  
8 telephone number, and the last four digits of the Social Security Number of the disputing Class  
9 Member and/or PAGA Employee, (d) clearly states that the Class Member and/or PAGA  
10 Employee disputes the number of Workweeks credited to them and what they contend is the correct  
11 number to be credited to them, (e) includes information and/or attaches documentation  
12 demonstrating that the number of Workweeks that the Class Member and/or PAGA Employee  
13 contends should be credited to Class Member and/or PAGA Employee is correct, and (f) is returned  
14 by mail to the Settlement Administrator at the specified address, postmarked on or before the  
15 Response Deadline.<sup>32</sup>

16 **IV. LEGAL STANDARD FOR PRELIMINARY APPROVAL OF CLASS ACTION**  
17 **SETTLEMENTS**

18 The settlement of a class action requires approval by the court. *Dunk v. Ford Motor Co.*  
19 (1996) 48 Cal.App.4th 1794, 1800; Cal. Code Civ. Proc. § 1781(f). California courts look to  
20 federal authority for guidance with class action settlements. *Dunk, supra*, 48 Cal.App.4th at 1801,  
21 fn.7 (citing *Vasquez v. Superior Court* (1971) 4 Cal.3d 800, 821). The decision to approve or reject  
22 a proposed settlement is within the court's discretion. *Wershba v. Apple Computer, Inc.* (2001) 91  
23 Cal.App.4th 224, 234-35 ("In general, questions whether a settlement was fair and reasonable,  
24 whether certification of the class was proper, and whether the attorney fee award was proper are  
25 matters addressed to the trial court's broad discretion."). Accordingly, a court's decision to  
26 approve a class action settlement may be reversed only upon a strong showing of "clear abuse of  
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28 <sup>31</sup> Settlement Agreement, ¶ 23.

<sup>32</sup> *Ibid.*

discretion.” *Hanlon v. Chrysler Corp.* (9th Cir. 1998) 150 F.3d 1011, 1026; *Class Plaintiffs v. City of Seattle* (9th Cir. 1982) 955 F.2d 1268, 1276.

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). This procedure, which is commonly utilized by both federal and state courts, assures class members of the protection of procedural due process safeguards and enables a court to fulfill its role as the guardian of the interest of the settlement class.

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 only at the final approval stage, after notice of the settlement has been given to the class members and they have had an opportunity to voice their views of the settlement or to exclude themselves from the settlement. 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 powers to determine whether a proposed settlement is fair under the circumstances of the case. *Dunk v. Ford Motor Co.* (1996) 48 Cal.App.4th 1794. To make this fairness determination, courts must consider several relevant factors, including “the strength of the Plaintiff’s case, the risk, expense, complexity and likely duration of further litigation, the risk of maintaining class action status through trial, the amount offered in settlement, the extent of discovery completed and the stage of the proceedings, the experience and view of counsel, the

presence of a governmental participant, and the reaction of the class members to the proposed settlement.” *Dunk, supra*, 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, supra*, 91 Cal.App.4th at 245. Furthermore, courts give “proper deference to the private consensual decision of the parties.” *Hanlon, supra*, 150 F.3d at 1027 (citation omitted).

The proponent of the settlement has the burden to show that it is fair and reasonable. *Wershba, supra*, 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, supra*, 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 actively litigated the Action since the Action commenced on July 26, 2021. Both sides used the pre-mediation time period to investigate the veracity, strength, and scope of the claims, and Class Counsel was actively preparing the matter for class certification and trial.<sup>33</sup>

Prior to engaging in a full-day mediation, 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 produced by Defendant.<sup>34</sup> The volume of data and documents that Class Counsel reviewed and analyzed included and was not limited to: a sampling of Class Members’ time and payroll data, Plaintiff’s personnel records, Defendant’s Handbooks, earning statements, company policy acknowledgements (e.g., Employee Acknowledgement, Meal and Rest Period Policy and Acknowledgement, At-Will Acknowledgment Agreement, Employee Handbook acknowledgment, Code of Conduct Receipt and Acknowledgement, Job Description Review, Confidentiality Statement, job descriptions, Defendant’s operations and employment practice, policies, and

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<sup>33</sup> Parker-Fawley Decl., ¶ 23.

<sup>34</sup> *Ibid.*

procedures (Meal and Rest Period Policy, Employment Dispute Resolution Program Agreement, General Safety, Complaint Procedure, Attendance Policy, Employee Dress Guide, Gait Belt Utilization Policy, Theft and Loss Resident Personal Property, Policy on Choking Intervention, Mariner Code of Ethical Behavior, Service Employees International Union Local 2015 Collective Bargaining Agreement with Double Tree Post Acute), among other information and documents.<sup>35</sup> Class Counsel had the opportunity to interview Plaintiff and other Class Members to gather facts and to identify potential witnesses. Counsel for the Parties also met and conferred on numerous occasions, e.g., to discuss issues relating to the pleadings, and the production of documents and data prior to mediation. Class Counsel also drafted pleadings and the mediation brief and prepared for and attended court proceedings, mediation, and settlement negotiations, among other tasks.<sup>36</sup>

As referenced above, the Parties engaged in extensive settlement negotiations and participated in a full-day mediation, conducted by Eve Wagner, Esq, a well-respected mediator experienced in mediating complex labor and employment matters.<sup>37</sup> Prior to and during the mediation and settlement discussions, the Parties exchanged extensive information and engaged in discussions regarding their evaluations of the case and various aspects of the case, including but not limited to, the risks and delays of further litigation, the risks to the Parties of proceeding with class certification and/or representative adjudication, the law relating to off-the-clock theory, arbitration agreements, regular rate, meal and rest periods, PAGA representative claims, and wage-and-hour enforcement, as well as the evidence produced and analyzed, and the possibility of appeals, among other things.<sup>38</sup> During all settlement discussions, the Parties conducted their negotiations at arm's length in an adversarial position.<sup>39</sup> Arriving at a settlement that was acceptable to both Parties was not easy. Defendant and its counsel felt strongly about their ability to prevail on the merits and at certification, and Plaintiff and Class Counsel believed that they would be able to obtain class certification and prevail at trial.<sup>40</sup> After conducting investigations,

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<sup>35</sup> Parker-Fawley Decl., ¶ 24.

<sup>36</sup> Ibid

<sup>37</sup> *Id.*, ¶ 23.

<sup>38</sup> Ibid.

<sup>39</sup> Ibid.

<sup>40</sup> Ibid.

1 informal discovery, extensive settlement negotiations, and with the aid of the mediator's  
2 evaluation, the Parties have agreed that the matter is well-suited for settlement given the legal  
3 issues relating to Plaintiff's principal claims, as well as the costs and risks to both sides that would  
4 attend further litigation.<sup>41</sup>

5 The Settlement takes into account the strengths and weaknesses of each side's position and  
6 the uncertainty of how the case might have concluded at certification, trial, and/or appeals.<sup>42</sup> The  
7 Parties have had the opportunity to interview and obtain information from their respective  
8 witnesses.<sup>43</sup> Counsel for the Parties have also reviewed documents and information relating to  
9 Plaintiff's and the Class Members' employment with Defendant and performed significant  
10 research into the law concerning class certification, PAGA representative actions, off-the-clock  
11 theory, arbitration agreements, regular rate, meal and rest periods, wage-and-hour enforcement,  
12 Plaintiff's claims, and Defendant's defenses thereto, as well as facts discovered.<sup>44</sup> The Parties have  
13 reached the Settlement based on this large volume of facts, evidence, and investigation. In addition,  
14 Class Counsel has extensive experience in employment class actions, including significant  
15 experience in California wage-and-hour litigation.<sup>45</sup>

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

17 The Settlement, which provides for a Gross Settlement Amount of \$750,000.00, represents  
18 a fair, adequate, and reasonable resolution of the matter.<sup>46</sup> The Settlement was calculated using the  
19 information and data uncovered during litigation, case investigation, as well as the informal  
20 exchange of information.<sup>47</sup> The Settlement takes into account the potential risks and rewards  
21 inherent in any case and, in particular, in the matter at issue. Moreover, considering all of the facts  
22 and circumstances of the case, the Settlement represents a fair, reasonable, and adequate recovery  
23 for the Class.<sup>48</sup>

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25 <sup>41</sup> Parker-Fawley Decl., ¶ 23.

26 <sup>42</sup> *Id.*, ¶ 27.

27 <sup>43</sup> *Ibid.*

28 <sup>44</sup> *Id.*, ¶ 25.

<sup>45</sup> *Id.*, ¶¶ 21 a-qq.

<sup>46</sup> *Id.*, ¶ 23.

<sup>47</sup> *Id.*, ¶ 32.

<sup>48</sup> *Ibid.*

Assuming that the Attorneys' Fees and Costs, Enhancement Award, PAGA Allocation, and Settlement Administration Costs are approved by the Court and paid in the full amounts provided for by the Settlement, the Settlement provides for a Net Settlement Amount that is currently estimated to be \$350,000.00.<sup>49</sup> Additionally, 25% of the PAGA Allocation (i.e., Individual PAGA Payment), which is \$25,000.00 out of \$100,000.00, will be distributed to the PAGA Employees, for their respective portion of the PAGA Allocation. The entire Net Settlement Amount will be fully paid out to the Settlement Class Members, in accordance with the Settlement Agreement. The amount of each Settlement Class Member's Individual Settlement Payment and each PAGA Employees' Individual PAGA Payment will be calculated based on his or her Workweeks and/or PAGA Pay Periods during the Class Period and PAGA Period, respectively.<sup>50</sup> There is no reason to doubt the fairness of the proposed plan of allocation of the settlement funds for purposes of preliminary approval. Even at the final approval stage, "[a]n allocation formula need only have a reasonable, rational basis [to warrant approval], particularly if recommended by experienced and competent class counsel." *In re American Bank Note Holographics, Inc., Securities Litigation* (S.D.N.Y. 2001) 127 F.Supp.2d 418, 429-30.

In light of the foregoing considerations, Class Counsel believes that the Settlement as a whole is fair, reasonable, and adequate, and is in the best interest of the Class Members, PAGA Employees, and the State of California.<sup>51</sup> Although the recommendations of Class Counsel are not conclusive, the Court can properly take the recommendations into account, particularly if Class Counsel appears to be competent, and has experience with this type of litigation, and investigation have been completed, as is the case here. *Newberg*, §11.47. Accordingly, the Court should grant preliminary approval of the Settlement.

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

Pursuant to *Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th 116, the Parties conducted extensive informal discovery and exchanged a large volume of documents, data, and

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<sup>49</sup> Parker-Fawley Decl., ¶ 7.

<sup>50</sup> Settlement Agreement, ¶¶ 59 & 60.

<sup>51</sup> *Id.*, ¶ 25.

information prior to mediation.<sup>52</sup> The information that Class Counsel obtained from Defendant, Plaintiff, and other sources allowed Class Counsel to develop valuation models in order to evaluate the potential value and merit of the claims, and perform a complete evaluation of Defendant's defenses thereto.<sup>53</sup> As outlined in the Declaration of Elizabeth Parker-Fawley, Class Counsel performed an extensive analysis of each and every claim pursuant to *Kullar* prior to entering into the Settlement.<sup>54</sup>

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

For settlement purposes, the requisites for establishing class certification are met, and the Parties have stipulated to conditional certification of the Class for settlement purposes only.<sup>55</sup> 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.* The Class is ascertainable and numerous as to make it impracticable to join all Class Members, and there are common questions of law and fact that predominate over any questions affecting any individual Class Member. Further, Plaintiff's claims are typical of the claims of the Class Members, and Class Counsel will fairly and adequately protect the interests of the Class. Finally, prosecution of separate actions by individual Class Members would create the risk of inconsistent or varying adjudications, and a class action is superior to other available means for the fair and efficient adjudication of the claims. The Class is amenable to class certification for settlement purposes as discussed below.

### **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)

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<sup>52</sup> Parker-Fawley Decl., ¶ 24.

<sup>53</sup> *Id.*, ¶ 32.

<sup>54</sup> *Id.*, ¶ 32.

<sup>55</sup> Settlement Agreement, ¶ 81(b).

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.

This class is sufficiently numerous *See 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 is estimated to be approximately 625 individuals, which is sufficiently numerous.<sup>56</sup> Further, all Class Members can and will be identified by Defendant to the Settlement Administrator through a review of Defendant’s employment records regarding hourly-paid or non-exempt employees in California during the Class Period. As such, the Class is ascertainable.<sup>57</sup>

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

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

The “common issues” requirement “involves analysis of whether the proponent’s ‘theory of recovery’ is likely to prove compatible with class treatment.” *Capitol People, supra*, 155 Cal.App.4th at 690 (emphasis added) (citing *Sav-On, supra*, 34 Cal.4th at 327). Furthermore, the

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<sup>56</sup> Parker-Fawley Decl. ¶ 13.

<sup>57</sup> *Id.*, ¶ 12.

commonality inquiry centers on the “reasonableness” of the defendant’s labor policies as applied to the potential class. *Ghazaryan, supra*, 169 Cal.App.4th at 1534.

Here, common issues of fact and law predominate as to each of the claims alleged and asserted in the Action. Based on the documents and information obtained through informal discovery and exchange of information in the case, Plaintiff contends that Class Members were subject to the same or similar job duties and uniform operations and employment practices, policies, and procedures during the time period at issue.<sup>58</sup> Plaintiff’s claims arise from Defendant’s alleged uniform policy and systematic scheme, with respect to Plaintiff and the Class Members, of, *inter alia*, failing to properly pay overtime and minimum wages for all hours worked, failing to provide compliant meal and rest periods and associated premium pay, failing to timely pay wages during employment and upon termination of employment, failing to provide complaint wage statements, failing to keep requisite payroll records, and failing to reimburse necessary business-related expenses.<sup>59</sup>

Plaintiff also contends that Defendant’s payroll and recordkeeping practices with respect to Plaintiff and the Class Members were substantially the same during the time period at issue.<sup>60</sup> As a result, Plaintiff claims that all of the Class Members were uniformly not paid all compensation due to them from Defendant during the time period at issue. Plaintiff maintains that the outcome of this litigation would be determined by Defendant’s alleged uniform operations and employment policies and procedures that applied across its hourly-paid or non-exempt employees who worked in California during the Class Period. Accordingly, the proposed Class shares a community of interest, and the Court should certify the Class for settlement purposes only.

**VII. APPOINTMENT OF CLASS COUNSEL AND ALLOCATION FOR ATTORNEYS’ FEES & COSTS**

Class Counsel has litigated the matter for over three years, and was actively preparing the matter for class certification and trial.<sup>61</sup> The ongoing work has been extensive, demanding, and

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<sup>58</sup> Parker-Fawley Decl., ¶ 14.

<sup>59</sup> Ibid.

<sup>60</sup> Ibid.

<sup>61</sup> *Id.*, ¶ 23.

ultimately successful in achieving a substantial settlement resolution. Class Counsel reviewed a large volume of documents and data<sup>62</sup> and also interviewed and obtained information from Plaintiff and other Class Members, researched applicable law, undertook damages/valuation calculations, and met and conferred with Defendant's counsel regarding the pleadings and the production of documents and data prior to the mediation.<sup>63</sup> Counsel for the Parties also undertook extensive settlement discussions, which included participating in mediation.<sup>64</sup>

Class Counsel is well-experienced in wage-and-hour class action litigation and used that experience to obtain a great result for the Class.<sup>65</sup>

The Settlement establishes a Gross Settlement Amount of \$750,000.00, and provides for Class Counsel to apply to the Court consisting of attorneys' fees in an amount up to 35% of the Gross Settlement Amount (i.e., \$262,500.00 if the Gross Settlement Amount remains \$750,000.00), and reimbursement of actual costs and expenses in an amount up to \$20,000.00.<sup>66</sup> The attorneys' fees provided for by the Settlement is commensurate with: (1) the risk that Class Counsel took in bringing and litigating the case, (2) the extensive time, effort and expense that Class Counsel dedicated to the case, (3) the skill and determination that Class Counsel has shown, (4) the results that Class Counsel has achieved throughout the litigation, (5) the value of the Settlement that Class Counsel has achieved for the Class Members, and (6) the other cases that Class Counsel had to turn down in order to devote its time and efforts to this matter. The proposed Class Notice provides Class Members with information about the amount allocated toward the Attorneys' Fees and Costs, and that an award of the Attorneys' Fees and Costs will be sought, as provided for by the Settlement.<sup>67</sup>

Trial courts have "wide latitude" in assessing the value of attorneys' fees and their decisions will "not be disturbed on appeal absent a manifest abuse of discretion." *Lealao v. Beneficial Cal., Inc.* (2000) 82 Cal.App.4th 19, 41. Indeed, it is long settled that the "experienced

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<sup>62</sup> Parker-Fawley Decl., ¶ 24.

<sup>63</sup> Ibid.

<sup>64</sup> Ibid.

<sup>65</sup> *Id.*, ¶ 21.

<sup>66</sup> Settlement Agreement, ¶ 64.

<sup>67</sup> *Id.*, Exh. A.

trial judge is the best judge of the value of professional services rendered in his court.” *Ketchum v. Moses* (2001) 24 Cal.4th 1122, 1132. California law provides that attorney fee awards should be equivalent to fees paid in the legal marketplace to compensate for the result achieved and risk incurred. *Laffitte v. Robert Half Int’l, Inc.* (2016) 1 Cal.5th 480, 503 (citing *Lealao, supra*, 82 Cal.App.4th at 48-49). In *Lealao*, the court held that when an action leads to a recovery that can be “monetized” with a reasonable degree of certainty, the trial court should “ensure that the fee awarded is within the range of fees freely negotiated in the legal marketplace in comparable litigation.” *Id.* at 50. In cases where class members present claims against a settlement fund and the settlement agreement provides that the defendant agrees to paying the attorneys a percentage of the same, use of that percentage method is appropriate. *Id.* at 32.

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

Historically, courts have awarded fees as high as fifty percent (50%) of the settlement, depending on the circumstances of the case. *Newberg*, § 14.03; *see also In re Ampicillin Antitrust Litig.* (D.D.C. 1981) 526 F.Supp. 494 (awarding attorneys’ fees in the amount of 45% of the \$7.3 million settlement); *Beech Cinema, Inc. v. Twentieth-Century Fox Film Corp.* (S.D.N.Y. 1979) 480 F.Supp. 1195 (awarding approximately 53% of the settlement as attorneys’ fees). California courts routinely approve class action attorneys’ fee awards “averag[ing] around one-third of the recovery.” *Chavez v. Netflix, Inc.* (2008) 162 Cal.App.4th 43, 66 n.11 (lower court found 20 to 40 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.<sup>68</sup> Class Counsel will provide extensive evidence as to the time worked, litigation efforts, and further argument at the time of filing Plaintiff's motion for final approval of the Settlement and application for the Attorneys' Fees and Costs at the Final Approval Hearing. Considering the work performed and the risks incurred, the attorneys' fees provided for by the Settlement and to be requested by Class Counsel are well within the range of reasonableness.

**VIII. THE PROPOSED CLASS NOTICE IS ADEQUATE**

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

The proposed Class Notice<sup>69</sup> describes the Settlement, the deadlines and procedures to submit a Notice of Objection to the Class Settlement, submit a Request for Exclusion from the Class Settlement, and/or dispute regarding Workweeks and/or PAGA Pay Periods, and the date and time set for the Final Approval Hearing.<sup>70</sup>

The proposed Class Notice fulfills the requirement of neutrality in notice procedure. *Newberg*, at § 8.39. "Sufficient information about the case should be provided to enable class members to make an informed decision about their participation." *Manual for Complex Litigation* § 21.311 at 413 (4th ed. 2004). The proposed Class Notice summarizes the proceedings to date and the terms and conditions of the Settlement in an informative and coherent manner.<sup>71</sup> The proposed Class Notice recognizes that the Court has not yet granted final approval of the settlement.<sup>72</sup> The proposed Class Notice also apprises the Class Members and PAGA Employees of, *inter alia*, how their Individual Settlement Payment and, if applicable, Individual PAGA

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<sup>68</sup> Parker-Fawley Decl., ¶ 8.

<sup>69</sup> Settlement Agreement, Exh. A.

<sup>70</sup> *Ibid.*

<sup>71</sup> *Ibid.*

<sup>72</sup> *Ibid.*

1 Payment is calculated and the number of Workweeks and/or PAGA Pay Periods credited to them.<sup>73</sup>

2 The proposed Class Notice satisfies all due process requirements and complies with the  
3 standards of fairness, completeness, and neutrality. Fed. R. Civ. P. 23(c)(2) and 23(e); *Newberg*,  
4 §§ 8.21, 8.39; *Manual*, §§ 21.311, 21.312; see also *Cartt, supra*, 50 Cal.App.3d at 960 (“The  
5 essentials of due process of law in class suits would appear to be afforded by fair representation in  
6 the assertion of claims of class members against the opposing parties in any lawsuit, and notice of  
7 the pending suit.”). Accordingly, the Court should approve the proposed Class Notice.

8 **IX. APPOINTMENT OF SIMPLURIS, INC., AS THE SETTLEMENT**  
9 **ADMINISTRATOR**

10 The Parties have selected Simpluris, Inc., to administer the Settlement. The Settlement  
11 Administrator will mail the Class Notice to each Class Member and PAGA Employee.<sup>74</sup> Within  
12 fifteen (15) calendar days of receipt of the Class List, the Settlement Administrator will perform  
13 an NCOA check and will mail the notice to the Class Members setting forth the material terms of  
14 the proposed Settlement, along with instructions about how to object or request exclusion from the  
15 Class Settlement.<sup>75</sup> The Settlement Administrator will skip-trace returned mail and re-mail the  
16 notice to the new addresses within five calendar days.<sup>76</sup> In the case of a re-mailed Class Notice,  
17 the Response Deadline will be the later of 45 calendar days after initial mailing or 15 calendar  
18 days from re-mailing.<sup>77</sup> The Administrator will receive and process Requests for Exclusion,  
19 Notices of Objection, or disputes regarding Workweeks.<sup>78</sup>

20 The Settlement Administrator will be responsible for printing, distributing, and tracking  
21 Class Notices and other documents for the Settlement, calculating and distributing payments due  
22 under the Settlement, issuing of 1099 and W-2 IRS Forms and all required tax reporting, filings,  
23 withholdings, and remittances, providing necessary reports and declarations, and other duties and  
24 responsibilities set forth to process the Settlement, and as requested by the Parties.<sup>79</sup> The

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25 <sup>73</sup> Settlement Agreement, Exh. A.

26 <sup>74</sup> *Id.*, ¶ 69.

27 <sup>75</sup> *Ibid.*

28 <sup>76</sup> *Ibid.*

<sup>77</sup> *Id.*, ¶ 36.

<sup>78</sup> *Id.*, ¶¶ 23, 35 & 71.

<sup>79</sup> *Id.*, ¶ 67.

Settlement Administration Costs are currently estimated to be \$10,000.00 and will be paid out of the Gross Settlement Amount, subject to approval by the Court.<sup>80</sup>

Accordingly, Plaintiff respectfully requests that the Court appoint Simpluris, Inc., as the Settlement Administrator and direct the mailing of the Class Notice to the Class Members and PAGA Employees in the manner outlined and based on the proposed deadlines as described herein and set forth in the Settlement Agreement.

**X. PROPOSED DEADLINES FOR THE NOTICE PROCESS**

At this preliminary approval stage, Plaintiff seeks approval of the proposed deadlines for the notice and settlement administration process. *Newberg*, at § 11.26. The notice process entails mailing of the Class Notice, in the form approved by the Court, to all known and reasonably ascertainable Class Members and PAGA Employees based on Defendant's records.<sup>81</sup>

Within twenty-one (21) calendar days of Preliminary Approval, Defendant shall provide to the Settlement Administrator with a list of Class Members and PAGA Employees that Defendant will compile from its records, which will include each Class Member's full name, last-known address, last-known telephone number, Social Security Number, start and end dates of employment by Defendant during the Class Period and if applicable, during the PAGA Period, the number of Workweeks worked for Defendant during the period from July 26, 2017 through February 22, 2023, and such other information and data as necessary to determine each Class Member's Workweeks during the Class Period and each PAGA Employee's Workweeks during the PAGA Period (collectively, "Class List").<sup>82</sup>

Within fifteen (15) calendar days of receipt of the Class List, the Settlement Administrator will perform an NCOA check and will mail the notice to the Class Members setting forth the material terms of the proposed Settlement, along with instructions about how to object or request exclusion from the Class Settlement.<sup>83</sup> The Settlement Administrator will skip-trace returned mail and re-mail the notice to the new addresses within five calendar days.<sup>84</sup> Class Members will have

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<sup>80</sup> Settlement Agreement, ¶ 67.

<sup>81</sup> *Id.*, ¶ 69.

<sup>82</sup> *Id.*, ¶¶ 5 & 69.

<sup>83</sup> *Id.*, ¶ 69

<sup>84</sup> *Ibid.*

1 until the applicable Response Deadline to submit a Request for Exclusion, disputes regarding  
2 Workweeks, and/or Notice of Objection.<sup>85</sup> In the case of a re-mailed Class Notice, the Response  
3 Deadline will be the later of 45 calendar days after initial mailing or fifteen (15) calendar days  
4 from re-mailing.<sup>86</sup>

5 Within fifteen (15) calendar days after the Effective Date, the Settlement Administrator  
6 will provide the Parties with an accounting of the amounts to be paid by Defendant pursuant to the  
7 terms of the Settlement.<sup>87</sup> Within thirty (30) calendar days of the Effective Date, Defendant will  
8 make a one-time deposit of the Gross Settlement Amount, along with any employer-side tax  
9 obligations associated with the Gross Settlement Amount, into a settlement account to be  
10 established by the Settlement Administrator. Within seven calendar days of the funding of the  
11 Gross Settlement Amount, the Settlement Administrator will issue payments due under the  
12 Settlement and approved by the Court, as follows: (a) Attorneys' Fees and Costs to Class Counsel;  
13 (b) Enhancement Award to Plaintiff; (c) Settlement Administration Costs to the Settlement  
14 Administrator; (d) LWDA Payment to the LWDA; (e) Individual Settlement Shares to Settlement  
15 Class Members; and (f) Individual PAGA Payments to PAGA Employees.<sup>88</sup>

16 Individual Settlement Payment and Individual PAGA Payment checks shall remain valid  
17 and negotiable for one hundred and eighty (180) calendar days from the date of their issuance, and  
18 thereafter, shall be cancelled.<sup>89</sup> Funds from un-cashed or abandoned Individual Settlement  
19 Payment and/or Individual PAGA Payment checks, based on a 180-day void date, shall be  
20 transmitted to the California State Controller's Office for Unclaimed Property in the name of each  
21 Class Member and/or PAGA Employee who failed to cash their Individual Settlement Payment  
22 and/or Individual PAGA Payment check prior to the void date.<sup>90</sup>

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26 <sup>85</sup> Settlement Agreement, ¶ 36.

27 <sup>86</sup> Ibid.

28 <sup>87</sup> *Id.*, ¶ 54.

<sup>88</sup> *Id.*

<sup>89</sup> *Id.*, ¶ 76.

<sup>90</sup> *Id.*, ¶ 77.

**XI. APPOINTMENT OF CLASS REPRESENTATIVE AND ALLOCATION FOR AN  
ENHANCEMENT AWARD**

Plaintiff Sonia Carrington respectfully requests that the Court appoint her as the Class Representative and preliminarily approve the Enhancement Award in an amount up to \$7,500.00.<sup>91</sup> It is within the Court's discretion to award payment to a Class Representative for her efforts and work. *Vranken v. Atlantic Richfield Co.* (N.D. Cal. 1995) 901 F.Supp. 294, 299 (approving \$50,000 participation award to a single Class Representatives). 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 Enhancement Award is fair and appropriate. Plaintiff spent a substantial amount of time and effort in producing relevant documents and past employment records and providing the facts and evidence necessary to attempt to prove the allegations.<sup>92</sup> Plaintiff was available whenever Class Counsel needed them and actively tried to obtain and provide information that would facilitate the pursuit of class and PAGA claims.<sup>93</sup> Accordingly, it is appropriate and just for Plaintiff to receive an Enhancement Award for her services on behalf of the Class, PAGA Employees, and the State of California, in addition to her individual settlement payment.

**XII. CONCLUSION**

For the foregoing reasons, Plaintiff respectfully requests that the Court grant Preliminary Approval of the Settlement; conditionally certify the Class for settlement purposes; preliminary appoint and designate Lawyers for Justice, PC as Class Counsel; preliminary appoint and designate Plaintiff Sonia Carrington as Class Representative; appoint Simpluris, Inc., as Settlement Administrator; preliminarily approve the allocations for Attorneys' Fees and Costs, Enhancement

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<sup>91</sup> Settlement Agreement, ¶ 65.

<sup>92</sup> Parker-Fawley Decl., ¶¶ 9, 15; Declaration of Sonia Carrington in Support of Plaintiff's Motion for Preliminary Approval of Class Action Settlement ("Carrington Decl."), ¶ 4.

<sup>93</sup> Parker-Fawley Decl., ¶¶ 9, 15; Carrington Decl., ¶¶ 3-7.

Award, PAGA Allocation, and Settlement Administration Costs; approve the proposed Class Notice; direct the Settlement Administrator to undertake the notice and settlement administration process in conformity with the deadlines and procedures provided by the Settlement Agreement; schedule a Final Approval Hearing to take place in approximately 6 months.

Dated: August 21, 2024

**LAWYERS for JUSTICE, PC**

By:



Ryan Slinger  
*Attorneys for Plaintiff*