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

CINTHIA MENDOZA and DELISHIA
HYDE, as individuals and on behalf of all
others similarly situated,

Plaintiffs,

vs.

PRIME NOW LLC, a Delaware limited
liability company; and DOES 1 through 50,
inclusive,

Defendants.

Case No.: RG20068286

(Assigned to the Hon. Evelio Grillo, Dept. 21)

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

Date: August 8, 2023

Time: 10:00 A.M.

Dept.: 21

Reservation No.: 138916486157

Complaint Filed: July 21, 2020

FAC Filed: April 5, 2022

SAC Filed: November 4, 2022

Trial Date: None Set

ELECTRONICALLY FILED

Superior Court of California,
County of Alameda

07/17/2023 at 04:50:14 PM

By: Mya Williams,
Deputy Clerk

1 **TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:**

2 **PLEASE TAKE NOTICE** that on August 8, 2023, at 10:00 a.m., or as soon thereafter as
3 the matter may be heard, before the Honorable Evelio Grillo, judge presiding, in Department 21
4 of the above referenced Court located at 1221 Oak Street, Oakland, California 94612, Plaintiffs
5 Delishia Hyde, Clara Trotter, Eugenia Dubose, and Araya Turner (collectively, “Plaintiffs”) will
6 and hereby do seek an Order:

7 (1) granting final approval of the Class Action Settlement and Release (“Agreement” or
8 “Settlement Agreement”) entered into by Plaintiffs and Defendant Prime Now LLC
9 (“Defendant”) in this Action;

10 (2) approving distribution of the settlement funds to the Participating Settlement Class
11 Members pursuant to the terms of the Settlement Agreement;

12 (3) approving Plaintiffs’ requests for awards of the Class Representative Enhancement
13 Payments pursuant to the terms of the Settlement Agreement as follows: (a) \$20,000.00 to
14 Plaintiff Delishia Hyde; (b) \$20,000.00 to Plaintiff Eugenia Dubose; (c) \$10,000.00 to Plaintiff
15 Clara Trotter; and (d) \$10,000.00 to Plaintiff Araya Turner;

16 (4) approving Class Counsel’s request for an award of attorneys’ fees of approximately
17 one-third of the \$5,150,000.00 Gross Settlement Fund (*i.e.*, the sum of \$1,716,666.67) and
18 reimbursement of actual litigation costs in the amount of \$11,636.82 pursuant to the terms of the
19 Settlement Agreement;

20 (5) approving Plaintiffs’ request for payment of the settlement administration costs to
21 Phoenix Settlement Administrators in the amount of \$97,000.00 pursuant to the terms of the
22 Settlement Agreement;

23 (6) approving Plaintiffs’ request for payment to the LWDA for \$150,000.00, pursuant to
24 the terms of the Settlement Agreement; and

25 (7) entering final judgment as to all members of the Settlement Class in this action.

26 This Motion is made pursuant to Rule 3.769 of the California Rules of Court, which
27 provides for court approval of the settlement of a purported class action and allows the Court to
28 grant final certification of a class for settlement purposes. In light of the overwhelmingly positive

1 response, as shown by the lack of objections to the settlement and nominal number of opt-outs,
2 there is no question that the settlement is fair, reasonable, and adequate and thus should be
3 granted final approval.

4 This Motion will be based on the attached Memorandum of Points and Authorities and the
5 supporting Declarations of Larry W. Lee, Nicholas Rosenthal, Max W. Gavron, Kwanporn “Mai”
6 Tulyathan, Kristen M. Agnew, Plaintiff Delishia Hyde, Plaintiff Eugenia Dubose, Plaintiff Clara
7 Trotter, Plaintiff Araya Turner, and Kevin Lee of Phoenix Settlement Administrators, upon the
8 oral arguments of counsel (should there be any), and on the complete records and file herein.

9
10 DATED: July 17, 2023

DIVERSITY LAW GROUP, P.C.

11
12 By: 

Larry W. Lee

13 Max W. Gavron

14 Attorneys for Plaintiffs and the Class
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1 **I. INTRODUCTION**

2 Plaintiffs Delishia Hyde, Clara Trotter, Eugenia Dubose, and Araya Turner (collectively,
3 “Plaintiffs”) seek final approval of the Class Action Settlement and Release (“Agreement” or
4 “Settlement Agreement”) entered by Plaintiffs and Defendant Prime Now LLC (“Defendant”)
5 (together with Plaintiffs, the “Parties”). The Settlement Agreement provides for a non-
6 reversionary \$5,150,000.00 fund to be created for the benefit of the Class, from which attorneys’
7 fees, litigation costs, enhancement payments to Plaintiffs, payment of PAGA penalties to the
8 California Labor and Workforce Development Agency (“LWDA”) and aggrieved employees, and
9 costs of settlement administration are to be paid. The entire Net Settlement Amount after these
10 deductions will be paid to all Class Members who did not opt-out of the Settlement.

11 The history of this litigation was previously detailed in Plaintiffs’ Preliminary Approval
12 Motion. This Court preliminarily approved this Settlement on March 7, 2023, directing
13 distribution of Notice of Class Action Settlement (“Notice Packet”) and scheduling the hearing
14 for final approval of settlement (the “Preliminary Approval Order”).

15 As directed by the Court, the Settlement Administrator distributed the Notice to 23,182
16 Class Members. (Declaration of Kevin Lee on behalf of Phoenix Settlement Administrators
17 (“Phoenix”) [“Admin. Decl.”] ¶ 5.) To date, only nine (9) requests for exclusion have been
18 received, and there have been no objections filed. (*Id.* at ¶¶ 9, 10.) As such, there is a 99.96%
19 participation rate. Thus, an inference can be made that the Class supports the Court’s Preliminary
20 Approval Order finding that the Settlement Agreement is fair and reasonable.

21 In addition to the results of the notice process, for the same reasons as set forth earlier in
22 Plaintiffs’ Motion for Preliminary Approval of Class and Representative Action Settlement, the
23 following represent the basic points supporting approval of the Settlement:

- 24 ■ The Settlement provides a total settlement sum of \$5,150,000.00;
- 25 ■ The Settlement is fair given that Settlement Class Members will receive (*after*
26 *deductions for fees, costs, etc.*) a substantial amount of money (on average, each
27 Settlement Class Member will receive approximately \$127.63 with the highest
28 payout estimated at \$827.37) (*See* Admin. Decl. ¶ 15);

- Class Members did not need to submit claim forms to participate in the Settlement;
- The allocation reflects that payment of claims will be paid to all Class Members in proportion to the number of workweeks wherein each Class Member experienced an alleged violation of the Labor Code;
- Plaintiffs conducted significant investigation in this case, including formal and informal discovery and exchanges of information by Plaintiffs and Defendant of Class data for the entire class necessary for Plaintiffs to fully evaluate this case;
- A highly regarded administrator, Phoenix Settlement Administrators, was retained for fees estimated to be \$97,000.00; and
- California’s LWDA will also be a beneficiary of this Settlement as it will receive \$150,000.00, should this Settlement be granted final approval.

Accordingly, the Court should grant Final Approval consistent with the Preliminary Approval Order.

II. SETTLEMENT

The notice procedures required by the Preliminary Approval Order have been followed and satisfy all due process rights of Class Members.

Notice was provided to Class Members, as required by the Preliminary Approval Order. On April 6, 2023, the Settlement Administrator received a Class Member mailing list from Defendant’s counsel that included 23,182 Class Members.¹ (Admin. Decl. ¶ 3.) On April 21, 2023, Phoenix conducted a National Change of Address (“NCOA”) search to update the class list of addresses and each of the persons identified on the mailing list were sent the Notice Packet via first class mail. (*Id.* ¶ 4.) From the date of mailing, 1,115 Notice Packets were returned due to an incorrect address and 1,040 were then re-mailed to an updated address after performing a skip trace. (*Id.* at ¶ 7.) As of the date of this filing, 75 Class Notices remain undeliverable because an updated address could not be located despite skip tracing efforts for the other Notice. (*Id.* at ¶¶ 7-

¹ As explained in the Admin Declaration, one class member was inadvertently left off the initial list but was subsequently provided notice in accordance with the terms of the Agreement bringing the total class members to 23,183. Admin Decl. ¶ 6.

8.) The Class Notice provided Class Members with Class Counsel’s contact information, where they could further seek information regarding the class settlement, leave questions for the Settlement Administrator, and update their address.

Plaintiffs provided the “best notice practicable” in this case as necessary to protect the due process rights of class members. *See Phillips Petroleum Co. v. Shutts*, 472 U.S. 797, 811-12 (1985) (provision of “best notice practicable” with description of the litigation and explanation of opt-out rights satisfies due process); *Eisen v. Carlisle & Jacquelin*, 417 U.S. 156, 174-75 (1974) (individual notice must be sent to class members who can be identified through reasonable means); *Mullane v. Central Hanover Bank & Trust Co.*, 339 U.S. 306, 314 (1950) (best practicable notice is that which is “reasonably calculated, under all the circumstances, to apprise interested parties of the pendency of the action and afford them an opportunity to present their objections”).

Here, the Class Members were provided with a mailing regarding the settlement that explained the settlement and allowed Class Members to seek information, ask questions, and object, if so desired. As such, proper notice has been given to the Class Members. Thus, the Court may determine the fairness and adequacy of the Settlement and enter its Order granting final approval, secure in the knowledge that all absent Class Members have been given the opportunity to participate fully in the claims, exclusion, and the approval process.

III. THE SETTLEMENT TERMS ARE FAIR, ADEQUATE, AND REASONABLE, AND THE SETTLEMENT SHOULD BE GIVEN FINAL APPROVAL

A. Strength of Plaintiffs’ Case and Likelihood of Certifying the Class

The Court already addressed the requirements for certifying a class for settlement purposes in its Order granting preliminary approval. Plaintiffs briefly address the requirements again here.

1. The Class is Ascertainable

Whether a class is “ascertainable” within the meaning of Code of Civil Procedure section 382 “is determined by examining (1) class definition, (2) the size of the class, and (3) the means available for identifying the class members.” *Reyes v. San Diego County Board of Supervisors*,

1 196 Cal. App. 3d 1263, 1271 (1987). Here, the Class includes more than 20,000 individuals,
2 which far exceeds the threshold required. (Admin. Decl. ¶ 12). Within the context of
3 manageability, the issue is whether there exists sufficient means for identifying class members at
4 the remedial stage. *Reyes*, 196 Cal. App. 3d at 1274-75. Class Members have already been
5 identified by Defendant and notice was provided to all of the above Class Members.

6 **2. There is a Community of Interest**

7 The “community of interest” requirement embodies three separate factors: (1)
8 predominant common questions of law or fact; (2) class representatives whose claims are typical
9 of the class; and (3) class representatives who can adequately represent the class. *Richmond*, 29
10 Cal. 3d at 470; *Reese v. Wal-Mart Stores, Inc.*, 73 Cal. App. 4th 1225, 1234 (1999).

11 **a. There are Predominant Common Questions of Law and Fact**

12 “The ultimate question in every case of this type [class actions] is whether...the issues
13 which may be jointly tried, when compared with those requiring separate adjudication, are so
14 numerous and substantial that the maintenance of a class action would be advantageous to the
15 judicial process and to the litigants.” *Lockheed Martin Corp. v. Superior Court*, 29 Cal. 4th 1096,
16 1104-05 (2003). Plaintiffs allege that Defendant, as a matter of corporate policy and procedure
17 failed to: (1) pay employees meal period premiums at the correct regular rate of pay that included
18 all nondiscretionary remuneration, in violation of Labor Code §§ 201-203, 226.7, and 512; (2)
19 pay employees sick pay at the correct regular rate of pay that included all non-discretionary
20 remuneration, in violation of Labor Code §§ 201-203 and 246; and (3) provide accurate itemized
21 wage statements in violation of Labor Code § 226. Defendant expressly denies that liability could
22 be established as to Plaintiffs or any members of the putative class and further denies that class
23 treatment is appropriate, except for settlement approval purposes.

24 **b. Plaintiffs’ Claims are Typical of the Class Claims**

25 The purported class representative’s claim must be “typical” but not necessarily identical
26 to the claims of other class members; it is sufficient that the representative is similarly situated so
27 that he or she will have the motive to litigate on behalf of the class. *Classen v. Weller*, 145 Cal.
28 App. 3d 27, 45 (1983). Courts look to whether class members have similar injuries, “whether the

1 action is based on conduct which is not unique to the named Plaintiff,” and whether other class
2 members were injured by the same conduct. *Hanon v. Dataproducts Corp.*, 976 F.2d 497, 508
3 (9th Cir. 1992). The purpose of the typicality requirement “is to assure that the interest of the
4 named representative aligns with the interests of the class.” *Id.* at 508.

5 Plaintiffs were employed by Defendant and allege that they were subjected to the same
6 payroll policies as all other Class Members. Specifically, like other members of the Class,
7 Plaintiffs allege that they were: (1) not paid meal period premiums at the correct regular rate of
8 pay that included all nondiscretionary remuneration, in violation of Labor Code §§ 201-203,
9 226.7, and 512; (2) not paid sick pay at the correct regular rate of pay that included all non-
10 discretionary remuneration, in violation of Labor Code §§ 201-203 and 246; and (3) not provided
11 accurate itemized wage statements in violation of Labor Code § 226. (Declaration of Delishia
12 Hyde [“Hyde Decl.”] ¶¶ 3-5; Declaration of Araya Turner [“Turner Decl.”] ¶¶ 3-5; Declaration of
13 Clara Trotter [“Trotter Decl.”] ¶¶ 3-5; Declaration of Eugenia Dubose [“Dubose Decl.”] ¶¶ 3-5.)
14 Thus, Plaintiffs’ claims are typical to those of Class Members.

15 **c. Plaintiffs Adequately Represented the Class**

16 The class representatives, through qualified counsel, must be capable of “vigorously and
17 tenaciously” protecting the interests of the class members. *Simons v. Horowitz*, 151 Cal. App. 3d
18 834, 846 (1984). Here, Plaintiffs do not have any interests adverse to the Class, nor have any such
19 issues been raised or presented. Plaintiffs have taken all necessary steps to represent the interests
20 of the Class, including providing information and documents to their counsel and reviewing
21 pleadings in this case among other things addressed below. (Hyde Decl. ¶¶ 6; Turner Decl. ¶ 6;
22 Trotter Decl. ¶ 6; Dubose Decl. ¶ 6.) For such reasons, Plaintiffs have adequately represented the
23 Class Members and will continue to do so.

24 **B. Defendant’s Allegations and Unlikelihood of Class Certification**

25 Defendant asserts that individualized issues predominate in this case and denies that
26 liability could be determined on a classwide basis. In any event, even assuming that a class could
27 have been certified, Defendant asserts that it has complied with all laws. Based thereon,
28 Defendant continues to maintain that it is not liable for the allegations made by Plaintiffs.

1 **C. Risks, Expenses, and Complexity of Further Litigation**

2 Plaintiffs believe that a class can be certified. However, Plaintiffs also believe in the
3 fairness of the settlement that is based on factoring in the uncertainty and risks to Plaintiffs
4 involved in not prevailing on one or more of the causes of action or theories alleged in the
5 operative Complaint, the possibility of non-certification, and potential for appeals. These risks on
6 class certification are compounded by the California Supreme Court’s holding in *Duran v. U.S.*
7 *Bank Nat’l Ass’n*, 59 Cal. 4th 1 (2014).

8 Defendant alleges that a class could not have been certified. There is always a risk that the
9 court will not grant certification of the class, wherein the class will not be entitled to any
10 damages. Based on the foregoing, there was a substantial risk that Plaintiffs would not have
11 obtained the total amount of damages alleged, and a substantial amount of complex issues that
12 would have necessitated significant expenditure of time and expenses. Therefore, the risks,
13 expenses, and complexity of further litigation warrant granting of this Motion.

14 **D. The Terms, Negotiation, and Reception of the Settlement by Class Members**
15 **All Strongly Support the Conclusion that the Settlement is Fair, Adequate,**
16 **and Reasonable**

17 Without reiterating the Parties’ showing that the Settlement Agreement and the
18 negotiation process that led up to it was fair and adequate, as set forth in detail in the Motion for
19 Preliminary Approval of Class and Representative Action Settlement, the Parties highlight the
20 following facts. The Settlement Agreement was the product of negotiation between highly able
21 and experienced attorneys on both sides who possessed the relevant data and extensive legal
22 research which they had carefully analyzed. (Declaration of Max W. Gavron (“Gavron Decl.”) ¶
23 2.)

24 The results after mailing of the Notice support confirmation of the Court’s preliminary
25 approval of the settlement with final approval of the settlement, as evidenced by the fact that to
26 date, only nine (9) requests for exclusion and no objections to the settlement have been received.
27 (Admin. Decl. ¶¶ 9-12.) This demonstrates a 99.96% participation rate. (*Id.*) The Court may
28 appropriately infer that the class action settlement is fair, adequate, and reasonable, given that not

1 a single class member has submitted an objection. *See Class Plaintiffs v. City of Seattle*, 955 F.2d
2 1268, 1291 (9th Cir. 1992).

3 **E. Under Well-Established Legal Principles, the Court Should Grant Final**
4 **Approval of the Settlement**

5 **1. Standard of Review**

6 On a motion for final approval of a class action settlement under California Code of Civil
7 Procedure section 382 and California Rule of Court 3.769, a court's inquiry is whether the
8 settlement is "fair, adequate and reasonable." *Officers for Justice v. Civil Serv. Comm'n*, 688 F.2d
9 615, 625 (9th Cir. 1982), *cert. denied subnom.*, *Byrd v. Civil Serv. Comm'n*, 459 U.S. 1217
10 (1983). A settlement is fair, adequate, and reasonable, and therefore merits final approval, when
11 "the interests of the class are better served by the settlement than by further litigation." *See*
12 *Manual for Complex Litigation, Fourth* § 21.6 at 309 (Fed. Jud. Ctr., 4th ed. 2004) ("MCL"). The
13 law favors settlement, particularly in class actions and other complex cases, where substantial
14 resources can be conserved by avoiding the time, cost, and rigors of formal litigation. *See Alba*
15 *Conte & Herbert B. Newberg, 4 Newberg on Class Actions* § 11.41 (4th ed. 2002); *Class*
16 *Plaintiffs v. City of Seattle*, 955 F.2d 1268, 1276 (9th Cir. 1992); *Van Bronkhorst v. Safeco Corp.*,
17 529 F.2d 943, 950 (9th Cir. 1976).

18 Although the Court possesses "broad discretion" in determining that a proposed class
19 action settlement is fair, the Court's role must be limited to the extent necessary to reach a
20 reasoned judgment that the agreement is not the product of fraud or overreaching by, or collusion
21 between, the negotiating parties, and that the settlement, taken as a whole, is fair, reasonable, and
22 adequate to all concerned. *See Officers for Justice*, 688 F.2d at 625. Accordingly, the Court
23 should give due regard to what is otherwise a "private consensual agreement" between the parties.
24 *Id.*; *see also Church v. Consolidated Freightways, Inc.*, 1993 WL 149840 (N.D. Cal. 1993); *In re*
25 *Wash. Pub. Power Supply Sys. Sec. Litig.*, 720 F. Supp. 1379 (D. Ariz. 1989), *aff'd sub nom.*; *City*
26 *of Seattle*, 955 F.2d 1268; MCL § 21.6 at 309 ("The judicial role in reviewing a proposed
27 settlement is critical, but limited to approving the proposed settlement, disapproving it, or
28 imposing conditions on it. The judge cannot rewrite the agreement").

1 A court's approval of a class action settlement will only be reversed for a clear abuse of
2 discretion. *See Dunk v. Ford Motor Co.*, 48 Cal. App. 4th 1794, 1801 (1996); *Officers for Justice*,
3 688 F.2d at 626 ("reverse only upon a strong showing that the district court's decision was a clear
4 abuse of discretion"); *City of Seattle*, 955 F.2d at 1276; *Ackerman v. Kassar*, 1993 WL 326453
5 (9th Cir. 1993); *Linney v. Cellular Alaska P'ship*, 151 F.3d 1234, 1238 (9th Cir. 1998).

6 As the court cautioned in *7-Eleven Owners for Fair Franchising v. Southland Corp.*:

7 "It cannot be overemphasized that neither the trial court in
8 approving the settlement nor this Court in reviewing that approval
9 have the right or duty to reach any ultimate conclusions on the
10 issues of fact and law which underlie the merits of the dispute. It is
11 well settled that in the judicial consideration of proposed
12 settlements, 'the [trial] judge does not try out or attempt to decide
13 the merits of the controversy,' [citation] and the appellate court
14 'need not and should not reach any dispositive conclusions on the
15 admittedly unsettled legal issue.'"

16 85 Cal. App. 4th 1135, 1146 (2000).

17 **2. The Settlement is Presumed to Be Fair**

18 The Court should begin its analysis with the presumption that the settlement is fair and
19 should be approved:

20 [A] presumption of fairness exists where: (1) the settlement is
21 reached through arm's-length bargaining; (2) investigation and
22 discovery are sufficient to allow counsel and the court to act
23 intelligently; (3) counsel is experienced in similar litigation; and (4)
24 the percentage of objectors is small.

25 *Dunk*, 48 Cal. App. 4th at 1802; *accord*, *Ellis v. Naval Air Rework Facility*, 87 F.R.D. 15, 18
26 (N.D. Cal. 1980); *In re Wash. Pub Power Supply*, 720 F. Supp. at 1387.

27 The settlement in the case at bar warrants approval and carries a presumption of fairness.
28 As previously noted in the Motion for Preliminary Approval, this current settlement was
negotiated at arm's length. (Gavron Decl. ¶ 3.)

Second, Class Counsel engaged in extensive factual investigation before settling,
including reviewing class data, taking and defending depositions, and thoroughly litigating the
case. (Gavron Decl. ¶ 3.) Further, Class Counsel is highly experienced in this type of litigation.
As shown in the supporting declarations, Class Counsel has significant experience in class actions
and employment wage and hour matters. (Gavron Decl. ¶¶ 9-14; Declaration of Larry W. Lee

1 ["Lee Decl."] ¶¶ 4-6; Declaration of Nicholas Rosenthal ["Rosenthal Decl."] ¶¶ 4, 5; Declaration
2 of Mai Tulyathan ["Tulyathan Decl."] ¶¶ 4-8; Declaration of Kristen M. Agnew ["Agnew Decl."] ¶¶
3 4-9.)

4 **3. Two-Way Costs and Other Risks Inherent in Continued Litigation**
5 **Favor Final Approval**

6 To assess the fairness, adequacy, and reasonableness of a class action settlement, the
7 Court also should weigh the immediacy and certainty of substantial settlement proceeds against
8 the risks inherent in continued litigation. *See also In re General Motors Corp.*, 55 F.3d 768, 806
9 (3d Cir. 1995) ("present value of the damages plaintiffs would likely recover if successful,
10 appropriately discounted for the risk of not prevailing, should be compared with the amount of the
11 proposed settlement") (internal citations omitted); *Girsh v. Jepson*, 521 F.2d 153, 157 (3d Cir.
12 1975); *Boyd v. Bechtel Corp.*, 485 F. Supp. 610, 616-17 (N.D. Cal. 1979).

13 If Plaintiffs pursued this case without settlement and failed to prevail, Plaintiffs would
14 have been potentially responsible for Defendant's costs. As such, should individual current or
15 former employees of Defendant bring individual claims on the same causes of action, they would
16 each face the uncertainty of prevailing and the possibility of paying costs to Defendant.
17 Accordingly, such claims likely would not be brought by many of these current and former
18 employees—thus, this lawsuit achieves a true benefit for the class that they might not otherwise
19 get or seek as individuals. Here, given that a fair and reasonable settlement has been reached,
20 neither Plaintiffs nor any of the Class Members will be required to pay for Defendant's litigation
21 costs.

22 The risks of this case were weighed by Class Counsel and should be considered a
23 significant factor by the Court in its determination of final approval. Class Counsel obtained a
24 significant settlement for the Class that resulted in a fair recovery which at the same time provides
25 for finality and no risk of costs by the Class Members or Class Representatives.

26 The Settlement Agreement also affords the Class prompt, fair relief while avoiding
27 significant legal and factual battles that otherwise may have prevented the Class from obtaining
28 any recovery at all. While Class Counsel believe the Class Members' claims are meritorious and

1 can be successfully litigated, they are experienced and fully understand the inherent risks and
2 uncertainty involved with such matters as the resolution of class certification, the outcome of a
3 potential trial, and the outcome of any appeals that would inevitably follow should the Class
4 prevail at trial. Class Counsel has also assessed the same risks in connection with the current
5 settlement. By way of example, several other putative wage and hour class actions were pending
6 against Defendant during the time Plaintiffs litigated this case, each of which ultimately resulted
7 in the dismissal of the plaintiffs' putative class claims. (Plaintiff's Request for Judicial Notice,
8 Exs. A, B (*Pope & Mabanta* Dockets)). Because the settlement provides immediate and
9 substantial relief, without the attendant risks and delay of continued litigation—not to mention the
10 threat of litigation fees and costs—Class Counsel believe that the settlement warrants the Court's
11 final approval.

12 **4. The Complexity, Expense, and Likely Duration of Continued**
13 **Litigation Against Defendant Favor Final Approval**

14 Another factor considered by courts in approving a settlement is the complexity, expense,
15 and likely duration of the litigation. *See Officers for Justice*, 688 F.2d at 625; *Girsh*, 521 F.2d at
16 157. In applying this factor, the Court must weigh the benefits of the settlement against the
17 expense and delay involved in achieving an equivalent or more favorable result at trial. *Young v.*
18 *Katz*, 447 F.2d 431, 433-34 (5th Cir. 1971).

19 As noted above, continued litigation could have led to appeals on several issues. On the
20 other hand, the settlement that was reached provides to all Class Members—regardless of their
21 means—fair relief in a prompt and efficient manner. Were the Court to deny final approval, the
22 Class Members would be left without a remedy as a practical matter and courts across the State
23 would have to address the issues presented here in a piecemeal, costly, and time-consuming
24 manner. The settlement in this case is therefore consistent with the “overriding public interest in
25 settling and quieting litigation” that is “particularly true in class action suits.” *See Van*
26 *Bronkhorst*, 529 F.2d at 950 (footnote omitted); *see also 4 Newberg* § 11.41. Here, this case
27 would have likely involved years of litigation.

28 //

1 **5. The Opinion of Experienced Counsel Favors Final Approval**

2 Class Counsel supports the settlement as fair, reasonable, and adequate, and in the best
3 interest of the Class Members as a whole. (Gavron Decl. ¶ 4; Lee Decl. ¶ 3; Rosenthal Decl. ¶ 3;
4 Tulyathan Decl. ¶ 3; Agnew Decl. ¶ 3.) Similarly, counsel for Defendant is in favor of this
5 settlement. The endorsement of qualified and well-informed counsel of a settlement as fair,
6 reasonable, and adequate is entitled to significant weight by the Court in its final approval
7 determination. *See Officers for Justice*, 688 F.2d at 625; *Ellis*, 87 F.R.D. at 18; *Boyd*, 485 F. Supp.
8 at 617; *Linney*, 151 F.3d at 1242.

9 **IV. UNCASHED SETTLEMENT CHECKS**

10 To the extent any uncashed settlement funds remain after 180 days, the Parties have
11 agreed that all funds shall be distributed to Feeding America, a United States based nonprofit
12 organization that operates a nationwide network of more than 200 food banks that feed more than
13 46 million people through food pantries, soup kitchens, shelters, and other community-based
14 agencies, including throughout California. As this action related to appropriate provision of meal
15 periods to grocery workers, the Parties agree that providing the funds from the uncashed checks to
16 this organization is related to this action and furthers the public interest. Class counsel does not
17 have any conflicts of interest with the proposed beneficiary. (Gavron Decl. ¶ 17; Lee Decl. ¶ 11;
18 Rosenthal Decl. ¶ 10; Tulyathan Decl. ¶ 11; Agnew Decl. ¶ 12.)

19 **V. THE REQUESTED ENHANCEMENTS SHOULD BE APPROVED**

20 Class Representatives request the following enhancements: (a) Twenty Thousand Dollars
21 (\$20,000.00) to Plaintiff Delishia Hyde; (b) Twenty Thousand Dollars (\$20,000.00) to Plaintiff
22 Eugenia Dubose; (c) Ten Thousand Dollars (\$10,000.00) to Plaintiff Clara Trotter; and (d) Ten
23 Thousand Dollars (\$10,000.00) to Plaintiff Araya Turner. Plaintiffs met with Class Counsel,
24 including providing substantive information regarding Defendant's alleged practices.

25 Ms. Hyde estimates she spent between 55 and 65 hours assisting in the litigation of this
26 case, including responding to discovery, meeting with her attorneys, preparing and sitting for
27 deposition, among the other efforts detailed in her declaration. (Hyde Decl. ¶¶ 7-13). Ms.
28 Dubose estimates she spent between 40 and 50 hours assisting in the litigation of this case, which

1 included discussing and preparing for her obligations in the discovery process, communicating
2 with her attorneys and potential witnesses, among the other efforts detailed in her declaration.
3 (Dubose Decl. ¶¶ 7-13). Importantly, Ms. Dubose planned to file a wrongful termination action
4 against Defendant but ultimately agreed to settle her claims through the general release set forth
5 in the Settlement Agreement. (Dubose Decl. ¶¶ 19.) Ms. Turner and Ms. Trotter both estimate
6 they spent between 25 to 30 hours providing information to counsel, reviewing the lawsuit and
7 PAGA notice, among the other efforts detailed in their declarations. (Turner Decl. ¶¶ 7-11;
8 Trotter Decl. ¶¶ 7-11.)

9 In addition to the invaluable services that they provided, Plaintiffs took significant risks,
10 both professionally and monetarily, in acting as Class Representatives, seeking benefits on behalf
11 of the Class. Because the claims alleged by the Class Representatives involved the payment of
12 costs to the prevailing party, Plaintiffs could have possibly faced paying the costs of Defendant,
13 had they not prevailed in this action. Moreover, Plaintiffs understood that an individual case
14 would have resolved much faster than a class action and involved much less financial risk than a
15 class action. Despite this, however, Plaintiffs agreed to pursue this case on behalf of the Class.
16 (Hyde Decl. ¶ 14; Turner Decl. ¶ 12; Trotter Decl. ¶ 12; Dubose Decl. ¶ 14.)

17 Also, given that future employers may be less likely to hire individuals who have filed
18 employment-related lawsuits, particularly cases of this nature, the Class Representatives also
19 faced potential risk in not being able to find suitable employment, all as a result of the filing of
20 this case against Defendant. Plaintiffs took these risks upon themselves to the benefit of the Class.
21 (Hyde Decl. ¶ 15; Turner Decl. ¶ 13; Trotter Decl. ¶ 13; Dubose Decl. ¶ 15.) Class Members did
22 not have to file individual lawsuits and bear the risks of payment of costs if they did not prevail,
23 nor did they have to face the potential for retaliation and not getting future employment had they
24 filed a lawsuit which is a public record. These are significant benefits that weigh in favor of
25 granting the requested enhancement. Moreover, this litigation has resulted in a significantly
26 valuable benefit to the Class, and Plaintiffs took on substantial risks in helping to get this financial
27 benefit to the Class. As such, the enhancements should be awarded to Plaintiffs for their
28 commitment, dedication, and risks taken for this litigation.

1 Finally, Plaintiffs provided a general release and waiver of the protections of Civil Code
2 section 1542. (Settlement Agreement ¶ 58(d)) This is a more extensive release than that provided
3 by the Class at large, also supporting the request for the enhancement. (Hyde Decl. ¶ 19; Turner
4 Decl. ¶ 17; Trotter Decl. ¶ 17; Dubose Decl. ¶ 19.)

5 Courts have routinely granted approval of settlements containing such enhancements. *See*
6 *Van Vranken v. Atlantic Richfield Co.*, 901 F. Supp. 294, 299-300 (N.D. Cal. 1995) (incentive
7 award of \$50,000); *In re Dun & Bradstreet Credit Servs. Customer Litig.*, 130 F.R.D. 366, 374
8 (S.D. Ohio 1990) (two incentive awards of \$55,000, and three incentive awards of \$35,000);
9 *Brotherton v. Cleveland*, 141 F. Supp. 2d 907, 913-14 (S.D. Ohio 2001) (granting a \$50,000
10 incentive award); *Enter. Energy Corp. v. Columbia Gas Transmission Corp.*, 137 F.R.D. 240,
11 251-52 (S.D. Ohio 1991) (\$50,000 awarded to each class representative); *Glass v. UBS Fin.*
12 *Servs.*, No. C-06-4068, 2007 U.S. Dist. LEXIS 8476, at *51-52 (N.D. Cal. Jan. 27, 2007)
13 (awarding \$25,000 incentive award in FLSA overtime wages class action); *Cook v. Niedert*, 142
14 F.3d 1004, 1016 (7th Cir. 1998) (affirming \$25,000 Incentive award to class representative in
15 ERISA case).

16 **VI. THE REQUESTED ATTORNEYS' FEES SHOULD BE APPROVED**

17 Here, the Court explained that its benchmark award is 30% of the common fund. *Laffitte*,
18 1 Cal. 5th at 495; *Schulz v. Jeppesen Sanderson, Inc.*, 27 Cal.App.5th 1167, 1175 (2018);
19 *Consumer Privacy Cases*, 175 Cal.App.4th 545, 557 n 13 (2009); *Chavez v. Netflix, Inc.*, 162 Cal.
20 App. 4th 43, 66 n 11 (2008). Given the favorable settlement, time, risk, and energy expended in
21 achieving the results in this case, and overwhelming positive response from the putative class,
22 Class Counsel seeks a fee award calculated at one-third (33.33%) of the total value of the
23 Settlement, which is only modestly higher than the Court's benchmark. California state and
24 federal courts have recognized that an appropriate method for determining award of attorneys'
25 fees is based on a percentage of the total value of benefits to Class Members by the settlement.
26 *Wershba v. Apple Computer, Inc.*, 91 Cal. App. 4th 224, 254 (2001); *Serrano v. Priest*, 20 Cal. 3d
27 25, 34 (1977) [*Serrano III*]; *Boeing Co. v. Van Gemert*, 444 U.S. 472, 478 (1980); *Vincent v.*
28 *Hughes Air West, Inc.*, 557 F.2d 759, 769 (9th Cir. 1997).

1 The California Supreme Court has provided guidance regarding the award of attorneys’
2 fees in wage and hour class action settlements. Under California law, the award of attorneys’ fees
3 in common fund wage and hour class action settlements is proper under the percentage method.
4 *See Laffitte v. Robert Half Int’l*, 1 Cal. 5th 480, 503 (Aug. 11, 2016) (“We join the overwhelming
5 majority of federal and state courts in holding that when class action litigation establishes a
6 monetary fund for the benefit of the class members, and the trial court in its equitable powers
7 awards class counsel a fee out of that fund, the court may determine the amount of a reasonable
8 fee by choosing an appropriate percentage of the fund created”).

9 The fee award requested, representing thirty-three and one-third percent, of the fund
10 clearly falls within that range and is consistent with other rulings of other courts and
11 comprehensive surveys of class action settlements and fee awards. *See Martin v. AmeriPride*
12 *Servs.*, 2011 U.S. Dist. LEXIS 61796, 23 (S.D. Cal. June 9, 2011) (recognizing that “courts may
13 award attorney’s fees in the 30-40% range in wage and hour class actions that result in recovery
14 of a common fund under \$10 million”). The results delivered by Class Counsel also support the
15 requested percentage of the fund. Here, Plaintiffs and their counsel secured a \$5,150,000.00
16 settlement for over 20,000 individuals.

17 Finally, “the response of the class members to attorneys’ fee notice, though not decisive, is
18 relevant to the...reasonable determination” regarding fees. *Swedish Hospital v. Shalala*, 1 F.3d
19 1261, 1272 (D.C. Cir. 1993). A positive response rate tends to suggest that the court’s
20 “approximation of the market” for fees is well supported. *Id.* at p. 1269. In this case, the Notice
21 specifically notified Class Members that Class Counsel would be seeking \$1,716,666.67 in
22 attorneys’ fees. To date, no Class Member has objected to the Settlement. This strong favorable
23 response also supports the requested fees.

24 In addition, it is recognized that one of the primary factors justifying an enhanced
25 attorney’s fees reward is the attendant risks inherent in the litigation. As observed in *City of*
26 *Detroit v. Grinnell Corp.*:

27 No one expects a lawyer whose compensation is contingent upon
28 his success to charge, when successful, as little as he would charge
a client who had agreed to pay for his services, regardless of
success. Nor, particularly in complicated cases producing large

1 recoveries, is it just to make a fee depend solely on the reasonable
2 amount of time expended.

3 495 F.2d 448, 470 (2d Cir. 1974). Here, a Gross Settlement Fund of \$5,150,000.00 has been
4 created. For Class Counsel, the fees here were wholly contingent in nature and the case presented
5 far more risk than the usual contingent fee case. Among the risks was the cost inherent in class
6 action litigation, as well as a long battle with a corporate Defendant who had retained a premier
7 and highly experienced defense firm. As such, the requested fee should be awarded.

8 As secondary support for the percentage of the fund method, courts have discretion to
9 “cross-check” the fees awarded through the lodestar method. However, the *Laffitte* Court
10 “emphasize[d] [that] the lodestar calculation, when used in this manner, does not override the trial
11 court’s primary determination of the fee as a percentage of the common fund and thus does not
12 impose an absolute maximum or minimum on the potential fee award.” *Laffitte*, 1 Cal. 5th at 505
13 (emphasis added); *In re Rite Aid Corp. Secs. Litig.*, 396 F.3d 294, 306-307 (3d Cir. 2005) (“[The
14 lodestar cross-check does not trump the primary reliance on the percentage of common fund
15 method”).

16 The Supreme Court in *Laffitte* stated: “If the multiplier calculated by means of a lodestar
17 cross-check is extraordinarily high or low, the trial court should consider whether the percentage
18 used should be adjusted so as to bring the imputed multiplier within a justifiable range, but the
19 court is not necessarily required to make such an adjustment.” *Id.* Thus, a lodestar cross-check is
20 aimed at astronomical multipliers. Indeed, cross-checks are not required; in many cases,
21 performing a cross-check “undermines” one of the primary reasons for using the percentage
22 method: aligning counsel’s incentives with the benefits delivered to the class and discouraging
23 protracted litigation. *Id.* at 506 (finding trial courts “retain the discretion to forgo a lodestar cross-
24 check”); *Lealao v. Beneficial California, Inc.*, 82 Cal. App. 4th 19, 29-30 (2000) (citing the
25 recommendations of the Third Circuit Task Force with approval and observing that “[t]he
26 criticisms of the lodestar approach set forth in this Report are now echoed by many authorities,
27 who have been most vocal about the manner in which it exacerbates the problem of ‘cheap
28 settlements’ and burdens already overworked trial judge”).

1 Courts have defined reasonable multipliers on a lodestar cross-check to “range from 2 to 4
2 or even higher.” *Wershba v. Apple Computer, Inc.*, 91 Cal. App. 4th 224, 255 (2001); *see also*,
3 *e.g.*, *Vizcaino v. Microsoft Corp.*, 290 F.3d 1043, 1049 (9th Cir. 2002) (affirming 3.65 multiplier
4 in ~\$1 billion settlement); *In re Nat'l Collegiate Athletic Ass'n Athletic Grant-in-Aid Cap*
5 *Antitrust Litig.*, 768 F. App'x 651, 654 (9th Cir. 2019) (affirming 3.66 multiplier); *Steiner v. Am.*
6 *Broad. Co.*, 248 F. App'x 780, 783 (9th Cir. 2007) (affirming multiplier of 6.85); *Sutter Health*
7 *Uninsured Pricing Cases*, 171 Cal. App. 4th 495, 512 (2009) (applying a 2.52 multiplier on a
8 cross-check in an antitrust class action); *Chavez*, 162 Cal. App. 4th at 60 (applying a 2.5
9 multiplier on a lodestar cross-check); *City of Oakland v. Oakland Raiders*, 203 Cal. App. 3d 78
10 (1988) (affirming a 2.34 multiplier without remand); *Aboudi v. T-Mobile USA, Inc.*, No.
11 12CV2169 BTM NLS, 2015 WL 4923602, at *7 (S.D. Cal. Aug. 18, 2015) (“Multipliers of 1 to 4
12 are commonly found to be appropriate in common fund cases.”).

13 The intermediate court in *Laffitte*, after finding that “2 to 4” is a reasonable range for
14 multipliers on a cross-check, affirmed a 2.13 multiplier. *Laffitte*, 231 Cal.App.4th at 881-82. The
15 intermediate court opinion was affirmed in full by the California Supreme Court in its new
16 decision guiding lower courts on assessing fees.

17 With respect to Class Counsel’s lodestar, to date, approximately 834.3 hours have been
18 expended by Class Counsel in this matter. (Gavron Decl. ¶ 6, Exh. A; Lee Decl. ¶ 7, Exh. A;
19 Rosenthal Decl. ¶ 6, Exh. A; Tulyathan Decl. ¶ 9, Exh. A; Agnew Decl. ¶ 10, Exh. A) Moreover,
20 Class Counsel expects to incur approximately 35 additional hours of attorney time in finalizing
21 this settlement and responding to inquiries from the more than 20,000 settlement class members.
22 (Gavron Decl. ¶ 7; Lee Decl. ¶ 8; Rosenthal Decl. ¶ 7) The courts are quite liberal in the evidence
23 required to prove an attorney’s hours. Detailed time records are not required. An attorney’s
24 testimony alone may suffice: “Testimony of an attorney as to the number of hours worked on a
25 particular case is sufficient evidence to support an award of attorney fees, even in the absence of
26 detailed time records.” *Martino v. Denevi*, 182 Cal. App. 3d 553, 559 (1986).

27 Reasonable hours include, in addition to time spent during litigation, the time spent before
28 the action is filed, including time spent interviewing the clients, investigating the facts and the

1 law, and preparing the initial pleadings. *New York Gaslight Club, Inc. v. Carey*, 447 U.S. 54, 62
2 (1980). Further, the fee award should include fees incurred to establish and defend the attorneys’
3 fee claim. *Serrano v. Unruh*, 32 Cal. 3d 621, 639 (1982) [*Serrano IV*]. Thus, Class Counsel
4 requests that the court find that these hours were reasonable in this litigation.

5 A reasonable hourly rate is the prevailing rate charged by attorneys of similar skill and
6 experience in the relevant community. *PLCM Group, Inc. v. Drexler*, 22 Cal. 4th 1084, 1095
7 (2000). The court may consider other factors when determining a reasonable hourly rate, *e.g.*, the
8 attorney’s skill and experience, the nature of the work performed, the relevant area of expertise
9 and the attorney’s customary billing rates. *Flannery v. California Highway Patrol*, 61 Cal. App.
10 4th 629, 632-33 (1998).

11 Class Counsel’s skill and experience justify the requested rate. As shown in the supporting
12 declarations, Class Counsel have significant experience in the area of employment and wage and
13 hour class actions. Specifically, Class Counsel’s practice focuses on representing employees in
14 employment matters, particularly wage and hour cases. (Gavron Decl. ¶¶ 13, 14; Lee Decl. ¶ 4-6;
15 Rosenthal Decl. ¶¶ 4, 5; Tulyathan Decl. ¶ 5-9; Agnew Decl. ¶¶ 5-9) As such, based on the hours
16 and respective applicable rates, the total lodestar to be expended by Class Counsel through
17 finalizing this settlement will be approximately \$574,290.00 (Gavron Decl. ¶ 8; Lee Decl. ¶ 9;
18 Rosenthal Decl. ¶¶ 8; Tulyathan Decl. ¶ 10; Agnew Decl. ¶ 11)

19 Once the court establishes the lodestar amount, it may enhance the fee award by a
20 multiplier in order to make an appropriate fee award. *Serrano III*, 20 Cal. 3d at 48. The pertinent
21 factors include the difficulty of the questions involved and the skill in presenting them, the
22 contingent nature of the fee award, the extent to which the litigation precluded other employment,
23 and the percentage-of-the-fund the attorney would have received on the fair market. *Id.*, *Lealao*,
24 82 Cal.App.4th at 49. However, this list is not exhaustive and the court can consider other factors
25 it deems important in setting the multiplier. *Ketchum v. Moses*, 24 Cal. 4th 1122, 1139 (2001).

26 *Lealao* contains several factors justifying an enhancement based on the percentage-of-the-
27 benefit, namely, no objections by Class Members, commendable conduct by counsel, and
28 significant recoveries by Class Members, all of which were previously detailed above. *Lealao*, 82

1 Cal. App. 4th at 51-53. As in *Lealao*, the Class was notified of the settlement and attorney's fee
2 with no objections. The extreme effort undertaken by Class Counsel, as shown by their hours and
3 the significantly high amount of claims being paid out, shows commendable conduct.

4 It is also critical to note that prompt settlement cannot be used to diminish the fee or the
5 enhancement based on a percentage-of-the-fund. *Lealao*, 82 Cal. App. 4th at 52 (the promptness
6 of settlement "cannot be used to justify the refusal to apply a multiplier"). According to *Lealao*,
7 courts placed "an extraordinarily high value" on settlement, and counsel should be rewarded, not
8 punished, for achieving this goal in a timely fashion. *Id.*

9 The multiplier should be enhanced by the contingent nature of counsel's fee recovery. The
10 risks in taking on a class action case are enormous, not the least of which is time and effort. As
11 explained previously, Defendant maintained that there were significant obstacles. Thus, the risk
12 involved in this case was quite significant for Plaintiffs and their counsel, and in the face of such
13 risks, the current settlement was still able to be obtained by Plaintiffs' counsel.

14 Here based upon Plaintiffs' counsel's lodestar of \$574,290.00, Plaintiffs' requested fees
15 result in a multiplier of 2.989 ($\$1,716,666.67$ (requested fees) $\div$ $\$574,290.00$ (lodestar amount)).
16 This demonstrates that the requested fees are reasonable and fair, particularly based on the factors
17 and cases described above. *See, e.g. In re Nat'l Collegiate Athletic Ass'n Athletic Grant-in-Aid*
18 *Cap Antitrust Litig.*, 768 F. App'x at 654 (affirming 3.66 multiplier).

19 As such, the requested fee award is fair and reasonable, and should be awarded in its
20 entirety. Class Counsel risked not only a great deal of time, but also a great deal of expense to
21 ensure the successful litigation of this action on behalf of all Class Members. For such reasons,
22 Class Counsel's request for attorneys' fees in the amount of \$1,716,666.67 is fair, reasonable, and
23 adequate.

24 **VII. THE COURT SHOULD APPROVE THE REQUEST FOR REIMBURSEMENT OF**
25 **COSTS**

26 The request for reimbursement of costs, in the amount of \$11,636.82 is fair and
27 reasonable. The costs are all litigation related costs. (Lee Decl. ¶ 10, Exh. B.) The authority for
28 the Court to award this is the Parties' Settlement Agreement and Labor Code sections 201 to 203,

226, 510, 558, 1194, 2699 and 2802, and Code of Civil Procedure section 1021.5. As such, this request should be approved.

VIII. THE SETTLEMENT ADMINISTRATOR'S FEES AND COSTS SHOULD BE APPROVED

Pursuant to the terms of the Settlement Agreement, the fees and costs of the Settlement Administrator, Phoenix Settlement Administrators, are to be paid out of the class settlement funds. As shown in the Declaration of Kevin Lee, the class administration fees expended in this matter total \$97,000, which is the amount that was agreed upon by the Parties. (Admin. Decl. ¶ 17, Exh. B.) For such reasons, it is requested that the Settlement Administrator's fees be approved.

IX. CONCLUSION & NOTICE TO THE LWDA

Concurrent with the filing of this Motion, Plaintiff provided notice to the LWDA. (Gavron Decl. ¶ 16; Ex. B.)

Plaintiffs respectfully submit that the standards for final approval have been met and the terms of the Settlement Agreement are fair, adequate, and reasonable. Accordingly, Plaintiffs respectfully request that the Court enter an Order in the form proposed and submitted:

1. Granting final approval of the proposed Settlement Agreement in this action;
2. Approving distribution of the settlement funds to the Class Members pursuant to the terms of the Settlement Agreement;
3. Approving Plaintiffs' requests for awards of the Class Representative Enhancement Payments pursuant to the terms of the Settlement Agreement as follows: (a) \$20,000.00 to Plaintiff Delishia Hyde; (b) \$20,000.00 to Plaintiff Eugenia Dubose; (c) \$10,000.00 to Plaintiff Clara Trotter; and (d) \$10,000.00 to Plaintiff Araya Turner;
4. Approving Class Counsel's request for an award to Class Counsel for \$1,716,666.67 in attorneys' fees and \$11,636.82 in costs with payment pursuant to the terms of the Settlement Agreement;
5. Approving Plaintiffs' request for payment of the settlement administration costs to Phoenix Settlement Administrators in the amount of \$97,000 with payment pursuant to the terms

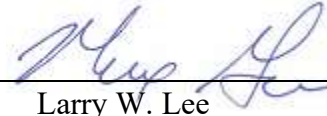
1 of the Settlement Agreement;

2 6. Approving Plaintiffs' request for payment to the LWDA for \$150,000.00 with
3 payment pursuant to the terms of the Settlement Agreement; and

4 7. Entering final judgment as to all members of the Class in this action.

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6 DATED: July 17, 2023

DIVERSITY LAW GROUP, P.C.

7
8 By:  _____

Larry W. Lee

9 Max W. Gavron

10 Attorneys for Plaintiffs and the Class
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