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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SAN BERNARDINO

JOSE DE JESUS ORTEGA VELAZQUEZ on behalf of himself, all others similarly situated, and on behalf of the general public,

Plaintiffs,

v.

HUNTER LANDSCAPE, INC.; HUNTER ENVIRONMENTAL SERVICES, INC; and DOES 1-100,

Defendants.

JOSE CAMARGO, as an individual and on behalf of all others similarly situated,

Plaintiff,

vs.

HUNTER LANDSCAPE, INC., a California corporation; HUNTER ENVIRONMENTAL SERVICES, INC, a California corporation; and DOES 1 through 100, inclusive,

Defendants.

Case No. CIVDS1928062 consolidated with Case No. CIVDS2009753

[*Assigned for all purposes to the Hon. David S. Cohn, Dept. S-26*]

PLAINTIFFS' NOTICE OF MOTION AND MOTION FOR FINAL APPROVAL OF CLASS ACTION SETTLEMENT, CLASS REPRESENTATIVES' ENHANCEMENT PAYMENTS, AND ATTORNEYS' FEES AND COSTS; MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT THEREOF

Date: July 13, 2022
Time: 10:00 a.m.
Dept.: S-26

Action Filed: September 19, 2019
Trial Date: None Set

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

PLEASE TAKE NOTICE that pursuant to Rule 3.769 of the California Rules of Court, on July 13, 2022 at 10:00 a.m. in Department S-26 of the above-entitled Court, located at 247 West Third Street, San Bernardino, California 92415, Plaintiffs Jose De Jesus Ortega Velazquez and Jose Camargo ("Plaintiffs"), jointly and on behalf of a class of similarly situated individuals, will and hereby does move this Court for:

1. Confirming the certification of the Settlement Class for settlement purposes under Section 382 of the California Code of Civil Procedure defined as follows:

   All current and former non-exempt individuals employed by Defendants Hunter Landscape, Inc. and Hunter Environmental Services, Inc. in California during any portion of the Class Period of September 19, 2015 through October 15, 2021.

2. Confirming the appointment of Plaintiffs Jose de Jesus Ortega Velazquez and Jose Camargo as Class Representatives;
3. Confirming the appointment of David Mara and Jill Vecchi of Mara Law Firm, PC and Scott M. Lidman, Elizabeth Nguyen, and Milan Moore of Lidman Law, APC and Paul K. Haines of Haines Law Group, APC as Class Counsel;
4. Granting final approval of the Settlement Agreement (referred to hereinafter as "Settlement");
5. Approving an award of $333,333.33 in attorneys' fees to Class Counsel;
6. Approving an award of $14,166.81 in costs to Class Counsel;
7. Approving an award of $15,500.00 in costs to Simpluris, Inc. for its settlement administration services;
8. Approving a service award of $7,500.00 to Plaintiff Jose De Jesus Ortega Velazquez for his services as Class Representative;
9. Approving a service award of $7,500.00 to Plaintiff Jose Camargo for his services as Class Representative;
10. Approving an award of $56,250.00 to the Labor & Workforce Development Agency ("LWDA"); and

11. Entering final judgment in the form of the [Proposed] Order Granting Plaintiffs' Motion for Final Approval of Class Action Settlement and Final Judgment filed concurrently herewith.

This Motion is based on this notice of motion, the memorandum of points and authorities, the declarations of David Mara, Scott M. Lidman, Elizabeth Nguyen, Milan Moore, Paul K. Haines, Plaintiff Jose de Jesus Ortega Velazquez, Plaintiff Jose Camargo, and Evelin Reyes of Simpluris, Inc., and the exhibits attached thereto, the pleadings and other papers filed in this action, and on any further oral or documentary evidence or argument presented at the time of hearing.

Dated: June 17, 2022

Respectfully submitted,
LIDMAN LAW, APC

By: Scott M. Lidman

Scott M. Lidman
Attorneys for Plaintiff
JOSE CAMARGO

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MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

Plaintiffs Jose de Jesus Ortega Velazquez and Jose Camargo (hereinafter "Plaintiffs") submit this memorandum of points and authorities in support of their motion for final approval of the class action settlement (the "Settlement") with Defendants Hunter Landscape, Inc. and Hunter Environmental Services, Inc. (hereinafter "Defendants") on behalf of the Settlement Class defined as: "All current and former non-exempt individuals employed by Defendants in California during any portion of the Class Period of September 19, 2015 through October 15, 2021."

In this non-reversionary Settlement of $1,000,000.00, there are 2,053 Participating Class Members, rendering the average payment to Settlement Class Members to be approximately is $279.23. This is a favorable resolution of the highly disputed wage and hour claims in this case and the significant litigation risks that Plaintiff faced. Since this Court granted preliminary approval on March 9, 2022, nothing has changed to impact the propriety, fairness, adequacy and reasonableness of the Settlement. In addition, after receiving notice of the Settlement and of their projected Settlement payments, no one submitted a written objection or request for exclusion.

The amount allocated to settle the PAGA claim is $75,000, of which $56,250 (which is 75% of $75,000) will be paid to the LWDA and the remaining $18,750 (which is 25% of $75,000) will be paid to the PAGA Members. There are 1,269 PAGA Members, rendering the average payment to PAGA Employees to be approximately $9.14.

As explained below, the Court should grant Plaintiff's motion in its entirety because: (1) the Settlement Class continues to meet the requirements for class certification for settlement purposes under Code of Civil Procedure § 382; (2) the Settlement warrants final approval because it is a fair, adequate, and reasonable compromise of the disputed claims in this case; and (3) the amounts requested for Class Counsel's attorneys' fees and costs, Representatives' Enhancement Payments, payment to the Labor Workforce Development Agency ("LWDA"), and settlement administration costs are all fair, adequate, and reasonable. For these reasons, Plaintiff respectfully requests that this Court enter the [Proposed] Order Granting Plaintiffs' Motion for Final Approval of Class Action Settlement and Final Judgment submitted concurrently herewith.

II. **FACTUAL AND PROCEDURAL BACKGROUND**

Velazquez Action

On August 30, 2019, Plaintiff Velazquez provided notice in accordance with the Private Attorneys General Act of 2004 ("PAGA") to the Labor and Workforce Development Agency ("LWDA"). Thereafter, on September 19, 2019, Plaintiff Velazquez filed a putative class action (Case No. CIVDS1928062) alleging the following claims: (1) failure to pay minimum and straight time wages; (2) failure to pay overtime wages; (3) failure to provide meal periods; (4) failure to authorize and permit rest periods; (5) failure to authorize and permit recovery periods pursuant to Cal. Code Regs. Title 8, § 3395; (6) failure to provide accurate itemized wage statements; (7) failure to indemnify employees for expenditures; and (8) unfair business practices ("Velazquez Action"). On November 7, 2019, Plaintiff Velazquez amended his complaint adding a claim for PAGA civil penalties. On August 24, 2021, Plaintiff Velazquez amended his PAGA notice. Declaration of David Mara, Esq. ("Mara Decl."), ¶ 9.

On November 8, 2019, Defendants filed a petition to compel Plaintiff Velazquez's claims to individual arbitration and to dismiss the class claims. On July 6, 2020, the Court denied Defendants' motion to compel arbitration of Plaintiff Velazquez's claims. On July 30, 2020, Defendants filed a Notice of Appeal of the Court's denial of its motion to compel arbitration. This appeal is currently stayed while the Parties seek settlement approval. Mara Dec., ¶ 10.

Camargo Action

On May 29, 2020, Plaintiff Camargo filed a putative class action (Case No. CIVDS2009753) alleging the following claims: (1) failure to pay minimum and straight time wages; (2) failure to pay overtime wages; (3) failure to provide meal periods; (4) failure to authorize and permit rest periods; (5) failure to indemnify employees for expenditures; (6) failure to provide accurate itemized wage statements; and (7) unfair business practices ("Camargo Action"). On June 30, 2020, Plaintiff Camargo amended his complaint adding a claim for PAGA civil penalties. On October 7, 2020, pursuant to a request by Plaintiff Camargo, the Court dismissed Plaintiff Camargo's class and individual claims without prejudice, leaving only his cause of action of PAGA civil penalties. *See* Declaration of Scott Lidman ("Lidman Decl."), ¶ 10.

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Consolidated Complaint

On August 10, 2021, the Parties participated in a global mediation with Jeffrey Krivis, of both the *Velazquez* and *Camargo* Actions at which time a class-wide settlement was reached, subject to Court approval. As part of the settlement, the Parties agreed to consolidate the *Velazquez* and *Camargo* Actions. On September 9, 2021, Plaintiffs filed a Consolidated Complaint alleging the following causes of action against Defendants: (1) failure to pay all straight time wages; (2) failure to pay all overtime wages; (3) failure to provide meal periods; (4) failure to authorize and permit rest periods; (5) failure to authorize and permit recovery periods; (6) knowing and intentional failure to comply with itemized employee wage statement provisions; (7) failure to reimburse/illegal deductions; (8) failure to pay all wages upon termination; (9) violation of unfair competition law; and (10) violation of the Labor Code Private Attorneys General Act of 2004. As part of this amendment, Plaintiff Camargo re-asserted his individual and class-wide claims that were previously dismissed without prejudice. Lidman Decl., ¶ 10.

A. Plaintiffs' Claims

As explained in detail in the Motion for Preliminary Approval, Plaintiffs' primary theories of liability are related to Defendants' alleged failure to compensate its non-exempt employees for all time worked, failure to provide meal periods, and failure to permit and authorize rest periods.

Specifically, Plaintiffs allege that Defendants do not pay all wages owed to employees because employees are not paid for time they spend loading and unloading their trucks at the beginning and end of their shifts. Lidman Decl., ¶ 11. Plaintiffs allege that employees have to load and unload work trucks before and after their shifts without being paid. Plaintiffs assert that employees are told to show up before their scheduled start time to load the trucks with equipment and tools. *Id*. Plaintiffs contend that this is required to enable the trucks to leave the yard at, or very shortly after, employees' scheduled start time. Upon return at the end of the day, Plaintiffs allege that employees are to log their time out when they get arrive back at the facility. Plaintiffs contend that this, however, does not end their day. *Id*. Plaintiffs assert that employees have to unload the tools and equipment from the trucks. As with the loading in the morning, Plaintiffs contend that this unloading is all done off the clock and at the direction of Defendants. *Id*.

Plaintiffs also contend that Defendants do not provide employees with full thirty-minute meal periods and full ten-minute rest periods. Employers have an obligation to provide employees with ten (10) minute rest periods. Lidman Decl., ¶ 13. Plaintiffs allege that employees' break time begins the moment the break is provided and that employees are expected to be back at the work location within ten minutes for rest periods and thirty minutes for meal periods. *Id*. Plaintiffs further contend that employees are not allowed to take meal or rest periods at the work location because Defendants' customers do not allow it. As such, Plaintiffs contend that employees are not free to do use break time as they want as soon as the break begins because they must leave the immediate work area and go to where they are permitted to take a break. Plaintiffs, therefore, assert that employees are subject to Defendants' mandate that they transit away from their work area to a suitable rest place for part of their break time. *Id*. Plaintiffs contend that this mandate is an unlawful intrusion into employees' break time. *Id*.

Plaintiffs contend that Defendants do not provide wage statements to employees in compliance with California Labor Code § 226(a). Lidman Decl., ¶ 15. Per California Labor Code § 226(a), employers must furnish an accurate itemized statement in writing showing, among other things, "all applicable hourly rates in effect during the pay period and corresponding number of hours worked at each hourly rate by the employee." Section 226(a) also requires itemization of the pay period begin and end dates on wage statements. *Id*. Plaintiffs contend that Defendants' wage statements violate California Labor Code § 226(a) for two reasons. First, Plaintiffs assert that there is no overtime rate is itemized on Defendants' wage statements. *Id*. Second, Plaintiffs allege that the pay period begin and end dates are not included on wage statements. *Id*.

Plaintiffs also pursued waiting time penalties. Lidman Decl., ¶ 17. This claim is derivative of Plaintiffs' unpaid wages claim. *Id*. Should Plaintiffs' unpaid wages claim fail, this claim would also fail. In addition, Defendants contend that even if Plaintiffs were successful in their unpaid wage claim, they would have to prove Defendants "willfully" failed to pay employees the appropriate wages due upon separation of employment. "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 are due. *Id*.

As explained *infra* and in Plaintiffs' Motion for Preliminary Approval, Defendants deny Plaintiffs' claims and asserts several affirmative defenses, both on the merits and with respect to class certification.

B. **Mediation and Settlement**

The Parties engaged in substantial informal discovery prior to mediation. This discovery led to Hunter producing over 27,000 pages of documents. These documents included, but not limited to, employee handbooks which included Hunter's wage and hour policies, time and wage records for the named Plaintiffs, and a sampling of time and pay records for Class Members. Lidman Decl., ¶ 22.

Plaintiffs conducted an analysis of the payroll data and time records produced by Defendants. After the detailed review of the payroll and time records and other documents and policies produced by Defendants, Class Counsel drew on their extensive experience in similar cases to assess the strengths and weaknesses of Plaintiff's case. *Id*. This discovery also allowed the Parties to discuss the strengths and weaknesses of Plaintiffs' various theories of liability on their claims. This discovery allowed the parties to assess the merits and value of Plaintiffs' claims and Defendants' defenses thereto for mediation. *Id*.

The Parties attended an all-day mediation with wage and hour mediator Jeffrey Krivis on August 10, 2021. This mediation was successful. The Parties then met and conferred over all the terms of the settlement and finalized their agreement in the Parties' Agreement. Lidman Decl., ¶ 23.

C. **Preliminary Approval of Settlement**

On February 14, 2022, Plaintiffs filed their motion for preliminary approval of the Settlement. Lidman Decl., ¶ 24. Plaintiffs served the settlement on the LWDA on June 1, 2022. Mara Decl., ¶ 30, Exh. 5. On March 9, 2022, the Court granted preliminary approval of the Settlement. Lidman Decl., ¶ 24, Exh. A. A copy of the order granting approval was served on the LWDA on March 10, 2022. Mara Decl., ¶ 31, Exh. 6.

At the time of preliminary approval of the Settlement, Plaintiff estimated there were approximately 2,079 Settlement Class Members. Lidman Decl. ¶ 24. The Settlement included an Escalator Clause that would have been triggered had the number of workweeks worked by the Settlement Class Members exceeded 100,366. Settlement, ¶ 10.3. The Settlement Administrator confirmed that total workweeks worked by the Settlement Class Members exceeded this amount and the Escalator Clause was triggered. Lidman Decl, ¶ 24. Per the Settlement, Defendant elected the option to end the class period prior to the workweeks exceeded 100,366, which resulted in an end period of October 15, 2021. *Id*. As such, the exposure analysis detailed in Plaintiff's Motion for Preliminary Approval has not changed, even though the total number of workweeks has increased. Lidman Decl, ¶ 24. Therefore, the Settlement remains fair, adequate, and reasonable.

Plaintiffs will also provide the LWDA with a copy of the instant motion for final approval and supporting documents after the instant motion is filed and will file a supplemental proof of service prior to the hearing. Lidman Decl., ¶ 40.

On April 22, 2022, the Settlement Administrator sent the Court-approved Class Notice in English and Spanish to 2,053 Class Members, who had until June 7, 2022 to submit disputes, objections, and/or requests for exclusion. *See* Declaration of Evelin Reyes of Simpluris, Inc. ("Reyes Decl."), ¶ 8. As of the date of this filing, there have been no objections and no opt-outs. Id., ¶¶ 12-15. Plaintiffs now respectfully submit the Settlement for this Court's final approval.

III. SUMMARY OF THE SETTLEMENT AND NOTICE PROCESS

A. Settlement Class Definition

The Settlement Class encompasses "All current and former non-exempt individuals employed by Defendants in California during any portion of the Class Period of September 19, 2015 through October 15, 2021." Lidman Decl., ¶ 25. There are 2,053 Class Members of which 1,800 are Hunter Landscape employees, 511 are Hunter Environmental employees, and 258 worked at both entities.

B. Monetary Terms of the Settlement

The Settlement requires Defendants to pay a Gross Settlement Amount ("GSA") of $1,000,000.00. Reyes Decl., ¶ 16. The Net Settlement Amount ("NSA") is the amount remaining from the GSA after deducting requested attorneys' fees ($333,333.33) and verified costs ($14,166.81), proposed Class Representative Enhancement Payments to Plaintiffs ($15,000 total or $7,500 each), Settlement Administration costs ($15,500.00), and PAGA payment ($56,250.00). Based on these requested amounts, the NSA is calculated to be approximately **$565,749.86**. Reyes Decl., ¶ 16; *See* Lidman Decl., ¶ 29, Exh. B.

Each Participating Class Member's payment (*i.e.*, an Individual Settlement Payment) will be determined as follows: Defendants will provide the Settlement Administrator with the number of Workweeks credited to each Class Member during the Class Period. The Settlement Administrator will then calculate the total number of Workweeks worked by all Participating Class Members during the

Class Period ("Total Workweeks"). To determine the Individual Settlement Payment for each Participating Class Member, the Settlement Administrator will (1) divide each Participating Class Member's respective Workweeks by the Total Workweeks, and (2) multiply the resulting figure by the Net Settlement Amount. The Individual Settlement Payment will be reduced by any required legal deductions for each Participating Class Member. Settlement, ¶ 10.4.

The portion of the PAGA Payment distributed to PAGA Members as part of the Net Settlement Amount, $18,750.00, shall be calculated and distributed on a pro rata basis based on PAGA Members' respective number of Workweeks during the PAGA period. Settlement, ¶ 10.4.

Payments to Settlement Class members will be classified as 67% as penalties and interest; and 33% as wages. Settlement, ¶ 12.1.

The Settlement provides that the employer's share of payroll taxes shall be paid separately from, and in addition to, the Gross Settlement Amount. Settlement ¶ 1.8.

C. <u>Summary of Notice Process</u>

1. Mailing of Class Notices

On March 24, 2022, Defendants provided Simpluris, Inc. ("Simpluris") with the name, last known mailing address, Social Security number, and dates of employment for each Class Member as well as the number of Workweeks for each Class Member during the Class Period in a readable Microsoft Excel spreadsheet. Reyes Decl., ¶ 4. After calculating the workweeks and determining the Escalator Clause had been triggered, Defendants elected to close the class period as of October 15, 2021. Reyes Decl., ¶ 6.

After performing address updates and verifications, Simpluris mailed the Class Notices to the 2,053 Class Members on April 22, 2022. *Id*., ¶¶ 7-9. Following the initial mailing, 254 Class Notices were returned to Simpluris as undeliverable. *Id*., ¶ 9. As a result of a skip trace, forwarding address provided by the Post Office, or re-mail requests from Counsel or Class Members, 178 Class Notices were re-mailed. *Id*., ¶ 11. As of the date of filing this final approval motion, 121 Class Notices remain undeliverable with no forwarding address, and where no new address could be located through skip trace. *Id*., ¶ 12.

The deadline for Class Members to submit objections, requests for exclusion, or disputes was June 7, 2022. Reyes Decl., ¶ 8.

As of the date of this filing, there were no objections and no opt-outs. *Id.*, ¶¶ 13-15. Accordingly, as of the date of this Motion, the participation rate amongst the Settlement Class members is 100% and the average estimated payment is $279.23, with the highest estimated payment to a Settlement Class member being $1,786.60, the lowest estimated payment to a Settlement Class member being $0.81, and the median amount being $70.53. *Id.*, ¶ 20. The total number of workweeks for all class member is 100,337.60, which equals $5.71 per workweek.

Additionally, the average estimated PAGA Payment is $9.14. *Id.*, ¶ 18. The total number of pay periods for all 1,269 PAGA employees is 25,192.74, which equals $0.74 per pay period.

D. <u>Timing of Payments</u>

Within thirty (30) calendar days after the Effective Date,[1] Defendants shall provide the Settlement Administrator with sufficient funds to make all the payments required under the settlement. (Exhibit 1 at Paragraph 10.9). Within ten (10) calendar days after receipt of the deposit of the Gross Settlement Amount from Defendants, including the employer's share of taxes thereon, the Settlement Administrator shall make the following payments: (1) Individual Settlement Payments to Participating Class Members; (2) the Class Enhancement Payment to Plaintiffs; (3) the Attorneys' Fees; (4) the Litigation Costs and Expenses; (5) the PAGA Payment; and (6) payment to the Settlement Administrator for its administration duties performed and to be performed to conclude its obligations pursuant to the Agreement. Settlement, ¶ 10.10.

E. <u>Uncashed Funds</u>

The Settlement provides that Class Members with 180 days from the date the Settlement Administrator mails the checks. After 180 days from the mailing, the Settlement Administrator will direct the amount of any settlement checks that have not been cashed to the Secretary of State- Unclaimed Property Fund in the name of the Class Members who did not cash those checks. Settlement ¶ 8.4; Lidman

[1] The Effective Date is the last to occur of the following: (a) the 61st day after service of notice of entry of the Court's order granting final approval of the Settlement Agreement and Judgment; or (b) if an appeal, review or writ is sought from the order, the day after the order is affirmed or the appeal, review or writ is dismissed or denied, and the order is no longer subject to further judicial review. Settlement, ¶ 1.15.

Decl., ¶ 26.

IV. ARGUMENT

A. This Court Should Confirm its Conditional Certification of the Settlement Class for Settlement Purposes Because It Meets All of the Requirements for Class Certification Under Code of Civil Procedure § 382

Under Code of Civil Procedure § 382, a class may be certified if: (1) it is ascertainable and its members are too numerous for joinder to be practical; (2) the representative and absent class members share a community of interest, and questions of law and fact common to the class predominate over questions unique to individual class members; (3) the representative's claims are typical of the class' claims; and (4) the representative will fairly and adequately represent the class' interests. *See Richmond v. Dart Industries, Inc*. (1981) 29 Cal.3d 462, 470.

Here, this Court found that the Settlement Class meets all the requirements for class certification for settlement purposes when it granted preliminary approval of the Settlement on March 9, 2022. *See* Lidman Decl., ¶ 24; Exh. A. After the court entered an order granting preliminary approval, no events have cast doubt on the propriety of this determination. In fact, the reaction of the Class Members thus far to the Settlement has been strongly in support of the Settlement, with no Settlement Class members objecting to and/or electing to opt-out of the Settlement. *See* Reyes Decl., ¶¶ 13-15. This Court should therefore confirm its conditional certification of the Settlement Class.

B. This Court Should Finally Approve the Settlement Because it is a Fair, Adequate, and Reasonable Compromise of Disputed Wage and Hour Claims

California courts have a strong policy in favor of settlement. *See, e.g., Stambaugh v. Superior Court*, 62 Cal.App.3d 231, 236 (1976). Unlike individual settlements, class action settlements involve a court approval process that exists to prevent fraud, collusion, and unfairness to class members. *Malibu Outrigger Bd. of Governors v. Superior Court*, 103 Cal.App.3d 573, 578-79 (1980). This approval process consists of preliminary settlement approval, notice being given to class members, and a final fairness and approval hearing being held, at which class members have the opportunity to be heard with respect to the settlement. *Id*. Now that notice has been provided to the Settlement Class, Plaintiffs respectfully request that the Court finally approve the Settlement as fair, adequate, and reasonable.

1. The Settlement was Reached at Arm's-Length, Through Experienced Counsel and an Experienced Mediator, and Was Based on Sufficient Information to Intelligently Negotiate a Fair Settlement in Light of the Claims Asserted and Risks of Continued Litigation

A settlement is presumptively fair where it is reached through arm's-length bargaining, based on sufficient discovery and investigation to allow counsel and the court to act intelligently, counsel is experienced in similar litigation, and the percentage of objectors to the settlement is small. *Dunk v. Ford Motor Co.,* 48 Cal.App.4th 1794, 1802 (1996). In deciding whether to approve a proposed settlement, a trial court has broad powers to determine if the proposed settlement is fair under the circumstances of the case. *Mallick v. Superior Court,* 89 Cal.App.3d 434, 438 (1979). In exercising these powers, the overriding concern is to ensure that a proposed settlement is "fair, adequate, and reasonable." *Dunk*, *supra*, 48 Cal.App.4th at 1801 (internal quotations omitted). Relevant factors for the Court to consider include, but are not limited to:

> [T]he strength of plaintiffs' case, the risk, expense, complexity and likely duration of further litigation, the risk of maintaining class action status through trial, the amount offered in settlement, the extent of discovery completed and the stage of the proceedings, the experience and views of counsel, the presence of a governmental participant, and the reaction of the class members to the proposed settlement.

Id. These factors require balancing, are non-exhaustive and, as such, trial courts should tailor the factors to each case and give due regard to "what is otherwise a private consensual agreement between the parties." *Id*.

"In the context of a settlement agreement, the test is not the maximum amount plaintiffs might have obtained at trial on the complaint, but rather whether the settlement is reasonable under all of the circumstances." *Wershba v. Apple Computer, Inc.,* 91 Cal.App.4th 224, 250 (2001). Because settlements inherently involve compromise, even settlements providing for substantially narrower relief than likely would be obtained if the suit were successfully litigated can be reasonable because, "the public interest may indeed be served by a voluntary settlement in which each side gives ground in the interest of avoiding litigation." *Id*. (quoting *Air Lines Stewards, etc., Local 550 v. American Airlines, Inc.*, 455 F.2d 101, 109 (7th Cir. 1972)).

Here, the Settlement resulted from extensive arm's length settlement negotiations between qualified and experienced counsel, with the assistance of a well-respected mediator, and is fair, adequate, and reasonable for all Settlement Class members. While Plaintiffs maintains that their claims are meritorious, Plaintiffs acknowledge that their position includes substantial risks and uncertainty, which justifies a downward departure from the maximum exposure that Plaintiffs calculated each claim carried.

As detailed in Plaintiffs' Motion for Preliminary Approval, there is risk of non-certification and/or not prevailing on the merits with respect to each of Plaintiffs' claims. Lidman Decl., ¶ 12. For example, with respect to Plaintiffs' failure to pay for all time worked, Defendants dispute this claim and assert that employees are told they must record all of their work time and that working off the clock is prohibited. *Id.* Defendants assert that employees do not perform any work before clocking in and that there is adequate time after beginning the work day to load the work truck and go to the customer's location. Defendants contend that employees begin their workday at Defendants' location and that there is no evidence of employees performing work off the clock, such as supervisors witnessing employees doing this. In addition, Defendants assert that employees must accurately record their hours worked and must personally sign their timesheets to confirm that they agree with the hours recorded. Defendants contend that if litigation continues, they will provide declarations from employees that affirm that employees do not perform any work off the clock. Defendants contend that the Court would have to look to these declarations at class certification to see whether employees performed any work off the clock. In doing so, Defendants contend that individualized issues would predominate because the Court would have to ask each employee whether they performed work off the clock. Defendants also contend that they would file a motion for summary judgment if litigation continues and would be able to prove that employees are not permitted to perform any work off the clock and that employees personally verify their timesheets by signing them indicating that no work was performed off the clock. *Id.*

With regard to Plaintiffs' meal and rest period claims, Defendants point to the policies contained in their employee handbook. Defendants contend that the policies in their employee handbook are lawful and comply with the requirements outlined in *Brinker*. Lidman Decl., ¶ 14. Defendants argue that these policies are enforced in the field. Defendants contend that these facts alone are sufficient to rebut Plaintiffs' claims and show that they comply with California law. In addition, Defendants assert that these policies are adequate to discharge their duty to provide lawful meal and rest periods and that they do not need to police whether employees actually take compliant breaks. *Id.* Further, Defendants look to their meal period policy which provides employees with a meal break not to exceed sixty minutes. Therefore, even if Plaintiffs' theory was correct and employees have to use some of their meal period time to leave the customers' location, employees would still receive more than thirty consecutive minutes for a meal period. *Id*.

As for Plaintiffs' wage statement claim, Defendants argue that employees can ascertain the overtime rate by performing simple math using figures on the face of the wage statement. In addition, Defendants argue that employees are instructed on the dates of the pay period in their employee handbook which states that the workweek begins at 12:00 a.m. on Monday morning and ends at 11:59 p.m. Sunday night. The handbook further provides that paychecks are distributed every Friday after 1:00 p.m. and reflect the payment for work completed the week before. As such, employees cannot show that they have been injured by any potential violation. Lidman Decl., ¶ 16.

As for Plaintiffs' claim for waiting time penalties, Defendants assert they have strong defenses to the waiting time claim because there exist good-faith disputes as to Plaintiffs' underlying claims, precluding imposition of penalties. Lidman Decl., ¶ 18. *See also* 8 Cal. Code Regs. § 13520 (a "good faith dispute that any wages are due will preclude imposition of waiting time penalties"); *Kao v. Joy Holiday*, 12 Cal.App.5th 947, 963 (2017) (holding that "good faith dispute" over whether employee was exempt precluded imposition of waiting time penalties over contested wages owed). *Id*.

Lastly, since Plaintiffs' PAGA claim is a derivative claim based on the underlying claims, Defendants assert the PAGA claim would fail with those claims. Lidman Decl., ¶ 20. Defendants also maintain that given their good faith defenses, this Court would exercise its discretion to substantially reduce any PAGA penalties if it were to find Defendants liable for any of Plaintiffs' claims. *Id*.

These considerations bore heavily on the negotiations leading to the Settlement and also confirm that the Settlement is fair, adequate, and reasonable compromise in view of the risks of further litigation. Lidman Decl., ¶ 21. As detailed in Plaintiffs' Motion for Preliminary Approval, Plaintiffs carefully vetted the claims at issue and conducted a detailed statistical analysis of class-wide data to arrive at the calculated damages figures. Thus, while these risks are far from exhaustive, they demonstrate that the Settlement is fair, adequate, and reasonable in view of them. *Id*.

2. *The Settlement Fairly, Reasonably, and Adequately Compensates Class Members Because Each Participating Class Member Will Be Paid Based on the Extent of His or Her Damages*

Individual settlement payments will be calculated based on the workweeks worked by each Class Member. *See* Settlement ¶ 10.4. This method of distribution compensates Class Members based on the estimated extent of their injuries, as Class Members who worked more workweeks, would have been subject to more of the alleged wage and hour violations than those who worked fewer workweeks. Thus, the formula for compensating Class Members is fair, adequate, and reasonable, as it is tethered to the damages and penalties that could be recovered by them.

3. *The 100% Participation Rate and Absence of Any Objections Further Confirms that the Settlement is Fair, Adequate, and Reasonable*

Class members' response to a settlement is relevant in evaluating whether it merits final approval. *Dunk*, *supra*, 48 Cal.App.4th at 1801. The lack of objections and requests for exclusion supports a fairness presumption. *See 7-Eleven Owners for Fair Franchising v. Southland Corp.* (2000) 85 Cal.App.4th 1135, 1152-53 (finding 9 objections and 80 opt-outs from a class of 5,454 showed a "particularly impressive" favorable response from class members). Here, as of the filing of this Motion, not a single Class Member has objected, not a single Class Member has elected to opt-out, and only 99 of the 2,053 Class Notices were returned undeliverable. Reyes Decl., ¶¶ 12-15. The extremely favorable response of the Settlement Class further confirms that the Settlement is fair, adequate, and reasonable.

C. <u>The Requested Award of Attorneys' Fees is Reasonable as a Percentage of the Common Fund Confirmed by a Lodestar Cross-Check</u>

Plaintiffs and the Settlement Class, as the prevailing parties in settlement, are entitled to recover their attorneys' fees and costs for their wage claims. *See* Lab. Code §§ 218.5, 226(e) and 2699(g). A fee award is justified where the legal action has produced its benefits by way of a voluntary settlement. *See*, *e.g.*, *Maria P. v. Riles*, 43 Cal.3d 1281, 1290-91 (1987); *Westside Community for Independent Living, Inc. v. Obledo*, 33 Cal.3d 348, 352-53 (1983). When a settlement results in a common fund for the benefit of a class, class counsel may be awarded fees as a percentage of the common fund. *See Wershba*, *supra*, 91 Cal.App.4th at 254 (recognizing the "percentage of recovery" method). The California Supreme Court confirmed in *Laffitte v. Robert Half Int'l, Inc.*, 1 Cal.5th 480, 506 (2016), that "[t]he percentage of fund method survives in California class action cases." Specifically, the *Laffitte* Court held:

> The recognized advantages of the percentage method—including relative ease of calculation, alignment of incentives between counsel and the class, a better

> approximation of market conditions in a contingency case, and the encouragement it provides counsel to seek an early settlement and avoid unnecessarily prolonging the litigation—convince us the percentage method is a valuable tool that should not be denied our trial courts."

Id. at 503 (internal citation omitted); *see also, e.g.*, *Serrano v. Priest*, 20 Cal.3d 25, 34 (1977) ("when a number of persons are entitled in common to a specific fund, and an action brought by a plaintiff or plaintiffs for the benefit of all results in the creation or preservation of that fund, such plaintiff or plaintiffs may be awarded attorney's fees out of the fund."); *Serrano v. Unruh*, 32 Cal.3d 621, 627 (1982) (in awarding a fee from the common fund obtained for the benefit of all parties, the trial court acts within its equitable power to prevent the other parties' unjust enrichment.); *Rawlings v. Prudential-Bache Properties, Inc.*, 9 F.3d 513, 516 (6th Cir. 1993) (the percentage of the fund method for calculating attorneys' fees more accurately reflects the results achieved for the putative class than the lodestar method and "establishes reasonable expectations on the part of plaintiffs' attorneys as to their expected recovery; and it encourages early settlement, which avoids protracted litigation."); *In re Rite Aid Corp. Securities Litigation*, 396 F.3d 294, 300 (3rd Cir. 2005) ("The percentage-of-recovery method is generally favored in common fund cases because it allows courts to award fees from the fund 'in a manner that rewards counsel for success and penalizes it for failure.") (citation omitted).

Laffitte also held that trial courts have discretion to assess reasonableness of fee awards with tools such as the "lodestar cross-check," whereby the trial court calculates class counsel's lodestar (hours worked multiplied by hourly rate) and determines whether the "lodestar multiplier" needed to bring the lodestar on par with the percentage of recovery is reasonable. *Laffitte* at 503-06. While a trial court may utilize the lodestar cross-check, it need not do so. *Id.* at 506 ("[w]e hold further that trial courts have discretion to conduct a lodestar cross-check on a percentage fee, as the court did here; they also retain the discretion to forgo a lodestar cross-check and use other means to evaluate the reasonableness of a requested percentage fee.")

Here, Class Counsel's fee request of $333,333.33 (one-third of the Gross Settlement Amount) is fair and reasonable based on a percentage of the recovery confirmed with a lodestar cross-check. First, "regardless whether the percentage method or the lodestar method is used, fee awards in class actions average around one-third of the recovery." *Chavez v. Netflix, Inc.*, 162 Cal.App.4th 43, 66, n.11 (2008); *see also*, *e.g.*, *Cicero v. DirectTV, Inc.*, No. EDCV 07-1182, 2010 WL 2991486 at * 7 (C.D. Cal. July 27,

2010) (observing that “30-50% [is] commonly awarded in cases in which the common fund is relatively small” and that in California, “courts usually award attorneys' fees in the 30-40% range in wage and hour class actions…”); *Williams v. Costco Wholesale Corp.*, No. 02-cv-2003 IEG (AJB), 2010 WL 2721452 at * 6 (S.D. Cal. July 7, 2010) (collecting cases where courts awarded between 33.33% and 40% in attorneys’ fees in wage and hour class actions). This is also consistent with Class Counsel’s experience in similar wage and hour class action matters. *See* Lidman Decl., ¶ 27. Thus, the percentage sought by Class Counsel here (the same percentage sought by class counsel in *Laffitte*) is reasonable.

Next, as stated, under the lodestar method the court computes the “lodestar” amount by multiplying the number of hours reasonably expended by each attorney or legal staff member by their reasonable hourly rates. *See, e.g., Serrano v. Priest* 20 Cal.3d 25, 48 (1977). The court then enhances this lodestar figure by a “multiplier” to account for a range of factors, such as the novelty and difficulty of the case, its contingent nature, and the degree of success achieved. *Id.* at 49; *Ketchum v. Moses*, 24 Cal.4th 1122, 1132-36 (2001); *Thayer v. Wells Fargo Bank,* 92 Cal.App.4th 819, 834 (2001) (“There is no hard-and-fast rule limiting the factors that may justify an exercise of judicial discretion to increase or decrease a lodestar calculation”).

Under California law, lodestar multipliers can range from 2 to 4 or even higher. *See, e.g., Chavez*, *supra*, 162 Cal.App.4th at 49-50 (approving multiplier of approximately 2.5); *City of Oakland v. Oakland Raiders*, 203 Cal.App.3d 78 (1988) (approving multiplier of ~2.34); *Coalition for L. County Planning etc. Interest v. Bd. of Supervisors*, 76 Cal.App.3d 241, 251 (1977) (approving multiplier of ~2.04). In class actions such as this one, where the value of the benefit conferred to the class “can be monetized with a reasonable degree of certainty,” a court may “adjust the lodestar in comparison to a percentage of the common fund to ensure that the fee awarded is reasonable and within the range of fees freely negotiated in the legal marketplace in comparable litigation.” *Consumer Privacy Cases*, 175 Cal.App.4th 545, 557 (2009). In doing so, “the court determines, retrospectively, whether the litigation involved a contingent risk or required extraordinary legal skill justifying augmentation of the unadorned lodestar in order to approximate the fair market for such services.” *Id.* at 556; *see also Laffitte*, *supra*, 1 Cal.5th at 503-05.

In this case, Class Counsel have a total lodestar of $363,672.50 without the use of any multiplier, which is 1.09 times more than the $333,333.33 fee request. Lidman Decl., ¶ 32. A summary showing the number of hours of work performed by each attorney and paralegals is set forth below. The billing rates used are reasonable especially in light of the hourly rates identified based on years of experience in the *Laffey* Matrix, submitted concurrently herewith. *Id.,* at ¶ 33, Exh. C.

Name	**Rate**	**Hours**	**Pre-Multiplier Lodestar**
Scott M. Lidman (23rd Year Attorney)	$750	105.9	$79,425
David Mara (18th Year Attorney)	$850	141	$119,850
Elizabeth Nguyen (16th Year Attorney)	$650	54.7	$35,555
Paul K. Haines (15th Year Attorney)	$650	16.6	$10,790
Jill Vecchi (8th Year Attorney)	$600	128	$76,800
Milan Moore (6th Year Attorney)	$450	78.8	$35,460
Paralegals	$175	331.1	$5,792.50
Total Lodestar			**$363,672.50**

The fee award requested here is justified because Class Counsel achieved a significant monetary recovery for the Settlement Class in an uncertain and risky case, while bearing the substantial burdens of representation on a contingency basis, and the fees requested are in line with the market rate. *Vizcaino v. Microsoft Corp.*, 290 F.3d 1043, 1048-51 (9th Cir. 2002) (finding that exceptional results in a contingency case, significant risk and the absence of supporting precedents, are proper considerations in awarding attorneys' fees).

First, Class Counsel negotiated a substantial recovery for the Settlement Class, resulting in a current participation rate of 100%, and not a single Class Member has objected to the Settlement or to Class Counsel's requested fees as of the date of this filing. *See* Reyes Decl., ¶¶ 11-15. Additionally, the *average* settlement payment in this case of approximately $279.23 is in line with, and above, settlement payments in similar wage and hour class action settlements. *See*, *e.g.*, *Sorenson v. PetSmart, Inc.*, Case No. 2:06-CV-02674-JAM-DAD (E.D. Cal. 2008) (wage and hour class action settlement approved where average class member recovery was approximately $60); *Schiller v. David's Bridal, Inc.*, No. 1:10-cv-00616-AWI-SKO, 2012 WL 2117001, at *17 (E.D. Cal. 2012) (finding that average payment to class members of less than $200 was a "good" result); *Williams v. Centerplate, Inc.*, Nos. 11-CV-2159-H-KSC, 12-CV-0008-H-KSC, 2013 WL 4525428, at *4 (S.D. Cal. 2013) (granting final approval of class action settlement where average recovery for each class member was approximately $108). The fact that Class Counsel achieved these results without engaging in a protracted legal battle, in the face of serious defense challenges and an uncertain legal landscape confirms the strength of the results achieved.

As discussed above, this case presented significant risk as to both class certification and merits considerations. Accordingly, it is fair and reasonable to account for these risks in compensating Class Counsel. Class Counsel should also be compensated for the risks involved in undertaking this litigation and expending considerable effort, all while working on a pure contingency basis. Since undertaking representation of Plaintiff, Class Counsel have borne all the costs of litigation without receiving any compensation. Lidman Decl., ¶ 29; Mara Decl., ¶ 24. During this time, Class Counsel have expended $13,601.81, in actual costs, have devoted substantial time to this litigation and expect to incur approximately $565 in future costs for filing the instant motion, filing the final declaration regarding distribution of settlement, service and messenger fees, copying costs, postage fees, and/or CourtCall costs for future appearances.[2] Lidman Decl., ¶ 29, Exh. B; Mara Decl., ¶ 24. Class Counsel's efforts have included conducting pre-filing investigation, analyzing Plaintiff's claims, conducting legal research, reviewing Defendants' documents and policies, filing a consolidated complaint, analyzing Class Members' timekeeping and payroll records, preparing for and attending mediation, negotiating and revising the long-form Settlement, preparing the Motion for Preliminary Approval of Settlement and Final Approval, overseeing the settlement administration process, communicating with Class Members, and otherwise litigating this case. *See* Lidman Decl., ¶ 28. Given the considerable potential for adverse outcomes in this case, including, but not limited to losing on class certification and/or merits issues, the contingent risk borne by Class Counsel was great. Nguyen Decl., ¶ 31.

Class Counsel's previous experience in litigating wage and hour class actions also supports the reasonableness of the fee request. Class Counsel are well-versed in plaintiff and defense-side wage and hour class action litigation, with substantial experience litigating claims for meal and rest period

[2] This includes total costs incurred by all three law firms.

violations, and related penalties. *See* Lidman Decl., ¶¶ 3-8; Mara Decl., ¶¶ 2-8; Declaration Elizabeth Nguyen ("Nguyen Decl."), ¶¶ 3-8; Declaration of Paul K. Haines ("Haines Decl."), ¶¶ 3-8. They have been certified as class counsel in numerous other cases. *Id*. Their experience in similar matters was integral in evaluating the strengths and weaknesses of the case against Wetmore and the reasonableness of the Settlement. *See* Lidman Decl., ¶ 30. Practice in the narrow field of wage and hour litigation requires skill and knowledge concerning the rapidly evolving substantive state law, as well as the procedural law of class action litigation. *Id*. Because it is reasonable to compensate Class Counsel commensurate with their skill, reputation, and experience, a fee award of one-third of the Gross Settlement Amount is reasonable.

Other factors also show that the fee amount requested in this case is reasonable under the circumstances. This case involved nuanced legal issues including questions surrounding compensable time in a manufacturing setting, Defendants' obligation to "provide" meal periods and "authorize and permit" rest periods, and the propriety of statutory penalties, to name just a few. Lidman Decl., ¶¶ 11-21. Thus, Class Counsel's requested fee award is fair, reasonable, and adequate and should be approved.

D. <u>The Requested Cost Amount Warrants Final Approval as Fair, Adequate, and Reasonable</u>

Class Counsel seek a total of $14,166.81[3] (including anticipatory expenses related to the instant motion) in litigation costs. Class Counsel's request is fair, adequate, and reasonable, as all of these costs are documented and reasonably incurred. *See* Lidman Decl., ¶ 29; Exh. B; Mara Decl., ¶ 26, Exh. 1. Moreover, the costs Plaintiff seeks are the types of costs routinely approved by courts. *See, e.g.*, *Harris v. Marhoefer*, 24 F.3d 16, 19 (9th Cir. 1994) (counsel should recover "those out-of-pocket expenses that would normally be charged to a fee paying client"); *Ashker v. Sayre*, No. 05-03759 CW, 2011 WL 825713, at * 3 (N.D. Cal. 2011)("costs of reproducing pleadings, motions and exhibits are typically billed by attorneys to their fee-paying clients" and are reimbursable); *Trustees of Const. Industry & Laborers Health and Welfare Trust v. Redland Ins. Co*., 460 F.3d 1253, 1258-59 (9th Cir. 2006) (legal research costs are reimbursable); *In re Immune Response Securities Litigation*, 497 F. Supp. 2d 1166, 1177-78

[3] This amount includes the anticipated costs of $565 for filing fees, service and messenger fees, postage fees, and/or CourtCall costs for future court appearances.

(S.D. Cal. 2007) (mediation expenses, consultant and expert fees, legal research, copies, postage, filing fees, messenger and overnight delivery costs are reimbursable). Because the expense reimbursements requested by Class Counsel were reasonably incurred, and no Class Member has objected to them, Plaintiff respectfully requests the Court should grant the request for actual costs incurred.

E. The Court Should Finally Approve the Requested Administration Costs

Plaintiff also requests that the Court approve $15,500.00 in administration costs to the Settlement Administrator, Simpluris, Inc. As detailed in the declaration of Evelin Reyes on Behalf of Simpluris, Inc. submitted herewith, Simpluris performed duties in connection with this Settlement that were integral in effectuating the Settlement and the Notice process. Among other things, Simpluris calculated each Class Member's individual settlement payment, updated addresses contained in the class data supplied by Defendants, formatted and translated Class Notices for mailing, mailed Notices of Settlement to all 2,054 Class Members, created a static website, kept the parties informed of any objections or requests for exclusion, and have otherwise administered the Settlement. *See* Reyes Decl., ¶¶ 2-20. For these reasons, PSA's requested costs are fair, reasonable, and adequate, and should be finally approved.

F. This Court Should Finally Approve Plaintiffs' Requested Enhancement Payments Because They Are Fair, Adequate, and Reasonable in View of Plaintiffs' Efforts and the Risks that They Assumed on Behalf of the Class

Courts routinely approve service payments to compensate named plaintiffs for the services they provide and the risks they incur during class action litigation. *See*, *e.g*., *Bell v. Farmers Ins. Exchange*, 115 Cal.App.4th 715, 726 (2004) (upholding "service payments" to named plaintiffs for their efforts in bringing the case); *Van Vranken v. Atlantic Richfield Co*., 901 F. Supp. 294 (N.D. Cal. 1995) (approving $50,000 service payment). In analyzing the requested service payment, courts consider the following factors: the risk, both financial and otherwise, the class representative faced in bringing the suit; the notoriety and personal difficulties encountered by the class representative; the actions the plaintiff has taken to protect the interests of the class, the degree to which the class has benefitted from those actions, and the amount of time and effort the plaintiff expended in pursuing the litigation. *See Golba v. Dick's Sporting Goods, Inc.* (2015) 238 Cal.App.4th 1251, 1272; *Clark v. Am. Residential Servs. LLC* (2009) 175 Cal.App.4th 785, 804.

Here, analyzing these factors weigh in favor of approving as part of the Settlement, Plaintiffs' request for enhancement payments in the amount of $7,500.00 each for their services to the Settlement Class. Lidman Decl., ¶ 37; Declaration of Jose de Jesus Ortega Velazquez ("Velazquez Decl.") ¶¶ 3-12, Declaration of Jose Camargo ("Camargo Decl.") ¶¶ 3-12. [4] Plaintiffs provided substantial factual information and documents to Class Counsel, attending multiple meetings with Class Counsel to discuss the claims and theories at issue in the litigation, participating in the mediation, and undertook significant risks by agreeing to serve as one of the named plaintiffs in this case. In addition, Plaintiffs have agreed to a general release of all claims subject to a waiver of Civil Code § 1542. *Id.*; Settlement ¶ 7.2. The class has benefited from Plaintiffs' actions as the average settlement amount is $279.23.

Plaintiffs understood that the lawsuit is a matter of public record and being part of the lawsuit could stigmatize them and/or affect their future employment. Velazquez Decl., ¶ 8; Camargo Decl., ¶ 8. Plaintiffs also understood the risk that they could be liable for Defendants' costs if they lost the case. Plaintiffs accepted these risks and burdens because they wanted Defendants to compensate their current and former employees for unpaid wages, unpaid meal and rest period premium wages. Velazquez Decl., ¶ 8; Camargo Decl., ¶ 8. Plaintiff Camargo estimates he spent approximately 10 hours on activities related to this case. *Id.* at ¶ 9.

Additionally, after receiving notice of the proposed Class Representative Enhancement Payments for Plaintiffs, no Class Member has objected to the proposed award, as of the date of this filing. *See* Reyes Decl., ¶ 15. Thus, the Enhancement Payments to Plaintiffs are appropriate and justified as part of the Settlement and should be finally approved.

V. CONCLUSION

For the reasons stated herein, Plaintiffs respectfully submit that this Court should grant Plaintiffs' motion in its entirety and adopt the [Proposed] Order Granting Plaintiffs' Motion for Final Approval of Class Action Settlement and Final Judgment submitted herewith.

Based on the terms of the agreement, Plaintiffs propose the deadline to the Settlement Administrator declaration regarding the disbursement be set for **May 31, 2024**, which will provide

[4] The declarations of Plaintiffs were originally filed with this Court on February 14, 2022 in connection with the Motion for Preliminary Approval. For the convenience of the Court, Plaintiffs have re-filed their declarations with the instant Motion.

sufficient time for the uncashed checks to be sent to the State Controller after remaining uncashed for a year after the 180-day expiration deadline.

Respectfully submitted,

Dated: June 17, 2022

LIDMAN LAW, APC

By: ______________________________

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JOSE CAMARGO