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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF CONTRA COSTA**

JOEL ROBLES, individually, and on
behalf of other members of the general
public similarly situated;

Plaintiff,

vs.

GLOBAL SECURITY MANAGEMENT
AGENCY, INC., a California corporation;
and DOES 1 through 100, inclusive,

Defendants.

Case No. C22-00343

Honorable Edward G. Weil
Department 39

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**

Date: 06/05/25
Time: 9:00a
Department: 39

Complaint Filed: February 23, 2022
FAC Filed: February 24, 2025
Trial Date: None Set

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

3 **PLEASE TAKE NOTICE** that on _____ at _____,¹ or as soon
4 thereafter as the matter may be heard before the Honorable Edward G. Weil in Department 39 of
5 the Superior Court of the State of California, for the County of Contra Costa, 725 Court Street,
6 Martinez, CA 94553, Plaintiff Joel Robles (“Plaintiff”) will, and hereby does, move for an order:

- 7 • Granting preliminary approval of the proposed class action settlement described herein
8 and as set forth in the parties’ Joint Stipulation of Class Action and PAGA Settlement
9 and Release (“Settlement,” “Agreement,” or “Settlement Agreement”), attached as
10 “**EXHIBIT 1**” to the Declaration of Charles T. Sweeny in Support of Plaintiff’s Motion
11 for Preliminary Approval of Class Action and PAGA Settlement;
- 12 • Certifying the proposed Class for settlement purposes;
- 13 • Appointing Joel Robles as Class Representative;
- 14 • Appointing Charles T. Sweeny of Sweeny Law, PC, and Joanna Ghosh, Vartan
15 Madoyan, and Matthew Richard Soto of Lawyers *for* Justice, PC as Class Counsel;
- 16 • Approving the proposed Notice of Class Action Settlement (“Class Notice”), attached
17 as “**EXHIBIT A**” to the [Proposed] Order Granting Preliminary Approval of Class
18 Action and PAGA Settlement, and directing the mailing thereof in accordance with
19 the Settlement Agreement;
- 20 • Approving Simpluris, Inc., as the Settlement Administrator; and
- 21 • Scheduling a hearing to consider final approval of the Settlement.

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

26 This motion is based upon the following memorandum of points and authorities; the
27 _____

28 ¹ Hearing reservations in this Court are not set until after moving papers are filed, but Plaintiff will give Defendant
notice of the date and time that is reserved as soon as Plaintiff receives that information.

1 Settlement Agreement; the Declarations of Proposed Class Counsel, Charles T. Sweeny and
2 Vartan Madoyan, and Proposed Class Representative, Joel Robles, in support thereof; as well as
3 the pleadings and other records on file with the Court in this matter, and such evidence and oral
4 argument as may be presented at the hearing on this motion.

5 Dated: March 7, 2025

SWEENY LAW, PC

6
7 By: 
8 Charles T. Sweeny
9 *Attorneys for Plaintiff*
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1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. SUMMARY OF MOTION**

3 Plaintiff Joel Robles (“Plaintiff” or “Class Representative”) seek preliminary approval of
4 the Joint Stipulation of Class Action and PAGA Settlement and Release (“Settlement,”
5 “Agreement,” or “Settlement Agreement”) entered into by and between Plaintiff, individually and
6 on behalf of all others similarly situated and other aggrieved employees, on the one hand, and
7 Defendant Global Security Management Agency, Inc. (“Defendant”), on the other hand. Subject
8 to approval by the Court, Plaintiff and Defendant (together, the “Parties”) have agreed to settle the
9 lawsuit for a Gross Settlement Amount of \$750,000.00.²

10 Plaintiff also seeks to provisionally certify the following Class for settlement purposes,
11 which Defendant does not oppose: all current or former hourly-paid or non-exempt employees
12 employed by Defendant in California at any time during the Class Period (“Class” or “Class
13 Members”).³ Class Members who do not submit a timely and valid Request for Exclusion from
14 the Class Settlement (“Settlement Class Member”) will receive a *pro rata* share of the Net
15 Settlement Amount (“Individual Settlement Share”). The net payment of each Settlement Class
16 Member’s Individual Settlement Share (“Individual Settlement Payment”) will be distributed to
17 Settlement Class Members on a *pro rata* basis based upon the number of calendar weeks each
18 Class Member worked for Defendant as an hourly-paid or non-exempt employee in California
19 during the Class Period, using their start and end dates worked. (“Workweeks”).⁴

20 Under the Settlement Agreement, Defendant will fund the Gross Settlement Amount in
21 two installments of \$375,000, the first following the Effective Date⁵ following final approval, and

22 ² **Settlement Agreement**, attached as **Exhibit 1** to Declaration of Charles T. Sweeny (“Sweeny Decl.”), ¶¶ 7(q) and
23 10. Defendant represented that there were 30,000 Workweeks during the period from February 23, 2018 through June
24 21, 2023 (“Escalator Workweeks”). Should the Workweeks during the Class Period increase by more than 5% of
25 30,000 (i.e., more than 31,500 Workweeks, Defendant shall 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 5% (e.g., if the
actual Workweeks increase to 6% of Escalator Workweeks to 31,800 total Workweeks, the Gross Settlement Amount
will increase by one percent (1%)). *Id.*, at ¶ 36.

26 ³ Settlement Agreement, Sweeny Decl., **Ex. 1** ¶ 7(d).; “Class Period” is defined as the time period from February 23,
2018 through October 23, 2023. *See id.*, ¶ 7(f).

27 ⁴ *Id.*, ¶¶ 7(s), 7(t), 7(nn), 15.

28 ⁵ “Effective Date” means the later of (a) the last day on which any appeal might be filed with respect to the Final
Approval Order and Judgment, assuming no appeal is filed, or (b) the date of successful resolution of any appeal(s)

1 the second one year later.⁶ The Settlement Administrator will issue payments in two separate
2 administrations.⁷

3 The Settlement, upon final approval by the Court and funding of the Gross Settlement
4 Amount, will operate to resolve the Released Class Claims of Plaintiff and Settlement Class
5 Members and the Released PAGA Claims of the State of California.⁸

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

7 Defendant is a full-service security management company that provides security services
8 to the commercial and government sectors. Defendant is headquartered in Antioch, California,
9 with 24-hour operations in Fusion Center, and branch offices in Stockton and San Jose.

10 On February 23, 2022, Plaintiff filed the Class Action Complaint for Damages in the
11 Superior Court for the County of Contra Costa, thereby commencing the above-captioned lawsuit.⁹

12 On April 12, 2022, Defendant Global Security Management Agency, Inc. (“Defendant”)
13 filed its Answer to Plaintiff’s Class Action Complaint for Damages.¹⁰

14 On August 17, 2022, Plaintiff served Form Interrogatories—General (Set One), Special
15 Interrogatories (Sets One and Two), Requests for Production of Documents (Set One), and Notices
16 of Deposition of Person Most Knowledgeable at Defendant Global Security Management Agency
17 and Requests for Production of Documents to Defendant.¹¹

18 On October 25, 2022, Defendant responded to Plaintiff’s Form Interrogatories—General
19 (Set One), Special Interrogatories (Sets One and Two), and Requests for Production of Documents
20 (Set One).¹²

21 On May 24, 2024, Plaintiff provided notice by electronic upload to the Labor and
22 Workforce Development Agency (“LWDA”) and written notice by certified mail to Defendant of
23

24 with respect to Final Approval Order and Judgment – including expiration of any time to seek reconsideration or
25 further review. *Id.*, ¶ 7(l)

26 ⁶ *Id.*, ¶ 10

27 ⁷ *Id.*, ¶ 10.

28 ⁸ *See id.*, at ¶ 7(ff) for the full scope of the “Released Class Claims;” *id.*, at ¶ 7(gg), for the full scope of the
“Released PAGA Claims” and *id.* at ¶ 7(hh) for the full scope of the “Released Parties.”

⁹ Madoyan Decl. ¶ 2.

¹⁰ *Id.*, ¶ 3.

¹¹ *Id.*, ¶ 4.

¹² *Id.*, ¶ 5.

1 the specific provisions of the California Labor Code that were alleged to be violated (“PAGA
2 Notice”).¹³

3 On August 14, 2024, Lawyers *for* Justice, PC associated Charles T. Sweeny of Sweeny
4 Law, PC, as co-counsel for Plaintiff.¹⁴

5 On October 8, 2024, Plaintiff sought leave to file a First Amended Class Action Complaint
6 for Damages and Enforcement Under the Private Attorneys General Act, Cal. Lab. Code § 2698,
7 *Et Seq.* (“Operative Complaint”), adding a PAGA cause of action. The Court granted Plaintiff leave
8 to file the proposed First Amended Complaint on October 11, 2024, and Plaintiff filed the
9 Operative Complaint on February 24, 2025.¹⁵

10 Plaintiff’s core allegations are that Defendant has 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 PAGA Employees of, *inter*
13 *alia*, failing to pay all overtime and minimum wages, at all or at the correct rate of pay, failing to
14 provide compliant meal and rest periods and associated premium pay, failing to timely pay wages
15 during employment and upon termination of employment, failing to provide compliant wage
16 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 penalties
19 pursuant to PAGA. Plaintiff contends that he, 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.

22 The Parties have actively litigated the Action since it was commenced on February 23,
23 2022. On June 21, 2023, the Parties participated in mediation with Brandon McKelvey, Esq., a
24 well-respected mediator of complex wage and hour actions, but were originally unable to reach a
25 resolution. With continued assistance and arms-length negotiations through Mr. McKelvey,
26 however, and with his evaluations, the Parties were able to agree to the general terms of the

27 ¹³ *Id.*, ¶ 7, Ex. 1.

28 ¹⁴ *Id.*, ¶ 8.

¹⁵ *Id.*, ¶ 9.

1 settlement by accepting a Mediator’s proposal several months later. Following acceptance of the
2 Mediator’s proposal, the Parties subsequently entered into a Memorandum of Understanding that
3 further distilled the general terms of the Mediator’s proposal. Thereafter, and after extensive
4 additional negotiations, the Parties ultimately agreed upon the full and complete terms of the
5 settlement that is described herein.¹⁶

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

7 Under the terms of the Settlement, Defendant will pay a Gross Settlement Amount of
8 \$750,000.00 to resolve the Action.¹⁷ Subject to approval by the Court, the Net Settlement Amount
9 will be calculated by deducting the following amounts from the Gross Settlement Amount: (1)
10 attorneys’ fees in an amount not to exceed 35% of the Gross Settlement Amount (i.e., \$262,500.00,
11 if the Gross Settlement Amount remains \$750,000.00) and all actual costs and expenses associated
12 with litigation and settlement of the Action, supported by declaration, (“Attorneys’ Fees and
13 Costs”) to Class Counsel; (2) Settlement Administration Costs, which are currently estimated not
14 to exceed \$15,000.00 to the Settlement Administrator (“Settlement Administration Costs”); (3)
15 PAGA Amount of \$115,000.00 (“PAGA Amount”); and (4) payment in the amount of up to
16 \$10,000.00 to Plaintiff (“Enhancement Payment”).¹⁸ The Parties have agreed to retain Simpluris,
17 Inc., (“Simpluris” or “Settlement Administrator”) to handle the notice and settlement
18 administration process.¹⁹

19 The Parties have agreed that the Settlement Administrator will determine each Settlement
20 Class Member’s share of the available Net Settlement Amount (“Individual Settlement Share”), in
21 accordance with the Settlement Agreement on a *pro rata* per Workweek basis, which will be
22 adjusted after Final Approval to reflect the total Workweeks worked by the Settlement Class
23 Members.²⁰ The Parties have agreed that the Settlement Administrator will determine each PAGA
24 Employees’ share of the 25% share of the PAGA Amount, in accordance with the Settlement
25

26 ¹⁶ Madoyan Decl., ¶ 6.

27 ¹⁷ Settlement Agreement, Sweeny Decl., Ex. 1, ¶¶ 7(q) and 10.

28 ¹⁸ *Id.*, ¶¶ 7(v), 11, 12, 13, and 14.

¹⁹ *Id.*, ¶ 7(k).

²⁰ Settlement Agreement, Sweeny Decl., Ex. 1 ¶ 17(a),(b).

1 Agreement on a *pro rata* per Pay Period basis.²¹

2 The Parties agree, for purposes of this Settlement, that Individual Settlement Shares will
3 be allocated 20% to wages subject to withholdings and 80% to penalties, interest, and fees.²² The
4 Settlement Administrator will withhold the employee's share of taxes and withholdings with
5 respect to the wages portion of the Individual Settlement Shares, and issue checks to Settlement
6 Class Members for their Individual Settlement Payments.²³ Individual PAGA Payments to PAGA
7 Employees will be allocated as 100% penalties and will not be subject to withholdings.²⁴
8 Defendant will provide the funds for any employer-side taxes related to the Individual Settlement
9 Shares.²⁵

10 Individual Settlement Payment and Individual PAGA Payment checks shall remain valid
11 and negotiable for 180 calendar days from the date of their issuance, and thereafter, shall be
12 canceled.²⁶ Thereafter, funds from uncashed Individual Settlement Payment and/or Individual
13 PAGA Payment checks shall be transmitted to the California State Controller's Office for
14 Unclaimed Property in the name of each Class Member and/or PAGA Employee to whom the
15 checks were issued.²⁷

16 Any Class Member may request to be excluded from the Class Settlement by mailing a
17 Request for Exclusion postmarked on or before the date that is 45 calendar days from the date of
18 the initial mailing of the Class Notice by the Settlement Administrator ("Response Deadline").²⁸
19 PAGA Employees shall be bound to the PAGA Settlement irrespective of whether they exercise
20 their option to opt out of the Class Settlement.²⁹

21 Only Class Members who have not submitted a Request for Exclusion (i.e., Settlement
22 Class Members) may object to the Class Settlement by submitting an Objection to the Settlement
23 Administrator prior to the Response Deadline or by presenting their objection orally at the Final

24 ²¹ *Id.*, ¶ 16.

25 ²² *Id.*, ¶ 26.

26 ²³ *Id.*, ¶ 26.

27 ²⁴ *Id.*, ¶ 26.

28 ²⁵ *Id.*, ¶ 7(m).

²⁶ *Id.*, ¶ 21(b).

²⁷ *Id.*, ¶ 21(b)..

²⁸ *Id.*, ¶¶ 7(ii), 7(jj). 22.

²⁹ *Id.*, ¶ 22.

1 Approval Hearing, regardless of whether they submitted a written objection.³⁰

2 In order to dispute the number of Workweeks attributable to an individual Class Member
3 and/or PAGA Employee, that Class Member and/or PAGA Employee must submit a written letter
4 to the Settlement Administrator and include copies of any supporting evidence they may have.³¹

5 **IV. LEGAL STANDARD FOR PRELIMINARY APPROVAL OF CLASS ACTION**
6 **SETTLEMENTS**

7 The settlement of a class action requires approval by the court. *Dunk v. Ford Motor Co.*
8 (1996) 48 Cal.App.4th 1794, 1800; Cal. Code Civ. Proc. § 1781(f). Courts review class action
9 settlements in a two-step process: (1) an earlier conditional review by the court; and (2) a later
10 detailed review after the period during which notice is distributed to class members for their
11 comments or objections. Conte & Newberg, *Newberg on Class Actions* § 11.24 (4th Ed. 2002).
12 Preliminary approval of a settlement does not require a court to make a final determination that
13 the settlement is fair, reasonable, and adequate. Rather, that decision is made at the final approval
14 stage. Cal. R. Ct. 3.769(g).

15 In considering a potential class settlement, a court need not reach any ultimate conclusions
16 on the issues of fact and law which underlie the merits of the dispute and need not engage in a trial
17 on the merits. See *City of Detroit v. Grinnell Corporation* (2d Cir. 1974) 495 F.2d 448, 456;
18 *Officers for Justice v. Civil Service Commission of City and County of San Francisco* (9th Cir.
19 1982) 688 F.2d 615, 625. Neither formal notice nor a hearing is required for the trial court to grant
20 provisional class certification and preliminary approval; the court may grant such relief upon an
21 informal application by the settling parties and may conduct any necessary hearing in court or in
22 chambers, at the court's discretion. *Newberg*, § 11.25.

23 The trial court has broad discretion to determine whether a proposed settlement is fair under
24 the circumstances of the case. *Dunk*, 48 Cal.App.4th at 1800. To make this fairness determination,
25 courts must consider several relevant factors, including “the strength of the Plaintiff’s case, the
26 risk, expense, complexity and likely duration of further litigation, the risk of maintaining class
27

28 ³⁰ *Id.*, ¶ 23.

³¹ *Id.*, ¶ 7(oo), 20(c).

1 action status through trial, the amount offered in settlement, the extent of discovery completed and
2 the stage of the proceedings, the experience and view of counsel, the presence of a governmental
3 participant, and the reaction of the class members to the proposed settlement.” *Dunk*, 48
4 Cal.App.4th at 1801. “The list of factors is not exclusive and the court is free to engage in a
5 balancing and weighing of the factors depending on the circumstances of each case.” *Wershba*, 91
6 Cal.App.4th at 245. Furthermore, courts must give “proper deference to the private consensual
7 decision of the parties.” *Hanlon*, 150 F.3d at 1027 (citation omitted).

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

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

16 The Parties actively litigated the Action since it commenced on February 23, 2022. Both
17 sides investigated the veracity, strength, and scope of the claims throughout the case, and Class
18 Counsel was actively preparing the matter for class certification and trial.³²

19 Class Counsel conducted significant investigation and formal and informal discovery
20 regarding the facts of the case, including and not limited to, the exchange, review, and analysis of
21 a large volume of documents and data from Plaintiff, Defendant, and other sources.³³ The volume
22 of data and documents that Class Counsel reviewed and analyzed included and was not limited to:
23 a 20% sampling of Class Members’ time and payroll data, Plaintiff’s personnel records,
24 Defendant’s Handbooks, earning statements, company policy acknowledgements job descriptions,
25 Defendant’s operations and employment practices, policies, and procedures, among other
26 information and documents.³⁴ Class Counsel had the opportunity to interview Plaintiff and others

27 ³² Madoyan Decl., ¶ 23.

28 ³³ Madoyan Decl., ¶¶ 23, 24.

³⁴ *Id.*, ¶ 24.

1 to gather facts and to identify potential witnesses. In addition, Class Counsel has extensive
2 experience in California wage-and-hour class actions.³⁵

3 The Parties engaged in extensive settlement negotiations and participated in a full-day
4 mediation, conducted by Brandon McKelvey, Esq., a well-respected mediator experienced in
5 mediating complex labor and employment matters.³⁶ Prior to and during the mediation and
6 settlement discussions, the Parties exchanged extensive information and engaged in discussions
7 regarding their evaluations of the case and various aspects of the case, including but not limited
8 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, regular
10 rate, meal and rest periods, PAGA representative claims, and wage-and-hour enforcement; the
11 evidence produced and analyzed; and the possibility of appeals.³⁷ During all settlement
12 discussions, the Parties conducted their negotiations at arm's length in an adversarial position.³⁸
13 Arriving at a settlement that was acceptable to both Parties was not easy. Both sides felt strongly
14 about their ability to prevail at certification and at trial.³⁹ After conducting investigations, formal
15 and 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.⁴⁰

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

20 The Settlement represents a fair, adequate, and reasonable resolution of the matter.⁴¹ The
21 Settlement was calculated using the information and data uncovered during litigation, case
22 investigation, and the formal and informal exchange of information.⁴² The Settlement takes into
23 account the potential risks and rewards inherent in any case and, in particular, in the matter at
24 issue. Moreover, considering all of the facts and circumstances of the case, the Settlement

25 ³⁵ *Id.*, ¶ 23.

26 ³⁶ *Id.*, ¶ 23.

27 ³⁷ *Id.*, ¶ 23-28.

28 ³⁸ *Ibid.*

³⁹ *Ibid.*

⁴⁰ Madoyan Decl., ¶ 23-28.

⁴¹ *Ibid.*

⁴² *Ibid.*

1 represents a fair, reasonable, and adequate recovery for the Class.⁴³

2 Assuming that the Attorneys' Fees and Costs, Enhancement Payment, PAGA Amount, and
3 Settlement Administration Costs are approved by the Court and paid in the full amounts provided
4 for by the Settlement, the Settlement provides for a Net Settlement Amount that is currently
5 estimated to be approximately \$347,500.00.⁴⁴ Additionally, 25% of the PAGA Amount (i.e., the
6 PAGA Employee Payment), which is \$28,750.00 out of \$115,000.00, will be distributed to the
7 PAGA Employees. The entire Net Settlement Amount will be fully paid out to the Settlement Class
8 Members, in accordance with the Settlement Agreement.

9 The amount of each Settlement Class Member's Individual Settlement Payment and each
10 PAGA Employees' Individual PAGA Payment will be calculated based on his or her Workweeks
11 and/or Pay Periods during the Class Period and PAGA Period, respectively.⁴⁵ "An allocation
12 formula need only have a reasonable, rational basis [to warrant approval], particularly if
13 recommended by experienced and competent class counsel." *In re American Bank Note*
14 *Holographics, Inc., Securities Litigation* (S.D.N.Y. 2001) 127 F.Supp.2d 418, 429-30. Here, the
15 allocation is reasonably related to the number of Workweeks and/or PAGA Pay Periods actually
16 worked for Defendant during the relevant period and should be approved.

17 In light of the foregoing considerations, Class Counsel believes that the Settlement as a
18 whole is fair, reasonable, and adequate, and is in the best interest of the Class Members, PAGA
19 Employees, and the State of California.⁴⁶ Although the recommendations of Class Counsel are not
20 conclusive, the Court can properly take the recommendations into account, particularly if Class
21 Counsel appears to be competent, and has experience with this type of litigation, and investigation
22 have been completed, as is the case here. *Newberg*, §11.47. Accordingly, the Court should grant
23 preliminary approval of the Settlement.

24 ///

25 ///

27 ⁴³ Ibid.

28 ⁴⁴ Madoyan Decl., ¶ 11.

⁴⁵ Settlement Agreement, Sweeny Decl., Ex. 1 ¶¶ 15 & 16.

⁴⁶ Madoyan Decl., ¶ 28.

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

2 Pursuant to *Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th 116, the Parties
3 conducted extensive formal and informal discovery and exchanged a large volume of documents,
4 data, and information prior to mediation.⁴⁷ The information that Class Counsel obtained from
5 Plaintiff, Defendant, and other sources allowed Class Counsel to develop valuation models in order
6 to evaluate the potential value and merit of the claims, and perform a complete evaluation of
7 Defendant’s defenses thereto.⁴⁸ As outlined in the Declaration of Charles T. Sweeny, Class
8 Counsel performed an extensive analysis of each and every claim pursuant to *Kullar* prior to
9 entering into the Settlement.⁴⁹

10 **V. CERTIFICATION OF THE CLASS IS APPROPRIATE**

11 The requisites for establishing class certification are met, and the Parties have stipulated to
12 conditional certification of the Class for settlement purposes only.⁵⁰ California Code of Civil
13 Procedure Section 382 “authorizes class actions when the question is one of a common or general
14 interest, of many persons, or when the Parties are numerous, and it is impracticable to bring them
15 all before the court.” *Sav-On Drug Stores, Inc. v. Superior Court* (2004) 34 Cal.4th 319, 326.
16 California courts certify class actions where the Plaintiff identifies “both [1] an ascertainable class
17 and [2] a well-defined community of interest among class members.” *Id.*

18 **A. The Class Is Ascertainable and Sufficiently Numerous.**

19 “Ascertainability is required in order to give notice to putative class members as to whom
20 the judgment in the action will be *res judicata*.” *Hicks v. Kaufman & Broad Home Corp.* (2001)
21 89 Cal.App.4th 908, 914. “A class is ascertainable if it identifies a group of unnamed Plaintiffs by
22 describing a set of common characteristics sufficient to allow a member of that group to identify
23 himself or herself as having a right to recover based on the description.” *Bartold v. Glendale*
24 *Federal Bank* (2000) 81 Cal.App.4th 816, 828. The proposed Class must also be sufficiently
25 numerous. *Linder v. Thrifty Oil Co.* (2000) 23 Cal.4th 429, 435; *see also Rose v. City of Hayward*
26 (1981) 126 Cal.App.3d 926, 934-35 (indicating that a class of 30 to 40 individuals satisfies the

27 ⁴⁷ Madoyan Decl., ¶¶ 23-24.

28 ⁴⁸ *Id.*, ¶ 23-28.

⁴⁹ Sweeny Decl., ¶ 12.

⁵⁰ Settlement Agreement, ¶¶ 8, 9, and 34(b).

1 numerosity requirement as joinder is not practical at that point). The Class here is estimated to be
2 approximately 577 individuals, which is sufficiently numerous.⁵¹ Further, all Class Members can
3 and will be identified by Defendant to the Settlement Administrator through a review of
4 Defendant's employment records regarding hourly-paid or non-exempt employees of Defendant
5 in California during the Class Period. As such, the Class is ascertainable.

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

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

16 Here, common issues of law and fact predominate as to each of the claims alleged and
17 asserted in the Action. Based on the documents and information obtained through formal and
18 informal discovery and exchange of information in the case, Plaintiff contends that Class Members
19 performed similar job duties and were subject to uniform operations and employment policies,
20 practices, and procedures during the Class Period, including payroll and recordkeeping practices.⁵²
21 As a result, Plaintiff claims that all of the Class Members were uniformly not paid all compensation
22 due to them from Defendant during the time period at issue. Plaintiff maintains that the outcome
23 of this litigation would be determined by Defendant's alleged uniform operations and employment
24 policies and procedures that applied across its hourly-paid or non-exempt employees who worked
25 in California during the Class Period.

26 As a member of the Class who was subject to these same policies, practices, and
27

28 ⁵¹ Sweeny Decl. ¶ 11.

⁵² Sweeny Decl., ¶ 12.

1 procedures, Plaintiff's claims are typical of the Class. Moreover, Plaintiff has no interests adverse
2 to the Class. Plaintiff has taken steps to initiate and maintain this action and to ensure that it comes
3 to a fair and reasonable resolution.⁵³ Importantly, Plaintiff has retained law firms well-versed in
4 wage and hour class actions, which have at all times represented the best interests of Plaintiff and
5 the Class.⁵⁴

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

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

10 Class Counsel have litigated the matter for over three years and was actively preparing the
11 matter for class certification and trial.⁵⁵ The ongoing work has been extensive, demanding, and
12 ultimately successful in achieving a substantial settlement resolution. Class Counsel reviewed a
13 large volume of information, documents, and data, and also interviewed and obtained information
14 from Plaintiff and other percipient witnesses, researched applicable law, undertook
15 damages/valuation calculations, and met and conferred with Defendant's counsel regarding the
16 pleadings and the production of documents and data prior to the mediation.⁵⁶ Counsel for the
17 Parties also undertook extensive settlement discussions, which included participating in
18 mediation.⁵⁷ Class Counsel are well-experienced in wage-and-hour class action litigation and used
19 that experience to obtain a great result for the Class.⁵⁸

20 The Settlement establishes a Gross Settlement Amount of \$750,000.00, and provides for
21 Class Counsel to apply to the Court consisting of attorneys' fees in an amount up to 35% of the
22 Gross Settlement Amount (i.e., \$262,500.00 if the Gross Settlement Amount remains
23 \$750,000.00), and reimbursement of actual costs and expenses to be supported by declaration and
24

25 ⁵³ Declaration of Joel Robles in Support of Plaintiff's Motion for Preliminary Approval of Class Action Settlement
26 ("Robles Decl."), ¶ 6.

27 ⁵⁴ Madoyan Decl., ¶¶ 23-28; Sweeny Decl., ¶¶ 3-7.

28 ⁵⁵ Madoyan Decl., ¶ 23.

⁵⁶ Ibid.

⁵⁷ Ibid.

⁵⁸ Madoyan Decl., ¶¶ 16-21; Sweeny Decl., ¶¶ 3-7.

1 subject to Court approval.⁵⁹ The attorneys' fees provided for by the Settlement are commensurate
2 with: (1) the risk that Class Counsel took in bringing and litigating the case, (2) the extensive time,
3 effort and expense that Class Counsel dedicated to the case, (3) the skill and determination that
4 Class Counsel have shown, (4) the results that Class Counsel have achieved throughout the
5 litigation, (5) the value of the Settlement that Class Counsel have achieved for the Class Members,
6 and (6) the other cases that Class Counsel had to turn down in order to devote their time and efforts
7 to this matter. The proposed Class Notice provides Class Members that an award of the Attorneys'
8 Fees and Costs will be sought and the amount allocated toward the Attorneys' Fees and Costs by
9 the Settlement.⁶⁰

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

21 The California Supreme Court has confirmed the propriety of calculating and awarding
22 attorneys' fees as a percentage of a settlement that has, by litigation, been preserved or recovered
23 for the benefit of others. *Laffitte*, 1 Cal.5th 480 at 486 & 506. The Court has taken the position that
24 while "[t]rial courts have discretion to conduct a lodestar cross-check on a percentage fee," "they
25 also retain the discretion to forgo a lodestar cross-check and use other means to evaluate the
26 reasonableness of a requested percentage fee[.]" and "[t]he percentage of fund method survives in
27

28 ⁵⁹ Settlement Agreement, Sweeny Decl., Ex. 1, ¶ 11.

⁶⁰ Settlement Agreement, Sweeny Decl., Ex. 1, at Ex. A.

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 have borne all of the risks and costs of litigation and will not receive any compensation until recovery is obtained.⁶¹ Class Counsel will provide extensive evidence as to the time worked, litigation efforts, and further argument at the time of filing Plaintiff’s Motion for Final Approval of the Settlement and application for the Attorneys’ Fees and Costs at the Final Approval Hearing. Considering the work performed and the risks incurred, the attorneys’ fees provided for by the Settlement are well within the range of reasonableness for preliminary approval.

VII. 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

⁶¹ Madoyan Decl., ¶ 12.

1 ed. 2004).

2 The proposed Class Notice describes the Settlement, the deadlines and procedures to
3 submit a Notice of Objection to the Class Settlement, submit a Request for Exclusion from the
4 Class Settlement, and/or dispute regarding Workweeks and/or PAGA Pay Periods, and the date
5 and time set for the Final Approval Hearing.⁶² The proposed Class Notice summarizes the
6 proceedings to date and the terms and conditions of the Settlement in an informative and coherent
7 manner.⁶³ The proposed Class Notice recognizes that the Court has not yet granted final approval
8 of the settlement.⁶⁴ The proposed Class Notice also apprises the Class Members and PAGA
9 Employees of, *inter alia*, how their Individual Settlement Payment and, if applicable, Individual
10 PAGA Payment is calculated and the number of Workweeks and/or PAGA Pay Periods credited
11 to them.⁶⁵ The proposed Class Notice fulfills the requirement of neutrality in notice procedure.
12 *Newberg*, at § 8.39.

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

17 **VIII. APPOINTMENT OF THE SETTLEMENT ADMINISTRATOR**

18 The Parties have selected Simpluris, Inc. as the Settlement Administrator. Within 14
19 calendar days of receipt of the Class List, the Settlement Administrator will perform an NCOA
20 check and will mail the Class Notice to each Class Member and PAGA Employee.⁶⁶ The
21 Settlement Administrator will skip-trace returned Class Notices and re-mail the Class Notice to
22 the new addresses within five calendar days.⁶⁷ In the case of a re-mailed Class Notice, the Response
23 Deadline will be extended by 15 calendar days from the initial Response Deadline.⁶⁸ The
24 Administrator will receive and process Requests for Exclusion, Objections, or disputes regarding

25 ⁶² Settlement Agreement, Sweeny Decl., ¶ Ex. 1, at Ex. A.

26 ⁶³ *Ibid.*

27 ⁶⁴ *Ibid.*

28 ⁶⁵ *Ibid.*

⁶⁶ Settlement Agreement, Sweeny Decl., Ex. 1, ¶ 20(a), Ex. A.

⁶⁷ *Id.*

⁶⁸ *Id.*, ¶¶ 7(jj), 20.

1 Workweeks.⁶⁹ In addition, the Settlement Administrator will be responsible for printing,
2 distributing, and tracking Class Notices and other documents for the Settlement; calculating and
3 distributing payments due under the Settlement; issuing of 1099 and W-2 IRS Forms and all
4 required tax reporting, filings, withholdings, and remittances; providing necessary reports and
5 declarations; and other duties and responsibilities to process the Settlement and as requested by
6 the Parties.⁷⁰ The Settlement Administration Costs are currently estimated to be \$15,000.00 and
7 will be paid out of the Gross Settlement Amount, subject to approval by the Court.⁷¹ Accordingly,
8 Plaintiff respectfully requests that the Court appoint Simpluris, Inc., as the Settlement
9 Administrator and direct the mailing of the Class Notice to the Class Members and PAGA
10 Employees in the manner outlined and based on the proposed deadlines as described herein and
11 set forth in the Settlement Agreement.

12 **IX. CLASS REPRESENTATIVE ENHANCEMENT PAYMENT**

13 Plaintiff respectfully requests that the Court appoint him as the Class Representative and
14 preliminarily approve the Enhancement Payment in an amount up to \$10,000.00.⁷² It is within the
15 Court's discretion to award payment to a Class Representative for her efforts and work. *Vranken*
16 *v. Atlantic Richfield Co.* (N.D. Cal. 1995) 901 F.Supp. 294, 299. The factors that courts may
17 consider in determining whether to make an Enhancement Payment include: (1) the risk to the
18 Class Representative in commencing suit, both financial and otherwise; (2) the notoriety and
19 personal difficulties encountered by the Class Representative; (3) the amount of time and effort
20 spent by the Class Representative; (4) the duration of the litigation; and (5) the personal benefit
21 (or lack thereof) enjoyed by the Class Representative as a result of the litigation. *Id.*

22 The Enhancement Payment is fair and appropriate. Plaintiff spent a substantial amount of
23 time and effort in producing relevant documents and past employment records and providing the
24 facts and evidence necessary to attempt to prove the allegations.⁷³ Plaintiff was available whenever
25 Class Counsel needed him and actively tried to obtain and provide information that would facilitate

26 ⁶⁹ *Id.*, ¶¶ 13, 20, 21, and 24.

27 ⁷⁰ *Id.*, ¶ 13, 20, 21, and 24.

28 ⁷¹ *Id.*, ¶ 13.

⁷² *Id.*, ¶ 12.

⁷³ Madoyan Decl., ¶¶ 13; Robles Decl.

1 the pursuit of class and PAGA claims.⁷⁴ Accordingly, it is appropriate and just for Plaintiff to
2 receive an Enhancement Payment for his services on behalf of the Class, PAGA Employees, and
3 the State of California, in addition to his individual settlement payment.

4 **X. CONCLUSION**

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

14
15 Dated: March 7, 2025

SWEENY LAW, PC

16
17 By:



18 Charles T. Sweeny
19 *Counsel for Plaintiff*

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74 Ibid.