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SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF ALAMEDA

JASON KINGSLEY, individually, and on behalf of other members of the general public similarly situated, Plaintiffs, vs. IKEA US RETAIL LLC, a Virginia Limited Liability Company; IKEA US WEST, an unknown business entity; IKEA NORTH AMERICA SERVICES, LLC, an unknown business entity; IKEA DISTRIBUTION SERVICES INC.; an unknown business entity; and DOES 1 through 100, inclusive, Defendants.	Case No. 24CV089765 **<u>CLASS ACTION</u>** **MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF PLAINTIFF'S MOTION FOR FINAL APPROVAL OF CLASS ACTION SETTLEMENT** Judge: Hon. Michael Markman Dept: 23 Date: August 14, 2025 Time: 10:00 a.m. Complaint Filed: August 30, 2024 Trial Date: None

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I. INTRODUCTION

On April 24, 2025, the Court preliminarily approved this Settlement, which provides for a non-reversionary Total Class Action Settlement Amount of $2,750,000.00.[1]

Subsequently, the Settlement Administrator disseminated the Notice to 8,187 Class Members, and the response of the Class has been completely positive. There have been zero objections, zero disputes regarding workweeks, and zero requests for exclusion. *See* Schmitt v. Younique, LLC, No. SACV 17-1397 JVS (JDEx), 2020 U.S. Dist. LEXIS 263313, at *20 (C.D. Cal. Apr. 8, 2020) ("It is established that the absence of a large number of objections to a proposed class action settlement raises a strong presumption that the terms of a proposed class settlement action are favorable to the class members.") (internal quotations and citations omitted).

The Class Representatives now seek final approval of the Settlement. The Settlement was achieved through Class Counsel's determined pursuit of the best possible outcome – through motions practice, mediation with experienced mediator Jeff Krivis, substantial formal and informal discovery – leading to this global Settlement of three separate class and PAGA actions.

Through this Settlement, Class Members will be able to obtain an estimated average net recovery of $190.52 each, with the highest individual payment currently estimated to be approximately $618.73 (not including additional amounts to be paid as part of the PAGA settlement amount). Accordingly, the Class Representatives respectfully request that the Court finally approve the Settlement.

II. BACKGROUND

Defendants Ikea are part of the world's largest furniture retailer, and they operate approximately eight stores in California. *See* Declaration of Esther L. Bylsma in Support of Motion for Final Approval of Class Action Settlement, filed concurrently herewith ("Bylsma Decl."), ¶13. The Class Representatives (or, "Plaintiffs") are former, non-exempt employees of Ikea. *Id.*, ¶¶14-15.

The claims in this Action are premised on the following two main sets of facts. *Id.,* ¶18.

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[1] The "Settlement" refers to the Agreement Re: Global Class Action and PAGA Settlement (attached as Exhibit 1 to the Corrected Declaration of Carolyn Cottrell in Support of Plaintiff's Motion for Preliminary Approval of Class Action Settlement, filed December 11, 2024), and all amendments, including Amendment No. 1 (attached as Exhibit 1 to the Declaration of Esther L. Bylsma in Support of Plaintiff's Motion for Preliminary Approval of Class Action Settlement, filed April 10, 2025), and Amendment No. 2 (attached as Exhibit A to the Proposed Order Granting Plaintiffs' Motion for Preliminary Approval of Class Action Settlement, filed April 24, 2025.

Unless otherwise indicated, all capitalized terms used herein shall have the meanings assigned to them in the Settlement.

First, Plaintiffs allege that Class Members are not paid for all compensable time. *Id*., ¶19. Class Members spend time securing tools/equipment and waiting in lines for the time clock before starting their shifts. *Id*. The time spent in connection with securing tools/equipment and waiting in lines for the time clock qualify as time worked, however, Defendants do not compensate Class Members for this compensable time. *Id*. Second, Plaintiffs allege that Class Members are not provided full meal breaks. *Id*., ¶20. Class Members must wait in lines in order to clock back in to work after their meal breaks. *Id*. The time spent waiting in lines for the time clock eat into the 30-minutes allotted to Class Members for meal periods, however, Defendants do not compensate Class Members premium wages for their short and non-compliant meal periods. *Id*.

The procedural history is set forth in detail in the Bylsma Decl. and summarized below. On August 24, 2020 and September 1, 2020, the Wilson Plaintiffs initiated the class action complaint in the *Wilson* Class Action and the PAGA complaint in the *Wilson* PAGA Action. Bylsma Decl., ¶¶22, 44.

In the October 2020 to April 2021 timeframe, the Wilson Plaintiffs and Defendant engaged in formal discovery. *Id*., ¶¶26-27, 30, 45-47. The Wilson Plaintiffs and Defendant also engaged in motions practice, including concerning Defendant's removal of the *Wilson* Class Action to federal court and eventual remand back to state court, Defendant's Motion for Judgment on the Pleadings in the *Wilson* Class Action, and Defendant's Motion to Strike in the *Wilson* PAGA Action. *Id*., ¶¶25, 28, 32-33, 48-49. Regarding Defendant's Motion for Judgment on the Pleadings, Defendant sought dismissal of a rest break cause of action (and derivative causes action based on the rest break claim) based on the argument that the Wilson Plaintiffs released these claims in the previous settlement in *Cahilig v. IKEA US Retail LLC*, Case No. 2:2019-cv-01182 (C.D. Cal.) ("*Cahilig*"). *Id*., ¶¶31-32. Defendant's Motion to Strike similarly sought to strike allegations relating to rest breaks in the *Wilson* PAGA Action. *Id*., ¶48. The courts in the *Wilson* Class Action and the Wilson PAGA Action granted Defendant's Motion for Judgment on the Pleadings and Motion to Strike on this issue. *Id*., ¶¶33, 49.

Subsequently, the Wilson Plaintiffs and Defendant agreed to attend mediation with experienced mediator Jeff Krivis, and the Parties engaged in informal discovery to assess issues concerning liability, potential damages, and potential PAGA penalties. *Id*., ¶¶35-39.

On June 28, 2022, the Parties, by and through counsel, participated in a full-day private mediation before Mr. Krivis, where the Parties exchanged their mediation briefs and additional facts and arguments in support of their positions. *Id*., ¶¶40, 53. The Parties did not reach resolution on that date, but continued their settlement negotiations with the assistance of Mr. Krivis. *Id*., ¶41. Mr. Krivis ultimately provided a mediator's proposal which the parties accepted. *Id*., ¶¶41-42. Subsequently, the Parties negotiated the long-form settlement agreement. *Id*., ¶54.

On February 14, 2023, the Wilson Plaintiffs filed a motion for preliminary approval. *Id*., ¶55. However, following numerous hearings and supplemental briefs, the Los Angeles Superior Court declined to approve the proposed settlement because the release included a rest break claim (and derivative claims) that were previously dismissed from the *Wilson* Actions after Defendants' Motion for Judgment on the Pleadings and Motion to Strike. *Id*., ¶56.

On December 23, 2020, Plaintiff Kingsley filed the *Kingsley* Federal Action. *Id*., ¶57. Plaintiff Kingsley alleged rest break claims. *Id*. Subsequently the *Wilson* Plaintiffs, Plaintiff, and Defendants met and conferred numerous times – with the continuing assistance of the mediator – in an effort to determine whether a global settlement of the *Wilson* Actions and the *Kingsley* Federal Action was possible. *Id*., ¶68.

The Parties conducted additional informal discovery. *Id.*, ¶69. Subsequently, on or around August 21, 2024, all Plaintiffs and Defendants entered into the global Settlement. *Id*., ¶70. Pursuant to the Settlement, on August 30, 2024, Plaintiffs filed the complaint in this Action, encompassing all the causes of action brought by the Wilson Plaintiffs in the *Wilson* Actions and the causes of action brought by Plaintiff Kingsley in the *Kingsley* Federal Action. *Id*., ¶71.

Plaintiffs dismissed the *Kingsley* Federal Action in light of the agreement to seek global settlement through a comprehensive complaint in this Action. *Id*., ¶72. Plaintiffs also filed a stipulation in the *Wilson* Class Action and *Wilson* PAGA Action, informing the Los Angeles Superior Court that the Parties had reached a global settlement and would seek approval of the global settlement in this Action. *Id*., ¶¶73-75. The Los Angeles Superior Court granted the stipulation and stayed the *Wilson* Class Action and *Wilson* PAGA Action pending settlement proceedings in this Court. *Id*.

On November 25, 2024, Class Representatives filed a motion for preliminary approval in this Court. *Id*., ¶77. On February 11, 2025, the Court issued an order identifying certain items for the Parties to further address. *Id*., ¶78. Subsequently, the Parties executed Amendment No. 1 and Amendment No. 2, revised the class notice, and submitted these amendments to the Court. *Id*.,

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On April 24, 2025, the Court granted preliminary approval of the Settlement. *Id*., ¶80.

On June 20, 2025, the Settlement Administrator mailed the Notice to 8,187 Class Members, of which 3 notices remain undeliverable. *See* Declaration of Taylor Mitzner, filed concurrently herewith ("Mitzner Decl."), ¶¶6-8. The deadline to request exclusion has passed, and the Settlement Administrator has confirmed that there were zero requests for exclusion, zero Workweek disputes from Class Members, and zero objections to the Settlement. *Id*., ¶¶9-11.

III. THE COURT SHOULD GRANT FINAL APPROVAL OF THE SETTLEMENT

A class action may not be dismissed, compromised, or settled without the approval of the court. Any settlement of a PAGA action must also be approved by a court. Cal. Lab. Code § 2699(1)(2). Here, the Court has already granted preliminary approval, notice has been mailed to the Class Members, and the Class has responded overwhelmingly in favor of the Settlement. The Court should therefore finally approve the Settlement, the Enhancement Awards, and Class Counsel's requested fees and costs.

A. The Best Practicable Notice Was Provided to the Class

Notice of a class action settlement should be the best "practicable under the circumstances including individual notice to all members who can be identified through reasonable effort." *Torrisi v. Tucson Elec. Power Co*., 8 F.3d 1370, 1374 (9th Cir. 1993);[2] *Wershba v. Apple Computer, Inc*., 91 Cal. App. 4th 224, 251 (2001), disapproved on other grounds by *Hernandez v. Restoration Hardware, Inc*., 4 Cal. 5th 260, 269 (2018) (the standard is whether the notice has a reasonable chance of reaching a substantial percentage of the class members). The notice is adequate where the notice is given in a "form and manner that does not systematically leave an identifiable group without notice." *Mandujano v. Basic Vegetable Prods., Inc*., 541 F.2d 832, 835 (9th Cir. 1976).

Here, pursuant to the Court's order granting preliminary approval, the Notice was mailed to the 8,187 Class Members according to the terms of the Settlement. *See* Mitzner Decl., ¶6. The Notice – which was modified pursuant to the Court's instruction and subsequently approved by the Court – provided a description of the case and the proposed Settlement, informed Class Members of their individual workweeks and estimated individual settlement payment, explained how Class Members could receive payment under the Settlement, exercise their right to opt-out,

[2] Unless otherwise indicated, citations are omitted and emphasis is added.

object, or dispute their workweeks, and identified Class Counsel and the requested attorneys' fees and costs and Enhancement Awards. *See e.g.*, Bylsma Decl., ¶¶79-80. The Settlement Administrator has reported that only 3 Notices remain as undeliverable – representing 0.0367% of the Class. *Id.*, ¶8.

The Settlement Administrator followed all the procedures set forth in the Court-approved notice plan, and reasonable steps were taken to ensure that all Class Members receive the notice packets. Accordingly, the notice process satisfies the "best practicable notice" standard. *See Ruiz v. XPO Last Mile, Inc.*, No. 3:05-CV-02125 JLS (KSC), 2017 U.S. Dist. LEXIS 209361, at *11 (S.D. Cal. Dec. 20, 2017) (finding notice sufficient where the administrator mailed notices to the last known address and attempted to send returned notices to updated addresses; "In similar situations, courts have found comparable efforts by settlement administrators to provide notices to potential class members to be sufficient at the final approval stage" and citing cases).

B. The Settlement is Fair, Reasonable, and Adequate

When considering a motion for final approval of a class action settlement, a court's inquiry is typically limited to determining whether the settlement is "fair, adequate, and reasonable." *Dunk v. Ford Motor Co.*, 48 Cal. App. 4th 1794, 1801 (1996) ("[t]he inquiry 'must be limited to the extent necessary to reach a reasoned judgment that the agreement is not the product of fraud or overreaching by, or collusion between, the negotiating parties'"). A settlement satisfies that criteria when "the interests of the class as a whole are better served if the litigation is resolved by the settlement rather than pursued." *See* MANUEL FOR COMPLEX LITIGATION (FOURTH) §30.42 (2004). This standard focuses on a comparison of the benefits of settlement versus the risks and costs of continued litigation. *See N. Cnty. Contractor's Ass'n v. Touchstone Ins. Servs.*, 27 Cal. App. 4th 1085, 1091 (1994). Longstanding public policy also heavily favors settlements, particularly of class actions. *See, e.g.*, *Hamilton v. Oakland Sch. Dist. of Alameda Cnty.*, 219 Cal. 322, 329 (1933); *Bell v. Am. Title Ins. Co.*, 226 Cal. App. 3d 1589, 1608 (1991).

Based on these considerations, a "presumption of fairness exists where: (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*, 48 Cal. App. 4th at 1802; *see also Cellphone Fee Termination Cases*, 186 Cal. App. 4th 1380, 1389 (2010) (same). Also relevant to establishing fairness are: (1) the settlement amount; (2) the risks, complexity, expense, and likely duration of continued litigation; (3) the stage of proceedings; and (4) the views of class counsel and class members. *Dunk*, 48 Cal. App. 4th at 1801 (citing *Officers for Just. v. Civil Serv. Comm'n of City*

& Cnty. of S.F., 688 F.2d 615, 625 (9th Cir. 1982)); *see also Cellphone*, 186 Cal. App. 4th at 1389.

1. The Settlement is Presumptively Fair

The Settlement is presumptively fair. The Settlement is the result of arms-length negotiations, involving the substantive assistance of experienced mediator Jeff Krivis, Esq. Bylsma Decl., ¶¶ 36-42, 53-54, 68-70, 84. Moreover, the Settlement was informed by Class Counsel's extensive pre-trial investigation, fact discovery, and litigation efforts, which ensured that Plaintiffs and Class Counsel had a thorough understanding of the strengths and weaknesses of the claims at the time of Settlement. *Id.*, ¶¶22-70, 85. The Parties engaged in motions practice, had numerous meet and confers to discuss discovery disputes, and exchanged their mediation briefs which allowed the Parties to explore their legal positions. *Id.* at ¶¶25-40, 48-49. The Parties also engaged in formal discovery and informal discovery – where Defendants produced data points (*e.g.*, total number of the Class, total number of Aggrieved Employees, aggregate number of shifts and workweeks, aggregate number of pay periods), policy documents, Plaintiff's personnel files, Plaintiff's time records and earning statements, payroll data for the Class, time records for the Class – which allowed Class Counsel to formulate and assess potential damages and PAGA penalties against the risk of continuing litigation. *Id.* at ¶¶26-27, 30, 38, 45-47. Thus, the second factor is satisfied.

In addition, Class Counsel are experienced and respected class action litigators. *Id.* at ¶¶8-12. *See also* Declaration of Selena Matavosian in Support of Plaintiff's Motion for final Approval of Class Action Settlement, filed concurrently herewith ("Matavosian Decl."), ¶¶13-17; Declaration of James R. Hawkins in Support of Motion for Final Approval of Class Action Settlement, filed concurrently herewith ("Hawkins Decl."), ¶9. Class Counsel's judgment in favor of the Settlement is entitled to great weight. *Dunk*, 48 Cal. App. 4th at 1801.

Finally, the reaction of the Class supports a strong presumption of fairness. Pursuant to the Preliminary Approval Order, the Administrator mailed the Notice to all 8,187 Class Members, of which 3 notices remain undeliverable. Mitzner Decl., ¶¶6-8. There have been zero objections, zero disputes regarding workweeks, and zero requests for exclusion. *Id.*, ¶¶9-11. The lack of objections and exclusions by the Class to date supports a presumption of fairness. *See 7-Eleven Owners for Fair Franchising v. Southland Cor*p., 85 Cal. App. 4th 1135, 1153 (2000) (one factor that "lead[s] to a presumption the settlement was fair" is that only "a small percentage of objectors" came forward); *see also Nat'l Rural Telecomms. Coop. v. DIRECTV, Inc.*, 221 F.R.D. 523, 529 (C.D. Cal. 2004) (small number of objections raises strong presumption that settlement is fair).

2. The Settlement Satisfies the Additional *Dunk* Factors

a. The Settlement Amount Favors Approval

The Settlement provides a meaningful monetary benefit for the Class. As calculated by the Settlement Administrator, the Class payment portion of the Settlement provides for an average of approximately $190.52 for each Class member, with the highest individual payment expected to be $618.73. See Mitzner Decl., ¶14. The PAGA payment portion adds additional value, with an average of approximately $7.69 in additional payment for each Class member, and the highest additional payment of approximately $17.95. Id., ¶15.

Moreover, as detailed in Plaintiff's preliminary approval papers, the Settlement reflects a significant percentage of Defendants' estimated undiscounted exposure, and an even greater percentage of Defendants' estimated discounted exposure. Corrected Declaration of Carolyn Cottrell in Support of Plaintiff's Motion for Preliminary Approval of Class Action Settlement, filed December 11, 2024) ("Cottrell Decl."), ¶96-105 (explaining that the Total Class Action Settlement Amount reflects approximately 15.7% of the total estimated exposure for both the substantive Class claims and PAGA claims). This is a recovery that easily falls within the range of reasonableness. *See e.g.*, *Viceral v. Mistras Grp., Inc.* (N.D. Cal. 2016) 2016 U.S. Dist. LEXIS 140759, at *7 (approving wage and hour settlement which represented approximately 8% of the total verdict value); *Stovall-Gusman v. W.W. Granger, Inc.* (N.D. Cal. 2015) 2015 WL 3776765, at *4 ("10% gross and 7.3% net figures are 'within the range of reasonableness."); *Balderas v. Massage Envy Franchising, LLP* (N.D. Cal. 2014) 2014 WL 3610945, at *5 (gross settlement amount of 8% of maximum recovery and net settlement amount of 5%); *Ma v. Covidien Holding, Inc.* (C.D. Cal. 2014) 2014 WL 360196, at *4-5 (9.1% of "the total value of the action" is within the range of reasonableness); *In re Omnivision Techs. Inc*. (N.D. Cal. 2008) 559 F.Supp.2d 1036, 1042 (approving settlement of 6% to 8% of estimated damages); *In re Uber FCRA Litig*. (N.D. Cal. June 29, 2017) No. 14-cv-05200-EMC, 2017 U.S. Dist. LEXIS 101552, at *23- 24 (granting preliminary approval to class action settlement where gross settlement fund, prior to deducting attorneys' fees and services awards, was valued at 7.5% or less of total possible verdict); *Cruz v. Sky Chefs, Inc*. (N.D. Cal. Dec. 19, 2014) No. 12-cv-02705-DMR, 2014 WL 7247065, at *5 (granting final approval where gross settlement amount represented 8.6% of the maximum potential recovery from the class claims and estimated amount distributable to class after accounting for attorneys' fees and other deductions represented approximately 6.1% of maximum potential recovery).

b. The Substantial Risks of Continued Litigation

The proposed Settlement is also unquestionably better than another distinct possibility – little or no recovery for the Class. Cottrell Decl., ¶¶108-120 (explaining risks).

Throughout this litigation, Defendants have vigorously denied the allegations in Class Representatives' complaints, and have denied any and all liability. Bylsma Decl., ¶90. Defendants have taken the position that plaintiffs' claims are not suitable for class treatment and Defendants have asserted that they have fully complied with their obligations under California's labor laws. *Id*. Defendants have asserted numerous legal and factual grounds available to defend the claims in this Action, all of which present difficult hurdles for the Class Representatives. *Id*.

For example, Defendants assert that they maintain compliant policies that compensate Class Members for all work during the Class Period, and that Class Members are able to promptly clock-in at the time of arrival at their work locations, with negligible to zero waiting periods. *Id*., ¶91. Defendants' factual disputes raise potential issues that Defendants' facilities maintain varied clock-in conditions and/or that Class members have varied experiences, and Class Counsel is aware of the risk that the Class size may be reduced to certain locations only, or that class certification may be denied in whole. *Id*.

In addition, because the meal period claims are premised on the same factual allegation that Class Members had to wait in lines to clock in, Class Counsel is aware that if the off-the-clock/overtime component of Plaintiff's claim is unsuccessful, then the meal period claim will also prove unviable. *Id*., ¶92.

Regarding the Class Representatives' meal period claim, Defendants additionally assert that they maintain strong policies regarding meal periods, that they comply with all meal period requirements under the law, and that they automatically compensate Class Members for non-compliant meal periods. *Id*., ¶93. Defendants point out that their compliance with respect to meal period requirements is demonstrated through timekeeping records that lack facial meal period violations, and Defendants assert that these timekeeping records amply support Defendants' compliance efforts. *Id*. Defendants' factual disputes again highlight the significant risk that there may be individualized issues with whether Class Members short meal periods, and Class Counsel is aware of the risk that class certification may be denied in whole. *Id*.

With both claims, Class Counsel is aware that the evidence in this case is not largely going to be based on documentary evidence, as the time spent off-the-clock and waiting in lines was not formally logged or tracked. *Id*., ¶94. Thus, Class Counsel is aware of the substantial difficulties in gathering and presenting non-documentary, testimonial evidence for class certification purposes. *Id*. Litigating the class claims will require substantial additional preparation and discovery and ultimately would involve the depositions of numerous Class Members and experts, the presentation of percipient and expert witnesses at trial, as well as the consideration, preparation, and presentation of voluminous documentary evidence and the preparation and analysis of expert reports. *Id*.

Assuming that class certification is granted, the Class Representatives will then have to establish class-wide liability and prove up various issues regarding damages. *Id*., ¶95. Proving liability and damages issues would also be complicated by any individualized differences among Class Members, and will be vigorously disputed by Defendants. *Id*.

In short, obtaining class certification, establishing liability, and proving damages will require months if not years of further litigation and will necessitate expert witness testimony and significant additional resources. *Id*., ¶96. On the other hand, Defendants are well-financed sophisticated parties represented by experienced employment lawyers, and have the means to vigorously fight the Class Representatives at every step. *Id*. While the Class Representatives believe that they would have prevailed on these issues and others, they also realistically recognize the risk that a fact finder may have found for Defendants on one or more of these issues and or found damages to be significantly less than what the plaintiffs claim. *Id*., ¶97. Despite the confidence of the Class Representatives in their ability to prove claims on a class-wide basis, any one of the above defenses, if decided in favor of Defendants, could have reduced or even eliminated any potential damages award. Class Counsel contends that this Settlement is an exceptional result in the face of all of the risks. *Id*., ¶98.

These significant litigation risks of liability and damages support approval of the Settlement. *Id*., ¶¶101-102. *See e.g., Bellows v. NCO Fin. Sys., Inc*., 2008 WL 5458986, at *7 (S.D. Cal. Dec. 10, 2008) ("[W]hile Class Counsel believe strongly in the merit of the class claims, they also recognize that any case encompasses risks and that settlement of contested cases is preferred in this circuit. Indeed, even if Plaintiff were to prevail at trial, risks to the class remain."); *In re Heritage Bond Litig*., 2005 WL 1594403, at *7 (C.D. Cal. June 10, 2005) ("Also favoring approval of the Settlement is the knowledge that, while Plaintiffs are confident of the strength of their case, it is imprudent to presume ultimate success at trial and thereafter.").

Given the broad scope and magnitude of risks, Class Counsel concluded that the Settlement here, which provides a material percentage of the Class damages estimate, is a beneficial and just result for the Class. *Id*., ¶¶98-102. It is Class Counsel's opinion that the Settlement is a fair, adequate, and reasonable settlement, and that it is in the best interests of the

Class Members that the Settlement is finally approved. *Id*., ¶60. Accordingly, this factor militates in favor of the Court granting final approval.

C. The Court Should Approve the Enhancement Awards

Enhancement 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*, 186 Cal. App. 4th 1380, 1393–94 (2010).

The requested Enhancement Awards are supported by several factors. First, none of the 8,187 Class Members have objected to the Enhancement Awards. Bylsma Decl., ¶104. Second, the Class Representatives have collectively, substantially contributed their time and efforts and have remained consistently committed to this case **for almost five years**, since 2020. *Id*., ¶105.Class and representative actions may be derailed if class representatives lose stamina particularly over a long period of time. *See e.g., Hitt v. Ariz. Bev. Co., LLC*, No. 08cv809WQH-POR, 2009 U.S. Dist. LEXIS 109702, at *11 (S.D. Cal. Nov. 24, 2009) (necessitating a contested motion to amend because the "present class representative decided not to proceed for personal reasons"); *Bush v. Vaco Tech. Servs., LLC*, No. 17-cv-05605-BLF, 2018 U.S. Dist. LEXIS 74613, at *7 (N.D. Cal. May 2, 2018) (putative class counsel noting that "they have experienced a breakdown in communications with [the plaintiff] and the future of the [] action is uncertain"). Here, Class Representatives' commitment over a period of almost five years was an indispensable causal factor of making this Settlement a reality. *Id*., ¶105.

Third, the Class Representatives committed extensive personal time, energy, and diligence to their roles as Class and PAGA representatives. Bylsma Decl., ¶106. The claims involved in this case were largely not based on documentary evidence, as the time spent off-the-clock and waiting in lines was not formally logged or tracked, and thus, Class Counsel required significant participation and assistance by the Class Representatives in order to build the case. *Id*.

As demonstrated in the Class Representatives' declarations, the plaintiffs had numerous discussions with Class Counsel, worked with Class Counsel to review facts and answer questions, responded to numerous discovery requests, assisted Class Counsel in their mediation efforts, and remained apprised of the case at all times since electing to become Class Representatives. *See* Declaration of Kyree Wilson, filed concurrently herewith ("Wilson Decl."), ¶¶5-12, 16; Declaration of Rhonda Guerrero, filed concurrently herewith ("Guerrero Decl."), ¶¶5-14, 18; Declaration of Jason Kingsley, filed concurrently herewith ("Kingsley Decl."), ¶¶4-6.

Fourth, Class Representatives' efforts resulted in a meaningful monetary benefit in this

Settlement for the Class. *See* Section III.B.2.a, above.

Fifth, Class Representatives took the significant risk of coming forward to represent the interests of their fellow employees. Bylsma Decl., ¶112. They stepped into this matter so that the class claims could proceed out of a sincere desire to see through the adjudication of Defendants' treatment of its employees. As a result of their service, they subjected themselves to considerable risk with regards to having their names and suit in the public forum. Wilson Decl., ¶¶6-7; Guerrero Decl., ¶¶6-8; Kingsley Decl., ¶¶9-10. Class Representatives fear that they have and will continue to lose job opportunities due to this litigation. *See e.g.*, Guerrero Decl., ¶7 ("I have continuing concerns that employers are looking unfavorably on my involvement in a lawsuit against my employers and believe that at least on one occasion, I was not hired because the potential employer knew about this case"); Kingsley Decl, ¶10 ("Also as a result of this litigation I have been scared to leave my current employer despite my unhappiness with certain working conditions due to the fact that I may not be able to find employment as any prospective employer would know about this lawsuit, and they would not want to hire a whistleblower").

Sixth, Class Representatives agreed to a general release of claims so that the Settlement could be achieved. Unlike all other Class members who are releasing just the claims that were brought or could have been brought in this Action, Class Representatives have agreed to release any and all of his individual claims against Defendants in order to make this Settlement a reality. Wilson Decl., ¶13; Guerrero Decl., ¶15.

Seventh, Plaintiff's requested $10,000 award is more modest than, or at least in line with, awards in other similar class action settlements in California. *See e.g., Senne v. Kan. City Royals Baseball Corp*., No. 14-cv-00608 JCS, 2023 U.S. Dist. LEXIS 54274, at *70 (N.D. Cal. Mar. 29, 2023) (noting that a $15,000 award for the plaintiffs designated class representatives "are easily justified and in line with awards in other class action settlements in complex cases" and citing numerous wage and hour cases awarding $15,000 awards). *See also Casarez v. Chemtrade W. Us LLC*, 2020 Cal. Super. LEXIS 48076, *8-*9 (Super. Ct. March 3, 2020) (Alameda Superior Court awarding the plaintiff a $9,000 award where "Plaintiffs declaration indicates he invested only about 15 hours participating in the present litigation"); *Carrasco v. Vince*, 2020 Cal. Super. LEXIS 71761, *8 (Super. Ct. March 3, 2020) (Hom. M. Markman) (this Court awarding $10,000 incentive award where the plaintiff "spent approximately 20 hours meeting and conferring with his counsel providing documents and information to counsel and traveling to their office, and has taken risks by being the class representative including potentially being liable for Defendant's attorney's fees and costs"). *Compare with* Guerrero Decl., ¶14 (estimating at least 40 hours over a span of almost 5 years); Wilson Decl., ¶12 (estimating at least 43 hours over a span of almost 5 years). Considering all of the above factors, Plaintiffs' Enhancement Awards are more than reasonable and should be approved.

D. The Court Should Approve the Requested Attorneys' Fees and Costs

It has long been recognized that where, as here, litigation has created a common fund for the benefit of persons other than the named plaintiff in a lawsuit, courts have the power to award class counsel their reasonable attorneys' fees and expenses out of the fund created. *Laffitte v. Robert Half Internat. Inc.*, 1 Cal. 5th 480, 503 (2016). In *Laffitte*, the Court recognized the advantages of using the percentage of the common fund method of awarding attorneys' fees. *Id*. The *Laffitte* ruling is also consistent with courts nationwide, including the United States Supreme Court, which the California Supreme Court recognized, noting, "[c]urrently, all the circuit courts either mandate or allow their district courts to use the percentage method in common fund cases; none require sole use of the lodestar method [and] [m]ost state courts to consider the question in recent decades have also concluded the percentage method of calculating a fee award is either preferred or within the trial court's discretion in a common fund case." *Id*. at 491-94 (internal citations omitted).

Here, the three firms who are Class Counsel seek collective fees of 33 1/3% of the Total Class Action Settlement Amount which falls comfortably within the percentage range of reasonable awards granted by California courts. *See e.g., Chavez v. Netflix, Inc*., 162 Cal. App. 4th 43, 66 n.11 (2008) ("Empirical studies show that, regardless whether the percentage method or the lodestar method is used, fee awards in class actions average around one-third of the recovery."); *Fernandez v. Vict. Secret Stores, LLC*, No. CV 06-04149 MMM (SHx), 2008 U.S. Dist. LEXIS 123546, at *54 (C.D. Cal. July 21, 2008) (citing an academic study collecting contingency fee agreements and finding that a fee award constituting 34% of the fund is reasonable on that basis); *Dawson v. Hitco Carbon Composites, Inc*., No. CV 16-07337 PSG (FFMx), 2019 U.S. Dist. LEXIS 226687, at *20-21 (C.D. Cal. Nov. 25, 2019) (after considering similar cases, finding "Class Counsel's request for attorneys; fees in the amount of 35 percent of the common fund is reasonable"); *Singer v. Becton Dickenson and Co.*, 2010 U.S. Dist. LEXIS 53416, 2010 WL 2196104, *8 (S. D. Ca. 2010) (approving attorney fee and observing that the requested "33% of the common fund falls within the typical range of 20% to 50% awarded in similar cases"); *Ellsworth v. Leclair Fitness II Llc*, 2022 Cal. Super. LEXIS 59587, *8 (Sac. Cty. 2022) ("The percentage of the gross settlement equates to 35% which is generally in line with percentage fees in similar litigation").

Moreover, the requested fees are supposed by numerous relevant factors. *See Serrano v. Priest*, 20 Cal. 3d 25, 49 (1977) (although no rigid formula applies, California courts generally consider the following factors when assessing the reasonableness of a fee request: (1) the result obtained by class counsel; (2) the time and labor required of the attorneys; (3) the contingent nature of the case and the delay in payment to class counsel; (4) the extent to which the nature of the litigation precluded other employment by class counsel; and (5) the experience, reputation, and ability of the attorneys who performed the services, the skill they displayed in the litigation, and the novelty, complexity and difficulty of the case).

As discussed above, Class Counsel are experienced class action litigators. Bylsma Decl., ¶¶8-12; Matavosian Decl., ¶¶13-17; Hawkins Decl., ¶9. Class Counsel's work achieved a meaningful monetary benefit in this Settlement for the Class, providing an average of over $200 to each Class member, with some Class members receiving more than $600. *See* Section III.B.2.a, above. The Net Settlement Amount reflects a significant percentage of Defendants' estimated undiscounted exposure, and an even greater percentage of Defendants' estimated discounted exposure. *Id.* None of the 8,187 Class members have objected to the requested attorneys' fees. *Id*., ¶116.

Moreover, there can be no dispute that the Settlement was achieved through Class Counsel's work. See Bylsma Decl., ¶¶22-80. As detailed in the Bylsma Decl., and summarized here: Class Counsel litigated the Class claims over several years across three separate actions—the Wilson Class Action, the Wilson PAGA Action, and the Kingsley Federal Action—which ultimately culminated in a comprehensive global settlement. *Id*., ¶119. Their efforts began with the filing of detailed complaints alleging multiple wage-and-hour violations and defending against Defendants' removal to federal court, followed by a successful motion to remand. *Id*. Counsel then engaged in substantial discovery, including responding to multiple rounds of written discovery, participating in status conferences, and preparing for and opposing dispositive motions such as a motion for judgment on the pleadings and a motion to strike. *Id*. Counsel also navigated complex legal issues, including the effect of prior class action settlements on standing and claim preclusion. *Id*. Class Counsel engaged in a full-day mediation before a respected mediator, analyzed voluminous documents and data produced by Defendants, and led extensive settlement negotiations. *Id*. Their persistence and strategy led to a global resolution that incorporated claims from the Wilson Actions and Kingsley Action into a unified settlement. *Id*.

Class Counsel litigated this Consolidated Action on a contingent basis. *Id*., ¶¶120-121. Attorneys who litigate on a wholly or partially contingent basis expect to receive significantly higher effective hourly rates in cases where compensation is contingent on success, particularly in hard-fought cases where, like in the case at bar, the result is uncertain. *Id*., ¶122. This does not result in any windfall or undue bonus. In the legal marketplace, a lawyer who assumes a significant financial risk on behalf of a client rightfully expects that his or her compensation will be significantly greater than if no risk was involved (*i.e*., if the client paid the bill on a monthly basis), and that the greater the risk, the greater the "enhancement." *Id*. If, despite these hardships and risks, Class Counsel are paid only basic hourly rates multiplied by the number of hours worked on the case, they would not be fairly compensated for the hardships and serious risks they incurred. *See* Posner, Economic Analysis of the Law, 534, 567 (4th ed. 1992) ("**<u>A contingent fee must be higher than a fee for the same legal services paid as they are performed</u>** … because the risk of default (the loss of the case, which cancels the debt of the client to the lawyer) is much higher than that of conventional loans") (emphasis added).

Adjusting court-awarded fees upward in contingent fee cases to reflect the risk of recovering no compensation whatsoever for hundreds of hours of labor simply makes those fee awards consistent with the legal marketplace, and in so doing, helps to ensure that meritorious cases will be brought to enforce important public interest policies and that clients who have meritorious claims will be better able to obtain qualified counsel. This commitment and the risks involved are precisely the reasons for multipliers in contingency fee cases. *See, e.g., Sonoma Land Tr. v. Thompson*, 63 Cal. App. 5th 978, 986 (2021) ("In contingent fee cases, a fee enhancement compensates the lawyer for having taken the case despite the risk of receiving no payment in the event of a loss or the risk of a delayed payment in the event of a victory."); *Wershba*, 91 Cal. App. at 255 ("Multipliers can range from 2 to 4 or even higher.").

Here, as discussed further below, rather than being a 2x, 3x, or 4x lodestar, the attorneys' fees requested by Class Counsel is approximately equal to its lodestar. The trial court may use an abbreviated lodestar "cross-check" for common-fund awards if the court considers it useful. *Laffitte*, 1 Cal. 5th at 504-05. In conducting a lodestar cross-check, the court is not "required to closely scrutinize each claimed attorney-hour." *Id.* at 505. An evaluation may be done by reviewing "counsel declarations summarizing overall time spent." *Id*.

Here, Class Counsel presents a detailed description of the attorneys who worked on this case, their experience, their hours, their rates, and specifics on what work they performed in this case. *See* Bylsma Decl., ¶¶125-131; Hawkins Decl., ¶12; Matavosian Decl., ¶¶11-12.

Class Counsel's aggregate lodestar was estimated to be approximately $579,977.50 based on approximately $931,787.50 in lodestar, representing approximately 1082.40 hours of work.

Bylsma Decl., 131. Additional fees, which are not part of Class Counsel's lodestar, will be incurred in working with the settlement administrator, completing the final accounting of the settlement, gathering relevant declarations, and responding to questions by Class Members. *Id.*, ¶126. Although this time is not captured in Class Counsel's lodestar, these additional fees are a necessary part of completing the settlement process. *Id.*

The attorneys' fees requested by Class Counsel is a negative 0.98x multiplier of lodestar, demonstrating that the requested fee award is justified, and is a more than reasonable and fair payment. *See e.g.*, *Wershba*, 91 Cal. App. 4th at 255 ("Multipliers can range from 2 to 4 or even higher.").

E. The Litigation Costs are Fair and Reasonable

Attorneys are permitted to recover their litigation costs and expenses under the California Labor Code and the common-fund doctrine. Cal. Lab. Code §§ 218.5, 226, 1194, 2699; *Serrano*, 20 Cal.3d at 35. Here, Class Counsel requests reimbursement of their actual out-of-pocket expenses incurred to prosecute this action, in the amount of $30,000.00. *See* Bylsma Decl., ¶132. Class Counsel in fact incurred more than $30,000 – they incurred $32,836.26 – but are requesting the $30,000 amount. *Id*. Class Counsel incurred regular costs in pursuing the claims in this Action, including costs for research, docket checks, court documents retrieval, mediation costs, copying and mailing costs, travel costs associated with attending hearings, filing and service costs, and court reporter costs. *Id.*, All of these expenses were reasonable and necessary for the successful prosecution of this litigation and are customarily billed to fee-paying clients. *Id*.

F. The Court Should Grant Final Certification of the Settlement Class

As, set forth in the Plaintiff's preliminary approval motion papers, and as the Court determined in preliminarily approving the Settlement, the requirements of California Code of Civil Procedure §382 are readily satisfied here. Nothing has occurred that would alter the Court's conclusion since then. Therefore, for the same reasons that the Court preliminarily certified the Class, it should finally certify the Class for settlement purposes.

IV. CONCLUSION

For the foregoing reasons, Plaintiffs respectfully request that the Court grant this Motion.

Respectfully Submitted,

Dated: July 21, 2025

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