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[Additional Counsel on Next Page]

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

DEISY SALAS, KRISTAL CARMONA,
ISRAEL LINTHROP, ALICIA KRUEGER-
AGUIRRE, 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,

v.

J & S RESTAURANTS, INC., a California
corporation; TOPP END ENTERPRISES,
INC., a California corporation; VALENCIA
TPP, a general partnership; YEASTIE
BOYS, a general partnership; and DOES 1
through 100, inclusive,

Defendants.

THEODORE CHRISTOPHER MILLER,
NOLAN MALONE, individually, and on
behalf of other members of the general
public similarly situated;

Plaintiffs,

v.

VENTURA COUNTY RESTAURANT
SERVICES INC. DBA TOPPERS PIZZA
PLACE, a California corporation; and
DOES 1 through 100, inclusive,

Defendants.

Lead Case No.: 56-2019-00526959-CU-
OE-VTA (*Salas Action*)
(*Consolidated with 56-2020-00546726-
CU-OE-VTA*)

Honorable Henry J. Walsh
Department 42

CLASS ACTION

**PLAINTIFFS' NOTICE OF MOTION
AND MOTION FOR FINAL
APPROVAL OF CLASS ACTION
SETTLEMENT, ATTORNEY'S FEES,
COSTS, AND ENHANCEMENT
PAYMENTS; MEMORANDUM OF
POINTS AND AUTHORITIES;
MEMORANDUM OF POINTS AND
AUTHORITIES**

[Declarations of Class Counsel (Edwin
Aiwarzian, Zack Broslavsky, Jonathan A.
Weinman, and Dennis Hyun); Declarations of
Class Representatives (Deisy Salas, Kristal
Carmona, Israel Linthrop, Alicia Krueger-
Aguirre, Theodore Christopher Miller, and
Nolan Malone); Declaration of Settlement
Administrator (Taylor Mitzner); and [Proposed
Final Approval Order and Judgment filed
concurrently herewith]

Date: April 4, 2022
Time: 8:30 a.m.
Department: 42

Salas Complaint Filed: March 29, 2019
Salas FAC Filed: August 2, 2019
Salas SAC Filed: November 7, 2019
Salas TAC Filed: October 29, 2020
Miller Complaint Filed: August 5, 2019
Miller FAC Filed: September 29, 2020
Trial Date: None Set

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7 *Attorneys for Plaintiffs Theodore Christopher Miller, Nolan Malone, and the Class*
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1 **PLEASE TAKE NOTICE** that on April 4, 2022 at 8:30 a.m., in Department 42 of the
2 above-entitled Court, located at 800 South Victoria Avenue, Ventura, California 93003,
3 Plaintiffs Deisy Salas, Kristal Carmona, Israel Linthrop, Alicia Krueger-Aguirre, Theodore
4 Christopher Miller, and Nolan Malone (“Plaintiffs”) will and hereby do move for an order
5 granting final approval of:

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

- 9 • A Net Settlement Amount of approximately **\$1,151,500.00** will be fully distributed to
10 the Class Members who did not timely opt out of the Settlement (“Settlement Class
11 Member”);
- 12 • **No Objections** were submitted to the settlement administrator, Phoenix Class Action
13 Administration Solutions (“Settlement Administrator”);
- 14 • **One (1) Request for Exclusion** was submitted to the Settlement Administrator;

15 2. Payment in the amount of **\$805,000.00** to Lawyers for Justice, PC, Broslavsky &
16 Weinman, LLP, and Hyun Legal, APC (together, “Class Counsel”), representing thirty-five
17 percent (35%) of the Total Settlement Amount, for attorneys’ fees, which is reasonable and
18 justified on a percentage-basis;

19 3. Payment in the amount of **\$66,687.60** to Class Counsel for reimbursement of
20 litigation costs and expenses;

21 4. Payment in the amount of **\$21,000.00** to the Settlement Administrator, Phoenix
22 Class Action Administration Solutions (“Phoenix”), for Settlement Administration Costs;

23 5. Payments in the amount of **\$10,000.00** each to Plaintiffs Deisy Salas, Kristal
24 Carmona, Israel Linthrop, Alicia Krueger-Aguirre, Theodore Christopher Miller, and Nolan
25 Malone, as Enhancement Payments, for their time and effort in representing the Class; and

26 6. Allocation of the penalties under the Private Attorneys General Act of 2004,
27 California Labor Code section 2698, *et seq.*, in the amount of **\$250,000.00**, of which seventy-
28 five percent (75%), or \$187,500.00, will be paid to the California Labor and Workforce

1 Development Agency and twenty-five percent (25%), or \$62,500.00, will be part of the Net
2 Settlement Amount for distribution to the Settlement Class Members.

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

6 This motion is based upon the following Memorandum of Points and Authorities; the
7 Declarations of Class Counsel (Edwin Aiwarzian, Zack Broslavsky, Jonathan A. Weinman, and
8 Dennis Hyun), Class Representatives (Deisy Salas, Kristal Carmona, Israel Linthrop, Alicia
9 Krueger-Aguirre, Theodore Christopher Miller, and Nolan Malone), and Settlement
10 Administrator (Taylor Mitzner of Phoenix) in support thereof; the pleadings and other records
11 on file with the Court in this matter; and such evidence and oral argument as may be presented
12 at the hearing on this Motion.

13 Dated: March 10, 2022

LAWYERS for JUSTICE, PC

14
15 By:



16 Edwin Aiwarzian
17 Attorneys for Plaintiffs Deisy Salas, Kristal
18 Carmona, Israel Linthrop, Alicia-Krueger-
19 Aguirre and the Class
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MEMORANDUM OF POINTS AND AUTHORITIES

I. SUMMARY OF MOTION

Plaintiffs Deisy Salas, Kristal Carmona, Israel Linthrop, Alicia Krueger-Aguirre, Theodore Christopher Miller, and Nolan Malone (“Plaintiffs”) seek final approval of: (1) the Total Settlement Amount of \$2,300,000.00; (2) attorneys’ fees in the amount of \$805,000.00, which is thirty-five percent (35%) of the Total Settlement Amount, and reimbursement of litigation costs and expenses in the combined amount of \$66,687.60 (together, “Attorneys’ Fees and Costs”) to Lawyers for Justice, PC, Broslavsky & Weinman, LLP, and Hyun Legal, APC (together, “Class Counsel”); (3) Settlement Administration Costs in the amount of \$21,000.00 to Phoenix Class Action Administration Solutions (“Phoenix” or “Settlement Administrator”); (4) Enhancement Payments in the amount of \$10,000.00 each to Plaintiffs Deisy Salas, Kristal Carmona, Israel Linthrop, Alicia Krueger-Aguirre, Theodore Christopher Miller, and Nolan Malone, for a combined amount of \$60,000; and (5) allocation of \$250,000.00 for penalties under the Private Attorneys General Act of 2004, California Labor Code § 2698, *et seq.* (“PAGA Allocation”).

Plaintiffs seek relief on behalf of the following Class:

All current and former hourly-paid or non-exempt employees employed by Defendants in California at any time from March 29, 2015 through November 2, 2021 (“Class” or “Class Members”).¹

This matter involved ongoing investigations, formal and informal discovery, review and analysis of thousands of pages of documents and data prior to and during mediation conducted by Paul Grossman, Esq., and extensive settlement negotiations. This matter has required 1,211.5 hours of attorney time between multiple law firms serving as Class Counsel. As will be demonstrated herein, the request for attorneys’ fees, which represents thirty-five percent (35%) 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.

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¹ Joint Stipulation of Class Action and PAGA Settlement (“Settlement Agreement”), Exh. 1, § 8.d.

1 Plaintiffs move for final approval of the Enhancement Payments in the amount of
2 \$10,000.00 to each of them, to compensate Plaintiffs for the time and effort that they expended
3 spearheading this lawsuit on behalf of the Class. Plaintiffs also move for final approval of the
4 payment to the Settlement Administrator in the amount of \$21,000.00 for Settlement
5 Administration Costs. Plaintiffs also move for final approval of the allocation of \$250,000.00
6 for the PAGA Allocation, of which \$187,500.00 will be paid to the California Labor Workforce
7 and Development Agency (“LWDA”) for its portion of the PAGA Allocation (“LWDA
8 Payment”), and \$62,500.00 will be part of the Net Settlement Amount that will be distributed to
9 Class Members who did not submit a timely and valid request to be excluded from the
10 Settlement (“Settlement Class Members”).

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

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

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

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

2 Defendants J & S Restaurants, Inc., Ventura County Restaurant Services, Inc. dba
3 Toppers Pizza Place, Topp End Enterprises, Inc., Red Flash, Inc., Valencia TPP, and Yeastie
4 Boys (“Defendants”) are a pizza restaurant chain that operates restaurants located throughout
5 Ventura County and Santa Clarita. Plaintiffs Deisy Salas, Kristal Carmona, Israel Linthrop,
6 Alicia Krueger-Aguirre, Theodore Christopher Miller, and Nolan Malone are former employees
7 of Defendants.

8 On March 29, 2019, Plaintiffs Deisy Salas filed a Class Action Complaint for Damages
9 against Defendant J & S Restaurants, Inc. in the Ventura County Superior Court (“Court”),
10 thereby commencing the above-captioned lawsuit (“*Salas* Action”), and on June 6, 2019,
11 Plaintiff Deisy Salas filed her Complaint for Enforcement Under the Private Attorneys General
12 Act, California Labor Code § 2698, Et Seq. against Defendant J & S Restaurants, Inc. in the
13 Ventura County Superior Court (“*Salas* PAGA Action”). On August 2, 2019, Plaintiff Deisy
14 Salas filed a First Amended Complaint for Damages and Enforcement Under the Private
15 Attorneys General Act, California Labor Code § 2698, Et Seq. in the *Salas* Action, adding her
16 PAGA cause of action to the *Salas* Action, and on August 6, 2019, the *Salas* PAGA Action was
17 dismissed without prejudice.

18 On May 28, 2019, Defendants filed an Answer to Plaintiffs’ Unverified Class Action
19 Complaint, and thereafter, on September 3, 2019, Defendants filed an Answer to Plaintiffs’
20 Unverified First Amended Class Action Complaint for Damages and Enforcement Under
21 PAGA.

22 On November 7, 2019, Plaintiff Deisy Salas filed a Second Amended Complaint for
23 Damages and Enforcement Under the Private Attorneys General Act, California Labor Code §
24 2698, Et Seq. in the *Salas* Action, adding Kristal Carmona as a named plaintiff. On October 29,
25 2020, Plaintiffs Deisy Salas and Kristal Carmona filed a Third Amended Complaint for
26 Damages and Enforcement Under the Private Attorneys General Act, California Labor Code §
27 2698, Et Seq. in the *Salas* Action, adding Israel Linthrop and Alicia Krueger-Aguirre as named
28

1 plaintiffs and Topp End Enterprises, Inc. Red Flash, Inc. Valencia TPP, and Yeastie Boys as
2 named defendants in the *Salas* Action (“Operative Complaint”).

3 On August 5, 2020, Plaintiffs Theodore Christopher Miller and Nolan Malone filed a
4 Class Action Complaint for Damages against Ventura County Restaurant Services Inc. dba
5 Toppers Pizza Place in the Ventura County Superior Court (“*Miller* Action”), and on September
6 29, 2020, Plaintiffs Theodore Christopher Miller and Nolan Malone filed their First Amended
7 Class Action Complaint for Damages in the *Miller* Action, adding a PAGA cause of action.

8 On November 17, 2020, Defendants filed an Answer to Plaintiffs’ Unverified Third
9 Amended Class Action Complaint for Damages and Enforcement Under PAGA.

10 On February 1, 2021, the Superior Court of California for the County of Ventura ordered
11 that the *Salas* Action and *Miller* Action be consolidated for all purposes, with the *Salas* Action
12 designated as the lead case. Together, the *Salas* Action and *Miller* Action are referred to herein
13 as the “Actions”.

14 Plaintiffs’ core allegation is that Defendants have violated the California Labor Code by
15 engaging in a uniform practice and procedure, with respect to Plaintiffs and the Class Members,
16 of, *inter alia*, failing to pay minimum and overtime wages, failing to provide compliant meal
17 and rest periods and associated premium pay, failing to timely pay wages and associated waiting
18 time penalties, failing to maintain accurate payroll records, failing to provide compliant wage
19 statements, and failing to reimburse necessary business-related expenses, and thereby engaged
20 in unfair business practices under the California Business and Professions Code and conduct
21 that gives to penalties recoverable under the Private Attorneys General Act of 2004 (California
22 Labor Code sections 2698, et seq.)(“PAGA”). Plaintiffs contend that they, and the Class
23 Members, are entitled to, *inter alia*, unpaid wages, penalties (including and not limited to,
24 penalties pursuant to PAGA), and attorneys’ fees.

25 Defendants have denied, and continue to deny, any liability and wrongdoing of any kind
26 associated with any of the allegations in the Actions, and further deny that the Actions are
27 appropriate for class or representative treatment for any purpose other than for settlement
28 purposes only.

On June 4, 2019, Plaintiffs propounded multiple sets of discovery including Requests for Production of Documents, (Set One & Two); Special Interrogatories, (Set One, Two & Three); and Form Interrogatories, (Set One), on Defendants. On August 21, 2019, Defendants responded to Plaintiffs' discovery requests. On December 9, 2021, Plaintiffs propounded additional sets of Requests for Production of Documents, (Set Three to Defendant J & S Restaurants, Inc., Set One to Defendant Topp End Enterprises, Inc., Set One to Defendant Red Flash, Inc., Set One to Defendant Valencia TPP, and Set One to Defendant Yeastie Boys); Special Interrogatories, (Set Four on Defendant J & S Restaurant, Inc., Set One to Defendant Topp End Enterprises, Inc., Set One to Defendant Red Flash, Inc., Set One to Defendant Valencia TPP, and Set One to Defendant Yeastie Boys) on Defendants; and Form Interrogatories, (Set One to Defendants Topp End Enterprises, Inc., Red Flash Inc., Valencia TPP, and Yeastie Boys) and noticed the deposition of Defendants' person most knowledgeable regarding job duties and organizational structure of Defendants. The parties have actively litigated the matter since it was commenced March 29, 2019. The parties conducted significant formal and informal discovery, noticed the depositions of Defendants' Person Most Knowledgeable witness, and exchanged thousands of pages of documents and data. On February 10, 2021, the parties participated in a formal, full-day mediation conducted by Paul Grossman, Esq., a well-regarded mediator experienced in mediating complex labor and employment matters. After conducting significant formal and informal discovery and investigation into the facts of the cases and with the aid of the mediator's evaluation, the parties ultimately reached the Settlement described herein to resolve the cases in their entirety.

On September 30, 2021, Plaintiffs filed a Motion for Preliminary Approval of Class Action Settlement and supporting documents. On November 1, 2021, a hearing was held on Plaintiffs' Motion for Preliminary Approval, during which the Court entered an Order Granting Plaintiffs' Motion for Preliminary Approval of Class Action 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 Payments, Settlement Administration Costs, and allocation for LWDA Payment.

III. SUMMARY OF THE SETTLEMENT TERMS AND PLAN OF DISTRIBUTION

Under the terms of the Settlement Agreement, Defendants have agreed to pay a Total Settlement Amount of \$2,300,000.00 on a non-reversionary basis.² 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 \$805,000.00 and reimbursement of litigation costs and expenses in the amount of \$66,687.60, to Class Counsel; (2) Enhancement Payments in the amount of \$10,000.00 each to Plaintiffs Deisy Salas, Kristal Carmona, Israel Linthrop, Alicia Krueger-Aguirre, Theodore Christopher Miller, and Nolan Malone, for a combined amount of \$60,000.00; (3) Settlement Administration Costs in the amount of \$21,000.00 to Phoenix; and (4) LWDA Payment in the amount of \$187,500.00.³ The Net Settlement Amount, which is estimated to be \$1,151,500.00, will be distributed in accordance with the Settlement Agreement, and there is no reversion to Defendants.⁴

The Settlement Administrator will calculate each Settlement Class Member's share of the Net Settlement Amount ("Individual Settlement Share"), by dividing the Net Settlement Amount by the number of Workweeks all Settlement Class Members worked to yield the "Final Workweek Value." Each Settlement Class Member's Individual Settlement Share will then be determined by multiplying each Settlement Class Member's individual Workweeks by his or her Final Workweeks Value.⁵

Class Members had sixty (60) calendar days after the initial mailing of the Class Notice to Class Members to dispute the number of Workweeks credited to each of them, submit a

² Settlement Agreement; § 14.

³ *Id.*, §§ 12, 13, 14 & 15.

⁴ This amount is higher than the amount stated in Paragraph 13 of the accompanying Declaration of Taylor Mitzner with Respect to Settlement Notice Administration ("Phoenix Declaration" or "Phoenix Decl.") because the Settlement Administrator's calculation assumes that Class Counsel will obtain litigation costs and expenses in the maximum amount of \$75,000.00, which is allocated under the Settlement. However, Class Counsel seek the amount of only \$66,687.60 for reimbursement of litigation costs and expenses, and the difference of \$8,312.40 will remain part of the Net Settlement Amount.

⁵ Settlement Agreement, § 16.b.

Request for Exclusion, and/or object to the Settlement (“Response Deadline”).⁶ The Response Deadline was February 12, 2022.⁷ The Settlement Administrator has received one (1) written request for exclusion from the Settlement (“Requests for Exclusion”) and no objections to the Settlement (“Objections”) from Class Members.⁸

Individual Settlement Shares will be allocated as one-third (1/3) wages, to be reported on IRS Form W-2; and one-third percent (1/3) interest and penalties, to be reported on IRS Form 1099 (if applicable).⁹ Individual Settlement Shares will be paid out to Settlement Class Members subject to reduction for the employee’s and employer’s share of taxes, withholdings, and contribution with respect to the wages portion of the Individual Settlement Shares, and the net payment is referred to as “Individual Settlement Payment”.¹⁰

Any and all Individual Settlement Payment checks issued to Settlement Class Members will remain valid for one hundred and eighty (180) calendar days from the date of mailing.¹¹ Thereafter, Individual Settlement Payment checks that are not negotiated within the 180-day period will be void, and the funds associated with such voided checks will be distributed to Legal Aid at Work.¹²

IV. THE SETTLEMENT ADMINISTRATION PROCESS

The Court-appointed Settlement Administrator, Phoenix, has taken all necessary steps to effectuate the notice and settlement administration process, as set forth in the Court’s November 1, 2021 Preliminary Approval Order.

On November 2, 2021, Phoenix received the Court-approved text for the Class Notice.¹³

On November 30, 2021, Phoenix received a data file from Defendants’ counsel that contained the names, last known mailing addresses, Social Security numbers, telephone numbers, and start and end dates worked for Defendants as an hourly-paid or non-exempt

⁶ Settlement Agreement, §§ 20, 22 & 24.

⁷ Phoenix Decl., ¶¶ 9 & 10, Exh. A.

⁸ *Id.*

⁹ Settlement Agreement, § 27.

¹⁰ *Ibid.*

¹¹ *Id.*, § 21.

¹² *Ibid.*

¹³ Phoenix Decl., ¶ 2.

employee in California from March 29, 2015 through November 1, 2021 for individuals identified as Class Members (“Class Data and List”).¹⁴ The Class Data and List contained information for 3,281 individuals identified as Class Members.¹⁵ 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.¹⁶

On December 14, 2021, Phoenix mailed the Class Notice via first class mail to 3,281 individuals identified as Class Members in the Class Data and List.¹⁷

As of the date of this Motion, ten (10) Class Notices were returned as undeliverable with forwarding addresses, and Phoenix promptly re-mailed the Class Notice to the forwarding addresses.¹⁸ Two hundred forty-five (245) Class Notices were returned as undeliverable without forwarding addresses.¹⁹ Phoenix performed a skip-trace search on the two hundred forty-five (245) Class Notices that were returned to Phoenix without forwarding addresses, located an updated address for two hundred twenty-one (221) Class Members, and promptly re-mailed the Class Notice to the updated addresses.²⁰ Sixty-seven (67) Class Notices were returned to Phoenix as undeliverable a second time.²¹ Ultimately, thirty-four (34) Class Notices remain undeliverable because an updated address was not located through skip-tracing or the Class Notice was returned as undeliverable a second time.²²

As of the date of this Motion, the Settlement Administrator has not received any Objections and received one (1) Request for Exclusion from Class Members.²³

To date, there are 3,280 Class Members who did not submit a timely and valid Request for Exclusion, and are therefore, deemed to be Settlement Class Members.²⁴ Pursuant to the terms of the Settlement, the Net Settlement Amount of approximately \$1,151,500.00 will be

¹⁴ Phoenix Decl., ¶ 3.

¹⁵ Ibid.

¹⁶ *Id.*, ¶ 5.

¹⁷ *Id.*, ¶ 6.

¹⁸ *Id.*, ¶ 7.

¹⁹ Ibid.

²⁰ Ibid.

²¹ *Id.*, ¶ 8.

²² Ibid.

²³ *Id.*, ¶¶ 9 & 10.

²⁴ *Id.*, ¶ 12.

distributed to Settlement Class Members in accordance with the terms of the Settlement.²⁵ The highest Individual Settlement Share is currently estimated to be \$1,592.90 and the average Individual Settlement Share is currently estimated to be \$332.01.²⁶

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

The proponent of the settlement has the burden to show that it is fair and reasonable. *Wershba, supra*, 91 Cal.App.4th at 245. At the final approval stage, a presumption of fairness exists where, as here: "(1) the settlement is reached through arm's-length bargaining; (2) investigation and discovery are sufficient to allow counsel and the court to act intelligently; (3) counsel is experienced in similar litigation; and (4) the percentage of objectors is small." *Dunk, supra*, 48 Cal.App.4th at 1802. In reviewing a class settlement, the court need not reach any ultimate conclusions on the issues of fact and law that underlie the merits of the dispute. *7-Eleven Owners for Fair Franchising v. Southland Corp.* (2000) 85 Cal.App.4th 1135, 1146.

²⁵ Phoenix Decl., ¶ 13; see also, 5., *supra*.

²⁶ *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 \$75,000.00 (the difference between the amount sought and the amount authorized under the Settlement, i.e., \$8,312.40, will be part of the Net Settlement Amount). See n.4, *supra*.

The inquiry is not whether the settlement agreement is the best one that class members could have possibly obtained, but whether the settlement, taken as a whole, is “fair, adequate, and reasonable.” *Chavez v. Netflix, Inc.* (2008) 162 Cal.App.4th 43, 55. A settlement need not obtain 100 percent of the damages sought in order to be fair, reasonable, and ultimately, meaningful. *Wershba, supra*, 91 Cal.App.4th at 251. Even if the proposed settlement affords relief that is substantially narrower than it would be if the cases were to be successfully litigated, that is no bar to a class settlement because the public interest may indeed be served by a voluntary settlement in which each side gives ground in the interest of avoiding prolonged litigation. *Id.*

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

The parties actively litigated the cases since they were commenced on March 29, 2019. Counsel for the parties used the pre-mediation time period to investigate the veracity, strength, and scope of the claims, and also to prepare the matter for class certification, representative adjudication, and trial.²⁷ The parties conducted significant formal and informal discovery and investigation into the facts of the case, and also informally exchanged information and data in preparation for mediation.²⁸ Class Counsel propounded multiple sets of written discovery requests in various forms; reviewed Defendants’ responses thereto; and prepared and served numerous deposition notices.²⁹ Class Counsel also interviewed and obtained information from Plaintiffs and Class Members, including and not limited to the names of potential witnesses, and reviewed and analyzed thousands of pages of documents and data produced by Defendants and obtained through other sources.³⁰ The documents and data reviewed and analyzed by Class Counsel included, and were not limited to, employment records of Plaintiffs and Class Members, a detailed sampling of Class Members’ time and pay data, company policy acknowledgements, internal memoranda, job descriptions, new hire packets, Defendants’ operations and

²⁷ Declaration of Edwin Aiwazian (“Aiwazian Decl.”), ¶ 6.

²⁸ *Ibid.*

²⁹ *Ibid.*

³⁰ *Ibid.*

1 employment practices, forms (including, but not limited to, Driver Performance Reports and the
2 Orientation Acknowledgment Form), procedures (including, but not limited to Defendants'
3 Meal and Rest Period Policy, Administrative Policies, Personnel Policies, Hourly Associate
4 Performance Appraisals, Reimbursement Reports, and Orientation Forms), among other
5 documents and data.³¹ Class Counsel researched applicable law, developed damages/valuation
6 models in preparation for mediation, and met and conferred with Defendants' counsel on
7 numerous occasions, e.g., to discuss issues relating to the pleadings, amended complaints, case
8 management, discovery, and production of documents and data prior to mediation.³²

9 After conducting significant formal and informal discovery and investigation into the
10 facts of the case, the parties participated in a formal, full-day mediation conducted by Paul
11 Grossman, Esq., a well-regarded mediator experienced in mediating complex labor and
12 employment matters.³³ Prior to and during mediation and settlement discussions, the parties
13 exchanged information and data, and discussed various aspects of the cases, including and not
14 limited to, the risks and delays of further litigation, the risks and expenses to the parties of
15 proceeding with class certification, representative adjudication, and trial, the law relating to off-
16 the-clock theory, meal and rest periods, representative PAGA claims, and wage-and-hour
17 enforcement, the evidence produced and analyzed, and the possibility of appeals, among other
18 things.³⁴ During all settlement discussions, the parties conducted their negotiations at arm's
19 length in an adversarial position.³⁵ Arriving at a settlement that was acceptable to the parties
20 was not easy.³⁶ Defendants and their counsel felt very strongly about Defendants' ability to
21 prevail on the merits and to obtain a denial of class certification, while Plaintiffs and Class
22 Counsel believed that class certification would be obtained and Plaintiffs would prevail at trial.³⁷
23 After conducting significant formal and informal discovery and investigations, extensive
24 settlement negotiations, and with the aid of the mediator's evaluation, the parties agreed that the

25 ³¹ Aiwazian Decl., ¶ 6.

26 ³² Ibid.

27 ³³ *Id.*, ¶ 8.

28 ³⁴ Ibid.

³⁵ Ibid.

³⁶ Ibid.

³⁷ Ibid.

1 matter was well-suited for settlement given the legal issues relating to Plaintiffs' principal
2 claims, as well as the costs and risks to the parties that would attend further litigation.³⁸

3 The Settlement takes into account the strengths and weaknesses of each side's position
4 and the uncertainty of how the cases might have concluded at certification, trial, and/or appeals.
5 Class Counsel interviewed, and obtained information from Plaintiffs and other Class Members.³⁹
6 Class Counsel also reviewed and analyzed thousands of pages of documents produced by
7 Defendants and obtained through other sources, and performed significant research into the law
8 concerning certification, off-the-clock theory, meal and rest periods, representative PAGA
9 claims, wage-and-hour enforcement, Plaintiffs' claims, and Defendants' defenses, as well as
10 facts discovered.⁴⁰ The Settlement was based on this large volume of facts, evidence, and
11 investigation.⁴¹ Additionally, Class Counsel have extensive experience in handling complex
12 wage-and-hour matters, including significant experience in employment class action litigation.⁴²

13 **B. The Risks Inherent in Continued Litigation Favor Final Approval of the**
14 **Settlement.**

15 The Settlement, which provides for a Total Settlement Amount of \$2,300,000.00,
16 represents a fair, adequate, and reasonable resolution of the cases, given the risks inherent in
17 litigating class and representative claims through certification proceedings, trial, and/or
18 appeals.⁴³ The Settlement was calculated using information and data uncovered through
19 extensive case investigation, formal and informal discovery, and the exchange of information in
20 the context of mediation.⁴⁴ Had the actions not settled, Defendants would have vigorously
21 challenged class certification, manageability of representative adjudication, and liability.
22 Defendants contended that individualized questions of fact predominate over any common
23 issues, and these issues would pose challenges to certification and representative adjudication.

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25 ³⁸ Aiwazian Decl., ¶ 8.

26 ³⁹ *Id.*, ¶ 6.

27 ⁴⁰ *Ibid.*

28 ⁴¹ *Id.*, ¶¶ 6 & 8.

⁴² *Id.*, ¶¶ 15-17; Declaration of Dennis Hyun ("Hyun Decl."), ¶¶ 3-6; Declaration of Broslavsky ("Broslavsky Decl."), ¶¶ 3-6; Declaration of Jonathan A. Weinman ("Weinman Decl."), ¶¶ 5-7.

⁴³ *Id.*, ¶¶ 9 & 21.

⁴⁴ *Id.*, ¶¶ 5-8.

Defendants would have likely argued again at trial, if any, that Plaintiffs' claims were not appropriate for class-wide and/or representative adjudication. On the other hand, Defendants also faced the risk of the Court certifying a class and allowing a jury to decide Plaintiffs' claims on a class-wide or representative basis. Additionally, preparation for trial would have been expensive for all parties.

It is preferable to reach an early resolution of a dispute because such resolutions save time and money that would otherwise go to litigation. If this matter had settled after further litigation, the settlement amount would have taken into account the additional costs incurred, and there might have been less money available for Class Members after all was said and done. This is not just an abstract contention. The risks and expenses of further litigation outweighed any benefit that might have been gained otherwise. These risks of further litigation include a determination that the claims were unsuitable for class treatment and/or representative adjudication, failure to obtain certification, class de-certification after certification of a class, allowing a jury to decide the claims asserted in the cases, and the real possibility of no recovery after years of litigation. 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, noticing the depositions of Defendants' Person Most Knowledgeable designees and percipient witnesses, such as managers, supervisors, and other current and former employees throughout the State of California. 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 Defendants 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.

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

2 The Settlement, which provides for a Total Settlement Amount of \$2,300,000.00,
3 represents a fair, reasonable, and adequate resolution of the cases. The Settlement was
4 calculated using information and data uncovered through extensive case investigation, formal
5 and informal discovery, and the exchange of information in the context of mediation. The
6 Settlement takes into account the potential risks and rewards inherent in any case and, in
7 particular, in this matter. Moreover, considering all of the facts in the case, the Total Settlement
8 Amount represents a considerable recovery.

9 Even after deducting attorneys' fees in the amount of \$805,000.00, litigation costs and
10 expenses in the amount of \$66,687.60, Enhancement Payments in the combined amount of
11 \$60,000.00, Settlement Administration Costs in the amount of \$21,000.00, and LWDA Payment
12 in the amount of \$187,500.00 from the Total Settlement Amount of \$2,300,000.00, the Net
13 Settlement Amount is currently estimated to be \$1,151,500.00.⁴⁵ Under the Settlement
14 Agreement, the Total Settlement Amount will be fully paid out without any reversion to
15 Defendants, in accordance with the terms of the Settlement. As discussed in Section III, *supra*,
16 each Settlement Class Member will be paid a *pro rata* share of the Net Settlement Amount,
17 based on the number of Workweeks credited to him or her. To date, there are 3,280 Settlement
18 Class Members, representing 99.97% of the Class Members.⁴⁶ The highest Individual
19 Settlement Share to a Settlement Class Member is currently estimated to be \$1,592.90 and the
20 average Individual Settlement Share is currently estimated to be \$332.01.⁴⁷ These are significant
21 individual recoveries, particularly in light of the risks of litigation.

22 At the final approval stage, "[a]n allocation formula need only have a reasonable, rational
23 basis [to warrant approval], particularly if recommended by experienced and competent class
24 counsel." *In re American Bank Note Holographics, Inc., Securities Litigation* (S.D.N.Y. 2001)
25 127 F.Supp.2d 418, 429-30. The *pro rata* allocation here is a fair and reasonable way to
26 distribute the Net Settlement Amount. In light of the above considerations, Class Counsel

27 ⁴⁵ Phoenix Decl., ¶ 13; see n.4, *supra*.

28 ⁴⁶ *Id.*, ¶ 12.

⁴⁷ *Id.*, ¶ 14; see n.27, *supra*.

believe that the Settlement as a whole is fair, reasonable, and adequate, and in the best interest of the Class Members.⁴⁸ Although the recommendations of Class Counsel are not conclusive, the Court can properly take the recommendations into account, particularly if Class Counsel appear to be competent, have 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.

D. The Class Was Represented by Competent Counsel.

Class Counsel have extensive experience in employment class action law and complex wage-and-hour litigation.⁴⁹ The law firms of Lawyers for Justice, PC, Broslavsky & Weinman, LLP, and Hyun Legal, APC have been appointed class counsel in numerous complex wage-and-hour cases, and have recovered millions of dollars for individuals in California.⁵⁰ Both parties' counsel were capable of assessing the strengths and weaknesses of the Class Members' claims against Defendants and the benefits of the Settlement under the circumstances of the cases and in the context of a private, consensual settlement agreement.

E. There Are No Objections to the Settlement.

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

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⁴⁸ Aiwezian Decl., ¶ 21.

⁴⁹ Aiwezian Decl., ¶¶ 15-17; Hyun Decl., ¶¶ 3-6; Broslavsky Decl., ¶¶ 3-6; Weinman Decl., ¶¶ 5-7.

⁵⁰ Ibid.

⁵¹ *Id.*, ¶ 10.

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

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

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

Trial courts have "wide latitude" in assessing the value of attorneys' fees and their decisions will "not be disturbed on appeal absent a manifest abuse of discretion." *Lealao v. Beneficial Cal., Inc.* (2000) 82 Cal.App.4th 19, 41; *Ketchum v. Moses* (2001) 24 Cal.4th 1122, 1132 (The "experienced trial judge is the best judge of the value of professional services rendered in his court[.]"); *Cellphone Termination Fee Cases* (2009) 180 Cal.App.4th 1110, 1118. Where the amount of a settlement is a "certain easily calculable sum of money," California courts may calculate attorneys' fees as a reasonable percentage of the settlement. Weil and Brown, *California Practice Guide, Civil Procedure Before Trial*, Chapter 14, § 14:145; *see also Laffitte v. Robert Half Int'l Inc.* (2016) 1 Cal.5th 480, 503; *Dunk, supra*, 48 Cal.App.4th at 1808. The percentage-of-the-benefit approach is preferred in class and representative actions because "it better approximates the workings of the marketplace than the lodestar approach." *Lealao, supra*, 82 Cal.App.4th at 49.

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

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

Historically, courts have awarded fees as high as fifty percent (50%) of the settlement, depending on the circumstances of the case. Conte & Newberg, *Newberg on Class Actions* (4th 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. Graulity* (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, 34.⁵² The purpose of this equitable doctrine is to spread litigation

⁵² 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.

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

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

When the cases were originally filed, not only was it inescapably contingent, but the prospect of a long, drawn-out battle with defendants represented by experienced counsel, was almost a certainty. By taking on this "battle" on a contingency basis, Class Counsel risked substantial economic loss if the results were not successful. This substantial risk is the reason

that the courts approve the use of the percentage method when a settlement is obtained by the efforts of class counsel. See *Vizcaino v. Microsoft* (9th Cir. 2002) 290 F.3d 1043, 1048-49 (discussing the risks of engaging in litigation without certainty of compensation).

Under the terms of the Settlement Agreement, Defendants will pay a Total Settlement Amount of \$2,300,000.00 on a non-reversionary basis. The requested attorneys' fees are thirty-five percent (35%) of the total value of the monetary settlement. In light of Class Counsel's successful prosecution and resolution of the cases, the requested attorneys' fees are appropriate and reasonable.

Compensating class counsel in class litigation on a percentage basis makes good sense because: (1) it is consistent with the private marketplace where contingent fee attorneys are customarily compensated on such a basis; (2) it aligns the interests of class counsel and absent class members in achieving the maximum possible resolution of the cases; and (3) it encourages the most efficient and expeditious resolution of the litigation by providing an incentive for early, yet reasonable, settlement. The requested attorneys' fees in this matter satisfy all of those factors such and should be approved on a percentage basis.

The percentage method is consistent with, and is intended to mirror, the practice in the private marketplace where contingent-fee attorneys typically negotiate percentage-fee arrangements with their clients. Named plaintiffs' agreement to pay a contingent fee is powerful evidence of a reasonable fee. One of the best ways to demonstrate the value of counsel's work to the class is to review the consideration agreed to be paid by the named plaintiffs. If the named plaintiffs have employed counsel on a contingency-fee basis, it would indeed be inequitable for the members of the class, who will enjoy the benefits of the settlement without incurring the risks of bringing the claim, to pay less than the named plaintiffs. In this case, Plaintiffs have agreed to a contingency fee of at least thirty-five percent (35%) of the recovery.⁵³

Furthermore, a percentage-fee award is not dependent on a determination of the actual amount claimed by those entitled—it is the creation of the settlement that is the crucial fact. In *Winslow v. Harold G. Ferguson Corp.*, the California Supreme Court expressly held that “it is

⁵³ Aiwazian Decl., ¶ 9.

equitable that [the attorney's] compensation and expenses should come from the entire fund saved for all classes concerned before it is distributed.” *Winslow v. Harold G. Ferguson Corp.* (1944) 25 Cal.2d 274, 284. Likewise, *Lealao* expressly held that a percentage-based fee “may be calculated on the basis of the total fund made available rather than the actual payments made to the class.” *Lealao, supra*, 82 Cal.App.4th at 51; *see also Boeing, supra*, 444 U.S. at 478 (“a litigant or a lawyer who recovers” a settlement “for the benefit of persons other than himself or his client is entitled to a reasonable attorneys’ fee from the fund as a whole”).

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

Class Counsel have obtained a substantial recovery on behalf of Plaintiffs and the Class, 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 case; (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 case; (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 \$805,000.00 (which is 35% 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.

Multiple law firms combined their 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 declarations, Class Counsel have extensive experience in the handling of class actions and complex litigation matters.⁵⁴

As outlined in the Declarations of Edwin Aiwarzian, Zack Broslavsky, and Dennis Hyun, Class Counsel have fully and actively participated in litigation of these cases.⁵⁵ Prior to commencing the lawsuits, Class Counsel had conducted a significant amount of investigation into the factual and legal issues, Defendants' business, and their operations and employment policies, practices, and procedures.⁵⁶ During the litigation of the actions, Class Counsel interviewed Plaintiffs and other Class Members; propounded formal written discovery requests and reviewed Defendants' responses thereto; prepared for and noticed the depositions of Defendants' Person Most Knowledgeable witnesses; reviewed and analyzed thousands of pages of pages of documents and data produced by Defendants and obtained through other sources; and prepared damages/valuation calculations.⁵⁷ Class Counsel also met and conferred with Defendants' counsel over the issues relating to pleadings, amended complaints, case management, discovery, and production of documents and data, among other things; engaged in

⁵⁴ Aiwarzian Decl., ¶¶ 15-17; Hyun Decl., ¶¶ 3-6; Broslavsky Decl., ¶¶ 3-6; Weinman Decl., ¶¶ 5-7.

⁵⁵ Aiwarzian Decl., ¶¶ 4-8, Exh. A; Hyun Decl., ¶ 8, Exh. A; Hyun Decl., ¶¶ 9-11; Broslavsky Decl., ¶¶ 9-11; Weinman Decl., ¶¶ 9-11.

⁵⁶ *Id.*, ¶ 6 & Exh. A.

⁵⁷ *Id.*, ¶ 6.

extensive settlement negotiations with Defendants' counsel; and prepared for and attended court proceedings, mediation, and settlement negotiations.⁵⁸

Class Counsel have devoted a considerable number of hours to this matter over the course of the litigation process. The task and time charts, which are attached as exhibits to the accompanying declarations of Edwin Aiwasian, Zack Broslavsky, and Dennis Hyun, set forth in detail the hours that Lawyers for Justice, PC, Broslavsky & Weinman, LLP, and Hyun Legal, APC have spent performing tasks on behalf of Plaintiffs and the Class.⁵⁹ The task and time charts are thorough and comprehensive, and were prepared so that the Court can peruse them without having to set forth each and every task in the body of this Motion. The Court is respectfully referred to the charts, which set forth the history of the work performed by Lawyers for Justice, PC, Broslavsky & Weinman, LLP, and Hyun Legal, APC, commencing with the pre-filing analysis and research, and continuing up to settlement and final approval. Collectively, Class Counsel have spent 1,211.5 hours, with 933.10 hours spent by Lawyers for Justice, PC, 152.9 hours spent by Broslavsky & Weinman, LLP, and 125.50 hours spent by Hyun Legal, APC, performing tasks and to obtain a significant recovery on behalf of Plaintiffs and the Class.⁶⁰ These hours were required to bring this matter to its successful conclusion. In light of the value of time expended and the carrying of costs involved in litigating 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. Defendants retained well-respected counsel to represent their defenses. More specifically, Defendants and their counsel felt very strongly about Defendants' ability to obtain a denial of certification and to prevail on the merits. Plaintiffs and Class Counsel believed that they would have obtained class certification and prevailed at trial.

⁵⁸ Aiwasian Decl., ¶ 6.

⁵⁹ *Id.*, Exh. A; Hyun Decl., ¶ 8, Exh. A; Hyun Decl., ¶¶ 3-6; Broslavsky Decl., ¶¶ 11 & 13, Exh. A; Weinman Decl., ¶¶ 11, Exh. A.

⁶⁰ *Id.*, ¶ 11; Hyun Decl., ¶ 8, Exh. A; Broslavsky Decl., ¶¶ 11 & 13, Exh. A; Weinman Decl., ¶¶ 11, Exh. A.

Class Counsel undertook significant investigation, analysis, and research prior to filing these cases, during the litigation, and prior to mediation. 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 Defendants did not offer an appropriate class-wide settlement. Despite all of the obstacles that had to be overcome, as demonstrated in the Declarations of Edwin Aiwasian, Zack Broslavsky, and Dennis Hyun, Class Counsel used their extensive experience in the handling of class actions and complex wage-and-hour litigation matters in order to obtain the Settlement with maximum efficiency.⁶¹

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 cases not settled, Defendants would have vigorously challenged certifiability, manageability of representative adjudication, and liability. Defendants, 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 of those proceedings. The Settlement offers present relief and/or recovery to Settlement Class 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 extensive settlement negotiations, Defendants agreed to pay a Total Settlement Amount of \$2,300,000.00 to settle the matter. After deducting the attorneys' fees (\$805,000.00), litigation costs and expenses (combined, \$66,687.60), Enhancement Payments (combined, \$60,000.00), Settlement Administration Costs

⁶¹ Aiwasian Decl., ¶¶ 15-17; Hyun Decl., ¶¶ 3-6; Broslavsky Decl., ¶¶ 3-6; Weinman Decl., ¶¶ 5-7.

(\$21,000.00), and LWDA Payment (\$187,500.00) from the Total Settlement Amount, it is currently estimated that the Net Settlement Amount is approximately \$1,151,500.00.⁶² 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 \$1,592.90 and the average Individual Settlement Share is currently estimated to be \$332.01.⁶³ The Settlement offers significant monetary relief to the Settlement Class Members.

4. *Whether the Fee Is Fixed or Contingent.*

Plaintiffs entered into contingency fee agreements 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 have collectively invested 1,211.5 hours of time to obtain relief on behalf of Plaintiffs and the Class.⁶⁴ Class Counsel have also collectively incurred litigation costs and expenses in the amount of \$66,687.60.⁶⁵

Class Counsel have borne all of the risks and costs of litigation and will not receive any compensation until recovery is obtained.⁶⁶ Class Counsel are well-experienced in wage-and-hour class action and complex litigation and used that experience to obtain a great result.⁶⁷ The skill and determination that Class Counsel have 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

⁶² Phoenix Decl., ¶ 13; see n.4, *supra*.

⁶³ *Id.*, ¶ 14; see n.27, *supra*.

⁶⁴ Aiwazian Decl., ¶ 11, Exh. A; Hyun Decl., ¶ 8, Exh. A; Broslavsky Decl., ¶¶ 11 & 13, Exh. A; Weinman Decl., ¶¶ 11, Exh. A.

⁶⁵ See Part VII, *infra*.

⁶⁶ Aiwazian Decl., ¶ 19.

⁶⁷ See *id.*, ¶¶ 15-17; Hyun Decl., ¶¶ 3-6; Hyun Decl., ¶¶ 3-6; Broslavsky Decl., ¶¶ 3-6; Weinman Decl., ¶¶ 5-7.

1 risk of not being paid and provides legal services is not receiving the fair market
2 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.

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

8 **5. The Amount Involved and the Results Achieved.**

9 The results achieved, in light of the difficulties inherent in similar cases and the specific
10 difficulties faced in this matter, are considerable. The Settlement has yielded a positive response
11 from the Class Members—no Class Members objected to the Settlement.⁶⁸

12 The court in *Camden* noted that, “a key element of the common fund case is that fees are
13 [...] taken from the fund [...] and a common fund is itself the measure of success ... [and]
14 represents the benchmark on which a reasonable fee will be awarded.” *Camden*, 946 F. 2d 768,
15 fn. 28 (citing *Court Awarded Attorney Fees, Report of the Third Circuit Task Force* (October 8,
16 1985) 108 F.R.D. 237 and Newberg, *Attorney Fee Awards* § 2.07 (1986)).

17 Here, the results achieved and obtained on behalf of Plaintiffs and the Class are
18 reasonable in light of the risks inherent in further litigating this matter. Class Counsel’s efforts
19 have resulted in a settlement that provides for a Total Settlement Amount of \$2,300,000.00.⁶⁹
20 The Total Settlement Amount will be fully paid out, in accordance with the terms of the
21 Settlement Agreement. The highest Individual Settlement Share to a Settlement Class Member
22 is currently estimated to be \$1,592.90 and the average Individual Settlement Share is currently
23 estimated to be \$332.01.⁷⁰

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

25 Lawyers for Justice, PC, Broslavsky & Weinman, LLP, and Hyun Legal, APC are
26 recognized class action law firms that employed their attorneys’ knowledge, skills, and

27 ⁶⁸ Phoenix Decl., ¶ 10.

28 ⁶⁹ Aiwazian Decl., ¶¶ 5-8.

⁷⁰ *Id.*, ¶ 14; see n.27, *supra*.

experience in bringing these cases to a successful conclusion. Class Counsel have years of complex and class action litigation experience, have recovered millions of dollars on behalf of thousands of individuals in California, and have successfully handled numerous significant wage-and-hour class action and complex cases.⁷¹

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

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

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. Defendants made it clear very early on that they disputed all of the allegations

⁷¹ Phoenix Decl., ¶¶ 15-17; Hyun Decl., ¶¶ 3-6; Hyun Decl., ¶¶ 3-6; Broslavsky Decl., ¶¶ 3-6; Weinman Decl., ¶¶ 5-7.

of the cases and disputed that the matter was appropriate for class or representative treatment. Defendants raised affirmative defenses and denied liability, and the pursuit of this matter involved gathering and analyzing data not only from Defendants 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 have as a result of their 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 Defendants' Person Most Knowledgeable designees, percipient witnesses, and experts, propounding additional 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 mediation.

Class Counsel had to bring together a large volume of data and documents that were produced by Defendants 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 actions and to prepare for and attend mediation and engage in settlement discussions.

As discussed above in Part VI.C.1, *infra*, attached to the Declarations of Edwin Aiwazian, Zack Broslavsky, and Dennis Hyun are task and time charts that set forth in detail the numerous tasks that Class Counsel performed on behalf of Plaintiffs and the Class, and the time required for completing those tasks.⁷² The charts demonstrate that Lawyers for Justice, PC, Broslavsky & Weinman, LLP, and Hyun Legal, APC have spent a total of 1,211.5 hours litigating the cases and finalizing the Settlement.⁷³ In light of the facts and circumstances of the cases, as well as the results that Class Counsel have achieved on behalf of Plaintiffs and the Class Members, Class Counsel have spent a reasonable number of hours on this matter. In

⁷² See Aiwazian Decl., Exh. A; Hyun Decl., ¶ 8, Exh. A; Broslavsky Decl, ¶¶ 11 & 13, Exh. A; Weinman Decl., ¶¶ 11, Exh. A.

⁷³ *Id.*, ¶ 11; Hyun Decl., ¶ 8, Exh. A; Broslavsky Decl, ¶¶ 11 & 13, Exh. A; Weinman Decl., ¶¶ 11, Exh. A.

1 addition, Class Counsel will continue to perform work on this matter through the date of final
2 approval and in connection with the implementation of the Settlement.

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

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

12 Class Counsel have been actively involved in this case, prior to its commencement and
13 all the way up to the present, and Class Counsel's dedication to providing representation in this
14 matter has precluded other employment. Here, Class Counsel bore the risk that, despite all of
15 their efforts and skills employed, there may be no recovery. Ultimately, Class Counsel was
16 successful in reaching a settlement of \$2,300,000.00.

17 As set forth in the Declarations of Edwin Aiwarzian, Zack Broslavsky, and Dennis Hyun,
18 the professional backgrounds and experience of Lawyers for Justice, PC support a reasonable
19 hourly rate of compensation of at least \$675 per hour for services provided by Lawyers for
20 Justice, PC, \$600 per hour for services performed by Broslavsky & Weinman, LLP, and \$750
21 per hour for service performed by Hyun Legal, APC.⁷⁴ Lawyers for Justice, PC has been
22 awarded attorneys' fees, compensating the firm at the rate of at least \$675 for legal service
23 performed, by courts of this state.⁷⁵ While the circumstances of every case is unique, the fact

24 ⁷⁴ Aiwarzian Decl., ¶ 12.

25 ⁷⁵ For example, For example, final approval of the class and representative action settlement in *Thereasa*
26 *Carrozzella v. Basalite Concrete Products, LLC* (Sacramento County Superior Court Case No. 34-2017-00220214-
27 CU-OE-GDS) was granted on February 21, 2020, and the award of attorneys' fees involved an hourly rate of
28 \$766.05; final approval of the class and representative action settlement in *Alice Rutledge, et al. v. Healthport*
Technologies, LLC (Alameda County Superior Court Case No. RG16835813) was granted on June 11, 2019, and
the award of attorneys' fees involved an hourly rate of \$764.82; final approval of the class and representative action
settlement in *Seth Swan v. Pace Supply* (Sonoma County Superior Court Case No. SCV258764) was granted on
February 6, 2019, and the award of attorneys' fees involved a higher hourly rate of \$855.96; final approval of the

remains that the work performed and efforts undertaken by Class Counsel on behalf of the Class Members justify the requested attorneys' fees.

While handling this matter, Class Counsel devoted the hours in legal time summarized above and detailed in the task and time charts, which are attached as exhibits to the Declarations of Edwin Aiwazian, Zack Broslavsky, and Dennis Hyun.⁷⁶ As the charts indicate, the law firms have collectively worked 1,211.5 hours in the pursuit of this matter. Applying a reasonable rate of \$675 per hour to 933.10 hours of work performed by Lawyers for Justice, PC, \$600 per hour to 152.90 hours of work performed by Broslavsky & Weinman, LLP, and \$750 per hour to 125.5 hours of work performed by Hyun Legal, APC would place a reasonable value of \$809,432.50, based on lodestar, for work performed by Class Counsel. However, Class Counsel only seeks attorneys' fees in the amount of \$805,000.00, which is thirty-five percent (35%) of the total recovery, as provided for by the Settlement Agreement.

It also bears noting that a court may apply a multiplier in consideration for risk, efficiency, and/or obtaining a substantial result, to enhance the lodestar for purpose of cross-check. See *Ketchum*, 24 Cal.4th at 1133-34 (holding that a risk multiplier may be applied to compensate contingency fee attorneys at a fair market rate). Such an enhancement "mirrors the established practice in the private legal market of rewarding attorneys for taking the risk of nonpayment by paying them a premium over their normal hourly rates for winning contingency cases." *Vizcaino*, 290 F.3d at 1051; accord *Ketchum*, *supra*, 24 Cal.4th 1122, 1132-34. A risk multiplier also serves to bring the financial incentives for enforcing important rights "into line with incentives [attorneys] have to undertake claims for which they are paid on a fee-for-services basis." *Ketchum*, 24 Cal.4th at 1132. Courts have also approved fee awards with multipliers of 2 and even higher. See, e.g., *City of Oakland v. Oakland Raiders* (1988) 203 Cal.App.3d 78

class and representative action settlement in *Stanley Bland, et al. v. Telecare Corporation* (Alameda County Superior Court Case No. RG16811450) was granted on November 21, 2018, and the award of attorneys' fees involved a higher hourly rate of \$831.38; final approval of the class and representative action settlement in *Maryjo Ungerbuhler Anderson v. Boyett Petroleum* (Stanislaus County Superior Court Case No. 2020582) was granted on May 15, 2018, and the award of attorney's fees involved a higher hourly rate of \$780.77; final approval of the class and representative action settlement in *Demetrius Camarillo v. Blue Diamond Growers* (Sacramento County Superior Court Case No. 34-2015-00175871) was granted on June 30, 2017, and the award of attorneys' fees involved a higher hourly rate of \$845.64. Aiwazian Decl., ¶ 12.

⁷⁶ Aiwazian Decl., Exh. A; Hyun Decl., ¶ 8, Exh. A; Broslavsky Decl, Exh. A; Weinman Decl., Exh. A.

(affirming a 2.34 multiplier without remand); *Wershba, supra*, 91 Cal.App.4th at 255 (“Multipliers can range from 2 to 4 or even higher.”); *Sutter Health Uninsured Pricing Cases* (2009) 171 Cal.App.4th 495, 512 (applying a 2.52 multiplier on a lodestar cross-check); *Chavez, supra*, 162 Cal.App.4th at 66 (applying a 2.5 multiplier in a consumer class action).

The lodestar method as a cross-check to the percentage figure sought strongly supports the reasonableness of the requested attorneys’ fees. Accordingly, Plaintiffs respectfully request that the Court grant final approval of, and award, attorneys’ fees in the amount of \$805,000.00 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 \$75,000.00. As set forth in the Declarations of Edwin Aiwazian, Zack Broslavsky, and Dennis Hyun, Class Counsel have collectively incurred a total of \$66,687.60 in litigation costs and expenses.⁷⁷ This amount was reasonable and necessary in the prosecution of the cases and to obtain the Settlement.⁷⁸ The cost savings of \$8,312.40 will be part of the Net Settlement Amount, which will be distributed to the Settlement Class Members in accordance with the Settlement.⁷⁹ Accordingly, Plaintiffs request that the Court award litigation costs and expenses in the amount of \$66,687.60 to Class Counsel, of which \$60,212.84 will be paid to Lawyers for Justice, PC, \$3,867.38 will be paid to Broslavsky & Weinman, LLP, and \$2607.38 will be paid to Hyun Legal, APC .

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

As set forth in the accompanying Phoenix Declaration, the total costs incurred and to be incurred by Phoenix for the notice and settlement administration process are \$21,000.00.⁸⁰ The costs incurred and to be incurred include, but are not limited to, expenses for formatting,

⁷⁷ Aiwazian Decl., ¶ 19; Hyun Decl., ¶ 9; Broslavsky Decl., ¶ 14.

⁷⁸ Aiwazian Decl., ¶ 19.

⁷⁹ Ibid.

⁸⁰ Phoenix Decl., ¶ 13.

printing, translating, and mailing the Class Notice to the Class Members in both English and Spanish; performing skip-trace searches on Class Notices returned as undeliverable; re-mailing the Class Notices to any updated addresses located by skip-trace search; receiving, reviewing, and processing Requests for Exclusion, Objections, and Workweeks disputes (if any); handling inquiries from Class Members regarding the Settlement; calculating Individual Settlement Shares and preparing the associated tax forms; and transmitting payments, among other things.⁸¹

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 \$21,000.00.

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

The Settlement provides for Enhancement Payments in the amount of \$10,000.00 each to Plaintiffs Deisy Salas, Kristal Carmona, Israel Linthrop, Alicia Krueger-Aguirre, Theodore Christopher Miller, and Nolan Malone to compensate Plaintiffs for the time and effort that they expended on behalf of the Class. The requested Enhancement Payments are both common and reasonable and should be awarded.

In determining whether to make service payments, 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 Payments 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 necessary to attempt to prove the allegations.⁸² Plaintiffs were available whenever Class Counsel needed them and actively tried

⁸¹ Aiwasian Decl., ¶ 2.

⁸² Aiwasian Decl., ¶ 20; Declaration of Deisy Salas ("Salas Decl."), ¶¶ 3-5; Declaration of Kristal Carmona ("Carmona Decl."), ¶¶ 3-5; Declaration of Israel Linthrop ("Linthrop Decl."), ¶¶ 3-5; Declaration of Alicia

to obtain, and gave, information that would benefit the Class.⁸³ Plaintiffs spent numerous hours speaking with Class Counsel about their claims, describing their work experiences with Defendants, and gathering and reviewing documents.⁸⁴ These services merit the requested Enhancement Payments to Plaintiffs, who have not received any compensation for their efforts on behalf of the Class Members to date.⁸⁵

The requested Enhancement Payments were fully disclosed in the Class Notice that was mailed to the Class Members. No objections were made with regards to the requested Enhancement Payments. Accordingly, it is appropriate and just for Plaintiffs Deisy Salas, Kristal Carmona, Israel Linthrop, Alicia Krueger-Aguirre, Theodore Christopher Miller, and Nolan Malone to each receive \$10,000.00 as reasonable Enhancement Payments, in addition to their Individual Settlement Payments, for their services on behalf of the Class.

X. CONCLUSION

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

Dated: March 10, 2022

LAWYERS for JUSTICE, PC

By:



Edwin Aiwanian
Attorneys for Plaintiffs Deisy Salas, Kristal Carmona, Israel Linthrop, Alicia-Krueger-Aguirre and the Class

Krueger-Aguirre ("Krueger-Aguirre Decl."), ¶¶ 3-5; Declaration of Theodore Christopher Miller ("Miller Decl."), ¶¶ 3-5; Declaration of Nolan Malone ("Malone"), ¶¶ 3-5.

⁸³ Aiwanian Decl., ¶ 20; Salas Decl., ¶¶ 3-5; Carmona Decl., ¶¶ 3-5; Linthrop Decl., ¶¶ 3-5; Krueger-Aguirre Decl., ¶¶ 3-5; Miller Decl., ¶¶ 3-5; Malone Decl., ¶¶ 3-5.

⁸⁴ Aiwanian Decl., ¶ 20; Salas Decl., ¶¶ 2-6; Carmona Decl., ¶¶ 2-6, Linthrop Decl., ¶¶ 2-6, Krueger-Aguirre Decl., ¶¶ 2-6; Miller Decl., ¶¶ 3-6; Malone Decl., ¶¶ 3-6.

⁸⁵ Salas Decl., ¶ 9; Carmona Decl., ¶ 9, Linthrop Decl., ¶ 9, Krueger-Aguirre Decl., ¶ 9.