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

KATHERYN ENRIQUEZ, individually, and
on behalf of all other similarly situated
employees,

Plaintiffs,

vs.

VINTAGE REAL ESTATE GROUP, INC., a
California corporation, and DOES 1 through
50, inclusive,

Defendant.

Case No.: 30-2020-01157744-CU-OE-CXC

Assigned for all purposes to the Hon. Melissa
McCormick, Dept. CX104

**MEMORANDUM OF POINTS AND
AUTHORITIES IN SUPPORT OF
MOTION FOR FINAL APPROVAL OF
CLASS ACTION SETTLEMENT**

Action Filed: August 28, 2020
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Dept.: CX104

[FILED CONCURRENTLY WITH
MEMORANDUM OF POINTS AND
AUTHORITIES; DECLARATION OF
ARMOND M. JACKSON; DECLARATION
OF KATHERYN ENRIQUEZ; PROPOSED
ORDER]

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I. INTRODUCTION

This is an extremely small representative action. Plaintiff Katheryn Enriquez (“Plaintiff”) seeks preliminary approval of the Parties’ Stipulation of Class Action and PAGA Settlement (hereinafter “Stipulation” or “Settlement”), which if approved by the Court, would provide valuable monetary relief for approximately current and former employees of Defendant, Vintage Real Estate Group, Inc. (“Defendants”), (collectively with Plaintiff, the “Parties”). The Parties jointly prepared and executed the formal long-form Stipulation, attached as **Exhibit A** to the Declaration of Armond M. Jackson (“Jackson Decl.”), the basic terms of which provide for:

- (1) Conditional certification of the Settlement on behalf of Class Members defined as: All current and former non-exempt employees who were or are employed by Defendants in California at any time during the class period [November 19, 2016 through March 30, 2023] and who have not received reimbursement for personal cellphone usage during the class period.
- (2) A non-reversionary Class Settlement Amount of \$9,000 addition to employer payroll taxes which will be paid separately by Defendant. The Maximum Settlement Amount includes:
 - (a) A Net Settlement Amount of approximately \$3,375 (the Maximum Settlement Amount minus the requested Attorneys’ Fees and Costs, Settlement Administration Costs, the payment to the California Labor and Workforce Development Agency [“LWDA”], and the requested Class Representative Enhancement Payment), which will be allocated to Participating Class Members on a pro-rata basis according to the Qualified Pay Periods worked by each Class Member during the Class Period. The entire Net Settlement Amount will be paid to all Class Members who do not opt out of the Settlement Class (“Participating Class Members”), and without the need to submit claims for payment.
 - (b) Attorneys’ fees in the amount of one-fourth of the Class Settlement Amount (or \$2,250.00) of attorneys fees to Jackson Law, APC (“Class Counsel”).
 - (c) Settlement Administration Costs, currently estimated at \$1,000, to be paid to the jointly selected settlement administrator, ILYM Group, Inc.
 - (d) A \$2,500.00 payment of the Maximum Settlement Amount has been set aside by the Parties as PAGA civil penalties. \$1,875.00 will be a payment to the LWDA pursuant to the Private Attorneys General Act (“PAGA”).
 - (e) Class Representative Enhancement Payments of \$500.00 to Plaintiff Katheryn Enriquez for their service on behalf of the Settlement Class.

An objective evaluation of the Settlement confirms that the relief negotiated on the Class

Members' behalf is fair, reasonable, and valuable. The Stipulation was negotiated by the parties at arm's-length with helpful guidance from mediator T. Warren Jackson, Esq., an experienced mediator, and the Stipulation confers substantial benefits to Class Members.

As discussed below, the proposed Stipulation satisfies all criteria for preliminary settlement approval under California law and falls within the range of reasonableness. Moreover, the proposed group of Class Members is appropriate for provisional certification. Accordingly, the Parties respectfully request that this Court grant preliminary approval of the Settlement.

A. Preliminary Settlement Approval

On May 12, 2023, the Court signed an Order that conditionally granted certification and preliminary approval of the settlement. (ROA No. 158.)

B. Proper Notice to Class Members

After this Court conditionally granted certification and preliminary approval of the Settlement Class Notice was sent pursuant to the terms of the Settlement Agreement and direction of the Court. (Declaration of Makenna Snow, "Snow Decl.") ¶ 7.) No Class members submitted objections. (Snow Decl. ¶ 12)

II. THE SETTLEMENT

The following summarizes the Settlement's key terms.

A. Settlement Class

The "Class" is defined as:

Class: All current and former non-exempt employees who were or are employed by Defendants in California at any time during the class period [November 19, 2016 through March 30, 2023] and who have not received reimbursement for personal cellphone usage during the class period.

Accordingly, solely for purposes of this settlement only, the Aggrieved PAGA group is defined as follows:

PAGA Group Members: all Class Members employed by Defendant at any time between March 12, 2020, through October 21, 2022, or preliminary approval, whichever is later.

1 **B. Benefits to the Class**

2 **1. The Settlement Fund**

3 Pursuant to the terms of the Settlement, Defendants will pay \$9,000.00 to the Claims
4 Administrator to be used for: (a) providing cash payments in the amount of no less than
5 \$2,750.00 minus any applicable taxes; (b) payment of attorneys' fees and costs not to exceed
6 \$2,250; (c) a class representative enhancement payment to the Named Plaintiff Katheryn
7 Enriquez not to exceed \$500.00; (d) all settlement administration fees and costs, including those
8 of the Claims Administrator projected to be no more than \$1,000.00; and (e) payment of all
9 penalties under the California Private Attorneys General Act of 2004 ("PAGA") in the amount of
10 \$2,500.00 ("PAGA Payment"). (Snow Decl. ¶ 15.)

11 The average estimated Individual Settlement Share is \$343.75. (Snow Decl. ¶ 16.)

12 **2. Payments to Class Members**

13 The Claims Administrator shall make Individual Settlement Payments to Participating
14 Class Members pursuant to the terms of the settlement agreement.

15 Individual Settlement Payments will be calculated and apportioned from the Net
16 Settlement Amount based on the number of workweeks worked during the relevant time period.
17 (Snow Decl. ¶ 16.) Individual Settlement Payments for the PAGA Employees will be calculated
18 and apportioned from the Net Settlement Amount based on the number of Pay Periods worked
19 during the relevant time period. (Snow Decl. ¶ 17)

20 **3. The Claim Process**

21 On August 17, 2023, Defendant's counsel provided the Claims Administrator with the
22 names, most recent mailing addresses, Social Security numbers, and pertinent information for the
23 Class Period for the Class Members. ((now Decl. ¶ 5.) This list provided information for 8 Class
24 Members. (*Id.*) 8 Class Members were verified and mailed approved Notice Packets via First-
25 Class U.S. Mail. (Snow Decl. ¶¶ 6-7.)

1 On October 10, 2023, the Claims Administrator sent by first class mail the Notice Packets
2 to the Class Members whose names were provided by Defendant, a Notice Packet. (Snow Decl.
3 ¶7.)

4 The deadline for Class Members to postmark Challenges, Objections or Exclusion
5 Requests was December 9, 2023. (Snow Decl. ¶¶ 11-12.) No exclusions or opt-outs were
6 received. (*Id.*)

7 **4. Distribution of Funds**

8 In accordance with the Stipulation of Settlement, the Net Settlement Fund in its' entirety
9 shall be divided among the Class Members. The average estimated Individual Settlement Share
10 is \$343.75 for class members and \$78.13 for PAGA Employees. (Snow Decl. ¶¶ 16-17.)

11 **5. Opt-out and Objection Procedures**

12 The deadline for Class Members to postmark Challenges, Objections or Exclusion
13 Requests was December 9, 2023. (Snow Decl. ¶¶ 11-12.)

14 The claims administrator had received no objections to the settlement terms, nor
15 challenges nor Comments. (Snow Decl. ¶¶ 11-12.)

16 **III. FINAL SETTLEMENT APPROVAL IS APPROPRIATE**

17 The law favors settlement, particularly in class actions and other complex cases in which
18 substantial resources can be conserved by avoiding time, cost and rigors of formal litigation.
19 (*Potter v. Pacific Coast Lumber Company*, (1951) 37 Cal. 2d. 592, 602-603; 4 NEWBERG
20 section 11.41. When faced with a motion for final approval of a class action settlement under
21 Code of Civil Procedure section 382, a court inquires whether the settlement is fair, adequate,
22 and reasonable.” See e.g., *Munoz v. BCI Coca-Cola Bottling Co. of Los Angeles*, (2010) 186 Cal.
23 App. 4th 399, 407-408; *Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal. App. 4th 116, 129-30;
24 *Dunk v. Ford Motor Company* (1996) 48 Cal. App. 4th 1794, 1801.)

1 **A. This Court Preliminarily Found This Settlement To Be Fair, Reasonable And**
2 **Adequate And Nothing Has Changed To Disturb That.**

3 Before granting preliminary approval of a class action settlement, courts must determine
4 that the proposed settlement is fair, reasonable, and adequate — and not a product of fraud,
5 overreaching, or collusion. Cal. R. Ct. 3.769 (g); Cal. Civ. Pro. Code § 382; *Dunk v. Ford Motor*
6 *Co.*, supra, 48 Cal.App.4th at 1801. Courts must presume that a settlement is fair, reasonable,
7 and adequate, and thus appropriate for preliminary approval when the following three factors are
8 satisfied: (1) the parties reached settlement after arms-length negotiations; (2) counsel conducted
9 sufficient investigation and discovery to allow themselves and the court to act intelligently; and
10 (3) counsel is experienced in similar litigation *Id.* at 1802. See also *7-Eleven Owners for Fair*
11 *Franchising v. Southland Corp.*, (2000) 85 Cal. App. 4th 1135, 1146. Further, as discussed
12 below, although not determinative, courts consider the percentage of objectors in determining
13 whether a presumption of fairness exists. *Id.* The parties conducted sufficient amount of
14 discovery and participated in a private mediation and numerous conferences of counsel that
15 ultimately led to an arms-length settlement that provides for substantial recovery. Moreover,
16 there are no objectors. (Snow Decl. ¶¶ 11-12.).)

17 **1. The Settlement Resulted From Non-Collusive, Arms-Length Negotiations**

18 There certainly is no collusion between the parties. The involvement of a neutral third-
19 party mediator is a factor that favors approval and evidences the presumptive fairness of the
20 arms-length negotiations. (Jackson Decl. ¶ 6.) Indeed, courts should give considerable weight to
21 the competency and integrity of counsel and the involvement of a neutral mediator in assuring
22 themselves that a settlement agreement represents an arms-length transaction entered without
23 self-dealing or other potential misconduct. *Kullar v. Foot Locker*, supra, 168 Cal. App. 4th at
24 129. Here, after extensive discovery, discussions, exchange of information and review of
25 records, on January 12, 2022, the parties conducted a full-day mediation session with a well-
26 respected and highly knowledgeable mediator T. Warren Jackson, Esq. (Jackson Decl. ¶ 6.)

27 **B. The Settlement is Supported by Substantial Investigative and Discovery Efforts**

1 As discussed in the preliminary approval papers, supporting declaration and herein, Class
2 Counsel analyzed a information that Defendant produced in response to formal and informal
3 discovery requests in preparation for mediation. (Jackson Decl. ¶¶ 3-12.) The parties conducted
4 investigation of the facts and law during the prosecution of the Action, including formal
5 discovery efforts. (*Id.*) Class Counsel’s research enabled them to pinpoint the relevant issues and
6 claims and to assess potential liability and damages. (*Id.*) These efforts resulted in the parties
7 having a clear view of the strengths and weaknesses of their respective cases and achieving a
8 resolution on favorable terms, as was evidenced during mediation and subsequent negotiations
9 leading to Settlement. (*Id.*)

10 **C. Class Counsel is Experienced in Similar Litigation**

11 The endorsement of qualified and well-informed counsel of the settlement as fair is
12 entitled to significant weight. *See Dunk, supra*, 48 Cal.App.4th at 1802. As discussed in the
13 preliminary approval papers and set forth in the Declaration of Class Counsel, Class Counsel has
14 represented, mediated and settled over 45 other employee class actions or representative actions
15 in wage and hour litigation and have knowledge of the strengths and weaknesses of the claims
16 against Defendant and the benefits of the proposed settlement under the circumstances of the
17 case. (Jackson Decl. ¶¶ 3, 14, 19.) Class Counsel contends that the Settlement is fair, adequate,
18 reasonable, and in the best interests of the Class as a whole. (*Id.*)

19 **D. Class Members’ Positive Reaction to the Settlement Favors Final Approval**

20 Finally, courts look at the reaction of class members to determine if a settlement that
21 directly affects their interests should be approved as fair, adequate, and reasonable. As already
22 discussed herein, out of 8 class members, there are no objectors. Further, a court may
23 appropriately infer that a class action settlement is fair, adequate, and reasonable even when class
24 members object to it. Indeed, a court may approve a class action settlement as fair, adequate,
25 and reasonable even over the objections of a significant percentage of class members. *See Boyd*
26 *v. Betchel Corp.*, (D.C. Cal 1976) 485 F. Supp. 610, 624. *Reed v. General Motors* (5th Cir. 1983)

703 F.2d 170, 174; *In re Wash. Pub. Power Supply System Sec. Litig.* (D. Ariz. 1989) 720 F. Supp. 1379, 1394. In this action, there are no objectors. (Snow Decl. ¶¶ 11-12.)

V. CLASS REPRESENTATIVE ENHANCEMENT IS REASONABLE

The settlement provides for an enhancement award to be paid to the Class Representative. The purpose is to provide an additional incentive payment, taking into consideration the risks, time and effort in coming forward to fulfill all the duties associated with being a class representative. Awarding incentive awards to compensate named plaintiffs in class actions has been specifically recognized. See, e.g. *Clark v. American Residential Services, LLC*, (2009) 175 Cal App 4th 785, 804 (incentive awards to named plaintiff appropriate for participation in class action); *Bell v Farmers Ins. Exchange*, (2004) 115 Cal App 4th 715, 726 (upholding “service payments” to named plaintiffs for their efforts in bringing class case). As stated by the Court of Appeal in the *Cellphone Termination Fee Cases*: incentive awards are "intended to compensate class representatives for work done on behalf of the class, to make up for financial or reputational risk undertaken in bringing the action, and, sometimes, to recognize their willingness to act as a private attorney general." *Cellphone Termination Fee Cases*, (2010) 186 Cal. App. 4th 1380, 1394 (approving an incentive award of \$10,000). The class representative enhancement payment is intended to compensate named Plaintiff Katheryn Enriquez as the class representatives for their willingness to accept the responsibility of representing the interests of all class members. The purpose is to provide an incentive payment, taking into consideration the risks, time and effort expended by him in coming forward to provide invaluable information and litigate this matter on behalf of all Class Members. Plaintiff also risked potential judgment against her if this case had been unsuccessful. In class action losses, class representatives are deemed the losing party that is liable for the prevailing party’s costs. *Earley v. Superior Court*, (2000) 79 Cal.App.4th 1420, 1433-1434. Finally, Plaintiff also risked this lawsuit having a negative impact on future employment opportunities, as prospective employers may be less inclined to hire an employee who has served as a class representative. See, e.g. *Staton v. Boeing*, 327 F.3d 938, 977 (9th Cir. 2003) As such, Plaintiff respectfully requests that this Court approve

1 the Class Representatives enhancement payment in the amount of \$500.00 for Named Plaintiff
2 Katheryn Enriquez.

3 **VI. CLASS COUNSEL’S REQUEST FOR ATTORNEYS FEE AWARD AND COSTS**
4 **ARE REASONABLE**

5 **1. Attorneys’ Fees Are Justified**

6 **a. Lodestar Analysis**

7 “Courts recognize two methods of calculating attorney fees in civil class action; the
8 lodestar/multiplier method and the percentage of recovery method.” (*Wershba v. Apple*
9 *Computer, Inc.* 91 Cal. App. 4th 224, 254 (2001).) “[T]he lodestar is calculated by multiplying
10 the reasonable hours expended by a reasonable hourly rate. The court may then enhance the
11 lodestar with a multiplier, if appropriate.” (*Id.*) “The lodestar multiplier can range from 2 to 4 or
12 even higher.” (*Id.* at 255.)

13 In calculating attorney’s fees under the Labor Code, the court should follow the lodestar
14 approach adopted by the California Supreme Court in *Ketchum v. Moses* (2001) 24 Cal. 4th 1122,
15 1134. See also *Chavez v. City of Los Angeles* (2010) 47 Cal. 4th 970, 985. The “lodestar” method
16 is clearly defined in recent case law. It involves a five-step process. *In Re: Vitamin Cases* (2003)
17 110 Cal. App. 4th 1041, 1052. To determine the “lodestar number” – steps one through three of
18 the process – the court multiplies the number of hours reasonably worked by a reasonable hourly
19 rate. (*Id.*) Step four requires the Court to determine what, if any, multiplier should be applied to
20 the lodestar number. Step five determines the amount of the attorney fee award by applying the
21 multiplier to the lodestar number. (*Id.*)

22 For the Court’s ease of reference, the following chart summarizes the attorney’s fees
23 Class Counsel seeks:
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Item Description	Amount
Reasonable attorney's fees incurred in procuring the underlying award applying the Lodestar method for calculating attorney's fees in Labor Code cases (\$32,890.50).	\$2,250
TOTAL	\$2,250

b. The Number of Hours Expended by Plaintiff's Counsel Was Reasonable.

"The starting point of every fee award...must be a calculation of the attorney's services in terms of the time he has expended on the case." *Press v. Lucky Stores, Inc.*, (1983) 34 Cal. 3d 311, 322. Reasonable hours include, in addition to time spent during litigation, time spent before the action is filed, including time reasonably spent interviewing the client, investigating the facts and the law, and preparing the initial pleadings, as well as time spent in exhausting administrative remedies. *New York Gaslight Club, Inc. v. Carey* (1980) 447 U.S. 54, 62.

The evidence submitted by Class Counsel in support of this motion reflect that Class Counsel reasonably expended the following number of hours in the prosecution of this case. (Jackson Decl. ¶ 21 Ex. F) Jackson Law began filed this class action claim in August 28, 2020, more than 24 months prior to this hearing. A reasonable amount of work was performed pre-litigation, including conducting an extensive intake process requiring the compiling documents and information related to claims. (Jackson Decl. ¶¶ 6-8, 21, Ex. F) Discovery was conducted by Class Counsel regarding both the circumstances of the Plaintiff's employment. (*Id.*)

The time expended to achieve preliminarily and final approval was also reasonably incurred. (*Id.*) As set forth in the declarations submitted herewith, the total number of hours spent on this matter by Class Counsel is reasonable in light of the work required to achieve the result. (*Id.*) Thus, the Court shall conclude that all of the time spent on this case was reasonable and necessary to achieve this result and Class Counsel is entitled to compensation for all the attorney hours worked in this case. (*Id.*)

1 **c. The Hourly Rate Charged for the Services of Plaintiff's Counsel is Reasonable.**

2 When determining a reasonable hourly rate for the attorney's services, courts consider the
3 following factors: (i) the prevailing rate charged by attorneys of similar skill and experience for
4 comparable legal services in the community, (ii) the nature of the work performed, and (iii) the
5 attorney's customary billing rates. *Serrano v. Unruh* (1982) 32 Cal.3d 631, 643; *See also Bihun*
6 *v. AT&T Information Systems, Inc.* (1993) 13 Cal.App.4th 976, 997 *disapproved on other*
7 *grounds Lakin v. Watkins Associated Industries* (1993) 6 Cal.4th 644, 664. The hourly rate is
8 determined at the time of the prevailing party's fee application rather than rates charged at the
9 time the litigation began. (*Gates v. Deukmejian* (9th Cir. 1992) 987 F.2d 1392, 1406.)

10 The Jackson Declaration lays the proper foundation for why the hourly rates charged for
11 each attorney working on this case is reasonable and customary for those rates charged by
12 attorneys with similar experience. (Jackson Decl. ¶¶ 21, 22, Ex. F)

13 Mr. Jackson's hourly rate on this matter was \$725, Andrea Fernandez's hourly rate
14 charged was \$515, Anthony S. Filer Jr.'s hourly rate charged was \$250 and legal staff hourly rate
15 charged was \$125 is consistent with the Laffey Matrix. (Jackson Decl. ¶¶ 21-22, Ex. F-G) Mr.
16 Jackson is a senior attorney who has been litigating for approximately 12 years. (*Id.*) Ms.
17 Fernandez is a senior attorney who has been litigating for 9 years. (Jackson Decl. ¶ 22) Mr.
18 Jackson has handled over a hundred of employment matters on behalf of the plaintiff in his
19 career. (Jackson Decl. ¶¶ 13-14, 19) Mr. Jackson has argued before the Ninth Circuit and
20 responsible for a published opinion. (*Id.*) Based on his and experience, and based on his own
21 research for purposes of keeping his law firm competitive and profitable, he has knowledge of
22 the hourly rates other plaintiff's attorneys with similar experience charge in employment cases.
23 (*Id.*) Based on this foundation, Mr. Jackson believes that his regular hourly rate of \$725 per hour
24 is reasonable and similar to what attorneys with his tenure, experience and expertise and Ms.
25 Fernandez-Jackson's regular hourly rate of \$515 per hour is reasonable and similar to what
26 attorneys with her tenure, experience and expertise is. (*Id.*) Mr. Filer Jr's hourly rate of \$250
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1 should also be deemed reasonable. Based on this foundation, legal staff's regular hourly rate of
2 \$125 is reasonable.

3 **d. Laffey Matrix Rates**

4 The Laffey Matrix is one well-established objective source setting rates for attorneys
5 based upon years of experience for attorneys practicing in the District of Columbia. See
6 <https://www.justice.gov/usao-dc/file/796471/download> (citing *Laffey v. Northwest Airlines, Inc.*, 572 F.Supp.
7 354 (D.D.C. 1983), aff'd in part, rev'd in part on other grounds. 746 F.2d 4 (D.C.Cir. 1984).
8 Thus, the rate for Armond M. Jackson, Andrea Fernandez-Jackson, Anthony S. Filer Jr. and
9 Yesenia Villalba are consistent and within the Laffe Matrix rates.

10 The product of multiplying the number of hours expended by counsel on this case and
11 each respective attorney's hourly rate yields the following sums:

12 **e. Lodestar Multiplier**

13 Calculating this number is straightforward. The lodestar number is \$32,890.50 for the
14 work reflected on the invoices submitted (i.e., hourly rates multiplied by hours worked).
15 (Jackson Decl. 21, Ex. F) When determining the "lodestar" number, the court may consider the
16 following factors: (i) the quality of the representation, (ii) the novelty and complexity of the
17 issues, (iii) the results obtained, and (iv) the contingent risk presented. (*Thayer, supra*, 92
18 Cal.App.4th at p. 833.)

19 California courts may also consider the contingency fee risk as a factor to enhance the
20 lodestar amount where deemed appropriate to attract attorney's to cases of significant public
21 interest and to compensate for the risk of loss and delay in payment inherent in contingency fee
22 cases. (*Horsford, supra*, 132 Cal.App.4th at p. 395.) Courts may also consider a lodestar
23 enhancement to reflect a law firm's role in the success of the litigation. (*Serrano, supra*, 20
24 Cal.3d at p. 49.) Finally, courts may enhance the lodestar amount for long delay in payment in
25 employment cases that span years before the attorney can collect fees. (*Downey Cares v.*
26 *Downey Comm. Develop. Comm'n* (1987) 196 Cal.App.3d 983, 997.)
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1 The California Supreme Court in *Graham v. DaimlerChrysler Corp.* (2004) 34 Cal.4th
2 553, dealt with a trial court judgment that included a 2.25 multiplier to the lodestar amount. The
3 trial court based the enhancement on “the contingency nature [of the litigation], the delay in
4 payment and the quality of the result.” *Graham, supra*, 34 Cal.4th at p. 578-579.

5 Several recent cases have upheld applying a multiplier of 2.0 to the lodestar analysis.
6 (See *Estrada v. FedEx Ground Package System* (2007) 154 Cal.App.4th 1, 17—multiplier based
7 on the risk inherent in a contingent fee, the financial burden associated with prosecuting a
8 contingency case, and protracted litigation involving the enforcement of an important right; See
9 also *Ketchum v. Moses* (2001) 24 Cal.4th 1122, 1133—applying a 2.0 multiplier.)

10 Finally, one court has upheld a multiplier of 1.65 (*Amaral v. Cintas Corp.* (2008) 163
11 Cal.App.4th 1157, 1174) and several cases have upheld a multiplier of 1.5. (See *Downey Cares*
12 *v. Downey Community Development Com.* (1987) 196 Cal.App.3d 983, 993-994; *Beasley v.*
13 *Wells Fargo Bank* (1991) 235 Cal.App.3d 1407, 1419; *Edgerton v. State Personnel Bd.* (2000)
14 83 Cal.App.4th 1350, 1363.)

15 Here, a lodestar multiplier is not being requested given the amount requested compared to
16 the work performed.

17 **f. Percentage of the Recovery Analysis**

18 Alternatively, “in cases which the value of the class recovery can be monetized with a
19 reasonable degree of certainty and it is not otherwise inappropriate, a trial court has discretion to
20 adjust the basic lodestar through the application of a positive or negative multiplier where
21 necessary to ensure that the fee awarded is within the range of fees freely negotiated in the legal
22 marketplace in comparable litigation.” (*Lealao v. Beneficial California, Inc.*, 82 Cal. App. 4th,
23 19, 50 (2000).) “Courts use the percentage of recovery method in common fund cases on the
24 theory that the class would be unjustly enriched if it did not compensate the counsel responsible
25 for generating the valuable fund bestowed upon the class.” *In re General Motors Corp. Pick-Up*
26 *Truck Fuel Products Litigation*, 55 F. 3d 768 (1995). Courts have “evaluate[d] the lodestar as a
27 percentage of the recovery and adjust[ed] it accordingly if it can be determined that the lodestar
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1 is significantly different from the range of percentage fees freely negotiated in comparable
2 litigation.” (*Id.*) Under these circumstances where it will take approximately 3 years to bring this
3 matter to conclusion for \$9,000, the percentage of the fee analysis would support a percentage of
4 the fee of at least 33.33 percent equating to \$2,999.70. This attorney fee and costs request of
5 \$2,250 shall be deemed reasonable as it is below the standard benchmark request of 33.33% for
6 fees only.

7 **g. Cross-Check Analysis**

8 “[A] proposed percentage fee can (and, for the reasons hereafter explained, should) be
9 compared against the fee that lead counsel would have been awarded on a lodestar basis. If the
10 multiplier implied by that comparison is reasonable, then the percentage-based fee request is
11 reasonable as well, if the implied multiplier is unreasonably high, then so is the proposed
12 percentage fee award. (*In re HLP Technologies, Inc. Securities Litigation*, 366 F.Supp. 2d 912,
13 915 (2005) citing *In re General Motors Corp. Pick-Up Truck Fuel Products Litigation*, 55 F. 3d
14 768 820-21 (1995). Here, no lodestar multiplier is being requested, and a negative lodestar is
15 being applied given the amount of attorneys’ fees incurred compared to the amount requested.
16 Under these circumstances, the attorney fee and costs request of \$2,250 shall be deemed
17 reasonable.

18 **VII. CLASS COUNSEL’S REQUEST FOR COSTS IS REASONABLE**

19 The Settlement provides for reasonable fees and costs of up to 2,250. Class Counsel
20 incurred litigation costs in bringing this matter to a resolution before trial. Here, the actual costs
21 expended are \$2,343.15 which is more than what is actually being requested which should also
22 be deemed reasonable. (Jackson Decl. ¶ 21, Ex. E.)

23 **VIII. CONCLUSION**

24 For the foregoing reasons, Plaintiff respectfully requests that the Court enter an Order
25 granting final approval of the Settlement.
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2 Dated: January 2, 2024

Respectfully Submitted,
Jackson APC

3 By: /s/ Armond M. Jackson
4 Armond M. Jackson
5 Attorney for Plaintiff
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