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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF KERN**

JOSE AGUILAR SANDOVAL, individually,
and on behalf of all others similarly situated,

Plaintiff,

v.

MADLAND TOYOTA-LIFT, INC., a California
corporation, and DOES 1 through 10, inclusive,

Defendants.

Case No. BCV-20-100810-TSC

CLASS ACTION

*[Assigned for all purposes to the Honorable
Thomas S. Clark, Dept. 17]*

**PLAINTIFF'S NOTICE OF MOTION
AND MOTION FOR FINAL APPROVAL
OF CLASS ACTION SETTLEMENT;
MEMORANDUM OF POINTS AND
AUTHORITIES**

*[Filed with Memorandum of Points and
Authorities the Declaration of Justin F.
Marquez, and Proposed Order]*

FINAL APPROVAL HEARING

Date: February 24, 2022

Time: 8:30 a.m.

Dept: 17

Complaint filed: March 20, 2020

Trial date: Not set

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

2 PLEASE TAKE NOTICE that on February 24, 2022 at 8:30 a.m., in Department 17 of the
3 Kern Superior Court, Bakersfield Court, 1415 Truxtun Avenue, Bakersfield, California 93301,
4 pursuant to Code of Civil Procedure § 382 and California Rules of Court 3.769 *et seq.*, Plaintiff
5 Jose Aguilar Sandoval will move the Court for an Order granting final approval of the proposed
6 class action settlement between Plaintiff and Defendant Madland Toyota-Lift, Inc. Plaintiff
7 further moves the Court for an Order:

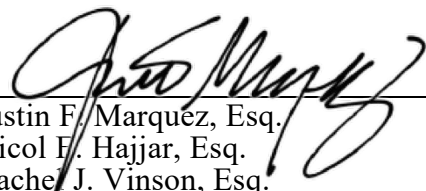
- 8 1. Certifying a Class for settlement purposes;
- 9 2. Approving the settlement as fair and reasonable and finding that class members were
10 given notice of the settlement, and advised of their right to participate in the
11 settlement, object to the settlement, or exclude themselves from the settlement, in a
12 reasonable manner;
- 13 3. Appointing Plaintiff Jose Aguilar Sandoval as Class Representative for settlement
14 purposes;
- 15 4. Appointing Plaintiff's Counsel, Wilshire Law Firm, PLC, as Class Counsel for
16 settlement purposes;
- 17 5. Approving payment of administrative expenses to ILYM Group, Inc. as the Settlement
18 Administrator; and
- 19 6. Approving payment of \$108,333.33 in attorney's fees, which is 33 1/3% of the
20 Maximum Settlement Amount, and costs of approximately \$11,720.11 for litigating
21 this action to Class Counsel;
- 22 7. Approving the payment to the California Labor Workforce Development Agency in
23 the amount of \$7,500.00;
- 24 8. Directing that the clerk of the Court enter the Court's order as a final judgment; and,
- 25 9. Without affecting the finality of the final judgment, reserving continuing jurisdiction
26 over the parties for the purposes of implementing, enforcing and/or administering the
27 Settlement or enforcing the terms of the judgment.

28 The motion will be based upon this notice, the attached memorandum of points and

1 authorities, the Declaration of Justin F. Marquez and the Declaration of Nathalie Beltran, filed
2 concurrently herewith, the records and files in this action, and any other further evidence or
3 argument that the Court may properly receive at or before the hearing.

4
5 Dated: January 31, 2022

WILSHIRE LAW FIRM

6
7 By: 

Justin F. Marquez, Esq.
Nicol E. Hajjar, Esq.
Rachel J. Vinson, Esq.
Attorneys for Plaintiff

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I. INTRODUCTION

The proposed settlement satisfies all the criteria for settlement approval under California law. A presumption of fairness exists as the Settlement was reached through extensive, mediated arm’s-length negotiations, sufficient investigation and discovery allowed Class Counsel to act intelligently, and Class Counsel is experienced in similar wage-and-hour litigation. The settlement will provide substantial monetary payments to approximately 120 participating class members. Upon the Court’s approval of the settlement, participating class members will receive an estimated average gross payment of \$1,409.72, with the estimated highest gross payment being approximately \$3,776.58. (Declaration of Nathalie Beltran Regarding Notice Administration [“Beltran Decl.”], ¶ 13.) *The deadline to opt-out or object to the settlement was January 20, 2022; as of January 27, 2022, there were no requests for exclusion and no objections to the settlement.* (*Id.* at ¶¶ 10-11.) Thus, the proposed Settlement is fair, reasonable, and adequate and is in the best interests of the Settlement Class Members.

Plaintiff's request for attorneys' fees in the amount of \$108,333.33, reimbursement of attorney costs and expenses in the amount of \$11,720.11, an incentive award in the amount of \$10,000.00, Settlement Administration Costs in the amount of \$10,000.00, and a payment to the California Labor Workforce Development Agency "LWDA") in the amount of \$7,500.00 are also reasonable and thus should be approved by the Court.

Accordingly, Plaintiff respectfully requests that the Court grant final approval of the Settlement.

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II. SUMMARY OF THE LITIGATION AND SETTLEMENT

A. Plaintiff's Claims

This is a wage and hour class action and PAGA representative action. Plaintiff and putative class members worked in California as hourly-paid, non-exempt employees for Defendant during the class period. Defendant delivers Toyota Forklifts & material handling equipment to central California. Plaintiff and putative class members worked for Defendant. (Declaration of Justin F. Marquez in Support of Plaintiff's Motion for Final Approval of Class Action Settlement ["Marquez Decl."], ¶ 2.)

Plaintiff alleges that Defendant's payroll, timekeeping, and wage and hour practices resulted in Labor Code violations. Plaintiff alleges that Defendant failed to pay for all hours worked by not recording the actual start and end times of shifts and only paying for 8 hours of work for each workday, regardless of whether an employee worked overtime. Plaintiff further alleges that Defendant failed to provide employees with legally compliant meal and rest periods. Based on these allegations, Plaintiff asserts claims against Defendant for failure to pay overtime wages, failure to pay minimum and straight time wages, failure to provide meal periods, failure to authorize and permit rest periods, inaccurate wage statements, failure to pay all final wages at termination, unfair business practices, and civil penalties under PAGA. (*Id.* at ¶ 3.)

On March 20, 2020, Plaintiff filed a putative wage-and-hour class action complaint against Defendant Madland Toyota-Lift, Inc. for: (1) failure to pay minimum and straight time wages (Labor Code §§ 204, 1194, 1194.2, and 1197); (2) failure to pay overtime wages (Labor Code §§ 1194, and 1198); (3) failure to provide meal periods (Labor Code §§ 226.7 and 512); (4) failure to authorize and permit rest periods (Labor Code §§ 226.7); (5) failure to timely pay final wages at termination (Labor Code §§ 201-203); (6) failure to provide accurate itemized wage statements (Labor Code § 226); and (7) unfair business practices (Business and Professions Code 17200 et seq.). On September 28, 2020, Plaintiff filed a First Amended Complaint adding a claim for civil penalties under Private Attorneys General Act "PAGA" (Labor Code § 2698 et seq.). (Marquez Decl., ¶ 4.)

1 **B. Discovery and Investigation**

2 Following the filing of the Complaint, the parties exchanged documents and
3 information before mediating this action. Defendant produced a sample of time and pay
4 records for class members. Defendant also provided documents of their wage and hour
5 policies and practices during the class period, and information regarding the total number of
6 current and former employees in its informal discovery responses. (*Id.* at ¶ 5.)

7 After reviewing documents regarding Defendant’s wage and hour policies and
8 practices, analyzing Defendant’s timekeeping and payroll records, and interviewing Class
9 Members, Class Counsel was able to evaluate the probability of class certification, success on
10 the merits, and Defendant’s maximum monetary exposure for all claims. (*Id.* at ¶ 6.) Class
11 Counsel also investigated the applicable law regarding the claims and defenses asserted in the
12 litigation. (*Id.*) Class Counsel reviewed these records and prepared a damage analysis prior
13 to mediation. (*Id.*)

14 **C. Settlement Negotiations**

15 On July 16, 2021 the parties participated in private mediation with experienced class
16 action mediator Kelly A. Knight. (*Id.* at ¶ 7.) The mediation was conducted via Zoom. The
17 settlement negotiations were at arm’s length and, although conducted in a professional
18 manner, were adversarial. The parties went into the mediation willing to explore the potential
19 for a settlement of the dispute, but each side was also prepared to litigate their position
20 through trial and appeal if a settlement had not been reached. (*Id.*)

21 After extensive negotiations and discussions regarding the strengths and weaknesses of
22 Plaintiff’s claims and Defendant’s defenses, Mr. Knight issued a mediator’s proposal during
23 the July 16, 2021 mediation. The mediator’s proposal was accepted by all parties, the material
24 terms of which are encompassed within the Settlement. (*Id.* at ¶ 8, Ex. 1 [Joint Stipulation for
25 Class Action Settlement].)

26 Class Counsel has conducted a thorough investigation into the facts of this case. Based
27 on the foregoing discovery and their own independent investigation and evaluation, Class
28 Counsel is of the opinion that the Settlement is fair, reasonable, and adequate and is in the best

interests of the Settlement Class Members in light of all known facts and circumstances, the risk of significant delay, the defenses that could be asserted by Defendant both to certification and on the merits, trial risk, and appellate risk. (*Id.* at ¶ 14.)

Indeed, the \$325,000.00 Settlement represents **55.3% of the realistic maximum recovery of \$587,744.00.** (*Id.* at ¶ 22.) Although Class Counsel estimated that Defendant’s maximum potential liability for all claims was approximately \$3.3 million, when the risk of prevailing at certification and trial are factored into the equation, Class Counsel believes that Defendant’s realistic exposure was \$587,744.00, meaning the Settlement achieves a significant recovery. (*Id.* at ¶¶ 17-22.) This is plainly an excellent result for the Class. Indeed, because of the proposed Settlement, class members will receive timely, guaranteed relief and will avoid the risk of an unfavorable judgment.

D. Key Terms of the Proposed Settlement

Under the Settlement, Defendant will pay \$325,000.00 to resolve this litigation. This amount is all-inclusive. The Settlement’s key terms include:

1. Settlement Class: For settlement purposes only, the Parties agree to the certification of a class pursuant to California Code of Civil Procedure § 382 defined as: “All Class Members who have not requested to be excluded or have not opted out of the Class by submitting a valid and timely Request for Exclusion” (together, collectively referred to as the “Class Members”). (Settlement, ¶ 32.)

2. Class Period: The Class Period means the period from March 20, 2016 up to and including the Preliminary Approval Date. (Settlement, ¶ 7.)

3. Gross Settlement Amount: This amount is \$325,000.00, for all claims, including wages, interest, the Class Counsel Award, Settlement Administration Costs, payment to the Labor and Workforce Development Agency (LWDA”) for the alleged PAGA penalties, all other penalties, and the Class Representative Service Awards. (Settlement, ¶ 14.)

4. No Reversion: This is a non-reversionary settlement. Settlement checks will be valid for 180 days from the date of issuance. The sum of any and all unclaimed Individual Settlement Payment checks after One-Hundred Eighty (180) days from issuance shall be paid to

1 Settlement Class Members who negotiated their checks within One-Hundred Eighty (180) days
2 from issuance, on a pro rata basis according to the formula set forth herein. The payment of
3 reapportioned amounts is referred to as the “Reapportioned Settlement Payments.” The
4 Reapportioned Settlement Payments shall be mailed to Settlement Class Members within Two-
5 Hundred and Ten (210) days of issuance of the initial Individual Settlement Payment checks (i.e.,
6 30 days after the negotiable check time period expires). Pursuant to Code of Civil Procedure §
7 384(a), any portion of the Reapportioned Settlement Payments that is not negotiated by Settlement
8 Class Members will be sent to the Los Angeles Trial Lawyers’ Charities, 2708 Wilshire Boulevard,
9 Suite 391, Santa Monica, CA 90403 pursuant to Code of Civil Procedure Section 384(a).
10 (Settlement, ¶ 54 (c).)

11 5. Released Claims by Plaintiff: Plaintiff shall fully and finally release and discharge
12 Released Parties, from March 20, 2016 through the date of Preliminary Approval, from any and
13 all claims, debts, liabilities, demands, obligations, guarantees, costs, expenses, attorneys’ fees,
14 damages, action or causes of action, contingent or accrued, arising out of the allegations and
15 claims asserted in the operative Complaint, including without limitation to, any and all claims for
16 alleged unpaid wages (including, but not limited to, overtime, final pay upon termination, and
17 minimum wage), alleged failure to pay for all hours worked (including, but not limited to,
18 minimum wages, straight time wages, and overtime wages), alleged failure to provide
19 reimbursement for employment-related expenses, alleged failure to provide and/or authorize
20 meal and rest periods, alleged unpaid meal, rest and recovery period premiums, alleged failure to
21 provide itemized wage statements and penalties, alleged waiting time penalties, alleged civil
22 penalties, other claims and penalties under the California Labor Code or Business & Professions
23 Code (including Section 17200 *et seq.*), claims and penalties under the California Labor Code
24 Private Attorneys General Act, and all claims for damages, restitution and other equitable relief,
25 liquidated damages, punitive damages, penalties, interest, penalties, attorneys’ fees, costs,
26 expenses, and any other amounts and/or benefit claimed on account of the allegations asserted in
27 the operative Complaint, as well as under the California Labor Code and applicable Wage
28 Orders.

1 The General Release by Plaintiff includes any unknown Claims that they did not know or
2 suspect to exist in their favor at the time of the General Release, which, if known, might have affected
3 his or her Settlement with, and release of, the Released Parties or might have affected his or her
4 decision not to object to this Settlement or the General Release.

5 With respect to the General Release, Plaintiff stipulates and agrees that, upon the execution
6 of this Agreement, Plaintiff shall be deemed to have, and by operation of the Final Judgment shall
7 have, expressly waived and relinquished, to the fullest extent permitted by law, the provisions, rights
8 and benefits of Section 1542 of the California Civil Code, or any other similar provision under federal
9 or state law as to the generally released claims, which provides:

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

13 Plaintiff may hereafter discover facts in addition to or different from those now known or
14 believed to be true with respect to the subject matter of the General Release, but upon the Effective
15 Date, they shall be deemed to have, and by operation of the Final Judgment shall have, fully, finally,
16 and forever settled and released any and all of the claims released pursuant to the General Release
17 whether known or unknown, suspected or unsuspected, contingent or non-contingent, which now
18 exist, or heretofore have existed upon any theory of law or equity.

19 6. Released Claims by Settlement Class Members: The class release is limited to “all
20 claims, debts, liabilities, demands, obligations, guarantees, costs, expenses, attorneys’ fees,
21 damages, action or causes of action contingent or accrued for, arising out of the allegations and
22 claims asserted in the operative Complaint, including without limitation to, any and all claims for
23 alleged unpaid wages (including but not limited to overtime, final pay upon termination, and
24 minimum wage), alleged unpaid meal, rest and recovery period premiums, itemized wage
25 statement penalties, waiting time penalties, and other claims and penalties under the California
26 Labor Code or Business & Professions Code (including Section 17200 *et seq.*), claims and
27 penalties under the California Labor Code Private Attorneys General Act and claims for
28 restitution, disgorgement of profits, injunctive relief, and other equitable relief, liquidated

1 damages, punitive damages, or statutory and civil penalties, and any other benefit claimed on
2 account of the allegations asserted in the operative Complaint. All Class Members who do not
3 submit a valid Request for Exclusion or Opt-out by the time period set forth under this
4 Agreement shall be subject to the Release and all other terms of this Settlement.” (Settlement, ¶
5 26.)

6 7. Released Parties: “Released Parties” collectively mean: (i) Defendant; (ii)
7 Defendant’s respective past, present and future parents, subsidiaries and affiliates, successors and
8 assigns; (iii) the past, present and future shareholders, managers, officers, partners, members,
9 agents, employees, attorneys, insurers, predecessors, successors and assigns of any of the
10 following: and (iv) any individual or entity which could be jointly liable with any of the
11 foregoing.

12 8. Payment to LWDA: The settlement includes \$10,000 allocated to Plaintiff’s
13 claims under PAGA, with 75% of which (\$7,500) will be paid to the LWDA and 25% (\$2,500)
14 will be paid to eligible members of the PAGA Class. (Settlement, ¶ 54(i).) Class Counsel
15 submitted the proposed settlement to the LWDA before filing this Motion for Final Approval.
16 (Marquez Decl., ¶ 10.)

17 9. Net Settlement Amount: The Net Settlement Amount is the amount that remains
18 and that shall be paid to Settlement Class Members after the following amounts are subtracted:
19 (1) attorneys’ fees and litigation costs, (2) enhancement to Named Plaintiff, (3) amount paid to
20 the LWDA, and (4) administrative costs. (Settlement, ¶ 17.)

21 10. Allocation of Settlement: Individual Settlement Payments will be paid from the
22 Net Settlement Amount and shall be paid pursuant to the settlement formula. Individual
23 Settlement Payments. Defendant and the Settlement Administrator will calculate the total
24 Compensable Work Weeks for all Settlement Class Members. The respective Compensable
25 Work Weeks for each Settlement Class Member will be divided by the total Compensable Work
26 Weeks for all Settlement Class Members, resulting in the Payment Ratio for each Settlement
27 Class Member. Each Settlement Class Member’s Payment Ratio is then multiplied by the Net
28 Settlement Amount to determine his or her Individual Settlement Payment. (Settlement, ¶ 54.)

1 11. Tax Allocation: Any settlement money paid to Settlement Class Members will be
2 allocated as 33.33% as wages and 66.66% as penalties and interest. (Settlement, ¶ 54 (b).)

3 12. Class Representative Service Award: Subject to Court approval, Plaintiff shall be
4 paid an enhancement award not to exceed \$10,000. (Settlement, ¶ 54 (f).) This amount is for
5 Plaintiff's time and effort in bringing and presenting the action, and in exchange for a general
6 release of all claims, known or unknown, pursuant to Civil Code Section 1542. (Settlement, ¶ 8.)
7 If the Court approves a lesser enhancement, then the unapproved portion or portions shall revert
8 into the Net Settlement Amount to be distributed between the participating Settlement Class
9 Members on a pro-rata basis. (Settlement, ¶ 54 (f).)

10 13. Class Counsel Award: The Settlement provides that Defendant will not oppose a
11 fee application of up to 33 1/3% (\$108,333.33) of the Settlement Amount, plus out-of-pocket
12 costs not to exceed \$20,000.00 (Settlement, ¶ 54 (g).) At this time, Class Counsel's costs are
13 approximately \$10,452.99. (Marquez Decl., ¶ 43.)

14 14. Notice of Proposed Settlement: The Notice sets forth in plain terms, a statement of
15 the case, the terms of the Settlement Agreement, the approximate amount of attorneys' fees,
16 costs, and service awards being sought, and an explanation of how the settlement allocations are
17 calculated. (Settlement, Ex. 1.) The Notice also sets forth each class member's total workweeks,
18 as well as the approximate amount of money they would receive in the event all class members
19 participate in the settlement. The Notice also includes an opt-out form. (*Id.*) Class Members
20 will be notified by first class mail of the settlement. (Settlement, ¶ 52.) ILYM Group, Inc., the
21 proposed Settlement Administrator, undertook its best efforts to ensure that the notice is provided
22 to the current addresses of class members, including conducting a national change of address
23 search and re-mailing the notice to updated addresses. (Settlement, ¶ 52.) Notice was provided
24 in English and Spanish.

25 15. Workweek Dispute Form: The Workweek Dispute Form permitted class members
26 to dispute their number of workweeks or opt-out of the settlement. (Settlement, Ex. 2.)

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1 **E. Preliminary Settlement Approval, Class Notice, and Settlement**
2 **Administration.**

3 This Court granted preliminary approval on November 2, 2021. (Marquez Decl., ¶ 9.)
4 Notices explaining class member rights were mailed out to all 120 class members. (Beltran
5 Decl., ¶ 7.) To date, zero notice packets remain undeliverable. (*Id.* at ¶¶ 8-9.) ***There were no***
6 ***requests for exclusion and no objections to the settlement.*** (*Id.* at ¶¶ 10, 11.)

7 **III. THE SETTLEMENT MERITS FINAL APPROVAL**

8 The law favors the settlement of lawsuits, particularly in class actions and other complex
9 cases. (*See e.g., Neary v. Regents of Univ. of California* (1992) 3 Cal.4th 272, 277-81.) Factors
10 to be considered in evaluating a class action settlement include “the strength of plaintiffs’ case,
11 the risk, expense, complexity and likely duration of further litigation, the risk of maintaining
12 class action status through proceedings, the experience and views of counsel, the presence of a
13 government participant, and the reaction of the class members to the proposed settlement.”
14 (*Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th 116, 128.) A presumption that a
15 settlement is fair and reasonable exists where, as here, the following four factors are present: “(1)
16 the settlement is reached through arm’s length bargaining; (2) investigation and discovery are
17 sufficient to allow counsel and the court to act intelligently; (3) counsel is experienced in similar
18 litigation; and (4) the percentage of objectors is small.” (*Wershba v. Apple Computers, Inc.*
19 (2001) 91 Cal.App.4th 224, 245.)

20 Whether a class action settlement should be approved is a question committed to the trial
21 court’s broad discretion. (*Id.* at pp. 234-35.) In exercising its discretion, the Court should give
22 “[d]ue regard ...to what is otherwise a private consensual agreement between the parties.” (*Dunk*
23 *v. Ford Motor Co.* (1996) 48 Cal.App.4th 1794, 1801.) “The inquiry ‘must be limited to the
24 extent necessary to reach a reasoned judgment that the agreement is not the product of fraud or
25 overreaching by, or collusion between, the negotiating parties, and that the settlement, taken as a
26 whole, is fair, reasonable and adequate to all concerned.” (*Id.* [internal citations omitted].)

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1 **A. The Settlement Reflects a Reasonable Compromise.**

2 A settlement is not judged against what the plaintiff might recover had she prevailed at
3 trial, nor does the settlement have to provide 100% of the damages sought to be fair and
4 reasonable. (*Wershba, supra*, 91 Cal.App.4th at pp. 246, 250 [“Compromise is inherent and
5 necessary in the settlement process...even if the relief afforded by the proposed settlement is
6 substantially narrower than it would be if the suits were to be successfully litigated, this is no bar
7 to a class settlement because the public interest may indeed be served by a voluntary settlement
8 in which each side gives ground in the interest of avoiding litigation.”].)

9 The settlement obviates the significant risk that this Court may deny certification of all or
10 some of Plaintiff’s claims. (Marquez Decl., ¶ 25.) While Plaintiff is confident in the merits of
11 their claims, a legitimate controversy exists as to each cause of action. (*Id.* at ¶ 23.) Plaintiff
12 also recognizes that proving the amount of wages due to each class member would be an
13 expensive, time-consuming, and uncertain proposition. (*Id.*) Furthermore, even if Plaintiff
14 obtained certification of all or some of the claims, continued litigation would be expensive,
15 involving a trial and possible appeals, and would substantially delay and reduce any recovery by
16 the class. (*Id.* at ¶ 25.)

17 The proposed settlement of \$325,000.00 therefore represents a substantial recovery when
18 compared to Plaintiff’s reasonably forecasted recovery. (*Id.* at ¶ 28.) Because of the proposed
19 Settlement, class members will receive timely, guaranteed relief and will avoid the risk of an
20 unfavorable judgment. When considering the risks of litigation, the uncertainties involved in
21 achieving class certification, the burdens of proof necessary to establish liability, the probability
22 of appeal of a favorable judgment, it is clear that the settlement amount of \$325,000.00 is within
23 the “ballpark” of reasonableness, and preliminary settlement approval is appropriate. (*Id.*) To be
24 sure, Defendant ultimately has to pay less under the settlement than it would have had to pay if
25 Plaintiff had achieved a judgment after trial. But an ideal settlement requiring a defendant to pay
26 the full amount of its potential damages is rarely achieved. As the Ninth Circuit has observed,
27 “the very essence of a settlement is compromise, ‘a yielding of absolutes and an abandoning of
28 highest hopes.’” (*Officers for Justice v. Civil Service Commission of City and County of San*

1 *Francisco* (9th Cir. 1982) 688 F.2d 615, 624.) Thus, a proposed settlement “is not to be judged
2 against a hypothetical or speculative measure of what might have been achieved by the
3 negotiators.” (*Id.* at p. 625.) A court’s “intrusion upon what is otherwise a private consensual
4 agreement negotiated between the parties to a lawsuit must be limited to the extent necessary to
5 reach a reasoned judgment that the agreement is not the product of fraud or overreaching by, or
6 collusion between, the negotiating parties, and that the settlement, taken as a whole, is fair,
7 reasonable and adequate to all concerned.” (*Id.*)

8 **B. The Settlement was Reached After Arms-Length Negotiations Following**
9 **Informal Discovery.**

10 The Settlement was reached following a full day of mediation with experienced
11 employment mediator Kelly A. Knight. (Marquez Decl. ¶¶ 7-8.) The settlement negotiations
12 were at arm’s length and, although conducted in a professional manner, were adversarial. (*Id.*)
13 The parties went into the mediation willing to explore the potential for a settlement of the
14 dispute, but each side was also prepared to litigate their or its position through trial and appeal if
15 a settlement had not been reached. (*Id.*)

16 Prior to reaching this settlement, Class Counsel conducted informal discovery concerning
17 the claims set forth in the Litigation, such as a sample of class member timekeeping and payroll
18 records, Defendants’ policies and procedures concerning the payment of wages, the provision of
19 meal and rest breaks, issuance of wage statements, and providing all wages at separation, as well
20 as information regarding the number of putative class members and the mix of current versus
21 former employees, the wage rates in effect, and the amount of meal and rest period premium
22 wages paid to class members. (*Id.* at ¶¶ 5-6.) In conjunction with their extensive factual
23 investigation, Class Counsel investigated the applicable law regarding the claims and defenses
24 asserted in the litigation. (*Id.*) Thus, Plaintiff and his counsel were able to act intelligently and
25 effectively in negotiating the proposed Settlement. (*Id.*) There is no evidence to suggest that the
26 Parties did not have sufficient information to make informed decisions about the value of this
27 case or that the Settlement is a product of fraud, overreaching or collusion.

28 ///

1 **C. Plaintiff's Counsel Has Substantial Class Action Experience.**

2 Class Counsel also has considerable experience and has demonstrated competence with
3 litigating wage and hour class actions. (*Id.* at ¶¶ 45-57.) Class Counsel has substantial
4 experience in all facets of litigation in state and federal court, including discovery, law and
5 motion, trial, appeals, arbitration and mediation. Class Counsel has litigated numerous class
6 actions on behalf of plaintiffs and have been lead counsel or otherwise exercised significant case
7 handling responsibilities in numerous cases resulting in millions of dollars in class action
8 settlements. (*Id.*)

9 Based on Class Counsel's experience as employment and class action attorneys, Class
10 Counsel is eminently qualified to evaluate the strength of Plaintiff's claims, the strength of
11 Defendant's defenses against certification, the strength of Defendant's defenses on the merits,
12 and the fairness of the Settlement. Their opinion that final approval of the Settlement would be
13 in the best interests of class members in light of the significant risks of litigation is entitled to
14 great weight. (*See Kullar, supra*, 168 Cal.App.4th at 129 ["The court undoubtedly should give
15 considerable weight to the competency and integrity of counsel and the involvement of a neutral
16 mediator in assuring itself that a settlement agreement represents an arms' length transaction
17 entered without self-dealing or other potential misconduct"].)

18 **D. There Are No Objections to the Settlement.**

19 No class member has objected to the Settlement, and no class members have requested
20 exclusion from the Settlement. (Beltran Decl., ¶¶ 10, 11.) The overwhelmingly positive
21 response of the class strongly supports final approval of the Settlement. (*See, e.g., In re Lifelock,*
22 *Inc. Marketing and Sales Practices Litigation* (D. Ariz. 2010) 2010 WL 3715138, *6 [relatively
23 few objections and requests for exclusion support approval].)

24 Factors to be considered in evaluating a class action settlement include "the reaction of
25 the class members to the proposed settlement." (*Kullar, supra*, 168 Cal.App.4th at p. 128.) The
26 reaction here has been overwhelmingly positive. Courts have approved class action settlements
27 in lesser circumstances. (*See, e.g., Hughes v. Microsoft Corp.* (W.D.Wash. 2001) 2001 U.S.
28 Dist. LEXIS 5976, 2001 WL 34089697, *8 [court found that the "class members

overwhelmingly support[ed] the settlement” where there were over 37,000 notices sent out, 2,745 class members participated in the settlement, “only nine objections were submitted”, and there were 86 timely opt-outs and over 20 additional defective or untimely opt-outs, “these indicia of the approval of the class of the terms of the settlement support a finding of fairness under Rule 23”], citing *Hanlon v. Chrysler Corp.* (9th Cir.1998) 150 F.3d 1011, 1027 [despite vigorous objections and appeal by objectors, “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”, court did not abuse its discretion in approving settlement].)

IV. THE COURT SHOULD AWARD PLAINTIFFS THE REQUESTED AMOUNTS OF FEES, COSTS AND AN ENHANCEMENT PAYMENT.

Under the Settlement, subject to the Court’s approval, Defendant has agreed to pay Class Counsel reasonable attorneys’ fees in the amount of \$108,333.33, which is 33 1/3% of the Maximum Settlement Amount, and costs of \$11,720.11 for litigating this Action. In addition, Defendant will not oppose an application for the payment of Settlement Administration Costs and a Class Representative Enhancement Award. Settlement Administration Costs are estimated at \$10,000.00, and Plaintiff will apply for an Enhancement Award in the amount of \$10,000.00. The proposed attorneys’ fees and expenses were disclosed to the Class Members in the proposed Notice of Proposed Class Action Settlement.

“In general, questions whether a settlement was fair and reasonable, whether certification of the class was proper, and whether the attorney fee award was proper are matters addressed to the trial court’s broad discretion.” (*Wershba, supra*, 91 Cal.App.4th at pp. 234-235.) “Courts recognize two methods for calculating attorney fees in civil class actions: the lodestar/multiplier method and the percentage of recovery method.” (*Id.* at p. 254; *Vincent v. Hughes Air West, Inc.* (9th Cir. 1977) 557 F.2d 759, 769.)

A. Counsel Requests an Award of Fees Based on the “Common Fund” Method.

California courts have long awarded attorneys’ fees as a percentage of the benefit created by counsel in pursuing claims on behalf of a class. The California Supreme Court held that “when a number of persons is entitled in common to a specific fund, and an action brought by a

1 plaintiff or plaintiffs for the benefit of all results in the creation or preservation of that fund, such
2 plaintiff or plaintiffs may be awarded attorneys' fees out of the fund." (*Serrano v. Priest* (1977)
3 20 Cal.3d 25, 34 [*quoting D'Amico v. Board of Medical Examiners* (1974) 11 Cal. 3d 1.]

4 Class Counsel intends to seek an award of attorneys' fees on the "percentage of recovery/
5 common fund" theory. The purpose of the common fund/percentage approach is to "spread
6 litigation costs proportionally among all the beneficiaries so that the active beneficiary does not
7 bear the entire burden alone." (*Vincent v. Hughes Air West, Inc.*(9th Cir. 1977) 557 F.2d 759,
8 769.) In *Quinn v. State of California* (1995) 15 Cal. 3d 162, 167, the California Supreme Court
9 stated: "[O]ne who expends attorneys' fees in winning a suit which creates a fund from which
10 others derive benefits may require those passive beneficiaries to bear a fair share of the litigation
11 costs." Similarly, in *City and County of San Francisco v. Sweet* (1995) 12 Cal.4th 105, 110, the
12 California Supreme Court recognized that the common fund doctrine has been applied
13 "consistently in California when an action brought by one party creates a fund in which other
14 persons are entitled to share."

15 The California Supreme Court affirmed in *Laffitte v. Robert Half Int'l Inc.* (2016) 1
16 Cal.5th 480 that, "when class action litigation establishes a monetary fund for the benefit of the
17 class members, and the trial court in its equitable powers awards class counsel a fee out of that
18 fund, the court may determine the amount of a reasonable fee by choosing an appropriate
19 percentage of the fund created." (*Id.* at p. 503.) The court explained: "The recognized
20 advantages of the percentage method—including relative ease of calculation, alignment of
21 incentives between counsel and the class, a better approximation of market conditions in a
22 contingency case, and the encouragement it provides counsel to seek an early settlement and
23 avoid unnecessarily prolonging the litigation—convince us the percentage method is a valuable
24 tool that should not be denied our trial courts." (*Id.* [internal citations omitted].)

25 Several courts have expressed frustration with the alternative "lodestar" approach for
26 deciding fee awards, which usually involves wading through voluminous and often
27 indecipherable time records. Commenting on the lodestar approach, Chief Judge Marilyn Hall
28 Patel wrote: "This court is compelled to ask, 'Is this process necessary?' Under a cost-benefit

1 analysis, the answer would be a resounding, ‘No!’” (*In re Activision Securities Litigation* (N.D.
2 Cal 1989) 723 F. Supp. 1373, 1375.) The percentage approach is preferable to the lodestar
3 because: (1) it aligns the interests of class counsel and absent class members; (2) it encourages
4 efficient resolution of the litigation by providing an incentive for early, yet reasonable,
5 settlement; and (3) it reduces the demands on judicial resources. (*Id.* at pp. 1378-79.) The Ninth
6 Circuit now routinely uses the percentage of the common fund approach to determine the award
7 of attorney’s fees. (*See, e.g. In re Pacific Enterprises Securities City and County of San*
8 *Francisco Litigation* (9th Cir. 1994) 47 F.3d 373, 378-79 [approving attorney’s fee of 33 1/3%.])

9 **1. The Standard Fee Award in Class Actions Has Resolved Itself As One-**
10 **Third Of The Recovery In Common Fund Cases.**

11 According to a leading treatise on class actions, “No general rule can be articulated on
12 what is a reasonable percentage of a common fund. Usually 50% of the fund is the upper limit
13 on a reasonable fee award from a common fund in order to assure that the fees do not consume a
14 disproportionate part of the recovery obtained for the class, although somewhat larger
15 percentages are not unprecedented.” (*See Conte & Newberg, Newberg on Class Actions* (3rd
16 Ed.) § 14.03.) Attorneys’ fees that are fifty percent of the fund are typically considered the upper
17 limit, with *thirty to forty percent commonly awarded in cases where the settlement is relatively*
18 *small*. (*See Id.*; *see also, Van Vranken v. Atlantic Richfield Company* (N.D. Cal. 1995) 901 F.
19 Supp. 294 [stating that most cases where 30-50 percent was awarded involved “smaller”
20 settlement funds of under \$10 million].)

21 The settled-for 33 1/3% fee award is consistent with the average fee award in class
22 actions. Indeed, the custom and practice in class actions is to award approximately one-third of a
23 fund as a fee award. (*See Chavez v. Netflix, Inc.* (2008) 162 Cal.App.4th 43, 66, n.11
24 [“Empirical studies show that, regardless whether the percentage method or the lodestar method
25 is used, fee awards in class actions average around one-third of the recovery.”].) Thus,
26 Plaintiff’s fee request is in line with the prevailing guidelines established in California case law
27 and academic literature, and is consistent with awards in California. Accordingly, Plaintiff
28 requests that the Court approve the attorneys’ fees requested herein.

1 **2. This Matter Involves A “Fee-Shifting” Provision of the Labor Code.**

2 Class Counsel is entitled to recover fees under Labor Code § 1194, which provides, in
3 part:

4 [A]ny employee receiving less than the legal minimum wage or the legal overtime
5 compensation applicable to the employee is entitled to recover in a civil action the
6 unpaid balance of the full amount of this minimum wage or overtime compensation,
7 including interest thereon, reasonable attorney’s fees, and costs of suit.

8 (Cal. Lab. Code § 1194.)

9 As this litigation culminated in a settlement that provided for a recovery of unpaid wages,
10 including unpaid minimum wages and overtime compensation, Plaintiff is entitled to recover
11 reasonable attorneys’ fees and costs under the California Labor Code.

12 Class Counsel is also entitled to a fee award under California’s private attorney general
13 statute, Code of Civil Procedure § 1021.5. “The award of attorneys’ fees is proper under Section
14 1021.5 if ‘(1) plaintiffs’ action ‘has resulted in the enforcement of an important right affecting
15 the public interest,’ (2) ‘a significant benefit, whether pecuniary or nonpecuniary, has been
16 conferred on the general public or a large class of persons’ and (3) ‘the necessity and financial
17 burden of private enforcement are such as to make the award appropriate.’” (*Press v. Lucky*
18 *Stores* (1983) 34 Cal.3d 311, 317-318.) The fundamental objective of the statute is “to
19 encourage suits enforcing public policies by providing substantial attorneys’ fees to successful
20 litigants in such cases.” (*Graham v. DaimlerChrysler Corp.* (2004) 34 Cal.4th 553, 565.)

21 This action resulted in the enforcement of an important right affecting the public interest,
22 as Plaintiff sought to enforce Settlement Class Members’ rights to recover statutory wages
23 arising from Defendants’ failure to pay all wages and failure to provide meal and rest breaks.
24 (See *Murphy v. Kenneth Cole Productions, Inc.* (2007) 40 Cal.4th 1094, 1113 [noting that “health
25 and safety concerns” are what motivated the Industrial Wage Commission to adopt mandatory
26 meal and rest periods].)

27 This action also conferred a significant benefit on a large class of persons. Notice was
28 sent to 120 Settlement Class Members, and no Settlement Class Members requested exclusion.
29 The Settlement provides a significant monetary benefit, in that it permits all persons who worked

1 for Defendant during the applicable class period to obtain compensation for unpaid wages and
2 missed meal and rest periods.

3 Finally, the necessity and financial burden of private enforcement render an award
4 appropriate. Without the incentive of an attorneys' fee award, Plaintiff could not have afforded
5 to hire counsel to pursue this case, as the cost of litigating this matter far outweighed Plaintiff's
6 potential recovery. (*See Ryan v. California Interscholastic Federation* (2001) 94 Cal.App.4th
7 1033, 1044 ["As to the necessity and financial burden of private enforcement, an award is
8 appropriate where the cost of the legal victory transcends the claimants' personal interest; in
9 other words, where the burden of pursuing the litigation is out of proportion to the plaintiff's
10 individual stake in the matter."].)

11 **3. The Experience, Reputation and Ability of Class Counsel Support the**
12 **Fee Award.**

13 As demonstrated by their past experience in pursuing class actions on behalf of
14 consumers and employees, Class Counsel possesses considerable expertise in litigating class
15 action matters. Class Counsel has been involved as lead counsel or co-counsel in dozens of class
16 actions resulting in a multitude of beneficial results to class members in California. Because it is
17 reasonable to compensate class counsel commensurate with their skill, reputation and experience,
18 a fee award of 33 1/3% of the Maximum Settlement Amount, a percentage considered within the
19 norm in class action practice, is certainly justified here.

20 Class Counsel's experience in wage and hour class actions was integral in evaluating the
21 strengths and weaknesses of the case against Defendant and the reasonableness of the settlement.
22 Practice in the narrow field of wage and hour litigation requires skill and knowledge concerning
23 the rapidly evolving substantive law (state and federal), as well as the procedural law of class
24 action litigation. Based on these and other factors, Class Counsel has frequently received fee
25 awards amounting to 33 1/3% of the recovery for the class. Therefore, the requested fee award
26 is reasonable and fair.

27 ///

28 ///

1 **B. While the Lodestar Method is Not Necessary in Common Fund Cases, Courts**
2 **May Perform a Cross-Check to Award Fees.**

3 Although California supports the common fund doctrine, the lodestar method can be used
4 to cross-check fee awards. “It may be appropriate in some cases, assuming the class benefit can
5 be monetized with a reasonable degree of certainty, to “cross-check” or adjust the lodestar in
6 comparison to a percentage of the common fund to ensure that the fee awarded is reasonable and
7 within the range of fees freely negotiated in the legal marketplace in comparable litigation.” (*In*
8 *re Consumer Privacy Cases* (2009) 175 Cal.App.4th 545, 557.)

9 Applying the lodestar method requires a two-step process. The first step is to multiply the
10 number of hours reasonably expended by a reasonable hourly rate. The second step is to apply a
11 multiplier to the lodestar to take into account various factors. “The purpose of such adjustment is
12 to fix a fee at the fair market value for the particular action. In effect, the court determines,
13 retrospectively, whether the litigation involved a contingent risk or required extraordinary legal
14 skill justifying augmentation of the unadorned lodestar in order to approximate the fair market
15 rate for such services.” (*Id.* at pp. 556-57.) “Under certain circumstances, a lodestar calculation
16 may be enhanced on the basis of a percentage-of-the-benefit analysis.” (*Id.* at p. 557.)

17 Wilshire Law Firm’s current lodestar is \$81,810 based on approximately 176.5 hours of
18 work performed by Class Counsel. (Marquez Decl., ¶ 35.) Accordingly, the requested fee of
19 \$108,333.33 is reasonable and fair as it is based on a multiplier of 1.32. To be sure, trial courts
20 have substantial discretion in adjusting the lodestar to account for various factors. (*See Lealao v.*
21 *Beneficial California, Inc.* (2000) 82 Cal.App.4th 19, 26, 39-45; *see also Serrano, supra*, 20
22 Cal.3d at p. 49.) In addition, it has been held that “[m]ultipliers can range from 2 to 4 or even
23 higher.” (*See Wershba*, 91 Cal.App.4th at p. 255; *see also Van Vranken, supra*, 901 F. Supp. At
24 p. 298 “[m]ultipliers in the 3-4 range are common in lodestar awards for lengthy and complex
25 class action litigation”].)

26 **1. Class Counsel’s Rates Have Been Approved by Several Courts.**

27 Class Counsel provides declarations to support their lodestar hourly rates. “Affidavits of
28 the plaintiffs’ attorney and other attorneys regarding prevailing fees in the community, and rate

determinations in other cases, particularly those setting a rate for the plaintiffs' attorney, are satisfactory evidence of the prevailing market rate." (*United Steelworkers of America v. Phelps Dodge Corp.* (9th Cir. 1990) 896 F.2d 403, 407.) Class Counsel has received final approval of their hourly rates in other wage and hour class action settlements. These rates are not opposed or challenged.

2. The Lawsuit Provided a Public Benefit.

Class Counsel's choice to litigate this matter provided a public benefit to 120 California employees. Moreover, the California Supreme Court stated that "Labor Code section 1194 confirms "a clear public policy ... that is specifically directed at the enforcement of California's minimum wage and overtime laws for the benefit of workers." [citation omitted]." (*Sav-on Drug Stores, Inc. v. Super. Ct.* (2004) 34 Cal.4th 319, 340.) Given the financial risks and numerous attorney hours attendant to the litigation of Plaintiff's claims, this factor supports Class Counsel's fee request and encourages the private enforcement of legal rights for the general good

3. Applying a Positive Multiplier Is Appropriate.

Once this lodestar figure has been determined, the Court may take into account other "enhancement" factors to adjust the lodestar award. While Plaintiff seeks only a modest multiplier of 1.32, the overall reasonableness of Plaintiff's request is underscored by the fact that a significantly higher multiplier would be justified under applicable law.

Contingency fees should be higher than fees for the same legal services paid concurrently with the provision of the services. (*Ketchum v. Moses* (2001) 24 Cal.4th 1122, 1132-33.) "A lawyer who both bears the risk of not being paid and provides legal services is not receiving the fair market value of his work if he is paid only for the second of these functions. If he is paid no more, competent counsel will be reluctant to accept fee award cases." (*Id.* at p. 1133.) Application of that rule is particularly appropriate where the case is brought to redress important rights of vulnerable persons. (*Id.*) A risk enhancement is "earned compensation; unlike a windfall, it is neither unexpected nor fortuitous. Rather it is intended to approximate market-level compensation for such services which typically pay a premium for the risk of nonpayment or delay in payment of attorney's fees." (*Id.* at p. 1138.)

1 Multipliers normally range from two to four or higher. (*Wershba, supra*, 91
2 Cal.App.4th at p. 255; *see also Vizcaino v. Microsoft Corp.* (9th Cir. 2002) 290 F.3d 1043,
3 1051 n.6 [“most” common fund cases apply a multiplier of 1.0-4.0]; *Been v. O.K. Industries*
4 *Inc.* (E.D. Okla. 2011) 2011 WL 4478766, *11 [citing a study “reporting [an] average
5 multiplier of 3.89 in survey of 1,120 class action cases” and finding that a multiplier of 2.43
6 would be “per se reasonable”].)

7 Factors considered in determining whether a lodestar multiplier is appropriate
8 generally include: (1) the risks presented by the contingent nature of the case; (2) the novelty
9 and difficulty of the questions involved and the skill requisite to perform the legal service
10 properly; (3) the nature of the opposition; (4) the preclusion of other employment by the
11 attorney due to acceptance of the case; and (5) the result obtained and the importance of the
12 lawsuit to the public. (*Serrano, supra*, 20 Cal. 3d at pp. 48-49.) All of these factors favor
13 approval of a multiplier along the lines of those approved in the cases above.

14 The major consideration in determining the necessity of a multiplier is the contingent
15 nature of the award. (*Ketchum, supra*, 24 Cal.4th at pp. 1132-33.) Further, the possibility of no
16 recovery is only one of the uncertainties involved in taking on such a case. Other uncertainties
17 are the amount that will be recovered, uncertainty as to the cost, both in effort and expenses, and
18 uncertainty about how much time will pass before the recovery is obtained. (*Id.* at pp. 1132-
19 1133, 1138.) Here, Class Counsel have been the only counsel to represent Class Members in this
20 matter and have borne the entire risk and costs of litigation purely on a contingency basis. Class
21 Counsel’s outlay of time and money in this case has been significant.

22 The other factors are also present here. Class Counsel are skilled attorneys who have had
23 success in wage-and-hour class actions. This case required experienced and competent lawyers
24 and expertise in the issues presented herein. Defendants’ contentions underscore the risk of
25 prevailing at class certification and trial, and any of these obstacles could have prevented recovery
26 completely. Further, proceeding to trial would have added years to the resolution of this case
27 because of the difficult legal and factual issues raised and the likelihood of appeals. Despite these
28 risks, Class Counsel took this case on a contingency basis. Yet, there are only so many cases that

1 Class Counsel can take at any one time. Consequently, there were other meritorious cases
2 presented to Class Counsel that would have generated substantial fees, but were declined, during
3 the pendency of this action in order to devote the attention necessary to achieve favorable results.
4 (Marquez Decl., ¶ 41.) Considered against the risks of continued litigation, and the importance of
5 the employment rights and a speedy recovery, the relief provided under the Settlement represents a
6 very strong result for the Class.

7 **C. Costs Are Reasonable.**

8 Class Counsel requests reimbursement of up to \$20,000.00 in expenses. (Marquez Decl.,
9 ¶ 43.) As of the date of filing this Motion, Class Counsel has incurred around \$11,220.11 in
10 costs, and they anticipate incurring at least \$500.00 in additional costs up to the time the Court
11 enters a judgment in this action and schedules a hearing on distribution. (*Id.*) Accordingly,
12 Class Counsel respectfully requests reimbursement of \$11,720.11 in costs. (*Id.*) Notably,
13 Defendant has agreed that it will not oppose any cost award request up to \$20,000.00. The
14 categories of costs are set forth in the accompanying Declaration of Justin Marquez, and these
15 costs are easily seen to be both reasonable and necessary.

16 **D. The Enhancement Payment to the Plaintiff Is Reasonable.**

17 Named plaintiffs in class action lawsuits “are eligible for reasonable incentive payments to
18 compensate them for the expense or risk they have incurred in conferring a benefit on other
19 members of the class.” (*Munoz, supra*, 86 Cal.App.4th at p. 412.) Courts routinely grant approval
20 of class action settlement agreements containing enhancements for the class representatives, which
21 are necessary to provide incentive to represent the class, and are appropriate given the benefit the
22 class representatives help to bring about for the class. (*See Rodriguez v. W. Publ'g Corp.* (9th Cir.
23 2009) 563 F.3d 948, 958-59.) The California Supreme Court has also noted that “retaliation against
24 employees for asserting statutory rights under the Labor Code is widespread,” despite anti-
25 retaliation statutes designed to protect employees. (*Gentry v. Super. Ct.* (2007) 42 Cal.4th 443,
26 460-61.) Plaintiffs should therefore be rewarded for assuming the risk of retaliation for the sake
27 of class members. (*See Frank v. Eastman Kodak Co.* (W.D.N.Y. 2005) 228 F.R.D. 174, 187.)
28

1 Under the settlement agreement, subject to the Court’s approval, Defendant agreed to pay
2 a Service Award in the amount of \$10,000.00 to Plaintiff. (Settlement, ¶ 54 (f).) This amount is
3 also in exchange for Plaintiff’s general release of all claims against Defendant. Plaintiff has
4 submitted a declaration demonstrating that he devoted approximately 33.5 hours of time and
5 work assisting counsel in the case, communicated with counsel very frequently for litigation and
6 to prepare for mediation. (See Declaration of Plaintiff Jose Aguilar Sandoval, ¶¶ 6-13.)

7 When compared with the amounts awarded in typical class action cases, the amount
8 requested here is particularly reasonable. Indeed, a **2006** study examining the average incentive
9 award given to class action plaintiffs from **1993 to 2002** found that the “average award per class
10 representative was \$15,992 and the median award per class representative was \$4,357.” (Theodore
11 Eisenberg & Jeffrey P. Miller, “Incentive Awards to Class Action Plaintiffs: An Empirical Study”,
12 53 UCLA L. Rev. 1303, 1308 (2006).)

13 **E. Administration Expenses Should be Approved.**

14 ILYM Group, Inc., the Settlement Administrator, estimates that it will incur a total of
15 \$10,000.00 in costs associated with the administration of this Settlement. (Beltran Decl., ¶ 14.)
16 These expenses are reasonable, based upon the size of the class, claim and exclusion tracking,
17 and Class Member payment processing.

18 **V. CONCLUSION**

19 For the foregoing reasons, Plaintiff respectfully requests that the Court grant final
20 approval of the proposed settlement.

21
22 Dated: January 31, 2022

Respectfully submitted,

23 **WILSHIRE LAW FIRM, PLC**

24 By: _____

25 Justin F. Marquez, Esq.
26 Nicol E. Hajjar, Esq.
27 Rachel J. Vinson, Esq.
28 Attorneys for Plaintiff and the Class

Jose Aguilar Sandoval v. Madland Toyota-Lift, Inc., et al.
BCV-20-100810-TSC

I, Min Jee Kim, state that I am employed in the aforesaid County, State of California; I am over the age of eighteen years and not a party to the within action; my business address is 3055 Wilshire Blvd., 12th Floor, Los Angeles, California 90010. My electronic service address is minjee@wilshirelawfirm.com.

///

1 I declare under the penalty of perjury under the laws of the State of California, that the
2 foregoing is true and correct.

3 Executed on **January 31, 2022**, at Los Angeles, California.

4 Min Jee Kim
5 _____
6 Type or Print Name

7 
8 _____
9 Signature