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Attorneys for Plaintiff SARINA YUAN JONG LAI

SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF LOS ANGELES

SARINA YUAN JONG LAI, an individual, on
behalf of herself, and on behalf of all persons
similarly situated,

Plaintiff,

v.

SUNMERRY CALIFORNIA INC., a
California corporation; SUNMERRY
GARDENA LLC, a California limited liability
company; SUNMERRY MONTEREY PARK
LLC, a California limited liability company;
SUNMERRY SANTA ANITA LLC, a
California limited liability company; and
DOES 1 through 50, Inclusive,

Defendants.

Case No. 22STCV12086

**DECLARATION OF JACKLAND K. HOM,
ESQ. IN SUPPORT OF PLAINTIFF'S
MOTION FOR FINAL APPROVAL OF
CLASS ACTION AND PAGA SETTLEMENT**

Date: July 23, 2024

Time: 10:30 a.m.

Judge: Hon. Stuart M. Rice

Dept.: 1

1 I, Jackland K. Hom, Esq., declare as follows:

2 1. I am over eighteen years of age and if called as a witness, I could and would competently
3 testify to the following facts from my own personal knowledge. I am an attorney-at-law at the law firm
4 of ZAKAY LAW GROUP, APLC (hereinafter “Class Counsel”). I am counsel of record for Plaintiff
5 SARINA YUAN JONG LAI (hereafter “Plaintiff” or “Class Representative”) in this wage and hour
6 class action filed against Defendants SUNMERRY CALIFORNIA INC., SUNMERRY GARDENA
7 LLC, SUNMERRY MONTEREY PARK LLC, SUNMERRY SANTA ANITA LLC (hereinafter
8 “Defendants”).

9 2. This declaration is being submitted in support of Plaintiff’s Motion for Final Approval of
10 Class Action and PAGA Settlement.

11 3. Attached hereto as **Exhibit “1”** is a true and correct copy of the fully executed Class
12 Action and PAGA Settlement Agreement and Class Notice.

13 4. Attached hereto as **Exhibit “2”** is a true and correct copy of the conformed January 22,
14 2024, Preliminary Approval Order.

15 5. Attached hereto as **Exhibit “3”** is a true and correct copy of the December 20, 2023,
16 proof of filing the proposed Settlement with the LWDA.

17 6. Attached hereto as **Exhibit “4”** is a true and correct copy of the June 28, 2024, proof of
18 filing this motion seeking final approval of this Settlement with the LWDA.

19 **I. INTRODUCTION**

20 7. An objective evaluation of the proposed settlement of Four Hundred Seventy-Five
21 Thousand Dollars and Zero Cents (\$475,000.00) (“Gross Settlement Amount”) confirms that the relief
22 negotiated on behalf of the Settlement Class is fair, reasonable, and valuable. The Settlement is a
23 product of informed, adversarial, and non-collusive negotiations, between experienced counsel, and
24 presided over by Hon. Peter D. Lichtman (Ret.) a highly regarded judge and mediator. After deducting
25 any Court-approved attorneys’ fees and litigation costs, class representative incentive payments,
26 settlement administration fees, and the payment to the Labor & Workforce Development Agency
27 (“LWDA”), the net settlement fund shall be distributed to the Settlement Class based on the number of
28 Workweeks they worked while employed by Defendants during the Class Period. *The Class greeted*

1 *news of the Settlement with unanimous approval as 100% of Class Members have chosen to*
2 *participate in the Settlement. There are zero opt-outs and zero objections to the Settlement.* The high
3 approval by the Settlement Class evidences the clear fairness and reasonableness of the Settlement.

4 8. This Settlement provides substantial recovery to Settlement Class Members. Plaintiff
5 estimates that the Settlement, if approved, would result in a Net Settlement Amount of approximately
6 **\$244,966.67**. This will result in an average Individual Class Payment of **\$477.52**, and a high payment
7 of **\$2,494.89**. Apex Dec. at ¶ 15. Aggrieved Employees will receive an average Individual PAGA
8 Payment of **\$54.42** and a high payment of **\$418.49**.

9 9. The relief offered by the Settlement is immediate and is particularly impressive when
10 viewed against the difficulties encountered by plaintiffs pursuing similar wage and hour cases (*see*
11 *infra*). Indeed, by settling now rather than proceeding to trial, the Settlement Class will not have to wait
12 (possibly years) for relief, nor will they have to bear the risks associated with prolonged and uncertain
13 litigation.

14 10. As discussed below, the proposed Settlement satisfies all criteria for final settlement
15 approval under California law and falls well within the range of reasonableness. Accordingly, the Class
16 Representative and Class Counsel respectfully request this Court grant final approval of the Agreement
17 and entry of the proposed Final Approval Order and Judgment.

18 **II. OVERVIEW OF THE LITIGATION**

19 11. Defendant operates a chain of bakeries in Southern California, including in Los Angeles
20 County. Plaintiff worked for Defendants as a non-exempt employee in California from January 26,
21 2021, to April 12, 2021. At all times during her employment, Plaintiff earned an hourly wage and was
22 entitled to legally complaint meal and/or rest periods, minimum, regular, and overtime wages.
23 Throughout her employment, Plaintiff was subject to Defendants' written policies and procedures.

24 12. Defendants forcefully deny liability for each of Plaintiff's claims. Further, Defendants
25 assert that they fully complied with all applicable employment laws and raised several other significant
26 defenses to Plaintiff's claims, including but not limited to, facially compliant meal and rest period
27 policies, compliant wage statements, reimbursement for all required business expenses, and payment of
28 all wages upon separation.

1 13. On April 8, 2022, Plaintiff filed a class action complaint in the Los Angeles Superior
2 Court, Case Number 22STCV12086 (the “Action”). The Action alleged eight causes of action against
3 Defendants for: (1) Unfair Competition in Violation of California Business and Professions Code §§
4 17200 *et seq*; (2) Failure to Pay Minimum Wages in Violation of Cal. Lab. Code §§ 1194, 1197, 1197.1;
5 (3) Failure to Pay Overtime Wages in Violation of Cal. Lab. Code §§ 510 *et seq.*; (4) Failure to Provide
6 Required Meal Periods in Violation of Cal. Lab. Code §§ 226.7 and 512; (5) Failure to Provide Required
7 Rest Periods in Violation of Cal. Lab. Code §§ 226.7 and 512; (6) Failure to Provide Accurate Itemized
8 Wage Statements in Violation of Cal. Lab. Code § 226; (7) Failure to Provide Wages When Due in
9 Violation of Cal. Lab. Code §§ 201, 202, and 203; and (8) Failure to Reimburse Employees for Required
10 Expenses in Violation of Cal. Lab. Code § 2802. On June 30, 2022, Plaintiff filed the operative First
11 Amended Complaint, adding a ninth cause of action for Violations of the Private Attorney General Act
12 at Labor Code Sections 2698, *et seq.* (“PAGA”).

13 14. Prior to mediation, the Parties engaged in investigation and the exchange of documents
14 and information in connection with the Action. As part of this process, Defendants provided a
15 significant sample of time and payroll records, as well as other documents and information, to Class
16 Counsel to review and analyze. As discussed *infra*, Plaintiff’s counsel retained the forensic consultants
17 at Berger Consulting Group (“BCG”) to analyze Defendants’ time and payroll data.

18 15. On February 9, 2023, the Parties participated in an all-day mediation presided over by the
19 Honorable Peter D. Lichtman (Ret.), a respected jurist and mediator of wage and hour class actions.
20 Defendants argued that they have financial limitations that restrict their ability to pay a class settlement,
21 and the Parties agreed to use a forensic accountant’s review of Defendants’ financial records to advise
22 on Defendants’ ability to fund a settlement. Plaintiff subsequently retained Creal & Creal, an
23 accountancy corporation that regularly performs litigation support and forensic accounting services,
24 including providing opinions related to solvency. Defendants sent Kenneth Creal, CPA, of Creal &
25 Creal a number of financial documents including tax returns from recent years, balance sheets, and
26 profit and loss summaries. Kenneth Creal also performed an investigation into the assets owned by
27 Defendants and their owners. Following his review, Kenneth Creal advised Plaintiffs via a written
28 opinion that in his professional opinion, a settlement in an amount of up to \$500,000 would be fair and

1 not destroy Defendants' business. Thereafter, Judge Lichtman issued a mediator's proposal. The Parties
2 accepted and reached a settlement based on Judge Lichtman's mediator's proposal and executed a
3 binding Memorandum of Understanding. Thereafter, the Parties documented the agreement in the form
4 of a Settlement Agreement, which was signed by the Parties and is now the subject of the instant motion.

5 16. After Plaintiff commenced written discovery, the Parties agreed to mediate this action,
6 the Parties agreed to mediate the Action. To prepare for mediation, the Defendants agreed to informally
7 produce additional documents and data points subject to the mediation privilege, including but not
8 limited to, employee handbooks, the Class Members' time data, and certain payroll data points. As
9 discussed *infra*, Plaintiff's counsel retained the forensic consultants at Berger Consulting Group
10 ("BCG") to analyze Defendant's time and payroll data.

11 **III. THE SETTLEMENT BEFORE THE COURT**

12 17. The Court preliminarily approved an initial Gross Settlement Amount of Four Hundred
13 Seventy-Five Thousand Dollars and Zero Cents (\$475,000.00) based on a total of an estimated 23,319
14 Workweeks worked by the Class during the Class Period.

15 18. The Gross Settlement Amount shall be used: (1) to satisfy Individual Class Payments; (2)
16 to satisfy the Class Representative Service Payment; (3) to satisfy the Class Counsel Fees and Litigation
17 Expenses Payment; (4) to satisfy the PAGA Penalties; and (5) to satisfy the Administration Expenses
18 incurred in this action.

19 19. Defendants will fund the Settlement by transferring the Gross Settlement Amount into a
20 Qualified Settlement Fund within fourteen (14) calendar days after the Effective Date. Agreement, §
21 4.3. The Settlement Administrator shall mail the Individual Class Payments and Individual PAGA
22 Payments to the Settlement Class Members and/or Aggrieved Employees no later than fourteen (14)
23 calendar days after Defendants fund the Gross Settlement Amount. Agreement, § 4.4. The Settlement
24 Administrator will calculate Individual Class Payments by dividing the Net Settlement Amount by the
25 total number of Workweeks worked by all Settlement Class Members during the Class Period and
26 multiplying the result by each Settlement Class Member's Workweeks. Agreement, § 3.2.4. The
27 estimated average Individual Class Payment is approximately **\$477.52**.

1 20. As explained in further detail below, the Settlement is fair, adequate, and reasonable to
2 the class and should be granted final approval. This is evidenced by the unanimous approval of the
3 Settlement by the Settlement Class, the absence of any objections to the Settlement and the average
4 Individual Class Payment of \$477.52.

5 **IV. THE SETTLEMENT IS FAIR, REASONABLE, AND ADEQUATE**

6 **A. Class Counsel Conducted a Thorough Investigation**

7 21. As detailed in the motion for preliminary approval, Class Counsel thoroughly
8 investigated the proposed Class Members' claims, applicable law, and potential defenses. Specifically,
9 Class Counsel assessed the value of the class claims using data and documents provided by Defendants
10 through informal discovery. Class Counsel obtained time, payroll, and policy records, as well as data
11 regarding the number of Class Members, workweeks, and average rate of pay to assess damages before
12 mediation. Class Counsel retained Berger Consulting Group ("BCG") to analyze Defendants' time and
13 payroll data to formulate damage models estimating Defendants' liability exposure. Class Counsel's
14 investigation, research, experience, and damage models informed and guided the mediated negotiations
15 that resulted in this settlement. Accordingly, Plaintiff's Counsel fully understood the strengths and
16 weaknesses of the class claims before the parties reached a settlement.

17 **B. The Parties Settled after Mediation**

18 22. On February 9, 2023, the Parties conducted a full-day mediation with Hon. Peter D.
19 Lichtman (Ret.), a highly regarded judge and mediator. Judge Lichtman helped to manage the Parties'
20 expectations and provided a useful, neutral analysis of the issues and risks to both sides. The Parties
21 made substantial progress with Judge Lichtman's assistance. Namely, the Parties exchanged
22 information regarding their respective claims and defenses, including their respective evaluations of the
23 damages. However, after a full day of arm's length and adversarial negotiations, the mediation
24 concluded without a settlement. Defendants argued that they have financial limitations that restrict their
25 ability to pay a class settlement, and the Parties agreed to use a forensic accountant's review of
26 Defendants' financial records to advise on Defendants' ability to fund a settlement. Plaintiff
27 subsequently retained Creal & Creal, an accountancy corporation that regularly performs litigation
28 support and forensic accounting services, including providing opinions related to solvency. Defendants

1 sent Kenneth Creal, CPA, of Creal & Creal a number of financial documents including tax returns from
2 recent years, balance sheets, and profit and loss summaries. Kenneth Creal also performed an
3 investigation into the assets owned by Defendants and their owners. Following his review, Kenneth
4 Creal advised Plaintiffs via a written opinion that in his professional opinion, a settlement in an amount
5 of up to \$500,000 would be fair and not destroy Defendants' business. Thereafter, Judge Lichtman
6 issued a mediator's proposal. The Parties accepted and reached a settlement based on Judge Lichtman's
7 mediator's proposal and executed a binding Memorandum of Understanding. Thereafter, the Parties
8 documented the agreement in the form of a Settlement Agreement. No action would likely have been
9 taken by Class Members individually, and no compensation would have been recovered for them, but
10 for Plaintiff's service on behalf of the Class.

11 **C. Class Counsel is Experienced in Similar Litigation**

12 23. Class Counsel in this matter has extensive class action experience in multiple fields and
13 has represented tens-of-thousands of persons in class actions. Counsel has previously litigated similar
14 wage and hour class actions involving similar claims. Class Counsel has been approved as class counsel
15 in similar wage and hour class actions throughout the State of California. As such, courts throughout
16 California have deemed Class Counsel experienced and knowledgeable in this area of law. Class
17 Counsel has participated in every aspect of the settlement discussions and has concluded the settlement
18 is fair, adequate, and reasonable and in the best interests of the Class. See Declaration of Shani O.
19 Zakay, ¶ 4; Declaration of Jean-Claude Lapuyade, ¶¶ 15-20, filed concurrently herewith.

20 **D. The Settlement Class Responded Positively to the Settlement**

21 24. The reaction of the Settlement Class unequivocally supports approval of the Settlement.
22 Significantly, after dissemination of the notice to the Settlement Class, which provided each class
23 member with the terms of the Settlement, including the specific estimated Individual Class Payments,
24 zero of the 513 members of the Class opted-out of the Settlement. Moreover, there are zero objections.
25 Stated differently, 100% of the Class have chosen to participate in the Settlement.

26 **E. The Gross Settlement Amount is Fair and Reasonable**

27 25. Here, the Settlement is clearly within the "ballpark" of reasonableness because the
28 Settlement provides a sizeable recovery to the Settlement Class and need not necessarily obtain 100

1 percent of the damages sought to be fair, reasonable, and ultimately, meaningful. *Wershba*, 91
2 Cal.App.4th at 250. While the Gross Settlement Amount of Four Hundred Seventy-Five Thousand
3 Dollars and Zero Cents (\$475,000.00) represents a discount on Defendants' potential exposure if
4 Plaintiff established liability on all claims and was awarded the full amount of the estimated damages
5 at trial, this compromise is reasonable because (1) the formidable defenses raised by Defendants
6 presented a risk that could award significantly less in damages than Plaintiff's estimate and (2) any
7 theoretical post-trial recovery may require many more years of litigation, resulting in added fees and
8 costs without any guarantee of recovery for the Class.

9 26. As detailed at the time of preliminary approval, the Gross Settlement Amount is fair and
10 reasonable considering the nature and magnitude of the claims being settled and the various potential
11 impediments to recovery. Class Counsel developed an economic damages model measuring
12 Defendants' liability exposure while accounting for the uncertainties of continued litigation. The
13 economic damage model was informed by Class Counsel's investigation, including the analysis of a
14 significant sample of time and payroll data. As detailed in greater depth during the preliminary approval
15 process, Class Counsel projected a range of Defendants' liability exposure for the claims asserted on
16 behalf of the Settlement Class. The Gross Settlement Amount represents approximately 27.53% of
17 Defendants' *class-wide* liability exposure as estimated by Class Counsel at the time of mediation.

18 27. Clearly the goal of this litigation to obtain redress for the class has been met by this
19 Settlement. Given the amount of the Settlement, the risks of litigation and the arm's length negotiations
20 between experienced counsel, the settlement is fair and reasonable, and is therefore entitled to final
21 approval.

22 **F. The Strength of Plaintiff's Case and Risks of Continued Litigation**

23 28. Although Class Counsel believes strongly in Plaintiff's claims, it would be misguided to
24 ignore the asserted defenses. If successful on any one of its defenses, Defendants could defend the
25 action or, at least, drastically undercut Plaintiff's claims.

26 29. With respect to the most immediate challenge, i.e., class certification, the risks attendant
27 to the certification of similar wage and hour claims are demonstrated by *Magadia v. Wal-Mart*
28 *Associates, Inc.* (9th Cir. 2021) 999 F.3d 668. There, the Ninth Circuit, vacated reversed and remanded

1 a \$110 million judgement against an employer for, *inter alia*, inaccurately paying overtime, and directed
2 the trial court to enter judgement in favor of the employer. *See also O’Conner v. Uber Technologies,*
3 *Inc.* (9th Cir. 2018) 904 F.3d 1087 (decertification of wage and hour misclassification action); *see also*
4 *Duran v. U.S. Bank National Association* (2014) 59 Cal.4th 1, 31 (reversing a trial verdict in favor
5 plaintiffs in a wage and hour class action)); *Tien v. Tenet Healthcare Corp.* (2012) 209 Cal.App.4th
6 1077, 1088 (“[T]he reason, if any, that employees might not take their breaks were predominantly
7 individualized questions of fact not susceptible to class treatment.”); *Ali v. U.S.A. Cab Ltd.* (2009) 176
8 Cal.App.4th 1333, 1341 (affirming denial of certification because employees’ declarations attesting to
9 having taken meal and rest breaks demonstrated that individualized inquiries were required to show
10 harm); *Campbell v. Best Buy Stores, L.P.,* (C.D. Cal. 2013) 2013 WL 5302217 at *11-13 (following
11 *Brinker* and denying certification of proposed off-the-clock and rest and meal break classes due to lack
12 of uniform policy); *Brown v. Fed Express Corp.* (C.D. Cal. 2008) 249 F.R.D. 580, 587-88 (denying
13 certification of driver meal and rest period claims based on the predominance of individual issues).
14 Collectively, the examples cited above illustrate the uncertain nature of class litigation. Consequently,
15 the uncertainty of obtaining certification through a contested motion is a significant risk factor favoring
16 settlement.

17 30. The fast-changing landscape of wage and hour litigation can also drastically affect the
18 value of Plaintiff’s claims and, in fact, already has.

19 31. As demonstrated by the decisions in *Magadia, supra*, 999 F.3d 668, *O’Conner v. Uber*
20 *Technologies* (N.D. Cal. 2018) 82 F.Supp.3d 1133 and *Duran v. U.S. Bank National Assn.* (2014) 59
21 Cal.4th 1, the complexities and duration of further litigation cannot be overstated. There is little doubt
22 that if Defendants faced a large adverse judgement, Defendants undoubtedly have the resources to post
23 a bond and appeal. A post-judgment appeal by Defendants would have required many more years to
24 resolve, assuming the judgment was affirmed. If the judgment was not affirmed in total, then the case
25 could have dragged on for years after the appeal. The benefits of a guaranteed recovery today outweigh
26 an uncertain result three or more years in the future.

27 32. The Class Representative and Class Counsel recognize the expense and length of a trial
28 against Defendants through possible appeals which could take another three years. In arriving at their

1 informed belief that the present settlement is fair and adequate, Class Counsel accounted for the
2 uncertain outcome and risk inherent in complex actions such as this one. Class Counsel is also mindful
3 of and recognize the inherent problems of proof under, and alleged defenses to, the claims asserted in
4 the litigation. Moreover, post-trial motions and appeals would have been inevitable. Costs would have
5 mounted, and recovery would have been delayed if not denied, thereby reducing the benefits of an
6 ultimate victory. Class Representative and Class Counsel believe that the Settlement confers substantial
7 monetary and non-monetary benefits upon the Class. Based upon their evaluation, Class Representative
8 and Class Counsel have determined that the Settlement set forth in the Agreement is in the best interest
9 of the Class, is fair, reasonable, and adequate, and should be granted final approval.

10 **IV. THE PENALTIES UNDER THE PRIVATE ATTORNEY GENERAL ACT OF 2004 ARE**
11 **REASONABLE**

12 33. Here, Plaintiff and Defendants negotiated a good faith PAGA Payment in the amount of
13 \$25,000.00 which is 5.26% of the Gross Settlement Amount. As illustrated above, this amount falls
14 well within the range of approved PAGA Settlements. Seventy-five percent (75%) of the PAGA
15 Payment (\$18,750.00) will be paid to the LWDA (“LWDA Payment”) with the remaining twenty-five
16 percent (25%) to be distributed to the Aggrieved Employees, which is within the range of PAGA
17 Payment approved by courts and should be approved.

18 34. Class Counsel gave the LWDA notice of this Settlement and proposed allocation by filing
19 a copy of the Settlement, the Motion for Preliminary Approval, and this motion seeking final approval
20 with the LWDA.

21 I declare under the penalty of perjury under the laws of the State of California that the foregoing
22 is true and correct. Executed this 28th day of June 2024, at San Diego, California.

23
24 **ZAKAY LAW GROUP, APLC**

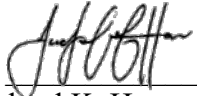
25 By: 
26 Jackland K. Hom

EXHIBIT 1

CLASS ACTION AND PAGA SETTLEMENT AGREEMENT AND CLASS NOTICE

This Class Action and PAGA Settlement Agreement (“Agreement”) is made by and between plaintiff Sarina Yuan Jong Lai (“Plaintiff”) and defendants Sunmerry California Inc.; Sunmerry Gardena LLC; Sunmerry Monterey Park LLC; and Sunmerry Santa Anita LLC (collectively “Defendants”). The Agreement refers to Plaintiff and Defendants collectively as “Parties,” or individually as “Party.”

1. DEFINITIONS.

- 1.1. “Action” means the Plaintiff’s lawsuit alleging wage and hour violations against Defendants captioned *Lai v. Sunmerry California Inc., et al.* Case No. 22STCV12086 initiated on April 8, 2022, and pending in Superior Court of the State of California, County of Los Angeles.
- 1.2. “Administrator” means Apex Class Action, LLC, the neutral entity the Parties have agreed to appoint to administer the Settlement.
- 1.3. “Administration Expenses Payment” means the amount not exceeding Eleven Thousand Seven Hundred Dollars and Zero Cents (\$11,700.00), payable from the Gross Settlement Amount, to the Administrator to reimburse its reasonable fees and expenses in accordance with the Administrator’s “not to exceed” bid submitted to the Court in connection with Preliminary Approval of the Settlement.
- 1.4. “Aggrieved Employee” means all current and former non-exempt California employees who worked for Defendants at any time during the period between April 8, 2021 and April 17, 2023 (the “PAGA Period”).
- 1.5. “Class” means all current and former non-exempt California employees who worked for Defendants at any time during the period between June 30, 2018 and April 17, 2023 (the “Class Period”).
- 1.6. “Class Counsel” means JCL Law Firm, APC and Zakay Law Group, APLC.
- 1.7. “Class Counsel Fees Payment” means the amount not exceeding One Hundred Fifty Eight Thousand, Three Hundred Thirty Three Dollars and Thirty Three Cents (\$158,333.33) or one-third (1/3) of the Gross Settlement Amount, whichever is greater, payable from the Gross Settlement Amount and due to Class Counsel as reasonable attorneys’ fees for litigating and resolving the Action; if the Court finally approves a lesser amount, then the difference shall remain part of the Net Settlement Amount.
- 1.8. “Class Counsel Litigation Expenses Payment” means the amount not exceeding Twenty Five Thousand Dollars and Zero Cents (\$25,000.00), payable from the Gross Settlement Amount and due to Class Counsel for reimbursement of Class Counsel’s reasonable litigation expenses incurred in litigating and resolving the Action; if the Court finally

approves a lesser amount, then the difference shall remain part of the Net Settlement Amount.

- 1.9. “Class Data” means Class Member identifying information in Defendants’ possession including the Class Member’s name, last-known mailing address, Social Security Number or Taxpayer Identification Number, and number of Class Period Workweeks and PAGA Pay Periods.
- 1.10. “Class Member” or “Settlement Class Member” means a member of the Class, as either a Participating Class Member or Non-Participating Class Member (including a Non-Participating Class Member who qualifies as an Aggrieved Employee).
- 1.11. “Class Member Address Search” means the Administrator’s investigation and search for current Class Member mailing addresses using all reasonably available sources, methods and means including, but not limited to, the National Change of Address database, skip traces, and direct contact by the Administrator with Class Members.
- 1.12. “Class Notice” means the COURT APPROVED NOTICE OF CLASS ACTION SETTLEMENT AND HEARING DATE FOR FINAL COURT APPROVAL, to be mailed to Class Members in English, Spanish, and Chinese in the form, without material variation, attached as Exhibit A and incorporated by reference into this Agreement.
- 1.13. “Class Period” means the period from June 30, 2018 through April 17, 2023.
- 1.14. “Class Representative” means the named Plaintiff in the operative complaint in the Action seeking Court approval to serve as a Class Representative.
- 1.15. “Class Representative Service Payment” means the amount not exceeding Ten Thousand Dollars and Zero Cents (\$10,000.00), payable from the Gross Settlement Amount and due to Plaintiff, separate from any Individual Settlement Payment and Individual PAGA Payment, for Plaintiff’s efforts and risks in bringing and resolving the Action; if the Court finally approves a lesser amount, then the difference shall remain part of the Net Settlement Amount.
- 1.16. “Court” means the Superior Court of California, County of Los Angeles.
- 1.17. “Defendants” means named Defendants Sunmerry California Inc., Sunmerry Gardena LLC, Sunmerry Monterey Park LLC, and Sunmerry Santa Anita LLC.
- 1.18. “Defense Counsel” means Atkinson, Andelson, Loya, Ruud & Romo.
- 1.19. “Effective Date” means the date by when both of the following have occurred:
(a) the Court enters a Judgment on its Order Granting Final Approval of the Settlement; and (b) the Judgment is final. The Judgment is final as of the latest of the following occurrences: (a) if no Participating Class Member objects to the Settlement, the day the Court enters Judgment; (b) if one or more Participating Class Members objects to the Settlement, the day after the deadline for filing a notice of appeal from the Judgment; or

if a timely appeal from the Judgment is filed, the day after the appellate court affirms the Judgment and issues a remittitur.

- 1.20. “Final Approval” means the Court’s order granting final approval of the Settlement.
- 1.21. “Final Approval Hearing” means the Court’s hearing on the Motion for Final Approval of the Settlement.
- 1.22. “Final Judgment” means the Judgment Entered by the Court upon Granting Final Approval of the Settlement.
- 1.23. “Gross Settlement Amount” means the non-reversionary amount of Four Hundred Seventy Five Thousand Dollars and Zero Cents (\$475,000.00), which is the total amount Defendants agree to pay under the Settlement except as provided in Paragraph 9 below. The Gross Settlement Amount will be used to pay Individual Class Payments, Individual PAGA Payments, the LWDA PAGA Payment, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, Class Representative Service Payment, and the Administration Expenses Payment.
- 1.24. “Individual Class Payment” means the Participating Class Member’s pro rata share of the Net Settlement Amount calculated according to the number of Workweeks worked during the Class Period.
- 1.25. “Individual PAGA Payment” means the Aggrieved Employee’s pro rata share of 25% of the PAGA Penalties calculated according to the number of Pay Periods worked during the PAGA Period.
- 1.26. “Judgment” means the judgment entered by the Court based upon the Final Approval.
- 1.27. “LWDA” means the California Labor and Workforce Development Agency, the agency entitled, under Labor Code section 2699, subd. (i).
- 1.28. “LWDA PAGA Payment” means the 75% of the PAGA Penalties paid to the LWDA under Labor Code section 2699, subd. (i).
- 1.29. “Net Settlement Amount” means the Gross Settlement Amount, less the following payments in the amounts approved by the Court: Individual PAGA Payments, the LWDA PAGA Payment, Class Representative Service Payment, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, and the Administration Expenses Payment. The remainder is to be paid to Participating Class Members as Individual Class Payments.
- 1.30. “Non-Participating Class Member” means any Class Member who opts out of the Settlement by sending the Administrator a valid and timely Request for Exclusion.
- 1.31. “Objection” means a Participating Class Member’s timely and valid written objection to the terms and conditions of this Settlement Agreement.

- 1.32. “PAGA” means the Private Attorneys General Act (Labor Code §§ 2698. *et seq.*).
- 1.33. “PAGA Claims” means all claims or causes of action under PAGA that were or could have been premised on the claims, liabilities, demands, causes of action, rights, penalties, legal theories of relief, or obligations of any nature under the California Private Attorneys General Act of 2004 (Cal. Labor Code §§ 2698 *et seq.*) alleged in Plaintiff’s PAGA Notice to the LWDA and Defendant, as amended on February 15, 2023 by Plaintiff, and that were alleged or reasonably could have been alleged based on the facts asserted in the operative complaint in the Action including, but not limited to, for violations of the California Labor Code and California Industrial Welfare Commission Wage Orders.
- 1.34. “PAGA Notice” means Plaintiff’s April 8, 2022, letter to Defendants and the LWDA and Plaintiff’s February 15, 2023, Amended letter to Defendants and the LWDA, providing notice pursuant to Labor Code section 2699.3, subd. (a).
- 1.35. “PAGA Pay Period” means any Pay Period during which an Aggrieved Employee worked for Defendants for at least one day during the PAGA Period.
- 1.36. “PAGA Penalties” means the PAGA payment of Twenty Five Thousand Dollars and Zero Cents (\$25,000.00) that shall be made from the Gross Settlement Amount, with 25% of the payment going to the Aggrieved Employees and 75% of the payment going to the Labor and Workforce Development Agency (“LWDA”) for Defendants’ portion of PAGA penalties.
- 1.37. “PAGA Period” means the period from April 8, 2021 through April 17, 2023.
- 1.38. “Participating Class Member” means a Class Member who does not submit a valid and timely Request for Exclusion from the Settlement.
- 1.39. “Plaintiff” means Sarina Yuan Jong Lai, the named plaintiff in the Action.
- 1.40. “Preliminary Approval” means the Court’s Order Granting Preliminary Approval of the Settlement.
- 1.41. "Preliminary Approval Order" means the proposed Order Granting Preliminary Approval of this Settlement.
- 1.42. “Released Class Claims” means the claims being released as described in Paragraph 5.2 below.
- 1.43. “Released PAGA Claims” means the claims being released as described in Paragraph 5.3 below.
- 1.44. “Released Parties” means: (1) Defendants; (2) Defendants’ respective past, present and future parent corporations, affiliates, affiliates’ companies, subsidiaries, divisions,

d/b/a's, predecessors, insurers, successors, franchisees, franchisors, assigns, principals, heirs, their current and former exempt employees, accountants, auditors, attorneys, consultants, officers, managers, members, partners, directors, shareholders, agents, both individually and in their business capacities of any of the foregoing; and (3) any individual or entity which could be jointly liable with any of the foregoing.

- 1.45. "Request for Exclusion" means a Class Member's timely and valid submission of a written request to be excluded from the Class Settlement signed by the Class Member.
- 1.46. "Response Deadline" means forty-five (45) days after the Administrator mails Notice to Class Members and Aggrieved Employees, and shall be the last date on which Class Members may: (a) fax, email, or mail Requests for Exclusion from the Settlement, or (b) fax, email, or mail his or her Objection to the Settlement. Class Members to whom Notice Packets are resent after having been returned undeliverable to the Administrator shall have an additional 14 calendar days beyond the Response Deadline has expired.
- 1.47. "Settlement" means the disposition of the Action effected by this Agreement and the Judgment.
- 1.48. "Workweek" means any week during which a Class Member worked for Defendants for at least one day, during the Class Period.

2. RECITALS.

- 2.1. On April 8, 2022, Plaintiff commenced this Action by filing a Complaint alleging causes of action against Defendants. On June 30, 2022, Plaintiff filed a First Amended Class Action Complaint alleging causes of action against Defendants for (1) Unfair Competition in Violation of Cal. Bus. & Prof. Code §17200 *et seq.*; (2) Failure to Pay Minimum Wages in Violation of Cal. Lab. Code §§ 1194, 1197 & 1197.1; (3) Failure to Pay Overtime Wages in Violation of Cal. Lab. Code §§ 510 *et seq.*; (4) Failure to Provide Required Meal Periods in Violation of Cal. Lab. Code §§ 226.7 & 512 and the Applicable IWC Wage Order; (5) Failure to Provide Required Rest Periods in Violation of Cal. Lab. Code §§ 226.7 & 512 and the Applicable IWC Wage Order; (6) Failure to Provide Accurate Itemized Statements in Violation of Cal. Lab. Code § 226; (7) Failure to Provide Wages When Due in Violation of Cal. Lab. Code §§ 201, 202 and 203; (8) Failure to Reimburse Employees For Required Expenses in Violation of California Labor Code §2802; and (9) Violation of the Private Attorneys General Act [Labor Code §§ 2698 *et seq.*]. The First Amended Class Action Complaint is the operative complaint in the Action (the "Operative Complaint."). Defendants deny the allegations in the Operative Complaint, deny any failure to comply with the laws identified in the Operative Complaint and deny any and all liability for the causes of action alleged.
- 2.2. Pursuant to Labor Code section 2699.3, subd. (a), Plaintiff gave written notice to Defendants and the LWDA by sending the PAGA Notice.
- 2.3. On February 9, 2023, the Parties participated in an all-day mediation presided over by the Honorable Judge Peter D. Lichtman (Ret.) which led to this Agreement to settle the Action.

2.4. Prior to mediation, Plaintiff obtained, through informal discovery, a sampling of Class Member time and pay records consisting of a large volume of data and indicative of Defendant's timekeeping, recordkeeping and wage payment policies and practices. Plaintiff's investigation was sufficient to satisfy the criteria for court approval set forth in *Dunk v. Foot Locker Retail, Inc.* (1996) 48 Cal.App.4th 1794, 1801 and *Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th 116, 129-130 ("*Dunk/Kullar*").

2.5. The Court has not granted class certification.

2.6. The Parties, Class Counsel, and Defense Counsel represent that they are not aware of any other pending matter or action asserting claims that will be extinguished or affected by the Settlement.

3. MONETARY TERMS.

3.1. Gross Settlement Amount. Except as otherwise provided by Paragraph 9 below, Defendants promise to pay Four Hundred Seventy Five Thousand Dollars and Zero Cents (\$475,000.00) and no more as the Gross Settlement Amount, and to separately pay any and all employer payroll taxes owed on the Wage Portions of the Individual Class Payments. Defendants have no obligation to pay the Gross Settlement Amount (or any payroll taxes) prior to the deadline stated in Paragraph 4.3 of this Agreement. The Administrator will disburse the entire Gross Settlement Amount without asking or requiring Participating Class Members or Aggrieved Employees to submit any claim as a condition of payment. None of the Gross Settlement Amount will revert to Defendants.

3.2. Payments from the Gross Settlement Amount. The Administrator will make and deduct the following payments from the Gross Settlement Amount, in the amounts specified by the Court in the Final Approval:

3.2.1. To Plaintiff: Class Representative Service Payment to the Class Representative of not more than Ten Thousand Dollars and Zero Cents (\$10,000.00), which is in addition to any Individual Class Payment and any Individual PAGA Payment the Class Representative is entitled to receive as a Participating Class Member and as an Aggrieved Employee. Defendants will not oppose Plaintiff's request for a Class Representative Service Payment that does not exceed this amount. As part of the motion for Class Counsel Fees Payment and Class Litigation Expenses Payment, Plaintiff will seek Court approval for any Class Representative Service Payments no later than sixteen (16) court days prior to the Final Approval Hearing. If the Court approves a Class Representative Service Payment less than the amount requested, the Administrator will retain the remainder in the Net Settlement Amount. The Administrator will pay the Class Representative Service Payment using IRS Form 1099. Plaintiff assumes full responsibility and liability for employee taxes owed on the Class Representative Service Payment.

3.2.2. To Class Counsel: A Class Counsel Fees Payment of not more than one-third of the Gross Settlement Amount, which is currently estimated to be One Hundred Fifty

Eight Thousand Three Hundred Thirty Three Dollars and Thirty Three Cents (\$158,333.33) and a Class Counsel Litigation Expenses Payment of not more than Twenty Five Thousand Dollars and Zero Cents (\$25,000.00). Defendants will not oppose requests for these payments provided that they do not exceed these amounts. Plaintiff and/or Class Counsel will file a motion for Class Counsel Fees Payment and Class Litigation Expenses Payment no later than sixteen (16) court days prior to the Final Approval Hearing. If the Court approves a Class Counsel Fees Payment and/or a Class Counsel Litigation Expenses Payment less than the amounts requested, the Administrator will allocate the remainder to the Net Settlement Amount. Released Parties shall have no liability to Class Counsel or any other Plaintiff's Counsel arising from any claim to any portion any Class Counsel Fee Payment and/or Class Counsel Litigation Expenses Payment. The Administrator will pay the Class Counsel Fees Payment and Class Counsel Expenses Payment using one or more IRS 1099 Forms. Class Counsel assumes full responsibility and liability for taxes owed on the Class Counsel Fees Payment and the Class Counsel Litigation Expenses Payment and holds Defendants harmless, and indemnifies Defendants, from any dispute or controversy regarding any division or sharing of any of these Payments.

3.2.3. To the Administrator: An Administrator Expenses Payment not to exceed Eleven Thousand Seven Hundred Dollars and Zero Cents (\$11,700.00), except for a showing of good cause and as approved by the Court. To the extent the Administration Expenses are less or the Court approves payment less than \$11,700.00, the Administrator will retain the remainder in the Net Settlement Amount.

3.2.4. To Each Participating Class Member: An Individual Class Payment calculated by (a) dividing the Net Settlement Amount by the total number of Workweeks worked by all Participating Class Members during the Class Period and (b) multiplying the result by each Participating Class Member's Workweeks.

3.2.4.1. Tax Allocation of Individual Class Payments. 33% of each Participating Class Member's Individual Class Payment will be allocated to settlement of wage claims (the "Wage Portion"). The Wage Portions are subject to tax withholding and will be reported on an IRS W-2 Form. The 67% of each Participating Class Member's Individual Class Payment will be allocated to interest and penalties (the "Non-Wage Portion"). The Non-Wage Portions are not subject to wage withholdings and will be reported on IRS 1099 Forms. Participating Class Members assume full responsibility and liability for any employee taxes owed on their Individual Class Payment.

3.2.4.2. Effect of Non-Participating Class Members on Calculation of Individual Class Payments. Non-Participating Class Members will not receive any Individual Class Payments. The Administrator will retain amounts equal to their Individual Class Payments in the Net Settlement Amount for distribution to Participating Class Members on a pro rata basis.

3.2.5. To the LWDA and Aggrieved Employees: PAGA Penalties in the amount of Twenty Five Thousand Dollars and Zero Cents (\$25,000.00) to be paid from the Gross Settlement Amount, with 75%, or Eighteen Thousand Seven Hundred Fifty Dollars and Zero Cents (\$18,750.00), allocated to the LWDA PAGA Payment and 25%, or Six Thousand Two Hundred Fifty Dollars and Zero Cents (\$6,250.00), allocated to the Individual PAGA Payments.

3.2.5.1. The Administrator will calculate each Individual PAGA Payment by (a) dividing the amount of the Aggrieved Employees' 25% share of PAGA Penalties by the total number of PAGA Period Pay Periods worked by all Aggrieved Employees during the PAGA Period and (b) multiplying the result by each Aggrieved Employee's PAGA Period Pay Periods. Aggrieved Employees assume full responsibility and liability for any taxes owed on their Individual PAGA Payment.

3.2.5.2. If the Court approves PAGA Penalties of less than the amount requested, the Administrator will allocate the remainder to the Net Settlement Amount. The Administrator will report the Individual PAGA Payments on IRS 1099 Forms.

4. SETTLEMENT FUNDING AND PAYMENTS.

4.1. Class Workweeks and Aggrieved Employee Pay Periods. Based on a review of its records to date, Defendants estimate there are 496 Class Members who collectively worked a total of 23,319 Workweeks, and 307 Aggrieved Employees who worked a total 5,730 of PAGA Pay Periods.

4.2. Class Data. Not later than fifteen (15) calendar days after the Court grants Preliminary Approval of the Settlement, Defendants will deliver the Class Data to the Administrator, in the form of a Microsoft Excel spreadsheet. To protect Class Members' privacy rights, the Administrator must maintain the Class Data in confidence, use the Class Data only for purposes of this Settlement and for no other purpose, and restrict access to the Class Data to Administrator employees who need access to the Class Data to effect and perform under this Agreement. Defendants have a continuing duty to immediately notify Class Counsel if it discovers that the Class Data omitted class member identifying information and to provide corrected or updated Class Data as soon as reasonably feasible. Without any extension of the deadline by which Defendants must send the Class Data to the Administrator, the Parties and their counsel will expeditiously use best efforts, in good faith, to reconstruct or otherwise resolve any issues related to missing or omitted Class Data.

4.3. Funding of Gross Settlement Amount. Defendants shall fully fund the Gross Settlement Amount, and also fund the amounts necessary to fully pay Defendants' share of payroll taxes by transmitting the funds to the Administrator no later than fourteen (14) calendar days after the Effective Date.

4.4. Payments from the Gross Settlement Amount. Within fourteen (14) calendar days after Defendants fund the Gross Settlement Amount, the Administrator will mail checks for all

Individual Class Payments, all Individual PAGA Payments, the LWDA PAGA Payment, the Administration Expenses Payment, the Class Counsel Fees Payment, the Class Counsel Litigation Expenses Payment, and the Class Representative Service Payment. Disbursement of the Class Counsel Fees Payment, the Class Counsel Litigation Expenses Payment and the Class Representative Service Payment shall not precede disbursement of Individual Class Payments and Individual PAGA Payments.

- 4.4.1. The Administrator will issue checks for the Individual Class Payments and/or Individual PAGA Payments and send them to the Class Members via First Class U.S. Mail, postage prepaid. The Individual Class Payments and Individual PAGA Payments shall remain valid and negotiable for one hundred eighty (180) calendar days from issuance. The face of each check shall prominently state the date when the check will be voided. The Administrator will cancel all checks not cashed by the void date. The Administrator will send checks for Individual Settlement Payments to all Participating Class Members (including those for whom Class Notice was returned undelivered). The Administrator will send checks for Individual PAGA Payments to all Aggrieved Employees including Non-Participating Class Members who qualify as Aggrieved Employees (including those for whom Class Notice was returned undelivered). The Administrator may send Participating Class Members a single check combining the Individual Class Payment and the Individual PAGA Payment. Before mailing any checks, the Settlement Administrator must update the recipients' mailing addresses using the National Change of Address Database.
- 4.4.2. The Administrator must conduct a Class Member Address Search for all other Class Members whose checks are returned undelivered without USPS forwarding address. Within seven (7) days of receiving a returned check, the Administrator must re-mail checks to the USPS forwarding address provided or to an address ascertained through the Class Member Address Search. The Administrator need not take further steps to deliver checks to Class Members whose re-mailed checks are returned as undelivered. The Administrator shall promptly send a replacement check to any Class Member whose original check was lost or misplaced, requested by the Class Member prior to the void date.
- 4.4.3. For any Class Member whose Individual Class Payment check or Individual PAGA Payment check is uncashed and cancelled after the void date, the Administrator shall transmit the funds represented by such checks to the California Controller's Unclaimed Property Fund in the name of the Class Member thereby leaving no "unpaid residue" subject to the requirements of California Code of Civil Procedure Section 384, subd. (b).
- 4.4.4. The payment of Individual Class Payments and Individual PAGA Payments shall not obligate Defendants to confer any additional benefits or make any additional payments to Class Members (such as 401(k) contributions or bonuses) beyond those specified in this Agreement.

5. RELEASES OF CLAIMS. Effective on the date when Defendants fully fund the entire

Gross Settlement Amount and fund all employer payroll taxes owed on the Wage Portion of the Individual Class Payments, Plaintiff, Class Members, and Class Counsel will release claims against all Released Parties as follows:

5.1 Plaintiff's Release. In addition to the Released Class Claims, Released PAGA Claims, and as a material inducement to Defendants to enter into the Settlement, Plaintiff agrees to completely release and discharge Defendants and the Released Parties from any and all charges, complaints, claims, liabilities, obligations, promises, agreements, controversies, damages, actions, causes of action, suits, rights, demands, costs, losses, debts, and expenses relating to Plaintiff's employment with or work for Defendants or the remuneration for or termination of such employment.

5.1.1 Plaintiff's Waiver of Rights Under California Civil Code Section 1542. For purposes of Plaintiff's Release, Plaintiff expressly waives and relinquishes the provisions, rights, and benefits, if any, of section 1542 of the California Civil Code, which reads:

A general release does not extend to claims that the creditor or releasing party [i.e. **Plaintiff**] does not know or suspect to exist in his or her favor at the time of executing the release, and that if known by him or her would have materially affected his or her settlement with the debtor or Released Party [i.e. **Defendants**].

5.2 Release by Participating Class Members: Upon entry of final judgment and funding of the Gross Settlement Amount, Defendants and the Released Parties shall be entitled to a release from the Class Members of all class claims, debts, liabilities, demands, obligations, guarantees, costs, expenses, attorneys' fees, damages, or causes of action contingent or accrued for, that are alleged in the operative complaint, or which could have been alleged in the operative complaint based on the facts alleged, which occurred during the Class Period, including any claims for : (1) Unfair Competition; (2) Failure to Pay Minimum Wages; (3) Failure to Overtime Wages; (4) Failure to Provide Required Meal Periods; (5) Failure to Provide Required Rest Periods; (6) Failure to Provide Accurate Itemized Wage Statements; (7) Failure to Provide Wages When Due; and (8) Failure to Reimburse Employees for Required Expenses; including but not limited to compensatory damages; economic and/or special damages; premium wages; premium pay; penalties; attorneys' fees; interest; and litigation costs (collectively the "Released Claims"). The Released Claims expressly exclude all other claims, including claims for vested benefits, unemployment insurance, disability, social security, workers' compensation, and class claims outside of the Class Period. Claims for PAGA penalties are separately released hereinbelow.

5.3 Release by Aggrieved Employees: Upon entry of final judgment and funding of the Gross Settlement Amount, Defendants shall be entitled to a release from the PAGA Class Members of all PAGA claims that are alleged in the operative complaint and Plaintiff's PAGA Notice and Amended Notice to the LWDA, or which could have been alleged based on the facts asserted, which occurred during the PAGA Period, and expressly excluding all other claims, including claims for vested benefits, unemployment insurance, disability, social security, workers' compensation, and PAGA claims outside of the PAGA Period.

6. MOTION FOR PRELIMINARY APPROVAL. The Parties agree to jointly prepare and file a motion for preliminary approval (“Motion for Preliminary Approval”) that complies with the Court’s current checklist for Preliminary Approvals.

6.1 Defendants’ Declaration in Support of Preliminary Approval. Within fourteen (14) calendar days of the full execution of this Agreement, Defendants will prepare and deliver to Class Counsel a signed Declaration from Defendants and Defense Counsel disclosing all facts relevant to any actual or potential conflicts of interest with the Administrator. In their Declarations, Defense Counsel and Defendants shall aver that they are not aware of any other pending matter or action asserting claims that will be extinguished or adversely affected by the Settlement.

6.2 Plaintiff’s Responsibilities. Plaintiff will prepare and deliver to Defense Counsel all documents necessary for obtaining Preliminary Approval, including: (i) a draft of the notice, and memorandum in support, of the Motion for Preliminary Approval that includes an analysis of the Settlement under *Dunk/Kullar* and a request for approval of the PAGA Settlement under Labor Code Section 2699, subd. (f)(2)); (ii) a draft proposed Order Granting Preliminary Approval and Approval of PAGA Settlement; (iii) a draft proposed Class Notice; (iv) a signed declaration from the Administrator attaching its “not to exceed” bid for administering the Settlement and attesting to its willingness to serve; competency; operative procedures for protecting the security of Class Data; amounts of insurance coverage for any data breach, defalcation of funds or other misfeasance; all facts relevant to any actual or potential conflicts of interest with Class Members; and the nature and extent of any financial relationship with Plaintiff, Class Counsel or Defense Counsel; (v) a signed declaration from Plaintiff confirming willingness and competency to serve and disclosing all facts relevant to any actual or potential conflicts of interest with Class Members, and/or the Administrator; (v) a signed declaration from each Class Counsel firm attesting to its competency to represent the Class Members; its timely transmission to the LWDA of all necessary PAGA documents including the initial and amended notices of violations (Labor Code section 2699.3, subd. (a)), Operative Complaint (Labor Code section 2699, subd. (l)(1)), and this Agreement (Labor Code section 2699, subd. (l)(2)); and (vii) all facts relevant to any actual or potential conflict of interest with Class Members, and/or the Administrator. In their Declarations, Plaintiff and Class Counsel Declaration shall aver that they are not aware of any other pending matter or action asserting claims that will be extinguished or adversely affected by the Settlement.

6.3 Responsibilities of Counsel. Class Counsel and Defense Counsel are jointly responsible for expeditiously finalizing and filing the Motion for Preliminary Approval no later than thirty (30) calendar days after the full execution of this Agreement; obtaining a prompt hearing date for the Motion for Preliminary Approval; and for appearing in Court to advocate in favor of the Motion for Preliminary Approval. Class Counsel is responsible for delivering the Court’s Preliminary Approval to the Administrator.

6.4 Duty to Cooperate. If the Parties disagree on any aspect of the proposed Motion for Preliminary Approval and/or the supporting declarations and documents, Class Counsel

and Defense Counsel will expeditiously work together on behalf of the Parties by meeting in person or by telephone, and in good faith, to resolve the disagreement. If the Court does not grant Preliminary Approval or conditions Preliminary Approval on any material change to this Agreement, Class Counsel and Defense Counsel will expeditiously work together on behalf of the Parties by meeting in person or by telephone, and in good faith, to modify the Agreement and otherwise satisfy the Court's concerns.

7. SETTLEMENT ADMINISTRATION.

- 7.1 Selection of Administrator. The Parties have jointly selected APEX Class Action, LLC to serve as the Administrator and verified that, as a condition of appointment, APEX Class Action, LLC agrees to be bound by this Agreement and to perform, as a fiduciary, all duties specified in this Agreement in exchange for payment of Administration Expenses. The Parties and their Counsel represent that they have no interest or relationship, financial or otherwise, with the Administrator other than a professional relationship arising out of prior experiences administering settlements.
- 7.2 Employer Identification Number. The Administrator shall have and use its own Employer Identification Number for purposes of calculating payroll tax withholdings and providing reports state and federal tax authorities.
- 7.3 Qualified Settlement Fund. The Administrator shall establish a settlement fund that meets the requirements of a Qualified Settlement Fund ("QSF") under US Treasury Regulation section 468B-1.
- 7.4 Notice to Class Members.
- 7.4.1 No later than five (5) business days after receipt of the Class Data, the Administrator shall notify Class Counsel that the list has been received and state the number of Class Members, PAGA Members, Workweeks, and Pay Periods in the Class Data.
- 7.4.2 Using best efforts to perform as soon as possible, and in no event later than fourteen (14) days after receiving the Class Data, the Administrator will send to all Class Members identified in the Class Data, via first-class United States Postal Service ("USPS") mail, the Class Notice, with Spanish and Chinese translations, substantially in the form attached to this Agreement as Exhibit A. The first page of the Class Notice shall prominently estimate the dollar amounts of any Individual Class Payment and/or Individual PAGA Payment payable to the Class Member, and the number of Workweeks and PAGA Pay Periods used to calculate these amounts. Before mailing Class Notices, the Administrator shall update Class Member addresses using the National Change of Address database.
- 7.4.3 Not later than three (3) business days after the Administrator's receipt of any Class Notice returned by the USPS as undelivered, the Administrator shall re-mail the Class Notice using any forwarding address provided by the USPS. If the USPS

does not provide a forwarding address, the Administrator shall conduct a Class Member Address Search, and re-mail the Class Notice to the most current address obtained. The Administrator has no obligation to make further attempts to locate or send Class Notice to Class Members whose Class Notice is returned by the USPS a second time.

- 7.4.4 The deadlines for Class Members' written objections, Challenges to Workweeks and/or Pay Periods, and Requests for Exclusion will be extended an additional fourteen (14) days beyond the Response Deadline, i.e., forty-five (45) calendar days after the Administrator mails the notice, for all Class Members whose notice is re-mailed. The Administrator will inform the Class Member of the extended deadline with the re-mailed Class Notice.
- 7.4.5 If the Administrator, Defendants, or Class Counsel is contacted by or otherwise discovers any persons who believe they should have been included in the Class Data and should have received Class Notice, the Parties will expeditiously meet and confer in person or by telephone, and in good faith, in an effort to agree on whether to include them as Class Members. If the Parties agree, such persons will be Class Members entitled to the same rights as other Class Members, and the Administrator will send, via email or overnight delivery, a Class Notice requiring them to exercise options under this Agreement not later than fourteen (14) calendar days after receipt of Class Notice, or the deadline dates in the Class Notice, whichever are later.

7.5 Requests for Exclusion (Opt-Outs).

- 7.5.1 Class Members who wish to exclude themselves (opt-out of) the Class Settlement must send the Administrator, by fax, email, or mail, a signed written Request for Exclusion not later than the Response Deadline, i.e., forty-five (45) calendar days after the Administrator mails the Class Notice (plus an additional fourteen (14) days for Class Members whose Class Notice is re-mailed). A Request for Exclusion is a letter from a Class Member or his/her representative that reasonably communicates the Class Member's election to be excluded from the Settlement and includes the Class Member's name, address, and email address or telephone number. To be valid, a Request for Exclusion must be timely faxed, emailed, or postmarked by the Response Deadline.
- 7.5.2 The Administrator may not reject a Request for Exclusion as invalid because it fails to contain all the information specified in the Class Notice. The Administrator shall accept any Request for Exclusion as valid if the Administrator can reasonably ascertain the identity of the person as a Class Member and the Class Member's desire to be excluded. The Administrator's determination shall be final and not appealable or otherwise susceptible to challenge. If the Administrator has reason to question the authenticity of a Request for Exclusion, the Administrator may demand additional proof of the Class Member's identity. The Administrator's determination of authenticity shall be final and not appealable or otherwise susceptible to challenge.

- 7.5.3 Every Class Member who does not submit a timely and valid Request for Exclusion is deemed to be a Participating Class Member under this Agreement, entitled to all benefits and bound by all terms and conditions of the Settlement, including the Participating Class Members' Releases under Paragraph 5.2 of this Agreement, regardless whether the Participating Class Member actually receives the Class Notice or objects to the Settlement.
- 7.5.4 Every Class Member who submits a valid and timely Request for Exclusion is a Non-Participating Class Member and shall not receive an Individual Class Payment or have the right to object to the class action components of the Settlement. Because future PAGA claims are subject to claim preclusion upon entry of the Judgment, Non-Participating Class Members who are Aggrieved Employees are deemed to release the claims identified in Paragraph 5.3 of this Agreement and are eligible for an Individual PAGA Payment.
- 7.6 Challenges to Calculation of Workweeks. Each Class Member shall have forty-five (45) calendar days after the Administrator mails the Class Notice (plus an additional (14) calendar days for Class Members whose Class Notice is re-mailed) to challenge the number of Class Workweeks and PAGA Pay Periods allocated to the Class Member in the Class Notice. The Class Member may challenge the allocation by communicating with the Administrator via fax, email or mail. The Administrator must encourage the challenging Class Member to submit supporting documentation. In the absence of any contrary documentation, the Administrator is entitled to presume that the Workweeks contained in the Class Notice are correct so long as they are consistent with the Class Data. The Administrator's determination of each Class Member's allocation of Workweeks and/or Pay Periods shall be final and not appealable or otherwise susceptible to challenge. The Administrator shall promptly provide copies of all challenges to calculation of Workweeks and/or Pay Periods to Defense Counsel and Class Counsel and the Administrator's determination the challenges.
- 7.7 Objections to Settlement.
- 7.7.1 Only Participating Class Members may object to the class action components of the Settlement and/or this Agreement, including contesting the fairness of the Settlement, and/or amounts requested for the Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment and/or Class Representative Service Payment.
- 7.7.2 Participating Class Members may send written objections to the Administrator, by fax, email, or mail. In the alternative, Participating Class Members may appear in Court (or hire an attorney to appear in Court) to present verbal objections at the Final Approval Hearing. A Participating Class Member who elects to send a written objection to the Administrator must do so not later than forty-five (45) days after the Administrator's mailing of the Class Notice (plus an additional fourteen (14) days for Class Members whose Class Notice was re-mailed).

7.7.3 Non-Participating Class Members have no right to object to any of the class action components of the Settlement.

7.8 Administrator Duties. The Administrator has a duty to perform or observe all tasks to be performed or observed by the Administrator contained in this Agreement or otherwise.

7.8.1 Website, Email Address and Toll-Free Number. The Administrator will establish and maintain and use an internet website to post information of interest to Class Members including the date, time and location for the Final Approval Hearing and copies of the Settlement Agreement, Motion for Preliminary Approval, the Preliminary Approval, the Class Notice, the Motion for Final Approval, the Motion for Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment and Class Representative Service Payment, the Final Approval and the Judgment. The Administrator will also maintain and monitor an email address and a toll-free telephone number to receive Class Member calls, faxes and emails.

7.8.2 Requests for Exclusion (Opt-outs) and Exclusion List. The Administrator will promptly review on a rolling basis Requests for Exclusion to ascertain their validity. Not later than five (5) calendar days after the expiration of the deadline for submitting Requests for Exclusion, the Administrator shall email a list to Class Counsel and Defense Counsel containing: (a) the names and other identifying information of Class Members who have timely submitted valid Requests for Exclusion (“Exclusion List”); (b) the names and other identifying information of Class Members who have submitted invalid Requests for Exclusion; and (c) copies of all Requests for Exclusion from Settlement submitted (whether valid or invalid).

7.8.3 Weekly Reports. The Administrator must, on a weekly basis, provide written reports to Class Counsel and Defense Counsel that, among other things, tally the number of: Class Notices mailed or re-mailed, Class Notices returned undelivered, Requests for Exclusion (whether valid or invalid) received, objections received, challenges to Workweeks and/or Pay Periods received and/or resolved, and checks mailed for Individual Class Payments and Individual PAGA Payments (“Weekly Report”). The Weekly Reports must include provide the Administrator’s assessment of the validity of Requests for Exclusion and attach copies of all Requests for Exclusion and objections received.

7.8.4 Workweek and/or Pay Period Challenges. The Administrator has the authority to address and make final decisions consistent with the terms of this Agreement on all Class Member challenges over the calculation of Workweeks and/or Pay Periods. The Administrator’s decision shall be final and not appealable or otherwise susceptible to challenge.

7.8.5 Administrator’s Declaration. Not later than fourteen (14) calendar days before the hearing on Plaintiff’s Motion for Final Approval of the Settlement, the Administrator will provide to Class Counsel and Defense Counsel, a signed declaration suitable for filing in Court attesting to its due diligence and compliance

with all of its obligations under this Agreement, including, but not limited to, its mailing of Class Notice, the Class Notices returned as undelivered, the re-mailing of Class Notices, attempts to locate Class Members, the total number of Requests for Exclusion from Settlement it received (both valid or invalid), the number of written objections and attach the Exclusion List. The Administrator will supplement its declaration as needed or requested by the Parties and/or the Court. Class Counsel is responsible for filing the Administrator's declaration(s) in Court.

7.8.6 Final Report by Settlement Administrator. Within ten (10) days after the Administrator disburses all funds in the Gross Settlement Amount, the Administrator will provide Class Counsel and Defense Counsel with a final report detailing its disbursements by employee identification number only of all payments made under this Agreement. At least fifteen (15) calendar days before any deadline set by the Court, the Administrator will prepare, and submit to Class Counsel and Defense Counsel, a signed declaration suitable for filing in Court attesting to its disbursement of all payments required under this Agreement. Class Counsel is responsible for filing the Administrator's declaration in Court.

8. **CLASS SIZE ESTIMATES and ESCALATOR CLAUSE.** Based on its records, Defendants estimate that, as of the date of this Settlement Agreement, (1) there are 496 Class Members and 23,319 Total Workweeks during the Class period and (2) there were 307 Aggrieved Employees who worked 5,730 Pay Periods during the PAGA Period. Not later than seven (7) calendar days prior to the deadline for filing of the motion for preliminary approval of the settlement, Defendants will provide a declaration under penalty of perjury confirming the number of applicable Class Members and Total Workweeks they worked during the Class Period. At that time, if the Total Workweeks increases by more than 10% of the estimate stated herein, the Gross Settlement Amount will increase proportionally for the number of workweeks over 10%. For example, if the number of Total Workweeks in the Class Period worked by the Class Members exceeds 23,319 by 11%, then the Gross Settlement Amount will increase by 1%.
9. **DEFENDANTS' RIGHT TO WITHDRAW.** If the number of valid Requests for Exclusion identified in the Exclusion List exceeds 10% of the total of all Class Members, Defendants may, but are not obligated, elect to withdraw from the Settlement. The Parties agree that, if Defendants withdraw, the Settlement shall be void ab initio, have no force or effect whatsoever, and that neither Party will have any further obligation to perform under this Agreement; provided, however, Defendants will remain responsible for paying all Settlement Administration Expenses incurred to that point. Defendants must notify Class Counsel and the Court of its election to withdraw not later than seven (7) days after the Administrator sends the final Exclusion List to Defense Counsel; late elections will have no effect.
10. **MOTION FOR FINAL APPROVAL.** Not later than sixteen (16) court days before the calendared Final Approval Hearing, Plaintiff will file in Court, a motion for final approval of the Settlement that includes a request for approval of the PAGA settlement under Labor Code section 2699, subd. (l), a Proposed Final Approval Order and a proposed Judgment (collectively "Motion for Final Approval"). Plaintiff shall provide drafts of these documents

to Defense Counsel not later than seven (7) calendar days prior to filing the Motion for Final Approval. Class Counsel and Defense Counsel will expeditiously meet and confer in person or by telephone, and in good faith, to resolve any disagreements concerning the Motion for Final Approval.

- 10.1 Response to Objections. Each Party retains the right to respond to any objection raised by a Participating Class Member, including the right to file responsive documents in Court no later than five (5) court days prior to the Final Approval Hearing, or as otherwise ordered or accepted by the Court.
- 10.2 Duty to Cooperate. If the Court does not grant Final Approval or conditions Final Approval on any material change to the Settlement (including, but not limited to, the scope of release to be granted by Class Members), the Parties will expeditiously work together in good faith to address the Court's concerns by revising the Agreement as necessary to obtain Final Approval. The Court's decision to award less than the amounts requested for the Class Representative Service Payment, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, and/or Administrator Expenses Payment shall not constitute a material modification to the Agreement within the meaning of this paragraph.
- 10.3 Continuing Jurisdiction of the Court. The Parties agree that, after entry of Judgment, the Court will retain jurisdiction over the Parties, Action, and the Settlement solely for purposes of (i) enforcing this Agreement and/or Judgment, (ii) addressing settlement administration matters, and (iii) addressing such post-Judgment matters as are permitted by law.
- 10.4 Waiver of Right to Appeal. Provided the Judgment is consistent with the terms and conditions of this Agreement, specifically including the Class Counsel Fees Payment and Class Counsel Litigation Expenses Payment reflected set forth in this Settlement, the Parties, their respective counsel, and all Participating Class Members who did not object to the Settlement as provided in this Agreement, waive all rights to appeal from the Judgment, including all rights to post-judgment and appellate proceedings, the right to file motions to vacate judgment, motions for new trial, extraordinary writs, and appeals. The waiver of appeal does not include any waiver of the right to oppose such motions, writs or appeals. If an objector appeals the Judgment, the Parties' obligations to perform under this Agreement will be suspended until such time as the appeal is finally resolved and the Judgment becomes final, except as to matters that do not affect the amount of the Net Settlement Amount.
- 10.5 Appellate Court Orders to Vacate, Reverse, or Materially Modify Judgment. If the reviewing Court vacates, reverses, or modifies the Judgment in a manner that requires a material modification of this Agreement (including, but not limited to, the scope of release to be granted by Class Members), this Agreement shall be null and void. The Parties shall nevertheless expeditiously work together in good faith to address the appellate court's concerns and to obtain Final Approval and entry of Judgment, sharing, on a 50-50 basis, any additional Administration Expenses reasonably incurred after remittitur. An appellate decision to vacate, reverse, or modify the Court's award of the

Class Representative Service Payment or any payments to Class Counsel shall not constitute a material modification of the Judgment within the meaning of this paragraph, as long as the Gross Settlement Amount remains unchanged.

- 11. AMENDED JUDGMENT.** If any amended judgment is required under Code of Civil Procedure section 384, the Parties will work together in good faith to jointly submit and a proposed amended judgment.

12. ADDITIONAL PROVISIONS.

12.1 No Admission of Liability, Class Certification or Representative Manageability for Other Purposes. This Agreement represents a compromise and settlement of highly disputed claims. Nothing in this Agreement is intended or should be construed as an admission by Defendants that any of the allegations in the Operative Complaint have merit or that Defendants have any liability for any claims asserted; nor should it be intended or construed as an admission by Plaintiff that Defendants' defenses in the Action have merit. The Parties agree that class certification and representative treatment is for purposes of this Settlement only. If, for any reason the Court does not grant Preliminary Approval, Final Approval or enter Judgment, Defendants reserve the right to contest certification of any class for any reasons, and Defendants reserve all available defenses to the claims in the Action, and Plaintiff reserves the right to move for class certification on any grounds available and to contest Defendants' defenses. The Settlement, this Agreement and Parties' willingness to settle the Action will have no bearing on, and will not be admissible in connection with, any litigation (except for proceedings to enforce or effectuate the Settlement and this Agreement).

12.2 Confidentiality Prior to Preliminary Approval. Plaintiff, Class Counsel, Defendants and Defense Counsel separately agree that, until the Motion for Preliminary Approval of Settlement is filed, they and each of them will not disclose, disseminate and/or publicize, or cause or permit another person to disclose, disseminate or publicize, any of the terms of the Agreement directly or indirectly, specifically or generally, to any person, corporation, association, government agency, or other entity except: (1) to the Parties' attorneys, accountants, or spouses, all of whom will be instructed to keep this Agreement confidential; (2) counsel in a related matter; (3) to the extent necessary to report income to appropriate taxing authorities; (4) in response to a court order or subpoena; or (5) in response to an inquiry or subpoena issued by a state or federal government agency. Each Party agrees to immediately notify the other Party of any judicial or agency order, inquiry, or subpoena seeking such information. Plaintiff, Class Counsel, Defendants and Defense Counsel separately agree not to, directly or indirectly, initiate any conversation or other communication, before the filing of the Motion for Preliminary Approval, any with third party regarding this Agreement or the matters giving rise to this Agreement except to respond only that "the matter was resolved," or words to that effect. This paragraph does not restrict Class Counsel's communications with Class Members in accordance with Class Counsel's ethical obligations owed to Class Members.

12.3 No Solicitation. The Parties separately agree that they and their respective counsel and employees will not solicit any Class Member to opt out of or object to the Settlement, or

appeal from the Judgment. Nothing in this paragraph shall be construed to restrict Class Counsel's ability to communicate with Class Members in accordance with Class Counsel's ethical obligations owed to Class Members.

- 12.4 Integrated Agreement. Upon execution by all Parties and their counsel, this Agreement together with its attached exhibits shall constitute the entire agreement between the Parties relating to the Settlement, superseding all oral representations, warranties, covenants, or inducements made to or by any Party.
- 12.5 Attorney Authorization. Class Counsel and Defense Counsel separately warrant and represent that they are authorized by Plaintiff and Defendants, respectively, to take all appropriate action required or permitted to be taken by such Parties pursuant to this Agreement to effectuate its terms, and to execute any other documents reasonably required to effectuate the terms of this Agreement including any amendments to this Agreement.
- 12.6 Cooperation. The Parties and their counsel will cooperate with each other and use their best efforts, in good faith, to implement the Settlement by, among other things, modifying the Settlement Agreement, submitting supplemental evidence and supplementing points and authorities as requested by the Court. In the event the Parties are unable to agree upon the form or content of any document necessary to implement the Settlement, or on any modification of the Agreement that may become necessary to implement the Settlement, the Parties will seek the assistance of a mediator and/or the Court for resolution.
- 12.7 No Prior Assignments. The Parties separately represent and warrant that they have not directly or indirectly assigned, transferred, encumbered, or purported to assign, transfer, or encumber to any person or entity and portion of any liability, claim, demand, action, cause of action, or right released and discharged by the Party in this Settlement.
- 12.8 No Tax Advice. Neither Plaintiff, Class Counsel, Defendants nor Defense Counsel are providing any advice regarding taxes or taxability, nor shall anything in this Settlement be relied upon as such within the meaning of United States Treasury Department Circular 230 (31 CFR Part 10, as amended) or otherwise.
- 12.9 Modification of Agreement. This Agreement, and all parts of it, may be amended, modified, changed, or waived only by an express written instrument signed by all Parties or their representatives, and approved by the Court.
- 12.10 Agreement Binding on Successors. This Agreement will be binding upon, and inure to the benefit of, the successors of each of the Parties.
- 12.11 Applicable Law. All terms and conditions of this Agreement and its exhibits will be governed by and interpreted according to the internal laws of the state of California, without regard to conflict of law principles.
- 12.12 Cooperation in Drafting. The Parties have cooperated in the drafting and preparation of

this Agreement. This Agreement will not be construed against any Party on the basis that the Party was the drafter or participated in the drafting.

12.13 Confidentiality. To the extent permitted by law, all agreements made, and orders entered during Action and in this Agreement relating to the confidentiality of information shall survive the execution of this Agreement.

12.14 Use and Return of Class Data. Information provided to Class Counsel pursuant to Cal. Evid. Code §1152, and all copies and summaries of the Class Data provided to Class Counsel by Defendants in connection with the mediation, other settlement negotiations, or in connection with the Settlement, may be used only with respect to this Settlement, and no other purpose, and may not be used in any way that violates any existing contractual agreement, statute, or rule of court. Not later than ninety (90) days after the date when the Court discharges the Administrator's obligation to provide a Declaration confirming the final pay out of all Settlement funds, Plaintiff shall destroy, all paper and electronic versions of Class Data received from Defendants unless, prior to the Court's discharge of the Administrator's obligation, Defendants make a written request to Class Counsel for the return, rather than the destructions, of Class Data.

12.15 Headings. The descriptive heading of any section or paragraph of this Agreement is inserted for convenience of reference only and does not constitute a part of this Agreement.

12.16 Calendar Days. Unless otherwise noted, all reference to "days" in this Agreement shall be to calendar days. In the event any date or deadline set forth in this Agreement falls on a weekend or federal legal holiday, such date or deadline shall be on the first business day thereafter.

12.17 Notice. All notices, demands or other communications between the Parties in connection with this Agreement will be in writing and deemed to have been duly given as of the third business day after mailing by United States mail, or the day sent by email or messenger, addressed as follows:

To Plaintiff: JCL Law Firm, APC
Jean-Claude Lapuyade, Esq.
5440 Morehouse Drive, Suite 3600
San Diego, CA 92121

To Defendants: ATKINSON, ANDELSON, LOYA, RUUD & ROMO
Lauren S. Gafa, Esq.
Scott K. Dauscher, Esq.
12800 Center Drive South, Suite 300
Cerritos, CA 90703-9364

12.18 Execution in Counterparts. This Agreement may be executed in one or more

counterparts by facsimile, electronically (i.e. DocuSign), or email which for purposes of this Agreement shall be accepted as an original. All executed counterparts and each of them will be deemed to be one and the same instrument if counsel for the Parties will exchange between themselves signed counterparts. Any executed counterpart will be admissible in evidence to prove the existence and contents of this Agreement.

12.19 Stay of Litigation. The Parties agree that upon the execution of this Agreement the litigation shall be stayed, except to effectuate the terms of this Agreement. The Parties further agree that upon the signing of this Agreement that pursuant to CCP section 583.330 to extend the date to bring a case to trial under CCP section 583.310 for the entire period of this settlement process.

Sarina Y. Lai
Sarina Y. Lai (Jul 26, 2023 19:02 PDT)

_____ For Plaintiff

Patricia
Type text here

_____ For Defendants

[Signature]

_____ Counsel For Plaintiff

[Signature]

_____ Counsel For Defendants

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_____ For Plaintiff	_____ For Defendants
	
_____ Counsel For Plaintiff	_____ Counsel For Defendants

EXHIBIT “A”
CLASS NOTICE

COURT APPROVED NOTICE OF CLASS ACTION SETTLEMENT AND HEARING DATE FOR FINAL COURT APPROVAL

Lai v. Sunmerry California Inc., et al. Case No. 22STCV12086

***The Superior Court for the State of California authorized this Notice. Read it carefully!
It's not junk mail, spam, an advertisement, or solicitation by a lawyer. You are not being sued.***

You may be eligible to receive money from an employee class action lawsuit (“Action”) against Sunmerry California Inc.; Sunmerry Gardena LLC; Sunmerry Monterey Park LLC; and Sunmerry Santa Anita LLC (abbreviated name “Defendants” is used herein as a placeholder) for alleged wage and hour violations. The Action was filed by Defendants’ former employee Sarina Yuan Jong Lai (“Plaintiff”) and seeks payment of (1) back wages and other relief for a class of non-exempt employees (“Class Members”) who worked for Defendants during the Class Period (June 30, 2018 to April 17, 2023); and (2) penalties under the California Private Attorneys General Act (“PAGA”) for all non-exempt employees who worked for Defendants during the PAGA Period (April 8, 2021 to April 17, 2023) (“Aggrieved Employees”).

The proposed Settlement has two main parts: (1) a Class Settlement requiring Defendants to fund Individual Class Payments, and (2) a PAGA Settlement requiring Defendants to fund Individual PAGA Payments and pay penalties to the California Labor and Workforce Development Agency (“LWDA”).

Based on Defendants’ records, and the Parties’ current assumptions, **your Individual Class Payment is estimated to be \$_____ (less withholding) and your Individual PAGA Payment is estimated to be \$_____**. The actual amount you may receive likely will be different and will depend on a number of factors. (If no amount is stated for your Individual PAGA Payment, then according to Defendants’ records you are not eligible for an Individual PAGA Payment under the Settlement because you didn’t work during the PAGA Period.)

The above estimates are based on Defendants’ records showing that **you worked _____ workweeks** during the Class Period and **you worked _____ workweeks** during the PAGA Period. If you believe that you worked more workweeks during either period, you can submit a challenge by the deadline date. See Section 4 of this Notice.

The Court has already preliminarily approved the proposed Settlement and approved this Notice. The Court has not yet decided whether to grant final approval. Your legal rights are affected whether you act or not act. Read this Notice carefully. You will be deemed to have carefully read and understood it. At the Final Approval Hearing, the Court will decide whether to finally approve the Settlement and how much of the Settlement will be paid to Plaintiff and Plaintiff’s attorneys (“Class Counsel”). The Court will also decide whether to enter a judgment that requires Defendants to make payments under the Settlement and requires Class Members and Aggrieved Employees to give up their rights to assert certain claims against Defendants.

If you worked for Defendants during the Class Period and/or the PAGA Period, you have two basic options under the Settlement:

(1) **Do Nothing.** You don't have to do anything to participate in the proposed Settlement and be eligible for an Individual Class Payment and/or an Individual PAGA Payment. As a Participating Class Member, though, you will give up your right to assert Class Period wage claims and PAGA Period penalty claims against Defendants.

(2) **Opt-Out of the Class Settlement.** You can exclude yourself from the Class Settlement (opt-out) by submitting the written Request for Exclusion or otherwise notifying the Administrator in writing. If you opt-out of the Settlement, you will not receive an Individual Class Payment. You will, however, preserve your right to personally pursue Class Period wage claims against Defendants, and, if you are an Aggrieved Employee, remain eligible for an Individual PAGA Payment. You cannot opt-out of the PAGA portion of the proposed Settlement.

Defendants will not retaliate against you for any actions you take with respect to the proposed Settlement.

SUMMARY OF YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT

You Don't Have to Do Anything to Participate in the Settlement	If you do nothing, you will be a Participating Class Member, eligible for an Individual Class Payment and an Individual PAGA Payment (if any). In exchange, you will give up your right to assert the wage claims against Defendants that are covered by this Settlement (Released Claims).
You Can Opt-out of the Class Settlement but not the PAGA Settlement The Opt-out Deadline is _____	If you don't want to fully participate in the proposed Settlement, you can opt-out of the Class Settlement by sending the Administrator a written Request for Exclusion. Once excluded, you will be a Non-Participating Class Member and no longer eligible for an Individual Class Payment. Non-Participating Class Members cannot object to any portion of the proposed Settlement. See Section 6 of this Notice. You cannot opt-out of the PAGA portion of the proposed Settlement. Defendants must pay Individual PAGA Payments to all Aggrieved Employees and the Aggrieved Employees must give up their rights to pursue Released Claims (defined below).
Participating Class Members Can Object to the Class Settlement but not the PAGA Settlement Written Objections Must be Submitted by _____	All Class Members who do not opt-out ("Participating Class Members") can object to any aspect of the proposed Settlement. The Court's decision whether to finally approve the Settlement will include a determination of how much will be paid to Class Counsel and Plaintiff who pursued the Action on behalf of the Class. You are not personally responsible for any payments to Class Counsel or Plaintiff, but every dollar paid to Class Counsel and Plaintiff reduces the overall amount paid to Participating Class Members. You can object to the amounts requested by Class Counsel or Plaintiff if you think they are unreasonable. See Section 7 of this Notice.

You Can Participate in the _____ Final Approval Hearing	The Court’s Final Approval Hearing is scheduled to take place on _____. You don’t have to attend but you do have the right to appear (or hire an attorney to appear on your behalf at your own cost), in person, by telephone or by using the Court’s virtual appearance platform. Participating Class Members can verbally object to the Settlement at the Final Approval Hearing. See Section 8 of this Notice.
You Can Challenge the Calculation of Your Workweeks/Pay Periods Written Challenges Must be Submitted by _____	The amount of your Individual Class Payment and PAGA Payment (if any) depend on how many workweeks you worked at least one day during the Class Period and how many Pay Periods you worked at least one day during the PAGA Period, respectively. The number of Class Period Workweeks and number of PAGA Period Pay Periods you worked according to Defendants’ records is stated on the first page of this Notice. If you disagree with either of these numbers, you must challenge it by _____. See Section 4 of this Notice.

1. WHAT IS THE ACTION ABOUT?

Plaintiff is a former employee of Defendants. The Action accuses Defendants of violating California labor laws by failing to pay overtime wages, minimum wages, wages due upon termination and reimbursable expenses and failing to provide meal periods, rest breaks and accurate itemized wage statements. Based on the same claims, Plaintiff has also asserted a claim for civil penalties under the California Private Attorneys General Act (Labor Code §§ 2698, et seq.) (“PAGA”). Plaintiff is represented by attorneys in the Action: JCL Law Firm, APC and Zakay Law Group, APLC (“Class Counsel.”)

Defendants strongly deny violating any laws or failing to pay any wages and contend they complied with all applicable laws.

2. WHAT DOES IT MEAN THAT THE ACTION HAS SETTLED?

So far, the Court has made no determination whether Defendants or Plaintiff is correct on the merits. In the meantime, Plaintiff and Defendants hired an experienced, neutral mediator in an effort to resolve the Action by negotiating an end to the case by agreement (settle the case) rather than continuing the expensive and time-consuming process of litigation. The negotiations were successful. By signing a lengthy written settlement agreement (“Agreement”) and agreeing to jointly ask the Court to enter a judgment ending the Action and enforcing the Agreement, Plaintiff and Defendants have negotiated a proposed Settlement that is subject to the Court’s Final Approval. Both sides agree the proposed Settlement is a compromise of disputed claims. By agreeing to settle, Defendants do not admit any violations or concede the merit of any claims. Plaintiff and Class Counsel strongly believe the Settlement is a good deal for you because they believe that: (1) Defendants have agreed to pay a fair, reasonable and adequate amount considering the strength of the claims and the risks and uncertainties of continued litigation; and (2) Settlement is in the best interests of the Class Members and Aggrieved Employees. The Court preliminarily approved the proposed Settlement as fair, reasonable and adequate, authorized this Notice, and scheduled a hearing to determine Final Approval.

3. WHAT ARE THE IMPORTANT TERMS OF THE PROPOSED SETTLEMENT?

1. Defendants Will Pay \$475,000.00 as the Gross Settlement Amount (Gross Settlement). Defendants have agreed to deposit the Gross Settlement into an account controlled by the Administrator of the Settlement. The Administrator will use the Gross Settlement to pay the Individual Class Payments, Individual PAGA Payments, Class Representative Service Payment, Class Counsel's attorney's fees and expenses, the Administrator's expenses, and penalties to be paid to the California Labor and Workforce Development Agency ("LWDA"). Assuming the Court grants Final Approval, Defendants will fund the Gross Settlement not more than fourteen (14) calendar days after the Judgment entered by the Court become final. The Judgment will be final on the date the Court enters Judgment, or a later date if Participating Class Members object to the proposed Settlement or the Judgment is appealed.
2. Court Approved Deductions from Gross Settlement. At the Final Approval Hearing, Plaintiff and/or Class Counsel will ask the Court to approve the following deductions from the Gross Settlement, the amounts of which will be decided by the Court at the Final Approval Hearing:
 - A. Up to \$158,333.33 (One-third of the Gross Settlement) to Class Counsel for attorneys' fees and up to \$25,000.00 for their litigation expenses. To date, Class Counsel have worked and incurred expenses on the Action without payment.
 - B. Up to \$10,000.00 to Plaintiff as a Class Representative Award for filing the Action, working with Class Counsel and representing the Class. A Class Representative Award will be the only monies Plaintiff will receive other than Plaintiff's Individual Class Payment and any Individual PAGA Payment.
 - C. Up to \$11,700.00 to the Administrator for services administering the Settlement.
 - D. Up to \$25,000.00 for PAGA Penalties, with allocations of 75% to the LWDA and 25% in Individual PAGA Payments to the Aggrieved Employees based on their PAGA Period Pay Periods.

Participating Class Members have the right to object to any of these deductions. The Court will consider all objections.

3. Net Settlement Distributed to Class Members. After making the above deductions in amounts approved by the Court, the Administrator will distribute the rest of the Gross Settlement (the "Net Settlement") by making Individual Class Payments to Participating Class Members based on their Class Period Workweeks.
4. Taxes Owed on Payments to Class Members. Plaintiff and Defendants are asking the Court to approve an allocation of 33% of each Individual Class Payment to taxable wages ("Wage Portion") and 67% to interest and statutory penalties ("Non-Wage Portion"). The Wage Portion is subject to withholdings and will be reported on IRS W-2 Forms. Defendants will separately pay employer payroll taxes it owes on the Wage Portion. The

Individual PAGA Payments are counted as penalties rather than wages for tax purposes. The Administrator will report the Individual PAGA Payments and the Non-Wage Portions of the Individual Class Payments on IRS 1099 Forms.

Although Plaintiff and Defendants have agreed to these allocations, neither side is giving you any advice on whether your Payments are taxable or how much you might owe in taxes. You are responsible for paying all taxes (including penalties and interest on back taxes) on any Payments received from the proposed Settlement. You should consult a tax advisor if you have any questions about the tax consequences of the proposed Settlement.

5. Need to Promptly Cash Payment Checks. The front of every check issued for Individual Class Payments and Individual PAGA Payments will show the date when the check expires (the void date). If you don't cash it by the void date, your check will be automatically cancelled, and the monies will be deposited with the California Controller's Unclaimed Property Fund in your name.

If the monies represented by your check is sent to the Controller's Unclaimed Property, you should consult the rules of the Fund for instructions on how to retrieve your money.

6. Requests for Exclusion from the Class Settlement (Opt-Outs). You will be treated as a Participating Class Member, participating fully in the Class Settlement, unless you notify the Administrator in writing, not later than _____, that you wish to opt-out. The easiest way to notify the Administrator is to send a written and signed Request for Exclusion by the _____ Response Deadline. The Request for Exclusion should be a letter from a Class Member or his/her representative setting forth a Class Member's name, present address, telephone number, and a simple statement electing to be excluded from the Settlement. Excluded Class Members (i.e., Non-Participating Class Members) will not receive Individual Class Payments, but will preserve their rights to personally pursue wage and hour claims against Defendants.

You cannot opt-out of the PAGA portion of the Settlement. Class Members who exclude themselves from the Class Settlement (Non-Participating Class Members) remain eligible for Individual PAGA Payments and are required to give up their right to assert PAGA claims against Defendants based on the PAGA Period facts alleged in the Action.

7. The Proposed Settlement Will be Void if the Court Denies Final Approval. It is possible the Court will decline to grant Final Approval of the Settlement or decline to enter a Judgment. It is also possible the Court will enter a Judgment that is reversed on appeal. Plaintiff and Defendants have agreed that, in either case, the Settlement will be void: Defendants will not pay any money and Class Members will not release any claims against Defendants.
8. Administrator. The Court has appointed a neutral company, APEX CLASS ACTION, LLC (the "Administrator") to send this Notice, calculate and make payments, and process Class Members' Requests for Exclusion. The Administrator will also decide Class Member Challenges over Workweeks, mail and re-mail settlement checks and tax forms, and perform other tasks necessary to administer the Settlement. The Administrator's

contact information is contained in Section 9 of this Notice.

9. Participating Class Members' Release. After the Judgment is final and Defendants have fully funded the Gross Settlement, and separately paid all employer payroll taxes, Participating Class Members will be legally barred from asserting any of the claims released under the Settlement. This means that unless you opted out by validly excluding yourself from the Class Settlement, you cannot sue, continue to sue, or be part of any other lawsuit against Defendants or related entities for wages based on the Class Period facts and PAGA penalties based on PAGA Period facts, as alleged in the Action and resolved by this Settlement.

The Participating Class Members will be bound by the following release:

Upon entry of final judgment and funding of the **Gross Settlement Amount**, Defendants and the Released Parties shall be entitled to a release from the Class Members of all class claims, debts, liabilities, demands, obligations, guarantees, costs, expenses, attorneys' fees, damages, or causes of action contingent or accrued for, that are alleged in the operative complaint, or which could have been alleged in the operative complaint based on the facts alleged, which occurred during the Class Period, including any claims for: (1) Unfair Competition; (2) Failure to Pay Minimum Wages; (3) Failure to Overtime Wages; (4) Failure to Provide Required Meal Periods; (5) Failure to Provide Required Rest Periods; (6) Failure to Provide Accurate Itemized Wage Statements; (7) Failure to Provide Wages When Due; and (8) Failure to Reimburse Employees for Required Expenses; including but not limited to compensatory damages; economic and/or special damages; premium wages; premium pay; penalties; attorneys' fees; interest; and litigation costs (collectively the "Released Claims"). The Released Claims expressly exclude all other claims, including claims for vested benefits, unemployment insurance, disability, social security, workers' compensation, and class claims outside of the Class Period. Claims for PAGA penalties are separately released.

10. Aggrieved Employees' PAGA Release. Upon entry of final judgment and funding of the Gross Settlement Amount, Defendants shall be entitled to a release from the PAGA Class Members of all PAGA claims that are alleged in the operative complaint and Plaintiff's PAGA Notice and Amended Notice to the LWDA, or which could have been alleged based on the facts asserted, which occurred during the PAGA Period, and expressly excluding all other claims, including claims for vested benefits, unemployment insurance, disability, social security, workers' compensation, and PAGA claims outside of the PAGA Period. The Aggrieved Employees' Releases for Participating and Non-Participating Class Members are as follows:

All Participating and Non-Participating Class Members who are Aggrieved Employees are deemed to release, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, the Released Parties, from all claims for PAGA penalties that were alleged, or reasonably could have been alleged, based on the PAGA Period facts stated in the Operative Complaint, the PAGA Notice, the Amended PAGA Notice, and ascertained in the

course of the Action.

4. HOW WILL THE ADMINISTRATOR CALCULATE MY PAYMENT?

1. Individual Class Payments. The Administrator will calculate Individual Class Payments by (a) dividing the Net Settlement Amount by the total number of Workweeks worked by all Participating Class Members, and (b) multiplying the result by the number of Workweeks worked by each individual Participating Class Member.
2. Individual PAGA Payments. The Administrator will calculate Individual PAGA Payments by (a) dividing \$25,000.00 by the total number of PAGA Pay Periods worked by all Aggrieved Employees and (b) multiplying the result by the number of PAGA Period Pay Periods worked by each individual Aggrieved Employee.
3. Workweek/Pay Period Challenges. The number of Class Workweeks you worked during the Class Period and the number of PAGA Pay Periods you worked during the PAGA Period, as recorded in Defendants' records, are stated in the first page of this Notice. You have until _____ to challenge the number of Workweeks and/or Pay Periods credited to you. You can submit your challenge by signing and sending a letter to the Administrator via mail, email or fax. Section 9 of this Notice has the Administrator's contact information.

You need to support your challenge by sending copies of pay stubs or other records. The Administrator will accept Defendants' calculation of Workweeks and/or Pay Periods based on Defendants' records as accurate unless you send copies of records containing contrary information. You should send copies rather than originals because the documents will not be returned to you. The Administrator will resolve Workweek and/or Pay Period challenges based on your submission and on input from Class Counsel (who will advocate on behalf of Participating Class Members) and Defendants' Counsel. The Administrator's decision is final. You can't appeal or otherwise challenge its final decision.

5. HOW WILL I GET PAID?

1. Participating Class Members. The Administrator will send, by U.S. mail, a single check to every Participating Class Member (i.e., every Class Member who doesn't opt-out) including those who also qualify as Aggrieved Employees. The single check will combine the Individual Class Payment and the Individual PAGA Payment.
2. Non-Participating Class Members. The Administrator will send, by U.S. mail, a single Individual PAGA Payment check to every Aggrieved Employee who opts out of the Class Settlement (i.e., every Non-Participating Class Member).

Your check will be sent to the same address as this Notice. If you change your address, be sure to notify the Administrator as soon as possible. Section 9 of this Notice has the Administrator's contact information.

6. HOW DO I OPT-OUT OF THE CLASS SETTLEMENT?

Submit a written and signed letter with your name, present address, telephone number, and a simple statement that you do not want to participate in the Settlement. The Administrator will exclude you based on any writing communicating your request be excluded. Be sure to personally sign your request, identify the Action as *Lai v. Sunmerry California Inc., et al.*, and include your identifying information (full name, address, telephone number, approximate dates of employment, and social security number for verification purposes). You must make the request yourself. If someone else makes the request for you, it will not be valid. **The Administrator must be sent your request to be excluded by _____, or it will be invalid.** Section 9 of the Notice has the Administrator's contact information.

7. HOW DO I OBJECT TO THE SETTLEMENT?

Only Participating Class Members have the right to object to the Settlement. Before deciding whether to object, you may wish to see what Plaintiff and Defendants are asking the Court to approve. At least sixteen (16) days before the Final Approval Hearing, Class Counsel and/or Plaintiff will file in Court (1) a Motion for Final Approval that includes, among other things, the reasons why the proposed Settlement is fair, and (2) a Motion for Fees, Litigation Expenses and Service Award stating (i) the amount Class Counsel is requesting for attorneys' fees and litigation expenses; and (ii) the amount Plaintiff is requesting as a Class Representative Service Award. Upon reasonable request, Class Counsel (whose contact information is in Section 9 of this Notice) will send you copies of these documents at no cost to you. You can also view them on the Administrator's Website _____ (url) or the Court's website <https://www.lacourt.org>.

A Participating Class Member who disagrees with any aspect of the Agreement, the Motion for Final Approval and/or Motion for Fees, Litigation Expenses and Service Award may wish to object, for example, that the proposed Settlement is unfair, or that the amounts requested by Class Counsel or Plaintiff are too high or too low. **The deadline for sending written objections to the Administrator is _____.** Be sure to tell the Administrator what you object to, why you object, and any facts that support your objection. Make sure you identify the Action *Lai v. Sunmerry California, Inc.*, Los Angeles Superior Court, Case Number 22STCV12086 and include your name, current address, telephone number, and approximate dates of employment for Defendants and sign the objection. Section 9 of this Notice has the Administrator's contact information.

Alternatively, a Participating Class Member can object (or personally retain a lawyer to object at your own cost) by attending the Final Approval Hearing. You (or your attorney) should be ready to tell the Court what you object to, why you object, and any facts that support your objection. See Section 8 of this Notice (immediately below) for specifics regarding the Final Approval Hearing.

8. CAN I ATTEND THE FINAL APPROVAL HEARING?

You can, but don't have to, attend the Final Approval Hearing on _____ at (time) _____ in Department 1 of the Los Angeles Superior Court, located at 312 North Spring Street, Los

Angeles, CA 90012. At the Hearing, the judge will decide whether to grant Final Approval of the Settlement and how much of the Gross Settlement will be paid to Class Counsel, Plaintiff, and the Administrator. The Court will invite comment from objectors, Class Counsel and Defense Counsel before making a decision. You can attend (or hire a lawyer to attend) either personally or virtually via LACourtConnect (<https://www.lacourt.org/lacc/>). Check the Court's website for the most current information.

It's possible the Court will reschedule the Final Approval Hearing. You should check the Administrator's website _____ beforehand or contact Class Counsel to verify the date and time of the Final Approval Hearing.

9. HOW CAN I GET MORE INFORMATION?

The Agreement sets forth everything Defendants and Plaintiff have promised to do under the proposed Settlement. The easiest way to read the Agreement, the Judgment or any other Settlement documents is to go to APEX CLASS ACTION, LLC'S website at (url) _____. You can also telephone or send an email to Class Counsel or the Administrator using the contact information listed below, or consult the Superior Court website by going to (<http://www.lacourt.org/casesummary/ui/index.aspx>) and entering the Case Number for the Action, Case No. 22STCV12086. You can also make an appointment to personally review court documents in the Clerk's Office at the Spring Street Courthouse by calling (213) 830-0800.

DO NOT TELEPHONE THE SUPERIOR COURT TO OBTAIN INFORMATION ABOUT THE SETTLEMENT.

Class Counsel:

Jean-Claude Lapuyade, Esq.
jlapuyade@jcl-lawfirm.com
JCL Law Firm, APC
5440 Morehouse Drive, Suite 3600, San Diego, CA 92121
(619) 99-8292

Shani O. Zakay, Esq.
Shani@zakaylaw.com
Zakay Law Group, APLC
5440 Morehouse Drive, Suite 3600
San Diego, CA 92121

Settlement Administrator:

APEX CLASS ACTION,
LLC
20371 Irvine Avenue
Newport Beach, CA
92660
(949) 690-2564

10. WHAT IF I LOSE MY SETTLEMENT CHECK?

If you lose or misplace your settlement check before cashing it, the Administrator will replace it as long as you request a replacement before the void date on the face of the original check. If your check is already void you should consult the Unclaimed Property Fund at https://www.sco.ca.gov/upd_msg.html for instructions on how to receive your funds.

11. WHAT IF I CHANGE MY ADDRESS?

To receive your check, you should immediately notify the Administrator if you move or otherwise change your mailing address.

EXHIBIT 2

ZAKAY LAW GROUP, APLC

Shani O. Zakay (State Bar #277924)
Jackland K. Hom (State Bar #327243)
Julieann Alvarado (State Bar #334727)
Rachel Newman (State Bar # 350826)
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Attorneys for PLAINTIFF SARINA YUAN JONG LAI

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

SARINA YUAN JONG LAI, an individual, on
behalf of herself, and on behalf of all persons
similarly situated,

Plaintiff,

v.

SUNMERRY CALIFORNIA INC., a California
corporation; SUNMERRY GARDENA LLC, a
California limited liability company;
SUNMERRY MONTEREY PARK LLC, a
California limited liability company;
SUNMERRY SANTA ANITA LLC, a
California limited liability company; and DOES
1 through 50, Inclusive,

Defendants.

Case No.: 22STCV12086

**AMENDED ~~PROPOSED~~ ORDER
GRANTING PRELIMINARY APPROVAL
OF CLASS ACTION AND PAGA
SETTLEMENT**

Hearing Date: January 17, 2024
Hearing Time: 10:30 a.m.

Judge: Hon. Stuart M. Rice
Department: 1

FILED
Superior Court of California
County of Los Angeles

01/22/2024

David W. Slayton, Executive Officer / Clerk of Court

By: A. He Deputy

TO ALL PARTIES AND THEIR RESPECTIVE COUNSEL OF RECORD:

The Motion for Preliminary Approval of a Class Action and PAGA Settlement came before this Court, on January 17, 2024 in Department 1 before the Honorable Stuart M. Rice, presiding. The Court having considered the papers submitted in support of the application of the parties, HEREBY ORDERS THE FOLLOWING:

1. The Court grants preliminary approval of the Settlement and the Settlement Class based upon the terms set forth in the Class Action and PAGA Settlement Agreement (“Agreement”) filed herewith. All terms used herein shall have the same meaning as defined in the Agreement.

2. The Settlement set forth in the Agreement, for a Gross Settlement Amount of \$475,000, appears to be fair, adequate and reasonable to the Class. The Settlement falls within the range of reasonableness and appears to be presumptively valid, subject only to any objections that may be raised at the final fairness hearing and final approval by this Court. It further appears that investigation and research have been conducted such that counsel for the Parties are able to reasonably evaluate their respective positions. It further appears to the Court that settlement at this time will avoid substantial additional costs by all Parties, as well as avoid the delay and risks that would be presented by the further prosecution of the Action. It further appears that the Settlement has been reached as the result of intensive, serious and non-collusive, arms-length negotiations. The Parties are ordered to carry out the settlement according to the terms of the Agreement and in conformity with this Order. The Net Settlement Amount of approximately \$244,966.67 shall equal the amount available for Individual Class Payments after deducting the Court-approved amounts for the Individual PAGA Payment, LWDA PAGA Payment, Class Representative Service Payment, Class Counsel Fees Payment, Class Counsel Litigation Expenses, and the Administration Expenses Payment. The Court has reviewed the monetary recovery that is being granted as part of the Settlement and preliminarily finds that the monetary settlement awards made available to Class Members is fair, adequate, and reasonable when balanced against the probable outcome of further litigation relating to certification, liability, and damages issues.

1 3. A final fairness hearing on the question of whether the proposed Settlement, including
2 Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, Administration Expenses
3 Payment, and the Class Representative Service Payment to Plaintiff should be finally approved as fair,
4 reasonable and adequate as to the members of the Class is scheduled in Department 1 on the date and
5 time set forth in the implementation schedule in Paragraph 11 below. The Agreement specifies for a
6 Class Counsel Fees Payment in the amount not to exceed one-third of the Gross Settlement Amount,
7 currently estimated to be One Hundred Fifty Eight Thousand Three Hundred Thirty Three Dollars and
8 Thirty-Three Cents (\$158,333.33) **and** a Class Counsel Litigation Expenses Payment not to exceed
9 Twenty-Five Thousand Dollars and Zero Cents (\$25,000.00). The Agreement also specifies for a Class
10 Representative Service Payment in the amount not to exceed Ten Thousand Dollars and Zero Cents
11 (\$10,000.00) to Plaintiff. The Agreement also specifies for Administration Expenses Payment in the
12 amount not to exceed Eleven Thousand Seven Hundred Dollars and Zero Cents (\$11,700.00). While
13 these payments and awards appear to be within the range of reasonableness, the Court will not approve
14 the Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, Administration Expenses
15 Payment, and Class Representative Service Payments, until the Final Approval Hearing. Class Counsel
16 and the Class Representative will be required to present evidence supporting these requests, including
17 lodestar, prior to final approval.
18

19 4. This Court approves, as to form and content, the Notice of Class Action Settlement and
20 Hearing Date for Final Court Approval. The Court approves the procedure for Class Members to opt out
21 of, or to object to, the Settlement as set forth in the Agreement and Notice.

22 5. The Court directs the mailing of the Notice of Class Action Settlement and Hearing Date
23 for Final Court Approval by first class mail to the Class Members in accordance with the Implementation
24 Schedule set forth below. The Court finds the dates selected for the mailing and distribution of the
25 Notice, as set forth in the Implementation Schedule, meet the requirements of due process and provide
26 the best notice practicable under the circumstances and shall constitute due and sufficient notice to all
27 persons entitled thereto.
28

1 6. Specifically, the Notice Packet fairly, plainly, accurately, and reasonably informs Class
2 Members of: (1) the nature of the Action, the definition of the Class, the identity of Class Counsel, and
3 the essential terms of the Settlement, including the plan of allocation; (2) Plaintiff's and Class Counsel's
4 applications for the Class Representative Service Payment to Plaintiff, and Class Counsel's request for
5 attorneys' fees and litigation costs; (3) a formula used to determine the Class Members' estimated
6 Individual Class Payment; (4) how to claim a share of the proceeds under the Settlement, and Class
7 Members' right to appear through counsel if they desire; (5) how to object to the Settlement or to opt-
8 out if a Class Member wishes to do so; and (6) how to obtain additional information regarding the Action
9 and the Settlement. (California Rule of Court 3.766.) The Court finds that the notice requirements of
10 California Rule of Court 3.769(e) and (f) are satisfied, and that the Notice that will be provided
11 adequately advises Class Members of their rights under the settlement. Counsel for the Parties are
12 authorized to correct any typographical errors in the Notice Packet and make clarifications, to the extent
13 the same are found or needed, so long as such corrections do not materially alter the substance of the
14 documents. The Court further finds that the distribution of the Class Notice is substantially in the manner
15 and form set forth in the Agreement and this Order meets the requirements of due process, is the best
16 notice practicable under the circumstances, and shall constitute due and sufficient notice to all persons
17 entitled thereto. The Court orders the mailing of the Class Notice by first class mail, pursuant to the
18 terms set forth in the Agreement.
19

20 7. It is ordered that the Settlement Class is preliminarily certified for settlement purposes
21 only. For Settlement purposes only, the Court conditionally certifies the Class, consisting of "all current
22 and former non-exempt California employees who worked for Defendants at any time during the Class
23 Period. The Class Period is the period between June 30, 2018 and April 17, 2023.

24 8. The Court concludes that, for settlement purposes only, the Class meets the requirements
25 for certification under Section 382 of the California Code of Civil Procedure in that: (a) the Class is
26 ascertainable and so numerous that joinder of all Class Members is impracticable; (b) common questions
27 of law and fact predominate, and there is a well-defined community of interest amongst the Class
28

Members with respect to the subject matter of the litigation; (c) the claims of the named Plaintiff are typical of the claims of the Class Members; (d) the Class Representative will fairly and adequately protect the interests of the Class Members; (e) a class action is superior to other available methods for the efficient adjudication of this controversy; and (f) counsel for the Class is qualified to act as counsel for the Class.

9. The Court confirms Plaintiff Sarina Yuan Jong Lai as Class Representative, and Shani O. Zakay of Zakay Law Group, APLC and Jean-Claude Lapuyade of JCL Law Firm, APC as Class Counsel.

10. The Court confirms the appointment of Apex Class Action, LLC as the Settlement Administrator.

11. The Court orders the following Implementation Schedule for further proceedings:

a.	Deadline for Defendants to Submit Class Data to Settlement Administrator	15 calendar days after Order granting Preliminary Approval
b.	Deadline for Settlement Administrator to Mail Class Notice to Class Members	14 calendar days after receiving Class Data from Defendants
c.	Deadline for Class Members to Postmark Requests for Exclusion	45 calendar days after mailing of the Notice
d.	Deadline for Receipt by Court, Settlement Administrator, and Counsel of any Objections to Settlement	45 calendar days after mailing of the Notice
e.	Deadline for Class Counsel to file Motion for Final Approval of Settlement, including Request for Attorneys' Fees, Costs, and Class Representative Service Payment	16 Court days before Final Approval Hearing
f.	Deadline for Settlement Administrator to file Declaration of Due Diligence and Proof of Mailing	14 days before the hearing on Plaintiff's Motion for Final Approval of Settlement

g.	Final Fairness Hearing and Final Approval	July 23, 2024 at 10:30 a.m.
h.	Deadline for Defendants to fund Settlement	14 calendar days after Effective Date
i.	Deadline for Settlement Administrator to mail the Individual Payments and the Class Representative Service Payment, and to wire transfer the Attorneys' Fees and Costs (if Settlement is Effective)	14 calendar days after Defendants fund the Gross Settlement Amount
j.	Deadline for Class Members to cash Individual Payment checks (if Settlement is Effective)	180 calendar days after Settlement Administrator mails the Individual Payments

12. The Court reserves the right to adjourn or continue the date of the final approval hearing and all dates provided for in the Agreement without further notice to Class Members, and retains jurisdiction to consider all further applications arising out of or connected with the proposed Settlement.

13. As of the date this Order is signed, all dates and deadlines associated with the Action shall be stayed, other than those contemplated herein and in the Settlement Agreement, and pertaining to the administration of the settlement of the Action.

IT IS SO ORDERED.

Dated: January 22, 2024



Stuart M. Rice

Stuart M. Rice / Judge

HON. STUART M. RICE
JUDGE OF THE SUPERIOR COURT

EXHIBIT 3

Elizabeth Flores

From: DIR PAGA Unit <lwdadonotreply@dir.ca.gov>
Sent: Wednesday, December 20, 2023 1:10 PM
To: Elizabeth Flores
Subject: Thank you for your Proposed Settlement Submission

12/20/2023 01:09:24 PM

Thank you for your submission to the Labor and Workforce Development Agency.

Item submitted: Proposed Settlement

If you have questions or concerns regarding this submission or your case, please send an email to pagainfo@dir.ca.gov.

DIR PAGA Unit on behalf of
Labor and Workforce Development Agency

Website:

https://nam12.safelinks.protection.outlook.com/?url=http%3A%2F%2Flabor.ca.gov%2FPrivate_Attorneys_General_Act.htm&data=05%7C02%7Cliz%40zakaylaw.com%7C7ae2f667c4b3458a1cbc08dc01a003f7%7C6fe78029d8e947ec972ca1e1fda36e60%7C0%7C0%7C638387033987523151%7CUnknown%7CTWFpbGZsb3d8eyJWlloiMC4wLjAwMDAiLCJQIjoiV2luMzliLCJBTiI6IjEhaWwiLCJXVCI6Mn0%3D%7C3000%7C%7C%7C&sdata=XE59ZRwoVGKiFKJVmOk5L4qnk5b3l8P5kFQUqtLa7jk%3D&reserved=0

EXHIBIT 4