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7
8 SUPERIOR COURT OF THE STATE OF CALIFORNIA

9 FOR THE COUNTY OF SAN JOAQUIN

10 BELINDA PAYTON, individually, and on
behalf of other members of the general public
11 similarly situated,

12 Plaintiff,

13 vs.

14 PRIDE INDUSTRIES, a California corporation;
and DOES 1 through 10, inclusive,

15 Defendants.
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Case No.: STK-UOE-2017-7110

[Assigned to the Hon. Barbara Kronlund]

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

Date: December 14, 2020

Time: 9:00 a.m.

Place: Department 10-D

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

2 **PLEASE TAKE NOTICE** that on December 14, 2020 at 9:00 a.m., or as soon thereafter as
3 counsel may be heard, in Department 10-D of the above-captioned court, located at 180 E. Weber
4 Avenue, Stockton, California 95202, the Honorable Barbara Kronlund presiding, Plaintiffs Belinda
5 Payton and Charmaine Walker will, and hereby do, move this Court for entry of an order and judgment
6 granting final approval of the class action settlement and all agreed-upon terms therein. This Motion,
7 unopposed by Defendant PRIDE Industries, seeks final approval of: (1) the Joint Stipulation of Class
8 Action Settlement and Release, (2) settlement payments to Participating Class Members and the LWDA,
9 and (3) costs/expenses to the claims administrator, CPT, Group, Inc.

10 This Motion is based upon: (1) this Notice of Motion and Motion; (2) the Memorandum of
11 Points and Authorities in Support of Motion for Final Approval of Class Action Settlement; (3) the
12 concurrently filed Motion for Attorneys' Fees, Costs and Expenses, and Class Representative
13 Enhancement Payments; (4) the Declaration of Raul Perez; (5) the Declarations of Plaintiffs Belinda
14 Payton and Charmaine Walker; (6) the Declaration of Tarus Dancy on behalf of CPT Group, Inc., the
15 settlement administrator; (7) the [Proposed] Order Granting Final Approval of Class Action Settlement;
16 (8) the [Proposed] Judgment; (9) the records, pleadings, and papers filed in this action; and (10) upon
17 such other documentary and/or oral evidence as may be presented to the Court at the hearing.

18
19 Dated: October 22, 2020

Respectfully submitted,

20
21 By: 
22 Raul Perez
Brandon Brouillette
CAPSTONE LAW APC

23 Attorney for Plaintiffs Belinda Payton and Charmaine
24 Walker

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MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

On July 24, 2020, this Court granted preliminary approval of the Joint Stipulation of Class Action Settlement and Release¹ and approved distribution of the Notice of Class Action Settlement to all Class Members. Class Members were given 30 days to opt out or object to the Settlement (“Response Deadline”). Now that the Response Deadline has passed, Plaintiffs Belinda Payton and Charmaine Walker are pleased to report that: (1) no Class Members submitted valid opt outs;² (2) no Class Members objected to the Settlement; (3) the **entire Net Settlement Amount will be disbursed to all 619 Participating Class Members**; (4) the average payment to Participating Class Members from the Net Settlement Amount is approximately \$550, and the highest from the Net Settlement Amount is approximately \$1,840. (Declaration of Tarus Dancy [“Dancy Decl.”] ¶¶ 6-9.)

Plaintiffs now move for final approval of the class action settlement. This motion is unopposed by Defendant PRIDE Industries (collectively with Plaintiffs, the “Parties”). The principal terms of the Settlement provide for the following:

- (1) Conditional certification of a Settlement Class defined as: All persons who were employed by Defendant in non-exempt positions at the California Department of Corrections and Rehabilitation (“CDCR”) in Stockton, California at any time during the period from January 1, 2016 through July 24, 2020 (“Class Members”).
- (2) A **non-reversionary** Class Settlement Amount of \$650,000. The Class Settlement Amount includes:
 - (a) A Net Settlement Amount of approximately \$339,333 (the Class Settlement Amount minus the requested Attorneys’ Fees and Costs, Settlement Administration Costs, the payment to the California Labor and Workforce Development Agency [“LWDA”], and the Class Representative Enhancement Payments), which will be allocated to all Class Members on a pro-rata basis

¹ Hereinafter, the “Settlement” or “Settlement Agreement.” Unless indicated otherwise, capitalized terms used herein have the same meaning as those defined by the Settlement.

² One Class Member submitted a defective opt out. *See* Dancy Decl. ¶ 6.

1 according to the number of weeks each Class Member worked during the Class
2 Period. **The Entire Net Settlement Amount will be paid to all Class**
3 **Members who do not opt out of the Settlement Class, and without the need**
4 **to submit claims for payment.**

- 5 (b) Attorneys' fees in the amount of one-third of the Class Settlement Amount (or
6 \$216,667), and litigation costs and expenses not to exceed \$30,000, to Capstone
7 Law APC ("Plaintiffs' Counsel").
- 8 (c) A \$37,500 payment to the LWDA pursuant to the Labor Code Private Attorneys
9 General Act of 2004 ("PAGA").
- 10 (d) Settlement administration costs of \$11,500, to be paid to the jointly selected
11 Settlement Administrator, CPT Group, Inc. ("CPT").
- 12 (e) Class Representative Enhancement Payments of \$10,000 to Belinda Payton and
13 \$5,000 to Charmaine Walker for their service on behalf of the Settlement Class,
14 the risks they took in litigating the Action on behalf of the class, and for general
15 releases of all claims arising out of their employment with Defendant.

16 An objective evaluation of the Settlement confirms that the relief negotiated on the Settlement
17 Class' behalf is fair, reasonable, and valuable. The Settlement was negotiated by the Parties at arm's
18 length following two mediations with the Hon. Richard Hodge (Ret.), an experienced and well-respected
19 class action mediator, and the Settlement confers substantial benefits to Class Members. This relief—
20 averaging approximately \$550 per Class Member from the Net Settlement Amount—is particularly
21 impressive when viewed against the difficulties encountered by plaintiffs pursuing wage and hour cases.
22 Moreover, by settling now rather than proceeding to trial, Class Members will not have to wait (possibly
23 years) for relief, nor will they have to bear the risk of class certification being denied or of Defendant
24 prevailing at trial, or of Plaintiffs prevailing at trial but losing on appeal.

25 Accordingly, given the Settlement's favorable terms, the Court's previous findings concerning
26 the Settlement's fairness and reasonableness, and the complete absence of objection to the Settlement,
27 Plaintiffs respectfully request that the Court: (1) grant this Motion for Final Approval of the Settlement
28 Agreement; (2) grant final approval of the settlement administration costs/expenses; (3) enter judgment

pursuant to the Settlement Agreement; and (4) retain jurisdiction to enforce the Settlement.

II. FACTS AND PROCEDURE

A. Brief Overview of the Litigation

Pride is one of the nation's largest non-profits that provides outsourcing for the manufacturing and service needs of Fortune 500 companies and government agencies. Pride operates in 14 states and employs more than 5,600 employees nationwide.

Plaintiff Payton worked for Pride as a non-exempt, hourly-paid Environmental Services Technician and Environmental Services Floor Foreperson (custodian/custodian lead) at the CDCR from January 25, 2016 to July 18, 2016. Plaintiff Walker worked for Pride as a non-exempt, hourly paid Environmental Technician at the CDCR from around July 2015 to June 2019.

In their First Amended Complaint, Plaintiffs allege that Defendant systemically violated the California Labor Code³ by failing to: (1) pay overtime (Sections 510 and 1198); (2) pay minimum wages (Sections 1194, 1197, and 1197.1); (3) provide meal periods (sections 226.7 and 512(a)); (4) provide rest periods (Section 226.7); (5) provide and maintain compliant wage statements (Sections 226(a) and 1174(d)); (6) pay wages upon termination (Sections 201, 202, and 203); (7) pay wages during employment (Section 204); (8) reimburse business expenses (Section 2802). Based on the preceding Labor Code violations, Plaintiffs also allege that Defendant: (1) is liable for civil penalties under the PAGA; and (2) maintained unlawful and unfair business practices, in violation of California Business & Professions Code sections 17200, *et seq.*

B. Plaintiffs' Counsel Conducted a Thorough Investigation of the Factual and Legal Issues and Were Thus Able to Objectively Assess the Settlement's Reasonableness

Beginning shortly after counsel were retained to represent Ms. Payton (and later, Ms. Walker), and continuing over the next 2.5 years until a settlement in principle was reached, Plaintiffs' Counsel conducted a thorough investigation of the factual and legal issues. (Perez Decl. ¶ 2.)

At the outset of the litigation, Ms. Payton (and later Ms. Walker) provided Plaintiffs' Counsel with a detailed summary of her experiences working for Defendant, how Defendant's policies and

³ Unless indicated otherwise, further statutory references are to the California Labor Code.

1 practices were instituted on a daily basis, and the circumstances that gave rise to the alleged Labor Code
2 violations. In addition to informing Plaintiffs' Counsel's initial evaluation of the lawsuit, the information
3 that Ms. Payton provided also influenced Plaintiffs' Counsel's discovery efforts, including written
4 discovery and lines of inquiry at deposition. (Perez Decl. ¶ 3.)

5 In response to their discovery requests, Plaintiffs' Counsel received a large number of
6 documents and information, including employee demographic data and Defendant's written labor
7 policies. Plaintiffs' Counsel analyzed several thousand pages of policy documents, and were able to
8 persuasively pinpoint the problematic policies and procedures that ultimately would have formed the
9 backbone of the motion for class certification. The document and data exchanges allowed Plaintiffs'
10 Counsel to fully assess the nature and magnitude of the claims being settled, as well as the impediments
11 to recovery, so as to make an independent assessment of the reasonableness of the terms to which the
12 parties have agreed. (Perez Decl. ¶ 4.)

13 In addition to written discovery, Plaintiffs' Counsel deposed Defendant's corporate designee,
14 Tina Oliveira (Vice President of Human Resources). This deposition provided considerable evidence
15 concerning, *inter alia*, the strengths and weaknesses of the claims. Plaintiffs' Counsel also defended Ms.
16 Payton's deposition. (Perez Decl. ¶ 5.)

17 In summary, Plaintiffs' Counsel performed a thorough investigation into the claims at issue,
18 which included: (1) determining Plaintiffs' suitability as private attorneys general and class
19 representatives through interviews, background investigations, and analyses of their employment files
20 and related records; (2) evaluating all of Plaintiffs' potential representative claims; (3) researching similar
21 wage and hour class actions as to the claims brought, the nature of the positions, and the type of
22 employer; (4) analyzing Defendant's employment policies and practices; (5) researching settlements in
23 similar cases; (6) evaluating Plaintiff's claims and estimating Defendant's liability for purposes of
24 settlement; (7) drafting the mediation brief; and (8) participating in the mediation. (Perez Decl. ¶ 6.)

25 By engaging in such a thorough investigation and evaluation of Plaintiffs' claims, Plaintiffs'
26 Counsel can opine that the Settlement, for the consideration and on the terms set forth in the Settlement
27 Agreement, is fair, reasonable, an adequate, and is in the best interests of Class Members in light of all
28 known facts and circumstances, including the risk of significant delay and uncertainty associated with

1 litigation, and various defenses asserted by Defendant. (Perez Decl. ¶ 7.)

2 **C. The Parties Settled After Two Mediations**

3 On January 16, 2018, the Parties participated in full-day mediation with the Hon. Richard Hodge
4 (Ret.), an experienced mediator of wage and hour class actions. Judge Hodge helped to manage the
5 Parties' expectations and provided a useful, neutral analysis of the issues and risks to both sides.
6 Although the Parties did not settle at their first mediation, Judge Hodge helped to narrow the gap
7 between the Parties' respective positions. (Perez Decl. ¶ 8.)

8 On September 27, 2019, the Parties participated in a second full-day mediation, also with Judge
9 Hodge. With Judge Hodge's expert guidance, the Parties were able to negotiate a complete settlement of
10 Plaintiffs' claims. The terms of the settlement are now set forth in complete and final form in the Joint
11 Stipulation of Class Action Settlement and Release. (Perez Decl. ¶ 9.) At all times, the Parties'
12 negotiations were adversarial and non-collusive. The Settlement therefore constitutes a fair, adequate,
13 and reasonable compromise of the claims at issue.

14 **D. The Proposed Settlement Fully Resolves Plaintiffs' Claims**

15 **1. Composition of the Settlement Class**

16 The proposed Settlement Class consists of all persons who were employed by Defendant in non-
17 exempt positions at the CDCR in Stockton, California during the period from January 1, 2016 through
18 July 24, 2020. (Settlement Agreement ¶ 5.)

19 **2. Settlement Consideration**

20 Plaintiffs and Defendant have agreed to settle the underlying class claims in exchange for the
21 Class Settlement Amount of \$650,000. The Class Settlement Amount includes: (1) automatic payments
22 to all Participating Class Members—meaning, all Class Members except those who submit timely and
23 valid Requests for Exclusion—from the Net Settlement Amount; (2) \$216,667 in attorneys' fees (i.e.,
24 one-third of the common fund) and up to \$30,000 in litigation costs to Plaintiffs' Counsel; (3) Settlement
25 Administration Costs of \$11,500; (4) a \$37,500 payment to the LWDA; and (5) Class Representative
26 Enhancement Payments for Plaintiffs' service on behalf of the Settlement Class, the risks they took in
27 bringing they representative claims, and for releases of all claims arising out of their employment with
28 Defendant. (Settlement Agreement ¶¶ 3, 8-9, 15, 27.)

1 Subject to the Court approving Attorneys' Fees and Costs, Settlement Administration Costs, the
2 payment to the LWDA, and the Class Representative Enhancement Payments, the Net Settlement
3 Amount will be distributed to Participating Class Members in full. (Settlement Agreement ¶ 16.)

4 **3. Formula for Calculating Payments from the Net Settlement Amount**

5 Each Class Member's share of the Net Settlement Amount will be proportional to the number
6 of weeks he or she worked during the Class Period. (Settlement Agreement ¶ 37.) The Settlement
7 Administrator will calculate Individual Settlement Payments as follows:

- 8 • Defendant will calculate the total number of Workweeks worked by each Class Member
9 during the Class Period and the aggregate total number of Workweeks worked by all
10 Class Members during the Class Period.
- 11 • To determine each Class Member's estimated "Individual Settlement Payment," the
12 Settlement Administrator will use the following formula: The Net Settlement Amount
13 will be divided by the aggregate total number of Workweeks, resulting in the
14 "Workweek Value." Each Class Member's "Individual Settlement Payment" will be
15 calculated by multiplying each individual Class Member's total number of Workweeks
16 by the Workweek Value.
- 17 • The Individual Settlement Payment will be reduced by any required deductions for each
18 Participating Class Members as specifically set forth herein, including employee-side tax
19 withholdings or deductions.
- 20 • The entire Net Settlement Amount will be disbursed to all Class Members who do not
21 submit timely and valid Requests for Exclusion. If there are any valid and timely
22 Requests for Exclusion, the Settlement Administrator shall proportionately increase the
23 Individual Settlement Payment for each Participating Class Member according to the
24 number of Workweeks worked, so that the amount actually distributed to the Settlement
25 Class equals 100% of the Net Settlement Amount.

26 (Settlement Agreement ¶ 37(a)-(d).)

27 **4. Release by the Settlement Class**

28 In exchange for the Class Settlement Amount, Plaintiffs and Participating Class Members will

1 agree to release the Released Claims during the Class Period:

2 All claims, rights, demands, liabilities, and causes of action, arising from, or
3 related to, the same set of operative facts as those set forth in the operative
4 complaint during the Class Period, including: (i) all claims for unpaid overtime;
5 (ii) all claims for meal and rest break violations; (iii) all claims for unpaid
6 minimum wages; (iv) all claims for the failure to timely pay wages upon
7 termination based on the preceding claims; (v) all claims for the failure to timely
8 pay wages during employment based on the preceding claims; (vi) all claims for
wage statement violations based on the preceding claims; (vii) all claims for the
failure to reimburse for necessary business expenses; and (viii) all claims asserted
through California Business & Professions Code §§ 17200, et seq., and
California Labor Code §§ 2698, et seq. based on the preceding claims, including
any and all associated claims for penalties, premium pay, liquidated damages,
interest, attorney fees and costs.

9 (Settlement Agreement ¶ 23.)

10 **E. The Notice and Settlement Administration Processes Were Completed Pursuant to**
11 **the Court's Order**

12 As authorized by the Court's Order preliminarily approving the Settlement Agreement, the
13 Parties engaged CPT to provide settlement administration services. (Dancy Decl. ¶ 2.) CPT's duties
14 have, and if the Court enters the final approval order, will include: (1) printing and mailing the Notice of
15 Class Action Settlement ("Notice"); (2) receiving and processing undeliverable Notices and locating
16 updated addresses for Class Members; (3) receiving and validating Requests for Exclusion; (4)
17 calculating and distributing the Class Settlement Amount; (5) tax reporting; (6) providing necessary
18 reports and declarations; and (7) performing such other tasks as set forth in the Settlement Agreement or
19 as the Parties mutually agree or that the Court orders. (*Id.*)

20 On July 27, 2020, CPT received the Class Notice prepared jointly by Plaintiffs' Counsel and
21 counsel for Defendant and approved by the Court. (Dancy Decl. ¶ 3.) The Class Notice summarized the
22 Settlement's principal terms, provided Class Members with an estimate of how much they would be paid
23 if the Settlement received final approval, and advised Class Members about how to opt out of the
24 Settlement and how to object. (*Id.*)

25 Separately, counsel for Defendant provided CPT with a mailing list (the "Class List"), which
26 included each Class Member's full name, last known address, Social Security Numbers, and information
27 necessary to calculate payments. (Dancy Decl. ¶ 3.) The mailing addresses contained in the Class List
28 were processed and updated using the National Change of Address Database maintained by the U.S.

1 Postal Service. (*Id.* at ¶ 4.) On September 3, 2020, CPT mailed Class Notices to Class Members via
2 First-Class U.S. mail. (*Id.*) Class Members were given 30 days to opt out or object to the Settlement.
3 Plaintiffs are pleased to report that no Class Members submitted valid Requests for Exclusion, or
4 objected to the Settlement. (*Id.* at ¶¶ 6-7.)

5 **III. ARGUMENT**

6 **A. The Court Should Grant Final Approval of the Proposed Class Action Settlement.**

7 **1. Courts Review Class Action Settlements to Ensure that the Terms Are** 8 **Fair, Adequate, and Reasonable**

9 “Public policy generally favors the compromise of complex class action litigation.” *Cellphone*
10 *Termination Fee Cases*, 180 Cal. App. 4th 1110, 1118 (2009), *see also 7-Eleven Owners for Fair*
11 *Franchising v. Southland Corp.*, 85 Cal. App. 4th 1135, 1151 (2000) (“voluntary conciliation and
12 settlement are the preferred means of dispute resolution . . . [t]his is especially true in complex class
13 action litigation . . .”).

14 Class action settlement approval occurs in two steps: (1) an early (preliminary) review by the
15 trial court, and (2) a subsequent (final) review after notice has been distributed to Class Members for
16 their comments and/or objections. Cal. R. Ct. 3.769. The Court granted preliminary approval on July 24,
17 2020. Plaintiffs now seek final approval.

18 “[T]he trial court has broad powers to determine whether a proposed settlement in a class action
19 is fair.” *Mallick v. Super. Ct.*, 89 Cal. App. 3d 434, 438 (1979). Fairness is presumed when: (1) the
20 settlement is reached through arm’s-length bargaining, (2) investigation and discovery are sufficient to
21 allow counsel and the court to act intelligently, (3) counsel is experienced in similar litigation, and (4) the
22 percentage of objectors is low. *Dunk v. Ford Motor Co.*, 48 Cal. App. 4th 1794, 1802 (1996); *see also*
23 *Nordstrom Com. Cases*, 186 Cal. App. 4th 576, 581 (2010). “Where the settlement terms are fair and
24 reasonable, the settlement is presumptively valid, subject only to objections that may be raised at a final
25 hearing.” Conte & Newberg, *Newberg on Class Actions* § 11.26 (4th ed. 2002) (Newberg).

26 By granting preliminary approval, this Court has already determined that the Settlement
27 Agreement is fair and reasonable, subject to objections. With no objections to the Settlement, the Court’s
28 preliminary assessment has been separately endorsed by the Settlement Class. Accordingly, this Court

1 should grant final approval.

2 **2. Plaintiffs’ Counsel Conducted a Thorough Investigation of the Factual and**
3 **Legal Issues and Were Thus Able to Objectively Assess the Settlement’s**
4 **Reasonableness**

5 As set forth in greater detail above, based on their analysis of documents and class data produced
6 by Defendant (including Defendant’s written labor policies and procedures), Plaintiffs’ Counsel were
7 able to realistically assess the value of Plaintiffs’ claims and intelligently engage defense counsel in
8 settlement discussions that culminated in the proposed settlement now before the Court. (Perez Decl. ¶¶
9 2-6.)

10 By engaging in a thorough investigation and evaluation of Plaintiffs’ claims, Plaintiffs’ Counsel
11 can opine that the Settlement, for the consideration and on the terms set forth in the Settlement
12 Agreement, is fair, reasonable, and adequate, and is in the best interests of Class Members in light of all
13 known facts and circumstances, including the risk of significant delay and uncertainty associated with
14 litigation, various defenses asserted by Defendant. (Perez Decl. ¶ 7.)

15 **3. The Settlement Was Reached Through Arm’s-Length Bargaining in**
16 **Which All Parties Were Represented by Experienced Counsel**

17 “[W]hat transpires in settlement negotiations is highly relevant to the assessment of a proposed
18 settlement’s fairness.” *State v. Levi Strauss & Co.*, 41 Cal. 3d 460, 482 (1986). Courts presume the
19 absence of fraud or collusion in the negotiation of a settlement, unless evidence to the contrary is offered;
20 thus, there is a presumption that settlement negotiations are conducted in good faith. Newberg, § 11.51.

21 As explained above, the Parties participated in a mediation with the Hon. Richard Hodge (Ret.),
22 an experienced mediator of wage and hour class actions. Judge Hodge helped manage the Parties’
23 expectations and provided a useful, neutral analysis of the issues and risks to both sides. *See In re*
24 *Bluetooth Headset Prod. Liab. Litig.*, 654 F.3d 935, 948 (9th Cir. 2011) (the presence of a neutral
25 mediator is a factor weighing in favor of finding of no collusion); *In re Apple Computer, Inc. Derivative*
26 *Litig.*, No. C 06-4128 JF (HRL), 2008 U.S. Dist. LEXIS 108195 (N.D. Cal. Nov. 5, 2008) (mediator’s
27 participation weighs considerably against any inference of a collusive settlement); *D’Amato v. Deutsche*
28 *Bank*, 236 F.3d 78, 85 (2d Cir. 2001) (a “mediator’s involvement in pre-certification settlement

1 negotiations helps to ensure that the proceedings were free of collusion and undue pressure.”); *Villegas v.*
2 *J.P. Morgan Chase & Co.*, No. 09–00261, 2012 WL 5878390, at *6 (N.D. Cal. Nov. 21, 2012)
3 (participation in mediation “tends to support the conclusion that the settlement process was not
4 collusive”); *Ogbuehi v. Comcast of California/Colorado/Fla./Oregon, Inc.*, 303 F.R.D. 337, 350 (E.D.
5 Cal. 2014) (participation in mediation “tends to support the conclusion that the settlement process was
6 not collusive”). At all times, the Parties’ negotiations were adversarial and non-collusive. (Perez Decl. ¶¶
7 8-9.)

8 The Parties were represented by experienced class action counsel throughout the negotiations
9 resulting in this Settlement. Plaintiffs are represented by Capstone Law APC. Plaintiffs’ Counsel
10 employ seasoned class action attorneys who regularly litigate wage and hour claims through certification
11 and on the merits, and have considerable experience settling wage and hour class actions. (Perez Decl. ¶¶
12 10-12, Ex. 1.)

13 Defendant is represented by Forrest & Becker Law Group, APC, a respected defense firm.

14 **4. The Proposed Settlement Is Reasonable Given the Strengths of Plaintiffs’**
15 **Claims and the Risks and Expense of Continued Litigation**

16 In seeking approval, a settling party must provide sufficient information to “enable the court to
17 make an independent assessment of the adequacy of the settlement terms.” *Kullar v. Foot Locker Retail,*
18 *Inc.*, 168 Cal. App. 4th 116, 131-32 (2008). However, “[i]t is well-settled law that a cash settlement
19 amounting to only a fraction of the potential recovery will not per se render the settlement inadequate or
20 unfair.” *See Officers for Justice v. Civil Serv. Comm’n of City & Cty. of San Francisco*, 688 F.2d 615,
21 628 (9th Cir. 1982). “The proposed settlement is not to be judged against a hypothetical or speculative
22 measure of what might have been achieved by the negotiators.” *Id.* at 625. “Estimates of a fair
23 settlement figure are tempered by factors such as the risk of losing at trial, the expense of litigating the
24 case, and the expected delay in recovery (often measured in years).” *In re Toys R Us-Delaware, Inc.--*
25 *Fair & Accurate Credit Transactions Act (FACTA) Litig.*, 295 F.R.D. 438, 453 (C.D. Cal. 2014). In
26 other words, in valuing the claims within a realistic *range* of outcomes, the settling plaintiff should
27 discount the value of the settled claims for risks such as changes in the law, the probability of success,
28

and other factors.⁴

Settling parties are not, however, required to partake in a hypothetical accounting exercise: “Kullar does not ... require any such explicit statement of [maximum] value; it requires a record which allows ‘an understanding of the amount that is in controversy and the realistic range of outcomes of the litigation.’” *Munoz v. BCI Coca-Cola Bottling Co.*, 186 Cal. App. 4th 399, 409-10 (2010) (quoting *Kullar*, 168 Cal. App. 4th at 120 (emphasis added)). Overall, “the most important factor” in determining “whether a settlement is fair and reasonable” is the “strength of the case for plaintiffs on the merits, balanced against the amount offered in the settlement.” *Id.* at 409 n.6 (quoting *Kullar*, 168 Cal. App. 4th at 130). As explained in detail below, the Class Settlement Amount is within the range of reasonableness in light of the nature and magnitude of the claims being settled and the various potential impediments to recovery.

Defendant’s Exposure for the Class Claims	
Off-the-Clock Claim ⁵	\$296,510.00
Meal Period Claim ⁶	\$1,071,720.00

⁴ Federal district courts also recognize that there is an inherent “range of reasonableness” in determining whether to approve a settlement “which recognizes the uncertainties of law and fact in any particular case and the concomitant risks and costs necessarily inherent in taking any litigation to completion.” *Id.* at 188, quoting *Newman v. Stein*, 464 F. 2d 689, 693 (2d Cir.). See *In re Omnivision Tech., Inc.*, 559 F. Supp. 2d 1036 (N.D. Cal. 2008); see also *Nat’l Rural Telecomm. Coop. v. Directv, Inc.*, 221 F.R.D. 523, 527 (C.D. Cal. 2004) (“well settled law that a proposed settlement may be acceptable even though it amounts to only a fraction of the potential recovery”); *In re Global Crossing Sec. and ERISA Litig.*, 225 F.R.D. 436, 460 (S.D.N.Y. 2004) (“settlement amount’s ratio to the maximum potential recovery need not be the sole, or even dominant, consideration when assessing settlement’s fairness”); *In re IKON Office Solutions, Inc. Sec. Litig.*, 194 F.R.D. 166, 184 (E.D. Pa. 2000) (“the fact that a proposed settlement constitutes a relatively small percentage of the most optimistic estimate does not, in itself, weigh against the settlement; rather the percentage should be considered in light of strength of the claims”); *Officers for Justice v. Civil Serv. Comm.*, 688 F. 2d 615, 628 (C.A. Cal. 1982) (it is “the complete package, taken as a whole rather than the individual component parts, that must be examined for overall fairness”).

⁵ Plaintiffs allege that Defendant failed to pay employees for all hours worked prior to the start, and after the end, of each scheduled shift by requiring employees to undergo off-the-clock security inspections. These security inspections were done under the control of the employer and without compensation, in violation of California law. Defendant’s alleged systematic failure to pay for all hours worked amounted to (conservatively) at least 5 minutes of unpaid time per shift. Defendant’s total exposure would therefore be calculated as follows: 223,275 total shifts worked by all Class Members during the Class Period x \$16 / hour x 0.083 hours = \$296,510.

⁶ As a result of the security inspections discussed above, Plaintiffs also allege that Defendant failed to provide compliant meal periods during the Class Period. Specifically, because employees were required to go through security when entering and leaving the building, and were allocated only 30 minutes for meal breaks, they could not leave the premises and still take a full 30-minute meal break. Conservatively estimating that Class Members left the premises during 30% of their shifts, Defendant’s

Defendant's Exposure for the Class Claims	
Rest Period Claim ⁷	\$1,250,340.00
Business Expense Reimbursement Claim ⁸	\$49,050.00
Wage Statement Claim ⁹	\$435,000.00
Final Pay Claim ¹⁰	\$408,000.00
Total	\$3,510,620.00

This estimate assumes that each and every one of Plaintiffs' claims would have been certified for class-wide resolution, that Plaintiffs would have prevailed at trial, and that the jury's verdict would have been affirmed on appeal. In other words, this estimate assumes complete and total victory.

exposure would be calculated as follows: 223,275 total meal period-eligible shifts worked by all Class Members during the Class Period x \$16 / hour x 30% violation rate = \$1,071,720.

⁷ Plaintiffs allege that Defendant failed to relieve Class Members of all duties during their rest periods by requiring them to respond to radio calls. Conservatively estimating that 35% of all rest periods were interrupted by radio calls, Defendant's maximum realistic exposure would therefore be calculated as follows: 223,275 total meal period-eligible shifts worked by all Class Members during the Class Period x \$16 / hour x 35% violation rate = \$1,250,340.

⁸ Plaintiffs allege that Defendant did not reimburse employees for all necessary business expenses, including expenses related to maintain their uniforms. Based on interviews with Class Members and data gathered by Plaintiffs' Counsel, Class Members spent approximately \$75 on business expenses throughout their employment. Thus, Pride's potential damages with respect to this claim is \$49,050 (654 x \$75).

⁹ Based on the preceding allegations, Plaintiffs allege that Defendant issued Class Members incorrectly itemized wage statements. Penalties for wage statement violations are calculated according to the formula provided by Labor Code section 226(e)(1): An employee suffering injury as a result of a knowing and intentional failure by an employer to comply with subdivision (a) is entitled to recover the greater of all actual damages or fifty dollars (\$50) for the initial pay period in which a violation occurs and one hundred dollars (\$100) per employee for each violation in a subsequent pay period, not to exceed an aggregate penalty of four thousand dollars (\$4,000). Defendant's maximum potential exposure would be calculated as follows: 435 employees employed during the one-year statute of limitations period x \$4,000 = \$1,740,000. However, this derivative wage statement claim is only as strong as the underlying predicate claims. Defendant also argued that to recover penalties for wage statement violations, Plaintiffs would have had to show that it knowingly and intentionally issued wage statements with unlawful deficiencies. *See* Lab. Code § 226; *Price v. Starbucks Corp.*, 192 Cal. App. 4th 1136, 1142-43 (2011). Given the contingent nature of the wage statement claim, and the strength of Defendant's defenses to all claims, Plaintiffs discounted Defendant's exposure by 75%, or to \$435,000.

¹⁰ Based on the forgoing allegations, Plaintiffs allege that Defendant is liable for statutory penalties under Labor Code section 203. Section 203 provides that "the wages of the employee shall continue as a penalty from the due date thereof at the same rate until paid or until an action therefor is commenced; but the wages shall not continue for more than 30 days." Defendant's exposure would be as follows: 425 former employees x \$16/hour x 8 hours/day x 30 days = \$1,632,000. However, while Section 203 penalties are relatively straightforward to calculate, the analysis becomes more difficult for settlement purposes as derivative waiting-time penalties are only as strong as the underlying predicate claims, and are subject to good faith defenses. For example, Defendant argued that no waiting-time penalties can be awarded unless the failure to pay wages is "willful," an element that Plaintiff acknowledges would have been difficult to prove. *See* Cal. Code Regs. tit. 8, § 13520 ("[a] willful failure to pay wages within the meaning of Labor Code section 203 occurs when an employer intentionally fails to pay wages to an employee when those wages were due."). Given the contingent nature of the Section 203 claim, and the strength of Defendant's defenses to all claims, Plaintiffs discounted Defendant's exposure by 75%, or to \$408,000.

Understandably, for purposes of evaluating the settlement's reasonable, this estimate must be "tempered by factors such as the risk of losing at trial, the expense of litigating the case, and the expected delay in recovery (often measured in years)." *In re Toys R Us-Delaware, Inc.-- Fair & Accurate Credit Transactions Act (FACTA) Litig.*, 295 F.R.D. 438, 453 (C.D. Cal. 2014).

Ultimately, Plaintiffs' Counsel determined an appropriate range of recovery for settlement purposes by offsetting Defendant's maximum theoretical liability by: (i) the strength of the defenses to the merits of Plaintiffs' claims; (ii) the risk of class certification being denied; (iii) the risk of losing on any of a number of dispositive motions that could have been brought between certification and trial (e.g., motions to decertify the class, motions for summary judgment, and/or motions in limine) that might have eliminated all or some of Plaintiff's claims, or barred evidence/testimony in support of the claims; (iv) the risk of losing at trial; (v) the chances of a favorable verdict being reversed on appeal; and (vi) the difficulties attendant to collecting on a judgment (collectively, the "Discount Factors").

After taking into account the Discount Factors, Plaintiffs' Counsel determined that it would be reasonable to settle for a fraction of Defendant's maximum potential exposure for the class claims (PAGA discussed in the following section), or approximately 20%, which is essentially the product of the probability of: (i) certification being granted on **all claims** ($\approx 60\%$); (ii) prevailing on summary judgment/motions in limine/renewed motions to deny certification on **all claims** ($\approx 60\%$); (iii) prevailing at trial on **all of Plaintiffs' claims** ($\approx 55\%$); i.e., $60\% \times 60\% \times 55\%$.

Such a discount is inherently reasonable given that Plaintiffs would have had to overcome **multiple, dependent** contingencies to prevail on his claims. If anything, the projected odds for each of the above contingencies is generous to the class' position, since plaintiffs in employment cases rarely prevail on **all of the claims** at any of these dispositive stages. Courts routinely approve settlements that provide a similar discounted range of the maximum potential recovery. *See, e.g., In re Warfarin Sodium Antitrust Litig.*, 212 F.R.D. 231, 256-58 (D. Del. 2002) (recognizing that a reasonable settlement amount can be 1.6% to 14% of the total estimated damages); *In Re Armored Car Antitrust Litig.*, 472 F. Supp. 1357, 1373 (N.D. Ga. 1979) (settlements with a value of 1% to 8% of the estimated total damages were approved); *In Re Four Seasons Secs. Laws Litig.*, 58 F.R.D. 19, 37 (W.D. Okla. 1972) (approving 8% of damages); *Balderas v. Massage Envy Franchising, LLP*, 2014 WL 3610945, at *5 (N.D. Cal. July 21,

2014) (finding that settlement which amounted to 8% of maximum recovery “[fell] within the range of possible initial approval based on the strength of plaintiff’s case and the risk and expense of continued litigation.”); *In re Omnivision Techs., Inc.*, 559 F. Supp. 2d 1036, 1042 (N.D. Cal. 2008) (approving settlement of 6% to 8% of estimated damages).¹¹

5. The Settlement Class Has Responded Positively to the Settlement

In evaluating the fairness of a Settlement, 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.” *National Rural Tele. Coop. v. DIRECTV, Inc.*, 221 F.R.D. 523, 529 (C.D. Cal. 2004). Here, no Class Members validly opted out of the Settlement Class, or objected to the Settlement. (Dancy Decl. ¶¶ 6-7.) The Class’s response is “overwhelmingly positive,” supporting approval of the Settlement. *See 7-Eleven Owners for Fair Franchising*, 85 Cal. App. 4th at 1152-53 (finding support for the settlement where 80 out of 5,454 class members elected to opt out and nine class members objected); *Chun-Hoon v. McKee Foods Corp.*, 716 F. Supp. 2d 848, 852 (N.D. Cal. 2010) (finding 0 objections and 16 opt-outs out of 329 class members [4.86%] “strongly support[] settlement”); *Garner v. State Farm Mut. Auto. Ins. Co.*, No. CV 08 1365 CW EMC, 2010 WL 1687832, at *15 (N.D. Cal. Apr. 22, 2010) (finding an opt-out rate of 0.4% supported settlement). In other words, “[t]he fact that the overwhelming majority of the class willingly approved the offer and stayed in the class presents at least some objective positive commentary as to its fairness.” *Hanlon v. Chrysler Corp.*, 150 F.3d 1011, 1027 (9th Cir. 1998).

¹¹ See also *In re Uber FCRA Litig.*, No. 14-cv-05200-EMC, 2017 U.S. Dist. LEXIS 101552, at *23- 24 (N.D. Cal. June 29, 2017) (granting preliminary approval to class action settlement where gross settlement fund, prior to deducting attorneys’ fees and services awards, was valued at 7.5% or less of total possible verdict); *Viceral v. Mistras Grp., Inc.*, No. 15-cv-02198-EMC, 2016 U.S. Dist. LEXIS 140759, at *21 (N.D. Cal. Oct. 11, 2016) (granting preliminary approval to class action settlement representing “8.1% of the full verdict value” with net settlement amount representing approximately 5.3% of full verdict value); *Stovall-Gusman v. W.W. Granger, Inc.*, No. 13-cv-02540-HSG, 2015 WL 3776765, at *4 (N.D. Cal. June 17, 2015) (granting final approval to settlement with net recovery to Plaintiffs valued at 7.3% of potential maximum recovery); *Cruz v. Sky Chefs, Inc.*, No. 12-cv-02705-DMR, 2014 WL 7247065, at *5 (N.D. Cal. Dec. 19, 2014) (granting final approval where gross settlement amount represented 8.6% of the maximum potential recovery from the class claims and estimated amount distributable to class after accounting for attorneys’ fees and other deductions represented approximately 6.1% of maximum potential recovery); *In re LDK Solar Sec. Litig.*, No. 07-cv-05182-WHA, 2010 WL 3001384, at *2 (N.D. Cal. July 29, 2010) (granting final approving where “[t]he proposed settlement amount is [. . .] only about five percent of the estimated damages before fee and costs—even before any reduction thereof for attorney’s fees and costs.”).

1 The average settlement payment from the Net Settlement Amount is approximately \$550 and
2 the highest is approximately \$1,840. (Dancy Decl. ¶ 9.) This average net recovery is significantly higher
3 than many wage and hour class action settlements approved by California state and federal courts. *See*,
4 *e.g.*, *Badami v. Grassroots Campaigns, Inc.*, Case No. C 07-03465 JSW (N.D. Cal. Sept. 15, 2008)
5 (average net recovery of approximately \$195); *Sandoval v. Nissho of Cal., Inc.*, Case No. 37-2009-
6 00091861 (San Diego County Super. Ct.) (average net recovery of approximately \$145); *Fukuchi v.*
7 *Pizza Hut*, Case No. BC302589 (L.A. County Super. Ct.) (average net recovery of approximately \$120);
8 *Contreras v. United Food Group, LLC*, Case No. BC389253 (L.A. County Super. Ct.) (average net
9 recovery of approximately \$120); *Ressler v. Federated Department Stores, Inc.*, Case No. BC335018
10 (L.A. County Super. Ct.) (average net recovery of approximately \$90); *Doty v. Costco Wholesale Corp.*,
11 Case No. CV05-3241 FMC-JWJx (C.D. Cal. May 14, 2007) (average net recovery of approximately
12 \$65); *Sorenson v. PetSmart, Inc.*, Case No. 2:06-CV-02674-JAM-DAD (E.D. Cal.) (average net
13 recovery of approximately \$60); *Lim v. Victoria's Secret Stores, Inc.*, Case No. 04CC00213 (Orange
14 County Super. Ct.) (average net recovery of approximately \$35); and *Gomez v. Amadeus Salon, Inc.*,
15 Case No. BC392297 (L.A. Super. Ct.) (average net recovery of approximately \$20).

16 **B. The Consideration Provided for the PAGA Claim Is Fair and Reasonable In Light**
17 **of the Amount in Controversy Discounted by the Risks of Continued Litigation**

18 Pursuant to the Settlement Agreement, \$50,000 from the Class Settlement Amount shall be
19 allocated to the resolution of the PAGA claim, of which 75% (\$37,500) will be paid directly to the
20 LWDA, and the remaining 25% (\$12,500) will be paid to Participating Class Members. (Settlement
21 Agreement ¶ 15.)

22 This result was reached after good-faith negotiation between the Parties. The amount was valued
23 as follows: Based on information and evidence produced by Defendant during discovery, Plaintiffs
24 determined that aggrieved employees worked a combined total of approximately 19,010 pay periods
25 during the PAGA statute of limitations period ("PAGA Period"). Statutory penalties would be calculated
26 according to Labor Code 2699(f)(2): If, at the time of the alleged violation, the person employs one or
27 more employees, the civil penalty is one hundred dollars (\$100) for each aggrieved employee per pay
28 period for the initial violation and two hundred dollars (\$200) for each aggrieved employee per pay

1 period for each subsequent violation.

2 However, some courts have interpreted Labor Code section 2699(f)(2) to impose the enhanced
3 “subsequent violation penalty” or “heightened penalty” only after an employer has been notified that its
4 conduct violates the Labor Code. *See Trang v. Turbine Engine Components Technologies Corp.*, No.
5 CV 12–07658 DDP (RZx), 2012 WL 6618854 (C.D. Cal. Dec. 19, 2012) (“courts have held that
6 employers are not subject to heightened penalties for subsequent violations unless and until a court or
7 commissioner notifies the employer that it is in violation of the Labor Code”); *Amalgamated Transit*
8 *Union Local 1309, AFL-CIO v. Laidlaw Transit Services, Inc.*, No. 05cv1199–IEG–CAB, 2009 WL
9 2448430 (S.D. Cal. 2009) (finding that California law imposes the “subsequent violation penalty” only
10 after an employer has been notified its conduct violates the Labor Code). Defendant would also argue
11 that penalties for claims could not be stacked on top of one another (which Plaintiffs dispute), thus
12 greatly reducing the potential exposure.

13 It should be noted that PAGA gives the Court wide latitude to reduce the amount of civil
14 penalties “based on the facts and circumstances of a particular case” when “to do otherwise would result
15 in an award that is unjust, arbitrary and oppressive, or confiscatory.” Cal. Lab. Code § 2699(h). In
16 reducing PAGA penalties, courts have considered issues including whether the employees suffered
17 actual injury from the violations, whether the defendant was aware of the violations, and the employer’s
18 willingness to fix the violation. *Carrington v. Starbucks Corp.*, 30 Cal. App. 5th 504, 528 (2018)
19 (awarding PAGA penalties of only 0.2% of the maximum); *see also Cotter v. Lyft, Inc.*, 193 F. Supp. 3d
20 1030, 1037 (N.D. Cal. 2016); *Fleming v. Covidien Inc.*, No. ED CV 10-01487 RGK (OPX), 2011 WL
21 7563047, at *4 (C.D. Cal. Aug. 12, 2011).

22 For example, during the penalty phase of trial in *Carrington*, the plaintiff requested PAGA
23 penalties in the amount of approximately \$70 million. The trial court instead awarded only \$150,000—
24 **or 0.21% of the maximum**—and stated that this reduction was warranted because imposing the
25 maximum penalty would be “unjust, arbitrary, and oppressive” based on Starbucks’s “good faith
26 attempts” to comply with meal period obligations and because the court found the violations were
27 minimal. *Carrington*, 30 Cal. App. 5th at 517. The Court of Appeal affirmed the lower court’s reduced
28 award of a \$150,000 penalty under PAGA. *Id.* at 529.

1 Likewise, in *Covidien*, the Court reduced the potential penalties by over 82%, awarding
2 \$500,000 instead of maximum penalties of \$2.8 million. *Covidien*, 2011 WL 7563047 at *4; *see also*
3 *Thurman v. Bayshore Transit Mgmt.*, 203 Cal. App. 4th 1112, 1135-36 (2012) (affirming 30% reduction
4 under specified PAGA claim where the employer produced evidence that it took its obligations
5 seriously); *Elder v. Schwan Food Co.*, No. B223911, 2011 WL 1797254, at *5-*7 (Cal. Ct. App. May
6 12, 2011) (reversing trial court decision denying any civil penalties where violations had been proven,
7 remanding for the trial court to exercise discretion to reduce, but not wholly deny, civil penalties); *Li v. A*
8 *Perfect Day Franchise, Inc.*, No. 5:10-CV-01189-LHK, 2012 WL 2236752, at *17 (N.D. Cal. June 15,
9 2012) (denying PAGA penalties for violation of California Labor Code section 226 as redundant with
10 recovery on a class basis pursuant to California Labor Code section 226, directly); *Aguirre v. Genesis*
11 *Logistics*, No. SACV 12-00687 JVS (ANx), 2013 WL 10936035 at *2-*3 (C.D. Cal. Dec. 30, 2013)
12 (reducing penalty for past PAGA violations from \$1.8 million to \$500,000, after rejecting numerous
13 other PAGA claims).

14 Plaintiffs therefore determined an appropriate range of settlement for PAGA penalties as a
15 percentage of the settlement range that was consistent with other hybrid class/PAGA settlements
16 approved by California courts.¹² Where PAGA penalties are negotiated in good faith and “there is no
17 indication that [the] amount was the result of self-interest at the expense of other Class Members,” such
18

19 ¹² *Dearaujo v. Regis Corp.*, No. 2:14-cv-01408-KJM-AC, 2016 WL 3549473 at *3 (E.D. Cal.
20 June 29, 2016) (preliminarily approving \$1.95 million settlement containing \$10,000 PAGA penalties
21 with \$7,500 paid to LWDA); *Garcia v. Gordon Trucking, Inc.*, No. 1:10-CV-0324 AWI SKO, 2012
22 WL 5364575 at *7 (E.D. Cal. Oct. 31, 2012) (approving \$3.7 million settlement containing \$10,000
23 PAGA penalties with \$7,500 paid to LWDA); *Chu v. Wells Fargo Invst., LLC*, No. C 05-4526 MHP,
24 2011 WL 672645 at *1 (N.D. Cal. Feb. 16, 2011) (approving \$6.9 million settlement containing \$10,000
25 PAGA penalties with \$7,500 paid to LWDA); *Guerrero v. R.R. Donnelley & Sons Co.*, Case No. RIC
26 10005196 (Riverside County Super. Ct. July 16, 2013; Judge Matthew C. Perantoni) (gross settlement
27 fund of \$1,100,000, of which \$3,000 (or 0.3%) was allocated to the settlement of PAGA penalties);
28 *Parra v. Aero Port Services, Inc.*, No. BC483451 (L.A. County Super. Ct. April 20, 2015; Judge Jane
Johnson) (gross settlement fund of approximately \$1,458,900, of which \$5,000 (or 0.3%) was allocated
to the settlement of PAGA penalties); *Thompson v. Smart & Final, Inc.*, No. BC497198 (L.A. County
Super. Ct. Nov. 18, 2014; Judge William F. Highberger) (gross settlement fund of \$3,095,000, of which
approximately \$13,333 (or 0.4%) was allocated to the settlement of PAGA penalties); *Chavez v. Vallarta*
Food Enterprises, Inc., No. BC490630 (L.A. County Super. Ct. Nov. 10, 2014; Judge William F.
Highberger) (gross settlement fund of \$1,545,900, of which \$10,000 (or 0.6%) was allocated to the
settlement of PAGA penalties); *Coleman v. Estes Express Lines, Inc.*, No. BC429042 (L.A. County
Super. Ct. Oct. 3, 2013; Judge Kenneth R. Freeman) (gross settlement fund of \$1,535,000, of which
\$1,000 (or 0.1%) was allocated to the settlement of PAGA penalties).

1 amounts are generally considered reasonable. *Hopson v. Hanesbrands Inc.*, Case No. 08-00844, 2009
2 U.S. Dist. LEXIS 33900, at *24 (N.D. Cal. Apr. 3, 2009); *see, e.g., Nordstrom Com. Cases*, 186 Cal.
3 App. 4th 576, 579 (2010) (“[T]rial court did not abuse its discretion in approving a settlement which
4 does not allocate any damages to the PAGA claims.”).

5 **C. The Requested Payment to the Settlement Administrator Is Reasonable and**
6 **Should Receive Final Approval**

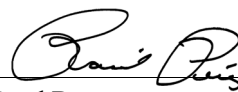
7 Plaintiffs request final approval of settlement administration costs in the amount of \$11,500.
8 (Dancy Decl. ¶ 10.) CPT has promptly and properly distributed the Class Notice to all Class Members
9 and completed its duties in accordance with the settlement terms and the Court’s preliminary approval
10 Order. (*See generally* Dancy Decl.) Accordingly, the \$11,500 payment is fair and reasonable and should
11 be accorded final approval along with the rest of the Settlement terms.

12 **IV. CONCLUSION**

13 The Parties have negotiated a fair Settlement of the wage and hour claims that likely would not
14 have been brought, let alone successfully resolved, but for the effort and resolve of the Plaintiffs and their
15 counsel. The Class Members’ positive response indicates that the Settlement is fair and reasonable.
16 Accordingly, Plaintiffs respectfully request that this Court grant final approval of the Settlement
17 Agreement and enter judgment.

18
19 Dated: October 22, 2020

Respectfully submitted,

20
21 By: 
22 Raul Perez
Brandon Brouillette
CAPSTONE LAW APC

23 Attorney for Plaintiffs Belinda Payton and Charmaine
24 Walker

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6 Attorneys for Plaintiffs Belinda Payton and Charmaine Walker

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA

9 FOR THE COUNTY OF SAN JOAQUIN

10 BELINDA PAYTON, individually, and on
11 behalf of other members of the general public
similarly situated,

12 Plaintiff,

13 vs.

14 PRIDE INDUSTRIES, a California corporation;
15 and DOES 1 through 10, inclusive,

16 Defendants.
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Case No.: STK-UOE-2017-7110

[Assigned to the Hon. Barbara Kronlund]

**NOTICE OF MOTION AND MOTION FOR
ATTORNEYS' FEES, COSTS AND
EXPENSES, AND CLASS
REPRESENTATIVE ENHANCEMENT
PAYMENTS; MEMORANDUM OF POINTS
AND AUTHORITIES IN SUPPORT**

Date: December 14, 2020

Time: 9:00 a.m.

Place: Department 10-D

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

2 **PLEASE TAKE NOTICE** that on December 14, 2020 at 9:00 a.m., or as soon thereafter as
3 counsel may be heard, in Department 10-D of the above-captioned court, located at 180 E. Weber
4 Avenue, Stockton, California 95202, the Honorable Barbara Kronlund presiding, Plaintiffs Belinda
5 Payton and Charmaine Walker will, and hereby do, move this Court to award \$216,667 in attorneys'
6 fees and \$22,500 in litigation costs and expenses. Plaintiffs also move for Class Representative
7 Enhancement Payments for their services on behalf of the Settlement Class, and for general releases of
8 all claims they may have against Defendant PRIDE Industries arising out of their employment.

9 This Motion should be granted because: (1) no action would likely have been taken by Class
10 Members individually, and no compensation would have been recovered for them, but for Plaintiffs'
11 service on their behalf; (2) the requested attorneys' fees and costs are fair and reasonable under
12 California law based on the work performed and the results obtained for the class; (3) California public
13 policy recognizes that attracting competent counsel to litigate cases on behalf of clients unable to pay
14 hourly fees requires attorney fee awards commensurate with such risks; and (4) the Class' response
15 confirms that the requested attorneys' fees and costs/expenses and Class Representative Enhancement
16 Payments should be approved.

17 This Motion is based upon: (1) this Notice of Motion and Motion; (2) the Memorandum of
18 Points and Authorities in Support of the Motion for Attorneys' Fees, Costs and Expenses, and Class
19 Representative Enhancement Payments; (3) the concurrently filed Motion for Final Approval of Class
20 Action Settlement; (1) the Declaration of Raul Perez; (2) the Declarations of Plaintiffs Belinda Payton
21 and Charmaine Walker; (3) the Declaration of Tarus Dancy on behalf of CPT Group, Inc., the settlement
22 administrator; (4) the [Proposed] Order Granting Final Approval of Class Action Settlement; (5) the
23 [Proposed] Judgment; (6) the records, pleadings, and papers filed in this action; and (7) upon such other
24 documentary and/or oral evidence as may be presented to the Court at the hearing.

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Dated: October 22, 2020

Respectfully submitted,

By: _____

Raul Perez
Brandon Brouillette
CAPSTONE LAW APC

Attorney for Plaintiffs Belinda Payton and Charmaine Walker

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MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

Plaintiffs Belinda Payton and Charmaine Walker move for attorneys' fees in the amount of one-third of the \$650,000 non-reversionary settlement fund, or \$216,667, and litigation costs and expenses of \$22,500. The requested award of attorneys' fees is reasonable and consistent with the prevailing California practice of awarding attorneys' fees in the amount of one-third of the settlement fund. California policy strongly favors use of the percentage method of calculating fees for class action settlements, as it "distributes the cost of hiring an attorney among all the parties benefited," namely, Class Members. *Laffitte v. Robert Half Internat. Inc.*, 1 Cal. 5th 480, 489 (2016) ("*Laffitte II*"). The percentage method also incentivizes competent counsel to achieve the best results as efficiently as possible by giving them a stake in the outcome, rather than incentivizing counsel to drive up hours through protracted litigation. Furthermore, because none of the Class Members have paid fees to Plaintiffs' Counsel for their effort during the litigation, equity dictates that they pay a fair and reasonable fee for the valuable benefits obtained—not less than if they had hired private counsel to litigate their cases individually.

Plaintiffs also move for Class Representative Enhancement Payments of \$10,000 to Belinda Payton and \$5,000 to Charmaine Walker, for their service on behalf of the Settlement Class and for agreeing to broader releases than those required of other Class Members.

Accordingly, this Motion and the concurrently filed Motion for Final Approval of Class Action Settlement¹ should be granted in their entirety.

II. ARGUMENT

A. The Court Should Award the Requested Attorneys' Fees in the Amount of One-Third of the Class Settlement Amount

1. The Requested Attorneys' Fees Are Reasonable Under the Common-Fund Doctrine

Plaintiffs move for an award of attorneys' fees in the amount of \$216,667, or one-third of the

¹ Plaintiffs separately address the Settlement's terms generally in the concurrently filed Memorandum of Points and Authorities in Support of Final Approval.

1 gross settlement fund. This request for attorneys’ fees is supported by California law under the common
2 fund doctrine. The common fund doctrine is applicable where, as here, attorneys have been instrumental
3 in creating a settlement fund that benefits all class members. *See Laffitte II*, 1 Cal. 5th at 503 (“We join
4 the overwhelming majority of . . . courts in holding that when class action litigation establishes a
5 monetary fund for the benefit of the class members . . . the court may determine the amount of a
6 reasonable fee by choosing an appropriate percentage of the fund created.”).

7 In *Laffitte II*, a unanimous California Supreme Court encouraged California courts to exercise
8 their discretion to use the common fund—or “percentage method”—to calculate fees when a discrete
9 fund is created for the benefit of a large group of beneficiaries. *Laffitte II*, 1 Cal. 5th at 503. *Laffitte II*
10 explained that the percentage method has “recognized advantages” over the lodestar-multiplier method,
11 “including relative ease of calculation, alignment of incentives between counsel and the class, a better
12 approximation of market conditions in a contingency case, and the encouragement it provides counsel to
13 seek an early settlement and avoid unnecessarily prolonging the litigation.” *Id.*

14 By awarding counsel a percentage of the total recovery, rather than fees based on hours worked,
15 the common fund method encourages attorneys to efficiently litigate to achieve the best results possible
16 for the class. *See id.* at 492-494. Indeed, “the percentage method is generally favored in common fund
17 cases because it allows courts to award fees from the fund in a manner that rewards counsel for success
18 and penalizes it for failure.” *Id.* at 493 (quoting *In re Rite Aid Corp. Securities Litig.*, 396 F.3d 294, 300
19 (3d Cir. 2005) (internal quotations omitted)).

20 Moreover, the percentage method fairly “distributes the cost of hiring an attorney among all the
21 parties benefited[.]” *Laffitte II*, 1 Cal. 5th. at 489. The common fund doctrine “rests squarely on the
22 principle of avoiding unjust enrichment . . . attorney fees awarded under this doctrine are not assessed
23 directly against the losing party (fee shifting), but come out of the fund established by the litigation, so
24 that the beneficiaries of the litigation . . . bear this cost (fee spreading).” *Lealao v. Beneficial Cal. Inc.*, 82
25 Cal. App. 4th 19, 27 (2000). Thus, the common fund method is considered more equitable because it
26 focuses on the total benefit conferred on the class resulting from the efforts of counsel. *Id.* at 48.

27 In light of the advantages of the common fund method, the California Supreme Court in *Laffitte*
28 *II* conclusively held that, when the Settlement Agreement creates a non-reversionary fund, the trial court

1 may calculate attorneys' fees as a percentage of the common fund.

2 **2. California State and Federal Courts Routinely Award Attorneys' Fees in**
3 **the Amount of One-Third of the Common Fund**

4 California state and federal courts routinely award attorneys' fees equaling one-third of the
5 common fund. *See, e.g. Laffitte v. Robert Half Internat. Inc.*, 231 Cal. App. 4th 860, 871 (2016) ("33 1/3
6 percent of the common fund is consistent with, and in the range of, awards in other class action
7 lawsuits"); *Chavez v. Netflix, Inc.*, 162 Cal. App. 4th 43, 66 n.11 (2008) ("empirical studies show that,
8 regardless whether the percentage method or the lodestar method is used, fee awards in class actions
9 average around one-third of the recovery"); Eisenberg & Miller, *Attorney Fees in Class Action*
10 *Settlements: An Empirical Study*, J. of Empirical Legal Studies, Vol. 1, Issue 1, 27-78, March 2004, at 35
11 (independent studies of class action litigation nationwide conclude that fees representing one-third of the
12 total recovery is consistent with market rates). Notably, the California Supreme Court in *Laffitte II*
13 affirmed a fee award representing one-third of the fund. *See Laffitte II*, 1 Cal. 5th at 506.

14 A fee award in the amount of one-third of the common fund is also reasonable because it best
15 reflects the market rate for contingency fees. *See Lealao*, 82 Cal. App. 4th at 47 ("attorneys providing the
16 essential enforcement services must be provided incentives roughly comparable to those negotiated in
17 the private bargaining that takes place in the legal marketplace. . . ."). Fees representing one-third of the
18 recovery reflect the rate negotiated in "typical contingency fee agreements [which] provide that class
19 counsel will recover 33% if the case is resolved before trial and 40% if the case is tried." *Fernandez v.*
20 *Victoria Secret Stores, LLC*, No. CV 06-04149 MMM SHX, 2008 WL 8150856, at *16 (C.D. Cal. July
21 21, 2008) (citing an academic study collecting contingency fee agreements and finding that a fee award
22 constituting 34% of the fund is reasonable on that basis). Because the negotiated fee structure mimics the
23 marketplace, it is reasonable and should be approved.

24 Furthermore, courts have recognized that the negotiated fee is the best indication of the market
25 price for fees. In a common fund case, the object "is to give the lawyer what he would have gotten in the
26 way of a fee in an arm's-length negotiation, had one been feasible." *Matter of Cont'l Illinois Sec. Litig.*,
27 962 F.2d 566, 572 (7th Cir. 1992), as amended on denial of reh'g (May 22, 1992). In *Matter of Cont'l*
28 *Illinois Sec. Litig.*, Judge Posner reasoned that the negotiated fee reflects a market-based price because it

encompasses both parties' best estimate and view as to the value of the legal services and what the court might have awarded if the matter had been litigated. *Id.* For this reason, courts generally defer to the parties regarding the reasonableness of the negotiated attorneys' fees. Indeed, because "the parties are compromising to avoid litigation," the court "**need not inquire into the reasonableness of the fees at even the high end** with precisely the same level of scrutiny as when the fee amount is litigated." *Laguna v. Coverall No. Am.*, 753 F.3d 918, 922 (9th Cir. 2014) (internal quotations omitted; emphasis added). Stated differently, while the Court must conduct an independent inquiry into the reasonableness of fee request, it should give substantial weight the Parties' agreement on fees, which is the product of negotiations in the legal marketplace.

For the foregoing reasons, the amount of negotiated fees here—one-third of the overall settlement value—is reasonable.

B. The Reasonableness of the Percentage-Based Fee Award Is Supported by Other Factors

In considering the reasonableness of the fees requested under the percentage method, California courts may also consider the following factors: (1) the results achieved on behalf of the Class; (2) the response of the Class to the settlement, including a lack of objections to the settlement terms, and particularly to the fee award; (3) counsel's preclusion from taking other work and the contingent nature of the fee award; and (4) counsel's experience, reputation, and ability. *See Laffitte II*, 1 Cal. 5th at 504-05 (holding that the court may consider various factors in determining the reasonableness of the fees); *see also, Ketchum v. Moses*, 24 Cal. 4th 1122, 1132 (2001) (applying these factors in considering a fee award under the lodestar-multiplier method).

1. The Requested Attorneys' Fees Are Supported by the Results Achieved on Behalf of the Settlement Class.

Courts may assess the reasonableness of the percentage-based award by examining the results achieved on behalf of the Class. As set forth more fully in the accompanying Memorandum of Points and Authorities in Support of the Motion for Final Approval of Class Action Settlement, Plaintiffs' Counsel negotiated a total settlement valued at \$650,000 despite significant obstacles. As a result of Plaintiffs' Counsel's efforts, Class Members stand to receive an average payment of approximately

1 \$550, and a highest payment of approximately \$1,840. (Declaration of Tarus Dancy ¶ 9.)

2 By delivering this substantial benefit to class members, Plaintiffs' Counsel have achieved
3 excellent results by any measure, but particularly in comparison to the typical recovery in a wage-and-
4 hour action. *See, e.g., Badami v. Grassroots Campaigns, Inc.*, Case No. C 07-03465 JSW (N.D. Cal.
5 Sept. 15, 2008) (average net recovery of approximately \$195); *Sandoval v. Nissho of Cal., Inc.*, Case No.
6 37-2009-00091861 (San Diego County Super. Ct. Dec. 3, 2010) (average net recovery of approximately
7 \$145); *Fukuchi v. Pizza Hut*, Case No. BC302589 (L.A. County Super. Ct. Sept. 29, 2006) (average net
8 recovery of approximately \$120); *Contreras v. United Food Group, LLC.*, Case No. BC389253 (L.A.
9 County Super. Ct. Sept. 10, 2009) (average net recovery of approximately \$120); *Bercea v. AE Retail*
10 *West*, Case No. 34-2012-00123947 (Sacramento County Super. Ct.) (average net recovery of
11 approximately \$105); *Ressler v. Federated Department Stores, Inc.*, Case No. BC335018 (L.A. County
12 Super. Ct. Jan. 27, 2009) (average net recovery of approximately \$90); *Palencia v. 99 Cents Only Stores*,
13 Case No. 34-2010-00079619 (Sacramento County Super. Ct.) (average net recovery of approximately
14 \$80); *Doty v. Costco Wholesale Corp.*, Case No. CV05-3241 FMC-JWJx (C.D. Cal. May 14, 2007)
15 (average net recovery of approximately \$65); *Sorenson v. PetSmart, Inc.*, Case No. 2:06-CV-02674-
16 JAM-DAD (E.D. Cal. Dec. 17, 2008) (average net recovery of approximately \$60); *Lim v. Victoria's*
17 *Secret Stores, Inc.*, Case No. 04CC00213 (Orange County Super. Ct. Jan. 20, 2006) (average net
18 recovery of approximately \$35); and *Gomez v. Amadeus Salon, Inc.*, Case No. BC392297 (L.A. County
19 Super. Ct. July 23, 2010) (average net recovery of approximately \$20).

20 Accordingly, the cumulative benefits achieved by the Settlement favor approval of the requested
21 fees.

22 2. The Class's Response Supports the Settlement and the Negotiated 23 Attorneys' Fees

24 That this Settlement represents an excellent recovery is substantiated by the Class' response to
25 date—no Class Members submitted valid requests for exclusion, or objected to the Settlement. *See*
26 Dancy Decl. ¶¶ 6-7; *see also 7-Eleven Owners for Fair Franchising v. Southland Corp.*, 85 Cal. App.
27 4th 1135, 1152-53 (2000) (a low number of objections is a strong indicator that a settlement is fair and
28 reasonable—“[a] mere 80 of the 5,454 national class members elected to opt out [(1.5% of the entire

Class)) and . . . [a] total of nine members . . . objected to the settlement.”).

3. The Requested Attorneys’ Fees Are Supported by Counsel’s Experience, Reputation, and Skill

The “skill and experience of the attorneys and nature of work performed” are also evaluated under California law in connection with a fee motion. *Northwest Energetic Services, LLC v. Cal. Franchise Tax Bd.*, 159 Cal. App. 4th 841, 880 (2008). Plaintiffs’ Counsel, Capstone Law APC, employs seasoned class action attorneys who regularly litigate wage and hour claims through certification and on the merits, and have considerable experience settling wage and hour class actions. (Perez Decl. ¶¶ 10-12, Ex. 1.)

C. A Lodestar Cross-Check Confirms that the Requested Attorneys’ Fees Are Fair and Reasonable

The trial court may use an abbreviated lodestar “cross-check” for common fund awards if the court considers it useful. *Laffitte II*, 1 Cal. 5th at 504-05. However, under *Laffitte II*, this is not meant to displace the percentage analysis, but rather to act as a backstop. Indeed, the Supreme Court expressly instructed that “the lodestar calculation, when used in this manner, does not override the trial court’s primary determination of the fee as a percentage of the common fund and thus does not impose an absolute maximum or minimum on the fee award.” *Laffitte II*, 1 Cal. 5th at 505. Critically, the Court in *Laffitte II* emphasized that only where the “multiplier calculated by means of a lodestar cross-check is **extraordinarily high or low**” should the court “consider whether the percentage should be adjusted so as to bring the imputed multiplier within a justifiable range.” *Id.* (emphasis added). Accordingly, when the cross-check multiplier is within a normal range, the lodestar-cross check does not provide a basis for a court to reduce the fee award. Furthermore, in conducting a lodestar cross-check, the court is not “required to closely scrutinize each claimed attorney-hour.” *Laffitte II*, 1 Cal. 5th at 505. An evaluation may be done by reviewing “counsel declarations summarizing overall time spent.” *Id.*

In conducting a lodestar cross-check, the Court first determines a lodestar value for the fees by multiplying the time reasonably spent by plaintiffs’ counsel on the case by a reasonable hourly rate. *In re Consumer Privacy Cases*, 175 Cal. App. 4th 545, 556-57 (2009). To determine whether the requested rate is reasonable, courts look to the prevailing rate for similar work in the pertinent geographic region.

1 *PLCM Group v. Drexler*, 22 Cal. 4th 1084, 1096-97 (2000) (using prevailing hourly rate in community
2 for comparable legal services even though party used in-house counsel). Here, Plaintiffs' Counsel's
3 hourly rates are comparable to, or less than, those charged by other class action plaintiffs' counsel and
4 the firms defending class actions, and have been approved by numerous federal and state courts. (Perez
5 Decl. ¶¶ 13-15.)

6 Likewise, the total attorney hours expended on this action are reasonable and in line with
7 comparable cases. In determining the reasonableness of the hours expended, "the court should defer to
8 the winning lawyer's professional judgment as to how much time he was required to spend on the case;
9 after all, he won, and might not have, had he been more of a slacker." *Kerkeles v. City of San Jose*, 243
10 Cal. App. 4th 88, 104 (2015) (quoting *Moreno v. City of Sacramento*, 534 F.3d 1106, 1112 (9th Cir.
11 2008)). Plaintiffs' Counsel billed a total of approximately 490 hours. (Perez Decl. ¶ 13.)

12 Multiplying the total hours billed by Plaintiffs' Counsel to the litigation by their reasonable
13 hourly rates yields a lodestar of \$247,640.50, which is greater than the amount of attorneys' fees
14 requested. (Perez Decl. ¶ 13.) Although Plaintiffs do not request a multiplier for contingent risk, courts
15 recognize that contingent-fee attorneys should obtain a larger fee than the market-value if their services
16 help to secure adequate representation for Plaintiff unable to afford an accomplished attorney's hourly
17 rates. See *Ketchum v. Moses*, 24 Cal. 4th 1122, 1132 (2001) ("[A] contingent fee contract, since it
18 involves a gamble on the result, may properly provide for a larger compensation than would otherwise
19 be reasonable."). To factor in contingent risk, courts will apply a "risk multiplier" to the base lodestar if
20 circumstances warrant. See *Graham v. DaimlerChrysler Corp.*, 34 Cal. 4th 553, 580 (2004) (explaining
21 California's policy of adjusting the lodestar upward to account for contingent risk). A court abuses its
22 discretion if it fails to apply a risk multiplier where the attorneys undertook the case with the expectation
23 that they would receive a risk enhancement if they prevailed, the case was risky, and the hourly rate does
24 not reflect that risk. See *Fischel v. Equitable Life Assur. Society of U.S.*, 307 F.3d 997, 1008 (9th Cir.
25 2002).

26 The lodestar cross-check confirms that Plaintiffs' fee request is fair and reasonable and should be
27 approved.
28

1 **D. The Requested Litigation Expense Recovery Is Reasonable and Should Receive**
2 **Final Approval**

3 Plaintiffs' Counsel are also entitled to reimbursement of their litigation costs. Cal. Lab. Code §§
4 1194(a), 2699(g)(1). Plaintiffs' Counsel seek an award of \$22,500 for reasonably incurred costs and
5 expenses, including filing fees, postage, photocopying, legal research databases, mediation fees, and
6 travel. (Perez Decl. ¶ 16.) These are costs of precisely the sort that are reimbursable because they are
7 reasonable and were necessarily incurred during the case's pendency. Final approval of the cost
8 reimbursement of \$22,500 is thus warranted.

9 **E. The Class Representative Enhancement Payments are Fair and Reasonable**

10 Enhancement payments "are fairly typical in class action cases." *Cellphone Termination Fee*
11 *Cases*, 186 Cal. App. 4th 1380, 1393 (2010) (affirming enhancement payments of \$10,000); *Rodriguez*
12 *v. West Publishing Corp.*, 563 F.3d 948, 958 (9th Cir. 2009), citing 4 Newberg on Class Actions (4th ed.
13 2002) § 11:38, and Eisenberg & Miller, *Incentive Awards to Class Action Plaintiffs: An Empirical Study*,
14 53 UCLA L. Rev. 1303 (2006).²

15 Plaintiffs deserve the requested Class Representative Enhancement Payments because they
16 "remained fully involved and expended considerable time and energy during the course of the litigation."
17 *See Schaffer v. Litton Loan Servicing, LP*, No. CV 05-07673 MMM JCX, 2012 WL 10274679, at *19
18 (C.D. Cal. Nov. 13, 2012) (citation omitted). The amount of the requested Class Representative
19 Enhancement Payments are also reasonable by reference to the amounts the California Superior Court
20 has awarded for similar wage and hour settlements.³

21
22 ² Enhancement payments "are intended to compensate class representatives for work done on
23 behalf of the class, to make up for financial or reputational risk undertaken in bringing the action, and,
24 sometimes, to recognize their willingness to act as a private attorney general." *Rodriguez*, 563 F.3d at
25 958–59. "[T]he rationale for making enhancement or incentive awards to named plaintiffs is that they
26 should be compensated for the expense or risk they have incurred in conferring a benefit on other
27 members of the class." *Clark v. American Residential Services LLC*, 175 Cal. App. 4th 785 (2009).

28 ³ *See Carter v. GMRI Inc.*, No. RIC 1506085 (Riverside County Super. Ct. Jan. 10, 2017)
(awarding \$10,000 enhancement payments to the named plaintiffs); *Crook v. Barton Healthcare System*,
No. SC20150146 (El Dorado County Super. Ct. Dec. 9, 2016) (awarding \$10,000 enhancement payment
to the named plaintiff); *Singh v. American Building Supply, Inc.*, No. 34-2015-00179889-CU-OE-GDS
(Sacramento County Super. Ct. Oct. 3, 2016) (awarding \$10,000 enhancement payment to the named
plaintiff); *Alvarez v. MAC Cosmetics Inc.*, No. CIVDS1513177 (San Bernardino County Super. Ct. July
29, 2016) (awarding \$10,000 enhancement payments to the named plaintiffs); *Coffey v. Beverages &*

1 The Class Representative Enhancement Payments are also appropriate because Plaintiffs would
2 otherwise “not gain any benefit beyond that he would receive as an ordinary class member.” *In re Toys*
3 *R Us-Delaware, Inc.--Fair & Accurate Credit Transactions Act (FACTA) Litig.*, 295 F.R.D. 438, 472
4 (C.D. Cal. 2014); *Van Vranken v. Atlantic Richfield Co.*, 901 F. Supp. 294, 299 (N.D. Cal. 1995)
5 (holding that a substantial award is appropriate where a class representative’s claim made up “only a tiny
6 fraction of the common fund.”). Absent the Class Representative Enhancement Payments, Plaintiffs will
7 recover no more than other Class Members, despite undergoing personal sacrifice and reputational risk
8 in pursuing this litigation on behalf of the Class.

9 The Class Representative Enhancement Payments are also justified in light of the Cal. Civ. Code
10 § 1542 general releases that Plaintiffs are required to provide Defendant as a condition of settlement.
11 Under the Cal. Civ. Code § 1542 releases, Plaintiffs will release any and all claims they may have
12 against Defendant arising out of their employment. These general releases are considerably broader than
13 the separate, narrower release required of the Class. *See Billingham v. Tractor Supply Co.*, 306 F.R.D.
14 245, 267-68 (N.D. Cal. 2015) (awarding the plaintiff \$5,000 for the general release along with \$10,000
15 enhancement payment for services as a class representative); *La Fleur v. Medical Management Intern,*
16 *Inc.*, No. 13-00398-VAP, 2014 WL 2967475, *8 (C.D. Cal. June 25, 2014) (finding that the \$15,000
17 enhancement payment is warranted in part because “the named plaintiffs have released all claims against
18 [defendant], unlike the remainder of the Class”).

19 Separately, the Class Representative Enhancement Payments are justified in light of the
20 reputational risk that Plaintiffs have assumed in bringing an action against a former employer. *See*
21 *Billingham v. Tractor Supply Co.*, 306 F.R.D. 245, 267-68 (N.D. Cal. 2015) (finding “personal
22 detriment” upon testimony that future employers can easily learn that a prospective employee served as a

23 *More, Inc.*, No. BC477269 (L.A. County Super. Ct. July 26, 2016) (awarding \$10,000 enhancement
24 payment to the named plaintiff); *Restoration Hardware Wage and Hour Cases*, No. JCCP4794 (L.A.
25 County Super. Ct. April 28, 2016) (awarding \$10,000 enhancement payments to the named plaintiffs);
26 *Cook v. United Insurance Co. of Amer.*, No. CIVMSC10-00425 (Contra Costs County Super. Ct. April
27 15, 2016) (awarding \$10,000 enhancement payments to the named plaintiffs); *Quintana v. Claire’s*
28 *Boutiques, Inc.*, No. 5:13-cv-00368-PSG (N.D. Cal. Dec. 1, 2015) (awarding \$10,000 enhancement
payments to the named plaintiffs); *Paredes v. American Family Care, Inc.*, No. 34-2014-00167060-CU-
OE-GDS (Sacramento County Super. Ct. Nov. 17, 2015) (awarding \$10,000 enhancement payment to
the named plaintiff); *Hoagland v. Brooks Brothers Group, Inc.*, No. BC511534 (L.A. County Super. Ct.
July 16, 2015) (awarding \$10,000 enhancement payment to the named plaintiff).

1 plaintiff through the internet). In particular, by bringing suit, plaintiffs jeopardize their future job
2 prospects, particularly in the internet age where web sites and third-party services can disclose a job
3 applicant's litigation history to a prospective employer. *See La Fleur*, 2014 WL 2967475, at *8
4 (awarding \$15,000 to each named plaintiff in part for attesting to their fear that the lawsuit will harm
5 their future job prospects in the industry). In fact, an entire industry has developed for providing
6 employers with background information on employee candidates, and the companies that provide these
7 services actually promote themselves by touting their ability to identify and weed out potentially litigious
8 employee candidates.⁴ By prosecuting this action, Plaintiffs have assumed reputational risk that may
9 impact their ability to find employment in the near and distant future. Long after this action is forgotten
10 by Class Members, Plaintiffs will have to endure the risk of possibly being branded "litigious" by
11 prospective employers, and may have employment applications rejected on that basis alone.

12 In conclusion, the requested Class Representative Enhancement Payments are fair, adequate, and
13 reasonable compensation for Plaintiffs' services on behalf of the Class and for their general release of
14 claims.

15 **III. CONCLUSION**

16 For the foregoing reasons, Plaintiffs respectfully request that this Court grant the Motion for
17 Attorneys' Fees, Costs and Expenses, and Class Representative Enhancement Payments.

18
19 Dated: October 22, 2020

Respectfully submitted,

20
21 By: 
22 Raul Perez
Brandon Brouillette
CAPSTONE LAW APC

23 Attorney for Plaintiffs Belinda Payton and Charmaine
24 Walker

25
26 ⁴ "In today's litigious culture, employers simply cannot afford to hire employees who will put
27 their company at risk." *Back Track Screening*, [http://www.btscreening.com/wp-](http://www.btscreening.com/wp-content/uploads/2012/09/Screening-101.pdf)
28 [content/uploads/2012/09/Screening-101.pdf](http://www.btscreening.com/wp-content/uploads/2012/09/Screening-101.pdf); "In today's litigious culture, you simply cannot afford to
hire employees who will put your company at risk." *Credit Technologies, Inc.*,
<https://www.credittechnologies.com/employment-screening/>

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5 Facsimile: (310) 943-0396

6 Attorneys for Plaintiffs Belinda Payton and Charmaine Walker

7
8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 FOR THE COUNTY OF SAN JOAQUIN

10 BELINDA PAYTON, individually, and on
11 behalf of other members of the general public
similarly situated,

12 Plaintiff,

13 vs.

14 PRIDE INDUSTRIES, a California corporation;
15 and DOES 1 through 10, inclusive,

16 Defendants.
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Case No.: STK-UOE-2017-7110

[Assigned to the Hon. Barbara Kronlund]

**DECLARATION OF RAUL PEREZ IN
SUPPORT OF MOTION FOR FINAL
APPROVAL OF CLASS ACTION
SETTLEMENT AND MOTION FOR
ATTORNEYS' FEES, COSTS AND
EXPENSES, AND CLASS
REPRESENTATIVE ENHANCEMENT
PAYMENTS**

Date: December 14, 2020

Time: 9:00 a.m.

Place: Department 10-D

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evidence concerning, *inter alia*, the strengths and weaknesses of the claims. Plaintiffs' Counsel also defended Ms. Payton's deposition.

6. In summary, Plaintiffs' Counsel performed a thorough investigation into the claims at issue, which included: (1) determining Plaintiffs' suitability as private attorneys general and class representatives through interviews, background investigations, and analyses of their employment files and related records; (2) evaluating all of Plaintiffs' potential representative claims; (3) researching similar wage and hour class actions as to the claims brought, the nature of the positions, and the type of employer; (4) analyzing Defendant's employment policies and practices; (5) researching settlements in similar cases; (6) evaluating Plaintiff's claims and estimating Defendant's liability for purposes of settlement; (7) drafting the mediation brief; and (8) participating in the mediation.

7. By engaging in such a thorough investigation and evaluation of Plaintiffs' claims, Plaintiffs' Counsel can opine that the Settlement, for the consideration and on the terms set forth in the Settlement Agreement, is fair, reasonable, an adequate, and is in the best interests of Class Members in light of all known facts and circumstances, including the risk of significant delay and uncertainty associated with litigation, and various defenses asserted by Defendant.

THE PARTIES SETTLED AFTER TWO MEDIATIONS

8. On January 16, 2018, the Parties participated in full-day mediation with the Hon. Richard Hodge (Ret.), an experienced mediator of wage and hour class actions. Judge Hodge helped to manage the Parties' expectations and provided a useful, neutral analysis of the issues and risks to both sides. Although the Parties did not settle at their first mediation, Judge Hodge helped to narrow the gap between the Parties' respective positions.

9. On September 27, 2019, the Parties participated in a second full-day mediation, also with Judge Hodge. With Judge Hodge's expert guidance, the Parties were able to negotiate a complete settlement of Plaintiffs' claims. The terms of the settlement are now set forth in complete and final form in the Joint Stipulation of Class Action Settlement and Release. At all times, the Parties' negotiations were adversarial and non-collusive. The Settlement therefore constitutes a fair, adequate, and reasonable compromise of the claims at issue.

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Attorney	Title	CA Bar Yr.	Rate	Hours	Fees
Arnab Banerjee	Fmr. Senior Counsel	2007	\$545	108	\$58,860.00
Eduardo Santos	Senior Counsel	2007	\$545	24.5	\$13,352.50
Jamie Greene	Partner	2007	\$545	13	\$7,085.00
Anthony Castillo	Associate	2009	\$485	28.8	\$13,968.00
Mao Shiokura	Associate	2009	\$485	10.8	\$5,238.00
Ari Basser	Fmr. Associate	2010	\$445	78.6	\$34,977.00
Brandon Brouillette	Associate	2010	\$445	67.4	\$29,993.00
Ruhandy Glezakos	Fmr. Associate	2015	\$345	63	\$21,735.00
Brooke Waldrop	Fmr. Associate	2017	\$295	30.1	\$8,879.50
Total				493.3	\$247,640.50

14. While adjusting our rates to track market increases, Capstone's rates have steadily remained reasonable and competitive, and have been consistently approved by many federal and state courts over the past several years. *See, e.g., Hayes v. Rent-A-Center West, Inc.*, No. 37-2018-00043861 (San Diego County Superior Court Aug. 28, 2020) (approving Capstone's rates for Associates (\$265 to \$485) and Senior Counsel/Partners (\$545 to \$775)); *Vega v. JPMorgan Chase Bank, N.A.*, No. BC698750 (Los Angeles County Superior Court Aug. 20, 2020) (approving Capstone's rates for Associates (\$265 to \$505) and Senior Counsel/Partners (\$545 to \$775)); *Wertz v. Dawn Food Products, Inc.*, No. CIV DS1811446 (San Bernardino County Superior Court June 29, 2020) (approving Capstone's rates for Associates (\$295 to \$505) and Senior Counsel/Partners (\$545 to \$775)); *Reyes v. Verifi, Inc.*, No. BC707889 (Los Angeles County Superior Court March 16, 2020) (approving Capstone's rates for Associates (\$345 to \$485) and Senior Counsel/Partners (\$545 to \$775)); *Vargas v. Ford Motor Co.*, No. CV12-08388 AB (FFMx) (C.D. Cal. March 5, 2020) (approving Capstone's rates for Associates (\$245 to \$445) and Senior Counsel/Partners (\$495 to \$775)); *Wylie v. Hyundai Motor America*, No. 8:16-cv-02102-DOC-JCG (C.D. Cal. March 2, 2020) (approving Capstone's rates for Associates (\$295 to \$445) and Senior Counsel/Partners (\$545 to \$775)); *Campbell v. AEG Management Oakland, LLC*, No. RG17859830 (Alameda County Superior Court Feb. 7, 2020) (approving Capstone's rates for Associates (\$345 to \$485) and Senior Counsel/Partners (\$545 to \$775)); *Scoggins v. Crossmark, Inc.*, No. 56-2017-00492936-CU-OE-VTA (Ventura County Superior Court) (approving Capstone's rates for Associates (\$435) and Senior Counsel/Partners (\$495 to \$725)); *Brown v. Harris v. Mr. C Manager LLC*, No. CIV DS1721484 (San Bernardino County Superior Court Aug. 21, 2019)

(approving Capstone's rates for Associates (\$295 to \$434) and Senior Counsel/Partners (\$495 to \$725)); *Black v. T-Mobile USA, Inc.*, No. 4:17-cv-04151-HSG (N.D. Cal. July 24, 2019) (approving Capstone's rates for Associates (\$295 to \$435) and Senior Counsel/Partners (\$495 to \$725)); *Rodas v. Petroleum Sales, Inc.*, No. CIV1703590 (Marin County Superior Court July 19, 2019) (approving Capstone's rates for Associates (\$395 to \$435) and Senior Counsel/Partners (\$495 to \$725)); *Aguilar v. Marriott Int'l, Inc.*, No. BC513197 (Los Angeles County Superior Court Apr. 9, 2019) (approving Capstone's rates for Associates (\$295 to \$435) and Senior Counsel/Partners (\$495 to \$725)); *Garrido v. J. C. Penney Corporation, Inc.*, No. 5:18-cv-02051-JVS-SP (C.D. Cal. Jan. 25, 2019) (approving Capstone's rates for Associates (\$435 to \$455) and Senior Counsel/Partners (\$495 to \$725)); *Boseman v. VXi Global Solutions, LLC*, No. BC602442 (Los Angeles County Superior Court Jan. 3, 2019) (approving Capstone's rates for Associates (\$295 to \$435) and Senior Counsel/Partners (\$495 to \$725)); *Mansilla v. XPO Logistics Worldwide, Inc.*, No. RG17865271 (Alameda County Superior Court Nov. 16, 2018) (approving Capstone's rates for Associates (\$295 to \$435) and Senior Counsel/Partners (\$495 to \$725)); *Carbajal v. Tom's Famous Family Restaurants*, No. CIVDS1601821 (San Bernardino County Superior Court July 31, 2018) (approving Capstone's rates for Associates (\$295 to \$395) and Senior Counsel/Partners (\$495 to \$725)); *Williams v. Marshalls of CA, LLC*, No. BC503806 (Los Angeles County Superior Court Feb. 15, 2018) (approving Capstone's rates for Associates and Senior Counsel/Partners (\$570 to \$725)); *Grove v. Halston Operating Co.*, No. 37-2016-00029271-CU-OE-CTL (San Diego County Superior Court Feb. 9, 2018) (approving Capstone's rates for Associates and Senior Counsel/Partners (\$470 to \$725)); *Lopez v. Kmart Corp.*, No. CIVMSC15-00134 (Contra Costa County Superior Court Nov. 29, 2017) (approving Capstone's rates for Associates (\$395 to \$470) and Senior Counsel/Partners (\$595 to \$725)); *Chambless v. Islands Restaurants, L.P.*, No. BC458426 (Los Angeles County Superior Court Aug. 22, 2017) (approving Capstone's rates for Associates (\$245 to \$470) and Senior Counsel/Partners (\$595 to \$725)); *Linares v. Ann Inc.*, No. BC605635 (Los Angeles County Superior Court Aug. 22, 2017) (approving Capstone's rates for Associates (\$245 to \$470) and Senior Counsel/Partners (\$570 to \$725)); *Grillo v. Key Energy Services, LLC*, No. 2:14-cv-00881-AB-AGR (C.D. Cal. Oct. 13, 2017) (approving Capstone's rates for Associates (\$245 to \$470) and Senior Counsel/Partners (\$595 to \$725)); *Carter v. GMRI, Inc.*, No. RIC1506085 (Riverside County Superior

1 Court Jan. 10, 2017) (approving Capstone's rates for Associates (\$345 to \$470) and Senior
2 Counsel/Partners (\$570 to \$695)); *Rodriguez v. Swissport North America, Inc.*, No. BC441173 (Los
3 Angeles County Superior Court April 17, 2017) (approving Capstone's rates for Associates (\$370 to
4 \$470) and Senior Counsel/Partners (\$520 to \$695)); *Emmons v. Quest Diagnostics Clinical*
5 *Laboratories, Inc.*, No. 1:13-cv-00474-DAD-BAM (E.D. Cal. Feb. 27, 2017) (approving Capstone's
6 rates for Associates (\$370 to \$495) and Senior Counsel/Partners (\$545 to \$695)); *Rickerd v. OneWest*
7 *Resources LLC*, No. BC562538 (Los Angeles County Superior Court Jan. 19, 2017) (approving
8 Capstone's rates for Associates (\$245 to \$470) and Senior Counsel/Partners (\$595 to \$695)); *Nunnally v.*
9 *Dave & Busters, Inc.*, No. 8:16-cv-00855-DOC-KES (C.D. Cal. Jan. 9, 2017) (approving Capstone's
10 rates for Associates (\$395 to \$495) and Senior Counsel/Partners (\$545 to \$695)); *Ford v. CEC*
11 *Entertainment, Inc.*, No. 3:14-cv-01420-RS (N.D. Cal. Nov. 18, 2016) (approving Capstone's rates for
12 Associates (\$420 to \$470) and Senior Counsel/Partners (\$545 to \$695)); *Lutin v. Lerner New York, Inc.*,
13 No. BC498443 (L.A. County Super. Ct. Sept. 20, 2016) (approving Capstone's rates for Associates
14 (\$370-470) and Senior Counsel/Partners); *The Children's Place Retail Stores Wage & Hour Cases*, No.
15 JCCP4790 (L.A. County Super. Ct. Sept. 1, 2016) (approving Capstone's rates for Associates (\$245 to
16 \$470) and Senior Counsel/Partners (\$520 to \$695)); *Coffey v. Beverages & More, Inc.*, No. BC477269
17 (L.A. County Super. Ct. July 26, 2016) (L.A. County Super. Ct. Sept. 1, 2016) (approving Capstone's
18 rates for Associates (\$370 to \$470) and Senior Counsel/Partners (\$545 to \$695)); *Guitar Center Stores*
19 *Wage and Hour Cases*, No. JCCP 4818 (San Francisco Superior Court June 7, 2016) (approving
20 Capstone's rates for Associates (\$370 to \$470) and Senior Counsel/Partners (\$545 to \$695)); *Berry v.*
21 *Urban Outfitters Wholesale, Inc.*, No. Case 4:13-cv-02628-JSW (N.D. Cal. April 7, 2016) (approving
22 Capstone's rates for Associates (\$370 to \$470) and Senior Counsel/Partners (\$545 to \$695)

23 15. Capstone's rates are comparable to those judicially approved for other plaintiff's firms,
24 such as Baron & Budd (rates ranging from \$775 for the requested partner to \$390-\$630 for non-
25 partners), Wasserman Comden Casselman & Essensten (rates ranging from \$670-750 for partners and
26 \$300-500 for associates), and Blood Hurst & Reardon (\$510-695 for partners). *See Aarons v. BMW of*
27 *North America*, No. 11-7667-PSG, 2014 U.S. Dist. LEXIS 118442, *40-41 (C.D. Cal. Apr. 29, 2014)
28 (also approving rates of Strategic and Capstone). Other courts have approved hourly rates in this range

for plaintiff's side law firms in the Southern California area. *See, e.g., Kearney v. Hyundai Motor Am.*, 2013 U.S. Dist. LEXIS 91636, *24 (C.D. Cal. June 28, 2013) (approving hourly rates of \$650-\$800 for senior attorneys in consumer class action); *Parkinson v. Hyundai Motor America*, 796 F. Supp. 2d 1160, 1172 (C.D. Cal. 2010) (approving hourly rates between \$445 and \$675); *Faigman v. AT&T Mobility LLC*, 2011 U.S. Dist. LEXIS 15825, * 2 (N.D. Cal. Feb. 15, 2011) (approving hourly rates of \$650 an hour for partner services and \$500 an hour for associate attorney services); *Richard v. Ameri-Force Mgmt. Servs., Inc.*, No. 37-2008-00096019 (San Diego Super. Ct., Aug. 27, 2010) (\$695 to \$750 an hour for partners; \$495 an hour for associates); *Barrera v. Gamestop Corp.*, No. CV 09-1399 (C.D. Cal. Nov. 29, 2010) (\$700 an hour for partners; \$475 an hour for associates); *Anderson v. Nextel Retail Stores, LLC*, No. CV 07-4480 (C.D. Cal. June 20, 2010) (\$655 to \$750 an hour for partners; \$300 to \$515 an hour for associates); *Luquetta v. Regents of Cal.*, CGC-05-443007 (San Francisco Super. Ct.) (approving 2012 partner rates between \$550 and \$850 per hour); and *Holloway v. Best Buy Co.*, C-05-5056-PJH (MEJ) (N.D. Cal.) (approving 2011 partner rates of \$825 to \$700 an hour, associate rates between \$355 and \$405 per hour).

16. As summarized in the table below, counsel has incurred a total of \$22,481.60 in costs and expenses to date.

Cost & Expense Categories	Amount
Copying, Printing & Scanning and Facsimile	\$183.00
Court Fees, Courier Fees, Filings & Service of Process	\$4,204.30
Court Reporters, Transcripts & Depositions	\$3,764.17
Delivery & Messenger (UPS, FedEx, messenger)	\$279.17
Expert & Consulting Services	\$1,093.75
Investigation & Research Services	\$1,160.94
Legal Research Services (PACER, Westlaw, etc.)	\$86.16
Mediation Fees	\$5,745.00
Postage & Mailings	\$33.43
Travel-Related Costs and Expenses	\$5,931.68
Total	\$22,481.60

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed this 22nd day of October, 2020, at Los Angeles, California.


 Raul Perez

Exhibit 1

FIRM PROFILE

Capstone Law APC is one of California's largest plaintiff-only labor and consumer law firms. With over twenty-five seasoned attorneys, many formerly with prominent class action or defense firms, Capstone has the experience, resources, and expertise to successfully prosecute complex employment and consumer actions.

Since its founding in 2012, Capstone has emerged as a major force in aggregate litigation, making law on cutting-edge issues and obtaining over a hundred million dollars in recovery for employees and consumers:

- In February, 2015, Capstone attorneys Raul Perez and Ryan H. Wu were honored with the *California Lawyer* Attorney of the Year (CLAY) award in labor and employment for their work in the landmark case *Iskanian v. CLS Transportation Los Angeles*, 59 Cal.4th 348 (2014), which preserved the right of California workers to bring representative actions under the Labor Code Private Attorneys General Act ("PAGA") notwithstanding a representative action waiver in an arbitration agreement.
- Recognized as a leading firm in the prosecution of PAGA enforcement actions, Capstone is responsible for some of the most important decisions in this area. In *Williams v. Superior Court (Marshall's of Calif.)*, 3 Cal.5th 531 (2017), Capstone attorneys achieved a watershed decision before the California Supreme Court as to the broad scope of discovery in PAGA actions. In *Baumann v. Chase Inv. Servs. Corp.*, 747 F.3d 1117 (9th Cir. 2014), a case of first impression, Capstone successfully argued that PAGA actions are state enforcement actions not covered by the Class Action Fairness Act.
- Capstone has made important contributions to consumer protection law. In *McGill v. Citibank N.A.*, 2 Cal. 5th 945 (2017), Capstone represented plaintiffs in a major decision holding that the right to seek public injunctive relief under the state's consumer protection laws cannot be waived and that consumers need not satisfy class certification requirements to enjoin unfair business practices on behalf of the public. In *Nguyen v. Nissan N.A.*, 726 F.3d 811 (9th Cir. 2019), Capstone attorneys reversed a denial of class certification, making law that clarified the use of "benefit of the bargain" damages models in consumer class actions.
- Capstone served as class counsel in a number of significant wage and hour settlements, including \$12 million on behalf of a nationwide class of in *Hightower v. JPMorgan Chase Bank*, Case No. 11-01802 (C.D. Cal.), over \$10 million on behalf of non-exempt hourly workers in *Zamora v. Balboa Life & Casualty LLC*, Case No. BC360026 (L.A. Super. Ct.); and \$9 million on behalf of pharmacists in *Dittmar v. Costco Wholesale Corp.*, No. 14-1156 (S.D. Cal.). In *Vorise v. 24 Hour Fitness USA, Inc.*, No. C 15-02051 (Contra Costa Super. Ct.), Capstone and co-counsel negotiated an \$11 million PAGA settlement on behalf of over 36,000 employees for Labor Code violations.
- Capstone has an established practice in automotive defect class actions and is currently appointed sole class counsel, following contested class certification, in *Victorino v. FCA US, LLC*, No. 16-1617-GPC, 2019 WL 5268670 (S.D. Cal. Oct. 17, 2019) and *Salas v. Toyota Motor Sales, U.S.A., Inc.*, No. 15-8629-FMO, 2019 WL 1940619 (C.D. Cal. Mar. 27, 2019).

SUMMARY OF SIGNIFICANT SETTLEMENTS

Since its founding, Capstone has settled over 100 high-stakes class and representative actions totaling well over \$200 million dollars. Capstone's settlements have directly compensated hundreds of thousands of California workers and consumers. Capstone's actions have also forced employers to modify their policies for the benefit of employees, including changing the compensation structure for commissioned employees and changing practices to ensure that workers will be able to take timely rest and meal breaks. A leader in prosecuting PAGA enforcement actions, Capstone has secured millions of dollars in civil penalties for the State of California.

The following is a representative sample of Capstone's settlements:

- *Hightower et al v. Washington Mutual Bank*, No. 2:11-cv-01802-PSG-PLA (N.D. Cal.): gross settlement of \$12 million on behalf of approximately 150,000 personal bankers, tellers, sales associates, and assistant branch manager trainees for wage and hour violations;
- *Vargas v. Ford Motor Co.*, 12-08388-AB (C.D. Cal.): providing cash payments and unique buyback program for nearly 2 million consumers;
- *Moore v. PetSmart, Inc.*, No. 5:12-cv-03577-EJD (N.D. Cal.): gross settlement of \$10 million on behalf of over 19,000 non-exempt PetSmart employees for wage and hour violations;
- *Dittmar v. Costco Wholesale Corp.*, No. 14-1156 (S.D. Cal.): gross settlement of \$9 million on behalf of approximately 1,200 pharmacists for wage and hour violations;
- *Perrin v. Nabors Well Services Co.*, No. 56-2007-00288718 (Ventura Super. Ct.): gross settlement of over \$6.5 million on behalf of oil rig workers for sleep time and other wage violations;
- *Cook v. United Insurance Co.*, No. C 10-00425 (Contra Costa Super. Ct.): gross settlement of \$5.7 million on behalf of approximately 650 sales representatives;
- *Alvarez v. MAC Cosmetics, Inc.*, No. CIVDS1513177 (San Bernardino Super. Ct.): gross settlement of \$5.5 million for approximately 5,500 non-exempt employees.
- *Aceves v. AutoZone, Inc.*, No. 14-2032 (C.D. Cal.): gross settlement of \$5.4 million in a case alleging FCRA violations;
- *Berry v. Urban Outfitters Wholesale, Inc.*, No. 13-02628 (N.D. Cal.): gross settlement of \$5 million on behalf of over 12,000 nonexempt employees;
- *The Children's Place Retail Stores Wage & Hour Cases*, No. JCCP 4790: gross settlement of \$5 million on behalf of 15,000 nonexempt employees;
- *York v. Starbucks Corp.*, Case No. 08-07919 (C.D. Cal.): gross settlement of nearly \$5 million on behalf of over 100,000 non-exempt workers for meal break and wage statement claims;
- *Rodriguez v. Swissport USA*, No. BC 441173 (Los Angeles Super. Ct.): gross settlement of nearly \$5 million on behalf of 2,700 non-exempt employees following contested certification;
- *Asghari v. Volkswagen Group of North America*, Case No. 13-02529 (C.D. Cal.): Settlement providing complementary repairs of oil consumption defect, reimbursement for repairs, and extended warranty coverage of certain Audi vehicles valued at over \$20 million;
- *Klee v. Nissan of North America*, Case No. 12-08238 (C.D. Cal.): Settlement providing complimentary electric vehicle charging cards and extending warranty coverage for the electric battery on the Nissan Leaf valued at over \$10 million.

PROFESSIONAL BIOGRAPHIES

Partners

Rebecca Labat. Rebecca Labat is co-managing partner of Capstone Law APC, supervising the litigation for all of the firm's cases. She also manages the firm's co-counsel relationships and assists the firm's other partners and senior counsel with case management and litigation strategy. Under Ms. Labat's leadership, Capstone has successfully settled over 100 cases, delivering hundreds millions of dollars to California employees and consumers while earning statewide recognition for its cutting-edge work in developing new law.

Ms. Labat's career accomplishments representing consumers and employees in class actions include the certification of a class of approximately 3,200 current and former automobile technicians and shop employees for the miscalculation of the regular rate for purposes of paying premiums for missed meal and rest breaks.

Before her work representing plaintiffs in class and representative actions, Ms. Labat was an attorney with Wilson Elser and represented life, health, and disability insurers in litigation throughout California in both state and federal courts. She graduated from the University of California, Hastings College of the Law in 2002, where she was a member of the Hastings Civil Justice Clinic, served as a mediator in Small Claims Court for the City and County of San Francisco, and received the CALI Award for Excellence in Alternative Dispute Resolution. She received her undergraduate degree from the University of California, Los Angeles. Ms. Labat is a member of the National Employment Lawyers Association (NELA), the Consumer Attorneys Association of Los Angeles (CAALA), and the Beverly Hills Bar Association.

Raul Perez. Raul Perez is co-managing partner at Capstone, and has focused exclusively on wage and hour and consumer class litigation since 2011. Mr. Perez is the lead negotiator on numerous large settlements that have resulted in hundreds of millions to low-wage workers across California, including many of the most valuable settlements reached by Capstone.

During his career, Mr. Perez has successfully certified by way of contested motion and/or been appointed Lead Counsel or Interim Lead Counsel in several cases, including: *Lopes v. Kohl's Department Stores, Inc.*, Case No. RG08380189 (Alameda Super. Ct.); *Hightower v. JPMorgan Chase Bank*, Case No. 11-01802 (C.D. Cal.); *Tameifuna v. Sunrise Senior Living Managements, Inc.*, Case No. 13-02171 (C.D. Cal.) (certified class of over 10,000 hourly-paid employees); and *Berry v. Urban Outfitters Wholesale, Inc.*, Case No. 13-02628 (N.D. Cal.) (appointed lead counsel in a class action involving over 10,000 non-exempt employees). As the lead trial attorney in *Iskanian v. CLS Transportation Los Angeles*, 59 Cal. 4th 348 (2014), Mr. Perez, along with Mr. Wu, received the 2015 CLAY Award in labor and employment.

Mr. Perez received both his undergraduate degree and his law degree from Harvard University and was admitted to the California Bar in December 1994. Earlier in his career, Mr. Perez handled a variety of complex litigation matters, including wrongful termination and other employment related actions, for corporate clients while employed by some of the more established law firms in the State of California, including Morgan, Lewis & Bockius; Manatt Phelps & Phillips; and Akin Gump Strauss Hauer & Feld. Before Capstone, Mr. Perez was a partner at another large plaintiff's firm, helping to deliver millions of dollars in relief to California workers.

Melissa Grant. Melissa Grant is a partner at Capstone. Ms. Grant is responsible for litigating many of the firm's most contentious and high-stakes class actions. The author of numerous successful motions for class certification, Ms. Grant is the lead or co-lead attorney on multiplied certified class actions currently on track for trial, representing over 140,000 California employees in pursuing their wage and hour claims. She is also at the forefront in developing the law on PAGA, including administrative exhaustion, standing, the nature of PAGA violations, the scope of discovery, and trials.

Prior to joining Capstone, Ms. Grant worked at the Securities and Exchange Commission as a staff attorney in the Enforcement Division, investigating ongoing violations of federal securities regulations and statutes and for Quinn Emanuel Urquhart & Sullivan, LLP, where she was an associate on the trial team that prosecuted the *Mattel v. Bratz* case. Ms. Grant began her legal career as a law clerk to the Honorable Harry Pregerson, Justice of the Ninth Circuit Court of Appeals before joining Sidley & Austin as an associate. She graduated from Southwestern Law School in 1999, where she served as editor-in-chief of the Law Review, and graduated *summa cum laude* and first in her class. Ms. Grant earned her undergraduate degree from Cornell University, where she received the JFK Public Service Award and the Outstanding Senior Award. Her published articles include: *Battling for ERISA Benefits in the Ninth Circuit: Overcoming Abuse of Discretion Review*, 28 Sw. U. L. Rev. 93 (1998), and CLE Class Actions Conference (SF) CAFA: *Early Decisions on Commencement and Removal of Actions* (2006).

Ryan H. Wu. Ryan H. Wu is a partner at Capstone and is primarily responsible for complex motion work and supervising court approval of class action settlements. Mr. Wu handles many of the most challenging legal issues facing Capstone's clients, including the scope and operation of PAGA, contested attorneys' fees motions, responding to objectors, and high-impact appeals. Mr. Wu is responsible for the merits briefing in *McGill v. Citibank, N.A.*, 2 Cal. 5th 945 (2017), where the California Supreme Court unanimously held that consumers' right to pursue public injunctive relief cannot be impeded by a contractual waiver or class certification requirements. He briefed the closely-watched *Williams v. Superior Court (Marshall's of CA LLC)*, 3 Cal.5th 531(2017), an important pro-employee ruling that broadened the scope of discovery in PAGA actions and resolved a longstanding conflict regarding third-party constitutional privacy rights. He also authored the briefs in *Baumann v. Chase Inv. Servs. Corp.*, 747 F.3d 1117 (9th Cir. 2014), where, on an issue of first impression, the Ninth Circuit sided with Plaintiffs in holding that PAGA actions are state enforcement actions not covered by the CAFA. In February 2015, Mr. Wu, along with Mr. Perez, received the prestigious CLAY award for his successful appellate work, including briefing to the California Supreme Court, in *Iskanian*. Mr. Wu recently achieved an important consumer victory in *Nguyen v. Nissan N.A.*, 932 F.3d 811 (9th Cir. 2019), which clarified the use of "benefit of the bargain" damages models in consumer class actions.

Mr. Wu graduated from the University of Michigan Law School in 2001, where he was an associate editor of the *Michigan Journal of Law Reform* and contributor to the law school newspaper. He received his undergraduate degree in political science with honors from the University of California, Berkeley. He began his career litigating international commercial disputes and commercial actions governed by the Uniform Commercial Code. Mr. Wu is co-author of "*Williams v. Superior Court: Employees' Perspective*" and "*Iskanian v. CLS Transportation: Employees' Perspective*," both published in the *California Labor & Employment Law Review*.

Robert Drexler. Robert Drexler is a partner with Capstone Law where he leads one of the firm's litigation teams prosecuting wage-and-hour class actions. He has more than 25 years of experience representing clients in wage-and-hour and consumer rights class actions and other complex litigation in state and federal courts. Over the course of his career, Mr. Drexler has successfully certified dozens of employee classes for claims

such as misclassification, meal and rest breaks, and off-the-clock work, ultimately resulting in multi-million dollar settlements. He has also arbitrated and tried wage-and-hour and complex insurance cases. Mr. Drexler has been selected as one of Southern California's "Super Lawyers" every year from 2009 through 2020.

Before joining Capstone, Mr. Drexler was head of the Class Action Work Group at Khorrami Boucher, LLP and led the class action team at The Quisenberry Law Firm. Mr. Drexler graduated from Case Western Reserve University School of Law, where he served as Managing Editor of the Case Western Reserve Law Review and authored *Defective Prosthetic Devices: Strict Tort Liability for the Hospital?* 32 CASE W. RES. L. REV. 929 (1982). He received his undergraduate degree in Finance at Ohio State University where he graduated *cum laude*. Mr. Drexler is a member of Consumer Attorneys of California (CAOC) and Consumer Attorneys of Los Angeles (CAALA). He has been a featured speaker at class action and employment litigation seminars, and has published articles in CAOC's Forum Magazine and The Daily Journal.

Jamie Greene. Jamie Greene is a partner at Capstone where she evaluates potential new cases, develops new claims, and manages client relations. Well-versed in wage and hour law and federal and state consumer protection statutes, Ms. Greene supervises the pre-litigation phase for all cases, including investigation, analysis, and client consultation. Ms. Greene began her legal career at Makarem & Associates representing clients in a wide array of cases ranging from wrongful death, insurance bad faith, employment, personal injury, construction defect, consumer protection, and privacy law. She is a graduate of the University of Southern California Gould School of Law and earned her bachelor's degree from Scripps College in Claremont, California. She is an active member of the Consumer Attorneys Association of Los Angeles (CAALA), and the Beverly Hills, Los Angeles County, and Santa Monica Bar Associations.

Senior Counsel

Theresa Carroll. Theresa Carroll is a senior counsel at Capstone Law. Her practice is devoted to the Appeals & Complex Motions team, working on various settlement and approval projects.

Prior to joining Capstone, Ms. Carroll was an associate with Parker Stanbury, LLP, advising small business owners on various employment matters and worked as an associate attorney for O'Donnell & Mandell litigating employment discrimination and sexual harassment cases. In 1995, she graduated from Southwestern University School of Law where she was on the trial advocacy team and was awarded the prestigious Trial Advocate of the Year award sponsored by the American Board of Trial Advocates (ABOTA) for Southwestern University School of Law. Ms. Carroll received her Bachelor of Science degree in speech with an emphasis in theatre from Iowa State University.

Liana Carter. Liana Carter is senior counsel with Capstone Law APC, specializing in complex motions, writs, and appeals. Her work on recent appeals has included reversing a denial of class certification decision in *Brown v. Cinemark USA, Inc.*, No. 16-15377, 2017 WL 6047613 (9th Cir. Dec. 7, 2017), affirming a denial of a motion to compel arbitration in *Jacoby v. Islands Rests., L.P.*, 2014 Cal. App. Unpub. LEXIS 4366 (2014) and reversal of a dismissal of class claims in *Rivers v. Cedars-Sinai Med. Care Found.*, 2015 Cal. App. Unpub. LEXIS 287 (Jan. 13, 2015). Ms. Carter was responsible for drafting the successful petition for review in *McGill v. Citibank N.A.*, as well as the petition for review and briefing on the merits in *Williams v. Superior Court*, 2017 WL 2980258. Ms. Carter also has extensive prior experience in overseeing settlement negotiations and obtaining court approval of class action settlements.

Ms. Carter was admitted to the California bar in 1999 after graduating from the University of Southern California Gould School of Law, where she was an Articles Editor on the board of the *Southern California Law Review*. She received her undergraduate degree with honors from the University of California, Irvine.

Molly DeSario. Molly DeSario is a senior counsel with Capstone Law, specializing in employment class action litigation. Ms. DeSario's practice focuses primarily on wage-and-hour class action and Private Attorneys General Act litigation on behalf of employees for failure to pay overtime and minimum wages, provide meal and rest breaks, and provide compensation for off-the-clock work. She has experience briefing and arguing a multitude of dispositive motions in state and federal court and has successfully certified and settled numerous classes for claims such as exempt misclassifications, unpaid wages, missed meal and rest breaks, and unreimbursed business expenses.

Ms. DeSario began her career as a general practice litigation associate with Sandler & Mercer in Rockville, Maryland, handling a wide range of civil and criminal matters. Since 2005, she has primarily litigated class action cases and, for the last seven years, has focused on representing employees and consumers in class and collective actions across California and the nation, helping them recover millions of dollars in unpaid wages, restitution, and penalties. Molly graduated from Northeastern University School of Law in 2002. During law school, she interned for the U.S. Attorney's Office in Boston, Massachusetts, and the Honorable Paul L. Friedman at the U.S. District Court for the District of Columbia. She received her undergraduate degree in Marketing and International Business from the University of Cincinnati, where she graduated summa cum laude.

Robert Friedl. Robert Friedl is senior counsel at Capstone, where he devotes most of his time to the briefing and litigation strategy of consumer protection cases. Mr. Friedl has over 20 years of experience representing plaintiffs and defendants in consumer class actions, insurance coverage and defense, employment law, and personal injury. His lengthy service as an appellate attorney has yielded several published cases, including successful outcomes in *Goldstein v. Ralphs*, 122 Cal. App. 4th 229 (2004), *Morgan v. AT&T*, 177 Cal. App. 4th 1235 (2009), and *Hecimovich v. Encinal School Parent Teacher Organization*, 203 Cal. App. 4th 450 (2012). At Capstone, Mr. Friedl was responsible for the appellate win in *Grant v. Unifund CCR, LLC*, 577 Fed. Appx. 693 (9th Cir. 2014).

Prior to joining Capstone, Mr. Friedl was a partner at civil litigation boutique, where he handled the firm's most complex briefing. He is a graduate of the University of Connecticut, and received his law degree from Southwestern School of Law, where he earned an American Jurisprudence Book Award.

Mark A. Ozzello. Mark A. Ozzello is a senior counsel with Capstone Law, where he leads the firm's consumer team. He is a nationally recognized and respected consumer and employment attorney who has litigated those issues throughout the country. He has always been at the forefront of consumer rights, sitting on the Board of Governors for the Consumer Attorneys of California and regularly appearing as a featured speaker on consumer rights issues nationwide.

Mr. Ozzello is a former partner of Arias Ozzello & Gignac and, most recently, was Of Counsel to Markun Zusman Freniere & Compton, LLP. In his capacity as a litigator, he has obtained results for his clients in excess of \$200 million dollars. Mark has also achieved consistent success in the California Courts of Appeal, and several judicial opinions regularly cite to his matters as authority for class certification issues. He has also argued appellate issues in several Circuit Courts of Appeals with great success. Mr. Ozzello attended

Pepperdine University School of Law where he was an Editor to the Law Review, publishing several articles during his tenure in that capacity. He received his undergraduate degree from Georgetown University.

Mr. Ozzello has always strived to be an integral part of local communities. He has established educational scholarship programs at several charitable organizations, including El Centro De Amistad in Los Angeles and St. Bonaventure Indian Mission and School in Thoreau, New Mexico, and presides over a legal clinic in Los Angeles which provides pro bono legal assistance to non-English speaking individuals.

Bevin Allen Pike. Bevin Allen Pike is a senior counsel with Capstone Law where she focuses primarily on wage-and-hour class actions. Ms. Pike has spent her entire legal career representing employees and consumers in wage-and-hour and consumer rights class actions. Over the course of her career, Ms. Pike has successfully certified dozens of employee and consumer classes for claims such as meal and rest breaks, unpaid overtime, off-the-clock work, and false advertising.

Before joining Capstone, Ms. Pike's experience included class and representative action work on behalf of employees and consumers at some of the leading plaintiffs' firms in California. Ms. Pike graduated from Loyola Law School, Los Angeles, where she was an Editor for the International and Comparative Law Review. She received her undergraduate degree from the University of Southern California. Ms. Pike has been selected as one of Southern California's "Super Lawyers – Rising Stars" every year from 2012 through 2015.

Eduardo Santos. Eduardo Santos is a senior counsel at Capstone Law, concentrating his practice on managing and obtaining court approval of many of Capstone's wage-and-hour, consumer, and PAGA settlements, from the initial contract drafting phase to motion practice, including contested motion practice on attorneys' fees. Over the course of his career, Mr. Santos has helped to secure court approval of over one hundred high-stakes class and representative action settlements totaling over \$100 million.

Before joining Capstone, Mr. Santos began his career at a prominent plaintiff's firm in Los Angeles specializing in mass torts litigation, with a focus on complex pharmaceutical cases. Most notably, he was involved in the national Vioxx settlement, which secured a total of \$4.85 billion for thousands of individuals with claims of injuries caused by taking Vioxx. Mr. Santos graduated from Loyola Law School, Los Angeles, where he was a recipient of a full-tuition scholarship awarded in recognition of academic excellence. While in law school, Mr. Santos served as an extern for the Honorable Thomas L. Willhite, Jr. of the California Court of Appeal. He graduated magna cum laude from UCLA and was a recipient of the Ralph J. Bunche Scholarship for academic achievement.

John Stobart. John Stobart is a senior counsel with Capstone Law. He focuses on appellate issues in state and federal courts and contributes to the firm's amicus curiae efforts to protect and expand the legal rights of California employees and consumers. Mr. Stobart has significant appellate experience having drafted over two dozen writs, appeals and petitions, and having argued before the Second, Fourth, and Fifth Districts of the California Court of Appeal.

Prior to joining Capstone, Mr. Stobart was a law and motion attorney who defended against civil liability in catastrophic injury and wrongful death cases brought against his clients, which included the railroad, public schools, small businesses, and commercial and residential landowners. He has drafted and argued scores of dispositive motions at the trial court level and had success in upholding judgments and verdicts on appeal. He

graduated cum laude from Thomas Jefferson School of Law where he was on the mock trial competition team and earned his undergraduate degree from the Ohio State University.

Orlando Villalba. Orlando Villalba is a senior counsel at Capstone Law. His practice primarily involves wage-and-hour class actions and PAGA litigation on behalf of employees for the failure to pay overtime and minimum wages, failure to provide meal and rest breaks, claims under the Fair Labor Standards Act, and other California Labor Code violations.

Mr. Villalba began his career at Kirkland & Ellis where he handled a wide range of business litigation matters, including transnational contract disputes, insurance-related tort claims, developer litigation, and civil rights actions. He also has extensive plaintiff-side experience representing government agencies and note-holders in the pursuit of mortgage and other fraud losses. Mr. Villalba graduated from Stanford Law School, where he served as an articles editor on the Stanford Journal of Law, Business & Finance. After law school, he clerked for the Honorable Warren Matthews of the Alaska Supreme Court. Orlando received his bachelor's degree in International Business from the University of Southern California.

Steven Weinmann. Steven Weinmann is a senior counsel with Capstone Law and leads the consumer rights team. His practice encompasses complex and class action litigation, including consumer product and services cases under California's Unfair Competition Law (UCL), data privacy breach cases, and a special emphasis on vehicle defect litigation. He has a background in securities litigation, antitrust, environmental law, and consumer class action cases.

Prior to joining Capstone, Steven's experience included litigating class actions on behalf of employees and consumers, in addition to representing individuals and small and large companies in various types of litigation, from business disputes to personal injury, financial fraud, construction defects, and products liability. Steven has been instrumental in achieving favorable results for numerous certified classes, including cases against Home Depot USA (for wage and hour and UCL claims); LegalZoom.com, Inc. (claims involving illegal practice of law); Wells Fargo Bank, N.A. (UCL, CLRA, federal Truth in Lending Act [TILA] claims). Steven briefed and help bring about numerous reported decisions including *Fraley v. Facebook*, 830 F.Supp.2d 785 (N.D. Cal. 2011) (defeating a motion to dismiss on claims involving the right to publicity); *Ceja v. Rudolph & Sletten*, 194 Cal.App.4th 584 (Sixth Appellate Div. 2011), affirmed, California Supreme Court, 56 Cal. 4th 1113 (2013) (confirming the test for determining putative spouse status is a subjective one). He also helped brief and obtained a decision favorable to plaintiffs in a seminal case under California's UCL, *McAdams v. Monier, Inc.*, 182 Cal.App.4th 174 (2010) (deciding only the named class representative needed to satisfy Proposition 64 standing requirements). He received his J.D. with distinction from the Hofstra University School of Law, where he was an associate editor on the Hofstra Law Review, and earned his undergraduate degree in English Literature and Political Science from Rutgers University.

Tarek Zohdy. A senior counsel with Capstone, Tarek Zohdy develops, investigates and litigates automotive defect class actions, along with other consumer class actions for breach of warranty and consumer fraud. At Capstone, he has worked on several large-scale automotive class actions from investigation through settlements that have provided significant relief to millions of defrauded car owners. Before joining Capstone, Mr. Zohdy spent several years representing individual consumers in their actions against automobile manufacturers and dealerships for breaches of express and implied warranties pursuant to the Song-Beverly Consumer Warranty Act and the Magnuson-Moss Warranty Act, commonly referred to together as "Lemon Law." He also handled fraudulent misrepresentation and omission cases pursuant to the Consumers Legal Remedies Act. Mr. Zohdy graduated from Louisiana State University *magna cum laude* in 2003, and Boston

University School of Law in 2006, where he was a member of the criminal clinic representing underprivileged criminal defendants.

Associates

Brandon Brouillette. Brandon Brouillette is an associate with Capstone Law, where his practice focuses on representing employees and consumers in complex litigation, primarily wage-and-hour class actions and PAGA representative actions. Mr. Brouillette's entire legal career has been devoted to representing individual and class representative plaintiffs against large corporate entities. Prior to joining Capstone, he served as an associate at Boucher LLP where he managed the firm's wage-and-hour class actions. He earned his Juris Doctor from Loyola Law School, Los Angeles, where he spent a summer interning for the legal clearance and corporate legal departments at Warner Bros. He received his undergraduate degree from the University of Southern California, where he majored in Business Administration and spent a semester abroad in Budapest, Hungary. In 2016, Brandon was selected as one of Super Lawyers' "Rising Stars" in Southern California.

Anthony Castillo. Anthony Castillo is an associate with Capstone Law. His practice focuses on analyzing pre-litigation wage-and-hour and consumer claims, including claims for overtime wages, meal and rest periods, and off-the-clock work violations. Prior to joining Capstone, he was an associate at a California bankruptcy practice, where he represented individual and business debtors in liquidations and re-organizations as well as various debt and foreclosure defense-related issues. Mr. Castillo graduated from Loyola Law School, Los Angeles in 2009, where he volunteered with the Disability Rights Legal Center. He attended Stanford University for his undergraduate degree, majoring in Political Science and minoring in History. Anthony is admitted to practice law in California and Washington and before the United States District Court for the Central and Southern Districts of California.

Joseph Hakakian. Joseph Hakakian is an associate with Capstone Law. His practice focuses on prosecuting wage-and-hour class and representative actions in state and federal court. Prior to joining Capstone Law, Mr. Hakakian served as a summer clerk for Mark Ozzello at Markun Zusman Freniere & Compton, LLP, working on various actions including wage-and-hour claims, unpaid overtime, false advertising, and unfair competition. He graduated from UCLA School of Law, with a business law specialization, where he served as a staff editor for the Journal of Environmental Law and Policy and worked as a law clerk with the Consumer Protection Division of the Los Angeles District Attorney's Office. Prior to attending law school, Mr. Hakakian received his undergraduate degree from University of California, Los Angeles, in 2013, where he graduated summa cum laude, Dean's Honor List, and College Honors, and received scholastic achievement awards from Golden Key Honor Society and Phi Alpha Theta Honor Society. Joseph is an active member of the Consumer Attorneys Association of Los Angeles (CAALA), Consumer Attorneys of California (CAOC), and Beverly Hills, Los Angeles County, and Santa Monica Bar Associations.

Michelle Kennedy. Michelle Kennedy is an associate with Capstone Law. Her practice focuses on analyzing pre-litigation wage-and-hour and consumer claims, including claims for overtime wages, meal and rest periods, and off-the-clock work violations. She began her career as a contract attorney in the Utah Attorney General's Civil Litigation Division handling torts, civil rights, and employment law matters. She later founded her own firm handling business and intellectual property matters, where she settled a copyright infringement suit. Prior to moving to Southern California, Ms. Kennedy was recognized by Super Lawyers as a Mountain States Rising Star in 2017 and 2018. She also served as President of the Utah Minority Bar Association and as an Ex-Officio Member of the Utah State Bar Commission. Michelle graduated from the University of Utah S.J. Quinney College of Law in 2013, where she served as President of the Art Law Alliance and Vice

President of the Minority Law Caucus. She earned her undergraduate degree from Brigham Young University in 2010, where she majored in Philosophy. Ms. Kennedy is an active member of the Consumer Attorneys Association of Los Angeles (CAALA) and the Los Angeles County Bar Association. Michelle is admitted to practice law in Utah and California.

Jonathan Lee. An associate with Capstone, Jonathan Lee primarily litigates employment class actions. At Capstone, Mr. Lee has worked on several major successful class certification motions, and his work has contributed to multi-million dollar class settlements against various employers, including restaurant chains, retail stores, airport staffing companies, and hospitals. Prior to joining Capstone, Mr. Lee defended employers and insurance companies in workers' compensation actions throughout California. Mr. Lee graduated in 2009 from Pepperdine University School of Law, where he served as an editor for the Journal of Business, Entrepreneurship and the Law; he received his undergraduate degree from UCLA.

Trisha Monesi. Trisha Monesi is an associate with Capstone. Her practice focuses on prosecuting consumer class actions in state and federal court. Ms. Monesi graduated from Loyola Law School, Los Angeles in 2014, where she served as an editor of the Loyola of Los Angeles Entertainment Law Review and was a certified law clerk at the Center for Juvenile Law and Policy. She earned her undergraduate degree from Boston University in 2011, where she majored in Political Science and International Relations. She is an active member of the Women Lawyers Association of Los Angeles, and the Los Angeles County and Beverly Hills Bar Associations.

Cody Padgett. An associate with Capstone, Cody Padgett's practice focuses on prosecuting automotive defect and other consumer class action cases in state and federal court. He handles consumer cases at all stages of litigation, and has contributed to major settlements of automobile defect actions valued in the tens of millions. Prior to joining Capstone Law, Mr. Padgett was a certified legal intern with the San Diego County Public Defender's Office. During law school, Mr. Padgett served as a judicial extern to the Honorable C. Leroy Hansen, United States District Court for the District of New Mexico. He graduated from California Western School of Law in the top 10% of his class and received his undergraduate degree from the University of Southern California, where he graduated *cum laude*.

Mao Shiokura. Mao Shiokura is an associate with Capstone. Her practice focuses on identifying, analyzing, and developing new wage-and-hour and consumer claims, including violations of the Fair Credit Reporting Act, Consumers Legal Remedies Act, False Advertising Law, and Unfair Competition Law. Prior to joining Capstone, Ms. Shiokura was an associate at a California lemon law firm, where she represented consumers in Song-Beverly, Magnuson-Moss, and fraud actions against automobile manufacturers and dealerships. Ms. Shiokura graduated from Loyola Law School, Los Angeles in 2009, where she served as a staff member of Loyola of Los Angeles Law Review. She earned her undergraduate degree from the University of Southern California, where she was a Presidential Scholar and majored in Business Administration, with an emphasis in Cinema-Television and Finance.

OUTREACH AND EDUCATION

To increase public awareness about the issues affecting class action and other representative litigation in the consumer and employment areas, Capstone publishes the Impact Litigation Journal (www.impactlitigation.com). Readers have access to news bulletins, op-ed pieces, and legal resources. By taking advantage of social media, Capstone hopes to spread the word about consumer protection and



employee rights to a larger audience than has typically been reached by traditional print sources, and to thereby contribute to the enforcement of California's consumer and workplace protection laws.

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5 Facsimile: (310) 943-0396

6 Attorneys for Plaintiffs Belinda Payton and Charmaine Walker

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA

9 FOR THE COUNTY OF SAN JOAQUIN

10 BELINDA PAYTON, individually, and on
11 behalf of other members of the general public
similarly situated,

12 Plaintiff,

13 vs.

14 PRIDE INDUSTRIES, a California corporation;
15 and DOES 1 through 10, inclusive,

16 Defendants.

Case No.: STK-UOE-2017-7110

[Assigned to the Hon. Barbara Kronlund]

**DECLARATION OF BELINDA PAYTON IN
SUPPORT OF MOTION FOR FINAL
APPROVAL OF CLASS ACTION
SETTLEMENT AND MOTION FOR
ATTORNEYS' FEES, COSTS AND
EXPENSES, AND CLASS
REPRESENTATIVE ENHANCEMENT
PAYMENTS**

Date: December 14, 2020

Time: 9:00 a.m.

Place: Department 10-D

DECLARATION OF BELINDA PAYTON

I, Belinda Payton, hereby declare as follows:

1. I am over eighteen years old and unless the context indicates otherwise, I have personal knowledge of the following facts and if called as a witness, I could and would testify competently to them. I am a Plaintiff in the above-captioned action, and a representative for the Settlement Class. I make this declaration in support of the Motion for Final Approval of Class Action Settlement and Motion for Attorneys' Fees, Costs and Expenses, and Class Representative Enhancement Payments.

2. I was employed by Defendant PRIDE Industries ("Defendant" or "PRIDE Industries") in California as an hourly, non-exempt Environmental Services Technician and Environmental Services Floor Foreperson from approximately January 2016 to July 2016. I decided to file this lawsuit to redress certain employment-related grievances that I had against Defendant; e.g., that Defendant did not pay employees for all hours worked, and did not always relieve employees to take timely and off-duty meal and rest periods.

3. Prior to filing the action, my attorneys and I had multiple conferences about the factual bases for the claims that I wanted to pursue against Defendant.¹ In preparation for these conferences, I searched for and provided my attorneys with all the documents I had in my possession related to my employment and which could prove helpful in prosecuting my case. During those conferences, my attorneys provided me with an overview of how those claims would be litigated and generally educated me about the nature of complex/representative litigation and my role as the representative Plaintiff.

4. My attorneys provided me with a draft of the Complaint for my review and approval. I closely reviewed the Complaint to ensure accuracy and completeness. Following the filing of the Complaint, I collaborated with my attorneys on the prosecution of my claims, and I regularly contacted my attorneys to stay current on the status of the litigation, and to discuss my attorneys' progress in prosecuting the claims.

5. I have worked to the best of my ability to prosecute this action on behalf of the entire class, always considering the interests of the class members just as I would consider my own interest and

¹ Although the preservation of my attorney-client privilege requires that I refrain from revealing the specifics of my communications with my attorneys, I understand that the privilege is not waived by stating generally the matters that I have discussed with my attorneys.

1 in some cases must put the interests of the other class members before my own interests. I believe I
2 volunteered to represent many other people with similar claims because of the importance of the case
3 and the necessity that all class members benefit from the lawsuit equally; the savings of time, money,
4 and effort should benefit all parties and the court. I understand that class actions are an important tool to
5 assure compliance with the law even where an individual's losses may be relatively small. I have no
6 interests which are inconsistent with the interests of the Class.

7 6. I worked closely with my attorneys during the discovery phase of the litigation, and in
8 particular, I spent considerable time working with my attorneys to prepare responses to Defendant's
9 discovery requests, including form interrogatories, requests for admission, and special interrogatories. I
10 also answered any questions my attorneys had stemming from Defendant's production of company
11 documents. I also assisted my attorneys in preparing for the mediations held in this case, which included
12 answering further questions from my attorneys and remaining available on-call throughout the day of
13 each mediation.

14 7. In addition to written discovery, Defendant's counsel took my deposition on January 14,
15 2019. Prior to my deposition, I conferred with my attorneys to prepare, and to learn more about the
16 deposition process. Following my deposition, I carefully reviewed the deposition transcript to ensure that
17 my testimony was properly and accurately recorded.

18 8. I have carefully reviewed the terms of the proposed settlement. My attorneys explained
19 the specifics of how the settlement would work and I accepted the settlement only after I had spent time
20 evaluating the proposed outcome to assure that it was fair. Based on my attorneys' evaluation and
21 recommendation, and my own review, I believe the settlement is fair and reasonable and adequately
22 compensates Class Members.

23 9. In summary, over the course of this litigation I have spent a significant amount of time
24 conferring and working with my attorneys on the prosecution of my claims and evaluating the settlement
25 and related documents. I estimate that I have spent between 30 and 40 hours assisting my attorneys in the
26 prosecution of this lawsuit.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on 10/22/2020 at San Leandro, California.

Date

City

DocuSigned by:

Belinda Payton

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Belinda Payton

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6 Attorneys for Plaintiffs Belinda Payton and Charmaine Walker

7
8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 FOR THE COUNTY OF SAN JOAQUIN

10 BELINDA PAYTON, individually, and on
11 behalf of other members of the general public
similarly situated,

12 Plaintiff,

13 vs.

14 PRIDE INDUSTRIES, a California corporation;
15 and DOES 1 through 10, inclusive,

16 Defendants.
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Case No.: STK-UOE-2017-7110

[Assigned to the Hon. Barbara Kronlund]

**DECLARATION OF CHARMAINE
WALKER IN SUPPORT OF MOTION FOR
FINAL APPROVAL OF CLASS ACTION
SETTLEMENT AND MOTION FOR
ATTORNEYS' FEES, COSTS AND
EXPENSES, AND CLASS
REPRESENTATIVE ENHANCEMENT
PAYMENTS**

Date: December 14, 2020

Time: 9:00 a.m.

Place: Department 10-D

DECLARATION OF CHARMAINE WALKER

I, Charmaine Walker, hereby declare as follows:

1. I am over eighteen years old and unless the context indicates otherwise, I have personal knowledge of the following facts and if called as a witness, I could and would testify competently to them. I am a Plaintiff in the above-captioned action, and a representative for the Settlement Class. I make this declaration in support of the Motion for Final Approval of Class Action Settlement and Motion for Attorneys' Fees, Costs and Expenses, and Class Representative Enhancement Payments.

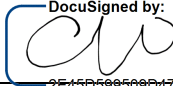
2. I was employed by Defendant PRIDE Industries ("Defendant" or "PRIDE Industries") in California as a non-exempt, hourly paid Environmental Technician from approximately July 2015 to June 2019. I decided to join this lawsuit because Defendant did not pay employees for all time worked, and did not always relieve us to take our 10-minute breaks and lunches.

3. I volunteered to represent many other people with similar claims because of the importance of the case and the necessity that all class members benefit from the lawsuit equally; the savings of time, money, and effort should benefit all parties and the court. I understand that class actions are an important tool to assure compliance with the law even where an individual's losses may be relatively small. I have no interests which are inconsistent with the interests of the Class.

4. I have carefully reviewed the terms of the proposed settlement. My attorneys explained the specifics of how the settlement would work and I accepted the settlement only after I had spent time evaluating the proposed outcome to assure that it was fair. Based on my attorneys' evaluation and recommendation, and my own review, I believe the settlement is fair and reasonable and adequately compensates Class Members.

5. In summary, over the course of this litigation I have spent a significant amount of time conferring and working with my attorneys on the prosecution of my claims and evaluating the settlement and related documents. I estimate that I have spent between 5 and 10 hours assisting my attorneys in the prosecution of this lawsuit.

1 I declare under penalty of perjury under the laws of the State of California that the foregoing is
2 true and correct. Executed on 10/21/2020 at Stockton, California.
Date City

3 DocuSigned by:
4 
5 2E45D599509D47B...
Charmaine Walker

1 Raul Perez (SBN 174687)
Raul.Perez@capstonelawyers.com
2 Brandon Brouillette (SBN 273156)
Brandon.Brouillette@capstonelawyers.com
3 Capstone Law APC
1875 Century Park East, Suite 1000
4 Los Angeles, California 90067
Telephone: (310) 556-4811
5 Facsimile: (310) 943-0396

6 Attorneys for Plaintiffs Belinda Payton and Charmaine Walker
7

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA

9 FOR THE COUNTY OF SAN JOAQUIN

10 BELINDA PAYTON, individually, and on
behalf of other members of the general public
11 similarly situated,

12 Plaintiff,

13 vs.

14 PRIDE INDUSTRIES, a California corporation;
and DOES 1 through 10, inclusive,

15 Defendants.
16

Case No.: STK-UOE-2017-7110

**DECLARATION OF TARUS DANCY ON
BEHALF OF CPT GROUP, INC., THE
SETTLEMENT ADMINISTRATOR**

Date: December 14, 2020

Time: 9:00 a.m.

Place: Department 10-D

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1 given an opportunity to cure the defect per Paragraph 45 of the Settlement Agreement.

2 7. CPT has received no objections to the settlement.

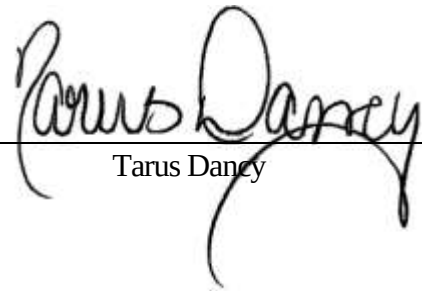
3 8. A total of 619 Class Members will be paid their portion of the Net Settlement Amount.
4 Each Class Member's share of the Net Settlement Amount will be proportional to the number of
5 Workweeks he or she worked during the Class Period. According to Defendant's records, Class
6 Members in aggregate worked a total of 43,191 Workweeks during the Class Period. Each Workweek is
7 accordingly valued at \$7.86.

8 9. The average estimated payment is \$548.20 and the highest is \$1,838.44.

9 10. CPT's costs in connection with the administration of this Settlement are \$11,500.

10 11. Attached as Exhibit A is a true and correct copy of the Notice of Class Action Settlement
11 template that CPT mailed to all Class Members. Attached as Exhibit B is a true and correct copy of
12 CPT's invoice for settlement administration costs.

13
14 I declare under penalty of perjury under the laws of the State of California that the foregoing is
15 true and correct. Executed this 22nd day of October, 2020, at Los Angeles, California.
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Tarus Dancy

EXHIBIT A

Payton v. PRIDE Industries, No. STK-UOE-2017-7110
 SUPERIOR COURT OF THE STATE OF CALIFORNIA, FOR THE COUNTY OF SAN JOAQUIN
 NOTICE OF CLASS ACTION SETTLEMENT

You are not being sued. This notice affects your rights. Please read it carefully

To: All persons who were employed by Defendant PRIDE Industries (“Defendant”) in non-exempt positions at the California Department of Corrections and Rehabilitation (“CDCR”) in Stockton, California during the period from January 1, 2016 to July 24, 2020.

On July 24, 2020, the Honorable Barbara Kronlund of the San Joaquin County Superior Court granted preliminary approval of this class action settlement and ordered the litigants to notify all Class Members of the settlement. **You have received this notice because Defendant’s records indicate that you are a Class Member, and therefore entitled to a payment from the settlement.**

Unless you choose to opt out of the settlement by following the procedures described below, you will be deemed a Class Member and, if the Court grants final approval of the settlement, you will be mailed a check for your share of the settlement fund. The Final Fairness Hearing on the adequacy, reasonableness, and fairness of the Settlement will be held at 9:00 a.m. on December 14, 2020 in Department 10D of the San Joaquin County Superior Court located at 180 E. Weber Avenue, Stockton, CA 95202. You are not required to attend the hearing, but you are welcome to do so.

Summary of the Litigation

Plaintiffs Belinda Payton and Charmaine Walker, on their behalf and on behalf of other current and former non-exempt employees who worked at the California Department of Corrections and Rehabilitation (“CDCR”) in Stockton, California, allege that Defendant violated California state labor laws as a result of its alleged failure to, among other things: (1) pay minimum and overtime wages to employees for all hours worked; (2) provide employees with meal and rest breaks; (3) timely pay all wages owed to employees during each pay period and upon termination of their employment; (4) provide employees with accurate, itemized wage statements; and (5) reimburse employees for all necessary business expenses.

After the exchange of relevant information and evidence, the parties agreed to enter into settlement negotiations in an attempt to informally resolve the claims in the case. The parties participated in multiple mediations with the Hon. Richard Hodge (Ret.), an experienced and well-respected class action mediator. With Judge Hodge’s guidance, the parties were able to negotiate a complete settlement of Plaintiff’s claims.

Counsel for Plaintiffs, and the attorneys appointed by the Court to represent the class, Capstone Law APC (“Class Counsel”), have investigated and researched the facts and circumstances underlying the issues raised in the case and the applicable law. While Class Counsel believe that the claims alleged in this lawsuit have merit, Class Counsel also recognize that the risk and expense of continued litigation justify settlement. Based on the foregoing, Class Counsel believe the proposed settlement is fair, adequate, reasonable, and in the best interests of Class Members.

Defendant has denied, and continues to deny the factual and legal allegations in the case and believes that it has valid defenses to Plaintiffs’ claims. By agreeing to settle, Defendant is not admitting liability on any of the factual allegations or claims in the case or that the case can or should proceed as a class action. Defendant has agreed to settle the case as part of a compromise with Plaintiffs. Neither the proposed Settlement nor any action taken to carry out the proposed Settlement is, may be construed as, or may be used as an admission, concession or indication by or against PRIDE of any fault, wrongdoing, or liability whatsoever. The Court has made no ruling on the merits of the Class Members’ claims and has determined only that certification of the Class for settlement is appropriate under California law.

Summary of The Proposed Settlement Terms

Plaintiffs and Defendant have agreed to settle the underlying class claims in exchange for a Class Settlement Amount of \$650,000. This amount is inclusive of: (1) individual settlement payments to all Participating Class Members; (2) Class Representative Enhancement Payments of \$10,000 to Belinda Payton and \$5,000 to Charmaine Walker for their services on behalf of the class; (3) \$216,667 in attorneys' fees and up to \$30,000 in litigation costs and expenses; (4) a \$37,500 payment to the California Labor and Workforce Development Agency ("LWDA") in connection and accordance with the Labor Code Private Attorneys General Act of 2004 ("PAGA"), and (5) reasonable Settlement Administrator's fees and expenses currently estimated at \$11,500. After deducting the Class Representative Enhancement Payments, attorneys' fees and costs, the payment to the LWDA, and the Settlement Administrator's fees and expenses, a total of approximately \$339,333 will be allocated to Class Members who do not opt out of the settlement ("Net Settlement Amount").

Each Class Member's settlement payment will be based on the number of Workweeks each Class Member worked in a non-exempt position during the period from January 1, 2016 through July 24, 2020 ("Class Period"). The formula for calculating settlement payments is as follows:

- (a) Defendant will calculate the total aggregate number of Workweeks that all Class Members worked during the applicable Class Period ("Total Workweeks").
- (b) The value of each individual Workweek shall then be determined by dividing the proceeds of the Net Settlement Amount by the Total Workweeks amount, resulting in the "Workweek Point Value".
- (c) An "Individual Settlement Payment" amount for each Class Member will then be determined by multiplying the individual Class Member's number of Workweeks by the Workweek Point Value.
- (d) The entire Net Settlement Amount will be disbursed to all Class Members who do not submit timely and valid Requests for Exclusion.

According to Defendant's records, you worked during the Class Period in a non-exempt position at the CDCR in Stockton, California for a total of <<Workweeks>> Workweeks. Accordingly, your estimated payment is approximately \$<<estAmount>>. If you believe the information provided above is incorrect, please contact the Settlement Administrator at Payton v. Pride Industries Settlement Administrator; c/o CPT Group, Inc.; 50 Corporate Park; Irvine, CA 92606. If you dispute the information stated above, Defendant's records will control unless you are able to provide documentation that establishes otherwise.

IRS Forms W-2 and 1099 will be distributed to participating Class Members and the appropriate taxing authorities reflecting the payments they receive under the settlement. Class Members should consult their tax advisors concerning the tax consequences of the payments they receive under the Settlement. For purposes of this settlement, 25% of each Individual Settlement Payment will be allocated as wages for which IRS Forms W-2 will be issued, and 75% will be allocated as non-wages for which IRS Forms 1099-MISC will be issued.

Your Options Under the Settlement

Option 1 – Automatically Receive a Payment from the Settlement

If you want to receive your payment from the settlement, then no further action is required on your part. You will automatically receive your settlement payment from the Settlement Administrator if and when the Settlement receives final approval by the Court.

If you choose **Option 1**, and if the Court grants final approval of the settlement, you will be mailed a check for your share of the settlement funds. In addition, you will be deemed to have released or waived the following claims ("Released Claims"): All claims, rights, demands, liabilities, and causes of action, arising from, or related to, the same set of operative facts as those set forth in the operative complaint during the Class Period, including: (i) all claims for unpaid overtime; (ii) all claims for meal and rest break violations; (iii) all claims for unpaid minimum wages; (iv) all claims for the failure to timely pay wages upon

Questions? Contact the Settlement Administrator toll free at 1-888-417-1152

termination based on the preceding claims; (v) all claims for the failure to timely pay wages during employment based on the preceding claims; (vi) all claims for wage statement violations based on the preceding claims; (vii) all claims for the failure to reimburse for necessary business expenses; and (viii) all claims asserted through California Business & Professions Code §§ 17200, et seq., and California Labor Code §§ 2698, et seq. based on the preceding claims, including any and all associated claims for penalties, premium pay, liquidated damages, interest, attorney fees and costs.

With respect to the Released Claims only, Class Members who choose Option 1 will expressly waive and relinquish, to the fullest extent permitted by law, the provisions, rights and benefits of Section 1542 of the California Civil Code to the extent it is applicable (or any other similar provision under applicable federal, state or local law) that is quoted below. Section 1542 provides:

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

Subject to and in accordance with the provisions of the Settlement Agreement, even if Class Members who select Option 1 may hereafter discover facts in addition to or different from those which they now know or believe to be true with respect to the subject matter of the Released Claims, Class Members shall be deemed to have and by operation of the Final Judgment shall have, fully, finally and forever settled and released any and all Released Claims. This is true whether the Released Claims are known or unknown, suspected or unsuspected, which now exist or heretofore have existed under any theory of law or equity now existing or coming into existence in the future, including but not limited to conduct that is negligent, intention, with or without malice, or a breach of any duty, law, or rule, without regard to the subsequent discovery or existence of such different or additional facts. Class Members cannot make a claim against any of the Released Parties that is in any way related to the Released Claims.

Option 2 – Opt Out of the Settlement

If you do not wish to participate in the settlement, you may exclude yourself from participating by submitting a written request to the Settlement Administrator expressly and clearly indicating that you have received this Notice of Class Action Settlement, decided not to participate in the settlement, and desire to be excluded from the settlement. The written request for exclusion must include your name, signature, address, telephone number, and last four digits of your Social Security Number. Sign, date, and mail the request for exclusion by First Class U.S. Mail or equivalent, to the address below.

Payton v. Pride Industries Settlement Administrator
c/o CPT Group, Inc.
50 Corporate Park, Irvine, CA 92606
Fax: (949) 419-3446

The written request to be excluded must be postmarked or faxed not later than October 3, 2020. If you submit a request for exclusion which is not postmarked or faxed by October 3, 2020, your request for exclusion will be rejected, and you will be included in the settlement class.

If you choose **Option 2**, you will no longer be a Class Member, and you will (1) be barred from participating in the settlement, but you will not be deemed to have released the Released Claims, (2) be barred from filing an objection to the settlement, and (3) not receive a payment from the settlement.

Option 3 – Object to the Settlement

If you decide to object to the settlement because you find it unfair or unreasonable, you must submit an objection stating why you object to the settlement. Your objection must provide: (1) your full name, signature, address, and telephone number, (2) a written statement of all grounds for the objection accompanied by any legal support for such objection; (3) copies of any papers, briefs, or other documents upon which the objection is based; and (4) a statement about whether you intend to appear at the Fairness Hearing. The objection must be mailed to the administrator at Payton v. Pride Industries Settlement Administrator c/o CPT Group, Inc., 50 Corporate Park, Irvine, CA 92606.

All objections must be received by the administrator by not later than October 3, 2020. Late objections will not be considered. By submitting an objection, you are not excluding yourself from the settlement. To exclude yourself from the settlement, you must follow the directions described above. Please note that you cannot both object to the settlement and exclude yourself. You must choose one option only.

You may also, if you wish, appear at the Final Fairness Hearing set for December 14, 2020 at 9:00 a.m. in the Superior Court of the State of California, for the County of San Joaquin and discuss your objection with the Court and the Parties at your own expense. You may also retain an attorney to represent you at the hearing.

If you choose **Option 3**, you will still be entitled to the money from the settlement. If the Court overrules your objection, you will be deemed to have released the Released Claims.

Additional Information

This Notice of Class Action Settlement is only a summary of the case and the settlement. For a more detailed statement of the matters involved in the case and the settlement, you may refer to the pleadings, the settlement agreement, and other papers filed in the case. All inquiries by Class Members regarding this Class Notice and/or the settlement should be directed to the Settlement Administrator or Class Counsel.

Raul Perez
Capstone Law APC
1875 Century Park E., Suite 1000
Los Angeles, CA 90067
Phone: 1-888-225-9339

PLEASE DO NOT CONTACT THE CLERK OF THE COURT, THE JUDGE, DEFENDANT OR DEFENDANT'S ATTORNEYS WITH INQUIRIES.

EXHIBIT B



INVOICE

Invoice No : 15421
Invoice Date : 9/29/2020
Mailing Date: 9/3/2020
VP Consultant: Tim Phillips

Case Name : Payton v Pride Industries

TO: Emma Forrest
Forrest & Becker Law

Contact Name: Irvin Garcia
Accounts Receivable Clerk
50 Corporate Park
Irvine, CA 92606
Ph: (949) 428-1034
irvin@cptgroup.com

Payment Details	Type of Case	Due Date
Settlement Fund	Admin - Wage and Hour (Opt Out)	3/14/2021

Quantity	Description	Unit Price	Line Total
1	Payton v Pride Industries	\$17,625.10	\$17,625.10

Subtotal \$17,625.10

Discount **\$6,125.10**

Billed to Defense Counsel

TOTAL \$11,500.00

Make all checks payable to CPT Group, Inc.
THANK YOU FOR YOUR BUSINESS!

CPT Offers Secure Credit Card Payments through PayPal. To utilize PayPal, there's a Merchant Service Fee added to your grand total.

Payment Terms: All postage charges and 50% of the final administration charges are due at the commencement of the case and will be billed immediately upon receipt of the data and/or notice documents. CPT bills are due upon receipt, unless otherwise negotiated and agreed to with CPT by Counsel/Client. In the event settlement terms provide that CPT is to be paid out of the settlement fund, CPT will request that Counsel/Client endeavor to make alternate payment arrangements for CPT charges that are due at the commencement of the case. The entire remaining balance is due and payable at the time the settlement account is funded by defendant, or no later than the time of disbursement. Amounts not paid within thirty (30) days are subject to a service charge of 1.5% per month or the highest rate permitted by law. In the event CPT Group, Inc. commences litigation to enforce payment, CPT Group, Inc. shall be entitled to recover reasonable attorney's fees and costs (including expert witnesses' fees) incurred in addition to all other items of recovery permitted by law.

1 Raul Perez (SBN 174687)
Raul.Perez@capstonelawyers.com
2 Brandon Brouillette (SBN 273156)
Brandon.Brouillette@capstonelawyers.com
3 Capstone Law APC
1875 Century Park East, Suite 1000
4 Los Angeles, California 90067
Telephone: (310) 556-4811
5 Facsimile: (310) 943-0396

6 Attorneys for Plaintiffs Belinda Payton and Charmaine Walker

7
8 SUPERIOR COURT OF THE STATE OF CALIFORNIA

9 FOR THE COUNTY OF SAN JOAQUIN

10 BELINDA PAYTON, individually, and on
behalf of other members of the general public
11 similarly situated,

12 Plaintiff,

13 vs.

14 PRIDE INDUSTRIES, a California corporation;
and DOES 1 through 10, inclusive,

15 Defendants.
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Case No.: STK-UOE-2017-7110

[Assigned to the Hon. Barbara Kronlund]

**[PROPOSED] ORDER GRANTING MOTION
FOR FINAL APPROVAL OF CLASS
ACTION SETTLEMENT AND MOTION
FOR ATTORNEYS' FEES, COSTS AND
EXPENSES, AND CLASS
REPRESENTATIVE ENHANCEMENT
PAYMENTS**

Date: December 14, 2020

Time: 9:00 a.m.

Place: Department 10-D

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1 the Court finds that the settlement was reached following meaningful discovery and investigation
2 conducted by Plaintiffs' Counsel; that the settlement is the result of serious, informed, adversarial, and
3 arm's-length negotiations between the Parties; and that the terms of the settlement are in all respects fair,
4 adequate, and reasonable.

5 7. In so finding, the Court has considered all evidence presented, including evidence
6 regarding the strength of Plaintiffs' case; the risk, expense, and complexity of the claims presented; the
7 likely duration of further litigation; the amount offered in settlement; the extent of investigation and
8 discovery completed; and the experience and views of counsel. The Parties have provided the Court
9 with sufficient information about the nature and magnitude of the claims being settled, as well as the
10 impediments to recovery, to make an independent assessment of the reasonableness of the terms to
11 which the Parties have agreed.

12 8. Accordingly, the Court hereby approves the settlement as set forth in the Settlement
13 Agreement and expressly finds that the settlement is, in all respects, fair, reasonable, adequate, and in the
14 best interests of the entire Settlement Class and hereby directs implementation of all remaining terms,
15 conditions, and provisions of the Settlement Agreement. The Court also finds that settlement now will
16 avoid additional and potentially substantial litigation costs, as well as delay and risks if the Parties were
17 to continue to litigate the case. Additionally, after considering the monetary recovery provided by the
18 settlement in light of the challenges posed by continued litigation, the Court concludes that the settlement
19 provides Class Members with fair and adequate relief.

20 9. The Settlement Agreement is not an admission by Defendant or by any other released
21 party, nor is this Order a finding of the validity of any allegations or of any wrongdoing by Defendant or
22 any other released party. Neither this Order, the Settlement Agreement, nor any document referred to
23 herein, nor any action taken to carry out the Settlement Agreement, may be construed as, or may be used
24 as, an admission of any fault, wrongdoing, omission, concession, or liability whatsoever by or against
25 Defendant or any of the other released parties.

26 10. Final approval shall be with respect to: All persons who were employed by Defendant
27 PRIDE Industries ("Defendant") in non-exempt positions at the California Department of Corrections
28 and Rehabilitation ("CDCR") in Stockton, California during the period from January 1, 2016 to July 24,

1 2020.

2 11. Plaintiffs Belinda Payton and Charmaine Walker are suitable Class Representatives and
3 are hereby appointed the Class Representatives for the Settlement Class. The Court finds that Plaintiffs'
4 investment and commitment to the litigation and its outcome ensured adequate and zealous advocacy for
5 the Settlement Class, and that their interests are aligned with those of the Settlement Class.

6 12. The Court hereby awards Plaintiffs enhancement payments of \$10,000 to Belinda Payton
7 and \$5,000 to Charmaine Walker for their service on behalf of the Settlement Class, and for agreeing to
8 general releases of all claims arising out of their employment with Defendant.

9 13. The Court finds that the attorneys at Capstone Law APC have the requisite
10 qualifications, experience, and skill to protect and advance the interests of the Settlement Class. The
11 Court therefore finds that counsel satisfy the professional and ethical obligations attendant to the position
12 of Class Counsel, and hereby appoints Capstone Law APC as counsel for the Settlement Class.

13 14. The settlement of civil penalties under PAGA in the amount of \$50,000 is hereby
14 approved. Seventy-Five Percent (75%), or \$37,500, shall be paid to the California Labor and Workforce
15 Development Agency. The remaining Twenty-Five Percent (25%), or \$12,500, will be added to the Net
16 Settlement Amount.

17 15. The Court hereby awards \$216,667 in attorneys' fees and \$22,500 in costs and expenses
18 to Capstone Law APC. The Court finds that the requested award of attorneys' fees is reasonable for a
19 contingency fee in a class action such as this; i.e., one-third of the common fund created by the
20 settlement. Counsel have also established the reasonableness of the requested award of attorneys' fees
21 via their lodestar crosscheck, and the Court finds that the rates and hours billed are fair and reasonable.

22 16. The Court approves settlement administration costs and expenses in the amount of
23 \$11,500 to CPT Group, Inc.

24 17. All Class Members were given a full and fair opportunity to participate in the Approval
25 Hearing, and all members of the Settlement Class wishing to be heard have been heard. Members of the
26 Settlement Class also have had a full and fair opportunity to exclude themselves from the proposed
27 settlement and the class. Accordingly, the terms of the Settlement Agreement and of the Court's Order
28 shall be forever binding on all Class Members who did not timely and properly opt out of the settlement.

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These Class Members have released and forever discharged the Defendant for any and all Released
Claims.

IT IS SO ORDERED.

Dated: _____

Hon. Barbara Kronlund
San Joaquin County Superior Court

1 Raul Perez (SBN 174687)
Raul.Perez@capstonelawyers.com
2 Brandon Brouillette (SBN 273156)
Brandon.Brouillette@capstonelawyers.com
3 Capstone Law APC
1875 Century Park East, Suite 1000
4 Los Angeles, California 90067
Telephone: (310) 556-4811
5 Facsimile: (310) 943-0396

6 Attorneys for Plaintiffs Belinda Payton and Charmaine Walker

7
8 SUPERIOR COURT OF THE STATE OF CALIFORNIA

9 FOR THE COUNTY OF SAN JOAQUIN

10 BELINDA PAYTON, individually, and on
behalf of other members of the general public
11 similarly situated,

12 Plaintiff,

13 vs.

14 PRIDE INDUSTRIES, a California corporation;
and DOES 1 through 10, inclusive,

15 Defendants.
16

Case No.: STK-UOE-2017-7110

[Assigned to the Hon. Barbara Kronlund]

[PROPOSED] JUDGMENT

1 **JUDGMENT**

2 Pursuant to the Order Granting the Motion for Final Approval of the Class Action Settlement
3 and Motion for Attorneys' Fees, Costs and Expenses, and Class Representative Enhancement Payments
4 ("Order"), it is hereby **ORDERED, ADJUDGED, AND DECREED** as follows:

5 1. Judgment in this matter is entered in accordance with, and incorporates by reference the
6 findings of, the Court's Order and the Joint Stipulation of Class Action Settlement and Release
7 ("Settlement Agreement"). Unless otherwise provided herein, all capitalized terms used herein shall
8 have the same meaning as defined in the Settlement Agreement.

9 2. As provided by the Order, all Class Members who did not timely and properly opt out
10 from the Settlement are barred from pursuing, or seeking to reopen, any of the Released Claims, as
11 defined by the Settlement Agreement. Consistent with the definitions provided in the Settlement
12 Agreement, the Settlement Class consists of: All persons who were employed by Defendant PRIDE
13 Industries ("Defendant") in non-exempt positions at the California Department of Corrections and
14 Rehabilitation ("CDCR") in Stockton, California during the period from January 1, 2016 to July 24,
15 2020.

16 3. Without affecting the finality of the Judgment, the Court shall retain exclusive and
17 continuing jurisdiction over the above-captioned action and the parties, including all Class Members, for
18 purposes of enforcing the terms of the Judgment entered herein.

19 4. This document shall constitute a judgment (and separate document constituting said
20 judgment) for purposes of California Rules of Court, Rule 3.769(h).

21
22 **IT IS SO ORDERED, ADJUDGED, AND DECREED.**

23
24 Dated: _____

25 Hon. Barbara Kronlund
26 San Joaquin County Superior Court
27
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