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SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF LOS ANGELES

TAMARA MARGOLIS, an individual; **AIMEE TULLY**, an individual; on behalf of themselves and all others similarly situated,

Plaintiffs,

v.

HEALTHY SPOT LLC, a Limited Liability Company; and **DOES 1-20**, inclusive,

Defendants.

Case No. 21STCV25347

PLAINTIFFS' NOTICE OF MOTION AND MOTION FOR FINAL APPROVAL OF CLASS ACTION SETTLEMENT; MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT THEREOF

[*Filed Concurrently with Declaration of Gary A. Praglin; Declaration of Edward Zusman; Declaration of Plaintiff Tamara Margolis; Declaration of Plaintiff Aimee Tully; Declaration of Elena MacFarland; and [Proposed] Order*]

Date: January 9, 2025
Time: 11:00 a.m.
Judge: Hon. David S. Cunningham
Dept.: 11

TO THE COURT, ALL PARTIES, AND THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that pursuant to Rule 3.769 of the California Rules of Court, on January 9, 2025 at 11:00 a.m. in Department 11 of the above-entitled Court, located at 312 North Spring Street, Los Angeles, California 90012, Plaintiffs Tamara Margolis and Aimee Tully (collectively, "Plaintiffs"), individually and on behalf of a class of similarly situated individuals, and Defendant Healthy Spot LLC ("Defendant" or "Healthy Spot") will and hereby do move this Court for:

1. Approval of the proposed class settlement of this lawsuit as fair, adequate, and reasonable, based on the terms set forth in the settlement agreement;
2. Pursuant to section 382 of the California Code of Civil Procedure, certification of the following Settlement Class defined as follows:

   ALL HEALTHY SPOT CUSTOMERS WHOSE DOGS WERE PHYSICALLY HARMED AND/OR KILLED AT ANY OF THE 20 HEALTHY SPOT LOCATIONS IN CALIFORNIA BETWEEN JULY 2018 AND JULY 2021, AND ON MAY 6, 2022.
3. Final approval and appointment of Plaintiffs Tamara Margolis and Aimee Tully as the Class Representatives;
4. Final approval and appointment of Gary A. Praglin and Theresa E. Vitale of Cotchett, Pitre & McCarthy LLP as Class Counsel;
5. Finding that notice of settlement was properly provided to the class members in accordance with the Court's Order Granting Preliminary Approval of Class Action Settlement;
6. Award of Settlement Administration costs, and attorneys' fees and costs to Class Counsel;
7. Final approval of class representative payments of $5,000.00 each to Class representatives Tamara Margolis and Aimee Tully to compensate them for their burdens, responsibilities, time, effort, and risks involved in coming forward on behalf of the class;
8. Binding all participating class members to the terms of the Settlement Agreement including the release specified therein;
9. Final approval and appointment of Postlethwaite & Netterville, AP AC, ("P&N") as the third-party Settlement Administrator for distributing class payments; and

10. Retaining jurisdiction to enforce the Settlement Agreement for one year from the date of final approval to enforce the terms of the settlement.

This Motion is based on this notice of motion, the memorandum of points and authorities; the declarations of Gary A. Praglin, Plaintiffs Tamara Margolis and Aimee Tully, and counsel for Defendant, Edward Zusman, and the Settlement Administrator, Elena MacFarland; the settlement agreement; the class notice; and the exhibits attached thereto, the pleadings and other papers filed in this action, and on any further oral or documentary evidence or argument presented at the time of hearing.

Dated: December 16, 2024

COTCHETT, PITRE & McCARTHY, LLP

By: _____
GARY A. PRAGLIN
THERESA E. VITALE
Attorneys for Plaintiffs

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MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

This motion seeks final approval of the consumer class action settlement between Plaintiffs Tamara Margolis and Aimee Tully ("Plaintiffs") and Defendant Healthy Spot LLC (hereinafter referred to as "Healthy Spot" or "Defendant") for the non-reversionary total settlement amount of $725,000.00 to be distributed to a class of approximately 622 individuals who did not opt out of the Class defined as:

> ALL HEALTHY SPOT CUSTOMERS WHOSE DOGS WERE PHYSICALLY HARMED AND/OR KILLED AT ANY OF THE 20 HEALTHY SPOT LOCATIONS IN CALIFORNIA BETWEEN JULY 2018 AND JULY 2021, AND ON MAY 6, 2022.

The Settlement Agreement is attached to the Declaration of Gary A. Praglin filed in support of Plaintiffs' Motion for Final Approval of Class Action Settlement ("Praglin Decl.") at ¶ 14, as **Exhibit 1**.

The basic terms of the Settlement are as follows: (1) Gross Settlement Amount is $725,000.00; (2) The Net Settlement Amount of $460,157.78[1] will be available for distribution proportionally based on severity of the injuries suffered; (3) the individual service awards to Plaintiffs Margolis and Tully in the amount of $5,000.00 each for their efforts on behalf of the Class; (4) the actual costs and expenses of the Settlement Administrator, Postlethwaite & Netterville, AP AC, ("P&N"), of $42,459.62; (6) 25% of the Gross Settlement Amount ($181,250.00) for attorney fees; (7) reimbursement of actual costs Plaintiffs' Counsel in the amount of $31,132.60; and (8) the remaining funds to be distributed to The Nonhuman Rights Project.

Gross Settlement Amount	**$725,000.00**
Attorneys' Fees	($181,250.00)
Litigation Costs	($31,132.60)
Settlement Administration Costs	($42,459.62)

[1] This amount does not account for the interest that has accrued since the funding of the Qualified Settlement Fund. The interest allows a buffer for additional correspondence and settlement payments to class members, including those who were not reachable via email, mail, or skip trace, but who learned about the settlement.

Representative Service Awards	($10,000.00)
Net Settlement Amount to be Distributed	$460,157.78

The Court granted preliminary approval of this Settlement on September 4, 2024, and the response of the Settlement Class has been overwhelmingly positive. There have been ***zero objections, zero opt-outs, and zero disputes*** regarding the injury categories. (*See* Declaration of Elena MacFarland ("McFarland Decl."), ¶¶ 17- 18.) These numbers confirm that the Settlement is in the best interest of the Class Members. (See Praglin Decl., ¶ 28.) Further, they raise a strong presumption that the Settlement Agreement is fair, reasonable, adequate and in the best interest of the Class Members.

The Settlement satisfies all of the criteria for final settlement approval under California and Federal law and is reasonable. Accordingly, Plaintiffs request that the Court: (1) finally approve the settlement, (2) bind all participating class members to the terms of the Settlement Agreement; (3) finally approve Plaintiffs Margolis and Tully as Class Representatives; (4) finally approve service awards in the amount of $5,000.00 to Plaintiff Margolis and $5,000.00 to Plaintiff Tully; (5) finally approve an award of attorney fees to Class Counsel in the amount of 25% of the Gross Settlement Amount ($181,250.00), plus reimbursement of Class Counsel's out of pocket expenses ($31,132.60); (5) finally approve P&N as Settlement Administrator and approve the costs of the settlement administration of $42,459.62; (6) approve any remaining funds will be provided towards the Cy Pres Recipient; and (7) finally approve the class payment amounts as set forth in the proposed Order Granting Final Approval of Class Action Settlement.

Based on the above, Plaintiffs respectfully request that the Court issue an order: (1) approving the class settlement of this lawsuit as fair, adequate, and reasonable, based on the terms set forth in the settlement agreement; (2) certifying the class; (3) appointing Plaintiffs Tamara Margolis and Aimee Tully as the Class Representatives; (4) appointing Gary A. Praglin and Theresa E. Vitale of Cotchett, Pitre & McCarthy LLP as Class Counsel; (5) finding that notice of settlement was properly provided to the class members in accordance with the Court's Order Granting Preliminary Approval of Class Action Settlement; (6) awarding of Settlement Administration costs, and attorneys' fees and costs to Class Counsel as set forth above; (7) approving class representative payments of $5,000.00 each to

Class representatives Tamara Margolis and Aimee Tully to compensate them for their burdens, responsibilities, time, effort, and risks involved in coming forward on behalf of the class; (8) binding all participating class members to the terms of the Settlement Agreement including the release specified therein; (9) appointing Postlethwaite & Netterville, AP AC, ("P&N") as the third-party Settlement Administrator for distributing class payments; and (10) retaining jurisdiction to enforce the Settlement Agreement for one year from the date of final approval to enforce the terms of the settlement.

II. SUMMARY OF LITIGATION

A. THE PARTIES

Healthy Spot conducted business as a pet product store, boarding facility, and grooming salon. (See Praglin Decl., ¶ 3.) Effective February 1, 2023, Healthy Spot was sold in a UCC Article 9 Public Auction and has not conducted any business nor employed any employees since that date. **(**Praglin Decl., ¶ 4; Declaration of Edward S. Zusman in support of Motion for Final Approval ("Zusman Decl.), ¶ 3.) Plaintiff Aimee Tully's dog, Noel, suffered a severe laceration, resulting in the amputation of five inches of her tail, at Healthy Spot on January 23, 2021. (See Declaration of Aimee Tully in support of Motion for Final Approval ("Tully Decl."), ¶ 2.) Plaintiff Tamara Margolis' dog, Charlie, was killed at Healthy Spot on April 24, 2021. (See Declaration of Tamara Margolis in support of Motion for Final Approval ("Margolis Decl."), ¶ 2.)

B. PROCEDURAL HISTORY

On July 12, 2021, Plaintiffs filed a class action Complaint against Defendant in Los Angeles County Superior Court. (Praglin Decl., ¶ 5.) On March 25, 2022, Plaintiffs filed a Third Amended Complaint, the operative complaint in the action, alleging the following claims: (i) violation of the CLRA for falsely advertising and misrepresenting the safety and quality of grooming services; (ii) violation of the UCL for abusing dogs during grooming; (iii) false and misleading advertising in violation of the California False Advertising Law ("FAL"); (iv) breach of express warranty; and (v) negligent misrepresentation. (*Id*.)

On May 1, 2023, after extensive research and analysis, including a detailed analysis of Defendant's potential exposure by Plaintiff, a mediation was held with Jeff Kichaven, Esq. During mediation, the Parties vigorously debated their opposing legal positions, the likelihood of certification

of Plaintiffs' claims, as well as the legal basis for the claims and defenses. The Parties also discussed Defendant's financial condition, considering it had not been in operation (and sold its assets) as of February 2023. Defendant revealed that the only remaining asset, insurance coverage, would not cover various aspects of Plaintiffs' damages, due to explicit exclusions. Further, because Defendant is no longer in business, one of Plaintiffs' primary requested remedies, injunctive relief requiring Healthy Spot to change its dangerous policies, would not be achievable. (See Praglin Decl., ¶ 9.) After months of further settlement negotiations and with the continued assistance of Mr. Kichaven, the Parties agreed in principle on a class-wide resolution. (*Id*. ¶ 13.) Thereafter, in the months that followed, the Parties negotiated, drafted, approved and signed the Settlement Agreement. (*Id*. ¶ 14.)

On April 4, 2024, Plaintiffs filed their Motion for Preliminary Approval, which this Court granted on September 4, 2024. (See Order Granting Preliminary Approval of Class Action Settlement ("Preliminary Approval Order" or "Prelim. Order"), ¶ 2.) In granting preliminary approval, this Court determined that the Settlement is fair, reasonable, and adequate justifying notice to the Class Members. (Prelim. Order ¶ 6.) This Court further found that "Plaintiffs' proposed Notice Plan complies with the California Rules of Court, the California Code of Civil Procedure, and Due Process. The Notice fairly apprises the Class Members of the terms of the proposal, their rights, their options, deadlines related to the Motion, and the binding nature of a class judgment. The Court finds that the Notice Plan: (i) is the best notice practicable; (ii) is reasonably calculated to, under the circumstances, apprise Class Members of the proposed Settlement and of their right to object or exclude themselves as provided in the Settlement Agreement; (iii) is reasonable and constituting due, adequate, and sufficient notice to all persons entitled to receive notice; and (iv) meets all applicable requirements of Due Process and any other applicable requirements under state law." (Prelim. Order ¶ 7.)

This matter is now before this Court for final approval.

III. THE SETTLEMENT SHOULD BE APPROVED

A. THE NOTICE PROCESS WAS DILIGENTLY CARRIED OUT

Pursuant to this Court's Preliminary Approval Order, the Settlement Administrator (the "Administrator" or "P&N") has fully completed the notice process with respect to the Class. (MacFarland Decl., ¶¶ 5-11.)

Healthy Spot provided a spreadsheet of class data to the Administrator on September 18, 2024, in one Excel file containing a total of 757 records. (MacFarland Decl., ¶ 5.) After deduplicating the data, the Administrator determined that a total of 742 unique records existed in the class data. (*Id.*) Class Notice was sent to all Class Members identified in the class data via first-class United States Postal Service ("USPS") mail and/or email. (MacFarland Decl., ¶¶ 7-8.)

Class Notice was emailed to 643 class members. (*Id.*) The Email Notice was successfully delivered to 551 email addresses. (*Id.*) P&N also mailed Class Notice via first-class mail to 427 Settlement Class Members for which a mailing address was available from the class data. (MacFarland Decl., ¶¶ 8, 11.) P&N also executed supplemental mailing for 52 Class Members for which an initial Mailed Notice was not deliverable but for which P&N was able to obtain an alternative mailing address through (1) forwarding addresses provided by the USPS, or (2) skip trace searches using the LexisNexis third-party vendor database. (*Id.*) A total of 622 class members successfully received the notice via email or mail. (MacFarland Decl., ¶ 11.)

Additionally, the Administrator set up a neutral informational Settlement Website. (MacFarland Decl., ¶ 13.) Visitors to the Settlement Website can view and download the Class Notice, as well as Court Documents, such as the Class Action Complaint, the Settlement Agreement, Plaintiffs' motions, Orders of the Court, and other relevant documents. (*Id*.)

As identified on the Class Notice, P&N maintained a Post Office Box for the Settlement Program for USPS to return undeliverable notices and for Settlement Class Members to submit exclusion requests and objections. (MacFarland Decl., ¶ 14.) They also established a toll-free 24 hour telephone number and an email address, info@HealthySpotSettlement.com, to provide an additional option for Settlement Class Members to address specific questions and requests to the Settlement Administrator for support. (MacFarland Decl., ¶¶ 15-16.)

The deadline for Class Members to submit an opt-out request or objection was December 3, 2024. (See Praglin Decl., ¶ 28, **Exhibit 2**, Class Notice.) As of this filing, the Administrator received ***zero*** requests for opt-outs, objections, or disputes, via any method. (MacFarland Decl., ¶¶ 17-18.)

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B. THE CLASS MEMBERS UNANIMOUSLY APPROVE THE SETTLEMENT.

The Class Members have unanimously accepted the Settlement Agreement, and 622 Class Members stand to benefit from the settlement on entry of final approval. (Praglin Decl., ¶ 24.)

"The absence of a large number of objections to a proposed class action settlement raises a strong presumption that the terms of a proposed class settlement action are favorable to the class members." (*In re Omnivision Technologies, Inc.* (N.D. Cal. 2008) 559 F.Supp.2d 1036, 1043, quoting *National Rural Telecommunications Cooperative v. DIRECTV, Inc.* (C.D. Cal. 2004) 221 F.R.D. 523, 529; *Moore v. PetSmart, Inc.* (N.D. Cal., Aug 4, 2015, No. 5:12-CV-03577-EJD) 2015 WL 5439000, at *7 [finding that where "less than one percent either opted out or objected, the reaction of the putative class has been very positive. Therefore, this factor strongly favors settlement."].) Here, *zero* members of the proposed settlement class objected to any of the terms of the proposed attorneys' fees and costs and *zero* members opted out of the settlement. (Praglin Decl., ¶¶ 24, 48.) Further, due to the slightly reduced number of members in the Settlement Class and the minimal litigation and Administrator expenses, each class member will receive more than agreed to during the opt-out process. Specifically, each Class Member will receive approximately 25% more than in the Class Notice: Class Members whose dogs were killed will receive $2,500.00 more per person, Class Members whose dogs were severely injured will receive $825.00 more per person, and Class Members whose dogs were minorly injured will receive $40 more per person. (*Id.* ¶ 24.) As such, the Class Members overwhelmingly support the Settlement Agreement.

C. CLASS ACTION SETTLEMENTS ARE SUBJECT TO JUDICIAL REVIEW AND APPROVAL UNDER THE CALIFORNIA RULES OF COURT

The law favors settlements. (*Bush v. Superior Court* (1992) 10 Cal.App.4th 1374, 1382.) This is particularly true in class actions where substantial resources can be conserved by avoiding the time, cost, and risk of formal litigation. However, a class action may not be dismissed, compromised, or settled without the Court's approval. (Cal. Rules of Court, rule 3.769(a).) The California Rules of Court set forth the procedures for court approval of a class action settlement: (1) the Court preliminarily approves the settlement; (2) class members receive notice as directed by the Court; and (3) the Court

conducts a final approval hearing to inquire into the fairness of the proposed settlement. (See Cal. Rules of Court, rule 3.769(C), (e)-g).)

1. The Court Preliminarily Approved of The Settlement.

On April 10, 2024, Plaintiffs filed their Motion for Preliminary Approval of Class and the Court on September 4, 2024, heard the argument from counsel, reviewed the pleadings and Settlement Agreement and granted Plaintiffs' preliminary approval of the settlement. (*See* Prelim. Order.)

2. Class Members Received Notice as Directed by The Court.

Class members received notice as directed by the court, which incorporates information regarding opt-outs and objections and P&N sent the Class Notice to 742 recipients on October 4, 2024 (MacFarland Decl., ¶ 11.) P&N performed skip tracing and other methods for notices that were returned undeliverable to obtain updated address information. (*Id*. ¶ 11.) P&N also established a website, which provided neutral information regarding the Class Notice, Court Documents, Class Action Complaint, Settlement Agreement, Plaintiffs' motions, Orders of the Court, and other relevant documents. (*Id*. ¶ 13.) P&N also established a toll-free call center for handling inquiries. (*Id*. ¶ 15.) The opt-out and objection deadline was December 3, 2024. (*Id.* ¶ 17.) To date, there have been no objections, no requests for exclusion, and no disputes to the Settlement. (*Id*. ¶¶ 17-18.)

3. The Proposed Settlement Is Fair, Adequate, And Reasonable.

The decision to approve or reject a proposed settlement lies within the Court's sound discretion. (*Wershba v. Apple Computer, Inc.* (2001) 91 Cal.App.4th 224, 234-235.) In deciding whether to grant final approval, the Court's ultimate duty is to determine whether the settlement is fair, adequate, and reasonable. (See *Dunk v. Ford Motor Co*. (1996) 48 Cal.App.4th 1794, 1801 [setting forth the "fair, adequate, and reasonable" standard] [citing *Officers for Justice v. Civil Service Com'n of City and County of San Francisco* (9th Cir. 1982) 688 F.2d 615, 625]; see also *Cho v. Seagate Technology Holdings, Inc.* (2009) 177 Cal.App.4th 734, 742-743 [a trial court must approve a class action settlement agreement, but only after determining that it is "'fair, adequate and reasonable," considering factors such as the "'risk, expense, [and] complexity'" of continued litigation].) The Court enjoys broad discretion in making its fairness determination, and should consider factors including:

> "[T]he strength of 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, ... and the reaction of the class members to the proposed settlement." (*Dunk y. Ford Motor Co., supra*, 48 Cal.App.4th at p. 1801.)

The above factors are not exclusive, "the court is free to engage in a balancing and weighing of factors depending on the circumstances of each case." (*Wershba*, *supra*, 91 Cal.App.4th at 245.) In doing so, the Court must give due "regard to what is otherwise a private consensual agreement between the parties." (See also *In re Microsoft I-V Cases* (2006) 135 Cal.App.4th 706, 723.) The inquiry is limited "to the extent necessary to reach a reasoned judgment that the agreement is not the product of fraud or overreaching by, or collusion between, the negotiating parties . . . ." (*Officers for Justice*, *supra*, 688 F.2d at 625.)

i. The strength of Plaintiffs' case.

Although Plaintiffs maintain that their claims are meritorious, they acknowledge there were substantial risks and uncertainty in proceeding with litigation including Defendant's ability to pay an eventual potential judgment after the UCC Article 9 sale which left no assets other than limited insurance coverage (with notable coverage exclusions). (Praglin Decl., ¶¶ 10-11.) This also prevented Plaintiffs from continuing to pursue injunctive relief, as Defendant is no longer in operation. (*Id.* ¶ 10.) Further, as described below, Healthy Spot presented multiple defenses to Plaintiffs' claims, both on the merits and to class certification. (Zusman Decl., ¶¶ 9-13.) Thus, while Plaintiffs were prepared to litigate these claims through certification and trial, success and recoverability of a judgment was far from certain. (Praglin Decl., ¶ 11.)

ii. Risk, expenses, complexity, and duration of further litigation.

Although the parties engaged in some certification-oriented discovery, the parties still would have had significant discovery to complete in formal litigation had the matter not settled. (Praglin Decl., ¶ 21.) Moreover, Plaintiffs still would have had to file for class certification and faced the prospect of appeals in the wake of a disputed class certification ruling and/or an adverse summary judgment ruling. (*Id*.) Even if the classes sought to be certified by Plaintiffs were in fact certified, the parties would incur considerably more attorneys' fees and costs through depositions, merits discovery, summary judgment

motions, trial, and possible appeals. (*Id*.) This Settlement avoids those risks and the accompanying expense. Further, as stated above, Healthy Spot's sale and inability to pay an eventual judgment were large factors in the settlement decision. Thus, this factor supports final settlement approval.

iii. Risk of maintaining Class Action status.

Plaintiffs had not yet filed their motion for class certification and as such, the extent to which Plaintiffs' proposed classes were certifiable is somewhat speculative. Absent settlement, there was a risk that there would not be a certified class at the time of trial.

iv. Overview of the Preliminarily Approved Settlement Agreement.

Defendant will pay a Gross Settlement Amount of $725,000.00. (Praglin Decl., ¶ 22 and ¶ 14, **Exhibit 1**.) Each Settlement Class member will automatically receive a Settlement Award. (*Id*.) The monetary terms of the Settlement are summarized below:

Gross Settlement Amount ("GSA"):	**$725,000.0**
Minus Court-approved attorneys' fees (25% of GSA):	($181,250.00)
Minus Court-approved, verified costs	($31,132.60)
Minus Court-approved Class Representative Service Awards:	($10,000.00)
Minus Settlement Administration Costs (up to):	($42,459.62)
Net Settlement Amount:	**$460,157.78**

The Settlement Administrator established an interest-bearing qualified settlement account for the benefit of participating Settlement Class members. (MacFarland Decl., ¶ 19.) On March 29, 2024, Healthy Spot deposited the Gross Settlement Amount. (*Id.*) After deducting amounts for the Court-approved attorneys' fees and verified costs, Service Awards to Plaintiffs, and Settlement Administrator costs, the Settlement requires Defendant to pay a Net Settlement Amount ("NSA") **$460,157.78** to all Settlement Class Members who do not timely opt out. (Praglin Decl., ¶ 25.)

622 Class Members were contactable by the Administrator and received Class Notice. (See MacFarland Decl., ¶ 11; Praglin Decl., ¶ 26.) 122 Class Members did not have a working email address or usable mailing address and contact information was not obtainable via USPS forwarding address databases or skip tracing. (*Id.*) Thus, the Individual Settlement Awards will be: **(1) for the 8 Deaths: $10,000.00 each, for a total of $80,000.00; (2) for the 96 Severe Injuries: $3,200.00 each, for a**

total of $307,200.00; and (3) for the 518 Minor Injuries: $140.00 each, for a total of $72,520.00. (Praglin Decl., ¶ 27.)

Injury Category	Number of Class Members Per Category	Payment Amount to Each Class Member Per Category	Total Payments Per Category
Death	8	$10,000.00	$80,000.00
Severe Injury	96	$3,200.00	$307,200.00
Minor Injury	518	$140.00	$72,520.00
Totals:	622		$459,720.00
Cy Pres Net:			*$437.78*

(See Praglin Decl., ¶ 22.) Severe Injuries include grooming injuries requiring a veterinarian visit, pneumonia, cage falls, grooming, and other conditions not qualifying as Minor Injuries. Minor Injuries are mostly reports of suspected but unconfirmed injuries or nicks or minor abrasions from grooming, many of which were not followed up on by dog owners but were documented by Defendant. (Praglin Decl., ¶ 27.) The Individual Settlement Awards were determined based on the category and description of injury as had been contemporaneously recorded by Defendant's employees and staff. Defendant's policies and procedures in place during the Class Period called for recording of information that would identify whether an incident involved a minor injury, severe injury, or death. Data recorded from all of Defendant's locations was compiled on the incident spreadsheet created by Defendant and produced in the course of discovery in this litigation. (*Id*.)

D. FINAL APPROVAL OF THE SETTLEMENT IS APPROPRIATE BECAUSE IT IS FAIR, REASONABLE, AND ADEQUATE

For final approval, a Court must ensure that "the agreement is not the product of fraud or overreaching by, or collusion between, the negotiating parties, and that the settlement, taken as a whole, is fair, reasonable and adequate to all concerned." (*Hanlon v. Chrysler Corp.* (9th Cir. 1998) 150 F.3d 1011, 1027.) The decision to approve or reject a proposed settlement is committed to a court's broad

discretion. (*Wershba*, *supra*, 91 Cal.App.4th at pp. 234-235.) As long as the Court has sufficient information about the nature and magnitude of the claims being settled, as well as impediments to recovery, the Court should be able to make an independent assessment of the reasonableness of the terms to which parties have agreed. (*Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th 116, 133.) Plaintiffs have provided an abundance of information regarding the claims being settled and recognize and appreciate the risks of continued litigation.

1. The Terms of The Settlement Are Fair, And The Result for The Settlement Class Are Substantial.

A presumption of fairness exists where: (1) the settlement is reached through arms' 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. (*Dunk*, *supra*, 48 Cal.App.4th at 1802). All four of these conditions are satisfied here.

i. The Settlement was reached through arm's-length bargaining.

California courts recognize that "a presumption of fairness exists where…[a] settlement is reached through arm's-length bargaining." (*Wershba***,** *supra*, 91 Cal.App.4th at 245.) Here, On May 1, 2023, after extensive research and analysis, including a detailed analysis of Defendant's potential exposure by Plaintiff, a mediation was held with Jeff Kichaven, Esq. (Praglin Decl., ¶ 9.) During mediation, the Parties vigorously debated their opposing legal positions, the likelihood of certification of Plaintiffs' claims, as well as the legal basis for the claims and defenses. (*Id*.) The Parties also discussed Defendant's financial condition, including the fact that it had not been in operation (and had sold its assets) as of February 2023. Defendant revealed that the only remaining asset, insurance coverage, would not cover various aspects of Plaintiffs' damages, due to explicit exclusions. (Praglin Decl., ¶ 9; Zusman Decl., ¶ 3.) Further, because Defendant is no longer in business, one of Plaintiffs' primary requested remedies, injunctive relief requiring Healthy Spot to change the dangerous policies alleged in the Complaint, would not be achievable. (Praglin Decl., ¶ 9.) The Parties were unable to reach a settlement at mediation. (*Id*.)

After the Parties' unsuccessful mediation, Plaintiffs moved forward with the deposition of the Person Most Knowledgeable. (Praglin Decl., ¶ 12.) Due to the status of Healthy Spot, the Certified

Public Accountant charged with winding up the company was produced for the deposition. (*Id*.) As a result, Plaintiffs' counsel confirmed Healthy Spot's representations regarding the sale of its assets. (*Id*.)

Ultimately, after months of further settlement negotiations, including supplemental briefing, and with the continued assistance of Mediator Kichaven, the Parties agreed in principle on a class-wide resolution. (Praglin Decl., ¶ 13.) Thereafter, in the months that followed, the Parties negotiated, drafted, approved and signed a Settlement Agreement. (Praglin Decl., ¶ 14.)

ii. Investigation and discovery were sufficient to allow counsel and the Court to act intelligently.

Counsel for all parties were thoroughly familiar with the complex legal and factual questions at the time of settlement. (Praglin Decl., ¶ 30.) The Settlement Agreement is a product of intensive negotiations, supported by investigation and direct exchanges of information obtained through informal discovery, during the course of negotiations, including a full-day mediation, significant post-mediation confirmatory discovery and other information required to evaluate the claims at issue. (Praglin Decl., ¶¶ 6-9, 12-14, 30, 31.)

The parties thoroughly investigated and evaluated the factual and legal strengths and weaknesses of this case before reaching the settlement. (Praglin Decl., ¶ 31.) As described above, the Settlement Agreement was reached after extensive informal discovery, investigation, research, direct exchanges of documents, and other information required to evaluate the claims at issue. (Praglin Decl., ¶¶6-9,12-14, 30-36.) The settlement came in the months that followed, after the Parties negotiated, drafted, approved, and signed the Settlement Agreement. (Praglin Decl., ¶ 14.) Plaintiffs and their counsel agree with the Court that the Settlement Agreement represents a fair and favorable resolution of the Class Claims. (Prelim. Order ¶ 6.)

iii. Class Counsel are experienced class action litigators.

"Parties represented by competent counsel are better positioned than courts to produce a settlement that fairly reflects each party's expected outcome in litigation." (*In re Pacific Enterprises Securities Litigation* (9th Cir. 1995) 47 F.3d 373, 378.) Here, Plaintiffs are represented by competent, experienced counsel who possess extensive experience prosecuting class actions, and who have been appointed as class counsel in numerous cases alleging similar claims. (Praglin Decl., ¶ 37-40.)

Specifically, Class Counsel has successfully represented plaintiffs in many class actions. (Praglin Decl., ¶ 41, **Exhibit 3**, Cotchett, Pitre & McCarthy, LLP ("CPM") Firm Class Action Experience.) Numerous state and federal courts in California have found Class Counsel to competent and capable of representing large classes in mass tort actions. (Praglin Decl., ¶ 38.) Similarly, Class Counsel has represented thousands of victims in mass torts actions involving environmental contamination of air, water, and soil as well as personal injury actions. (Praglin Decl., ¶ 40, **Exhibit 3**.) Class Counsel has served as class counsel in a variety of mass torts and class actions and has helped recover billions of dollars in jury verdicts and settlements. (*Id*.) A few class actions litigated by Class Counsel follow:

- *In re Toyota Motor Corp. Unintended Acceleration Marketing, Sales Practices, and Products Liability Litigation*: CPM served as co-lead counsel in a class action against Toyota. The MDL involved more than 200 lawsuits divided into two groups: those seeking losses on behalf of consumers and others who have lost value and those seeking damages for injuries and deaths.
- *In re Automotive Parts Antitrust Litigation:* CPM serves as co-lead counsel for end-payor plaintiffs against scores of automotive parts suppliers for allegedly engaging in massive conspiracies to fix the prices, rig the bids, and allocate the markets of various automotive parts.
- *In re Apple Inc. Device Performance Litigation*: CPM is Co-Lead Counsel representing a nationwide class of Apple customers who allege that that Apple issued software updates that slowed down the performance of certain iPhones.
- *In re: Bextra and Celebrex Marketing Sales Practices and Product Liability Litigation*: CPM was co-lead trial counsel in this litigation involving consolidated injury and class action cases related to Pfizer's pain killers Bextra and Celebrex.

Class Counsel conducted an in-depth review of Defendant's policies, incident records and refund records, and drew on their extensive experience to assess the strengths and weaknesses of Plaintiffs' case. (Praglin Decl., ¶ 42.) The Settlement was also reached with the assistance of an experienced and respected mediator. (*Id*.) Plaintiffs' counsel believes that this settlement is fair, adequate, and reasonable, in the best interests of Class Members, and should finally be approved.

iv. The Settlement Class approves the Settlement.

To date, ***zero*** Settlement Class Members have objected to or opted out of the Settlement.

(MacFarland Decl., ¶¶ 17-18.) The lack of objections and opt-outs shows unanimous support for the Settlement among Settlement Class Members and give rise to a presumption of fairness. (See *Dunk*, *supra*, 48 Cal.App.4th at 1801.)

Applying the above factors, the proposed settlement is fair, reasonable, adequate, and in the best interests of the members of the class, and as such, meets all the criteria necessary for final approval.

IV. ATTORNEY FEES

A. THE REQUESTED ATTORNEYS' FEES AND COSTS ARE REASONABLE AND SHOULD BE APPROVED.

In addition, and concurrent with final approval, Plaintiffs' counsel requests attorneys' fees of $181,250.00 (i.e., 25% of the Gross Settlement Amount), significantly less than the reasonable one-third amount of a common fund. (Praglin Decl., ¶¶ 43-44.) As the California Supreme Court has made clear, one-third of the common fund is a reasonable percentage for a trial court to award as attorneys' fees in a class action where a common fund was generated because of the case. (See *Laffitte v. Robert Half Internat. Inc.* (2016) 1 Cal.5th 480, 506 ["We therefore agree with the Court of Appeal below that 'the percentage of fund method survives in California class action cases, and the trial court did not abuse its discretion in using it, in part, to approve the fee request [of one-third of the common fund] in this class action"].) The California Supreme Court further clarified that trial courts "have discretion to conduct a lodestar cross-check on a percentage fee; they also retain the discretion to forgo a lodestar cross-check and use other means to evaluate the reasonableness of a requested percentage fee." (*Id*.)

It is well-established that, where a lawsuit results in the recovery of a fund or property benefiting others, as well as plaintiff—as in a class action—the court has inherent equitable power to order the plaintiff's attorney fees to be paid out of the common fund or property. *(*See *Serrano v. Priest* (1977) 20 Cal.3d 25, 35; *D'Amico v. Board of Medical Examiners* (1974) 11 Cal.3d 1, 25 ["when a number of persons are entitled in common to a specific fund, and an action brought by a plaintiff or plaintiffs for the benefit of all results in the creation or preservation of that fund, such plaintiff or plaintiffs may be awarded attorney's fees out of the fund"]; *Quinn v. State of California* (1975) 15 Cal.3d 162, 168; *In re Stauffer's Estate* (1959) 53 Cal.2d 124, 132.) This "fee spreading" is premised on assuring that all those benefitted by the litigation pay their fair share of the costs for obtaining the recovery. (*See Lealao*

v. Beneficial California, Inc. (2000) 82 Cal.App.4th 19, 26; *Cziraki v. Thunder Cats, Inc.* (2003) 111 Cal.App.4th 552, 558.)

Plaintiffs' counsel—Gary Praglin and Theresa Vitale of Cotchett, Pitre, McCarthy, LLP (collectively, "Class Counsel")—are seeking a fee award under the "common fund" doctrine. (Praglin Decl., ¶ 43.) The common fund doctrine provides that "a litigant or a lawyer who recovers a common fund for the benefit of persons other than himself or his client is entitled to reasonable attorneys' fees from the fund as a whole." (*Boeing Co. v. Van Gemert* (1980) 444 U.S. 472, 478; *Vincent v. Hughes Air West, Inc*. (9th Cir. 1977) 557 F.2d 759, 769; see also *Class Plaintiffs v. Jaffe & Schlesinger, P.A.* (9th Cir. 1994) 19 F.3d 1306, 1308.) The doctrine is founded on the understanding that attorneys should normally be paid by their clients, and that unless attorneys' fees are paid out of the common fund where the attorneys' unnamed class member "clients" have no express retainer agreement, those who benefited from the fund without contributing to those who created it would be unjustly enriched. (*Boeing Co. v. Van Gemert, supra*, 444 U.S. 472, 478.)

In *Laffitte v. Robert Half Internat., Inc., supra*, 1 Cal.5th 480, the California Supreme Court unequivocally held "that when class action litigation established a monetary fund for the benefit of the class members, and the trial court in its equitable powers awards class counsel a fee out of that fund, the court may determine the amount of a reasonable fee by choosing an appropriate percentage of the fund created" without considering the amount of hours expended on the case. (*Id*. at 503.) The court further held that "[t]he recognized advantages of the percentage method—including relative ease of calculation, alignment of incentives between counsel and the class, a better approximation of market conditions in a contingency case, and the encouragement it provides counsel to seek an early settlement and avoid unnecessarily prolonging the litigation—convince us the percentage method is a valuable tool that should not be denied our trial courts." (*Id*.)

Class Counsel's diligent litigation of this action resulted in the creation of an ascertainable common fund that will substantially benefit the Class. (Praglin Decl., ¶ 43.) Class Counsel's request for an award of 25% of the Gross Settlement Amount is well within the range of awarded to counsel under similar circumstances in litigation of this type. (*Id*.) These requested amounts are unopposed by Defendants and not objected to by any Class Member. (Praglin Decl., ¶¶ 47-48.) As this Settlement

Agreement will result in the recovery of a substantial fund benefiting all participating Class Members, this Court has inherent equitable power to order Class Counsel's fees and costs to be paid out of the Gross Settlement Amount, pursuant to the common fund theory.

As a result of this litigation, the Class Members stand to receive a significant Net Settlement Amount of $460,157.78, even after deduction of the award of attorneys' fees, costs of administration, litigation costs, and the proposed service awards. (Praglin Decl., ¶ 25.) Moreover, Class Counsel demonstrated considerable skill in obtaining such a significant settlement despite the numerous challenges in this case which could have precluded any recovery. (Praglin Decl., ¶ 42.)

B. THE LODESTAR MULTIPLIER APPROACH CONFIRMS THE REASONABLENESS OF THE FEE REQUEST.

A lodestar cross-check further confirms that the percentage requested is patently reasonable. The "lodestar-multiplier" is an alternative accepted approach of evaluating the reasonableness of attorneys' fees whereby the court computes the "lodestar" amount by multiplying the number of hours reasonably expended by each attorney or legal staff member by their hourly rates, and then enhances this lodestar figure by a "multiplier" to account for a range of factors, such as the novelty or difficulty of the case, its contingent nature, and the degree of success achieved. (See *PLCM Group v. Drexler* (2000) 22 Cal.4th 1084, 1095-1096; *Press v. Lucky Stores, Inc.* (1983) 34 Cal.3d 311, 322; *Serrano v. Priest, supra*, 20 Cal.3d 25, 48-49.) As noted, using the loadstar approach, the court first computes the reasonable market value of the service rendered. (*Ketchum v. Moses* (2001) 24 Cal.4th 1122, 1138, fn. 3.) The first step is to calculate the lodestar, which is determined by multiplying the time spent by the attorneys and other timekeepers by their reasonable hourly rates. (*Id*. at p. 1132.)

When a court adopts the "lodestar multiplier" method, after initially calculating the combined total lodestar, the court may then adjust the lodestar based on several factors in order to "fix a fee at the fair market value for the particular action." (*Id*. at p. 1132; *Graham v. Daimler Chrysler Corp*. (2004) 34 Cal.4th 553, 574.) As noted, these additional factors include the contingent risk of the litigation, the novelty and complexity of the issues, and exceptional results obtained. (*Ketchum v. Moses, supra*, 24 Cal.4th at p. 1132; *Serrano v. Priest, supra*, 20 Cal.3d at p. 48.)

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Class Counsel is not requesting attorneys' fees under the lodestar multiplier approach. (Praglin Decl., ¶ 43.) Nevertheless, Class Counsel in their declarations have provided a summary of the hours they expended throughout the course of the litigation, including drafting and filing of the complaint, defending the pleadings, engaging in discovery, preparing damages analyses, reviewing informal discovery, preparing and negotiating the settlement agreement, preparing the Notice Packets, preparing papers for and moving for preliminary approval, preparing papers and moving for final approval, and attorneys' fees, amongst other things. (Praglin Decl., ¶¶ 49-50, **Exhibit 5**.)

To date, Class Counsel's lodestar has exceeded $1,000,000.00 after collectively spending over 2,200 hours on this matter. (Praglin Decl., ¶ 50, **Exhibit 5**.) Thus, the fees sought here only account for approximately 18% of the actual time spent by Class Counsel on this case. Moreover, it is anticipated that Class counsel will expend time which cannot yet be accounted for overseeing the settlement payment process and payments to the class representatives, administrator and cy pres recipient. (*Id.*) Therefore, the unadjusted lodestar will increase, and the multiplier will decrease by the conclusion of this matter. The fact that Class counsel's lodestar of actual hours spent at their hourly rates dwarfs the amount requested further confirms the reasonableness of the fee requested.

C. THE REQUESTED AWARDS ARE REASONABLE AND SHOULD BE APPROVED

It is well-established that representative plaintiffs are eligible for reasonable incentive payments to compensate them for the expense or risk they have incurred in conferring a benefit on other members of the class. (*Munoz v. BCI Coca-Cola Bottling Co. of Los Angeles* (2010) 186 Cal.App.4th 399, 412.) "[I]ncentive awards are fairly typical in class action cases . . . and are intended to compensate class representatives for work done on behalf of the class [and] to make up for financial or reputational risk undertaken in bringing the action." (*In re Cellphone Fee Termination Cases* (2010) 186 Cal.App.4th 1380, 1393-94.)

As part of the Settlement, Plaintiffs separately apply for service awards at the time of proposed final approval motion of the proposed class action settlement in the amount of $5,000.00 each for their services to the Settlement Class. (Praglin Decl., ¶ 52.) Plaintiffs' requested service awards recognize the time and effort Plaintiffs expended on behalf of the Class, including providing substantial factual

information, documents, and video evidence to Class Counsel, attending many meetings to discuss the claims and theories at issue in the litigation, responding to discovery, participating in the mediation, as well as the significant risks Plaintiffs undertook by agreeing to serve as the named plaintiffs in this case and the fact that Plaintiffs have agreed to a general release of all claims subject to a waiver of Civil Code § 1542. (See Praglin Decl., ¶ 53; Margolis Decl., ¶¶ 13-14; Tully Decl., ¶¶ 4, 15-16.)

In light of the efforts they made and the risks they took in filing and litigating this action to obtain this $725,000.00 settlement, Plaintiffs request Service Awards of $5,000.00 each. (Praglin Decl., ¶ 52-53.) This figure is well within the range of service awards approved in comparable cases. (See, *e.g., Sano v. Southland Management Group, Inc.,* No. BC489112, 2013 WL 7231686, at *3 (Cal. Super. Dec. 02, 2013) [approving two $15,000 service awards in context of class action settlement]; *Benedict v. Reachlocal, Inc.,* No. BC 432721, 2011 WL 9155053 (Cal. Super. Dec. 09, 2011) [approving $12,500 and $10,000 service awards]; *Wilson v. Rock-Tenn Co.,* No BC488456, 2017 WL 9342358, at *2 (Cal. Super. Dec. 12, 2017) [approving five $10,000 service awards].) Defendant does not oppose this request. Nor does the Class, as there were ***zero*** objections to the Settlement. (MacFarland Decl., ¶ 18.)

As a result of Plaintiffs' efforts and their willingness to step forward, the Class Members will receive significant recoveries if the Settlement is approved. (Praglin Decl., ¶ 22.) The requested Service Awards to Plaintiffs are reasonable and should be finally approved.

D. CLASS COUNSEL SHOULD BE REIMBURSED FOR THEIR EXPENSES.

Under the common fund method, the attorneys representing the class members are permitted to recover their litigation costs and expenses from the common fund. (See *Serrano v. Priest* (1977) 20 Cal.3d 25, 35 [common fund doctrine permits recovery of fees and costs from the fund]; *Rider v. County of San Diego* (1992) 11 Cal.App.4th 1410, 1424, fn. 6 [costs are recoverable from the common fund "[o]f necessity, and for precisely the same reasons discussed above with respect to the recovery of attorneys' fees by .. . [Plaintiffs'] attorneys"]; *Melendres v. City of Los Angeles* (1975) 45 Cal.App.3d 267, 277.) Furthermore, whatever method is chosen by the Court to calculate attorneys' fees, Plaintiffs' counsel is entitled to recover "those out-of-pocket expenses that would normally be charged to a fee-paying client." (*Harris v. Marhoefer* (9th Cir. 1994) 24 F.3d 16, 19.)

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Accordingly, Class Counsel further request that, in addition to awarding them reasonable attorneys' fees, the Court grant their application for reimbursement of the reasonable out-of-pocket expenses advanced, incurred by CPM representing Plaintiffs in connection with the prosecution of this litigation, collectively in the amount of $31,132.62, *which is over $30,000.00 less than* the maximum cost allocation stipulated by the parties in the Settlement Agreement. (Praglin Decl., ¶ 14.) Class Counsel has documented and verified these costs and expenses for which Plaintiffs seek reimbursement. (Praglin Decl., ¶ 45, **Exhibit 4**, Class Counsel Litigation Expenses.) All of these costs were necessarily incurred in the course of this hard-fought, risky, expensive, and complex litigation on a purely contingent fee basis. (Praglin Decl., ¶ 46.) No Class member objected to an award of costs to Class Counsel *of up to $65,000.00*, and Class Counsel now seeks the balance to be distributed amongst the Class members. (Praglin Decl., ¶ 47.) Accordingly, the requested reimbursement of the reasonable out-of-pocket expenses advanced and/or incurred is appropriate and justified as part of the Settlement and should be awarded by the Court.

E. CY PRES

The Parties propose a cy pres distribution of the net settlement funds to The Nonhuman Rights Project ("Cy Pres Recipient"), for the benefit of the members of the Settlement Class. (Praglin Decl., ¶ 54.) The propriety of a cy pres distribution must be assessed in light of two key considerations: (1) the objectives of the underlying statute(s) and (2) the interests of the silent class members. (*Six Mexican Workers Workers v. Ariz Citrus Growers,* 904 F.2d 1301, 1307.)

The underlying statutes in this case, which are intended to redress systemic harm caused by animal abuse, seek to deter such misconduct and provide a remedy reflective of the nature of the harm. The Cy Pres Recipient is uniquely positioned to further these objectives. (Praglin Decl., ¶ 55.) As a prominent nonprofit organization dedicated to advocating for the legal recognition of nonhuman animals' rights, it addresses the very systemic harm targeted by this litigation. (*Id.)* By focusing on securing bodily liberty and bodily integrity for nonhuman animals, The Cy Pres Recipient not only aligns with the remedial and deterrent purposes of the statutes but also advances broader societal goals consistent with the public interest in addressing animal abuse.

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The proposed distribution would also serve the interests of any absent class members. California law permits cy pres distribution in class action settlements to put the unclaimed funds to compensate indirectly for the prospective benefit of the class. (See *Nachshin v. AOL, Inc.* (9th Cir. 2011) 663 F.3d 1034, 1038; ("In the context of class action settlements, a court may employ the cy pres doctrine to 'put the unclaimed fund to its next best compensation use, e.g., for the aggregate, indirect prospective benefit of the class.'"; *Masters v. Wilhelmina Model Agency, Inc.* (2d Cir. 2007) 473 F.3d 423, 436.) Thus, California law permits cy pres awards providing "indirect compensatory effect[s]" for class members. (*In re Microsoft I-V Cases* (2006) 135 Cal.App.4th 706, 726-27) (affirming a proposed distribution in the form of benefits that would further computer literacy in California public schools). Further, the proper standard for evaluating a proposed distribution is "whether the distribution [is] useful in fulfilling the purposes of the underlying cause of action." (*Id*. at 726.) Given the underlying issues in this case pertain to animal abuse, this distribution would act as compensation for the injured class members and their dogs. (*Id*.; see also *Corbett v. Superior Court* (2002) 101 Cal.App.4th 649, 667-668.) This organization addresses the systemic issues underlying the claims by working to combat animal abuse and promote legal reform, outcomes that resonate with the class members' grievances.

Moreover, the neutrality of the selection process bolsters confidence in the propriety of this designation. The Parties, Class Counsel, and Defense Counsel have unequivocally stated that they hold no financial or other interests in the Cy Pres Recipient (*See* Praglin Decl., ¶ 54; Zusman Decl., ¶ 14; Margolis Decl., ¶ 15; Tully Decl., ¶ 17.) This independence ensures that the Cy Pres Recipient was chosen objectively and with the sole aim of advancing the interests of the class. The proposed distribution fulfills these purposes.

V. CONCLUSION

For the foregoing reasons, Plaintiffs respectfully request that the Court grant this Motion for Final Settlement Approval and enter an Order consistent with the Proposed Order submitted herewith.

Dated: December 16, 2024

COTCHETT, PITRE & McCARTHY, LLP

By: _____
GARY A. PRAGLIN
THERESA E. VITALE
Attorneys for Plaintiffs

PROOF OF SERVICE

I am employed in the County of Los Angeles. I am over the age of 18 years and not a party to this action. My business address is the Law Offices of Cotchett, Pitre & McCarthy, LLP, 2716 Ocean Park Boulevard, Suite 3088, Santa Monica, CA 90405. On this day, I served the following document(s) in the manner described below:

PLAINTIFFS' NOTICE OF MOTION AND MOTION FOR FINAL APPROVAL OF CLASS ACTION SETTLEMENT; MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT THEREOF

✓ **VIA ELECTRONIC TRANSMISSION:** I am readily familiar with this firm's practice for causing documents to be served by electronic transmission. Following that practice, I caused the aforementioned document(s) to be electronically submitted to the e-mail addressee(s) specified below using the electronic service provider Case Anywhere.

Edward S. Zusman Kevin Eng **Markun Zusman & Compton LLP** 465 California St., Suite 401 San Francisco, CA 94104 ezusman@mzclaw.com keng@mzclaw.com	**COUNSEL FOR DEFENDANT HEALTHY SPOT, LLC**

I declare under penalty of perjury, under the laws of the State of California, that the foregoing is true and correct. Executed at Santa Monica, California, December 16, 2024.

Melissa Bressick

MELISSA BRESSICK