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

MICHAEL MARTIN, individually, and on
behalf of other members of the general public
similarly situated and on behalf of aggrieved
employees pursuant to the Private Attorneys
General Act (“PAGA”);

Plaintiff,

v.

SAINT AGNES MEDICAL CENTER, a
California domestic nonprofit; and DOES 1
through 100, inclusive;

Defendants.

Case No.: 24CV-03068

Assigned for All Purposes to:
Honorable Brian McCabe
Courtroom 8

CLASS ACTION

**NOTICE OF MOTION AND MOTION
FOR PRELIMINARY APPROVAL OF
CLASS ACTION SETTLEMENT,
CONDITIONAL CERTIFICATION,
APPROVAL OF NOTICE PACKET,
SETTING OF FINAL APPROVAL
HEARING DATE; MEMORANDUM OF
POINTS AND AUTHORITIES IN
SUPPORT THEREOF**

[Declaration of Proposed Class Counsel
(Douglas Han); Declaration of Joan Graff; and
[Proposed] Order filed concurrently herewith]

Hearing Date: October 2, 2024
Hearing Time: 8:15 a.m.
Hearing Place: Courtroom 8

Complaint Filed: June 11, 2024
Trial Date: None Set

1 **PLEASE TAKE NOTICE** that on October 2, 2024 at 8:15 a.m. or as soon as the matter
2 may be heard, before the Honorable Brian McCabe in Courtroom 8 of the Merced County
3 Superior Court located at 627 West 21st Street Merced, California 95340, Plaintiff Michael
4 Martin (“Plaintiff”) will and hereby does move for an order:

- 5 • Granting Preliminary Approval of the class action settlement described herein and
6 as set forth in the Joint Stipulation and Settlement Agreement (“Settlement
7 Agreement,” “Settlement,” or “Agreement”), attached as **Exhibit 2** to the
8 Declaration of Douglas Han, including, and not limited to, the means of allocation
9 and distribution of funds;
- 10 • Conditionally certifying the Class for settlement purposes only;
- 11 • Appointing Plaintiff as the class representative;
- 12 • Appointing Justice Law Corporation as Class Counsel;
- 13 • Approving the Notice of Class Action Settlement and Claim Form (“Notice
14 Packet”) attached as **Exhibit A** and **Exhibit B** to the Agreement respectively;
- 15 • Directing the mailing of the Notice Packet with a postage-paid return envelope to
16 the Class;
- 17 • Approving the proposed deadlines for the claims administration process;
- 18 • Approving CPT Group, Inc. as the Claims Administrator; and
- 19 • Scheduling a hearing to consider whether to grant Final Approval of the Settlement
20 Agreement, at which time the Court will also consider whether to grant Final
21 Approval of the requests for the Attorneys’ Fees and Costs, Class Representative
22 Enhancement Payment, Claims Administration Costs, and approval of the
23 allocation of the Private Attorney General Act of 2004 (“PAGA”) Payment.

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1 This motion is based upon the following memorandum of points and authorities;
2 Declaration of Proposed Class Counsel (Douglas Han); Declaration of Joan Graff; [Proposed]
3 Order filed concurrently with this motion; pleadings and other records on file with the Court in
4 this matter; and such documentary evidence and oral argument as may be presented at the hearing.
5

6 Dated: August 28, 2024

JUSTICE LAW CORPORATION

7 By: 
8 Douglas Han
9 Attorney for Plaintiff
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1 **I. INTRODUCTION**

2 This motion seeks preliminary approval of a reversionary proposed wage-and-hour class
3 action settlement by Plaintiff on behalf of himself and all current and former hourly-paid, non-
4 exempt workers employed by Defendant Saint Agnes Medical Center (“Defendant”) in California
5 during the period from February 8, 2017, through May 16, 2024, provided that employees who
6 hold/held the title of Patient Access Representative will be excluded for all Workweeks when
7 they held that title (“Class,” “Class Members,” and “Class Period”). At the time of this filing, the
8 number of Class Members is estimated to be 11,055, which was confirmed by Defendant.
9 (Declaration of Douglas Han In Support of Motion for Preliminary Approval of Class Action
10 Settlement (“Han Decl.”), ¶¶ 8, 9.)

11 **II. BACKGROUND**

12 On June 2, 2021, Plaintiff provided written notice to the California Labor and Workforce
13 Development Agency (“LWDA”) and Defendant. (Han Decl., *supra*, at ¶ 10; Exhibit 3.)

14 On August 6, 2021, Plaintiff filed a wage-and-hour class action lawsuit in the Superior
15 Court of California, County of Fresno (Case No. 21CECG02303), alleging ten (10) causes of
16 action. (Han Decl., *supra*, at ¶ 11; Exhibit 4.)

17 After engaging in extensive discovery, investigations, and negotiations, the Parties
18 remotely attended mediation with the mediator Deborah C. Saxe on February 16, 2024, eventually
19 resulting in a settlement via a mediator’s proposal. (Han Decl., *supra*, at ¶ 12.)

20 In line with the settlement, the Parties stipulated to dismiss the wage-and-hour class action
21 lawsuit that had been filed in the Superior Court of California, County of Fresno. (Han Decl.,
22 *supra*, at ¶ 13; Exhibit 5.) Afterwards, on June 11, 2024, Plaintiff filed a wage-and-hour class
23 action lawsuit in the Superior Court of California, County of Merced (Case No. 24CV-03068),
24 alleging ten (10) causes of action. (*Ibid.*)

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1 **III. INVESTIGATION/ LITIGATION HISTORY**

2 **a. Discovery, Investigation, and the Parties’ Staunchly Conflicting Positions**

3 Plaintiff drafted and propounded form interrogatories, special interrogatories, requests for
4 admission, and requests for production of documents. (Han Decl., *supra*, at ¶ 15.) Plaintiff also
5 drafted and filed Motions to Compel Further Responses to the formal discovery requests. (*Ibid.*)
6 Defendant responded to the formal discovery requests. (*Ibid.*) The Parties met and conferred and
7 agreed to engage in an informal exchange of information and remotely attended mediation. (*Ibid.*)

8 Defendant produced several documents relating to its policies, practices, and procedures.
9 (Han Decl., *supra*, at ¶ 16.) As part of Defendant’s production, Plaintiff also reviewed time
10 records, pay records, and information relating to the size and scope of the Class. (*Ibid.*) Several
11 putative class members were also located and interviewed to attain a better understanding of the
12 extent and frequency of the alleged day-to-day violations. (*Ibid.*)

13 Based on the information provided by Defendant and interviews with putative class
14 members, Plaintiff contends – and Defendant denies – Defendant: (1) failed to provide employees
15 with legally mandated meal and rest breaks; (2) failed to pay employees for all hours worked; (3)
16 maintained an illegal rounding practice; (4) failed to factor non-discretionary bonuses into
17 employees’ regular rate of pay; (5) failed to reimburse employees for necessary business
18 expenses; (6) issued noncompliant wage statements; and (7) is liable for waiting time penalties.
19 (Han Decl., *supra*, at ¶¶ 18-26.)

20 **b. The Parties Were Able to Reach an Agreement on Settlement of the Action**

21 **i. The Parties Attended Mediation Which Led to the Settlement**

22 The Parties remotely attended mediation with an experienced mediator. (Han Decl., *supra*,
23 at ¶ 27.) Under the auspices of the mediator, the Parties reached a settlement via a mediator’s
24 proposal, the terms were memorialized in the Settlement Agreement. (*Id.* at ¶ 27; Exhibits 2, 6.)

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1 **ii. The Settlement Was Reached Through Arm’s-Length Negotiations**

2 The Settlement was reached because of arm’s-length negotiations. (Han Decl., *supra*, at ¶
3 30.) Though cordial and professional, the settlement negotiations have always been adversarial
4 and non-collusive in nature. (*Ibid.*) At the mediation, the Parties’ counsel conducted extensive
5 arm’s-length settlement negotiations until an agreement was ultimately reached. (*Ibid.*)

6 Plaintiff and Class Counsel recognize the expense and length of additional proceedings
7 necessary to continue the litigation through trial and any possible appeals. (Han Decl., *supra*, at
8 ¶ 31.) Plaintiff and Class Counsel also considered the uncertainty and risk of further litigation,
9 potential outcome, and difficulties and delays inherent in such litigation. (*Ibid.*) Based on the
10 foregoing, Plaintiff and Class Counsel believe the Settlement is a fair, adequate, and reasonable
11 settlement and is in the best interests of Class Members. (*Ibid.*)

12 **iii. The Settlement Is the Result of Thorough Investigation and Discovery**

13 The Parties investigated and evaluated the strengths and weaknesses of the claims and
14 defenses before reaching the Settlement and engaged in research and discovery to support the
15 Settlement. (Han Decl., *supra*, at ¶ 32.) The Settlement was only possible following significant
16 investigation and evaluation of the relevant policies and practices, permitting Class Counsel to
17 engage in a comprehensive analysis of liability and potential damages. (*Ibid.*) This case has
18 reached the stage where the Parties understand “the strength of the case; the reasonableness of the
19 settlement in light of the attendant risks of litigation, and in light of the best possible recovery”
20 sufficient to support the Settlement’s reasonableness, adequacy, and fairness. (Han Decl., *supra*,
21 at ¶ 32; *Boyd v. Bechtel Corp.* (N.D.Cal. 1979) 485 F.Supp. 610, 617.)

22 **c. Terms of the Proposed Settlement**

23 **i. Deductions from the Settlement**

24 The Parties agreed this action be settled and compromised for the reversionary total sum
25 of \$15,000,000 (“Maximum Settlement Amount”) that includes: (1) attorneys’ fees not to exceed
26 \$5,250,000 (35% of the Maximum Settlement Amount); (2) attorneys’ costs not to exceed
27 \$40,000; (3) Class Representative Enhancement Payment not to exceed \$10,000; (4) Claims
28 Administration Costs not to exceed \$50,000; and (5) PAGA Payment not to exceed \$750,000.

(Han Decl., *supra*, at ¶ 28.)

ii. Calculating Settlement Payments

The Net Settlement Amount is estimated to be \$8,900,000. (Han Decl., *supra*, at ¶ 29.) The amount to be distributed to the Class Members who submit timely and valid Claim Forms for participation in the Class Action Settlement (“Claimants”) will equal at least fifty percent (50%) of the Net Settlement Amount. (*Ibid.*) Any unclaimed amounts above fifty percent (50%) of the Net Settlement Amount will be the exclusive property of Defendant. (*Ibid.*)

Claimants will receive a proportionate share of the Net Settlement Amount using the formula set forth in the Settlement Agreement. (Han Decl., *supra*, at ¶ 27; Exhibit 2, *supra*, at ¶ 58.) If the total Individual Settlement Payments to the Claimants would equal less than fifty percent (50%) of the Net Settlement Amount, the Claims Administrator will proportionately increase the Individual Settlement Payment for each Claimant to ensure that total Individual Settlement Payments equal fifty percent (50%) of the Net Settlement Amount. (Han Decl., *supra*, at ¶ 24; Exhibit 2, *supra*, at ¶¶ 28, 57, 58(c).) All Individual Settlement Payments will be allocated as follows: twenty percent (20%) will be allocated as wages and eighty percent (80%) will be allocated as interest, penalties, and other non-wages. (*Id.* at ¶ 78.)

The portion of the PAGA Payment that is to be paid to each PAGA Aggrieved Employee shall be determined using the formula set forth in the Settlement Agreement. (Han Decl., *supra*, at ¶ 27; Exhibit 2, *supra*, at ¶ 56.) PAGA Aggrieved Employees’ portion of the PAGA Payment will be allocated as one hundred percent (100%) penalties. (*Id.* at ¶ 56(b).)

iii. Notice to the Class

Within twenty-one (21) calendar days of Preliminary Approval, Defendant will provide the Class List(s) to the Claims Administrator. (Han Decl., *supra*, at ¶ 27; Exhibit 2, *supra*, at ¶ 61.) Within fourteen (14) calendar days of receiving the Class List(s), the Claims Administrator will mail a Notice Packet to all Class Members via regular First-Class U.S. Mail, using the most current, known mailing addresses available. (*Id.* at ¶ 62.)

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1 **iv. Distribution of Funds**

2 The Maximum Settlement Amount will be funded pursuant to the timeline and manner set
3 forth in the Agreement. (Han Decl., *supra*, at ¶ 27; Exhibit 2, *supra*, at ¶¶ 51, 52.) Uncashed
4 settlement checks will be transmitted to the *cy pres* recipient Legal Aid At Work. (*Id.* at ¶ 75.)
5 The Parties have no connection to or relationship with the *cy pres* recipient Legal Aid At Work
6 that would create the appearance of impropriety. (Han Decl., *supra*, at ¶ 71.)

7 **v. Release of Claims**

8 Upon the Effective Date and Defendant funding the Maximum Settlement Amount,
9 Plaintiff and all Settlement Class Members will be deemed to have fully, finally, and forever
10 released, settled, compromised, relinquished, and discharged with respect to the Released Parties
11 all Released Claims for any period during the Released Claims Period. (Han Decl., *supra*, at ¶ 27;
12 Exhibit 2, *supra*, at ¶¶ 39, 40, 82.)

13 As a condition of the class action settlement, Plaintiff shall separately provide a general
14 release to the Released Parties. (Han Decl., *supra*, at ¶ 27; Exhibit 2, *supra*, at ¶ 54(a).) Upon the
15 Effective Date and Defendant funding the Maximum Settlement Amount, pursuant to the terms
16 of the Settlement, and solely with respect to the Released Claims, Plaintiff also expressly waives
17 and relinquishes any rights or benefits available under the provisions of section 1542 of the Civil
18 Code. (*Id.* at ¶ 83.)

19 With regards to class action releases, “[A] court may release not only those claims
20 alleged in the complaint and before the court, but also claims which ‘could have been alleged by
21 reason of or in connection with any matter or fact set forth or referred to in’ the complaint.”
22 (*Amaro v. Anaheim Arena Management, LLC* (2021) 69 Cal.App.5th 521, 537.) The scope of the
23 releases in this case are acceptable because they are limited to the scope of the allegations in the
24 operative complaint. The released claims are “based on the identical factual predicate as that
25 underlying the claims in the settled class action.” (*Ibid.*) In other words, the released claims do
26 not “go beyond the scope of the allegations in the operative complaint” (*Ibid.*)

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1 **d. Counsel for Both Parties Are Experienced in Similar Litigation**

2 The Parties' counsel are experienced in wage-and-hour employment law and class actions.
3 (Han Decl., *supra*, at ¶¶ 2-7; Exhibit 1.) Class Counsel have prosecuted numerous cases on behalf
4 of employees for Labor Code violations and are experienced and qualified to evaluate the class
5 claims, settlement versus trial on a fully informed basis, and viability of the defenses. (*Ibid.*) This
6 experience instructed Class Counsel on the risks and uncertainties of further litigation and guided
7 their determination to endorse the Settlement.¹ (*Ibid.*)

8 **IV. ARGUMENT**

9 **a. Class Action Settlements Are Subject to Court Review**

10 California Rules of Court, rule 3.769 requires court approval for class action settlements.²
11 “Before final approval, the court must conduct an inquiry into the fairness of the proposed
12 settlement.” (Cal. Rules of Court, rule 3.769(g).) Rule 3.769 further requires a noticed motion for
13 preliminary approval of class settlements:

- 14 (a) A settlement or compromise of an entire class action, or a cause of action
15 in a class action, or as to a party, requires the approval of the court after
16 hearing.
17 ...
18 (c) Any party to a settlement agreement may serve and file a written notice of
19 motion for preliminary approval of the settlement. The settlement
20 agreement and proposed notice to class members must be filed with the
21 motion, and the proposed order must be lodged with the motion.

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25 ¹ The final factor mentioned in *Dunk* – the number of objectors – is not determinable until
26 the Notice Packet has been provided to the Class, and they have had an opportunity to respond.
27 This information will be provided to the Court in conjunction with the Motion for Final Approval
28 of Class Action Settlement.

29 ² The California Supreme Court has also authorized California's trial courts to use Federal
30 Rule 23 and cases applying it for guidance in considering class issues. (See *Vasquez v. Superior*
31 *Court* (1971) 4 Cal.3d 800, 821; see *Green v. Obledo* (1981) 29 Cal.3d 126, 145-146.) Where
32 appropriate, the Parties cite Federal Rule 23 and federal case law in addition to California law.

1 Courts have discretion to approve settlements that are fair, not collusive, and consider
2 “all the normal perils of litigation as well as the additional uncertainties inherent in complex
3 class actions.” (*In re Beef Industry Antitrust Litigation* (5th Cir. 1979) 607 F.2d 167, 179, cert.
4 den. *sub nom. Iowa Beef Processors, Inc. v. Meat Price Investigators Ass’n* (1981) 452 U.S. 905.)

5 **b. The Proposed Settlement Is a Reasonable Compromise of Claims**

6 An understanding of the amount in controversy is an important factor in whether the
7 settlement “of the class members’ claims is reasonable in light of the strengths and weaknesses
8 of the claims and the risks of the particular litigation.” (*Kullar v. Foot Locker Retail, Inc.* (2008)
9 168 Cal.App.4th 116, 129; see also *Munoz v. BCI Coca-Cola Bottling Co. of Los Angeles* (2010)
10 186 Cal.App.4th 399, 409.) The most important factor in this regard is “the strength of the case
11 for plaintiffs on the merits, balanced against the amount offered in settlement.”” (*Kullar*, at p.
12 130; see also *Munoz*, at p. 409.)

13 *Kullar* instructs the court is not to “decide the merits of the case or to substitute its
14 evaluation of the most appropriate settlement for that of the attorneys.” (*Kullar v. Foot Locker*
15 *Retail, Inc.*, *supra*, 168 Cal.App.4th at p. 133.) *Kullar* does not require a statement of the
16 maximum amount the class could recover if plaintiff prevailed on all his claims, provided there
17 is a record that allows “an understanding of the amount that is in controversy and the realistic
18 range of outcomes of the litigation.” (*Munoz v. BCI Coca-Cola Bottling Co. of Los Angeles*,
19 *supra*, 186 Cal.App.4th at p. 409.) “[A]s the court does when it approves a settlement as in good
20 faith under Code of Civil Procedure § 877.6, the court must at least satisfy itself that the class
21 settlement is within the ‘ballpark’ of reasonableness.” (*Kullar*, at p. 133.)

22 **i. The Settlement Amount of \$15,000,000 Is Fair and Reasonable**

23 The Settlement Agreement was only possible following significant investigation and
24 evaluation of the relevant policies and procedures, as well as the data produced, as referenced in
25 Section III above, permitting Class Counsel to engage in a comprehensive analysis of liability
26 and potential damages. (Han Decl., *supra*, at ¶ 32.)

27 The claims are predicated on the purported: (1) failure to properly calculate and pay
28 overtime wages; (2) failure to pay minimum wages; (3) failure to provide meal and rest breaks

1 and consistently and properly pay applicable premium wages; (4) failure to timely pay wages; (5)
2 failure to issue compliant wage statements; (6) failure to reimburse business expenses; (7)
3 violation of PAGA; and (8) violation of Business & Professions Code section 17200. (Han Decl.,
4 *supra*, at ¶ 33.) Defendant vehemently denies the theories of liability. (*Id.* at ¶ 34.)

5 While Plaintiff believes the case is suitable for certification, uncertainties with respect to
6 certification are always present. (Han Decl., *supra*, at ¶ 35.) As the California Supreme Court
7 ruled in *Sav-On Drug Stores, Inc. v. Superior Court* (2004) 34 Cal.4th 319, class certification is
8 always a matter of the trial court's sound discretion. (*Ibid.*) Decisions following *Sav-On Drug*
9 *Stores, Inc.* have reached different conclusions concerning certification of wage-and-hour
10 claims.³ (*Ibid.*) The calculations for potential damages were discounted.

11 **ii. The PAGA Payment of \$750,000 Is Reasonable**

12 The provisions of the Labor Code potentially triggering PAGA penalties in this case
13 include Labor Code sections 201, 202, 203, 204, 218.5, 221, 226(a), 226.3, 226.7, 246, 510,
14 512(a), 558, 1174(d), 1194, 1197, 1197.1, 1198, 2800, and 2802. (Han Decl., *supra*, at ¶ 45.)
15 Defendant asserted that, regardless of the results of the underlying causes of action, PAGA
16 penalties are not mandatory but permissive and discretionary. (*Ibid.*) Defendant also maintained
17 that it had a strong argument it would be unjust to award maximum PAGA penalties given the
18 law's current unsettled state concerning PAGA penalties. (Han Decl., *supra*, at ¶ 45; *Thurman v.*
19 *Bayshore Transit Mgmt.* (2012) 203 Cal.App.4th 1112 [reducing penalties by 30% under this
20 authority].) Furthermore, Defendant argued that without stacking and limited to the initial
21 violation, the PAGA penalties would be limited to about **\$715,300** (7,153 employees x \$100
22 penalty for initial violation) on the low end and **\$5,007,100** (7,153 employees x \$100 penalty for
23 initial violation x 7 theories of recovery) on the high end. (Han Decl., *supra*, at ¶¶ 46-48.)

24 _____
25 ³ (See e.g. *Harris v. Superior Court* (2007) 154 Cal.App.4th 164 [reversing decertification
26 of class claiming misclassification and ordering summary adjudication in favor of employees],
27 review granted Nov. 28, 2007, (2007) 171 P.3d 545 [not cited as precedent, but rather for
28 illustrative purposes only]; *Walsh v. IKON Office Solutions, Inc.* (2007) 148 Cal.App.4th 1440
[affirming decertification of class claiming misclassification]; *Aguilar v. Cintas Corp. No. 2*
(2006) 144 Cal.App.4th 121 [reversing denial of certification]; *Dunbar v. Albertson's Inc.* (2006)
141 Cal.App.4th 1422 [affirming denial of certification].)

Plaintiff recognized the risk that any PAGA award could be reduced. (Han Decl., *supra*, at ¶ 49.) Many of the causes of action brought were also duplicative of the statutory claims. (*Ibid.*) Allocating \$750,000 to PAGA civil penalties was reasonable given that Defendant is also paying an additional \$14,250,000 in the class settlement. (*Ibid.*) When PAGA penalties are negotiated in good faith and “there is no indication that [the] amount was the result of self-interest at the expense of other Class Members,” such amounts are reasonable.⁴ (Han Decl., *supra*, at ¶ 49.)

Considering the defenses, supporting evidence, and position that the case is not suitable for class treatment, the Settlement Agreement is reasonable, adequate, and fair.

c. Discount Analysis Justifies the Settlement

Excluding the civil penalties, which could be completely discretionary, the total estimated potential exposure, assuming certification and prevailing at trial, would be about **\$217,874,796.70** on the low end and around **\$228,997,581.70** on the high end. (Han Decl., *supra*, at ¶ 50.)

Category	Potential Exposure	Certification Risk	Merits Risk	Realistic Exposure
Rest Break Premiums	\$19,270,854.50	75%	65%	\$1,686,199.77
Meal Break Premiums	\$52,180,231.80	65%	65%	\$6,392,078.40
Overtime/Minimum Wage: Off-the-Clock Work	\$22,239,225 to \$33,362,010	65%	65%	\$2,724,305.06 to \$4,086,846.22
Rounding	\$12,126,644.60	45%	55%	\$3,001,344.54
Regular Rate	\$18,773,602.80	45%	55%	\$4,646,466.69
Unreimbursed Business Expenses	\$6,247,392	35%	75%	\$1,015,201.20
Wage Statement Penalty	\$26,823,750	75%	75%	\$1,676,484.38
Waiting Time Penalty	\$60,213,096	75%	75%	\$3,763,318.50
MAXIMUM TOTAL EXPOSURE	\$217,874,796.70 to \$228,997,581.70⁵			\$24,905,398.54 to \$26,267,939.70⁶

⁴ (*Hopson v. Hanesbrands Inc.* (N.D.Cal. Apr. 3, 2009, No. CV-08-0844 EDL) 2009 U.S.Dist.LEXIS 33900, at *24; see e.g. *Nordstrom Com. Cases* (2010) 186 Cal.App.4th 576, 579, “[T]rial court did not abuse its discretion in approving a settlement which does not allocate any damages to the PAGA claims”).)

⁵ (Han Decl., *supra*, at ¶¶ 36-44.)

⁶ (*Id.* at ¶¶ 51-58.)

1 The realistic recovery for this case is about **\$24,905,398.54** on the low end and
2 **\$26,267,939.70** on the high end. (Han Decl., *supra*, at ¶ 59.) The Maximum Settlement Amount
3 is about six percent (6.55%) of the maximum potential exposure and around fifty-seven percent
4 (57.10%) of the maximum realistic exposure at trial, which is a reasonable settlement. (*Ibid.*)

5 The only question at preliminary approval is whether the settlement is within the range of
6 possible approval. (*In re General Motors Corp. Engine Interchange Litigation* (7th Cir. 1979)
7 594 F.2d 1106, 1124; *Acosta v. TransUnion, LLC* (C.D. Cal. 2007) 240 F.R.D. 564, 575.) “The
8 fact that a proposed settlement may only amount to a fraction of the potential recovery does not,
9 in and of itself, mean that the proposed settlement is grossly inadequate and should be
10 disapproved.” (*Detroit v. Grinnell Corp.* (2d Cir. 1974) 495 F.2d 448, 455; see also *Linney v.*
11 *Cellular Alaska P’ship* (9th Cir. 1998) 151 F.3d 1234, 1242, “[I]t is the very uncertainty of
12 outcome in litigation and avoidance of wasteful and expensive litigation that induce consensual
13 settlements. The proposed settlement is not to be judged against a hypothetical or speculative
14 measure of what might have been achieved by the negotiators”). This settlement is in line with
15 the realistic exposure if Plaintiff prevailed at trial and provides a significant recovery for the Class.

16 **d. Conditional Certification of the Class Is Appropriate**

17 Code of Civil Procedure section 382 “authorizes class actions ‘when the question is one
18 of a common or general interest, of many persons, or when the parties are numerous, and it is
19 impracticable to bring them all before the court.’” (*Sav-On Drug Stores, Inc. v. Superior Court*,
20 *supra*, 34 Cal.4th at p. 326.) California courts certify class actions if plaintiff identifies “both [1]
21 an ascertainable class and [2] a well-defined community of interest among class members.” (*Ibid.*)

22 The Class is ascertainable and numerous as to make it impracticable to join all Class
23 Members, and there are common questions of law and fact that predominate over any questions
24 affecting any individual Class Member. (Han Decl., *supra*, at ¶ 60.) Plaintiff contends his claims
25 are typical of the claims of the Class, and Class Counsel will fairly and adequately protect the
26 interests of the Class. (*Ibid.*) Plaintiff asserts the prosecution of separate actions by individual
27 Class Members would create the risk of inconsistent or varying adjudications. (*Ibid.*)

28 ///

1 **i. The Proposed Class Is Ascertainable and Sufficiently Numerous**

2 “Ascertainability is required in order to give notice to putative class members as to whom
3 the judgment in the action will be res judicata.” (*Hicks v. Kaufman & Broad Home Corp.* (2001)
4 89 Cal.App.4th 908, 914.) “A class is ascertainable if it identifies a group of unnamed plaintiffs
5 by describing a set of common characteristics sufficient to allow a member of that group to
6 identify himself or herself as having a right to recover based on the description.” (*Bartold v.*
7 *Glendale Federal Bank* (2000) 81 Cal.App.4th 816, 828.) The proposed class must also be
8 sufficiently numerous. (*Linder v. Thrifty Oil Co.* (2000) 23 Cal.4th 429, 435.)

9 This case involves about 11,055 Class Members, meaning the Class is sufficiently
10 numerous. (Han Decl., *supra*, at ¶ 61; *Ghazaryan v. Diva Limousine, Ltd.* (2008) 169 Cal.App.4th
11 1524, 1531, n.5 [finding a proposed class of “as many as 190 current and former employees” is
12 sufficiently numerous].)

13 **ii. Class Members Share a Well-defined Community of Interest**

14 The community of interest requirement “embodies three factors: (1) predominant common
15 questions of law or fact; (2) class representatives with claims or defenses typical of the class; and
16 (3) class representatives who can adequately represent the class.” (*Sav-On Drug Stores, Inc. v.*
17 *Superior Court*, *supra*, 34 Cal.4th at p. 326.) “[T]he community of interest requirement for
18 certification *does not mandate that class members have uniform or identical claims.*” (*Capitol*
19 *People First v. Department of Developmental Services* (2007) 155 Cal.App.4th 676, 692
20 (emphasis in original).) Courts focus on the defendant’s internal policies and “pattern and practice
21 ... in order to assess whether that common behavior toward similarly situated plaintiffs renders
22 class certification appropriate.” (*Ibid.*) The application of each of these factors is discussed below.

23 **1. Common Issues Predominate**

24 The “common issues” requirement “involves analysis of whether the proponent’s ‘theory
25 of recovery’ is likely to prove compatible with class treatment.” (*Capitol People First v.*
26 *Department of Developmental Services*, *supra*, 155 Cal.App.4th at p. 690.) In other words, courts
27 determine whether the elements necessary to establish liability are susceptible to common proof,
28 even if the class members must individually prove their damages. (*Brinker Restaurant Corp. v.*

1 *Superior Court* (2012) 53 Cal.4th 1004, 1024). These types of claims are regularly granted class
2 certification when the plaintiff can present evidence of common policies. (See e.g. *JGC*
3 *Dallas LLC* (N.D.Tex. Nov. 29, 2012, Civil Action No. 3:11-CV-2743-O) 2012 U.S.Dist.LEXIS
4 185042 [certified collective action involving 190 dancers]; *Espinoza v. Galardi South Enters.*
5 (S.D.Fla. Jan. 11, 2016, No. 14-21244-CIV-GOODMAN) 2016 U.S.Dist.LEXIS 2904 [court
6 certified class of dancers on state law claims].)

7 Plaintiff asserts common issues of fact and law predominate as to each of the claims
8 alleged. (Han Decl., *supra*, at ¶ 62.) Plaintiff contends all Class Members were subject to the same
9 or similar employment practices, policies, and procedures described in detail above. (*Ibid.*)

10 **2. Plaintiff's Claims Are Typical of the Class Claims**

11 Typical claims rely on legal theories and facts that are substantially like those of other
12 class members. (*Classen v. Weller* (1983) 145 Cal.App.3d 27, 46.)

13 Plaintiff is a former employee of Defendant and alleges he and Class Members were
14 employed by the same company and injured by the common policies and practices related to the
15 claims described above. (Han Decl., *supra*, at ¶ 63.) Plaintiff seeks relief for these claims and
16 derivative claims on behalf of the Class. (*Ibid.*) Thus, the claims arise from the same employment
17 practices and are based on the same legal theories applicable to the Class. (*Ibid.*)

18 **3. Plaintiff Is Adequate to Represent the Class**

19 Plaintiff has proven to be an adequate class representative. (Han Decl., *supra*, at ¶ 64.)
20 Plaintiff conducted himself diligently and responsibly in representing the Class, understands the
21 fiduciary obligations, and actively participated in the prosecution of this case. (*Ibid.*) Plaintiff
22 spent time in meetings and conferences with Class Counsel to provide them with a complete
23 understanding of the work experience and environment. (*Ibid.*) Plaintiff has no interest adverse to
24 the interests of the other Class Members. (*Ibid.*)

25 **4. Class Action Is Superior for the Fair and Efficient** 26 **Adjudication of this Controversy**

27 A class action is superior to other available means for the fair and efficient adjudication
28 of this controversy. Plaintiff contends the joinder of all Class Members is impractical and that

1 class treatment will permit many similarly situated persons to prosecute their common claims for
2 settlement purposes simultaneously in a single forum without the duplication of effort and
3 expense that numerous individual actions would necessitate. Because several Class Members are
4 also current employees, Plaintiff believes fear of retaliation further supports the superiority of
5 class-wide relief as this fear often discourages current employees from seeking legal redress.

6 **e. The Settlement Is Fair, Reasonable, and Adequate**

7 In deciding whether to approve a proposed class action settlement under Code of Civil
8 Procedure section 382, the Court must find a proposed settlement is “fair, adequate and
9 reasonable.” (*Dunk v. Ford Motor Co.* (1996) 48 Cal.App.4th 1794, 1801.) A proposed class
10 action settlement is presumed fair under the following circumstances: (1) parties reached
11 settlement after arm’s-length negotiations; (2) investigation and discovery were sufficient to
12 allow counsel and the court to act intelligently; (3) counsel is experienced in similar litigation;
13 and (4) percentage of objectors is small. (*Id.* at p. 1802.) All these elements are present herein.

14 **f. Notice to the Class Complies with California Rules of Court, Rule 3.769(f)**

15 California Rules of Court, rule 3.769(f), provides:

16 If the court has certified the action as a class action, notice of the final approval hearing
17 must be given to class members in the manner specified by the court. The notice must
18 contain an explanation of the proposed settlement and procedures for class members to
19 follow in filing written objections to it and in arranging to appear at the settlement hearing
and state any objections to the proposed settlement.

20 The Notice Packet meets all these requirements. The Notice Packet will provide: (1)
21 information regarding the nature of the lawsuit; (2) summary of the Settlement’s principal terms;
22 (3) Class definition; (4) total number of Workweeks each Class Member worked for Defendant
23 during the Class Period; (5) each Class Member’s estimated Individual Settlement Payment and
24 formula for calculating their Individual Settlement Payments; (6) dates which comprise the Class
25 Period; (7) instructions on how to submit valid Claim Forms, Requests for Exclusion, Notices of
26 Objection, or written disputes regarding Workweeks; (8) requirements relating to, and deadlines
27 by which the Class Member must submit Claim Forms, Requests for Exclusions, Notices of
28 Objection, and written disputes regarding Workweeks; (9) claims to be released; and (10) date

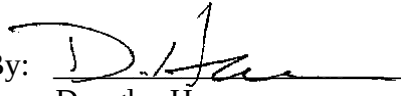
1 and time of the Final Approval Hearing. (Han Decl., *supra*, at ¶ 69.) The Notice Packet will
2 include the Claim Form, which will provide pertinent employment information. (*Id.* at ¶ 70.)

3 **V. CONCLUSION**

4 Plaintiff submits the Settlement is in the Class's best interests. Under the applicable class
5 action criteria and guidelines, the Settlement should be preliminarily approved by the Court, Class
6 should be conditionally certified for settlement purposes, and Notice Packet should be approved.

7
8 Dated: August 28, 2024

JUSTICE LAW CORPORATION

9 By: 
10 Douglas Han
11 Attorney for Plaintiff
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**PROOF OF SERVICE
1013A(3) CCP**

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action. My business address is 751 N. Fair Oaks Ave., Ste. 101 Pasadena, California 91103. My electronic service address is manderson@justicelawcorp.com

On August 28, 2024, I served the foregoing document described as

NOTICE OF MOTION AND MOTION FOR PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT, CONDITIONAL CERTIFICATION, APPROVAL OF NOTICE PACKET, SETTING OF FINAL APPROVAL HEARING DATE; MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT THEREOF

for the following case: **Martin v. Saint Agnes Medical Center**
LWDA/Court Case No.: **LWDA-CM-833857-21**
24CV-03068
Merced County Superior Court

on interested parties in this action by electronically submitting as follows:

State of California
Labor & Workforce Development Agency
800 Capitol Mall, MIC-55
Sacramento, California 95814

[X] BY ELECTRONIC SUBMISSION

Pursuant to California Senate Bill No. 836, I caused the documents described above to be electronically submitted by and through the procedure stated on the website of the State of California Labor and Workforce Development Agency.

[X] STATE

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on August 28, 2024, at Pasadena, California.



Mariah Anderson