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10 UNITED STATES DISTRICT COURT
11
12 FOR THE NORTHERN DISTRICT OF CALIFORNIA
13

14 SERENA NARO, individually and on)
15 behalf of all others similarly situated;)
16 TRISH GONZALES, individually and)
17 on behalf of all others similarly situated;)
18 AND THE CALIFORNIA LABOR)
19 AND WORKFORCE)
20 DEVELOPMENT AGENCY *ex rel.*)
SERENA NARO AND TRISH)
GONZALES, a California)
governmental entity,)

Plaintiff,

v.

22 WALGREEN CO., an Illinois)
23 corporation; and WALGREEN)
24 PHARMACY SERVICES MIDWEST,)
25 LLC, an Illinois corporation; and DOES)
1-15,)
Defendants.

Case No.: 4:22-cv-03170-JST

Assigned for All Purposes to:
Hon. Jon S. Tigar
Courtroom 6

**PLAINTIFFS' NOTICE OF UNOPPOSED
RENEWED MOTION AND MOTION
FOR PRELIMINARY APPROVAL OF
CLASS ACTION AND PAGA
REPRESENTATIVE ACTION
SETTLEMENT**

Date: April 10, 2025
Time: 2:00 P.M.
Dept: 6

Complaint Filed: May 31, 2022

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1 NOTICE OF UNOPPOSED RENEWED MOTION AND MOTION
2 TO THE HONORABLE COURT, ALL PARTIES, AND THEIR ATTORNEYS OF
3 RECORD:

4 PLEASE TAKE NOTICE that a hearing will be held on this Unopposed Renewed
5 Motion for Preliminary Approval of Class Action Settlement of Plaintiffs Serena Naro and
6 Trish Gonzales, on behalf of themselves and all others similarly situated (“Plaintiffs”),
7 regarding their proposed Amended Class Action and Private Attorneys General Act
8 Settlement Agreement and Release (the “Settlement Agreement” or the “Settlement,”
9 attached as **Exhibit 1** to the accompanying Declaration of Hallie Von Rock) with Defendants
10 Walgreen Co., and Walgreen Pharmacy Services Midwest, LLC (“Walgreens” or
11 “Defendants,” together with Plaintiff, the “Parties”). The hearing will be held on April 10,
12 2025, at 2:00 P.M., or as soon thereafter as the Court may hear them, in the Courtroom of the
13 Honorable Jon S. Tigar, located at Courtroom 6, 2nd Floor, 1301 Clay Street, Oakland,
14 California 94612. At the hearing, the Parties will request that the Court: (a) preliminarily
15 approve the Settlement; (b) certify the proposed class for settlement purposes only; (c) name
16 Aiman-Smith & Marcy as Class Counsel, and Serena Naro and Trish Gonzales as Class
17 Representatives; (d) name Atticus Administration as Claims Administrator; (e) approve the
18 Class Notices to be sent to the Settlement Class, and (f) and schedule a final approval
19 hearing date.

20 Plaintiffs bring this Unopposed Renewed Motion pursuant to Federal Rules of Civil
21 Procedure 23(e). The Unopposed Renewed Motion is based on this notice, the following
22 Memorandum of Points and Authorities, the Declaration of Hallie Von Rock, the Declaration
23 of Jonathan Wilson, and all other records, pleadings, and papers on file in the consolidated
24 action and such other evidence or argument as may be presented to the Court at the hearing
25 on this Motion. Plaintiffs also submit a Proposed Order Granting Preliminary Approval of

26 ///

27 ///

1 Class Action Settlement with their moving papers.

2
3 Date: February 13, 2025

Respectfully submitted,

4 /s/ Hallie Von Rock

5 Hallie Von Rock
6 AIMAN-SMITH & MARCY PC

7 Attorneys for Plaintiffs
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1 **I. INTRODUCTION**

2 Pursuant to the Court’s Order of January 16, 2025, ECF 65 (“Order”), Plaintiffs Serena
3 Naro and Trish Gonzales (collectively “Plaintiffs”), submit a Renewed Motion for
4 Preliminary Approval of Class Action and PAGA Settlement, seeking approval of the
5 amended settlement and notices that reflect all of the changes directed by the court’s initial
6 order denying approval without prejudice. This wage-and-hour class and PAGA settlement
7 – which the Court did not find unfair – resolves the class claims for approximately 12,553
8 Class Members for a total non-reversionary settlement of \$950,000. With this Settlement,
9 the Parties are resolving wage and hour claims unlikely to have been prosecuted as
10 individual actions. The Settlement is fair, reasonable, and adequate in all respects, and
11 Plaintiffs respectfully request that the Court grant the requested approval.

12 **II. THE AMENDMENTS TO THE SETTLEMENT AGREEMENT AND**
13 **CLASS NOTICES COMPLY WITH THE ORDER.**

14 The Amended Settlement Agreement (attached as **Exhibit 1** to the Declaration of Hallie
15 Von Rock, “HVR Dec.”) incorporates the Court’s directions in the Order in the following
16 respects:

Original Settlement Agreement	Amended Settlement Agreement (redline)
Paragraph 10 k. “ Notice Deadline ” means the date that is thirty (30) days after the Notice is initially mailed to the Settlement Class. Settlement Class Members shall have until the Notice Deadline to object to the Settlement.	Paragraph 10 k. “ Notice Deadline ” means the date that is thirty-sixty (30)(60) days after the Notice is initially mailed to the Settlement Class. Settlement Class Members shall have until the Notice Deadline to object to the Settlement.
Paragraph 32 <u>Requests for Exclusion from the Settlement:</u> The Settlement Administrator shall administer the receipt of any and all requests for exclusion from the Action. Any Settlement Class Member who submits a	Paragraph 32 <u>Requests for Exclusion from the Settlement:</u> The Settlement Administrator shall administer the receipt of any and all requests for exclusion from the Action. Any Settlement Class Member who submits a

valid and timely request for exclusion shall not be bound by the terms of this Agreement. Any Settlement Class Member who desires to be excluded from the Action must send a written request for exclusion to the Settlement Administrator with a postmark dated no later than 30 calendar days prior to the Final Hearing. In such request, the Settlement Class Member must set forth his or her full name, address, telephone number and email address (if available), along with a statement that he or she wishes to be excluded. The Settlement Administrator shall provide a list of the names and addresses of each Settlement Class Member who submitted a valid exclusion to the Parties no later than 21 court days prior to the Final Hearing. Settlement Class Members who request to be excluded from the Settlement shall nevertheless be bound by the release of claims under PAGA.

Paragraph 33

Objections to the Settlement: Any Settlement Class Member who intends to object to the fairness of this settlement must (1) file a written objection with the Court no later than 30 calendar days prior to the Final Hearing and (2) mail or personally deliver a copy of the written objection to Class Counsel and Defendants' Counsel on the same day as the objection is sent to the Court. The Court will deem an objection filed on the day it is received by the Court, not necessarily when the objection is postmarked. In the written objection, the Settlement Class Member must state: his or her full name, address, telephone number, and email address (if available); the reasons for his or her objection; and whether he or she intends to appear at the Final Hearing

valid and timely request for exclusion shall not be bound by the terms of this Agreement. Any Settlement Class Member who desires to be excluded from the Action must send a written request for exclusion to the Settlement Administrator with a postmark dated no later than ~~30~~60 calendar days ~~prior to the Final Hearing~~after the Notice is initially mailed to the Settlement Class. In such request, the Settlement Class Member must set forth his or her full name, address, telephone number and email address (if available), along with a statement that he or she wishes to be excluded. The Settlement Administrator shall provide a list of the names and addresses of each Settlement Class Member who submitted a valid exclusion to the Parties no later than 21 court days prior to the Final Hearing. Settlement Class Members who request to be excluded from the Settlement shall nevertheless be bound by the release of claims under PAGA.

Paragraph 33

Objections:

a. Objections to the Settlement: Any Settlement Class Member who intends to object to the fairness of this settlement must (1) file a written objection with the Court no later than ~~30~~60 calendar days ~~prior to the Final Hearing~~after the Notice is initially mailed to the Settlement Class and (2) mail or personally deliver a copy of the written objection to Class Counsel and Defendants' Counsel on the same day as the objection is sent to the Court. The Court will deem an objection filed on the day it is received by the Court, not necessarily when the objection is postmarked. In the written objection, the Settlement Class Member must state: his or her full name, address,

1 on his or her own behalf or through counsel.
2 Further, the Settlement Class Member must
3 attach to his or her objection all evidence
4 supporting the objection. Any Settlement
5 Class Member who does not file a valid and
6 timely objection to the settlement shall be
7 barred from seeking review of the
8 settlement by appeal or otherwise.

telephone number, and email address (if
available); the reasons for his or her
objection; and whether he or she intends to
appear at the Final Hearing on his or her
own behalf or through counsel. Further, the
Settlement Class Member must attach to his
or her objection all evidence supporting the
objection. Any Settlement Class Member
who does not file a valid and timely
objection to the settlement shall be barred
from seeking review of the settlement by
appeal or otherwise.

9 b. Objections to Plaintiff's Motion for
10 Attorney's Fees and Costs: Any Settlement
11 Class Member who intends to object to
12 Plaintiff's Motion for Attorney's Fees and
13 Costs must (1) file a written objection with
14 the Court no later than 14 calendar days
15 prior to the Final Hearing and (2) mail or
16 personally deliver a copy of the written
17 objection to Class Counsel and Defendants'
18 Counsel on the same day as the objection is
19 sent to the Court. The Court will deem an
20 objection filed on the day it is received by
21 the Court, not necessarily when the
22 objection is postmarked. In the written
23 objection, the Settlement Class Member
24 must state: his or her full name, address,
25 telephone number, and email address (if
26 available); the reasons for his or her
27 objection; and whether he or she intends to
28 appear at the Final Hearing on his or her
own behalf or through counsel. Further, the
Settlement Class Member must attach to his
or her objection all evidence supporting the
objection. Any Settlement Class Member
who does not file a valid and timely
objection shall be barred from seeking
review of Plaintiff's Motion for Attorney's
Fees and Costs by appeal or otherwise.

Paragraph 34 d.

Release by Named Plaintiffs: In consideration for the service payments being paid to Plaintiffs, Plaintiffs, upon the Court's final approval of the Settlement Agreement, hereby fully and finally release and discharge the Released Parties from all known and unknown claims they have or may have against the Released Parties, of every nature and description whatsoever, up to the date of the Court's final approval of the Settlement Agreement, in addition to the Settlement Class Members'/Aggrieved Employees' Released Claims described in paragraphs 15 and 16. This general release of claims includes any and all known or unknown contract, tort, statutory, common law, constitutional, discrimination, public policy, retaliation, wrongful discharge and other claims of any type whatsoever, to the fullest extent such claims are releasable by law, arising out of Plaintiffs' employment with Defendants and the Released Parties (collectively "Named Plaintiffs' Released Claims"). As to the Named Plaintiffs' Released Claims, the Plaintiffs, understanding the significance of this waiver, waive all rights and benefits afforded by Section 1542 of the Civil Code of the State of California, which states:

A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him or her must have materially affected his or her settlement with the debtor.

Any release of claims will not be effective until the Effective Date.

Paragraph 34 d.

Release by Named Plaintiffs: ~~In consideration for the service payments being paid to Plaintiffs~~In exchange for the consideration provided by Defendant, Plaintiffs, upon the Court's final approval of the Settlement Agreement, hereby fully and finally release and discharge the Released Parties from all known and unknown claims they have or may have against the Released Parties, of every nature and description whatsoever, up to the date of the Court's final approval of the Settlement Agreement, in addition to the Settlement Class Members'/Aggrieved Employees' Released Claims described in paragraphs 15 and 16. This general release of claims includes any and all known or unknown contract, tort, statutory, common law, constitutional, discrimination, public policy, retaliation, wrongful discharge and other claims of any type whatsoever, to the fullest extent such claims are releasable by law, arising out of Plaintiffs' employment with Defendants and the Released Parties (collectively "Named Plaintiffs' Released Claims"). As to the Named Plaintiffs' Released Claims, the Plaintiffs, understanding the significance of this waiver, waive all rights and benefits afforded by Section 1542 of the Civil Code of the State of California, which states:

A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him or her must have materially affected his or her settlement with the debtor.

Any release of claims will not be effective until the Effective Date.

1 The Parties also revised the Class Notices (Settlement Agreement, Exs. A-B) in
2 compliance with the above changes in the Amended Settlement Agreement.

3 For the Notice, Ex. A, the following redline shows the changes made:

4 Paragraph 13:

5 If you are a Settlement Class Member and wish to object and tell the Court why you do not
6 like the settlement, you must (1) file a written objection with the Court by _____,
7 2025 (which is 60 calendar days from the date this Notice is sent to the Class Members) ~~no~~
8 ~~later than 30 calendar days prior to the Final Hearing~~ and (2) mail or personally deliver a
9 copy of the written objection to Class Counsel and Defendants' Counsel on the same day as
10 the objection is sent to the Court. The Court will deem an objection filed on the day it is
11 received by the Court, not necessarily when the objection is postmarked. In the written
12 objection, the Class Member must state: his or her full name, address, telephone number, and
13 email address (if available); the reasons for his or her objection; and whether he or she
intends to appear at the Final Hearing on his or her own behalf or through counsel. Further,
the Class Member must attach to his or her objection all evidence supporting the objection.
Any Settlement Class Member who does not file a valid and timely objection to the
settlement shall be barred from seeking review of the settlement by appeal or otherwise.

14 Paragraph 16:

15 Class counsel would ask the Court to approve a payment of up to \$316,666.00 for attorneys'
16 fees and up to \$20,000 for litigation costs, which will be paid out of the \$950,000.00
17 settlement fund. These attorneys' fees will pay Class Counsel for bringing the lawsuit on
18 your behalf, investigating the facts, litigating the case, and negotiating the Settlement.
Defendants have agreed not to oppose these attorneys' fees or costs. The Court may award
less than these amounts.

19 Plaintiff's Motion for Attorney's Fees and Costs will be available on the settlement website
20 by [_____, 2025] (which is 30 calendar days prior to the Final Hearing).

21 If you are a Settlement Class Member and wish to object to Plaintiff's Motion for Attorney's
22 Fees, you must (1) file a written objection with the Court by _____, 2025 (which is
23 14 calendar days prior to the Final Hearing) and (2) mail or personally deliver a copy of the
24 written objection to Class Counsel and Defendants' Counsel on the same day as the objection
25 is sent to the Court. The Court will deem an objection filed on the day it is received by the
26 Court, not necessarily when the objection is postmarked. In the written objection, the Class
27 Member must state: his or her full name, address, telephone number, and email address (if
28 available); the reasons for his or her objection; and whether he or she intends to appear at the
Final Hearing on his or her own behalf or through counsel. Further, the Class Member must
attach to his or her objection all evidence supporting the objection. Any Settlement Class
Member who does not file a valid and timely objection to the settlement shall be barred from
seeking review of Plaintiff's Motion for Attorney's Fees and Costs by appeal or otherwise.

1 For the Postcard Notice, Ex. B, the following redline shows the changes made:

2 **What are my Options?** To exclude yourself from the settlement or to object to the
3 settlement, you must submit a written exclusion or objection by no later than [_____, 2024⁵].
4 To object to Plaintiff's Motion for Attorney's Fees and Costs, you must submit a written
5 objection by no later than [_____, 2025]. Further details for excluding yourself or objecting
6 to the settlement are set forth in the full-length Notice of Class Action settlement. For more
7 information, including the full-length Notice of Class Action Settlement, go to
8 www.[_____] .com or call [_____].

7 **III. THE VALUE OF THE PROPOSED SETTLEMENT.**

8 In the Order, the Court considered the value of the settlement compared to what
9 Plaintiffs might have recovered if they had prevailed at trial, citing to *Campbell v. Facebook,*
10 *Inc.*, 951 F.3d 1106, 1123 (9th Cir. 2020). The parties' original analysis of the damages
11 calculations is set forth below in Section VII, B. The economist retained for reviewing the
12 data provided by Defendants' third-party vendors estimated the total purchases for uniform
13 clothing during the Class Period as \$859,994. *See*, Declaration of Jonathan Wilson ("Wilson
14 Dec."), ¶¶ 3-10.

15 First, with regard to purchases of promotional t-shirts, both Plaintiffs who were deposed
16 testified that they were not required to purchase or wear these clothing items. *See*, HVR
17 Dec., ¶ 29. Additionally, Walgreens' dress code policies during the Class Period did not
18 require any Class Member to purchase promotional t-shirts (such as for Red Nose Day,
19 Pride, or Holidays) deemed "voluntary purchases." *Id.* Accordingly, in valuing the
20 damages, the parties agreed to exclude the estimated maximum amount of \$514,809 paid for
21 promotional clothing items, which were considered as voluntary and not required. *See*,
22 Declaration of Jonathan Wilson ("Wilson Dec."), ¶ 11, Table 3 and fn. 10.

23 Second, with regard to the missing data of May 8, 2021 – October 16, 2021, Mr. Wilson
24 calculated the amount spent on personal orders by extrapolating from the purchase data
25 provided. *See*, Wilson Dec. ¶ 9. Mr. Wilson extrapolated clothing items purchased from a
26 third-party vendor by putative class members during the period of May 8, 2021 – October
27 16, 2021 to be approximately \$40,037. *Id.* This amount was combined with the other non-
28

1 voluntary purchase data to total \$859,994. *Id.*, ¶ 10. Thus, the Court’s calculation to
2 increase the total uniform purchase amount to \$929,654 double counts purchases made in the
3 May – October 2021 time period.

4 Accordingly, Plaintiff believes that the record supports the original damages presented
5 in Section VII, B, below. Nevertheless, even if the Court were to stand by its calculations of
6 the settlement value, the amount offered in settlement is reasonable and should be
7 preliminarily approved.

8 **IV. PLAINTIFFS’ REQUEST FOR ATTORNEY’S FEES, COSTS, AND** 9 **INCENTIVE COMPENSATION**

10 In the Order, the Court directed Plaintiffs to justify any deviation from the attorney’s
11 fees benchmark and presumptively reasonable incentive award when they apply for such
12 awards. The Settlement permits Plaintiffs to seek up to one-third in attorney’s fees and up to
13 \$10,000 as incentive compensation. These amounts are set forth in the Notice and Class
14 Members are provided an opportunity to object to Plaintiffs’ Attorney’s Fees Motion.
15 Furthermore, at final approval, Plaintiffs intend to justify their request for attorney’s fees and
16 incentive compensation, including but not limited to how the parties worked efficiently for
17 an early resolution and managed costs savings so that funds which would have been
18 expended have instead increased the size of the settlement for the benefit of the Class.

19 **V. FACTUAL AND PROCEDURAL HISTORY**

20 Having reached a class-wide settlement with Defendants, Plaintiffs seek preliminary
21 approval of the Settlement. After almost two years of litigation, including formal discovery,
22 a motion to dismiss and amendment to the complaint, informal settlement discovery, detailed
23 expert calculations, and extensive arm’s-length negotiations between counsel, the Parties
24 have reached a global settlement of the Action, memorialized in the proposed Class Action
25 and Private Attorneys General Act Settlement Agreement and Release (“Settlement”).¹
26

27 ¹ The Amended Settlement is attached as **Exhibit 1** to the accompanying Declaration of Hallie Von Rock (“HVR Dec.”)
28 in Support of Plaintiffs’ Renewed Motion for Preliminary Approval of Class and PAGA Representative Action

1 Plaintiffs brought this class and Private Attorneys General Act action on behalf of
2 current and former non-exempt workers employed by Defendants in their retail stores and/or
3 pharmacies in California (the “Class Members”). Plaintiffs contend that Defendants violated
4 California wage and hour laws by requiring Class Members to wear and purchase uniforms
5 and allege that Defendants failed to compensate Class Members for such uniforms, which
6 resulted in violation of California Labor Code section 2802.

7 The Settlement resolves the class claims for approximately 12,553 Class Members for a
8 total non-reversionary settlement of \$950,000. With this Settlement, the Parties are resolving
9 wage and hour claims unlikely to have been prosecuted as individual actions. The Settlement
10 is fair, reasonable, and adequate in all respects, and Plaintiffs respectfully request that the
11 Court grant the requested approval.

12 Plaintiffs and Class Members are those individuals who, according to Defendants’
13 third-party vendor records, purchased clothing at their own expense from Defendants’ third-
14 party vendors during the Class Period, which runs from May 31, 2018 through preliminary
15 approval. HVR Dec. ¶ 3, Settlement Agreement ¶ 10.c. The Settlement Class is comprised of
16 approximately 12,553 individuals. HVR Dec. ¶ 4; Declaration of Jonathan Wilson (“Wilson
17 Dec.”) ¶ 8.

18 Plaintiffs allege that Class Members experienced wage and hour violations in their
19 work for Defendants. HVR Dec. ¶ 5. In particular, Plaintiffs allege that during the Class
20 Period, Defendants required Class Members to report to work wearing uniform clothing
21 items, which are in a specified style and color and/or which bear the Walgreens logo. *Id.*
22 Plaintiffs alleged that while Defendants provided Class Members with an initial set of
23 Walgreens logo clothing items at the start of their employment, Defendants neither provided
24 Class Members with a sufficient number of replacement items after the initial items were
25 rendered unusable by normal wear and tear, nor did Defendants reimburse Class Members
26

27
28 Settlement.

1 for required replacement purchases. Plaintiffs who wished to wear a jacket or other layers for
2 warmth were also required to buy and wear Walgreens-branded clothing items. After this
3 Action was filed, Defendants changed their dress code policy, in September 2022, to no
4 longer require that Class Members wear Walgreens logo tops, jackets, or scrubs. *Id.*, ¶ 6.

5 As a result of Defendants' dress code policies, Plaintiffs' operative First Amended
6 Complaint alleged causes of action for failure to reimburse necessary business expenses
7 (Cal. Lab. Code § 2802); Unfair Competition (Cal. Bus. & Profs. Code § 17200, et seq.); and
8 Private Attorneys General Act (Cal. Lab. Code § 2698, et seq.).

9 Defendants have at all times denied, and continue to deny, all of these allegations, and
10 deny any and all liability for Plaintiffs' claims. They further deny that Plaintiffs' allegations
11 are appropriate for class and/or representative treatment for any purpose other than for
12 settlement purposes.

13 A. Discovery

14 The Parties engaged in formal written discovery, including Plaintiff serving two sets of
15 special interrogatories and requests for production of documents, and Defendant serving
16 interrogatories and requests for production of documents on both plaintiffs. The depositions
17 of both Plaintiffs were taken as well as the deposition of one of Plaintiff's former supervisors
18 who worked for Defendants. HVR Dec. ¶ 7.

19 Defendants produced their policies related to their dress code during the Class Period.
20 *Id.* ¶ 8. Defendants also produced documents and data related to vouchers that were
21 distributed to store managers for replacing Walgreen logo shirts and scrubs for Class
22 Members.

23 Plaintiffs served subpoenas on third-party vendors of Defendants, which produced
24 records showing all current and former non-exempt employees of Defendants working in
25 Defendants' retail stores and/or pharmacies within California who purchased clothing items
26 at their own expense from one of Walgreens' third-party clothing vendors during the Class
27 and PAGA periods. *Id.* ¶ 9.

1 Additionally, Defendants engaged the expert Resolution Economics LLC, to calculate
2 the purchases identified in the data provided by the third-party vendors of Defendants and to
3 perform an exposure analysis. The Plaintiffs reviewed the detailed expert analysis performed
4 and the parties agreed that the data was an accurate calculation of damages to form the basis
5 of the Parties' settlement negotiations. *Id.* ¶ 10. The Declaration of Jonathan Wilson is being
6 submitted with this motion describing the calculations conducted.

7 Plaintiffs and their counsel have conducted sufficient discovery and analysis to evaluate
8 the strengths and weaknesses of their respective claims and Defendants' defenses and to
9 recommend this Settlement to the Class Members and the Court. HVR Dec., ¶ 11.

10 B. Settlement Negotiations

11 The Parties initially agreed to mediate with Michael Dickstein on March 28, 2024.
12 HVR Dec., ¶ 12. Prior to the mediation, the parties participated in a conference call with Mr.
13 Dickstein on January 17, 2024, which included discussions of data to be produced for
14 settlement negotiations. *Id.* Following this call, Defendants produced detailed damages data,
15 and counsel for the parties met and conferred regarding the extent of the damages at issue.
16 *Id.* The parties were largely in agreement regarding the potential exposure in the case and
17 believed that it was possible to resolve the case without a mediator. *Id.*

18 Thereafter, the parties went back and forth for three months with their respective
19 positions, including Defendants' defenses and Plaintiffs' replies thereto. Several issues arose
20 during the negotiations, including but not limited to Defendants' contention that two prior
21 settlements that released Labor Code section 2802 claims limited the Class Period and that a
22 pending class action settlement included a release for Labor Code section 2802 claims that
23 potentially overlapped with Plaintiffs' claims, here. *Id.*, ¶ 13. Additionally, the data produced
24 showed that a significant number of uniform items ordered during the Class Period were paid
25 for with vouchers supplied by Walgreens and, thus, were not expenses borne by the Class
26 Members. *Id.*, ¶ 14. At the same time, the data confirmed that Class Members did use their
27 own money to purchase required Walgreens logo clothing items during the Class Period. *Id.*
28

1 Given the risks that both sides faced, after multiple offers and counteroffers were
2 exchanged between February and March, the parties agreed to settle this Action for \$950,000
3 on March 28, 2024. *Id.*, ¶ 15. A Memorandum of Understanding was fully executed on April
4 8, 2024. *Id.*

5 After the agreement to settle, counsel for the Parties extensively met and conferred over
6 the detailed terms of the settlement for purposes of executing a long-form settlement
7 agreement and worked to finalize the Settlement Agreement and corresponding notice
8 documents, subject to the Court’s approval. HVR Dec., ¶ 16. The Settlement Agreement was
9 fully executed on May 8, 2024. *Id.*

10 The parties informed the Court in a Joint Case Management Statement filed on April 8,
11 2024, that the case had settled. (ECF 58). The Court entered a scheduling order on April 9,
12 2024, ordering a Motion for Preliminary Approval of Class Settlement to be filed by June 7,
13 2024. (ECF 59).

14 Plaintiffs filed their Motion for Preliminary Approval on June 6, 2024. (ECF 60). On
15 January 16, 2025, the Court filed an Order Denying Without Prejudice Motion for
16 Preliminary Approval of Class Action Settlement. (ECF 65).

17 The Parties amended the Settlement Agreement and Notices. The fully executed
18 Amended Settlement is attached as **Exhibit 1** to the HVR Dec., submitted herewith.

19 To address the Court’s concerns in the Order, Plaintiffs are filing an Unopposed
20 Renewed Motion for Preliminary Approval.

21 VI. ARGUMENT

22 A. The Court Should Grant Preliminary Approval of the Settlement

23 Rule 23(e) provides that any compromise of a class action must receive court
24 approval. The court has broad discretion to grant approval and should do so where the
25 proposed settlement is “fair, adequate, reasonable, and not a product of collusion.” *Hanlon v.*
26 *Chrysler Corp.*, 150 F.3d 1011, 1026 (9th Cir. 1998). In deciding whether a settlement
27 should be approved, the Ninth Circuit has a “strong judicial policy that favors settlement,
28

1 particularly where complex class action litigation is concerned.” *In re Heritage Bond*
2 *Litigation*, 2005 WL 1594403 (C.D. Cal. 2005); *see also*, *Class Plaintiffs v. City of Seattle*,
3 955 F.2d 1268, 1276 (9th Cir. 1992) (The Ninth Circuit maintains a “strong judicial policy”
4 that favors settlement of class actions.). Rule 23 requires that all class action settlements
5 satisfy two primary prerequisites before a court may grant certification for purposes of
6 preliminary approval: (1) that the settlement class meets the requirements for class
7 certification if it has not yet been certified; and (2) that the settlement is fair, reasonable, and
8 adequate. Fed.R.Civ.P. 23(a), (e)(2); *Hanlon*, 150 F.3d at 1020. As discussed below, this
9 class action settlement satisfies the requirements of Rule 23(a) and (b), and it is fair,
10 reasonable, and adequate in accordance with Rule 23(e)(2). HVR Dec., ¶ 17. Accordingly,
11 the Court should preliminarily approve the Settlement.

12 B. The Court Should Certify the Settlement Class²

13 A class may be certified under Rule 23 if (1) the class is so numerous that joinder of
14 all members individually is “impracticable”; (2) questions of law or fact are common to the
15 class; (3) the claims or defenses of the class representative are typical of the claims or
16 defenses of the class; and (4) the person representing the class is able to fairly and adequately
17 protect the interests of all members of the class. Fed.R.Civ.P. 23(a). Furthermore, Rule
18 23(b)(3) provides that a class action seeking monetary relief may only be maintained if “the
19 court finds that the questions of law or fact common to class members predominate over any
20 questions affecting only individual members, and that a class action is superior to other
21 available methods for fairly and efficiently adjudicating the controversy.” Fed.R.Civ.P.
22 23(b)(3). Applying this standard, numerous cases similar to this case have certified classes of
23 employees who have suffered wage and hour violations under California wage and hour
24 laws.³ Likewise, Plaintiffs contend that the Settlement Class meets all of these requirements.

26 ² Plaintiffs acknowledge that, in the event that the Settlement is not approved by the Court, class certification would be
27 contested by Defendants, and Defendants fully reserve and do not waive any arguments and challenges regarding the
propriety of class action certification.

28 ³ *See, e.g., Brown, et al. v. Abercrombie & Fitch Co., et al.*, No. 2:14-cv-01242-JGB-VBK (N.D. Cal. July 16, 2015),
*ECF 108 (certifying Rule 23 class in a case asserting uniform expense reimbursement violations); *Nucci, et al. v. Rite*

1 1. *The Class Members are numerous and ascertainable.*

2 The numerosity prerequisite demands that a class be large enough that joinder of all
3 members would be impracticable. Fed.R.Civ.P. 23(a)(1). Courts routinely find numerosity
4 satisfied with classes of at least forty members. *See, e.g., Ikonen v. Hartz Mountain Corp.*,
5 122 F.R.D. 258, 262 (S.D. Cal. 1988); *Romero v. Producers Dairy Foods, Inc.*, 235 F.R.D.
6 474, 485 (E.D. Cal. 2006). The approximately 12,553 Class Members render the class so
7 large as to make joinder impracticable. HVR Dec., ¶ 18. The Class Members are readily
8 identifiable from Defendants’ payroll records and third-party vendor data of purchases made
9 during the Class Period. *Id.*

10 2. *Plaintiffs’ claims raise common issues of fact or law.*

11 The commonality requirement of Rule 23(a)(2) “is met if there is at least one common
12 question or law or fact.” *Fry v. Hayt, Hayt & Landau*, 198 F.R.D. 461, 467 (E.D. Pa. 2000).
13 Plaintiffs “need not show that every question in the case, or even a preponderance of
14 questions, is capable of classwide resolution.” *Wang v. Chinese Daily News, Inc.*, 737 F.3d
15 538, 544 (9th Cir. 2013). “[E]ven a single common question” can satisfy the commonality
16 requirement of Rule 23(a)(2). *Id.*

17 Plaintiffs contend that common questions of law and fact predominate here. The wage
18 and hour violations at issue are borne of Defendants’ standardized policies, practices, and
19 procedures regarding their dress code policy during the Class Period and failure to reimburse
20 for personal purchases of clothing from Walgreens’ third-party clothing vendors, creating
21 pervasive issues of fact and law that are amenable to resolution on a class-wide basis. HVR
22 Dec., ¶ 19. Because these questions can be resolved at the same juncture, Plaintiffs contend
23 the commonality requirement is satisfied for the Class. *Id.*

24 3. *Plaintiffs’ claims are typical of the claims of the Class.*

25 “Rule 23(a)(3) requires that the claims of the named parties be typical of the claims
26

27 *Aid Corporation*, No. 5:19-cv-01434-LHK (N.D. Cal. June 14, 2020) *ECF 69 (certifying Rule 23 class in a case
28 asserting uniform expense reimbursement violations).

1 of the members of the class.” *Fry*, 198 F.R.D. at 468. “[A] representative’s claims are
2 ‘typical’ if they are reasonably coextensive with those of absent class members; they need
3 not be substantially identical.” *Hanlon*, 150 F.3d at 1020. Here, Plaintiffs contend that their
4 claims are typical of those of all other Class Members in that they purchased clothing from
5 Walgreens’ third-party vendors without reimbursement. HVR Dec., ¶ 20. Thus, Plaintiffs
6 contend that the typicality requirement is also satisfied. *Id.*

7 4. *Plaintiffs and Class Counsel will adequately represent the*
8 *Class.*

9 To meet the adequacy of representation requirement in Rule 23(a)(4), Plaintiffs must
10 show “(1) that the putative named plaintiff has the ability and the incentive to represent the
11 claims of the class vigorously; (2) that he or she has obtained adequate counsel, and (3) that
12 there is no conflict between the individual's claims and those asserted on behalf of the
13 class.” *Fry*, 198 F.R.D. at 469. Plaintiffs’ claims are in line with the claims of the Class
14 Members, and Plaintiffs’ claims are not antagonistic to the claims of Class Members. HVR
15 Dec., ¶ 21. Plaintiffs have prosecuted this case with the interests of the Class Members in
16 mind. *Id.* Moreover, Class Counsel has extensive experience in class action and
17 employment litigation, including wage and hour class actions, and do not have any conflict
18 with the Class. *Id.*

19 5. *The Rule 23(b)(3) requirements for class certification are*
20 *also met.*

21 Under Rule 23(b)(3), Plaintiffs must demonstrate that common questions
22 “predominate over any questions affecting only individual members” and that a class action
23 is “superior to other available methods for fairly and efficiently adjudicating the
24 controversy.” “The predominance analysis under Rule 23(b)(3) focuses on ‘the relationship
25 between the common and individual issues’ in the case and ‘tests whether proposed classes
26 are sufficiently cohesive to warrant adjudication by representation.’” *Wang*, 737 F.3d at 545.

27 Here, Plaintiffs contend the common questions raised in this action predominate over
28 any individualized questions concerning the Class Members. HVR Dec., ¶ 22. The Class is

1 entirely cohesive because resolution of Plaintiffs' claims hinge on the uniform policies and
2 practices of Defendants, rather than the treatment the Class Members experienced on an
3 individual level. *Id.* Namely, the predominate questions relate to whether Class Members are
4 entitled to be compensated for the personal purchases made of clothing to comply with
5 Walgreens' dress code policy. As a result, the resolution of these alleged class claims would
6 be achieved through the use of common forms of proof, such as Defendants' policies, and
7 would not require inquiries specific to individual Class Members. *Id.*

8 Further, Plaintiffs contend that the class action mechanism is a superior method. *Id.*, ¶
9 23. To determine whether the class approach is superior, courts are to consider: (A) the class
10 members' interests in individually controlling the prosecution or defense of separate actions;
11 (B) the extent and nature of any litigation concerning the controversy already begun by or
12 against class members; (C) the desirability or undesirability of concentrating the litigation of
13 the claims in the particular forum; and (D) the likely difficulties in managing a class action.
14 Fed.R.Civ.P. 23(b)(3)(A)-(D).

15 Here, the Class Members do not have a strong interest in controlling their individual
16 claims. HVR Dec., ¶ 23. The action involves thousands of workers with very similar, but
17 relatively small, claims for monetary injury. *Id.* If the Class Members proceeded on their
18 claims as individuals, their many individual suits would require duplicative discovery and
19 duplicative litigation, and each Class Member would have to personally participate in the
20 litigation effort to an extent that would never be required in a class proceeding. *Id.* Thus,
21 Plaintiffs contend that the class action mechanism would efficiently resolve numerous
22 substantially identical claims at the same time while avoiding a waste of judicial resources
23 and eliminating the possibility of conflicting decisions from repetitious litigation and
24 arbitrations. *Id.*

25 C. The Terms of the Settlement Are Fair, Reasonable, and Adequate.

26 In evaluating the fairness of a proposed settlement, courts compare the settlement
27 amount with the estimated maximum damages recoverable in a successful litigation. *In re*
28

1 *Mego Fin. Corp. Sec. Litig.*, 213 F.3d 454, 459 (9th Cir.2000). Courts routinely approve
2 settlements that provide a fraction of the maximum potential recovery. *See, e.g., Officers for*
3 *Justice v. Civil Serv. Comm'n*, 688 F.2d 615, 623 (9th Cir. 1982); *Viceral v. Mistras Grp.,*
4 *Inc.*, Case No. 15-cv-2198-EMC, 2016 WL 5907869, at *7 (N.D. Cal. Oct. 11, 2016)
5 (approving wage and hour settlement which represented 8.1% of the total verdict value). A
6 review of the Settlement Agreement reveals the fairness, reasonableness, and adequacy of its
7 terms. HVR Dec., ¶ 24. The Gross Settlement Common Fund of \$950,000 represents 100%
8 of the unreimbursed business expenses plus interest (\$514,809)⁴, plus an additional
9 \$435,191, representing 26% of the approximately \$1,655,900 in maximum PAGA penalties.
10 *Id.*; Wilson Dec., ¶ 11, Table 3.

11 Again, these figures are based on Plaintiffs' assessment of a best-case-scenario. HVR
12 Dec., ¶ 25. To obtain such a result at trial, Plaintiffs would have to prove that Walgreens did
13 not provide sufficient replacement shirts and scrubs to each Class Member and that Class
14 Members purchased the uniform clothing items as a condition of work, rather than their own
15 convenience to have multiple uniform items to avoid laundering their items or other personal
16 reasons. *Id.* These issues would of course be disputed and hotly contested. *Id.*

17 The final settlement amount takes into account the substantial risks inherent in any
18 class action wage and hour case, as well as the hurdles of achieving and maintaining class
19 action status, and the specific defenses asserted by Defendants, including that Walgreens
20 provided a sufficient number of uniform items to Class Members. *Id.*, ¶ 26; *see Officers for*
21 *Justice*, 688 F.2d at 623. By obtaining 100% of the unreimbursed clothing purchases for
22 dress-code required items plus over 26% of potential PAGA penalties, which were subject to
23 the Court's reduction from the maximum PAGA penalties, the settlement is fair, reasonable,
24 and adequate. HVR Dec., ¶ 26.

25 VII. THE PROPOSED SETTLEMENT MEETS THE NORTHERN

26
27
28 ⁴ This amount excludes voluntary purchases of clothing items not required by Walgreens' dress code policy, such as Red Nose Day and holiday t-shirts. *See*, HVR Dec. ¶29.

1 **DISTRICT OF CALIFORNIA’S PROCEDURAL GUIDELINES FOR CLASS**
2 **ACTION SETTLEMENTS**

3 As outlined herein, the proposed settlement meets each of the criteria outlined in the
4 Northern District of California’s Procedural Guidelines for Class Action Settlements.
5 Pursuant to this Court’s Standing Order for All Civil Cases Before District Judge Jon S.
6 Tigar, each of the respective guidelines are addressed in the order the guidelines are
7 presented on the Northern District of California’s website.

8 A. Information About the Settlement

9 *1. Settlement Class*

10 In the operative First Amended Complaint, the Class is defined as:

11 All non-exempt employees of Walgreens working in Walgreens’ retail stores
12 and/or pharmacies within California at any time during the period beginning
13 four years prior to the date this action is filed, and continuing through to entry
14 of judgment in this action.

15 The Settlement Class to be certified for settlement purposes only under Federal Rule
16 of Civil Procedure 23, is defined as:

17 All current and former non-exempt employees of Defendants working in
18 Defendants’ retail stores and/or pharmacies within California who purchased
19 clothing items at their own expense from one of Walgreens’ third-party
20 clothing vendors during the Class Period, which runs from May 31, 2018
21 through the date of preliminary approval.

22 Settlement Agreement, ¶¶ 10.b, c.

23 The difference in the definition for the Settlement Class is appropriate because it
24 includes only those non-exempt employees who actually made purchases during the Class
25 Period and were alleged to be owed reimbursed business expenses. HVR Dec., ¶ 27. An
26 employee who did not spend personal funds on clothing purchases did not suffer any injury
27 and would, therefore, not be entitled to any expense reimbursements. *Id.*

28 *2. Released Claims*

 There are no differences between the claims to be released and the claims in the

operative complaint. The scope of the release is set forth in the Settlement at ¶¶ 14-17.

B. The Proposed Settlement Is a Reasonable Compromise of Claims.

Defendants have agreed to pay a non-reversionary Gross Settlement Amount of \$950,000 to settle all aspects of the case. Settlement Agreement ¶ 23. The Net Settlement Amount is defined as the Gross Settlement Common Fund of Nine Hundred Fifty Thousand Dollars and Zero Cents (\$950,000.00) less the following deductions: The sum of Twenty Thousand Dollars and Zero Cents (\$20,000.00) for the representative payment awards to Plaintiffs, with Ten Thousand Dollars and Zero Cents (\$10,000.00) to be paid each to Serena Naro and Trish Gonzales, or such other amount as approved by the Court; the sum of attorneys' fees to Class Counsel, which shall not exceed Three Hundred Sixteen Thousand and Six Hundred Sixty-Six Dollars and Zero Cents (\$316,666.00); the sum of costs of litigation to Class Counsel, which shall not exceed Twenty Thousand Dollars and Zero Cents (\$20,000.00); Seventy Five Thousand Dollars and Zero Cents (\$75,000.00), which is 75% of the One Hundred Thousand Dollars and Zero Cents (\$100,000.00) earmarked for the release of Representative Plaintiffs' and each Aggrieved Employees' PAGA claims, and which will be paid to the California Labor and Workforce Development Agency; the administrative expenses approved by the Court pursuant to this Agreement, up to Forty Five Thousand Dollars and Zero Cents (\$45,000.00) (*current bid is for \$32,500). Settlement ¶ 12 (e).

The net settlement fund is comprised of two parts: (1) the "Net PAGA Settlement Amount" (i.e., the \$25,000.00 earmarked for the release of Representative Plaintiffs' and each PAGA Aggrieved Employee's PAGA claims that is not payable to the California Labor and Workforce Development Agency); and (2) the "Net Class Settlement Amount" (i.e., the entire Net Settlement Amount less the Net PAGA Settlement Amount, which is approximately \$473,334.00). Settlement Agreement ¶ 12.e.⁵

The Gross Settlement Amount is a negotiated amount that resulted from substantial

⁵ If the settlement administration cost does not exceed \$32,500, the Net Class Settlement Amount will raise to \$485,834.

1 arms' length negotiations and significant investigation and analysis by both parties. HVR
2 Dec., ¶ 28. The parties based their damages analysis and settlement negotiations on the
3 expert analysis provided by Resolution Economics, LLC. *Id.* The data that formed the basis
4 of the uniform clothing purchase calculations is included in the Wilson Dec., ¶ 4.

5 According to the data, 12,553 class members purchased a garment at their own expense
6 during the class period. *Id.*, ¶ 8. In order to determine the amount paid for each line item in
7 an order, the unit price was multiplied by the quantity and then added to the sales tax and
8 shipping. *Id.*, ¶ 9. For the period of time with missing order data, May 8, 2021 – October 16,
9 2021, the amount spent on personal orders was estimated separately. *Id.* According to the
10 payroll deduction dataset, deductions for clothing items purchases from a third-party vendor
11 by putative class member during the period were approximately \$40,037. *Id.* The total
12 extrapolated amount for credit card purchases is \$5,615. *Id.* The total estimated personal
13 amount spent on clothing items during the class period is \$859,994. *Id.*, ¶ 10.

14 However, within the data were clothing items considered “voluntary purchases.” *Id.*, ¶
15 11. These t-shirts are not considered a uniform or necessary business expense, but rather,
16 Walgreen permitted employees to purchase and wear these t-shirts during specific periods
17 during the year in place of the Walgreen logo polo shirts, if the employee preferred to do so.
18 HVR Dec., ¶ 29. When excluding voluntary purchases from the analysis, there are 9,727
19 employees who personally paid for a clothing item order during the class period, which
20 reduces the total estimated personal amount spent on clothing items during the class period
21 down to \$435,000, and with interest totaled \$514,809. Wilson Dec., ¶ 11.

22 As for PAGA penalties, when excluding voluntary purchases, there were 7,379
23 employees with a personal purchase order during the PAGA period. *Id.*, ¶ 11. Assuming a
24 \$100 penalty for the first pay period with a clothing purchase not reimbursed and \$200
25 penalty for subsequent pay periods with personal purchases, the total for the PAGA
26 reimbursement claim during the PAGA period is \$1,655,900. Wilson Dec., ¶ 11, Table 3.

27 Thus, the maximum class and PAGA exposure was \$2,170,709. HVR Dec., ¶ 30;
28

1 Wilson Dec., ¶ 11, Table 3. Defendants took the position, however, that this exposure should
2 be reduced to \$1,654,350, based upon earlier settled actions that released Labor Code section
3 2802 claims during the Class Period (*President, et al. v. Walgreen Co.*, Santa Clara Superior
4 Court Case No. 20CV368984, class action settlement Judgment entered on 10/19/23, and
5 *Epstein v. Walgreen Pharmacy Services Midwest, LLC, et al.*, Central District Case No.
6 5:19-cv-01323-DOC-ADS, class action settlement Judgment 4/15/21). HVR Dec., ¶ 30.

7 The Gross Settlement Amount of \$950,000 represents more than 43% of the total
8 exposure, and 57% of the exposure if excluding previous settlements. *Id.*, ¶ 31. These total
9 exposures include the maximum PAGA penalties and Plaintiffs are reticent that the court has
10 discretion to reduce PAGA penalties. For example, in *Carrington v. Starbucks Corp.*, 30
11 Cal.App.5th 504, 517, 529 (2018), the trial Court reduced the PAGA penalty amount to only
12 \$150,000 (\$5 per violation).

13 Further, Defendants argued that the initial Walgreen logo shirts and scrubs provided at
14 hiring, along with annual vouchers they provided for replacements, were sufficient to comply
15 with Defendants' dress code policy. *Id.*, ¶ 32. Defendants argued that any additional clothing
16 purchases were not required, but were done so for class members' personal desire to have
17 multiple clothing options to wear. *Id.* If the Court had sided with Defendants on their
18 defenses, Class Members would not receive any damages or penalties. *Id.*

19 The Settlement will result in immediate and certain payment to Class Members of
20 meaningful amounts. *Id.*, ¶ 33. Class Members spent an average of \$61.53 on required
21 clothing items. Wilson Dec. ¶ 9. With the Net Class Settlement Amount of \$473,334, the
22 average class recovery is \$37.70 (or \$38.70 if Settlement Administration Costs do not raise).
23 Thus, the average recovery is over 61% of the average purchase amount, which is an
24 excellent compromise without the prolonged delays of class certification and trial. HVR
25 Dec., ¶ 33.

26 Additionally, there are approximately 7,379 Aggrieved Employees who made
27 purchases during the PAGA period. Wilson Dec. ¶ 11. The Net PAGA Settlement Amount of
28

1 \$25,000 will be distributed to the Aggrieved Employees, which calculates to an average of
2 \$3.39 per Aggrieved Employee in PAGA penalties. HVR Dec., ¶ 34

3 Thus, the settlement amount provides significant compensation to the Class Members
4 and Aggrieved Employees in the face of expanding and uncertain litigation. HVR Dec. ¶ 35.

5 In light of all of the risks, the settlement amount is fair, reasonable, and adequate. *Id.*
6 Such a result will benefit the Parties and the court system. *Id.*, ¶ 36. It will bring finality to
7 the Action and will foreclose the inevitability of expanding litigation. *Id.*

8 C. Cases Affected by the Settlement.

9 There are no pending cases the parties are aware of that would be affected by this
10 settlement. *Id.*, ¶ 37. There is a related pending class action in the process of settling that
11 includes a class of pharmacy techs with a Labor Code Section 2802 release (*Gamarro v.*
12 *Walgreen Pharmacy Services Midwest*, Riverside Superior Court Case No. CVRI22033).
13 However, pharmacy tech Class Members will be permitted to participate in both cases. *Id.*

14 D. The Proposed Allocation Plan.

15 The Net Settlement Amount is comprised of two parts: (1) the “Net PAGA Settlement
16 Amount” (i.e., the \$25,000.00 earmarked for the release of Representative Plaintiffs’ and
17 each PAGA Aggrieved Employee’s PAGA claims that is not payable to the California Labor
18 and Workforce Development Agency); and (2) the “Net Class Settlement Amount” (i.e., the
19 entire Net Settlement Amount less the Net PAGA Settlement Amount, which is
20 approximately \$473,334.00). Settlement Agreement, ¶ 12.f; HVR Dec. ¶ 38.

21 The distribution formula is based upon records produced in this litigation by
22 Defendants’ vendors for those Class Members who purchased clothing at their own expense
23 from Defendants’ third-party vendors during the Class Period. Settlement Agreement, ¶ 13.
24 The Net Settlement Fund will be divided by the clothing purchases to determine the Clothing
25 Purchases Payout Rate. *Id.* The total amount allocated to each Class Member will be the total
26 of his or her identified Clothing Purchases during the applicable Class and PAGA Periods
27 multiplied by the Clothing Purchases Payout Rate. *Id.* This allocation is fair and reasonable
28

1 because it takes the extent of the injury of each Class Member into account and bases their
2 claim amount on the amount actually expended on uniform clothing items during the Class
3 Period. HVR Dec. ¶ 39.

4 Twenty-five percent (25%) of the \$100,000 PAGA allocation will be distributed to the
5 Aggrieved Employees on a pro-rata basis based upon the number of pay periods that the
6 Aggrieved Employee made purchases during the PAGA Period. The Labor and Workforce
7 Development Agency shall receive a check for 75% of the PAGA settlement amount.
8 Settlement Agreement, ¶ 13.

9 The payments to the Class Members and Aggrieved Employees shall be non-taxable,
10 and a form 1099 will be issued by the administrator for such payments. *Id.*

11 The Class Members, who do not opt-out of the settlement, and all Aggrieved
12 Employees shall receive a direct mail check of the amount of their claim and will have 180
13 days to cash their checks. *Id.* If any funds remain after the expiration date of the distribution,
14 any residual funds will be distributed to Legal Aid at Work as a *cy pres* beneficiary. *Id.*

15 E. Settlement Administration.

16 Plaintiffs sought and received bids from four respected Claims Administrators,
17 including Simpluris, Rust, JND Legal Administration, and Atticus Administration. HVR
18 Dec. at ¶ 40. The terms of the quotes included sending a postcard notice to approximately
19 12,500 Class Members, establishing a website with the full notice and other important
20 documents, maintaining a toll-free number, tax accounting, and sending direct mail checks to
21 class members. *Id.* The administrator with the lowest bid was Atticus Administration
22 (“Atticus”), with a quote of \$37,200. *Id.* The parties agreed in the Settlement Agreement to
23 use Atticus. Settlement Agreement, ¶ 10 (j).

24 Over the last two years, Plaintiffs’ counsel has successfully worked with Atticus for
25 settlement administration of two PAGA settlements and three class action settlements. HVR
26 Dec., ¶ 41. A copy of Atticus’ Data Security Information & Privacy Policy is attached as
27 Exhibit 3 to the HVR Dec. Atticus maintains insurance with AAA rated insurance carriers
28

1 for professional liability and cybersecurity. HVR Dec., ¶ 42. It is Atticus' policy to warrant
2 the work performed on all errors and omissions, on all projects, including distribution of
3 funds to class members, without additional charges to their clients. *Id.*

4 F. Notice and Settlement Administration.

5 Atticus will distribute the Post Card Notices of Settlement (attached as Ex. B to the
6 Settlement Agreement) via U.S. mail and email (where email addresses are available), re-
7 mail any Notice Packets returned as non-deliverable but with forwarding addresses, and re-
8 mail the Notice Packet to any new address obtained by way of skip-trace. Settlement
9 Agreement, ¶ 26. Atticus will also receive and process requests for exclusion forms,
10 calculate the settlement payments, and prepare and issue all disbursements to participating
11 Class Members and Aggrieved Employees, Service Awards to Plaintiffs, payment to the
12 LWDA payment, payment to Class Counsel for fees and costs, and payment to itself for fees
13 in administering the settlement. *Id.*

14 Atticus will also create a website for the Settlement, which will allow Class Members
15 to view the Class Notice (attached as Ex. A to the Settlement Agreement), the Settlement
16 Agreement, and all papers filed by Class Counsel to obtain preliminary and final approval of
17 the Settlement Agreement. *Id.* The Settlement Administrator will also establish a toll-free
18 call center for telephone inquiries from Class Members. *Id.*

19 G. Requests for Exclusion from the Settlement.

20 The Settlement Administrator shall administer the receipt of any and all requests for
21 exclusion from the Action. Any Class Member who submits a valid and timely request for
22 exclusion shall not be bound by the terms of the Settlement Agreement. Any Class Member
23 who desires to be excluded from the Action must send a written request for exclusion to the
24 Settlement Administrator with a postmark dated no later than 60 calendar days after initial
25 mailing of the Notice. In such request, the Class Member must set forth his or her full name,
26 address, telephone number and email address (if available), along with a statement that he or
27 she wishes to be excluded. The Settlement Administrator shall provide a list of the names
28

1 and addresses of each Class Member who submitted a valid exclusion to the Parties no later
2 than 21 court days prior to the Final Hearing. Class Members who request to be excluded
3 from the Settlement shall nevertheless be bound by the release of claims under PAGA.
4 Settlement Agreement ¶ 32.

5 H. Objections.

6 Objections to the Settlement: Any Settlement Class Member who intends to object to
7 the fairness of this settlement must (1) file a written objection with the Court no later than 60
8 calendar days after the Notice is initially mailed to the Settlement Class and (2) mail or
9 personally deliver a copy of the written objection to Class Counsel and Defendants' Counsel
10 on the same day as the objection is sent to the Court. The Court will deem an objection filed
11 on the day it is received by the Court, not necessarily when the objection is postmarked. In
12 the written objection, the Settlement Class Member must state: his or her full name, address,
13 telephone number, and email address (if available); the reasons for his or her objection; and
14 whether he or she intends to appear at the Final Hearing on his or her own behalf or through
15 counsel. Further, the Settlement Class Member must attach to his or her objection all
16 evidence supporting the objection. Any Settlement Class Member who does not file a valid
17 and timely objection to the settlement shall be barred from seeking review of the settlement
18 by appeal or otherwise.

19 Objections to Plaintiff's Motion for Attorney's Fees and Costs: Any Settlement Class
20 Member who intends to object to Plaintiff's Motion for Attorney's Fees and Costs must (1)
21 file a written objection with the Court no later than 14 calendar days prior to the Final
22 Hearing and (2) mail or personally deliver a copy of the written objection to Class Counsel
23 and Defendants' Counsel on the same day as the objection is sent to the Court. The Court
24 will deem an objection filed on the day it is received by the Court, not necessarily when the
25 objection is postmarked. In the written objection, the Settlement Class Member must state:
26 his or her full name, address, telephone number, and email address (if available); the reasons
27 for his or her objection; and whether he or she intends to appear at the Final Hearing on his
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1 or her own behalf or through counsel. Further, the Settlement Class Member must attach to
2 his or her objection all evidence supporting the objection. Any Settlement Class Member
3 who does not file a valid and timely objection shall be barred from seeking review of
4 Plaintiff's Motion for Attorney's Fees and Costs by appeal or otherwise.

5 I. Attorney's Fees and Costs Are Reasonable.

6 In their fee motion to be submitted with the final approval papers, Class Counsel shall
7 seek an award of attorneys' fees not to exceed Three Hundred Sixteen Thousand Six
8 Hundred Sixty-Six Dollars and Zero Cents (\$316,666.00) (33.33 % of the Gross Settlement
9 Common Fund). This amount will cover all work performed to date and all work to be
10 performed in connection with the approval by the Court of the Settlement Agreement and the
11 final conclusion of this Action. Settlement Agreement ¶ 18; HVR Dec., ¶ 43. At final
12 approval, Plaintiffs will justify any upward adjustment from the federal "benchmark."

13 Class Counsel shall also submit an application for the reimbursement of costs and
14 expenses in an amount not to exceed Twenty Thousand Dollars and Zero Cents (\$20,000.00).
15 This amount will cover all costs and expenses incurred to date or to be incurred. This amount
16 shall come from the Gross Settlement Common Fund. Settlement Agreement, ¶ 18.

17 The amount of fees and costs requested are clearly set forth in the Notice. The fees
18 motion will be filed 30 days prior to the final approval hearing and uploaded to the
19 settlement website. Class Members will have until 14 days prior to the final approval
20 hearing to object to the request for fees and costs, which may be considered by the Court.

21 J. Service Awards to Representative Plaintiffs

22 Named plaintiffs in class action litigation are eligible for reasonable service awards.
23 *See Staton v. Boeing Co.*, 327 F.3d 938, 977 (9th Cir. 2003) ("Courts routinely approve
24 incentive awards to compensate named plaintiffs for the services they provided and the risks
25 they incurred during the course of the class action litigation"); *Van Vranken v. Atl. Richfield*
26 *Co.*, 901 F.Supp. 294, 300 (N.D. Cal. 1995) (named plaintiff received \$50,000 for work in
27 class action). At final approval, Plaintiffs will seek up to Ten Thousand Dollars and Zero
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1 Cents (\$10,000.00) each as a service award for their time and efforts as Representative
2 Plaintiffs. These service payment awards are in addition to their rights to payments provided
3 in the Settlement for initiating and pursuing the Action and undertaking the risk of liability
4 for attorneys' fees and expenses in the event they were unsuccessful in the prosecution of the
5 Action. Settlement Agreement, ¶ 16.

6 In agreeing to serve as Class Representatives, these individuals formally agreed to
7 accept the responsibilities of representing the interests of all Class Members and Aggrieved
8 Employees. HVR Dec. ¶ 45. At final approval, Plaintiffs will justify any increase from the
9 "presumptively" reasonable amount for incentive compensation.

10 K. Cy Pres Recipient.

11 The parties propose that any funds remaining in the Net Settlement Fund after the 180
12 day void date for checks be distributed *cy pres* to Legal Aid at Work, which is a nonprofit
13 organization that provides legal services assisting low-income, working families and
14 promotes better understanding of the conditions, policies, and institutions that affect the
15 well-being of workers and their families and communities. HVR Dec. at ¶ 46.

16 L. Timeline.

17 Plaintiffs have submitted a proposed order setting forth the proposed schedule of
18 events from here through final approval. HVR Dec., ¶ 47 and [Proposed] Order. Plaintiffs
19 submit that the proposed schedule complies with Rule 23 and secures the benefits for Class
20 Members in a timely fashion.

21 M. CAFA / PAGA Notice.

22 On June 18, 2024, Defendants filed the Declaration of Christopher J. Archibald
23 confirming they provided a notice of the proposed settlement upon the appropriate State
24 official of each State in which a class member resides and the appropriate Federal official.
25 (ECF 61). Concurrently with this filing, Plaintiffs are submitting a copy of this Unopposed
26 Renewed Motion to the LWDA.

27 N. Comparable Cases.

Plaintiffs provide two comparable cases. HVR Dec., ¶ 48. The case of *Ping v. See's Candy Shops, Inc., et al.*, County of Butte No. 20CV01023, involved claims similar to here in that Plaintiffs sought reimbursement for purchasing uniform clothing to comply with Defendant's dress code policy. The scope of release was more expansive than here as wage and hour violations for statutory penalties were alleged, and the release included failure to provide uniforms and/or reimbursement for uniform-related expenses; failure to pay minimum wages; failure to timely pay wages due at termination; and failure to furnish accurate itemized wage statements; including without limitation, claims under the California Labor Code sections 201, 202, 203, 204, 210, 218.5, 223, 226, 226.3, 558, 1194, 1194.2, 1197 et seq., 2802, Bus. & Prof. Code section 17200 et seq., and Labor Code section 2698.

	The See's Settlement	This Proposed Settlement
Total settlement fund	\$1,350,000	\$950,000
Total no. of class members	6,851	12,555
Total no. of class members who received notice and not returned as undeliverable	6,737	Unknown at this time
Method(s) of Notice	U.S. mail	U.S. mail and email
No. and percentage of Claim Forms submitted	Not applicable	Not applicable
Average recovery per class member	\$42.96	\$37.70 / \$38.70
Amount of uncashed checks	2,350	Amount of uncashed checks is unknown at this time
Administrative Costs	\$50,000	Up to \$45,000; current bid is \$37,200
Attorney's Fees and Costs	\$380,000 in fees and \$11,400 in costs	\$316,666 in fees and up to \$20,000 in costs
Total Exposure if Plaintiffs and the Class Prevailed	\$18,341,598	\$2,170,709

The case of *Nucci v. Rite Aid, et al.*, N.D. Cal. No. 19-cv-01434-LHK, involved claims similar to here in that Plaintiffs sought reimbursement for purchasing uniform clothing to comply with Defendants' dress code policy. This was a certified class action that was heading for trial at the time of settlement. Plaintiffs' causes of action and scope of

release were more expansive than here and included Failure to Indemnify Business Expenses (Labor Code §2802); Failure to Reimburse for Required Uniforms (IWC Wage Order 7, § 9 (A)); Unfair Business Practices (Business and Professions Code § 17200, et seq.); Injunction; Failure to Pay Minimum Wage (Labor Code §§ 1194, 1194.2, 1197, IWC Wage Order No. 7, § 4(A); Failure to Furnish Accurate Wage Statements (Labor Code § 226); Waiting Time Penalties (Labor Code §§ 201, 202, and 203); and Penalties under the Private Attorneys General Act (“PAGA”) (Labor Code § 2698, et seq.).

	The Rite Aid Settlement	This Proposed Settlement
Total settlement fund	\$12,000,000	\$950,000
Total no. of class members	39,451	12,555
Total no. of class members who received notice and not returned as undeliverable	29,103	Unknown at this time
Method(s) of Notice	U.S. mail and email	U.S. mail and email
No. and percentage of Claim Forms submitted	Not applicable	Not applicable
Average recovery per class member	\$308.31	\$37.70 / \$38.70
Amount of uncashed checks	6,225	Amount of uncashed checks is unknown at this time
Administrative Costs	\$75,000	Up to \$45,000; current bid is \$37,200
Attorney’s Fees and Costs	\$3,999,600 in fees and \$300,940 in costs	\$316,666 in fees and up to \$20,000 in costs
Total Exposure if Plaintiffs and the Class Prevailed	\$46,230,694	\$2,170,709

VIII. CONCLUSION

Based on the foregoing, Plaintiffs respectfully request that the Court grant preliminary approval of the proposed settlement, enter the proposed preliminary approval order submitted herewith, and set a final approval hearing date.

Date: February 13, 2025

Respectfully submitted,

/s/ Hallie Von Rock

Hallie Von Rock

AIMAN-SMITH & MARCY, Attorneys for Plaintiffs

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