

Edwin Aiwazian (SBN 232943)
Arby Aiwazian (SBN 269827)
Joanna Ghosh (SBN 272479)
Yasmin Hosseini (SBN 326399)
LAWYERS for JUSTICE, PC
410 West Arden Avenue, Suite 203
Glendale, California 91203
Tel: (818) 265-1020 / Fax: (818) 265-1021

Heather Davis (SBN 239372)
Amir Nayebdadash (SBN 232204)
Luke Clapp (SBN 306040)
PROTECTION LAW GROUP, LLP
237 California Street
El Segundo, California 90245
Tel: (424) 290-3095 / Fax: (866) 264-7880

Attorneys for Plaintiffs and the Class

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES – SPRING STREET COURTHOUSE

CINDY VELASQUEZ, individually, and on behalf of other members of the general public similarly situated; PAULINA CAMPOS, individually, and on behalf of other members of the general public similarly situated, and on behalf of other aggrieved employees pursuant to the California Private Attorneys General Act;

Plaintiffs,

vs.

AMADA ENTERPRISES, INC., a California corporation; VIEW HEIGHTS COVALESCENT HOSPITAL, INC., an unknown business entity; and DOES 1 through 100, inclusive,

Defendants.

Case No.: 20STCV07994 (Lead Case)
20CMCV00227

Honorable Stuart M. Rice
Department SSC1

CLASS ACTION

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

[Declaration of Class Counsel (Joanna Ghosh and Heather Davis); Declaration of Class Representatives (Cindy Velasquez and Paulina Campos); Declaration of Settlement Administrator (Yami Burns); and [Proposed] Final Approval Order and Judgment filed concurrently herewith]

Date: February 15, 2024
Time: 10:30 a.m.
Department: SSC1

Complaint Filed: February 28, 2020
FAC Filed: February 2, 2021
Trial Date: None Set

1 **PLEASE TAKE NOTICE** that on February 15, 2024, at 10:30 a.m., in Department SSC1
2 of the above-entitled Court, located at 312 North Spring Street, Los Angeles, California 90012,
3 Plaintiffs Cindy Velasquez and Paulina Campos (together, “Plaintiffs”) will and hereby does move
4 for an order granting final approval of:

5 1. The Joint Stipulation of Class Action and PAGA Settlement and Release
6 (“Settlement,” “Agreement,” or “Settlement Agreement”) on the grounds that the Settlement is
7 fair, adequate, and reasonable because:

- 8 • A Net Settlement Amount of approximately **\$135,709.66** will be fully distributed to the
9 Class Members who did not submit a timely and valid Request for Exclusion
10 (“Settlement Class Member”);
- 11 • **No Notices of Objections** were submitted to the settlement administrator, Phoenix
12 Class Action Administration Solutions (“Settlement Administrator”);
- 13 • **No Requests for Exclusion** was submitted to the Settlement Administrator;

14 2. Payment in the amount of **\$150,000.00** to Lawyers for Justice, PC and Protection
15 Law Group, LLP (together, “Class Counsel”), representing 1/3 of the Total Settlement Amount,
16 for attorneys’ fees, which is reasonable and justified on a percentage-basis;

17 3. Payment in the amount of **\$40,290.34** to Class Counsel for reimbursement of
18 litigation costs and expenses;

19 4. Payment in the amount of **\$9,000.00** to the Settlement Administrator, Phoenix Class
20 Action Administration Solutions (“Phoenix”), for Settlement Administration Costs;

21 5. Payment in the amount of **\$7,500.00** each the Plaintiffs Cindy Velasquez and
22 Paulina Campos as Enhancement Awards, for a total of \$15,000.00, for their time and effort in
23 representing the Class; and

24 6. Allocation of the penalties under the Private Attorneys General Act of 2004,
25 California Labor Code section 2698, *et seq.*, in the amount of \$100,000.00, of which seventy-five
26 percent (75%), or **\$75,000.00**, will be paid to the California Labor and Workforce Development
27 Agency (“LWDA Payment”) and twenty-five percent (25%), or **\$25,000.00**, will be distributed to
28 PAGA Members (“PAGA Employee Amount”).

1 This Motion is made pursuant to Rule 3.769 and Rule 3.1113(e) of the California Rules of
2 Court, which require approval by the Court of a class action settlement and permit the Court to
3 extend the page limit for memoranda.

4 This motion is based upon the following Memorandum of Points and Authorities; the
5 Declaration of Class Counsel (Joanna Ghosh and Heather Davis), Class Representatives (Cindy
6 Velasquez and Paulina Campos), and Settlement Administrator (Yami Burns of Phoenix Class
7 Action Administration Solutions) in support thereof; the pleadings and other records on file with
8 the Court in this matter; and such evidence and oral argument as may be presented at the hearing
9 on this Motion.

10
11 Dated: January 23, 2024

LAWYERS for JUSTICE, PC

12
13 By:



14 Yasmin Hosseini
15 Attorneys for Plaintiffs and the Class
16
17
18
19
20
21
22
23
24
25
26
27
28

TABLE OF CONTENTS

I.	SUMMARY OF MOTION	1
II.	PROCEDURAL HISTORY AND FACTUAL BACKGROUND.....	3
III.	SUMMARY OF THE SETTLEMENT TERMS AND PLAN OF DISTRIBUTION .	5
IV.	THE SETTLEMENT ADMINISTRATION PROCESS	8
V.	THE COURT SHOULD GRANT FINAL APPROVAL OF THE CLASS ACTION SETTLEMENT.....	9
A.	The Settlement Resulted from Arm’s-Length Negotiations Based Upon Extensive Investigation and Discovery.	10
B.	The Risks Inherent in Continued Litigation Favor Final Approval of the Settlement.	13
C.	The Settlement Is Fair, Reasonable, and Adequate.	14
D.	The Class Was Represented by Competent Counsel.....	16
E.	There Are No Notices of Objections to the Class Settlement.	16
VI.	THE ATTORNEYS’ FEES AWARD REQUESTED BY CLASS COUNSEL IS FAIR AND REASONABLE AND SHOULD BE APPROVED.	16
A.	Legal Standard for Attorneys’ Fees in a Class Action Settlement.....	16
B.	A Fee Award of a Percentage of the Entire Fund Is Appropriate.	18
C.	The Attorneys’ Fees Award Requested by Class Counsel Is Reasonable Based on the Factors Considered in Determination of Fee Awards.	21
	1. Time & Labor.	21
	2. The Skill Required to Perform Legal Services Properly.	23
	3. The Value of the Settlement for the Class Members.....	23
	4. Whether the Fee Is Fixed or Contingent.	24
	5. The Amount Involved and the Results Achieved.	25
	6. The Reputation and Ability of the Attorneys.	26

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

**D. The Lodestar Methodology Also Justifies Approval of the Requested Fees,
Because Class Counsel Has Performed Work That Is of Significant Value
Based On Reasonable Hours and Prevailing Hourly Rates of Compensation.**
..... 26

1. The Number of Hours Spent on the Litigation was Reasonable..... 27

**VII. COSTS TO BE REIMBURSED TO CLASS COUNSEL ARE FAIR AND
REASONABLE AND SHOULD BE APPROVED..... 30**

**VIII. THE SETTEMENT ADMINISTRATION COSTS ARE FAIR AND
REASONABLE AND SHOULD BE APPROVED..... 30**

**IX. THE REQUESTED ENHANCEMENT AWARDS ARE FAIR AND
REASONABLE, AND SHOULD BE APPROVED..... 31**

X. CONCLUSION 32

TABLE OF AUTHORITIES

Cases

<i>7-Eleven Owners for Fair Franchising v. Southland Corp.</i> (2000) 85 Cal.App.4th 1135.....	10, 16
<i>Beech Cinema, Inc. v. Twentieth-Century Fox Film Corp.</i> (S.D.N.Y. 1979) 480 F.Supp. 1195..	18
<i>Boeing Co. v. Van Gemert</i> (1980) 444 U.S. 472.....	18, 20
<i>Cates v. Chiang</i> (2013) 213 Cal.App.4th 791.....	25
<i>Cellphone Termination Fee Cases</i> (2009) 180 Cal.App.4th 1110.....	17
<i>Chavez v. Netflix, Inc.</i> (2008) 162 Cal.App.4th 43	9, 10, 18
<i>City of Oakland v. Oakland Raiders</i> (1988) 203 Cal.App.3d 78	29
<i>Consumer Privacy Cases</i> (2009) 175 Cal.App.4th 545.....	17
<i>Crampton v. Takegoshi</i> (1993) 17 Cal.App.4th 308	18
<i>Dunk v. Ford Motor Co.</i> (1996) 48 Cal.App.4th 1794.....	9, 10, 16, 17
<i>Green v. Obledo</i> (1981) 29 Cal.3d 126.....	18
<i>In re American Bank Note Holographics, Inc., Securities Litigation</i> (S.D.N.Y. 2001) 127	
F.Supp.2d 418.....	15
<i>In re Ampicillin Antitrust Litigation</i> (D. D.C. 1981) 526 F.Supp. 494	17
<i>Ketchum v. Moses</i> (2001) 24 Cal.4th 1122.....	16, 27, 28, 29
<i>Laffitte v. Robert Half Int’l, Inc.</i> (2016) 1 Cal.5th 480.....	17, 18, 26
<i>Lealao v. Beneficial Cal., Inc.</i> (2000) 82 Cal.App.4th 19	16, 17, 20
<i>Paul, Johnson, Alston & Hunt v. Grauly</i> (1989) 886 F.2d 268	18
<i>Serrano v. Priest</i> (1977) 20 Cal.3d 25.....	18
<i>Sutter Health Uninsured Pricing Cases</i> (2009) 171 Cal.App.4th 495	29
<i>Vasquez v. Superior Court</i> (1971) 4 Cal.3d 800	18
<i>Vincent v. Hughes Air West, Inc.</i> (9th Cir. 1977) 557 F.2d 759	18
<i>Vizcaino v. Microsoft</i> (9th Cir. 2002) 290 F.3d 1043.....	19
<i>Vo v. Las Virgenes Municipal Water Dist.</i> (2000) 79 Cal.App.4th 440	27
<i>Wershba v. Apple Computer, Inc.</i> (2001) 91 Cal.App.4th 224.....	10, 16, 20, 29
<i>Winslow v. Harold G. Ferguson Corp.</i> (1944) 25 Cal.2d 274.....	20

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Statutes

Cal. Lab. Code § 2698 1

Other Authorities

A. Conte, *Attorney Fee Awards* (2d Ed., 1993) 19

California Practice Guide, *Civil Procedure Before Trial*, Chapter 14 17

Conte & Newberg, *Newberg on Class Actions* (4th Ed., 2002) § 11.47..... 15, 25

Conte & Newberg, *Newberg on Class Actions* (4th Ed., 2002) § 14.03 17

Court Awarded Attorney Fees, Report of the Third Circuit Task Force (October 8, 1985) 108

F.R.D. 237 25

R. Pearle, *California Attorney Fee Awards* (CEB, 1993) § 7A 18

MEMORANDUM OF POINTS AND AUTHORITIES

I. SUMMARY OF MOTION

Plaintiffs Cindy Velasquez and Paulina Campos (together, “Plaintiffs”) seek final approval of: (1) the Total Settlement Amount of \$450,000.00¹; (2) attorneys’ fees in the amount of \$150,000.00, which is 1/3 of the Total Settlement Amount, and reimbursement of litigation costs and expenses in the amount of \$40,290.34 (together, “Attorneys’ Fees and Costs”) to Lawyers for Justice, PC and Protection Law Group, LLP (together, “Class Counsel”); (3) Settlement Administration Costs in the amount of \$9,000.00 to Phoenix Class Action Administration Solutions (“Phoenix” or “Settlement Administrator”); (4) Enhancement Awards in the amount of \$7,500.00 each to Plaintiffs Cindy Velasquez and Paulina Campos, for a combined amount of \$15,000.00; and (5) allocation of \$100,000.00 for penalties under the Private Attorneys General Act of 2004, California Labor Code § 2698, *et seq.* (“PAGA Penalty Amount”).

Plaintiffs seek relief on behalf of the following Class:

All current and former hourly-paid or non-exempt employees of Defendant in California employed during the time period from February 28, 2016 through November 10, 2020 (“Class” or “Class Members”).²

This matter involved ongoing investigations, formal and informal discovery, review and analysis of a large volume of information, documents, and data prior to and during the two (2) mediation sessions conducted by Joel P. Kelly, Esq., and settlement negotiations. This matter has required 614.60 hours of attorney time by Class Counsel. As will be demonstrated herein, the request for attorneys’ fees, which represents 1/3 of the Total Settlement Amount, is fully supported by the use of the percentage-fee method. Courts have historically awarded fees of up to fifty percent (50%) of the recovery. The requested attorneys’ fees are also supported under the lodestar cross-check method.

Plaintiffs move for final approval of the Enhancement Awards in the amount of \$7,500.00 each to Plaintiffs Cindy Velasquez and Paulina Campos, to compensate Plaintiffs for the time and

¹ Joint Stipulation of Class Action and PAGA Settlement and Release, ¶ 1.rr.

² *Id.*, ¶ 1.c.

1 effort that they expended spearheading this lawsuit on behalf of the Class, PAGA Members, and
2 the State of California. Plaintiffs also move for final approval of the payment to the Settlement
3 Administrator in the amount of \$9,000.00 for Settlement Administration Costs. Plaintiffs also
4 move for final approval of the allocation of \$100,000.00 for the PAGA Penalty Amount, of which
5 \$75,000.00 will be paid to the California Labor Workforce and Development Agency (“LWDA”)
6 for its portion of the PAGA Penalties (“LWDA Payment”), and \$25,000.00 will be distributed to
7 all current and former hourly-paid or non-exempt employees of Defendant in California employed
8 during the time period from May 29, 2019 through November 10, 2020 (“PAGA Members”)
9 (“PAGA Employee Amount”).

10 The requests for Attorneys’ Fees and Costs, Enhancement Awards, Settlement
11 Administration Costs, and allocation for the PAGA Penalty Amount were fully disclosed in the
12 Notice of Class Action Settlement (“Class Notice”) that was mailed to the Class Members. Most
13 importantly, as of the date of this Motion, *not a single Class Member has objected to any aspect*
14 *of the Settlement, including the requested Attorneys’ Fees and Costs, Enhancement Awards,*
15 *Settlement Administration Costs, or allocation for PAGA Penalty Amount.*

16 The Settlement is fair, adequate, and reasonable, and is the product of arm’s-length, good-
17 faith negotiations by experienced counsel presided over by a highly-regarded mediator who is
18 experienced in mediating wage-and-hour class action lawsuits. Accordingly, the Court should
19 grant final approval of the Settlement, and award Attorneys’ Fees and Costs, Enhancement
20 Awards, Settlement Administration Costs, and PAGA Penalty Amount in the amounts as fully
21 disclosed to the Class and as requested herein.

22 In order to efficiently present the Court with adequate information to determine whether to
23 grant final approval of the Settlement and award Attorneys’ Fees and Costs, Enhancement Awards,
24 Settlement Administration Costs, and PAGA Penalty Amount, Plaintiffs also move for an order
25 permitting the filing of this single consolidated memorandum, although it exceeds the page limit
26 established by California Rules of Court, Rule 3.1113(d), instead of filing several separate
27 motions.

28 ///

1 **II. PROCEDURAL HISTORY AND FACTUAL BACKGROUND**

2 Defendant Amada Enterprises, Inc. (“Defendant”) is an organization who owns and
3 operates a hospital and provides continuous inpatient nursing and rehabilitative care to patients.
4 Plaintiffs Cindy Velasquez and Paulina Campos are former employees of Defendant.

5 On February 28, 2020, Plaintiff Cindy Velasquez (“Plaintiff Velasquez”) filed her Class
6 Action Complaint for Damages against Defendant in the Super Court of California for the County
7 of Los Angeles, Case No. 20STCV07994 (“*Velasquez Class Action*”), alleging a single cause of
8 action for violations of California Business and Professions Code §§ 17200, et seq., on behalf of
9 the putative class.

10 On May 29, 2020, Plaintiff Paulina Campos (“Plaintiff Campos”) provided written notice
11 to the Labor and Workforce Development Agency (“LWDA”) and Defendant of the specific
12 provisions of the California Labor Code that Defendant allegedly violated (the “LWDA Letter”).

13 On September 11, 2020, Plaintiff Campos filed a Class Action Complaint for Damages in
14 the Superior Court of California for the County of Los Angeles, Case No. 20STCV34673
15 (“*Campos Class Action*”), alleging ten causes of action for failure to pay minimum wages, failure
16 to pay overtime wages, failure to provide meal periods and associated premiums, failure to provide
17 rest periods and associated premiums, failure to timely pay wages during employment, failure to
18 timely pay final wages, failure to provide compliant wage statements, failure to keep requisite
19 payroll records, failure to reimburse business expenses, and violations of California Business and
20 Professions Code §§ 17200, et seq., on behalf of the putative class.

21 On September 15, 2020, Plaintiff Campos filed her Complaint for Enforcement Under the
22 Private Attorneys’ General Act, California Labor Code § 2698, Et Seq. against Defendant in the
23 Superior Court of California for the County of Los Angeles, Case No. 20CMC00227 (“*Campos*
24 *PAGA Action*”) (together with the *Velasquez Class Action*, the “*Actions*”).

25 On February 2, 2021, Plaintiffs filed a First Amended Class Action Complaint for Damages
26 in the *Velasquez Class Action*, adding Paulina Campos as a named plaintiff, and subsequently
27 dismissing the *Campos Class Action* on February 26, 2021 (“*Operative Complaint*”).
28

1 On February 16, 2021, Defendant filed an Answer to Plaintiffs' First Amended Class
2 Action Complaint for Damages.

3 On October 25, 2022, the Parties filed a Joint Stipulation to Consolidate the *Velasquez*
4 Class Action and the *Campos* PAGA Action. On October 25, 2022, the Court entered an order
5 granting the Parties' Joint Stipulation to Consolidate Case No. 20STCV07994 and 20CMCV00227
6 for Purposes of Class Action and PAGA Settlement, with the *Velasquez* Class Action deemed the
7 lead case.

8 Plaintiffs' core allegation is that Defendant has violated the California Labor Code by
9 engaging in a uniform practice and procedure, with respect to Plaintiffs, Class Members, and
10 PAGA Members of, *inter alia*, failing to pay minimum and overtime wages, failing to provide
11 compliant meal and rest periods and associated premium pay, failing to timely pay wages and
12 associated waiting time penalties, failing to maintain accurate payroll records, failing to provide
13 compliant wage statements, and failing to reimburse necessary business-related expenses, and
14 thereby engaged in unfair business practices under the California Business and Professions Code
15 and conduct that gives rise to civil penalties recoverable under PAGA. Plaintiffs contend that they,
16 Class Members, and the PAGA Members, are entitled to, *inter alia*, unpaid wages, penalties
17 (including and not limited to, penalties pursuant to PAGA), and attorneys' fees.

18 Defendant has denied, and continues to deny, any liability and wrongdoing of any kind
19 associated with any of the allegations in the Actions, and further denies that the case is appropriate
20 for class or representative treatment for any purpose other than for settlement purposes only.

21 The parties have actively litigated the Actions since the *Velasquez* Class Action
22 commenced on February 28, 2020. The parties have conducted significant formal and informal
23 discovery and investigation into the claims. On March 18, 2021 Plaintiff Paulina Campos
24 propounded multiple sets of discovery including Requests for Production of Documents (Set One);
25 Special Interrogatories, (Sets One and Two); and Form Interrogatories (Set One), on Defendant
26 and former defendant View Heights Convalescent Hospital. Thereafter, on April 20, 2021,
27 Defendant responded to Plaintiff Paulina Campos' discovery requests. The parties engaged in
28

extensive discussion about the strengths and weaknesses of Plaintiffs' claims and Defendant's defenses thereto, to try to resolve the Actions.

On November 10, 2020, the Parties participated in two (2) mediation sessions conducted by Joel P. Kelly, Esq., a well-regarded mediator experienced in handling complex labor and employment matters. With the aid of the mediator's evaluation, the Parties ultimately reached the Settlement described herein to resolve the Actions in its entirety.

On June 27, 2023, Plaintiffs filed a Motion for Preliminary Approval of Class Action Settlement ("Motion for Preliminary Approval") and supporting documents seeking approval of the settlement reached by Plaintiffs and Defendant (collectively, the "Parties").

On July 20, 2023, a hearing was held on Plaintiffs' Motion for Preliminary Approval, during which the Court raised certain points of inquiry. On July 28, 2023, Plaintiffs filed a Supplemental Declaration of Brian J. St. John in Support of Plaintiffs' Motion for Preliminary Approval of Class Action Settlement.

On August 7, 2023, at a continued hearing on Plaintiffs' Motion for Preliminary Approval, the Court entered an Order Granting Plaintiffs' Motion for Preliminary Approval of Class Action and PAGA Settlement ("Preliminary Approval Order"), thereby preliminarily approving the terms of the Settlement, the Class Notice, and the proposed administration procedures and associated deadlines.

Plaintiffs now move for final approval of the Settlement, Attorneys' Fees and Costs, Enhancement Awards, Settlement Administration Costs, and allocation for PAGA Penalty Amount.

III. SUMMARY OF THE SETTLEMENT TERMS AND PLAN OF DISTRIBUTION

Under the terms of the Settlement Agreement, Defendant has agreed to pay a Total Settlement Amount of \$450,000.00 by making a deposit of Two Hundred Twenty-Five Thousand Dollars (\$225,000.00) into a qualified settlement fund ("QSF") to be established by the Settlement Administrator ("First Installment").³ Within twelve (12) months of payment of the First Installment, Defendant will make a deposit of One Hundred Twelve Thousand Five Hundred

³ Settlement Agreement, ¶ 15.

Dollars (\$112,500.00) into the QSF established by the Settlement Administrator (“Second Installment”). Within twelve (12) months of the payment of the Second Installment, Defendant will make a deposit of One Hundred Twelve Thousand Five Hundred Dollars (\$112,500.00) into the QSF established by the Settlement Administrator as the third and final installment of the Total Settlement Amount (“Third and Final Installment”). Subject to approval by the Court, the Net Settlement Amount will be calculated by deducting the following amounts from the Total Settlement Amount: (1) Attorneys’ Fees and Costs, consisting of attorneys’ fees in the amount of \$150,000.00 and reimbursement of litigation costs and expenses in the amount of \$40,290.34, to Class Counsel; (2) Enhancement Awards in the amount of \$7,500.00 each to Plaintiffs Cindy Velasquez and Paulina Campos for a combined amount of \$15,000.00; (3) Settlement Administration Costs in the amount of \$9,000.00 to Phoenix; and (4) PAGA Penalty Amount in the amount of \$100,000.00.⁴ The Net Settlement Amount, which is estimated to be \$135,709.66⁵, will be distributed in accordance with the Settlement Agreement and there is no reversion to Defendant.

The Settlement Administrator will calculate each Class Member’s *pro rata* share of the Net Settlement Amount (“Individual Settlement Share”), by dividing the final Net Settlement Amount by the Qualified Workweeks of all Settlement Class Members to yield the “Final Workweek Value,” and multiplying each Settlement Class Member’s individual Qualified Workweeks by the Final Workweek Value to yield his or her Individual Settlement Share.⁶

The Settlement Administrator will calculate each PAGA Member’s *pro rata* share of the PAGA Employee Amount (“Individual PAGA Payment), by dividing the PAGA Employee Amount, i.e., 25% of the PAGA Penalty Amount, by the total number of Qualified PAGA Workweeks of all PAGA Members to yield the “PAGA Workweek Value,” and multiplying each

⁴ Settlement Agreement, ¶¶ 16, 17, 18 and 19.

⁵ This amount is higher than the amount stated in Paragraph 13 of the accompanying Declaration of Yami Burns With Respect to Notice and Settlement Administration (“Phoenix Decl.”) because the Settlement Administrator’s calculation assumes that Class Counsel will obtain litigation costs and expenses in the maximum amount of \$45,000.00 and attorneys’ fees in the maximum amount of \$157,500.00, which are allocated under the Settlement. However, Class Counsel seeks the amount of only \$37,325.35 for reimbursement of litigation costs and expenses and \$150,000.00 for attorneys’ fees, and the difference of \$12,209.66 will remain part of the Net Settlement Amount.

⁶ Settlement Agreement, ¶¶ 1.u & 20(b).

PAGA Members' individual Qualified PAGA Workweeks by the PAGA Workweek Value to yield his or her Individual PAGA Payment.⁷

Class Members had forty-five (45) calendar days after the initial mailing of the Class Notice to Class Members to opt out of the Class Settlement, object to the Class Settlement, and/or dispute the number of Qualified Workweeks and/or Qualified PAGA Workweeks to which they were credited ("Response Deadline").⁸ The Response Deadline was November 17, 2023.⁹ ***As of the date of this Motion, the Settlement Administrator has received no written requests for exclusion from the Class Settlement ("Request for Exclusion") and no written objections to the Class Settlement ("Notices of Objection") from Class Members.***¹⁰

Each Individual Settlement Share will be allocated as follows: twenty percent (20%) as wages, which will be reported on IRS Form W-2; and the remaining eighty percent (80%) as penalties, interest, and non-wage damages, to be reported on IRS Form 1099 (if applicable).¹¹ The Settlement Administrator will withhold the employee's share of taxes and withholdings with respect to the wages portion of the Individual Settlement Shares, and issue checks to Settlement Class Members for their Individual Settlement Payment (i.e., payment of their Individual Settlement Share net of these taxes and withholdings).¹² Any payment for an Individual PAGA Payment will be allocated as one hundred percent (100%) penalties, and will be reported on an IRS Form 1099, if necessary. Defendant's portion of payroll taxes, including FICA and FUTA on the portion of the Individual Settlement Shares that constitutes wages ("Employers' Share of Payroll Taxes"), shall be paid by Defendant separately and in addition to the Total Settlement Amount.¹³

Each Individual Settlement Payment and Individual PAGA Payment check will be valid and negotiable for one hundred and eighty (180) calendar days from the date the checks are issued.¹⁴ Any settlement checks which remain uncashed after that date shall be transferred to the

⁷ Settlement Agreement, ¶¶ 1.s & 21.

⁸ *Id.*, ¶ 40.

⁹ Phoenix Decl., ¶¶ 8, 9, and 10.

¹⁰ *Id.*, ¶¶ 8 and 9.

¹¹ Settlement Agreement, ¶ 33.

¹² *Id.*

¹³ *Id.*, ¶¶ 1.o & 33.

¹⁴ *Id.*, ¶ 27.

California State Unclaimed Wage Fund.¹⁵ Settlement Class Members whose Individual Settlement Payment checks are cancelled shall, nevertheless, be bound to the Class Settlement, and PAGA Members whose Individual PAGA Payment checks are uncashed shall, nevertheless, be bound by the PAGA Settlement.

IV. THE SETTLEMENT ADMINISTRATION PROCESS

The Court-appointed Settlement Administrator, Phoenix Class Action Administration Solutions, has taken all necessary steps to effectuate the notice and settlement administration process, as set forth in the Court's August 7, 2023, Preliminary Approval Order.

On September 12, 2023, Phoenix received a data filed from Defense Counsel that contained the last known full names, last known mailing addresses, Social Security Numbers, Qualified Workweeks, and/or Qualified PAGA Workweeks ("Class Data and List").¹⁶ The Class Data and List contained information for four hundred eighty-eight (488) individuals identified as Class Members and two hundred and seventy (270) individuals identified as PAGA Members.¹⁷ Phoenix processed the names and addresses through the National Change of Address Database ("NCOA") and updated the Class Data and List with any updated addresses located.¹⁸

On October 3, 2023, Phoenix mailed the Class Notice via U.S. first class mail to all four hundred eighty-eight (488) individuals identified as Class Members and two hundred and seventy (270) individuals identified as PAGA Members on the Class Data and List.¹⁹

As of the date of this Motion, no Class Notices were returned as undeliverable with forwarding addresses.²⁰ Seventy (70) Class Notices were returned as undeliverable without forwarding addresses.²¹ Phoenix performed a skip-trace search on the seventy (70) Class Notices that were returned to Phoenix without forwarding addresses, located an updated address for sixty-two (62) Class Members, and promptly re-mailed the Class Notice to the updated addresses.²² Ultimately, twelve (12) Class Notices remain undeliverable because an updated address was not

¹⁵ Ibid.

¹⁶ Phoenix Decl., ¶ 3.

¹⁷ Ibid.

¹⁸ *Id.*, ¶ 4.

¹⁹ *Id.*, ¶ 5.

²⁰ *Id.*, ¶ 6.

²¹ Ibid.

²² Ibid.

located through skip-tracing or the Class Notice was returned as undeliverable a second time.²³

As of the date of this Motion, the Settlement Administrator has not received any Notice of Objections.²⁴ As of the date of this Motion, the Settlement Administrator has not received any Requests for Exclusion from Class Members.²⁵

To date, there are four hundred eighty-eight (488) Class Members who did not submit a timely and valid Request for Exclusion, and are therefore, deemed to be Settlement Class Members.²⁶ Pursuant to the terms of the Settlement, the Net Settlement Amount of approximately \$135,709.66 will be distributed to Settlement Class Members in accordance with the terms of the Settlement.²⁷ The highest Individual Settlement Share is currently estimated to be \$674.93 and the average Individual Settlement Share is currently estimated to be \$253.07.²⁸ The highest Individual PAGA Payment is currently estimated to be \$130.77 and the average Individual PAGA Payment is currently estimated to be \$92.59.²⁹

V. THE COURT SHOULD GRANT FINAL APPROVAL OF THE CLASS ACTION SETTLEMENT.

The trial court has broad discretion to determine whether a class action settlement is fair and reasonable. *Chavez v. Netflix, Inc.* (2008) 162 Cal.App.4th 43, 52. To determine whether the settlement is fair and reasonable, courts consider relevant factors such as:

the 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.

Dunk v. Ford Motor Co. (1996) 48 Cal.App.4th 1794, 1801. "The list of factors is not exclusive and the court is free to engage in a balancing and weighing of the factors depending on the

²³ Phoenix Decl., ¶ 6.

²⁴ *Id.*, ¶ 9.

²⁵ *Id.*, ¶ 8.

²⁶ *Id.*, ¶ 11.

²⁷ *Id.*, ¶ 13; see also, n.1 and n.6, *supra*.

²⁸ *Id.*, ¶ 14. The actual average and highest Individual Settlement Shares will be larger than the amounts stated in the Phoenix Declaration because the Net Settlement Amount is larger due to Class Counsel's request for reimbursement of litigation costs and expenses in an amount that is less than \$45,000.00, and Class Counsel's request for attorneys' fees in an amount that is less than \$157,500.00 (the difference between the amount sought and the amount authorized under the Settlement, i.e., \$12,209.66 will be part of the Net Settlement Amount). See n.5, *supra*.

²⁹ *Id.*, ¶ 15.

1 circumstances of each case.” *Wershba v. Apple Computer, Inc.* (2001) 91 Cal.App.4th 224, 245.
2 “Due regard should be given to what is otherwise a private consensual agreement between the
3 parties.” *Dunk, supra*, 48 Cal.App.4th at 1801.

4 The proponent of the settlement has the burden to show that it is fair and reasonable.
5 *Wershba, supra*, 91 Cal.App.4th at 245. At the final approval stage, a presumption of fairness
6 exists where, as here: “(1) the settlement is reached through arm’s-length bargaining; (2)
7 investigation and discovery are sufficient to allow counsel and the court to act intelligently; (3)
8 counsel is experienced in similar litigation; and (4) the percentage of objectors is small.” *Dunk,*
9 *supra*, 48 Cal.App.4th at 1802. In reviewing a class settlement, the court need not reach any
10 ultimate conclusions on the issues of fact and law that underlie the merits of the dispute.
11 *7-Eleven Owners for Fair Franchising v. Southland Corp.* (2000) 85 Cal.App.4th 1135, 1146. The
12 inquiry is not whether the settlement agreement is the best one that class members could have
13 possibly obtained, but whether the settlement, taken as a whole, is “fair, adequate, and reasonable.”
14 *Chavez v. Netflix, Inc.* (2008) 162 Cal.App.4th 43, 55. A settlement need not obtain 100 percent
15 of the damages sought in order to be fair, reasonable, and ultimately, meaningful. *Wershba, supra*,
16 91 Cal.App.4th at 251. Even if the proposed settlement affords relief that is substantially narrower
17 than it would be if the cases were to be successfully litigated, that is no bar to a class settlement
18 because the public interest may indeed be served by a voluntary settlement in which each side
19 gives ground in the interest of avoiding prolonged litigation. *Id.*

20 **A. The Settlement Resulted from Arm’s-Length Negotiations Based Upon**
21 **Extensive Investigation and Discovery.**

22 The Parties have been actively litigated this matter since the commencement of the
23 Velasquez Class Action on February 28, 2020. Class Counsel conducted significant formal and
24 informal discovery and investigation into the facts of the cases, to assess the veracity, strength,
25 and scope of the claims, and prepare the Actions for class certification and trial prior to reaching
26 the Settlement.³⁰

27
28

³⁰ Declaration of Joanna Ghosh (“Ghosh Decl.”), ¶ 6; Declaration of Heather Davis (“Davis Decl.”), ¶ 16.

1 The Parties conducted significant formal and informal discovery and investigation into the
2 facts of the cases, and also formally and informally exchanged a large volume of information,
3 documents, and data throughout the course of the litigation and in connection with the mediations
4 and settlement negotiations.³¹ The volume of data and documents that Class Counsel reviewed and
5 analyzed included but was not limited to: employment records of Plaintiffs and other Class
6 Members, a detailed sampling of Class Members' time and pay data, Defendant's Employee
7 Handbook and other employment and operations policies, practices, and procedures documents,
8 and extensive documentation regarding Defendant's financial circumstances, among other
9 information and documents.³² Class Counsel developed liability, damages, and penalties valuation
10 models in the course of litigation and in connection with the mediations and settlement
11 negotiations, and met and conferred with Defendant's counsel on numerous occasions, e.g., to
12 discuss issues relating to the pleadings, motions, case management, discovery, and the production
13 of information, documents, and data in the course of litigation and in connection with the
14 mediations and settlement negotiations.³³ Class Counsel had the opportunity to interview and
15 obtain information from Plaintiffs, other Class Members, and percipient witnesses.³⁴ Class Counsel
16 propounded multiple sets of formal written discovery requests on Defendant and reviewed
17 Defendant's responses to written discovery. Class Counsel also drafted pleadings and plaintiffs'
18 mediation brief and prepared for and attended court proceedings, settlement negotiations, and the
19 mediations, among other tasks.³⁵

20 After conducting significant formal and informal discovery and investigation into the facts
21 of the cases, the Parties participated in two (2) mediation sessions conducted by Joel P. Kelly,
22 Esq., a well-regarded mediator experienced in mediating complex labor and employment
23 matters.³⁶ In the course of the mediations and settlement negotiations, the Parties exchanged class
24 information, documents, and data, and discussed various aspects of the cases, including and not
25 limited to, Defendant's financial circumstances, the risks and delays of further litigation, the risks

26 ³¹ Ibid.

27 ³² Ghosh Decl., ¶ 6.

28 ³³ Ibid.

³⁴ Ibid.

³⁵ Ibid.

³⁶ Ghosh Decl., ¶ 8.

1 and expenses to the parties of proceeding with class certification and trial, the law relating to
2 certification, off-the-clock theory, meal and rest periods, representative PAGA claims, and wage-
3 and-hour enforcement, arbitration agreements, the evidence produced and analyzed, and the
4 possibility of appeals, among other things.³⁷ During all settlement discussions, the parties
5 conducted their negotiations at arm's length in an adversarial position.³⁸ Arriving at a settlement
6 that was acceptable to the parties was not easy.³⁹ Defendant and its counsel felt very strongly about
7 Defendant's ability to enforce its arbitration agreements (and compel the claims to arbitration) and
8 to prevail on the merits and to avoid class certification and representative adjudication, while
9 Plaintiffs and Class Counsel believed that they would be able to obtain class certification and
10 prevail at trial.⁴⁰ After conducting significant formal and informal discovery and investigations,
11 settlement negotiations, and with the aid of the mediator's evaluation, the Parties agreed that the
12 cases were well-suited for settlement given the legal issues relating to Plaintiffs' principal claims,
13 as well as the costs and risks to the parties that would attend further litigation.⁴¹

14 The Settlement takes into account the strengths and weaknesses of each side's position and
15 the uncertainty of how the case might have concluded at certification, trial, and/or appeals. Class
16 Counsel had the opportunity to interview, and obtain information from Plaintiffs and other Class
17 Members.⁴² Class Counsel also reviewed and analyzed a large volume of information, documents,
18 and data obtained from Defendant, Plaintiffs, and other sources, and performed significant research
19 into the applicable law, which is constantly evolving as it relates to certification, off-the-clock
20 theory, meal and rest periods, representative PAGA claims, wage-and-hour enforcement,
21 arbitration agreements, Plaintiffs' claims, and Defendant's defenses, as well as facts discovered.⁴³
22 The Settlement was based on this large volume of facts, evidence, and investigation.⁴⁴
23
24

25 ³⁷ Ibid.

26 ³⁸ *Id.*, ¶ 8.

27 ³⁹ Ibid.

28 ⁴⁰ Ibid.

⁴¹ Ibid.

⁴² *Id.*, ¶ 6.

⁴³ Ibid.

⁴⁴ Ghosh Decl., ¶¶ 6 & 8.

1 Additionally, Class Counsel has extensive experience in handling complex wage-and-hour actions,
2 including significant experience in employment class action litigation.⁴⁵

3 **B. The Risks Inherent in Continued Litigation Favor Final Approval of the**
4 **Settlement.**

5 The Settlement, which provides for a Total Settlement Amount of \$450,000.00, represents
6 a fair, adequate, and reasonable resolution of the cases, given the risks inherent in litigating class
7 and representative claims through certification proceedings, trial, and/or appeals.⁴⁶ The Settlement
8 was calculated using information and data uncovered through extensive case investigation, formal
9 and informal discovery, and the exchange of information in the context of mediation.⁴⁷ Had the
10 action not settled, Defendant would have vigorously challenged class certification, manageability
11 of representative adjudication, and liability. Defendant contended that individualized questions of
12 fact predominate over any common issues, and these issues would pose challenges to certification
13 and representative adjudication. Defendant would have likely argued again at trial, if any, that
14 Plaintiffs' claims were not appropriate for class-wide and/or representative adjudication. On the
15 other hand, Defendant also faced the risk of the Court certifying a class and allowing a jury to
16 decide Plaintiffs' claims on a class-wide or representative basis. Additionally, preparation for trial
17 would have been expensive for all parties.

18 It is preferable to reach an early resolution of a dispute because such resolutions save time
19 and money that would otherwise go to litigation. If this matter had settled after further litigation,
20 the settlement amount would have taken into account the additional costs incurred, and there might
21 have been less money available for Class Members and PAGA Members after all was said and
22 done. This is not just an abstract contention. The risks and expenses of further litigation
23 outweighed any benefit that might have been gained otherwise. These risks of further litigation
24 include a determination that the claims must be arbitrated, that the claims were unsuitable for class
25 treatment and/or representative adjudication, failure to obtain certification, class de-certification
26 after certification of a class, allowing a jury to decide the claims asserted in the case, and the real

27
28 ⁴⁵ *Id.*, ¶¶ 16-18; Davis Decl, ¶¶ 4-12.

⁴⁶ Ghosh Decl., ¶¶ 8 & 21.

⁴⁷ *Id.*, ¶¶ 5-8.

possibility of no recovery after years of litigation, especially in light of Defendant's financial circumstances. Additionally, the Parties were moving into the phase of the litigation where they would have to conduct a significant amount of additional discovery, including and not limited to, depositions of Defendant's Person Most Knowledgeable designees, expert witnesses, and percipient witnesses, such as managers, supervisors, and other current and former employees throughout the State of California. Additional discovery would have certainly arisen, which would have cost the parties additional time and money. In contrast, the Settlement provides real and significant benefits for the Class here and now, while avoiding the further expenses, risks, and delay of prolonged litigation with only the possibility of recovery.

It would be grossly inefficient for such a large class of current and former employees to bring individual actions to recover from Defendant for the alleged violations of wage-and-hour laws. Moreover, the potential individual recovery that could be obtained by a Class Member would not be significant enough to provide him or her with the incentive to sue. By granting final approval of the Settlement, the Court can approve a resolution that provides a certain and substantial recovery for Class Members.

C. The Settlement Is Fair, Reasonable, and Adequate.

The Settlement, which provides for a Total Settlement Amount of \$450,000.00, represents a fair, reasonable, and adequate resolution of the cases. The Settlement was calculated using information and data uncovered through extensive case investigation, formal and informal discovery, and the exchange of information in the context of preparing for the mediations and conducting ongoing settlement negotiations. The Settlement takes into account the potential risks and rewards inherent in any case and, in particular, in this matter. Moreover, considering all of the facts in the case, the Total Settlement Amount represents a considerable recovery.

Even after deducting attorneys' fees in the amount of \$150,000.00, litigation costs and expenses in the amount of \$40,290.34, Enhancement Awards in the combined amount of \$15,000.00, Settlement Administration Costs in the amount of \$9,000.00, and PAGA Penalty Amount in the amount of \$100,000.00 from the Total Settlement Amount of \$450,000.00, the Net

Settlement Amount is currently estimated to be \$135,709.66.⁴⁸ Under the Settlement Agreement, the Total Settlement Amount will be fully paid out, in accordance with the terms of the Settlement. As discussed in Section III, *supra*, each Settlement Class Member will be paid a *pro rata* share of the Net Settlement Amount, based on the number of Qualified Workweeks credited to him or her. To date, there are four hundred eighty-eight (488) Settlement Class Members, representing 100% of the Class Members.⁴⁹ The highest Individual Settlement Share to a Settlement Class Member is currently estimated to be \$674.93 and the average Individual Settlement Share is currently estimated to be \$253.07.⁵⁰ The highest Individual PAGA Payment to PAGA Members is currently estimated to be \$130.77 and the average Individual PAGA Payment is currently estimated to be \$92.59.⁵¹ These are significant individual recoveries, particularly in light of the risks of litigation.

At the final approval stage, “[a]n allocation formula need only have a reasonable, rational basis [to warrant approval], particularly if recommended by experienced and competent class counsel.” *In re American Bank Note Holographics, Inc., Securities Litigation* (S.D.N.Y. 2001) 127 F.Supp.2d 418, 429-30. The *pro rata* allocation here is a fair and reasonable way to distribute the Net Settlement Amount. In light of the above considerations, Class Counsel believes that the Settlement as a whole is fair, reasonable, and adequate, and in the best interest of the Class Members, the State of California, and PAGA Members.⁵² Although the recommendations of Class Counsel are not conclusive, the Court can properly take the recommendations into account, particularly if Class Counsel appears to be competent, has experience with this type of litigation, and significant discovery and investigation have been completed, as is the case here. Conte & Newberg, *Newberg on Class Actions* (4th Ed., 2002) § 11.47. Accordingly, the Court should grant final approval of the Settlement.

///

///

///

⁴⁸ Phoenix Decl., ¶ 13; see also, n.1, *supra*.

⁴⁹ *Id.*, ¶ 11.

⁵⁰ *Id.*, ¶ 14.

⁵¹ *Id.*, ¶ 15.

⁵² Ghosh Decl., ¶ 21; Davis Decl., ¶ 19.

1 **D. The Class Was Represented by Competent Counsel.**

2 Class Counsel has extensive experience in employment class action law and complex
3 wage-and-hour litigation.⁵³ Lawyers for Justice, PC has been appointed class counsel in numerous
4 complex wage-and-hour cases, and has recovered millions of dollars for individuals in
5 California.⁵⁴ Both Parties' counsel were capable of assessing the strengths and weaknesses of the
6 Class Members' claims against Defendant and the benefits of the Settlement under the
7 circumstances of the cases and in the context of a private, consensual settlement agreement.

8 **E. There Are No Notices of Objections to the Class Settlement.**

9 The Settlement has been well received by the Class – *not a single Class Member objected*
10 *to the Class Settlement.*⁵⁵ Specifically, no objections have been made as to the Total Settlement
11 Amount or requested Attorneys' Fees and Costs, Enhancement Awards, Settlement Administration
12 Costs, or the allocation for PAGA Penalty Amount. California courts have consistently found that
13 a small number of objectors indicates the class' support for a settlement and strongly favors final
14 approval. *Wershba, supra*, 91 Cal.App.4th at 250-51 (final approval granted despite 20 objectors);
15 *7-Eleven Owners, supra*, 85 Cal.App.4th at 1152-53 (final approval granted despite 9 objectors).

16 Here, the lack of any objections speaks volumes about the fairness, reasonableness, and
17 adequacy of this Settlement. Accordingly, the Settlement as a whole is presumed to be fair,
18 reasonable, and adequate, and the Court should grant final approval of the Settlement in its entirety.
19 *Dunk, supra*, 48 Cal.App.4th at 1802.

20 **VI. THE ATTORNEYS' FEES AWARD REQUESTED BY CLASS COUNSEL IS FAIR**
21 **AND REASONABLE AND SHOULD BE APPROVED.**

22 **A. Legal Standard for Attorneys' Fees in a Class Action Settlement.**

23 Trial courts have "wide latitude" in assessing the value of attorneys' fees and their
24 decisions will "not be disturbed on appeal absent a manifest abuse of discretion." *Lealao v.*
25 *Beneficial Cal., Inc.* (2000) 82 Cal.App.4th 19, 41; *Ketchum v. Moses* (2001) 24 Cal.4th 1122,
26 1132 (The "experienced trial judge is the best judge of the value of professional services rendered

27 _____
28 ⁵³ Ghosh Decl., ¶¶ 16-18; Davis Decl., ¶¶ 4-12.

⁵⁴ Ibid.

⁵⁵ Phoenix Decl., ¶ 9.

1 in his court[.]”); *Cellphone Termination Fee Cases* (2009) 180 Cal.App.4th 1110, 1118. Where
2 the amount of a settlement is a “certain easily calculable sum of money,” California courts may
3 calculate attorneys’ fees as a reasonable percentage of the settlement. Weil and Brown, California
4 Practice Guide, *Civil Procedure Before Trial*, Chapter 14, § 14:145; see also *Laffitte v. Robert*
5 *Half Int’l Inc.* (2016) 1 Cal.5th 480, 503; *Dunk, supra*, 48 Cal.App.4th at 1808. The percentage-
6 of-the-benefit approach is preferred in class and representative actions because “it better
7 approximates the workings of the marketplace than the lodestar approach.” *Lealao, supra*, 82
8 Cal.App.4th at 49.

9 California law provides that an attorneys’ fees award should be equivalent to fees paid in
10 the legal marketplace for the result achieved and risk incurred. *Id.* at 47-50; *Laffitte v. Robert Half*
11 *Int’l, Inc.* (2016) 1 Cal.5th 480, 503. In *Lealao*, the court held that when an action leads to a
12 recovery that can be “monetized” with a reasonable degree of certainty, the trial court should
13 “ensure that the fee awarded is within the range of fees freely negotiated in the legal marketplace
14 in comparable litigation.” *Lealao, supra*, 82 Cal.App.4th at 50. Fee awards that are too small will
15 “chill the private enforcement essential to the vindication of many legal rights and obstruct the
16 representative actions that often relieve the courts of the need to separately adjudicate numerous
17 claims.” *Lealao, supra*, 82 Cal.App.4th at 53.

18 “The ultimate goal . . . is the award of a ‘reasonable’ fee to compensate counsel for their
19 efforts, irrespective of the method of calculation.” *Consumer Privacy Cases* (2009) 175
20 Cal.App.4th 545, 557-58 (quoting *Apple Computer, Inc. v. Superior Court, supra*, 126 Cal.App.4th
21 at 1270). It is not an abuse of discretion to choose one method over another as long as the method
22 chosen is applied consistently using percentage figures and/or rates that accurately reflect the
23 marketplace. In cases where class members present claims against a settlement amount and the
24 settlement agreement provides that the defendant agrees to paying the attorneys a percentage of
25 the same, use of that percentage method is appropriate. *Lealao, supra*, 82 Cal.App.4th at 32.

26 Historically, courts have awarded fees as high as fifty percent (50%) of the settlement,
27 depending on the circumstances of the case. Conte & Newberg, *Newberg on Class Actions* (4th
28 Ed., 2002) § 14.03; see also *In re Ampicillin Antitrust Litig.* (D.D.C. 1981) 526 F.Supp. 494

(awarding attorneys' fees in the amount of 45% of the settlement amount of \$7.3 million); *Beech Cinema, Inc. v. Twentieth-Century Fox Film Corp.* (S.D.N.Y. 1979) 480 F.Supp. 1195 (awarding approximately 53% of the settlement amount as attorneys' fees). California courts routinely approve class action attorneys' fees awards "averag[ing] around one-third of the recovery." *Chavez v. Netflix, Inc.* (2008) 162 Cal.App.4th 43, 66 n.11 (lower court found 20 to 40 percent range of contingency fee in marketplace was appropriate in class actions); *see also Laffitte*, 1 Cal.5th at 488 & 506 (approving fee award of 1/3 of common fund of \$19 million).

B. A Fee Award of a Percentage of the Entire Fund Is Appropriate.

California and federal courts have long recognized that an appropriate method for determining the award of attorneys' fees is based on a percentage of the total value of benefits made available to class members by the settlement. *Laffitte*, 1 Cal.5th at 503; *Boeing Co. v. Van Gemert* (1980) 444 U.S. 472, 478; *Paul, Johnson, Alston & Hunt v. Gaulty* (9th Cir. 1989) 886 F.2d 268, 272; *Vincent v. Hughes Air West, Inc.* (9th Cir. 1977) 557 F.2d 759, 769; *Serrano v. Priest* (1977) 20 Cal.3d 25, 34.⁵⁶ The purpose of this equitable doctrine is to spread litigation costs proportionally among all the beneficiaries so that the active beneficiary does not bear the entire burden alone. *See Vincent, supra*, 557 F.2d at 769.

When a litigant's efforts result in a settlement from which others may derive benefits, the litigant may require the passive beneficiaries to compensate those whose efforts brought about the settlement. *See*, R. Pearle, *California Attorney Fee Awards* (CEB, 1993) § 7A, p. 5-7 (permitting attorneys' fees and costs to be paid out of the settlement or directly on behalf of the other parties enjoying the benefit of the settlement). Both state and federal courts have embraced this doctrine. *See Serrano, supra*, 20 Cal.3d at 35; *Crampton v. Takegoshi* (1993) 17 Cal.App.4th 308, 317; *Vincent, supra*, 557 F.2d at 769.

The propriety of calculating and awarding attorneys' fees as a percentage of a monetary settlement that has, by litigation, been preserved or recovered for the benefit of others, has been confirmed by the California Supreme Court. *Laffitte, supra*, 1 Cal.5th 480 at 486 & 506. The

⁵⁶ The California Supreme Court has urged trial courts to consider class action federal authority. *Green v. Obledo* (1981) 29 Cal.3d 126, 146; *Vasquez v. Superior Court* (1971) 4 Cal.3d 800, 821.

1 California Supreme Court has taken the position that “[t]rial courts have discretion to conduct a
2 lodestar cross-check on a percentage fee,” “they also retain the discretion to forgo a lodestar cross-
3 check and use other means to evaluate the reasonableness of a requested percentage fee[,]” and
4 “[t]he percentage [...] method survives in California.” *Id.* (internal quotes omitted).

5 Courts have consistently recognized that class and representative action litigation is
6 increasingly necessary to protect the rights of individuals whose injuries and/or damages are too
7 small to economically justify legal action on an individual basis. Accordingly, in determining a
8 reasonable fee award, courts award fees to serve as an economic incentive for lawyers to pursue
9 such litigation in order to achieve increased access to the judicial system for meritorious claims
10 and to enhance deterrents to wrongdoing. This is especially true in situations where multiple
11 similar alleged wrongs would not be economically feasible to pursue individually, such as here.
12 See A. Conte, *Attorney Fee Awards* (2d Ed., 1993) 104, at 6.

13 When the case was originally filed, not only was it inescapably contingent, but the prospect
14 of a long, drawn-out battle with a defendant represented by experienced counsel, was almost a
15 certainty. By taking on this “battle” on a contingency basis, Class Counsel risked substantial
16 economic loss if the results were not successful. This substantial risk is the reason that the courts
17 approve the use of the percentage method when a settlement is obtained by the efforts of class
18 counsel. See *Vizcaino v. Microsoft* (9th Cir. 2002) 290 F.3d 1043, 1048-49 (discussing the risks of
19 engaging in litigation without certainty of compensation).

20 Under the terms of the Settlement Agreement, Defendant will pay a Total Settlement
21 Amount of \$450,000.00. The requested attorneys’ fees are \$150,000.00, which is one-third (1/3)
22 of the total value of the monetary settlement. In light of Class Counsel’s successful prosecution
23 and resolution of the case, the requested attorneys’ fees are appropriate and reasonable.

24 Compensating class counsel in class litigation on a percentage basis makes good sense
25 because: (1) it is consistent with the private marketplace where contingent fee attorneys are
26 customarily compensated on such a basis; (2) it aligns the interests of class counsel and absent
27 class members in achieving the maximum possible resolution of the cases; and (3) it encourages
28 the most efficient and expeditious resolution of the litigation by providing an incentive for early,

1 yet reasonable, settlement. The requested attorneys' fees in this matter satisfy all of those factors
2 and should be approved on a percentage basis.

3 The percentage method is consistent with, and is intended to mirror, the practice in the
4 private marketplace where contingent-fee attorneys typically negotiate percentage-fee
5 arrangements with their clients. A named plaintiff's agreement to pay a contingent fee is powerful
6 evidence of a reasonable fee. One of the best ways to demonstrate the value of counsel's work to
7 the class is to review the consideration agreed to be paid by the named plaintiff. If the named
8 plaintiff has employed counsel on a contingency-fee basis, it would indeed be inequitable for the
9 members of the class, who will enjoy the benefits of the settlement without incurring the risks of
10 bringing the claim, to pay less than the named plaintiff. In this case, Plaintiffs have each agreed to
11 contingency fees in excess of the amount sought.⁵⁷

12 Furthermore, a percentage-fee award is not dependent on a determination of the actual
13 amount claimed by those entitled—it is the creation of the settlement that is the crucial fact. In
14 *Winslow v. Harold G. Ferguson Corp.*, the California Supreme Court expressly held that “it is
15 equitable that [the attorney's] compensation and expenses should come from the entire fund saved
16 for all classes concerned before it is distributed.” *Winslow v. Harold G. Ferguson Corp.* (1944) 25
17 Cal.2d 274, 284. Likewise, *Lealao* expressly held that a percentage-based fee “may be calculated
18 on the basis of the total fund made available rather than the actual payments made to the class.”
19 *Lealao, supra*, 82 Cal.App.4th at 51; *see also Boeing, supra*, 444 U.S. at 478 (“a litigant or a
20 lawyer who recovers” a settlement “for the benefit of persons other than himself or his client is
21 entitled to a reasonable attorneys' fee from the fund as a whole”).

22 In *Wershba v. Apple Computer, Inc.* (2001) 91 Cal.App.4th 224, in determining reasonable
23 attorneys' fees, the Court of Appeal valued a settlement based on the total value of the settlement
24 made available to class members by the efforts of counsel, decided in favor of granting fees as a
25 percentage of the total value of the settlement, and rejected an objection that the fees be awarded
26 based on the exact amount claimed by class members. *Id.* at 247.

27
28

⁵⁷ Ghosh Decl., ¶ 9.

Class Counsel has obtained a substantial recovery on behalf of Plaintiffs, the Class, PAGA Members, and the State of California, and the results achieved justify an attorneys' fees award that is the equivalent of the standard market fee and that is consistent with the contingency-fee agreement entered into by and between Plaintiffs and Class Counsel. Thus, the requested attorneys' fees are appropriate.

C. The Attorneys' Fees Award Requested by Class Counsel Is Reasonable Based on the Factors Considered in Determination of Fee Awards.

In *Camden I Condominium Association, Inc. v. Dunkel*, the court identified twelve factors to be considered in determining whether fee awards are reasonable: (1) the time and labor required; (2) the novelty and difficulty of the questions involved; (3) the skill required to perform the legal services properly; (4) the preclusion of other employment by the attorney due to the acceptance of the cases; (5) the customary fee; (6) whether the fee is fixed or contingent; (7) time limitation imposed by the client or the circumstances; (8) the amount involved and results obtained; (9) the experience, reputation and ability of the attorney; (10) the undesirability of the cases; (11) the nature and length of the professional relationship with the client; and (12) awards in similar cases. *Camden I Condominium Association, Inc. v. Dunkel* (11th Cir. 1991) 946 F.2d 768, 772.

Each and every one of these factors favors the attorneys' fees sought here; however, some of the most relevant factors to this Court's fee determination will be addressed herein. The award of attorneys' fees in the amount of \$150,000.00 (which is 1/3 of the Total Settlement Amount) is commensurate with the time, effort, and expense dedicated to the cases, the contingent nature of Class Counsel's fee and the risks taken in commencing the cases, the skill and determination required, the results that Class Counsel have achieved, and the value of the settlement that Class Counsel have obtained for the Class Members.

1. *Time & Labor.*

Class Counsel used its experience and skills, and dedicated the full extent of resources, to litigate and bring this matter to a successful conclusion on behalf of the Class. Moreover, as demonstrated in the supporting declaration, Class Counsel has extensive experience in the handling

1 of class actions and complex litigation actions.⁵⁸

2 As outlined in the Declaration of Joann Ghosh, Class Counsel has fully and actively
3 participated in litigation of the cases.⁵⁹ Prior to commencing the lawsuit, Class Counsel had
4 conducted a significant amount of investigation into the factual and legal issues, Defendant's
5 business, and its operations and employment policies, practices, and procedures.⁶⁰ During the
6 litigation of the actions, Class Counsel interviewed Plaintiffs and other Class Members; reviewed
7 and analyzed a large volume of information, documents, and data produced by Defendant and
8 obtained through other sources; and prepared damages/valuation calculations.⁶¹ Class Counsel also
9 met and conferred with Defendant's counsel over the issues relating to pleadings, case
10 management, and production of information, documents, and data, among other things; engaged
11 in extensive settlement negotiations with Defendant's counsel; and prepared for and attended court
12 proceedings, mediation sessions, and settlement negotiations.⁶²

13 Class Counsel has dedicated staffing and monetary resources necessary to prosecute this
14 matter diligently and with maximum efficiency and has fully and actively participated in the
15 litigation process. The Task and Time Chart, which is attached as EXHIBIT A to the
16 accompanying Declaration of Joanna Ghosh, sets forth in detail the hours that Class Counsel has
17 spent performing tasks on behalf of Plaintiffs and the Class.⁶³ The Task and Time Chart is thorough
18 and comprehensive, and was prepared so that the Court can peruse it without having to set forth
19 each and every task in the body of this Motion. The Court is respectfully referred to the chart,
20 which sets forth the history of the work performed by Class Counsel, commencing with the pre-
21 filing analysis and research, and continuing up to settlement and final approval. Class Counsel has
22 spent a total of 614.60 hours performing tasks and to obtain a significant recovery on behalf of
23 Plaintiffs and the Class.⁶⁴ These hours were required to bring this matter to its successful
24 conclusion. In light of the value of time expended and the carrying of costs involved in litigating

25
26 ⁵⁸ Ghosh Decl., ¶¶ 16-18; Davis Decl., ¶¶ 4-12.

⁵⁹ Ghosh Decl., Exh. A.

⁶⁰ *Id.*, ¶ 6 & Exh. A.

⁶¹ *Id.*, ¶ 6.

⁶² Ghosh Decl., ¶ 6.

⁶³ *Id.*, Exh. A.

⁶⁴ *Id.*, ¶ 11.

these cases, the requested attorneys' fees are fair, adequate, and reasonable.

2. The Skill Required to Perform Legal Services Properly.

The skill required to properly litigate the cases is evident not only in the results achieved, but in the steps necessary to reach the same. Defendant retained well-respected counsel to represent its defenses. More specifically, Defendant and its counsel felt very strongly about Defendant's ability to obtain a denial of certification and to prevail on the merits. Plaintiffs and Class Counsel believed that the motion for class certification would be granted and that they would prevail at trial.

Class Counsel undertook significant investigation, analysis, and research prior to filing the cases, during the litigation, and prior to the mediations. Class Counsel took steps to prepare the matter for class certification and representative adjudication and had every intention of taking the cases to trial on a class-wide basis if Defendant did not offer an appropriate class-wide settlement. Despite all of the obstacles that had to be overcome, as demonstrated in the Declaration of Joanna Ghosh, Class Counsel used its extensive experience in the handling of class actions and complex wage-and-hour litigation actions in order to obtain the Settlement with maximum efficiency.⁶⁵

3. The Value of the Settlement for the Class Members.

The Settlement represents an excellent resolution of the actions, given the risks inherent in litigating the cases through certification proceedings, trial, and/or appeals. Had the case not settled, Defendant would have vigorously challenged certifiability, manageability of representative adjudication, and liability. Defendant, however, faced risks if the Court certified a class and allowed a jury to decide the claims. Additionally, preparing the cases for trial would have been expensive for the parties.

The Settlement at this stage is preferred over continued litigation because such resolutions save time and money that would otherwise go to litigation. The risks and expenses of further litigation outweighed any benefit that might have been gained otherwise. The Settlement provides an immediate recovery, as opposed to an uncertain result in the future after prolonged litigation involving expert discovery, trial preparation, class certification proceedings, and appellate review

⁶⁵ Ghosh Decl., ¶¶ 16-18; Davis Decl., ¶¶ 4-12.

of those proceedings. The Settlement offers present relief and/or recovery to Settlement Class Members, the State of California, and PAGA Members while avoiding the further expense, risk, and delay in obtaining possible recovery at an unknown time in the future.

As a result of this litigation and of settlement negotiations, Defendant agreed to pay a Total Settlement Amount of \$450,000.00 to settle the matter. After deducting the attorneys' fees (\$150,000.00), litigation costs and expenses (\$40,290.34), Enhancement Awards (combined \$15,000.00), Settlement Administration Costs (\$9,000.00), and PAGA Penalty Amount (\$100,000.00) from the Total Settlement Amount, it is currently estimated that the Net Settlement Amount is approximately \$135,709.66.⁶⁶ The Net Settlement Amount will be fully distributed in accordance with the terms of the Settlement. The highest Individual Settlement Share to a Settlement Class Member is currently estimated to be \$674.93 and the average Individual Settlement Share is currently estimated to be \$253.07.⁶⁷ The highest Individual PAGA Payment is currently estimated to be \$130.77 and the average Individual PAGA Payment is currently estimated to be \$92.59.⁶⁸ The Settlement offers significant monetary relief to the Settlement Class Members, the State of California, and PAGA Members.

4. Whether the Fee Is Fixed or Contingent.

Plaintiffs entered into a contingency fee agreement with Class Counsel, and the representation of the Class provided by Class Counsel has been wholly contingent. Class Counsel took on the cases without knowing whether any recovery would be obtained. Class Counsel has collectively invested a total of 614.60 hours of time to obtain relief on behalf of Plaintiffs, Class Members, the State of California, and PAGA Members.⁶⁹ Class Counsel has also incurred litigation costs and expenses in the amount of \$40,290.34.⁷⁰

Class Counsel has borne all of the risks and costs of litigation and will not receive any compensation until recovery is obtained.⁷¹ Class Counsel is well-experienced in wage-and-hour

⁶⁶ Phoenix Decl., ¶ 13; see also, n.1, *supra*.

⁶⁷ *Id.*, ¶ 14.

⁶⁸ *Id.*, ¶ 15.

⁶⁹ Ghosh Decl., ¶ 11, Exh. A

⁷⁰ See Part VII, *infra*.

⁷¹ Ghosh Decl., ¶ 19; Davis Decl., ¶ 28.

class action and complex litigation and used that experience to obtain a great result.⁷² The skill and determination that Class Counsel has shown, along with the results obtained, justify the requested Attorneys' Fees and Costs. Considering the amounts requested, the work performed, and the risks incurred, the requested fees and costs are reasonable and should be awarded.

In determining the reasonableness of a fee award in a class action settlement, whether or not representation is provided on a contingency basis is an important factor:

A contingent fee must be higher than a fee for the same legal services paid as they are performed. The contingent fee compensates the lawyer not only for the legal services he renders but for the loan of those services. 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.

Cates v. Chiang (2013) 213 Cal.App.4th 791, 823 (internal quotes and citations omitted). Class Counsel litigated the cases on a contingent basis with all of the concomitant risk factors inherent in such an uncertain undertaking. Had Class Counsel not been successful, the time that Class Counsel has devoted to litigating the cases would have been for naught, and would not have produced any fee or any reimbursement of costs or expenses.

5. The Amount Involved and the Results Achieved.

The results achieved, in light of the difficulties inherent in similar cases and the specific difficulties faced in this matter, are considerable. The Settlement has yielded a positive response from the Class Members—no Class Members objected to or opted out of the Class Settlement.⁷³

The court in *Camden* noted that, “a key element of the common fund case is that fees are [...] taken from the fund [...] and a common fund is itself the measure of success ... [and] represents the benchmark on which a reasonable fee will be awarded.” *Camden*, 946 F. 2d 768, fn. 28 (citing *Court Awarded Attorney Fees, Report of the Third Circuit Task Force* (October 8, 1985) 108 F.R.D. 237 and Newberg, *Attorney Fee Awards* § 2.07 (1986)).

Here, the results achieved and obtained on behalf of Plaintiffs and the Class are reasonable in light of the risks inherent in further litigating this matter. Class Counsel's efforts have resulted

⁷² Ghosh Decl., ¶¶ 16-18; Davis Decl., ¶¶ 4-12.

⁷³ Phoenix Decl., ¶¶ 8 & 9.

1 in a settlement that provides for a Total Settlement Amount of \$450,000.00.⁷⁴ The Total Settlement
2 Amount will be fully paid out, in accordance with the terms of the Settlement Agreement. The
3 highest Individual Settlement Share to a Settlement Class Member is currently estimated to be
4 \$674.93 and the average Individual Settlement Share is currently estimated to be \$253.07.⁷⁵ The
5 highest Individual PAGA Payment is currently estimated to be \$130.77 and the average Individual
6 PAGA Payment is currently estimated to be \$92.59.⁷⁶

7 **6. The Reputation and Ability of the Attorneys.**

8 Lawyers for Justice, PC is a recognized class action law firm that employed its attorneys'
9 knowledge, skills, and experience in bringing these cases to a successful conclusion. Class Counsel
10 has years of complex and class action litigation experience, has recovered millions of dollars on
11 behalf of thousands of individuals in California, and has successfully handled numerous significant
12 wage-and-hour class action and complex cases.⁷⁷

13 **D. The Lodestar Methodology Also Justifies Approval of the Requested Fees,**
14 **Because Class Counsel Has Performed Work That Is of Significant Value**
15 **Based On Reasonable Hours and Prevailing Hourly Rates of Compensation.**

16 While the percentage-of-the-benefit approach is endorsed as the better approximation of
17 the workings of the marketplace than the lodestar approach, courts may also use the lodestar
18 method to “cross-check” the results of the other. See *Laffitte, supra*, 1 Cal.5th at 505 (explaining
19 that “[a] lodestar cross-check is simply a quantitative method for bringing a measure of the time
20 spent by counsel into the trial court’s reasonableness determination”); see also, e.g., *Vizcaino*, 290
21 F.3d at 1050 (“[W]hile the primary basis of the fee award remains the percentage method, the
22 lodestar may provide a useful perspective on the reasonableness of a given percentage award.”).
23 Importantly, “the lodestar calculation . . . does not override the trial court’s primary determination
24 of the fee as a percentage” of the settlement amount and “does not impose an absolute maximum
25 or minimum on the potential fee award.” *Laffitte, supra*, 1 Cal.5th at 505.

26
27 ⁷⁴ Ghosh Decl., ¶¶ 5-8.

28 ⁷⁵ Phoenix Decl., ¶ 14.

⁷⁶ *Id.*, ¶ 15.

⁷⁷ Ghosh Decl., ¶¶ 16-18; Davis Decl., ¶¶ 4-12.

The lodestar is calculated based on reasonable hours at reasonable prevailing hourly rates for the attorneys. *Ketchum, supra*, 24 Cal.4th at 1131-32. Under California law, counsel is entitled to compensation for every hour reasonably spent on the matter. *Id.* at 1133.

1. The Number of Hours Spent on the Litigation was Reasonable.

The reasonableness of hours is assessed by “the entire course of the litigation, including pretrial matters, settlement negotiations, discovery, litigation tactics, and the trial itself[.]” *Vo v. Las Virgenes Municipal Water Dist.* (2000) 79 Cal.App.4th 440, 447.

As discussed above, the cases were highly contested and required a significant amount of time and labor. Defendant made it clear very early on that it disputed all of the allegations of the cases and disputed that the matter was appropriate for class or representative treatment. Defendant raised affirmative defenses and denied liability, and the pursuit of this matter involved gathering and analyzing data not only from Defendant but also from the Class Members. The handling of the cases involved a great amount of effort, and also required and involved the exercise of a high level of skill, which Class Counsel has as a result of its extensive experience in employment class actions and complex wage-and-hour litigation. Long and difficult battles would have followed as the cases moved toward certification and trial, including taking and defending depositions of Defendant’s Person Most Knowledgeable designees, percipient witnesses, and experts, propounding discovery requests and conducting additional document production, and engaging in extensive motion practice. As Class Counsel geared up for these battles, Class Counsel undertook intense preparation in an attempt to resolve the entire matter through mediations.

Class Counsel had to bring together a large volume of information, data, and documents that were produced by Defendant and obtained from Plaintiffs and Class Members and through other sources. Class Counsel conducted extensive review and analysis of these documents and data to strategize the action and to prepare for and attend mediations and engage in settlement discussions.

As discussed above in Part VI.C.1, *infra*, attached to the Declaration of Joanna Ghosh is a task and time chart that sets forth in detail the numerous tasks that Class Counsel performed on

1 behalf of Plaintiffs and the Class, and the time required for completing those tasks.⁷⁸ The chart
2 demonstrates that Class Counsel has collectively spent a total of 614.60 hours, with 554.10 hours
3 spent by Lawyers *for* Justice, PC and 60.50 hours spent by Protection Law Group, LLP, litigating
4 the cases and finalizing the Settlement.⁷⁹ In light of the facts and circumstances of the case, as well
5 as the results that Class Counsel has achieved in these cases, Class Counsel has spent a reasonable
6 number of hours on this matter. In addition, Class Counsel will continue to perform work on this
7 matter through the date of final approval and in connection with the implementation of the
8 Settlement.

9 **2. The Fees Requested Represent a Reasonable Hourly Rate of**
10 **Compensation in Light of Class Counsel's Efforts and Experience.**

11 Both California and federal courts recognize that attorneys should be compensated for
12 providing representation on a contingency basis and for taking on the risks associated with said
13 representation, as well as being provided with financial incentives to enforce important rights and
14 protections like those at issue in this action. See *Ketchum, supra*, 24 Cal.4th at 1132-33. In
15 awarding attorneys' fees, the aim is to mirror "the established practice in the private legal market
16 of rewarding attorneys for taking the risk of nonpayment by paying them a premium over their
17 normal hourly rates for winning contingency cases." See *id.*

18 Class Counsel has been actively involved in this case, prior to its commencement and all
19 the way up to the present, and Class Counsel's dedication to providing representation in this matter
20 has precluded other employment. Here, Class Counsel bore the risk that, despite all of its efforts
21 and skills employed, there may be no recovery. Ultimately, Class Counsel was successful in
22 reaching a settlement of \$450,000.00.

23 As set forth in the Declarations of Joanna Ghosh and Heather Davis, the professional
24 backgrounds and experience of Class Counsel support a reasonable hourly rate of compensation
25 of at least \$750 per hour for services provided by Lawyers *for* Justice, PC and at least \$650 per
26 hour for services provided by Protection Law Group, LLP.⁸⁰ Lawyers *for* Justice, PC has been

27
28 ⁷⁸ See Ghosh Decl., Exh. A.

⁷⁹ Ghosh Decl., ¶ 11; Davis Decl., ¶ 27.

⁸⁰ Ghosh Decl., ¶ 12; Davis Decl., ¶ 27.

1 awarded attorneys' fees, compensating the firm at the rate of at least \$750 for legal service
2 performed, by courts of this state.⁸¹ While the circumstances of every case is unique, the fact
3 remains that the work performed and efforts undertaken by Class Counsel on behalf of the Class
4 Members justify the requested attorneys' fees.

5 Applying the rate of \$750 per hour to 554.10 hours for services provided by Layers for
6 Justice, PC and \$650 per hour to 60.50 hours for services performed by Protection Law Group,
7 LLP would place a reasonable value of \$454,900.00 based on lodestar, for the work performed by
8 Class Counsel. However, Class Counsel only seeks attorneys' fees in the amount of \$150,000.00,
9 which is one-third (1/3) of the total recovery, as provided for by the Settlement Agreement.

10 It also bears noting that a court may apply a multiplier in consideration for risk, efficiency,
11 and/or obtaining a substantial result, to enhance the lodestar for purpose of cross-check. See
12 *Ketchum*, 24 Cal.4th at 1133-34 (holding that a risk multiplier may be applied to compensate
13 contingency fee attorneys at a fair market rate). Such an enhancement "mirrors the established
14 practice in the private legal market of rewarding attorneys for taking the risk of nonpayment by
15 paying them a premium over their normal hourly rates for winning contingency cases." *Vizcaino*,
16 290 F.3d at 1051; *accord Ketchum, supra*, 24 Cal.4th 1122, 1132-34. A risk multiplier also serves
17 to bring the financial incentives for enforcing important rights "into line with incentives [attorneys]
18 have to undertake claims for which they are paid on a fee-for-services basis." *Ketchum*, 24 Cal.4th
19 at 1132. Courts have also approved fee awards with multipliers of 2 and even higher. See, e.g.,
20 *City of Oakland v. Oakland Raiders* (1988) 203 Cal.App.3d 78 (affirming a 2.34 multiplier without
21 remand); *Wershba, supra*, 91 Cal.App.4th at 255 ("Multipliers can range from 2 to 4 or even
22 higher."); *Sutter Health Uninsured Pricing Cases* (2009) 171 Cal.App.4th 495, 512 (applying a
23 2.52 multiplier on a lodestar cross-check); *Chavez, supra*, 162 Cal.App.4th at 66 (applying a 2.5
24 multiplier in a consumer class action).

25 The lodestar method as a cross-check to the percentage figure sought strongly supports the
26 reasonableness of the requested attorneys' fees. Accordingly, Plaintiffs respectfully request that
27

28

⁸¹ Ghosh Decl., ¶ 12; Davis Decl., ¶ 27.

the Court grant final approval of, and award, attorneys' fees in the amount of \$150,000.00 to Class Counsel.

VII. COSTS TO BE REIMBURSED TO CLASS COUNSEL ARE FAIR AND REASONABLE AND SHOULD BE APPROVED.

The Settlement provides for reimbursement of litigation costs and expenses of up to \$45,000.00. As set forth in the Declaration of Joanna Ghosh and Heather Davis, Class Counsel has collectively incurred a total of \$40,290.34 in litigation costs and expenses, with \$37,325.35 incurred by Lawyers for Justice, PC and \$2,964.99 incurred by Protection Law Group, LLP.⁸² This amount was reasonable and necessary in the prosecution of the cases and to obtain the Settlement.⁸³ The cost savings of \$4,709.66 will be part of the Net Settlement Amount, which will be distributed to the Settlement Class Members in accordance with the Settlement.⁸⁴ Accordingly, Plaintiffs requests that the Court award litigation costs and expenses in the amount of \$40,290.34 to Class Counsel.

VIII. THE SETTLEMENT ADMINISTRATION COSTS ARE FAIR AND REASONABLE AND SHOULD BE APPROVED.

As set forth in the accompanying Phoenix Class Action Administration Solutions. Declaration, the total costs incurred and to be incurred by Phoenix for the notice and settlement administration process are \$9,000.00.⁸⁵ The costs incurred and to be incurred include, but are not limited to, printing, distributing, and tracking Class Notices and other documents for the Settlement, establishing the QSF, calculating and distributing payments due under the Settlement, issuing 1099 and W-2 IRS Forms and undertaking all required tax reporting, filings, withholdings, and remittances, providing necessary reports and declarations, and other duties and responsibilities set forth herein to process the Settlement, and as requested by the Parties.⁸⁶

Accordingly, the Court should grant final approval of payment to Phoenix, a necessary third-party for handling of the notice and settlement process, in the amount of \$9,000.00.

⁸² Ghosh Decl., ¶ 19; Davis Decl., ¶ 31.

⁸³ Ibid.

⁸⁴ Ibid.

⁸⁵ Phoenix Decl., ¶ 17.

⁸⁶ *Id.*, ¶ 2.

IX. **THE REQUESTED ENHANCEMENT AWARDS ARE FAIR AND REASONABLE,
AND SHOULD BE APPROVED.**

The Settlement provides for Enhancement Awards in the amount of \$7,500.00 each, for a total of \$15,000.00, to Plaintiffs Cindy Velasquez and Paulina Campos to compensate Plaintiffs for the time and effort that they expended on behalf of the Class. The requested Enhancement Awards are both common and reasonable and should be awarded.

In determining whether to make an incentive payment, courts consider the following factors: (1) the risk to the class representative in commencing suit, both financial and otherwise; (2) the notoriety and personal difficulties encountered by the class representatives; (3) the amount of time and efforts spent by the class representatives; (4) the duration of the litigation; and (5) the personal benefit (or lack thereof) enjoyed by the class representatives as a result of the litigation. *Vranken v. Atlantic Richfield Co.* (N.D. Cal. 1995) 901 F.Supp. 294, 299 (approving \$50,000 participation award to a single class representative).

The requested Enhancement Awards are fair and appropriate because Plaintiffs spent a substantial amount of time and effort producing relevant documents and past employment records, as well as providing the facts and evidence to support the prosecutions of the claims.⁸⁷ Plaintiffs were available whenever Class Counsel needed them and actively tried to obtain, and gave, information to support the pursuit of the cases.⁸⁸

Accordingly, it is appropriate and just for Plaintiffs Cindy Velasquez and Paulina Campos to each receive \$7,500.00 each, for a total of \$15,000.00, as reasonable Enhancement Awards, in addition to their individual settlement payments.

///

///

///

///

///

⁸⁷ Ghosh Decl., ¶ 20; Declaration of Cindy Velasquez (“Velasquez Decl.”), ¶¶ 3-5; Declaration of Paulina Campos (“Campos Decl.”), ¶¶ 3-5.

⁸⁸ Ghosh Decl., ¶ 20; Velasquez Decl., ¶¶ 3-5; Campos Decl., ¶¶ 3-5.

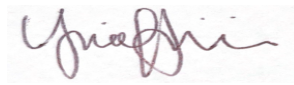
X. CONCLUSION

For the foregoing reasons, Plaintiffs respectfully requests that the Court grant final approval of the Settlement, and award Attorneys' Fees and Costs, Enhancement Awards, Settlement Administration Costs, and allocation for the PAGA Penalty Amount, in their entirety, as sought herein; and permit the filing of a memorandum that exceeds the page limit.

Dated: January 23, 2024

LAWYERS for JUSTICE, PC

By: _____


Yasmin Hosseini
Attorneys for Plaintiffs and the Class