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

CYNTHIA BARRAGAN, 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;

Plaintiff,

vs.

TIBURCIO VASQUEZ HEALTH CENTER,
INC., a California corporation; and DOES 1
through 100, inclusive,

Defendants.

Reservation ID: A-20078693-001

Case No.: RG20078693

Honorable Michael Markman
Department 23

**PLAINTIFF'S NOTICE OF MOTION
AND MOTION FOR FINAL APPROVAL
OF CLASS ACTION AND PAGA
SETTLEMENT, ATTORNEYS' FEES
AND COSTS, AND CLASS
REPRESENTATIVE SERVICE
PAYMENT; MEMORANDUM OF
POINTS AND AUTHORITIES IN
SUPPORT THEREOF**

[Declaration of Class Counsel
(Vartan Madoyan); Declaration of Class
Representative (Cynthia Barragan);
Declaration of Settlement Administrator
(Lindsay Romo of Simpluris); and
[Proposed] Final Approval Order and
Judgment filed concurrently herewith]

Date: May 29, 2025
Time: 10:00 a.m.
Department: 23

Complaint Filed: October 20, 2020
FAC Filed: June 29, 2021
SAC Filed: September 10,
2021
Trial Date: None Set

1 **PLEASE TAKE NOTICE** that on May 29, 2025, at 10:00 a.m., in Department 23 of the
2 above-entitled Court, located at 1225 Fallon Street Oakland, CA 94612, Plaintiff Cynthia Barragan
3 (“Plaintiff”) will and hereby does move for an order granting final approval of:

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

- 8 • A Net Settlement Amount of approximately **\$796,700.60** will be fully distributed to all
9 Class Members other than those who have submitted timely and valid Opt Out Requests
10 and thereby excluded themselves from the Class Settlement (“Participating Class
11 Members”);
12 • **No Objections** were submitted to the settlement administrator, Simpluris, Inc.
13 (“Settlement Administrator” or “Simpluris”);
14 • **Only one (1) Request for Exclusion** was submitted to the Settlement Administrator;

15 2. Payment in the amount of **\$516,666.67** to Lawyers for Justice, PC (“Class
16 Counsel”), representing one-third of the Gross Settlement Amount, for attorneys’ fees, which is
17 reasonable and justified on a percentage-basis and also based on a lodestar cross-check;

18 3. Payment in the amount of **\$16,632.73** to Class Counsel for reimbursement of
19 litigation costs and expenses;

20 4. Payment in the amount of **\$10,000.00** to the Settlement Administrator for
21 Settlement Administration Expenses;

22 5. Payment in the amount of **\$10,000.00** to Plaintiff as a Class Representative Service
23 Payment, for her time and effort in representing the Class and in exchange for her broad general
24 release of claims; and

25 6. Allocation of the penalties under the Private Attorneys General Act of 2004,
26 California Labor Code section 2698, *et seq.*, in the amount of \$200,000.00, of which 75%, or
27 **\$150,000.00**, will be paid to the California Labor and Workforce Development Agency (“LWDA”)
28

1 (“LWDA PAGA Payment”) and 25%, or **\$50,000.00**, will be distributed to Aggrieved Employees
2 (“Individual PAGA Payment”).

3 This Motion is made pursuant to Rule 3.769 and Rule 3.1113(e) of the California Rules of
4 Court, which require approval by the Court of a class action settlement and permit the Court to
5 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 (Vartan Madoyan), Class Representative (Cynthia Barragan), and
8 Settlement Administrator (Lindsay Romo of Simpluris) in support thereof; the pleadings and other
9 records on file with the Court in this matter; and such evidence and oral argument as may be
10 presented at the hearing on this Motion.

11
12 Dated: May 6, 2025

LAWYERS for JUSTICE, PC

13
14 By:



Vartan Madoyan
Attorney for Plaintiff and the Class

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MEMORANDUM OF POINTS AND AUTHORITIES

I. SUMMARY OF MOTION

Plaintiff Cynthia Barragan (“Plaintiff”) seeks final approval of: (1) the Gross Settlement Amount of \$1,550,000.00¹; (2) attorneys’ fees in the amount of \$516,666.67, which is one-third of the Gross Settlement Amount, and reimbursement of litigation costs and expenses in the amount of \$16,632.73 (together the “Attorneys’ Fees and Costs”) to Lawyers for Justice, PC (“Class Counsel”); (3) Settlement Administration Expenses in the amount of \$10,000.00 to Simpluris, Inc. (“Simpluris” or “Settlement Administrator”); (4) Class Representative Service Payment in the amount of \$10,000.00 to Plaintiff Cynthia Barragan; and (5) allocation of \$200,000.00 for penalties under the Private Attorneys General Act of 2004, California Labor Code § 2698, *et seq.* (“PAGA Amount”).

Plaintiff seeks relief on behalf of the following Class:

All current and former hourly-paid or non-exempt employees employed by Defendant in California at any time during the Class Period (“Class”).²

This matter involved ongoing investigations, formal and informal discovery, review and analysis of a large volume of documents and data prior to and during private mediation sessions conducted by Francis J. Ortman, and settlement negotiations thereafter. This matter has required **413.50** hours of attorney time by Class Counsel. As will be demonstrated herein, the request for attorneys’ fees, which represents one-third of the Gross Settlement Amount, is fully supported by the use of the percentage-fee method. The requested attorneys’ fees are also supported under the lodestar cross-check method with the use of a modest multiplier.³

Plaintiff moves for final approval of the Class Representative Service Payment in the amount of \$10,000.00 to Plaintiff, to compensate Plaintiff for the time and effort that she expended

¹ See Class Action and PAGA Settlement Agreement (“Settlement Agreement”), § 4.1. The Settlement Agreement is attached as Exhibit 1 to the Declaration of Vartan Madoyan filed on August 5, 2024. The Addendum to the Settlement Agreement (which related only to the scope of the PAGA release) is attached as Exhibit 2 to the Supplemental Declaration of Vartan Madoyan filed on October 24, 2024.

² Settlement Agreement, § 1.7. The “Class Period” is the period from October 20, 2016 through August 27, 2024. See *id.*, § 1.9 (90 days after execution of Agreement operates as the effective end date of the Class Period).

³ Applying Class Counsel’s blended and reasonable rate of \$850 to **413.50** hours of work performed by Lawyers for Justice, PC would place a base lodestar value of **\$351,475.00** for the work performed by Class Counsel, and applying a modest multiplier of **1.47**, the total enhanced lodestar fees are **\$516,668**. Class Counsel seeks an attorneys’ fees award of \$516,666.67 in comparison.

spearheading the lawsuit on behalf of the Class, Aggrieved Employees, and the State of California, and in exchange for providing a broad general release. Plaintiff also moves for final approval of the payment to the Settlement Administrator in the amount of \$10,000.00 for Settlement Administration Expenses. Plaintiff further moves for final approval of the allocation of \$200,000.00 for the PAGA Amount, of which 75%, or \$150,000.00, will be paid to the California Labor Workforce and Development Agency (“LWDA”) for its portion of the PAGA Amount (“LWDA PAGA Payment”), and 25%, or \$50,000.00, will be distributed on a *pro rata* basis to all current and former hourly-paid or non-exempt employees who performed work for Defendant within the State of California at any time during the PAGA Period (“Aggrieved Employees”) based on their Qualifying Pay Periods (“Individual PAGA Payment”).⁴

The requests for Attorneys’ Fees and Costs, Class Representative Service Payment, Settlement Administration Expenses, and allocation for the PAGA Amount were fully disclosed in the Notice of Class Action Settlement (“Class Notice”) that was mailed to the Class Members. Most importantly, as of the date of this Motion, *not a single Class Member has objected to any aspect of the Settlement, including the requested Attorneys’ Fees and Costs, Class Representative Service Payment, Settlement Administration Expenses, or allocation for PAGA Amount.*

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

In order to efficiently present the Court with adequate information to determine whether to grant final approval of the Settlement and award Attorneys’ Fees and Costs, Class Representative Service Payment, Settlement Administration Expenses, and PAGA Amount, Plaintiff also moves for an order permitting the filing of this single consolidated memorandum, although it exceeds the

⁴ Settlement Agreement, § 1.19. The “PAGA Period” is the period from August 11, 2019 through August 27, 2024. See *id.*, § 1.27 (90 days after execution of Agreement operates as the effective end date of the PAGA Period).

page limit established by California Rules of Court, Rule 3.1113(d), instead of filing several separate motions.

II. PROCEDURAL HISTORY AND FACTUAL BACKGROUND

Defendant provides a variety of health care and family support services in Central and Southern Alameda. Defendant maintains eight primary care clinics in the area and is headquartered in Hayward, California. Plaintiff is a former employee of Defendant.

On August 11, 2020, Plaintiff Barragan provided written notice by online submission to the LWDA and by certified mail to Defendant of the specific provisions of the California Labor Code that were alleged to be violated (the “LWDA Notice”).

On October 20, 2020, Plaintiff commenced the Action by filing a Class Action Complaint for Damages & Enforcement Under the Private Attorneys General Act, California Labor Code § 2698, et seq. (“Original Complaint”) in the Alameda County Superior Court, Case No. RG20078693 (“Action”).

On June 29, 2021, Plaintiff filed a First Amended Class Action Complaint for Damages & Enforcement Under the Private Attorneys General Act, California Labor Code § 2698, et seq. in the Action. As part of the settlement process, Plaintiff filed a Second Amended Complaint for Damages & Enforcement Under the Private Attorneys General Act, California Labor Code § 2698, et seq. on September 10, 2021 (the “Operative Complaint”).

On October 12, 2021, Defendant filed its Answer to the Second Amended Complaint, which included general denial and affirmative defenses. Defendant has denied, and continues to deny, any liability and wrongdoing of any kind associated with any of the allegations in the Action, and further denies that the Action is appropriate for class treatment or representative adjudication for any purpose other than for settlement purposes only.

The Parties have actively litigated the Action since it was commenced. In 2021 and 2023, Plaintiff Barragan propounded multiple sets of discovery including Requests for Production of Documents, (Set One); Requests for Admissions, (Set One); Special Interrogatories, (Sets One and Two); and Form Interrogatories, (Set One), on Defendant. Plaintiff also noticed the deposition of

Defendant's person most knowledgeable regarding job duties of employees, organizational structure of Defendant, and other relevant issues.

The Parties exchanged significant informal discovery and data for the Class Members and Aggrieved Employees, and participated in a formal, full-day mediation conducted by Francis J. Ortman, Esq., a well-regarded mediator experienced in mediating complex labor and employment matters. The matter did not resolve at mediation, but with further informal discovery, and with the aid of further settlement negotiations through the mediator, the Parties ultimately reached the Settlement described herein to resolve the Action in its entirety.

On August 5, 2024, Plaintiff filed a Motion for Preliminary Approval of Class Action Settlement and supporting documents ("Motion for Preliminary Approval"). After the Court required supplemental briefing, Plaintiff filed the Supplemental Declaration of Vartan Madoyan in Support of Plaintiffs' Motion for Preliminary Approval on October 24, 2024. The Court then granted the Motion for Preliminary Approval and entered the order on December 12, 2024.

Plaintiff now moves for final approval of the Settlement, Attorneys' Fees and Costs, Class Representative Service Payment, Settlement Administration Expenses, and allocation for PAGA Amount.

III. SUMMARY OF THE SETTLEMENT TERMS AND PLAN OF DISTRIBUTION

Under the terms of the Settlement Agreement, Defendant has agreed to pay a Gross Settlement Amount of \$1,550,000.00 in two installments according to the following payment schedule. The first installment (which will be due 30 days after the Effective Date of the Agreement) in the amount of \$775,000.00 ("First Installment Payment"), and the second installment (due 90 calendar days after the date of Defendant's First Installment Payment), in the amount of \$775,000.00 ("Second Installment Payment"), both into the qualified settlement account established by the Settlement Administrator.⁵ Subject to approval by the Court, the Net Settlement Amount will be calculated by deducting the following amounts from the Gross Settlement Amount: (1) Attorneys' Fees and Costs, consisting of attorneys' fees in the amount of \$516,666.67 and reimbursement of litigation costs and expenses in the amount of \$16,632.73, to Class Counsel;

⁵ Settlement Agreement, §§ 5.2.1-5.2.2; and §1.14 for the definition of Effective Date.

(2) Class Representative Service Payment in the amount of \$10,000.00 to Plaintiff; (3) Settlement Administration Expenses in the amount of \$10,000.00 to Simpluris; and (4) PAGA Penalty in the amount of \$200,000.00.⁶ The Net Settlement Amount, which is estimated to be \$796,700.60 will be distributed in accordance with the Settlement Agreement.

The Settlement Administrator will determine each Participating Class Member's *pro rata* share of the Net Settlement Amount ("Individual Class Payment"), according to the following methodology: The Settlement Administrator will divide the Participating Class Member's number of Qualifying Workweeks by the total number of Qualifying Workweeks worked by all Participating Class Members and then multiply this figure by the Net Settlement Amount.⁷

The Settlement Administrator will determine each Aggrieved Employee's *pro rata* share of the 25% portion of the PAGA Amount ("Individual PAGA Payment"), according to the following methodology: The Settlement Administrator will divide the 25% portion of the PAGA Amount by the total number of pay periods collectively worked by all Aggrieved Employees during the PAGA Period, and then multiplying the result by the number of Pay Periods each Aggrieved Employee worked during the PAGA Period.⁸

Class Members had 60 calendar days after the Class Notice was mailed to Class Members ("Response Deadline") to submit a Request for Exclusion, Objection, and/or Workweeks Dispute.⁹ ***As of May 2, 2025 (well past the Response Deadline), the Settlement Administrator has not received any Objections to the Class Settlement (nor did it receive any workweek disputes, and it received only one request for exclusion).***¹⁰

Each Participating Class Member's Individual Class Payment will be allocated as follows: 20% as alleged unpaid wages (the "Wage Portion"), which will be reported on an IRS Form W-2, 40% as alleged unpaid interest and 40% as alleged civil and statutory penalties (together, the "Non-Wage Portion"), which will be reported on an IRS form 1099.¹¹ The Settlement Administrator

⁶ Settlement Agreement, §§ 4.1-4.2.5.

⁷ *Id.*, § 4.3.1.

⁸ *Id.*, § 4.2.5 (c).

⁹ *Id.* § 8.5.

¹⁰ Simpluris Declaration, ¶¶ 12-13.

¹¹ Settlement Agreement, § 4.3.3.

will withhold the employee's share of taxes and withholdings with respect to the Wage Portion of the Individual Class Payments, and issue checks to Participating Class Members for their Individual Settlement Payments.¹² Any payment for an Individual PAGA Payment will be allocated as 100% penalties and will be reported on an IRS Form-1099, if necessary; the Settlement Administrator will not undertake any withholding with respect to the Individual PAGA Payment.¹³ The Employer's Share of Payroll Taxes will be paid separately and in addition to the Gross Settlement Amount.¹⁴

Each Individual Settlement Payment and Individual PAGA Payment check will be valid and negotiable for 180 calendar days from the date the checks are issued, and thereafter, shall be canceled.¹⁵ All funds associated with canceled checks will be transmitted to the *cy pres*, Centro Legal De La Raza, in accordance with California Code of Civil Procedure section 384.¹⁶

IV. THE SETTLEMENT ADMINISTRATION PROCESS

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

Simpluris received a data file from Defendant's Counsel that contained each Class Member's full name, last known mailing address, Social Security Number, and workweeks and pay periods during relevant time periods (collectively, "Class List"), for all 747 Class Members.¹⁷ Simpluris conducted a National Change of Address ("NCOA") search in an attempt to update the Class List addresses as accurately as possible.¹⁸ To the extent that an updated address was found in the NCOA database, the updated address was used for the mailing of the Class Notice.¹⁹ Simpluris mailed the Class Notice via U.S. First Class Mail, in English and Spanish, to all individuals identified as Class Members.²⁰

¹² Settlement Agreement, § 4.3.3.

¹³ *Id.*, § 4.2.5 (d).

¹⁴ *Id.*, § 4.1.

¹⁵ *Id.*, § 5.5.3.

¹⁶ *Id.*, § 5.5.4.

¹⁷ Simpluris Declaration ¶¶ 6-9.

¹⁸ *Ibid.*

¹⁹ *Ibid.*

²⁰ *Ibid.*

Forty-four Class Notices were returned to Simpluris as undeliverable, of which 6 had forwarding addresses where the Class Notice was re-mailed, 34 others were mailed to new addresses found through a skip trace, and 4 remained undeliverable.²¹

Simpluris did not receive any objections or workweek disputes, and received 1 request for exclusion.²²

The highest Individual Settlement Payment to a Participating Class Member is currently estimated to be \$4,191.63, and the average Individual Settlement Payment to a Participating Class Member is currently estimated to be \$1,067.96. The highest Individual PAGA Payment to an Aggrieved Employee is currently estimated to be \$237.35 and the average Individual PAGA Payment is currently estimated to be \$80.78.²³

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

²¹ Simpluris Declaration , ¶ 9.

²² *Id.*, ¶¶ 12-14.

²³ *Id.*, ¶¶ 17-18.

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. 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 Formal and Informal Discovery.**

The Parties actively litigated the case, as Class Counsel conducted significant investigation and formal and informal discovery into the facts of the claims, to assess the veracity, strength, and scope of all claims, and was preparing the matter for class certification and trial prior to reaching the Settlement.²⁴

The Parties conducted significant formal and informal discovery and investigation into the facts of the case.²⁵ The information, documents, and data reviewed and analyzed by Class Counsel included, and were not limited to, Plaintiff’s employment records, a significant sampling of Class Members’ time and pay data, and documents regarding Defendant’s operations and employment practices, policies, and procedures, among other information and documents.²⁶ Class Counsel developed liability, damages, and penalties valuation models in the course of litigation and in

²⁴ Madoyan Decl., ¶¶ 6-9.

²⁵ *Ibid.*

²⁶ Madoyan Decl., ¶¶ 6-9.

1 connection with mediation and settlement negotiations, and met and conferred with Defendant's
2 counsel on numerous occasions, e.g., to discuss issues relating to the pleadings, case management,
3 discovery and production of information, documents, and data, and claims evaluation and
4 analysis.²⁷ Class Counsel reviewed and analyzed a large volume of information, data, and
5 documents obtained from Plaintiff, Defendant, and other sources, in the course of litigation and in
6 connection with mediation and settlement negotiations.²⁸ Other work performed by Class Counsel
7 included, and was not limited to, case strategy and analysis; drafting, reviewing, and revising the
8 pleadings, motion-related papers, mediation brief, and settlement documents; and preparing for
9 and attending court proceedings and mediation and settlement negotiations, among other tasks.²⁹
10 Further, Defendant filed multiple motions in an effort to dismiss Plaintiff's claims (including
11 demurrers and motions to strike), which Class Counsel thoroughly and strategically opposed and
12 was successful in its efforts to continue the prosecution of Plaintiff's class action and PAGA claims
13 and thereafter obtaining a significant settlement recovery.

14 After conducting discovery and investigation into the facts of the cases, the Parties
15 participated in a formal, full-day mediation on July 28, 2023, conducted by Francis J. Ortman,
16 Esq., a well-regarded mediator experienced in mediating complex labor and employment matters.
17 The matter did not resolve after mediation, and further documents and data were exchanged,
18 including documents related to Defendant's financial condition. After extensive review and
19 analysis of data, claim evaluation, financial conditions of Defendant, settlement negotiations, and
20 with the continued assistance of the mediator, the mediator's proposal was issued and accepted by
21 all Parties.³⁰ In the course of mediation and settlement negotiations, the Parties exchanged
22 information, documents, and data, and discussed all aspects of the cases, including and not limited
23 to, the risks and delays of further litigation, the risks to the Parties of proceeding with class
24 certification and trial, the law relating to class certification, off-the-clock theory, rounding, meal
25 and rest periods, on-premises breaks, representative PAGA claims, wage-and-hour law and
26

27 ²⁷ Madoyan Decl., ¶¶ 6-9.

28 ²⁸ Ibid.

29 ²⁹ Ibid.

30 ³⁰ Ibid.

enforcement, as well as the evidence produced and analyzed, and the possibility of appeals, among other things.³¹ During all settlement discussions, the Parties conducted their negotiations at arm's length in an adversarial position.³² Arriving at a settlement that was acceptable to the Parties was not easy.³³ Defendant contended that individualized questions of fact predominate over any common issues, and these issues would pose challenges to class certification and representative adjudication.³⁴ Defendant and its counsel felt strongly about Defendant's ability to avoid class certification and representative adjudication and prevail on the merits, while Plaintiff and Class Counsel believed that they would be able to obtain relief in court, obtain class certification and prevail at trial.³⁵ After conducting significant formal and informal discovery and investigations, settlement negotiations, and review of Defendant's financial condition, and with the aid of the mediator's evaluation, the Parties agreed that the case was well-suited for settlement given the legal issues relating to Plaintiff's principal claims, as well as the costs and risks to the Parties that would attend further litigation.³⁶

The Settlement takes into account the strengths and weaknesses of each side's position and the uncertainty of how the case might have concluded at certification, trial, and/or appeals. Class Counsel analyzed a large volume of information, documents, and data obtained from Defendant, Plaintiff, and other sources, both prior to and after the mediation, and performed research regarding applicable law, which is evolving as it relates to class certification, off-the-clock theory, meal and rest periods, representative PAGA actions, wage-and-hour law and enforcement, Plaintiff's claims and allegations, and Defendant's defenses thereto, as well as facts discovered.³⁷ The Settlement was based on this large volume of facts, evidence, and investigation.³⁸ Additionally, Class Counsel has extensive experience in handling complex wage-and-hour actions, including significant experience in employment class action litigation.³⁹

³¹ Madoyan Decl., ¶¶ 6-9.

³² Ibid.

³³ Ibid.

³⁴ Ibid.

³⁵ Ibid.

³⁶ Ibid.

³⁷ Ibid.

³⁸ Ibid.

³⁹ *Id.*, ¶¶ 14-18.

1 **B. The Risks Inherent in Continued Litigation Favor Final Approval of the**
2 **Settlement.**

3 The Settlement, which provides for a Gross Settlement Amount of \$1,550,000.00,
4 represents a fair, adequate, and reasonable resolution of the cases, given the risks inherent in
5 litigating class and representative claims through certification proceedings, trial, and/or appeals.⁴⁰
6 The Settlement was calculated using information and data uncovered through extensive case
7 investigation, formal and informal discovery, and the exchange of information in the context of
8 mediation and ongoing settlement negotiations.⁴¹ Had the action not settled, Defendant would have
9 vigorously challenged class certification, manageability of representative adjudication, and
10 liability, assuming that its financial condition would have allowed it to avoid bankruptcy.
11 Defendant contended that individualized questions of fact predominated over any common issues,
12 and these issues would pose challenges to certification and representative adjudication. Defendant
13 would have likely argued again at trial, if any, that Plaintiff's claims were not appropriate for class-
14 wide and/or representative adjudication. On the other hand, Defendant also faced the risk of the
15 Court certifying a class and allowing a jury to decide Plaintiff's claims on a class-wide or
16 representative basis. Additionally, preparation for trial would have been expensive for all parties.

17 It is preferable to reach an early resolution of a dispute because such resolutions save time
18 and money that would otherwise go to litigation. If this matter had settled after further litigation,
19 the settlement amount would have taken into account the additional costs incurred, and there might
20 have been less money available for Class Members, Aggrieved Employees, and the State of
21 California after all was said and done. This is not just an abstract contention. The risks and
22 expenses of further litigation outweighed any benefit that might have been gained otherwise. These
23 risks of further litigation include a determination that the claims were unsuitable for class treatment
24 and/or representative adjudication, failure to obtain certification, class de-certification after
25 certification of a class, allowing a jury to decide the claims asserted in the case, and the real
26 possibility of no recovery after years of litigation. In contrast, the Settlement provides real and
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28 ⁴⁰ Madoyan Decl., ¶ 9.

⁴¹ *Id.*, ¶¶ 6-9.

1 significant benefits for the Class Members, the Aggrieved Employees, and the State of California
2 here and now, while avoiding the further expenses, risks, and delay of prolonged litigation with
3 only the possibility of recovery.

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

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

11 The Settlement, which provides for a Gross Settlement Amount of \$1,550,000.00,
12 represents a fair, reasonable, and adequate resolution of the cases. The Settlement was calculated
13 using information and data uncovered through extensive case investigation, formal and informal
14 discovery, and the exchange of information in the context of preparing for mediation and
15 conducting ongoing settlement negotiations. The Settlement takes into account the potential risks
16 and rewards inherent in any case and, in particular, in this matter. Moreover, considering all of the
17 facts in the cases, the Gross Settlement Amount represents a considerable recovery.

18 Even after deducting attorneys' fees in the amount of \$516,666.67, litigation costs and
19 expenses in the amount of \$16,632.73, Class Representative Service Payment in the amount of
20 \$10,000.00, Settlement Administration Expenses in the amount of \$10,000.00, and the PAGA
21 Amount of \$200,000.00 from the Gross Settlement Amount of \$1,550,000.00, the Net Settlement
22 Amount is currently estimated to be \$796,700.60.⁴² Under the Settlement Agreement, the Gross
23 Settlement Amount will be fully paid out, in accordance with the terms of the Settlement. As
24 discussed in Section 4, *supra*, each Participating Class Member will be paid a *pro rata* share of
25 the Net Settlement Amount, based on the number of Qualifying Workweeks worked credited to
26 him or her.⁴³ As noted above, there are 746 Participating Class Members, the highest Individual
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28 ⁴² Simpluris Decl., ¶ 16.

⁴³ Settlement Agreement, § 4.3.1.

Settlement Payment to a Participating Class Member is \$4,191.63, the average Individual Settlement Payment is \$1,097.96, the highest Individual PAGA Payment to an Aggrieved Employee is \$237.35, and the average Individual PAGA Payment is be \$80.78.⁴⁴ These are significant individual recoveries, particularly in light of the risks of litigation and the unlikelihood of recovering funds from Defendants.

At the final approval stage, “[a]n allocation formula need only have a reasonable, rational basis [to warrant approval], particularly if recommended by experienced and competent class counsel.” *In re American Bank Note Holographics, Inc., Securities Litigation* (S.D.N.Y. 2001) 127 F.Supp.2d 418, 429-30. The *pro rata* allocation here is a fair and reasonable way to distribute the Net Settlement Amount. In light of the above considerations, Class Counsel believes that the Settlement as a whole is fair, reasonable, and adequate, and in the best interest of the Class Members, the State of California, and Aggrieved Employees.⁴⁵ Although the recommendations of Class Counsel are not conclusive, the Court can properly take the recommendations into account, particularly if Class Counsel appears to be competent, has experience with this type of litigation, and significant discovery and investigation have been completed, as is the case here. Conte & Newberg, *Newberg on Class Actions* (4th Ed., 2002) § 11.47. Accordingly, the Court should grant final approval of the Settlement.

D. The Class Was Represented by Competent Counsel.

Class Counsel has extensive experience in employment class action law and complex wage-and-hour litigation.⁴⁶ Lawyers for Justice, PC has been appointed class counsel in numerous complex wage-and-hour cases, and has recovered millions of dollars for individuals in California.⁴⁷ Both parties’ counsel were capable of assessing the strengths and weaknesses of the Class Members’ claims against Defendant and the benefits of the Settlement under the circumstances of the case and in the context of a private, consensual settlement agreement.

⁴⁴ Simpluris Decl., ¶¶ 15-18.

⁴⁵ Madoyan Decl., ¶ 22.

⁴⁶ *Id.*, ¶¶ 14-18.

⁴⁷ *Ibid.*

1 **E. There Are No Objections to the Settlement.**

2 The Settlement has been well received by the Class – ***not a single Class Member objected***
3 ***to the Class Settlement.***⁴⁸ Specifically, no objections have been made as to the Gross Settlement
4 Amount or requested Attorneys’ Fees and Costs, Class Representative Service Payment,
5 Settlement Administration Expenses, or the allocation for PAGA Amount. California courts have
6 consistently found that a small number of objectors indicates the class’s support for a settlement
7 and strongly favors final approval. *Wershba, supra*, 91 Cal.App.4th at 250-51 (final approval
8 granted despite 20 objectors); *7-Eleven Owners, supra*, 85 Cal.App.4th at 1152-53 (final approval
9 granted despite 9 objectors).

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

14 **VI. THE ATTORNEYS’ FEES AWARD REQUESTED BY CLASS COUNSEL IS FAIR**
15 **AND REASONABLE AND SHOULD BE APPROVED.**

16 **A. Legal Standard for Attorneys’ Fees in a Class Action Settlement.**

17 Trial courts have “wide latitude” in assessing the value of attorneys’ fees and their
18 decisions will “not be disturbed on appeal absent a manifest abuse of discretion.” *Lealao v.*
19 *Beneficial Cal., Inc.* (2000) 82 Cal.App.4th 19, 41; *Ketchum v. Moses* (2001) 24 Cal.4th 1122,
20 1132 (The “experienced trial judge is the best judge of the value of professional services rendered
21 in his court[.]”); *Cellphone Termination Fee Cases* (2009) 180 Cal.App.4th 1110, 1118. Where
22 the amount of a settlement is a “certain easily calculable sum of money,” California courts may
23 calculate attorneys’ fees as a reasonable percentage of the settlement. Weil and Brown, *California*
24 *Practice Guide, Civil Procedure Before Trial*, Chapter 14, § 14:145; *see also Laffitte v. Robert*
25 *Half Int’l Inc.* (2016) 1 Cal.5th 480, 503; *Dunk, supra*, 48 Cal.App.4th at 1808. The percentage-
26 of-the-benefit approach is preferred in class and representative actions because “it better
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28 ⁴⁸ Simpluris Decl., ¶ 13.

1 approximates the workings of the marketplace than the lodestar approach.” *Lealao, supra*, 82
2 Cal.App.4th at 49.

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

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

20 Historically, courts have awarded fees as high as 50% of the settlement, depending on the
21 circumstances of the case. Conte & Newberg, *Newberg on Class Actions* (4th Ed., 2002) § 14.03;
22 *see also In re Ampicillin Antitrust Litig.* (D.D.C. 1981) 526 F.Supp. 494 (awarding attorneys’ fees
23 in the amount of 45% of the settlement amount of \$7.3 million); *Beech Cinema, Inc. v. Twentieth-*
24 *Century Fox Film Corp.* (S.D.N.Y. 1979) 480 F.Supp. 1195 (awarding approximately 53% of the
25 settlement amount as attorneys’ fees). California courts routinely approve class action attorneys’
26 fees awards “averag[ing] around one-third of the recovery.” *Chavez v. Netflix, Inc.* (2008) 162
27 Cal.App.4th 43, 66 n.11 (lower court found 20 to 40 percent range of contingency fee in
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marketplace was appropriate in class actions); *see also Laffitte*, 1 Cal.5th at 488 & 506 (approving fee award of 1/3 of common fund of \$19 million).

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

California and federal courts have long recognized that an appropriate method for determining the award of attorneys' fees is based on a percentage of the total value of benefits made available to class members by the settlement. *Laffitte*, 1 Cal.5th at 503; *Boeing Co. v. Van Gemert* (1980) 444 U.S. 472, 478; *Paul, Johnson, Alston & Hunt v. Gaulty* (9th Cir. 1989) 886 F.2d 268, 272; *Vincent v. Hughes Air West, Inc.* (9th Cir. 1977) 557 F.2d 759, 769; *Serrano v. Priest* (1977) 20 Cal.3d 25, 34.⁴⁹ The purpose of this equitable doctrine is to spread litigation costs proportionally among all the beneficiaries so that the active beneficiary does not bear the entire burden alone. *See Vincent, supra*, 557 F.2d at 769.

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

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

⁴⁹ 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.

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 case was originally filed, not only was it inescapably contingent, but the prospect of a long, drawn-out battle with a defendant 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, Defendant will pay a Gross Settlement Amount of \$1,550,000.00 on a non-reversionary basis. The requested attorneys’ fees are one-third of the total value of the monetary settlement. In light of Class Counsel’s successful prosecution and resolution of the case, 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 case; 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 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

1 arrangements with their clients. Named plaintiff's agreement to pay a contingent fee is powerful
2 evidence of a reasonable fee. One of the best ways to demonstrate the value of counsel's work to
3 the class is to review the consideration agreed to be paid by the named plaintiff. If the named
4 plaintiff has employed counsel on a contingency-fee basis, it would indeed be inequitable for the
5 members of the class, who will enjoy the benefits of the settlement without incurring the risks of
6 bringing the claim, to pay less than the named plaintiff.

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

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

22 Class Counsel has obtained a substantial recovery on behalf of Plaintiff, the Class,
23 Aggrieved Employees, and the State of California, and the results achieved justify an attorneys'
24 fees award that is the equivalent of the standard market fee and that is consistent with the
25 contingency-fee agreement entered into by and between Plaintiff and Class Counsel. Thus, the
26 requested attorneys' fees are appropriate.

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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 \$516,666.67 (which is one-third of the Gross Settlement Amount) is commensurate with the time, effort, and expense dedicated to the cases, the contingent nature of Class Counsel's fee and the risks taken in commencing the cases, the skill and determination required, the results that Class Counsel have achieved, and the value of the settlement that Class Counsel have obtained for the Class Members.

1. Time & Labor.

Class Counsel used its experience and skills, and dedicated the full extent of resources, to litigate and bring this matter to a successful conclusion on behalf of the Class. Moreover, as demonstrated in the supporting declarations, Class Counsel have extensive experience in the handling of class actions and complex litigation cases.⁵⁰

As outlined in the Declaration of Vartan Madoyan, Class Counsel has fully and actively participated in litigation of the Actions.⁵¹ Prior to commencing the lawsuit, Class Counsel had conducted a significant amount of investigation into the factual and legal issues, Defendant's

⁵⁰ Madoyan Decl., ¶¶ 14-18.

⁵¹ *Id.*, ¶¶ 6-9, 12, and Exh. A.

1 business, and its operations and employment policies, practices, and procedures.⁵² During the
2 litigation of the Actions, Class Counsel had the opportunity to interview Plaintiff and other Class
3 Members; reviewed and analyzed a large volume of pages of information, documents and data
4 obtained from Defendant, Plaintiff, and other sources; and prepared liability, damages, penalties,
5 and valuation calculations.⁵³ Class Counsel also met and conferred with Defendant's counsel over
6 the issues relating to pleadings, discovery, and the production of information, documents and data,
7 among other things; engaged in settlement negotiations with Defendant's counsel; and prepared
8 for and attended court proceedings, a mediation session, and settlement negotiations.⁵⁴ Further,
9 Class Counsel was successful in avoiding dismissal of this action through law and motion practice
10 as Defendant filed multiple demurrers and/or motions to strike.

11 Class Counsel has dedicated staffing and monetary resources necessary to prosecute this
12 matter diligently and with maximum efficiency and has fully and actively participated in the
13 litigation process. The Task and Time Chart, which is attached as "**EXHIBIT A**" to the
14 accompanying Declaration of Vartan Madoyan, sets forth in detail the hours that Lawyers for
15 Justice, PC has spent performing tasks on behalf of Plaintiff and the Class.⁵⁵ The Task and Time
16 Chart is thorough and comprehensive, and was prepared so that the Court can peruse it without
17 having to set forth each and every task in the body of this Motion. The Court is respectfully referred
18 to the chart, which sets forth the history of the work performed by Class Counsel, commencing
19 with the pre-filing analysis and research, and continuing up to settlement and final approval. Class
20 Counsel has spent 413.50 hours performing tasks and to obtain a significant recovery on behalf of
21 Plaintiff, the Class, the Aggrieved Employees, and the State of California.⁵⁶ These hours were
22 required to bring this matter to its successful conclusion. In light of the value of time expended
23 and the carrying of costs involved in litigating this case, the requested attorneys' fees are fair,
24 adequate, and reasonable.

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27 ⁵² *Id.*, ¶¶ 6-9.

⁵³ Madoyan Decl., ¶¶ 6-9.

⁵⁴ Madoyan Decl., ¶¶ 6-9.

⁵⁵ *Id.*, ¶ 12 Exh. A.

⁵⁶ *Ibid.*

1 **2. *The Skill Required to Perform Legal Services Properly.***

2 The skill required to properly litigate the case is evident not only in the results achieved,
3 but in the steps necessary to reach those results. Defendant retained well-respected counsel to
4 represent its defenses. More specifically, Defendant and its counsel felt very strongly about
5 Defendant's ability to obtain a denial of certification and to prevail on the merits. Plaintiff and
6 Class Counsel believed that they would have obtained class certification and prevailed at trial.

7 Class Counsel undertook significant investigation, analysis, and research prior to filing this
8 case, during the litigation, and prior to mediation. Class Counsel took steps to prepare the matter
9 for class certification and representative adjudication and had every intention of taking the case to
10 trial on a class-wide basis if Defendant did not offer an appropriate class-wide settlement. Despite
11 all of the obstacles that had to be overcome, as demonstrated in the Declaration of Vartan
12 Madoyan, Class Counsel used its extensive experience in the handling of class actions and complex
13 wage-and-hour litigation matters in order to obtain the Settlement with maximum efficiency.⁵⁷

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

15 The Settlement represents an excellent resolution of the Action, given the risks inherent in
16 litigating the case through certification proceedings, trial, and/or appeals. Had the case not settled,
17 Defendant would have vigorously challenged certifiability, manageability of representative
18 adjudication, and liability, and it would have been difficult to collect on a judgment in light of
19 Defendant's financial condition. Defendant, however, faced risks if the Court certified a class and
20 allowed a jury to decide the claims. Additionally, preparing the case for trial would have been
21 expensive for the Parties.

22 The Settlement at this stage is preferred over continued litigation because such resolutions
23 save time and money that would otherwise go to litigation. The risks and expenses of further
24 litigation outweighed any benefit that might have been gained otherwise. The Settlement provides
25 an immediate recovery, as opposed to an uncertain result in the future after prolonged litigation
26 involving expert discovery, trial preparation, class certification proceedings, and appellate review
27 of those proceedings. The Settlement offers present relief and/or recovery to Participating Class
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⁵⁷ Madoyan Decl., ¶¶ 14-18.

Members, the State of California, and Aggrieved Employees 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 settlement negotiations, Defendant agreed to pay a Gross Settlement Amount of \$1,550,000.00 to settle the matter. After deducting the attorneys' fees (\$516,666.67), litigation costs and expenses (\$16,632.73), Class Representative Service Payment (\$10,000.00), Settlement Administration Expenses (\$10,000.00), and PAGA Amount (\$200,000.00) from the Gross Settlement Amount, it is currently estimated that the Net Settlement Amount is approximately \$796,700.60.⁵⁸

4. Whether the Fee Is Fixed or Contingent.

Plaintiff 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 case without knowing whether any recovery would be obtained. Class Counsel has invested 413.50 hours of time to obtain relief on behalf of Plaintiff, Class Members, the State of California, and Aggrieved Employees.⁵⁹ Class Counsel has also incurred litigation costs and expenses in the amount of \$16,632.73.⁶⁰

Class Counsel has borne all of the risks and costs of litigation and will not receive any compensation until recovery is obtained.⁶¹ Class Counsel is well-experienced in wage-and-hour class action and complex litigation and used that experience to obtain a great result.⁶² The skill and determination that Class Counsel has shown, along with the results obtained, justify the requested Attorneys' Fees and Costs. Considering the amounts requested, the work performed, and the risks incurred, the requested fees and costs are reasonable and should be awarded.

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

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

⁵⁸ Simpluris Decl., ¶ 16.

⁵⁹ Madoyan Decl., ¶ 12 Exh. A.

⁶⁰ *Id.*, ¶ 20 Exh B.

⁶¹ *Ibid.*

⁶² *Id.*, ¶¶ 14-18.

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 case on a contingent basis with all of the concomitant risk factors inherent in
5 such an uncertain undertaking. Had Class Counsel not been successful, the time that Class Counsel
6 had devoted to litigating the case would have been for naught, and would not have produced any
7 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 Class Settlement.⁶³

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 Plaintiff and the Class are reasonable
18 in light of the risks inherent in further litigating this matter. Class Counsel’s efforts have resulted
19 in a settlement that provides for a Gross Settlement Amount of \$1,550,000.00 to be distributed
20 under the terms of the Settlement rather than risk a defense verdict and or inability to collect even
21 if obtaining a verdict for the Class.

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

23 Lawyers for Justice, PC is a recognized class action law firm that employed its attorneys’
24 knowledge, skills, and experience in bringing this case to a successful conclusion. Class Counsel
25 has years of complex and class action litigation experience, have recovered millions of dollars on
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⁶³ Simpluris Decl., ¶ 13.

1 behalf of thousands of individuals in California, and has successfully handled numerous significant
2 wage-and-hour class action and complex cases.⁶⁴

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

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

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

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

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

23 As discussed above, the case was highly contested and required a significant amount of
24 time and labor. Defendant made it clear very early on that it disputed all of the allegations of the
25 case, and in fact filed multiple contested demurrers and/or motions to strike, and disputed that the
26 matter was appropriate for class or representative treatment. Defendant raised affirmative defenses
27 and denied liability, and the pursuit of this case involved gathering and analyzing data not only

28 ⁶⁴ Madoyan Decl., ¶¶ 14-18.

from Defendant but also from the Class Members. The handling of the case 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 case moved toward certification and trial, including 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 information, documents and data that were obtained from Defendant, Plaintiff, and through other sources. Class Counsel conducted extensive review and analysis of the information, documents, and data to strategize the action and to prepare for mediation and engage in settlement discussions.

As discussed above in Part VI.C.1, *infra*, attached to the Declaration of Vartan Madoyan is a task and time chart that sets forth in detail the numerous tasks that Class Counsel performed on behalf of Plaintiff and the Class, and the time required for completing those tasks.⁶⁵ The chart demonstrates that Class Counsel has spent a total of 413.50 hours litigating the case and finalizing the Settlement.⁶⁶ In light of the facts and circumstances of the cases, as well as the results that Class Counsel has achieved on behalf of Plaintiff, Class Members, the Aggrieved Employees, and the State of California, Class Counsel have spent a reasonable number of hours on this matter. In addition, Class Counsel will continue to perform work on this matter through the date of final approval and in connection with the implementation of the Settlement.

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

Both California and federal courts recognize that attorneys should be compensated for providing representation on a contingency basis and for taking on the risks associated with said representation, as well as being provided with financial incentives to enforce important rights and protections like those at issue in this action. *See Ketchum, supra*, 24 Cal.4th at 1132-33. In

⁶⁵ Madoyan Decl., ¶ 12 Exh. A.

⁶⁶ *Ibid*.

awarding attorneys' fees, the aim is to mirror "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." *See id.*

Class Counsel has been actively involved in this matter, prior to its commencement and all the way up to the present, and Class Counsel's dedication to providing representation in this case has precluded other employment. Here, Class Counsel bore the risk that, despite all of its efforts and skills employed, there may be no recovery. Ultimately, Class Counsel was successful in reaching a settlement of \$1,550,000.00.

As set forth in the Declaration of Vartan Madoyan, the professional backgrounds and experience of Class Counsel support a reasonable blended rate of \$850 per hour for services provided by Class Counsel.⁶⁷ Lawyers for Justice, PC has been awarded attorneys' fees, compensating the firm at the blended rate of at least that amount (and in some cases much more) for legal service performed, by courts of this state.⁶⁸ While the circumstances of every case are unique, the fact remains that the work performed and efforts undertaken by Class Counsel on behalf of the Class Members justify the requested attorneys' fees.

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* at 1133-34 (holding that a risk multiplier may be applied to compensate contingency fee attorneys at a fair market rate).⁶⁹ The risks involved, skill required, complexity of the matter, and results obtained warrant upward enhancement of the lodestar.⁷⁰ In determining whether or not to

⁶⁷ Madoyan Decl., ¶ 12.

⁶⁸ *Ibid.*

⁶⁹ Courts have 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 (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 v. Netflix, Inc.* (2008) 162 Cal.App.4th 43, 66 (applying a 2.5 multiplier in a consumer class action).

⁷⁰ Even when courts have opted to award fees in settlement fund cases based on time reasonably expended on the action, courts have generally awarded these fees based on the actual time expended (the lodestar) in conjunction with a multiplier of between 2 and 4. *Kerr v. Screen Extras Guild, Inc.* (9th Cir. 1975) 526 F.2d 67. Adjustment of the base lodestar figure to compute an award of attorneys' fees for a claim under the California Labor Code is appropriate. *See Id.*, at 1135-36; *Serrano v. Priest* (1977) 20 Cal.3d 25, 48-49. Courts frequently apply multipliers to enhance the lodestar to reflect the risks involved, the complexity of the litigation, and the other relevant facts. *Vizcaino*, 290 F.3d at 1051; *Graham v. DaimlerChrysler Corp.* (2004) 34 Cal.4th 553, 579 ("One of the most common fee enhancers [...] is for contingency risk."). 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*, 24 Cal.4th at 1132-33. A risk multiplier

enhance the lodestar, California courts take into account multiple factors, many of which were specifically addressed above in §§ VII.B, *infra*. See *Cates* at 822-23. Multiple factors warrant enhancement of the lodestar in the case, including the following: the time and labor required; the skill requisite to perform the legal services properly; the preclusion of other employment by the attorney due to the acceptance of this case; the contingent nature of the fee; the amount involved and results obtained; the experience, reputation, and ability of the attorney; and awards in similar cases. *Ketchum* at 1134. Therefore, a multiplier of 1.47 should be applied. Applying the rate of \$850 per hour to 413.50 hours for services provided by Class Counsel results in a base lodestar value of \$351,475.00 for the work performed by Class Counsel, and applying a modest multiplier of 1.47,⁷¹ the total enhanced lodestar fees are \$516,668.

The application of a modest multiplier of 1.47 is warranted, and the lodestar method as a cross-check to the percentage award sought herein, strongly supports the reasonableness of the requested attorneys' fees. The nature of the work performed, skill exercised, and the outcome in this matter—which involves an outstanding monetary recovery involving a Gross Settlement Amount of \$1,550,000.00 (with a Net Settlement Amount of approximately at least \$796,700.60 to be paid to Settlement Class Members) support the percentage fee sought and the application of a lodestar multiplier. Accordingly, the Court is respectfully requested to award attorneys' fees in the amount of one-third of the Gross Settlement Amount, i.e. \$516,666.67, 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 \$25,000.00. As set forth in the Declaration of Vartan Madoyan, Class Counsel seeks reimbursement of only \$16,632.73 in litigation costs and expenses incurred in this case.⁷² This

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* at 1132.

⁷¹ Larger multipliers have been awarded in similar cases, and the total amount of fees sought by Class Counsel is also reasonable compared to fees awarded in similar cases. Courts routinely enhance lodestar amounts based on multipliers that “range from **2 to 4 or even higher**.” *Wershba, supra*, 91 Cal.App.4th at 255 (emphasis added); see also, e.g., *Chavez v. Netflix, Inc.* (2008) 162 Cal.App.4th 43, 66 (approving multiplier of **2.5**); *Vizcaino*, 290 F.3d at 1051 (approving multiplier of **3.65**); *Wal-Mart Stores, Inc. v. Visa U.S.A., Inc.* (2d Cir. 2005) 396 F.3d 96, 123 (approving multiplier of **3.5**); *Craft v. County of San Bernardino* (C.D. Cal. 2006) 624 F.Supp.2d 1113, 1125 (awarding multiplier of **5.2** and referring to other cases with cross-check multipliers ranging from **4.5 to 19.6**).

⁷² Madoyan Decl., ¶ 20 Exh. B.

amount was reasonable and necessary in the prosecution of the case and to obtain the Settlement, and is less than the maximum amount allocated under the Settlement Agreement.⁷³ Accordingly, Plaintiff requests that the Court award litigation costs and expenses in the amount of \$16,632.73 to Class Counsel.

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

As set forth in the accompanying Simpluris Declaration, the total costs incurred and to be incurred by Simpluris for the notice and settlement administration process are \$10,000.00.⁷⁴ The costs incurred and to be incurred include, but are not limited to, (a) establishing and maintaining a related settlement fund account; (b) establishing and maintaining a calendar of administrative deadlines and responsibilities; (c) processing and mailing payments to the Plaintiff, Class Counsel and Class Members; (d) translating, printing and mailing the Notice of Class Action Settlement to Class Members in English and Spanish; (e) receiving and validating Requests for Exclusion, Objections or Workweeks Disputes submitted by Class Members; (f) calculating employer payroll taxes and providing appropriate forms and calculations to Defendant; (g) mailing settlement checks, (h) providing counsel with weekly reports; and (i) other tasks as the Parties mutually agree or the Court orders Simpluris to perform.⁷⁵

Accordingly, the Court should grant final approval of payment to Simpluris, a necessary third-party administrator, for its handling of the notice and settlement process, in the amount of \$10,000.00.

IX. THE REQUESTED CLASS REPRESENTATIVE SERVICE PAYMENT IS FAIR AND REASONABLE AND SHOULD BE APPROVED.

The Settlement provides for a Class Representative Service Payment in the amount of \$10,000.00 to Plaintiff to compensate her for the time and effort that she expended on behalf of the Class and the State of California, and in exchange for providing a broad general release of

⁷³ Settlement Agreement, § 4.2.4.

⁷⁴ Simpluris Decl., ¶ 19.

⁷⁵ Simpluris Decl., ¶ 3.

claims. The requested Class Representative Service Payment is both common and reasonable and should be awarded.

In determining whether to make class representative 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 effort 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 Class Representative Service Payment is fair and appropriate because Plaintiff spent a substantial amount of time and effort producing relevant documents and past employment records, as well as providing the facts and evidence to support the prosecution of the claims.⁷⁶ Plaintiff was available whenever Class Counsel needed her and actively tried to obtain, and gave, information to support the pursuit of the cases.⁷⁷ Plaintiff spent numerous hours speaking with Class Counsel about her claims, describing her work experiences with Defendant, and gathering and reviewing documents.⁷⁸ Plaintiff also agreed to provide a full general release, which no Class Member has had to provide by virtue of this Settlement.

Accordingly, it is appropriate and just for Plaintiff to receive \$10,000.00 as a reasonable Class Representative Service Payment, for her services on behalf of the Class, Aggrieved Employees, and the State of California, in addition to her individual settlement payments.

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⁷⁶ Madoyan Decl., ¶ 21; Declaration of Cynthia Barragan (“Barragan Decl.”), ¶ 2-5.

⁷⁷ Madoyan Decl., ¶ 21; Barragan Decl., ¶¶ 2-5.

⁷⁸ Madoyan Decl., ¶ 21; Barragan Decl., ¶¶ 2-5.

1 **X. CONCLUSION**

2 For the foregoing reasons, Plaintiff respectfully requests that the Court grant final approval
3 of the Settlement, and award Class Counsel Fees, Class Representative Service Payment,
4 Settlement Administration Expenses, and allocation for the PAGA Amount, in their entirety, as
5 sought herein; and permit the filing of a memorandum that exceeds the page limit.

6
7 Dated: May 6, 2025

LAWYERS for JUSTICE, PC

8
9 By:



Vartan Madoyan
Attorney for Plaintiff and the Class