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*Attorneys for Plaintiffs***SUPERIOR COURT OF THE STATE OF CALIFORNIA****FOR THE COUNTY OF MARIN**

URSULA GRUENERT, on behalf of
herself, all other similarly situated and
typical individuals, and the general public,

Plaintiff,

vs.

TAMALPAIS UNION HIGH SCHOOL
DISTRICT; and DOES 1 through 50,
inclusive,

Defendant(s).

Case No.: CIV-2103521

Class Action, CCP §382

**JOINT MOTION FOR PRELIMINARY
APPROVAL OF CLASS ACTION AND
PAGA SETTLEMENT, SERVICE
AWARD, ATTORNEYS FEES AND
COSTS, AND MEMORANDUM OF
POINTS AND AUTHORITIES IN
SUPPORT THEREIN**

Complaint Filed: September 23, 2021

First Amended Complaint Filed: February 9,
2022Judge: Assigned for all purposes to Hon. James
T. Chou

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1 **PLEASE TAKE NOTICE THAT** on ~~THU~~ ~~DEC~~ THU, at ~~FILED~~ FILED,
2 or as soon thereafter as the matter may be heard before the Honorable James T. Chou in
3 Courtroom B of the above-captioned Court, located at Civic Center, Hall of Justice, 3501 Civic
4 Center Drive, San Rafael, California 94903, Plaintiff Ursula Gruenert (“Plaintiff”), on behalf of
5 herself and all others similarly situated, and Defendant Tamalpais Union High School District
6 (“Defendant TUHSD”) (collectively referred to as “the Parties”), will move the Court pursuant
7 to California Rule of Court 3.769 for an order: (1) granting preliminary approval of the proposed
8 class action settlement set forth in the Settlement Agreement and Release of Claims; (2)
9 conditionally certifying the proposed class for settlement purposes only; (3) authorizing the
10 parties to provide the proposed Notice of Class Action and PAGA Settlement to the Class through
11 mailing by the Claims Administrator; (4) approving the proposed deadlines for the notice and
12 settlement administration process; and (5) scheduling a hearing for final approval of settlement.
13 A Proposed Order is filed concurrently with this Motion.

14 This Motion is based on this Notice of Motion, the Memorandum of Points and
15 Authorities attached hereto, the Declaration of Leah L. Jones attached hereto, the Settlement
16 Agreement and Release of Claims and Exhibits thereto are attached to the Declaration of Leah L.
17 Jones as Exhibit 1, the other papers on file in this action, and such other evidence, oral or
18 documentary, as the Court may receive at or before the hearing on this Motion.

19 DATED this ____ day of November 2023.	DATED this ____ day of November 2023.
20 THIERMAN BUCK, LLP	JOHNSON SCHACHTER & LEWIS
21 _____ 22 /s/	_____ 22 /s/
23 Mark R. Thierman	Kellie M. Murphey
23 Joshua D. Buck	Kristen M. Caprino
24 Leah L. Jones	
24 Joshua R. Hendrickson	<i>Attorneys for Defendant</i>
25 STEPHAN ZOURAS, LLP	
26 Ryan Stephen	
27 Catherine Mitchell	
28 _____ <i>Attorneys for Plaintiff</i>	

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1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. INTRODUCTION**

3 Pursuant to California Rule of Court 3.769, Plaintiff and Defendant respectfully request
4 that this Court grant preliminary approval of the Settlement Agreement and Release of Claims
5 (the “Settlement Agreement”) reached between Plaintiff Gruenert and TUHSD. A copy of the
6 Settlement Agreement is attached as Exhibit 1 to the attached Declaration of Leah L. Jones
7 (hereinafter “Jones Dec.”). In particular, the Parties request that the Court: (1) grant preliminary
8 approval of the proposed class action settlement set forth in the Settlement Agreement; (2)
9 conditionally certify the proposed class for settlement purposes only; (3) authorize the parties to
10 provide the proposed Notice of Class Action and PAGA Settlement to the Class through mailing
11 by the class administrator; (4) approve the proposed deadlines for the notice and settlement
12 administration process; and (5) schedule a hearing for final approval of the settlement.

13 The Parties seek preliminary approval of the Settlement Agreement entered into by
14 Plaintiff, individually and on behalf of the Class, on the one hand, and Defendant Tamalpais
15 Union High School District, on the other hand. The Parties have agreed to settle this lawsuit
16 subject to approval by the Court, for a Total Settlement Amount¹ of four hundred twenty-five
17 thousand dollars (\$425,000.00). *See* Settlement Agreement at ¶ III.1.

18 The Total Settlement Amount includes the following:

19 (1) Attorneys’ fees in an amount up to one hundred thousand dollars (\$100,000.00)
20 (“Attorneys’ Fees”) at SA ¶ III.6;

21 (2) Attorneys’ costs and expenses in an amount up to seventeen thousand dollars
22 (\$17,000.00) (“Attorneys’ Costs and Expenses”). *Id.*, ¶ III.7;

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27 ¹ This Motion incorporates by reference the definitions in the Settlement Agreement
28 between Plaintiffs and Defendant and terms used herein shall have the same meaning as set for
the in the Settlement Agreement, hereinafter “Settlement” or “SA” attached as Exhibit 1 to the
Declaration of Leah L. Jones, hereinafter “Jones Dec.” at ¶ 8.

(3) Payment to Plaintiff Gruenert in an amount up to ten thousand dollars (\$10,000.00) for serving as the Class Representative and in exchange for her signing a general release of all her potential claims (“Service Award/General Release Payment”). *Id.*, ¶ III.5;

(4) Fifteen thousand dollars (\$15,000.00) allocated towards penalties under California Labor Code Private Attorneys General Act of 2004 (“PAGA Payment”).² *Id.*, ¶ III.4;

(5) Settlement Administration Costs, which are currently estimated not to exceed seven thousand five hundred dollars (\$7,500.00), *Id.*, ¶ III.8; and

(6) The Net Settlement Amount (which is the amount available for Class Members to claim under the Settlement). *Id.*, ¶¶ I.k and II.2.

Class Members who do not opt-out of the Settlement (“Settlement Class Member”) will receive a portion of the Net Settlement Amount distributable to each Settlement Class Member based on the Parties investigation and agreement of eighteen (18) hours per workweek worked during the Class Period (“Hours Worked”). *Id.*, ¶ III.3. The hourly rate shall be calculated based on Defendant’s stipend amount for each Class Member’s particular coaching position range set forth in the 2019/2022 TUHSD Agreement between TUHSD and the Tamalpais Federation of Teachers (“Settlement Payment Amounts”). *Id.* Each Settlement Class Member’s Settlement Amount shall be the product of their Hours Worked multiplied by the Per Hour Rate. *Id.* For tax purposes, each Individual Payment Amounts shall be allocated as 1/3 wages (for which a W-2 shall be issued), 1/3 interest, and 1/3 penalties (for which the appropriate IRS form shall be issued). *Id.* The Net Settlement Amount refers to the Total Settlement Amount, less the Court-approved amounts for the Attorneys’ Fee and Costs, Service Award/General Release Payment to Plaintiff Gruenert, Settlement Administration Costs, and Labor and Workforce Development Agency’s share of the PAGA penalties. *Id.*, ¶¶ III,1-8. This Settlement resolves the Released Claims of Plaintiff Gruenert and the Class Members who do not opt-out of the Settlement. *Id.*, ¶ I.s.

² In accordance with California Labor Code Section 2699(i), \$11,250.00 of the amount allocated to penalties under PAGA (75% of \$15,000.00) will be distributed to the California Labor Workforce Agency, and \$3,750 (25% of \$15,000.00) will remain a part of the Net Settlement Amount for distribution to Claimants on a claims-made basis. Settlement Agreement at ¶ III.4.

1 The Parties also seek to provisionally certify the following Class for settlement purposes
2 only, which consists of approximately 164 individuals: All persons who were employed by
3 Defendant as sports coaches who were paid on a per season basis excluding all classified and
4 certified employees and volunteers, *i.e.*, persons who did not receive a W-2, at any time during
5 the period from September 23, 2019, through June 30, 2023. *Id.*, ¶ I.c and d.

6 By way of this Motion, the Parties also seek an order preliminarily appointing Plaintiff
7 Gruenert as Class Representative; preliminarily appointing Thierman Buck, LLP as counsel for
8 the Class; appointing ILYM as Claims Administrator; and approving the proposed deadlines for
9 the notice and settlement administration process. *See* Settlement Agreement at Exhibit B.

10 **II. SUMMARY OF FACTS AND PROCEDURAL BACKGROUND**

11 Plaintiff filed her original complaint on September 23, 2021, as a class and representative
12 action against Defendant Marin County Office of Education (“MCOE”) and Defendant TUHSD
13 asserting four causes of action on behalf of sports coaches for alleged wage violations. After the
14 Parties met and conferred, Plaintiff filed the operative First Amended Complaint (“FAC”) on
15 February 9, 2022, which removed Plaintiff’s cause of action for inaccurate wage statements. At
16 that time the operative FAC alleged: (1) failure to pay minimum wages in violation of the
17 California Lab Code, (2) Private Attorney General Act Violations, and (3) Unfair Business
18 Practices against both Defendants.

19 Defendants filed a joint demurrer on April 14, 2022, which was fully briefed. The Court
20 issued a tentative ruling on August 23, 2023. The Court heard oral argument on August 24, 2022,
21 ultimately adopting its tentative ruling in total, sustaining Defendant MCOE’s demurrer without
22 leave to amend; thus, MCOE was dismissed with prejudice. The Court also sustained Defendant
23 TUHSD’s demurrer without leave to amend on the unfair business practice claim. However, the
24 Court overruled Defendant TUHSD’s demurrer on Plaintiff’s minimum wage and PAGA claims.

25 Plaintiff contends that Defendant violated the California Labor Code and that this case is
26 appropriate for class action treatment. Plaintiff’s counsel has conducted a thorough investigation
27 into the facts and law during the prosecution of this action, including the exchange of formal and
28

1 informal discovery, and the review of pay data and other facts and information provided by
2 Defendant. The Parties have investigated the applicable law as applied to the facts discovered
3 regarding Plaintiff's claims, the potential defenses thereto, and Plaintiff's asserted damages.
4 Throughout this action, Defendant TUHSD has denied, and continues to deny, each and every
5 cause of action, claim, and contention asserted against it, any basis for liability, and any basis or
6 grounds for class certification.

7 On April 5, 2023, the Parties participated in a full day, in-person mediation session with
8 Norman Brand, a respected mediator with broad experience resolving employment actions, class
9 actions, and school district cases. Although the case did not settle that day, the Parties were able
10 to narrow the scope of their opposing issues and after an exchange of additional data and legal
11 positions, participated in a second, half day Zoom mediation session on May 12, 2023, when the
12 basic terms of the Settlement Agreement were reached through extensive continued mediation
13 efforts by the Parties and Mr. Brand.

14 Based on their own independent investigations and evaluations, the Parties are of the
15 opinion that the Settlement Agreement is fair, reasonable, and adequate and is in the best interests
16 of Plaintiff and the Settlement Class in light of all know facts and circumstances, including the
17 risk of significant delay during further litigation, the risk the Class will not be certified by the
18 Court, and the defenses asserted by Defendant. *See* Jones Dec. at ¶ 8.

19 **III. THE PROPOSED SETTLEMENT**

20 The proposed settlement is on behalf of Plaintiff Gruenert and a proposed class of former
21 and current employees.

22 The settlement provides for a Total Settlement Amount of four hundred twenty-five
23 thousand dollars (\$425,000.00). *See* Settlement Agreement at ¶ III.1.

24 The settlement provides for individualized Notice to each Class Member. The proposed
25 Notice would be sent via First Class Mail and advise Class Members about the lawsuit and
26 settlement. *Id.*, ¶ III.11-12.

The settlement provides for address verification by the Claims Administrator to help Class Members receive the Notice even if the information provided to the Claims Administrator is not current. *Id.*, ¶ III.13. The proposed Notice will inform each Class Member of the estimated amount each Class Member will receive and how it was calculated so that Class Members will have complete information about the settlement and can respond accordingly. *Id.*, ¶ III.11-16.

A Notice of Settlement of Class Action and Settlement Hearing (“Notice of Class Settlement”), in the form attached to the Settlement Agreement as Exhibit A, shall be sent by the Claims Administrator to all Class Members by First Class Mail, within fourteen (14) days of the Claims Administrator’s receipt of the Class List, which shall be delivered by Defendant TUHSD to the Claims Administrator within twenty-one (21) days of the date that the Court signs the Order preliminarily approving the settlement, or as otherwise ordered by the Court. *Id.*, ¶ III.12. A follow-up mailing to any updated addresses shall be sent by First Class Mail. *Id.*, ¶ III.13. Included in the Notice of Class Settlement will be the estimated amount that the Class Member will receive as his or her share of the settlement. *Id.*, ¶ III.11.

The Total Settlement Amount is \$425,000.00, which is inclusive of a request for reasonable attorneys’ fees for Class Counsel in a sum not to exceed \$100,000.00 (approximately 23.5% of the Total Settlement Amount), actual litigation expenses incurred by Class Counsel in a sum not to exceed \$17,000.00, a request for a service enhancement to the Class Representative in the sum of \$10,000.00, payment to the State of California (Labor and Workforce Development Agency (“LWDA”) for Penalties under PAGA in the sum of \$11,250.00, and payment to the Claims Administrator in a sum not to exceed \$7,500.00. *Id.*, ¶ III.1-2, 4-8.

The amount of the Net Settlement Amount that each class member who does not opt-out of the Settlement (“Claimants”) is eligible to claim is the portion of the Net Settlement Amount distributable to each Settlement Class Member based on the Parties investigation and agreement of eighteen (18) hours per workweek worked during the Class Period (“Hours Worked”). *Id.*, ¶ III.3. The hourly rate shall be calculated based on Defendant’s stipend amount for each Class Member’s particular coaching position range set forth in the 2019/2022 TUHSD Agreement between TUHSD and the Tamalpais Federation of Teachers (“Settlement Payment Amounts”).

Each Settlement Class Member's Settlement Amount shall be the product of their Hours Worked multiplied by the Per Hour Rate. *Ibid.* For tax purposes, each Individual Payment Amounts shall be allocated as 1/3 wages (for which a W-2 shall be issued), 1/3 interest, and 1/3 penalties (for which the appropriate IRS form shall be issued). *Ibid.* The Net Settlement Amount refers to the Total Settlement Amount, less the Court-approved amounts for the Class Counsel Fee and Cost Awards, Class Representative Enhancement Award, Settlement Administration Costs, and Labor and Workforce Development Agency's share of the PAGA penalties. *Id.*, ¶ III.1-2, 4-8. This Settlement resolves the Released Claims of Plaintiff Gruenert and the Class Members who do not opt-out of the Settlement. *Id.*, ¶ III.9.

Pursuant to the Settlement Agreement, the Claims Administrator will be employed to administer (a) the sending of Notice of Class Settlement, (b) the receipt of objections to the settlement from the Class Members, (c) the issuance and mailing of checks to Class Members covering their pro-rata portion of the net settlement amount (net of withholdings as to that portion designated as wages), (d) the withholding and payment of income and the employees' share of employment taxes; (e) payment to the named Plaintiff of the service enhancement, (f) payment to Class Counsel of attorneys' fees and costs, (f) payment to the LWDA for its share of PAGA penalties; and (g) resolving any disputes by a Class Member regarding the number of weeks worked during the class period. *Id.*, ¶ III.8, III.11-18.

Excluded from the Class are all persons who elect to opt-out as set forth in ¶ III.14 of the Settlement Agreement. There is also a procedure by which Class Members can object to the settlement. *See* Settlement Agreement at ¶ III.16. In addition, Class Members will also have an opportunity to dispute the number of workweeks and/or stipend amount determined by TUHSD and verified by the Claims Administrator. *Id.*, ¶ III.15.

Upon the Final Approval Date, Plaintiff Gruenert and all Class Members, except those who have excluded themselves by a timely and valid submission of an Opt-Out request, will be deemed to have, by operation of the final approval order and judgment, released all Released Claims, as defined in ¶ III.9 of the Settlement Agreement.

1 **IV. LEGAL STANDARD**

2 Because the final approval hearing will provide a complete opportunity to review this
3 settlement (with the benefit of the reaction of the Class), the burden on the party seeking
4 preliminary approval is relatively light and such an approval is appropriate so long as the proposed
5 settlement is “within the range of possible approval.” *In Re General Motors Corp. Engine*
6 *Interchange Litigation* (7th Cir.1979) 594 F.2nd 1106, 1124 [quoting and following the Manual for
7 Complex Litigation]; *Horton v. Merrill Lynch, Pierce, Fenner and Smith, Inc.* (E.D.N.C. 1994)
8 855 F.Supp.825, 827.³ In other words, because the party seeking preliminary approval is simply
9 requesting the opportunity to allow absent or previously uninvolved Class Members to respond
10 to the settlement, the preliminary approval is at most a determination that there is what might be
11 termed “probable cause” to submit the proposal to Class Members and hold a full scale hearing
12 to its fairness. *In Re Traffic Executive Association-Eastern Railroads* (2nd Cir. 1980) 627 F.2nd
13 631, 634. Because, as set forth above, the instant settlement was reached through informed, arm’s
14 length bargaining between experienced counsel, with the assistance of Norman Brand, a respected
15 mediator with broad experience resolving employment actions, class actions, and school district
16 cases, it is clear that the parties have met the limited threshold. As set forth above, the instant
17 settlement comes after thorough investigation into the facts and law during the prosecution of this
18 action, including the exchange of formal and informal discovery, review of pay data and other
19 facts and information provided by Defendant. As such, the parties respectfully request that the
20 Court grant preliminary approval of the settlement, authorize Notice to the Class Members, and
21 schedule a final fairness hearing.

22 **V. THIS CASE PRESENTS NO DEFICIENCIES SUGGESTING UNFAIRNESS**

23 The proposed settlement was a product of an arms-length negotiation between
24 experienced counsel that followed a full day mediation and subsequent half-day session before
25 Norman Brand, an experienced and well-respected Mediator. *See* Jones Dec. at ¶ 7. Moreover,
26

27 ³ The California Supreme Court has made clear that state courts should look to Federal
28 precedent on class action procedures. *City of San Jose v. Superior Court* (1974) 12 Cal.3rd 447,
453; *Vasquez v. Superior Court* (1971) 4th Cal.3rd 800, 821.)

1 the half-day session was required in order to enable Defendants to provide Class Counsel and
2 mediator Brand with additional compensation information, a putative number of class members,
3 and review of competing case law, all of which were more than sufficient information to allow
4 Class Counsel to evaluate these claims. *Id.* Class Counsel is experienced in this type of litigation,
5 and they have represented that the settlement is fair and reasonable. *Id.*, ¶ 8.

6 **VI. LIABILITY IS CONTESTED AND THE SETTLEMENT PROVIDES FOR**
7 **REASONABLE COMPENSATION FOR CLASS MEMBERS' DAMAGES**

8 Pursuant to *Kullar v. Footlocker* (2008) 168 Cal.App.4th 116, Class Counsel have
9 performed a class wide damages assessment and determined in Class Counsel's opinion that if
10 Plaintiff Gruenert and all class members prevailed on their wage violation theories, the non-
11 penalty wage exposure would be approximately \$539,586.45. *See Jones Dec.* at ¶ 6. Defendant
12 TUHSD, of course, disputed any potential liability with respect to its compensation plan. Counsel
13 for Plaintiff Gruenert and the putative class, and Counsel for Defendant TUSHD believes that the
14 settlement of \$425,000.00 is fair and reasonable given the uncertainty with respect to whether
15 TUHSD's compensation plan was legal and the dispute over the calculation of damages and the
16 potential for liquidated damages, which could double Defendant's exposure.

17 **VII. PLAINTIFF GRUENERT'S INDIVIDUAL PAYMENT SHOULD BE**
18 **PRELIMINARILY APPROVED**

19 In exchange for her agreement to release all potential known and unknown individual
20 claims against Defendant, Plaintiff Gruenert agrees to a service award of \$10,000.00, which also
21 recognizes her time and efforts on behalf of the Class and the risk she took in being named
22 Plaintiff. *See SA*, ¶ III.5 and 9. "Courts routinely approve incentive awards that compensate
23 named Plaintiffs for the services they provide and the risk they incur during the course of the class
24 action litigation." *Ingram v. Coca Cola Co.*, 200 F.R.D. 685, 694 (N.D. GA. 2001) (quoting *In*
25 *Re Southern Ohio Correctional Facility*, 175 F.R.D. 270, 272 (S.D. Ohio 1997)); *see also Manual*
26 *on Complex Litigation*, ¶30.42 Fn. 763 (noting that such awards "may sometimes be warranted
27 for time spent meeting with class members or responding to discovery"). In the *Coca Cola* case,
28 the Court approved significant incentive awards to each named Plaintiff in recognition of the

1 services he or she provided to the Class by responding to discovery, participating in the mediation
2 process and taking the risk of stepping forward on behalf of the Class. *See Coca Cola, supra*, at
3 694; *see also Van Vranken v. Atlantic Richfield Co.*, 941 F.Supp.294 (N.D. Cal. 1995) (approving
4 \$50,000 participation award). In this case, Plaintiff Gruenert has spent substantial time with Class
5 Counsel, provided information relevant to the case, reviewed documents, provided documents,
6 provided a declaration, participated in the two mediation sessions (one in person full-day session
7 and one-half day Zoom session), and reviewed the Settlement Agreement. *See Jones Dec.* at ¶
8 12. More importantly, she took a substantial risk being a named Plaintiff in a class action lawsuit
9 against her employer or former employer. *Id.* Needless to say, this could adversely affect her
10 prospects of future employment, in that any employer who performs a litigation search will see
11 that they sued their former employer and will be less likely to hire her, or, in the real world, not
12 likely to hire her at all. *Id.* Furthermore, Plaintiff has agreed to release all of her other individual
13 claims for relief against Defendant. *See SA*, ¶ III.9. Accordingly, her claim for Class
14 Representative payment is very reasonable and appropriate at \$10,000.00.

15 **VIII. CLASS COUNSEL'S FEES AND COSTS SHOULD BE PRELIMINARILY**
16 **APPROVED**

17 Courts have long recognized that when Counsel's efforts result in the creation of a
18 common fund that benefits plaintiffs and unnamed class members, counsel have an equitable right
19 to be compensated from that fund as a whole. *See, e.g., Boeing Co. v. Van Gemert*, 444 U.S. 472,
20 478 (1980) (U.S. Supreme Court "has recognized consistently that a litigant or a lawyer who
21 recovers a common fund ... is entitled to a reasonable attorney's fee from the fund as a whole").
22 The traditional method for calculating a fee award in common fund cases is to award counsel a
23 percentage of the total fund. *See Blum v. Stenson*, 465 U.S. 886, 900 n.16 (1984). The common
24 fund doctrine rests on the understanding that attorneys should normally be paid by their clients
25 and, unless attorneys' fees are paid out of the common fund, those who benefit from the fund will
26 be "unjustly enriched." *Boeing*, 444 U.S. at 478. To prevent this result, courts exercise their
27 inherent equitable powers to assess attorney's fees against the entire fund, thereby spreading the
28 cost of those fees among all those who benefit from it. *Id.*

1 The California Supreme Court recently held that in common fund cases, a trial court may
2 award class counsel a fee out of that fund by choosing an appropriate percentage of the fund.
3 *Laffitte v. Robert Half Int'l Inc.*, 1 Cal. 5th 480, 503-06 (2016). A court “may determine the
4 amount of a reasonable fee by choosing an appropriate percentage of the fund created.” *Id.* at 503.
5 California courts routinely award attorneys’ fees of one-third of the common fund. *See Laffitte*,
6 1 Cal. 5th at 506 (affirming a fee award of one-third of the gross settlement amount).

7 Here, Class Counsel is requesting attorneys’ fees in the sum of approximately 23.5% of
8 the settlement fund of \$425,000.00, for a total fee of \$100,000.00. *See* SA, ¶ III.6. Class Counsel
9 believes the requested fee is reasonable based on the results obtained under a percentage of
10 recovery method. In addition, Thierman Buck, LLP has litigated this case on a pure contingency
11 fee basis and has paid litigation costs that could have been non-recoverable should Plaintiff not
12 prevail. Therefore, in addition to the risk of working a case without receiving any fees for the
13 hours invested, Class Counsel has actually incurred litigation costs in prosecuting this action, such
14 as mediator’s fees, computerized research costs, filing fees, and photocopying. Accordingly,
15 Class Counsel also requests that it be allowed up to \$17,000.00 in litigation costs to be recovered
16 from the total settlement amount.

17 Defendant TUHSD does not oppose Class Counsel’s request for attorneys’ fees in the sum
18 of \$100,000.00 and incurred costs that do not exceed \$17,000.00. *See* SA at ¶ III.7 and 7.

19 **IX. THE PROPOSED NOTICE IS MORE THAN ADEQUATE**

20 The California Supreme Court set forth the standard for class action Notices, specifically
21 that the class notice must fairly apprise the class members of the terms of the proposed
22 compromise and of the options open to dissenting class members. It must be scrupulously neutral
23 and emphasize that the court is expressing no opinion on the merits of the case or the amount of
24 the settlement. The court should clearly indicate that it has done nothing more than determine
25 that there is, in effect, “probable cause” to submit the proposal to the members of the class and to
26 hold a full-scale hearing on its fairness. *State of California v. Levi Strauss and Co.*, 41 Cal.3rd
27 460, 485 (1986) (internal citations and quotations omitted).

1 The proposed Notice fairly and neutrally apprises the Class Members of their rights and
2 remedies in this action. Counsel for both parties has reviewed and approved it as drafted. The
3 Notice will provide details on the settlement, the estimated amount to be paid to each Class
4 Member, how the amount was calculated, and the options available to the Class Members, all as
5 set forth in Exhibit A to the Settlement Agreement.

6 **X. PROPOSED TIMELINE OF EVENTS**

7 The Parties also request that the Court set a final approval hearing in accordance with the
8 chronology of events set forth in the Settlement Agreement as follows:

9 a) **Within twenty-one (21) calendar days of the Court's preliminary approval:**
10 TUHSD will provide the Claims Administrator with the names, last known addresses, last known
11 telephone numbers, and social security numbers of each Class Member, start and end dates of
12 employment, the Individual Workweeks worked by each Class Member during the Class Period,
13 and coaching positions of each Class Member along with corresponding stipend amounts;

14 b) **Within fourteen (14) calendar days after receipt of the Class List and Data:**
15 The Claims Administrator will mail by First Class Mail, the Notice package to Class Members.

16 c) **Thirty (30) calendar days after the claims Administrator has mailed the**
17 **Notice to Class Members:** This is the deadline for Class Members to postmark and submit opt-
18 outs, and all written objections to the Claims Administrator and to file same with Court; and

19 d) **Fourteen (14) calendar days after the deadline for Class Members to opt-out**
20 **or object:** Plaintiffs to file their Motion for Final Approval of Class Action Settlement.

21 **XI. CONCLUSION**

22 The Parties have negotiated a settlement of claims in the total settlement sum of
23 \$425,000.00 that almost certainly never would have been brought, much less successfully so, but
24 for the use of the class action procedural device. The fair resolution of this case was made
25 possible by combined efforts of a dedicated and informed Class Representative and experienced
26 Class Counsel, and Defendant TUHSD's Counsel, who were all able to realistically assess the
27 costs and risks in continued protracted litigation and appeals. Accordingly, the Parties
28

1 respectfully request that the Court preliminarily approve the Settlement Agreement, approve the
2 above-referenced Notice, and dissemination thereof, consistent with the manner and timing as
3 set forth in those documents. Additionally, the Parties respectfully request that the final approval
4 hearing be set as soon as practicable for the Court's calendar.

5 DATED this 1st day of December 2023.

DATED this 1st day of December 2023.

6 **THIERMAN BUCK, LLP**

JOHNSON SCHACHTER & LEWIS

7 /s/ Leah L. Jones

/s/ Kellie M. Murphy

8 Mark R. Thierman

Kellie M. Murphey

9 Joshua D. Buck

Kristen M. Caprino

10 Leah L. Jones

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11 **STEPHAN ZOURAS, LLP**

12 Ryan Stephen

13 Catherine Mitchell

14 *Attorneys for Plaintiff*