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FILED
Superior Court of California
County of Los Angeles

JUN 23 2021

Sherri R. Carter, Executive Officer/Clerk of Court
By Dejane Wortham, Deputy

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

KENDRA WILKERSON, individually, and on
behalf of other members of the general public
similarly situated,

Plaintiff,

vs.

PRESTIGE CARE, INC., a Washington
corporation; CHICO VENTURES, L.L.C., an
Oregon limited liability company; MANTECA
VENTURES ALF, L.L.C., an Oregon limited
liability company; LANCASTER VENTURES,
L.L.C., an Oregon limited liability company;
MARYSVILLE VENTURES, LLC, an Oregon
limited liability company; OROVILLE
ASSISTED LIVING, L.L.C., an Oregon limited
liability company; PRESTIGE ASSISTED
LIVING VENTURES, L.L.C., an Oregon
limited liability company; PRESTIGE SENIOR
LIVING, L.L.C., an Oregon limited liability
company; VISALIA VENTURES, L.L.C., an
Oregon limited liability company; and DOES 1
through 10, inclusive,

Defendants.

Case No.: 19STCV30095

Assigned to the Hon. Ann I. Jones

**[AMENDED PROPOSED] ORDER
GRANTING MOTION FOR PRELIMINARY
APPROVAL OF CLASS AND PAGA
REPRESENTATIVE ACTION
SETTLEMENT**

Date: June 18, 2021

Time: 10:00 a.m.

Place: Department 11

PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT

As a “fiduciary” of the absent class members, the trial court’s duty is to have before it sufficient information to determine if the settlement is fair, adequate, and reasonable. (*7- Eleven Owners for Fair Franchising v. The Southland Corp.* (2000) 85 Cal.App.4th 1135, 1151, citing *Dunk v. Ford Motor Co.* (1996) 48 Cal.App.4th 1794, 1801, 1802 (“*Dunk*”).)

California Rules of Court, rule 3.769 governs settlements of class actions. Any party to a settlement agreement may submit a written notice for preliminary approval of the settlement. The settlement agreement and proposed notice to class members must be filed with the motion, and the proposed order must be lodged with the motion. California Rules of Court, rule 3.769(c).

In determining whether to approve a class settlement, the court’s responsibility is to “prevent fraud, collusion or unfairness to the class” through settlement and dismissal of the class action because the rights of the class members, and even named plaintiffs, “may not have been given due regard by the negotiating parties.” (*Consumer Advocacy Group, Inc. v. Kintetsu Enterprises of America* (2006) 141 Cal.App.4th 46, 60.)

FAIRNESS OF THE SETTLEMENT AGREEMENT

In an effort to aid the Court in the determination of the fairness of the settlement, *Wershba v. Apple Computer, Inc.* (2001) 91 Cal.App.4th 224, 244-245 (“*Wershba*”), discusses factors that the Court should consider when testing the reasonableness of the settlement.

A presumption of fairness exists where: 1) the settlement is reached through arm’s length bargaining; 2) investigation and discovery are sufficient to allow counsel and the Court to act intelligently; 3) counsel is experienced in similar litigation; and 4) the percentage of objectors is small. (*Wershba* at 245, citing *Dunk* at 1802.) The test is not the maximum amount plaintiff might have obtained at trial on the complaint but, rather, whether the settlement is reasonable under all of the circumstances. (*Wershba* at 250.)

In making this determination, the Court considers all relevant factors including “the strength of [the] plaintiffs’ case, the risk, expense, complexity and likely duration of further litigation, the risk of maintaining class action status through trial, the amount offered in settlement, the extent of discovery completed and the stage of the proceedings, the experience and views of counsel, the presence of a

1 governmental participant, and the reaction of the class members to the proposed settlement.”” (*Kullar v.*
2 *Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th 116, 128 (“*Kullar*”), citing *Dunk* at 1801.)

3 “The fact that a proposed settlement may only amount to a fraction of the potential recovery does
4 not, in and of itself, mean that the proposed settlement is grossly inadequate and should be disapproved.”
5 (*City of Detroit v. Grinnell Corporation* (2d Cir. 1974) 495 F.2d 448, 455; see also *Linney v. Cellular*
6 *Alaska Partnership* (9th Cir. 1998) 151 F.3d 1234, 1242 (“[I]t is the very uncertainty of outcome in
7 litigation and avoidance of wasteful and expensive litigation that induce consensual settlements. The
8 proposed settlement is not to be judged against a hypothetical or speculative measure of what might have
9 been achieved by the negotiators.”)

10 TERMS OF SETTLEMENT AGREEMENT

11 “Class Member(s)” or “Settlement Class” means all persons, including Plaintiff, who worked for
12 Defendants as non-exempt, hourly paid employees in California from August 27, 2015 until November
13 30, 2020. (¶6)

- 14 • “Class Period” means the period from August 27, 2015 to November 30, 2020. (¶7)
- 15 • “Participating Class Members” means all Class Members, including Plaintiff, and their
16 respective spouses, heirs, beneficiaries, devisees, legatees, executors, administrators,
17 trustees, agents, attorneys, conservators, guardians, personal representatives, successors-
18 in-interest, and assigns, who do not submit timely and valid Requests for Exclusion.
19 (¶24)
- 20 • “Aggrieved Employees” means all persons, including Plaintiff, on whose behalf Plaintiff
21 sought civil penalties under the Labor Code Private Attorneys General Act of 2004 (Cal.
22 Lab. Code §§ 2698, et seq., “PAGA”) who worked for Defendants as non-exempt,
23 hourly paid employees in California from August 27, 2018 until November 30, 2020.
24 Such persons constitute Aggrieved Employees regardless of whether they submit
25 Requests for Exclusion. (¶2)
 - 26 ○ “PAGA Period” means the period from August 27, 2018 to November 30,
27 2020. (¶21)
- 28 • The Parties stipulate to class certification for settlement purposes only. (¶75)

1 The Gross Settlement Amount (“GSA”) is \$700,000, non-reversionary. (§16)

2 The Net Settlement Amount (“Net”) of \$373,667 the GSA minus:

- 3 • Up to \$233,333 (1/3) for attorneys’ fees (§3);
- 4 • Up to \$30,000 for attorneys’ costs (Ibid.);
- 5 • Up to \$10,000 for an Enhancement Payment to the class representative (§8);
- 6 • Up to \$15,500 for costs of settlement administration (§30); and
- 7 • Payment of \$37,500 (75% of \$50,000 PAGA penalty) to the LWDA (§22).

8 Defendants will pay the employer’s share of payroll taxes separately from the GSA. (§33)

9 No Claim Requirement. Class Members shall not be required to submit a claim form in order to
10 receive an individual settlement payment. (Notice pg. 1)

11 Response Deadline. The Response Deadline will be forty-five (45) calendar days from the initial
12 mailing of the Notice Packet by the Settlement Administrator, unless the forty-fifth (45th) calendar day
13 falls on a Sunday or State holiday, in which case the Response Deadline will be extended to the next day
14 on which the U.S. Postal Service is open. (29)

15 Calculation of Individual Settlement Payments: Individual Settlement Payments will be
16 calculated and apportioned from the Net Settlement Fund and PAGA Fund based on the number of
17 Workweeks each Participating Class Member and Aggrieved Employee, respectively, worked during the
18 Class Period and PAGA Period, respectively. Specific calculations of Individual Settlement Payments
19 will be made as follows: (§40)

- 20 • Payments from the Net Settlement Fund. The Settlement Administrator will calculate
21 the total number of Workweeks worked by each Class Member during the Class Period
22 and the aggregate total number of Workweeks worked by all Class Members during the
23 Class Period. To determine each Class Member’s estimated “Individual Settlement
24 Payment” from the Net Settlement Fund, the Settlement Administrator will use the
25 following formula: The Net Settlement Fund will be divided by the aggregate total
26 number of Workweeks, resulting in the “Workweek Value.” Each Class Member’s
27 estimated “Individual Settlement Payment” will be calculated by multiplying each
28 individual Class Member’s total number of Workweeks by the Workweek Value. The

1 Individual Settlement Payment will be reduced by any required deductions for each
2 Class Member as specifically set forth herein, including employee-side tax withholdings
3 or deductions. The entire Net Settlement Fund will be disbursed to all Class Members
4 who do not submit timely and valid Requests for Exclusion (i.e., to all Participating
5 Class Members). If there are any valid and timely Requests for Exclusion, the Settlement
6 Administrator shall proportionately increase the Individual Settlement Payment for each
7 Participating Class Member according to the number of Workweeks worked, so that the
8 amount actually distributed to the Settlement Class equals 100% of the Net Settlement
9 Fund, subject to any funds remaining from uncashed funds, which will be distributed to
10 an agreed upon Cy Pres. (§40.a)

- 11 • Payments from the PAGA Fund. The Settlement Administrator will calculate the total
12 number of Workweeks worked by each Aggrieved Employee during the PAGA Period
13 and the aggregate total number of Workweeks worked by all Aggrieved Employees
14 during the PAGA Period. To determine each Aggrieved Employee's estimated
15 "Individual Settlement Payment" from the PAGA Fund, the Settlement Administrator
16 will use the following formula: The PAGA Fund will be divided by the aggregate total
17 number of Workweeks during the PAGA Period, resulting in the "PAGA Workweek
18 Value." Each Aggrieved Employee's "Individual Settlement Payment" will be
19 calculated by multiplying each individual Aggrieved Employee's total number of
20 Workweeks during the PAGA Period by the PAGA Workweek Value. The entire
21 PAGA Fund will be disbursed to all Aggrieved Employees, regardless of whether they
22 request to be excluded from the Settlement Class, subject to any funds remaining from
23 uncashed funds, which will be distributed to an agreed upon Cy Pres. (§40.b)
- 24 • "Workweeks" means the number of weeks of employment for each Class Member and
25 Aggrieved Employee during the Class Period and PAGA Period, respectively, as
26 calculated by taking the number of days of employment (based on the dates of
27 employment provided in the Class List) for each Class Member and Aggrieved
28 Employee during the Class Period and PAGA Period, respectively, dividing by seven

(7), and rounding up to the nearest whole number. All Class Members and Aggrieved Employees will be credited with at least one Workweek. (¶32)

- Tax Allocation: Payment to the Class Members under this Settlement shall be attributed as follows: 25% as wages, 75% as non-wages. (¶55)

Funding of the Settlement. Defendants will make a one-time deposit of the Gross Settlement Amount of Seven Hundred Thousand Dollars (\$700,000) into a Qualified Settlement Account to be established by the Settlement Administrator. Defendants will deposit the Gross Settlement Amount and the employer's share of payroll taxes within ten (10) business days of the Effective Date or on November 15, 2021, whichever is later ("Funding Date"). (¶33)

Uncashed Checks. Funds represented by Individual Settlement Payment checks returned as undeliverable and Individual Settlement Payment checks remaining uncashed for more than one hundred eighty (180) calendar days after issuance will be tendered to the following Cy Pres: the Court Appointed Special Advocates for Children of San Joaquin (serving San Joaquin County), 127 N Sutter St, Stockton, CA 95202. (¶53) All parties and their respective counsel represent that they have no interest or involvement in the governance or administration of Court Appointed Special Advocates for Children of San Joaquin. (See Supp. Declaration of Raul Perez; Declaration of Kendra Wilkerson; Declaration of Diane Marie O'Malley; Declaration of J. Ryan Delamarter)

The Parties agree to use CPT Group, Inc. as the Settlement Administrator. (¶31)

The proposed Settlement Agreement was submitted to the LWDA on April 13, 2021. (See Proof of Service attached to Declaration of Raul Perez)

All class members who do not opt out will release certain claims, discussed in detail below.

ANALYSIS OF SETTLEMENT AGREEMENT

A. Does a Presumption of Fairness Exist?

- 1. Was the Settlement reached through arm's-length bargaining?** Yes. On October 14, 2020, the Parties participated in a full-day mediation with David Rotman. With the mediator's proposal, the Parties were able to negotiate a complete settlement of Plaintiff's claims. (Declaration of Raul Perez ("Perez Decl.") ¶9.)

- 1 2. **Were investigation and discovery sufficient to allow counsel and the Court**
2 **to act intelligently?** Class Counsel represents that in response to Plaintiff's
3 evidentiary requests, Plaintiff's Counsel received documents and data, including
4 employee demographic data, time and pay records, and Defendants' policies and
5 procedures manuals which covered a broad range of topics including, inter alia,
6 employee clock-in policies and procedures, attendance policies, meal
7 periods/rest periods, overtime & premium pay, etc. Following the production of
8 the Class Members' contact information pursuant to a privacy notice mailing,
9 Plaintiff's Counsel also interviewed twenty-six Class Members from all six of
10 Defendants' facilities to determine the extent and frequency of the alleged Labor
11 Code violations and to learn more about the day-to-day circumstances giving
12 rise to the alleged violations. (*Id.* at ¶¶ 5-6.)
- 13 3. **Is counsel experienced in similar litigation?** Yes. Class Counsel is
14 experienced in complex litigation, including wage and hour class action cases.
15 (*Id.* at Exhibit 2.)
- 16 4. **What percentage of class has objected?** This cannot be determined until the
17 fairness hearing. See Weil & Brown, Cal. Practice Guide: Civil Procedure
18 Before Trial (The Rutter Group 2011) ¶ 14:139.18 ("Should the court receive
19 objections to the proposed settlement, it will consider and either sustain or
20 overrule them at the fairness hearing.")

21 **B. Is the settlement fair, adequate and reasonable?**

- 22 1. **Strength of Plaintiffs' case.** "The most important factor is the strength of the
23 case for plaintiffs on the merits, balanced against the amount offered in
24 settlement." (Kullar at 130.) Class Counsel has provided information,
25 summarized below, regarding the maximum values of the claims asserted:

Defendant's Exposure for the Class Claims	
Meal Period Claim	\$463,890.00
Rest Period Claim	\$1,159,730.00
Off-the-Clock Claim	\$344,215.00

Defendant's Exposure for the Class Claims	
Business Expense Reimbursement Claim	\$27,505.00
Split Shift Claim	\$38,420.00
Wage Statement Claim	\$143,400.00
Final Pay Claim	\$631,760.00
PAGA Penalties	\$657,500.00
Total	\$3,466,420.00

2. **Risk, expense, complexity and likely duration of further litigation.** Further litigation carried the possibility of non-certification and unfavorable rulings on the merits on the above legal issues.
3. **Risk of maintaining class action status through trial.** It would have been Plaintiff's burden to maintain the class action through trial.
4. **Amount offered in settlement.** Plaintiff calculated Defendant's maximum exposure at \$3,466,420. The settlement amount of \$700,000 represents approximately 20.2% of Defendant's maximum exposure on the claims alleged, which, given the uncertain outcomes is within the "ballpark of reasonableness." Assuming the requested deductions are taken in full, \$373,667 will remain for distribution to approximately 1,500 class members. Assuming full participation, each Class Member will receive approximately \$249.11 after all other deductions are taken from the settlement amount. [$\$373,667 / 1,500 = \249.11]
5. **Extent of discovery completed and the stage of the proceedings.** As stated above, it appears that Class Counsel has completed sufficient discovery in order to make an informed decision.
6. **Experience and views of counsel.** As indicated above, Class Counsel is experienced in class actions, including cases involving wage and hour violations.
7. **Presence of a governmental participant.** This factor is not applicable here.
8. **Reaction of the class members to the proposed settlement.** The class members' reactions will not be known until they receive notice and are afforded an opportunity to object or opt-out. This factor becomes relevant during the

1 fairness hearing.

2 **SCOPE OF RELEASE**

3 Release of Claims. Effective as of the Funding Date, and in exchange for consideration provided
4 pursuant to this Settlement Agreement, Plaintiff and other Participating Class Members and Aggrieved
5 Employees and their respective spouses, heirs, beneficiaries, devisees, legatees, executors,
6 administrators, trustees, agents, attorneys, conservators, guardians, personal representatives, successors-
7 in-interest and assigns (collectively, the “Releasing Persons”) hereby forever completely release and
8 discharge Defendants and their direct and indirect subsidiaries and affiliates, and their past, present and
9 future parents, affiliates, subsidiaries, divisions, predecessors, successors, partners, shareholders, joint
10 ventures, affiliated organizations, insurers and assigns and each of their past present and future officers,
11 directors, trustees, agents, employees, attorneys, fiduciaries, contractors, representatives, partners, joint
12 ventures, benefit plans sponsored or administered by them, divisions, units, branches and other persons
13 or entities acting on their behalf (collectively, the “Released Parties”), from any and all of the following
14 claims (collectively, the “Released Claims”): (§62)

- 15 • Any and all claims, causes of action, demands, rights, liabilities, expenses and losses of
16 every nature and description whatsoever that arise from or relate to the facts, claims,
17 conduct, or circumstances alleged in the Action, that any of the Releasing Persons have,
18 might have, or might have had against any of the Released Parties at any time prior to
19 and through the Class Period and PAGA Period based on the facts, claims, or allegations
20 in the Complaint, including but not limited to those alleged, pled or could have been
21 alleged or pled in the Complaint such as: (1) Violation of California Labor Code §§ 510
22 and 1198 (Unpaid Overtime); (2) Violation of California Labor Code §§ 1182.12, 1194,
23 1197, 1197.1, and 1198 (Unpaid Minimum Wages); (3) Violation of California Labor
24 Code §§ 226.7, 512(a), 516, and 1198 (Failure to Provide Meal Periods); (4) Violation
25 of California Labor Code §§ 226.7, 516, and 1198 (Failure to Authorize and Permit Rest
26 Periods); (5) Violation of California Labor Code §§ 226(a), 1174(d), and 1198 (Non-
27 Compliant Wage Statements and Failure to Maintain Payroll Records); (6) Violation of
28 California Labor Code §§ 201 and 202 (Wages Not Timely Paid Upon Termination); (7)

1 Violation of California Labor Code §§ 551, 552, and 558 (Failure to Provide One Day
2 of Rest in Seven); (8) Violation of California Labor Code § 2802 (Unreimbursed
3 Business Expenses); (9) Civil Penalties for Violations of California Labor Code,
4 Pursuant to PAGA, §§ 2698, et seq. based on the preceding claims; (10) Violation of
5 California Business & Professions Code §§ 17200, et seq. (Unlawful Business Practices)
6 based on the preceding claims; and (11) Violation of California Business & Professions
7 Code §§ 17200, et seq. (Unfair Business Practices) based on the preceding claims. (¶62)

- 8 • Aggrieved Employees May Not Opt-Out or Object to the PAGA Settlement. Because
9 this Settlement resolves claims brought pursuant to PAGA by Plaintiff acting as a proxy
10 and as a Private Attorney General of and for the State of California and the LWDA, no
11 Aggrieved Employee has the right to object to the sufficiency of the PAGA Settlement
12 Amount, or to opt out of the release of the claims for PAGA civil penalties set forth in
13 the Released Claims. All Aggrieved Employees will release the PAGA claims set forth
14 in the Released Claims, and will be paid their respective shares of the PAGA Fund,
15 regardless whether they submit timely and valid Requests for Exclusion. (¶49)
- 16 • Named Plaintiff will additionally provide a general release and §1542 waiver. (¶63)

17 **CONDITIONAL CLASS CERTIFICATION**

18 **A. Standards**

19 A detailed analysis of the elements required for class certification is not required, but it is
20 advisable to review each element when a class is being conditionally certified. (*Amchem Products, Inc. v.*
21 *Winsor* (1997) 521 U.S. 620, 622-627.) The trial court can appropriately utilize a different standard to
22 determine the propriety of a settlement class as opposed to a litigation class certification. Specifically, a
23 lesser standard of scrutiny is used for settlement cases. (*Dunk* at 1807, fn. 19.) Because a settlement
24 eliminates the need for a trial, when considering whether to certify a settlement class, the court is not
25 faced with the case management issues present in certification of a litigation class. (*Global Minerals &*
26 *Metals Corp. v. Superior Court* (2003) 113 Cal.App.4th 836, 859.) Finally, the Court is under no
27 “ironclad requirement” to conduct an evidentiary hearing to consider whether the prerequisites for class
28 certification have been satisfied. (*Wershba* at 240.)

1 B. **Analysis**

2 1. **Numerosity.** There are approximately 1,500 putative class members. (Motion at
3 14:17.) Thus, numerosity has been sufficiently established.

4 2. **Ascertainability.** “A class is ascertainable, as would support certification under
5 statute governing class actions generally, when it is defined in terms of objective characteristics
6 and common transactional facts that make the ultimate identification of class members possible
7 when that identification becomes necessary.” (*Noel v. Thrifty Payless, Inc.* (2019) 7 Cal.5th 955,
8 961.) Here, the class is defined above. Class members are ascertainable from Defendant’s
9 regular business records. (Motion at 29:24-25.)

10 3. **Community of interest.** “The community of interest requirement involves three
11 factors: ‘(1) predominant common questions of law or fact; (2) class representatives with claims
12 or defenses typical of the class; and (3) class representatives who can adequately represent the
13 class.’” (*Linder v. Thrifty Oil Co.* (2000) 23 Cal.4th 429, 435.) As to commonality, Plaintiff
14 contends that common issues of fact and law predominate because the California statutes
15 relating to each of Plaintiff’s claims, and Defendants’ defenses thereto, apply with equal force
16 and effect to all Class Members. Factually, Plaintiff contends that Defendants’ policies and
17 practices apply class-wide and Defendants’ liability can be determined by facts common to all
18 members of the class. (Motion at 29:26-30:1.) As to typicality, Plaintiff contends that her wage
19 and hour claims are typical of the proposed Settlement Class because they arise from the same
20 factual bases and are based on the same legal theories applicable to the other Class Members.
21 (Motion at 30:4-6.) As to adequacy, Plaintiff asserts that her interests are coextensive with the
22 interests of the Class. Plaintiff maintains that she was injured by the same company-wide
23 practices to which the proposed Settlement Class was subject and seeks the same relief. (Motion
24 at 30:6-10.)

25 4. **Adequacy of class counsel.** As indicated above, Class Counsel is experienced
26 in class actions, including cases involving wage and hour violations.

27 5. **Superiority.** Given the relatively small size of the individual claims, a class
28 action appears to be superior to separate actions by the class members.

1 Since the elements of class certification have been met, the class may be conditionally certified
2 at this time.

3 NOTICE TO CLASS

4 A. Standard

5 California Rules of Court, rule 3.769(e) provides: "If the court grants preliminary approval, its
6 order must include the time, date, and place of the final approval hearing; the notice to be given to the
7 class; and any other matters deemed necessary for the proper conduct of a settlement hearing."

8 Additionally, rule 3.769(f) states: "If the court has certified the action as a class action, notice of the final
9 approval hearing must be given to the class members in the manner specified by the court. The notice
10 must contain an explanation of the proposed settlement and procedures for class members to follow in
11 filing written objections to it and in arranging to appear at the settlement hearing and state any objections
12 to the proposed settlement."

13 B. Form of Notice

14 The proposed notice is attached to the Settlement Agreement as Exhibit A. The information
15 provided in the proposed notice includes: a summary of the litigation, the nature and terms of the
16 settlement, the proposed deductions from the gross settlement amount, the procedures for participating
17 in, opting out of, or objecting to the settlement, and the time, date, and location of the final approval
18 hearing.

19 C. Method of Notice

20 Within twenty (20) calendar days of Preliminary Approval, Defendants shall provide the
21 Settlement Administrator with the Class List. This information shall be treated by the Settlement
22 Administrator as highly confidential and shall not be shared with anyone absent Defendants' express
23 approval. (¶43)

24 Within ten (10) calendar days after receiving the Class List from Defendants, the Settlement
25 Administrator will mail a Notice Packet to all Class Members/Aggrieved Employees via regular First-
26 Class U.S. Mail, using the last known mailing addresses identified in the Class List. Prior to mailing, the
27 Settlement Administrator will perform a search based on the National Change of Address Database for
28 information to update and correct for any known or identifiable address changes. Any Notice Packets

1 returned to the Settlement Administrator as non-deliverable on or before the Response Deadline will be
2 sent promptly via regular First-Class U.S. Mail to the forwarding address affixed thereto and the
3 Settlement Administrator will indicate the date of such re-mailing on the Notice Packet. If no forwarding
4 address is provided, the Settlement Administrator will promptly attempt to determine the correct address
5 using a skip-trace, or other search using the name, address and/or Social Security Number of the Class
6 Member/Aggrieved Employee involved, and will then perform a single re-mailing. Those Class
7 Members/Aggrieved Employees who receive a re-mailed Notice Packet, whether by skip-trace or by
8 request, will have either (i) an additional fifteen (15) calendar days or (ii) until the Response Deadline,
9 whichever is later, to submit a Request for Exclusion or an objection to the Settlement. (§44)

10 **D. Cost of Notice**

11 The cost of settlement administration is estimated at \$15,500 (§30). This amount appears
12 reasonable. However, prior to the time of the final fairness hearing, the settlement administrator must
13 submit a declaration attesting to the total costs incurred and anticipated to be incurred to finalize the
14 settlement for approval by the Court.

15 **ATTORNEY FEES AND COSTS**

16 California Rules of Court, rule 3.769(b) states: “Any agreement, express or implied, that has
17 been entered into with respect to the payment of attorney fees or the submission of an application for the
18 approval of attorney fees must be set forth in full in any application for approval of the dismissal or
19 settlement of an action that has been certified as a class action.” Ultimately, the award of attorney fees is
20 made by the Court at the fairness hearing, using the lodestar method with a multiplier, if appropriate.
21 (*PLCM Group, Inc. v. Drexler* (2000) 22 Cal.4th 1084, 1095-1096; *Ramos v. Countrywide Home Loans,*
22 *Inc.* (2000) 82 Cal.App.4th 615, 625-626; *Ketchum III v. Moses* (2000) 24 Cal.4th 1122, 1132-1136.) In
23 common fund cases, the Court may utilize the percentage method, cross-checked by the lodestar.
24 (*Laffitte v. Robert Half Int’l, Inc.* (2016) 1 Cal.5th 480, 503.) Despite any agreement by the parties to the
25 contrary, “the court has an independent right and responsibility to review the attorney fee provision of the
26 settlement agreement and award only so much as it determined reasonable.” (*Garabedian v. Los Angeles*
27 *Cellular Telephone Company* (2004) 118 Cal.App.4th 123, 128.)

28 The question of whether class counsel is entitled to \$233,333 (1/3) in fees will be addressed at

the fairness hearing when class counsel brings a noticed motion for attorney fees.

Counsel should also be prepared to justify any costs sought (capped at \$30,000) by detailing how such costs were incurred.

PROPOSED SCHEDULE OF SETTLEMENT PROCEEDINGS

The following dates shall govern for purposes of this Settlement:

Date	Event
July 8, 2021 (or not later than 20 calendar days after the Court grants preliminary approval of the Settlement Agreement, if later)	Last day for Defendants to produce the Class List to the Settlement Administrator.
July 18, 2021 (or not later than 10 calendar days after Defendants produce the Class List, if later)	Last day for the Settlement Administrator to mail Notice Packets to all Class Members.
September 1, 2021 (or not later than 45 calendar days after the Settlement Administrator mails the Notice Packets, if later)	Last day for Class Members to submit Requests for Exclusion or Objections to the Settlement.
October 14, 2021	Last day for Plaintiff to file the Motion for Final Approval of Class and PAGA Representative Action Settlement and Motion for Attorneys' Fees, Costs, and a Class Representative Enhancement Payment.
November 5, 2021 at 11 a.m.	Hearing on Motion for Final Approval of Class and PAGA Representative Action Settlement and Motion for Attorneys' Fees, Costs, and a Class Representative Enhancement Payment.

The Court expressly reserves the right to continue or adjourn the final approval hearing without further notice to the Class Members.

COMPLIANCE WITH CCP SECTION 384

No later than ten (10) business days after the check cashing deadline, the Parties shall file a report/declaration summarizing all distributions made pursuant to the Settlement.

Thirty (30) days after the report is filed with the Court, the parties shall prepare and file a stipulation and proposed order and Proposed Amended Judgment. The stipulation and proposed order shall include, *inter alia*, the amount of the distribution of unpaid cash residue, and unclaimed or abandoned funds to the non-party, the accrued interest on that sum and any other information required to be set forth pursuant to Section 68520 of the Government Code, as incorporated into CCP Section 384.5. The stipulation shall be signed by counsel for the class, defendant's counsel and counsel for (or an authorized representative of) the non-party ("cy pres") recipient. The stipulation shall include a statement

1 to the effect that all interested persons are in accord with the amended judgment and have no objection to
2 the entry of an amended judgment. If there are objections by any party, class counsel shall immediately
3 notify the court and the matter will be set for further hearing. Pursuant to Section CCP 384.5, a
4 conformed copy of the stipulation and order and amended Judgement (once signed by the Court) shall be
5 forwarded by class counsel to the Judicial Council.

6
7 **IT IS SO ORDERED.**

8 Dated: 6/23/21

9 
Hon. Ann I. Jones
Los Angeles County Superior Court Judge