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9 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

10 **FOR THE COUNTY OF SAN BERNARDINO**

11 DANIELA GARIBAY, individually, and on
12 behalf of other members of the general public
similarly situated,

13 Plaintiff,

14 vs.

15 PACIFIC STEEL GROUP, a California
16 corporation; and DOES 1 through 10, inclusive,

17 Defendants.
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Case No. CIVDS2011129

Assigned to the Hon. Christian Towns

**NOTICE OF MOTION AND MOTION FOR
ATTORNEYS' FEES, COSTS, AND CLASS
REPRESENTATIVE ENHANCEMENT
PAYMENTS; MEMORANDUM OF POINTS
AND AUTHORITIES**

Date: April 22, 2025

Time: 8:30 a.m.

Place: Department S26

Complaint Filed: May 29, 2020

Trial Date: None Set

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1 **TO THE COURT, ALL PARTIES, AND THEIR ATTORNEYS OF RECORD:**

2 **PLEASE TAKE NOTICE** that on April 22, 2025, at 8:30 a.m., or as soon thereafter as counsel
3 may be heard, in Department S26 of the above-captioned court, located at 247 W. Third St., San
4 Bernardino, California 92415, the Honorable Christian Towns presiding, Plaintiffs Daniela Garibay,
5 Darren Morris, Brandon Gay, and Israel Berber will, and hereby do, move this Court to award
6 \$1,225,000 in attorneys' fees and \$78,234.24 in litigation costs. Plaintiffs also move for Class
7 Representative Enhancement Payments for their services on behalf of the Settlement Class, and for
8 general release of all claims they may have against Defendant Pacific Steel Group, arising out of their
9 employment.

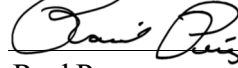
10 This Motion should be granted because: (1) no action would likely have been taken by Class
11 Members individually, and no compensation would have been recovered for them, but for Plaintiffs'
12 service on their behalf; (2) the requested attorneys' fees and costs are fair and reasonable under
13 California law based on the work performed and the results obtained for the class; (3) California public
14 policy recognizes that attracting competent counsel to litigate cases on behalf of clients unable to pay
15 hourly fees requires attorney fee awards commensurate with such risks; and (4) the Class's response
16 confirms that the requested attorneys' fees and costs/expenses and Class Representative Enhancement
17 Payments should be approved.

18 This Motion is based upon: (1) this Notice of Motion and Motion; (2) the Memorandum of
19 Points and Authorities in Support of the Motion for Attorneys' Fees, Costs, and Class Representative
20 Enhancement Payments; (3) the concurrently filed Motion for Final Approval of Class Action and
21 PAGA Settlement; (4) the Declaration of Raul Perez; (5) the Declaration of Larry W. Lee; (6) the
22 Declaration of William L. Marder; (7) the Declaration of Dennis S. Hyun; (8) the Declaration of Edward
23 W. Choi; (9) the Declaration of Arman Marukyan; (10) the Declarations of Plaintiffs Daniela Garibay,
24 Darren Morris, Brandon Gay, and Israel Berber; (11) the Declaration of Nicole Bench on behalf of
25 ILYM Group, Inc., the settlement administrator; (12) the [Proposed] Order and Judgment; (13) the
26 records, pleadings, and papers filed in this action; and (14) upon such other documentary and/or oral
27 evidence as may be presented to the Court at the hearing.

1 Dated: March 27, 2025

Respectfully submitted,

2 By:



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MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

Consistent with the terms of the Joint Stipulation of Class Action and PAGA Settlement and Release, Plaintiffs Daniela Garibay, Darren Morris, Brandon Gay, and Israel Berber move for attorneys' fees in the amount of \$1,225,000, and litigation costs and expenses of \$78,234.24, for their counsel of record, Capstone Law APC; Diversity Law Group, P.C.; Polaris Law Group; Hyun Legal, APC; and Lawyers for Justice, PC ("Plaintiffs' Counsel"). Plaintiffs also move for Class Representative Enhancement Payments of \$10,000, each. This motion is unopposed by Defendant Pacific Steel Group (collectively with Plaintiffs, the "Parties").

Plaintiffs' request for attorneys' fees is justified by the following factors: (1) the contingent risk assumed by Plaintiffs' Counsel, who collectively allocated more than 1440 hours of their time to the case; (2) Plaintiffs' Counsel's achievement in obtaining an effective resolution of the controversy; (3) the novelty, difficulties, and complexities of the litigation; (4) the public service performed by Plaintiffs' Counsel in enforcing the State's wage and hour laws; and (5) the significant benefits conferred on Class Members by the settlement. *See Serrano v. Priest*, 20 Cal. 3d 25, 49 (1977).

Likewise, Plaintiffs deserve Class Representative Enhancement Payments for putting the interests of the Class ahead of own, exposing to the risk of extra scrutiny by prospective employers who may look disapprovingly on litigious employee candidates, investing time and effort in assisting in the prosecution of this action, and providing Defendant with general releases that are much broader than the releases provided by all other Class Members.

Accordingly, this Motion and the concurrently filed Motion for Final Approval of Class Action and PAGA Settlement should be granted in their entirety.

II. ARGUMENT

A. After Achieving a Successful Outcome, Plaintiffs' Counsel Should Be Fully Compensated Under the Lodestar Method

1. The Court Should Calculate Reasonable Attorneys' Fees Under the Lodestar Method

As the prevailing parties, Plaintiffs are entitled to attorneys' fees under the fee-shifting provisions

1 of California Labor Code sections 226(e),¹ 1194(a),² and 2699(g)(1),³ and California Code of Civil
2 Procedure section 1021.5⁴ (also known as the “private attorney general” statute),⁵ because they have
3 successfully litigated and settled claims arising out of Defendant’s alleged violations of the California
4 Labor Code. These fee-shifting statutes are designed to create financial incentives for qualified attorneys
5 to take on meritorious cases in which the recoveries may be so small that it would be unlikely for
6 attorneys to accept the representation on a percentage-of-the-recovery basis. *See Graham v.*
7 *DaimlerChrysler Corp.*, 34 Cal. 4th 553, 580 (2004) (affirming the primacy of the lodestar method for
8 awarding statutory fees).

9 Under California law, the lodestar method is the “starting point of every fee award.” *Serrano v.*
10 *Priest*, 20 Cal. 3d 25, 35 (1977) (“*Serrano III*”). For any fee application subject to a statutory award, the

12
13 ¹ Labor Code section 226(e) (“An employee suffering injury as a result of a knowing and
intentional failure by an employer to comply with subdivision (a) is entitled to . . . an award of costs and
reasonable attorney’s fees.”)

14 ² Labor Code section 1194(a) (“[A]ny employee receiving less than the legal minimum wage or
the legal overtime compensation applicable to the employee is entitled to recover in a civil action the
unpaid balance of the full amount of this minimum wage or overtime compensation, including interest
thereon, reasonable attorney’s fees, and costs of suit.”)

16 ³ Labor Code section 2699(g)(1) (“Any employee who prevails in any action shall be entitled to
an award of reasonable attorney’s fees and costs, including any filing fee paid pursuant to subparagraph
17 (B) of paragraph (1) of subdivision (a) or subparagraph (B) of paragraph (1) of subdivision (c) of Section
2699.3.”) The PAGA statute was recently amended on July 1, 2024. Certain citations to the PAGA’s
18 provisions in this Motion relate to the pre-amendment version of the statute, which applies to this action
based on the pre-amendment filing date of the initial complaint and related administrative exhaustion
19 letter.

20 ⁴ The California Supreme Court has instructed that attorney fee awards under section 1021.5
“should be fully compensatory,” and absent “circumstances rendering the award unjust, an . . . award
should ordinarily include compensation for all the hours reasonably spent.” *Ketchum v. Moses*, 24 Cal.
21 4th 1122, 1133 (2001).

22 ⁵ In addition to the Labor Code and Private Attorneys General statute, the legislative and judicial
policies in California also expressly favor representative actions, including actions to protect workers.
23 *See, e.g., Sav-On Drug Stores, Inc. v. Super. Ct. (Rocher)*, 34 Cal. 4th 319, 340 (2004) (“Labor Code
section 1194 confirms ‘a clear public [policy that is] specifically directed at the enforcement of
California’s minimum wage and overtime laws for the benefit of workers.’”); *Linder v. Thrifty Oil Co.*,
24 23 Cal. 4th 429, 434-35 (2000) (“[Because] the claims of many individuals can be resolved at the same
time, the class suit both eliminates the possibility of repetitious litigation and provides small claimants
with a method of obtaining redress.”); *see also Gentry v. Super. Ct. (Circuit City Stores)*, 42 Cal. 4th 443,
25 450 (2007) (“We conclude that at least in some cases, the prohibition of class-wide relief would
undermine the vindication of the employees’ unwaivable statutory rights and would pose a serious
26 obstacle to the enforcement of the state’s overtime laws.”); *Ramirez v. Yosemite Water Co., Inc.*, 20 Cal.
4th 785, 794 (1999) (“[P]ast decisions . . . teach that in light of the remedial nature of the legislative
27 enactments authorizing the regulation of wages, hours and working conditions for the protection and
benefit of employees, the statutory provisions are to be liberally construed with an eye to promoting such
28 protection.”); *Sav-On*, 34 Cal. 4th at 340 (accord).

1 court should “presume that the Legislature intended courts to use the prevailing lodestar adjustment
2 method.” *Ketchum v. Moses*, 24 Cal. 4th 1122, 1136 (2001). This method most effectively compensates
3 successful counsel for “all the hours reasonably spent.” *Id.* at 1133. The base lodestar is produced by
4 multiplying the number of hours reasonably expended by counsel by a reasonable hourly rate. *Id.* at
5 1134-36. Moreover, “[t]he contingent and deferred nature of the fee award . . . **requires** . . . the fee be
6 adjusted in some manner to reflect the . . . fair market value of legal services” *Horsford v. Board of*
7 *Trustees*, 132 Cal. App. 4th 359, 394-95 (2005) (emphasis added). To reflect the correct market price for
8 the risks taken in rendering high-stakes contingent legal services, courts apply a multiplier to the base
9 lodestar. *Ketchum*, 24 Cal. 4th at 1138. Thus, fees awarded to prevailing attorneys must account for
10 contingent risk, generally by adjusting the base lodestar with a risk multiplier.

11 A lodestar is produced by multiplying the number of hours reasonably expended by counsel by a
12 reasonable hourly rate. *Ketchum*, 24 Cal. 4th at 1134-36. This method best compensates successful
13 counsel for “all the hours reasonably spent, including those relating solely to the fee.” *Id.* at 1133
14 (emphasis in the original). As the California Supreme Court held, “[a]nchoring the analysis to [the
15 lodestar] is the only way of approaching the problem that can claim objectivity, a claim which is
16 obviously vital to the prestige of the bar and the courts.” *Serrano III*, 20 Cal. 3d at 48 n.23.

17 Moreover, “[t]he contingent and deferred nature of the fee award . . . **requires** that the fee be
18 adjusted in some manner to reflect the fact that the fair market value of legal services” *Horsford v.*
19 *Board of Trustees*, 132 Cal. App. 4th 359, 394-95 (2005) (emphasis added). To reflect the correct market
20 price for the risks taken in high-stakes contingent legal services, courts apply a multiplier to the base
21 lodestar. *Ketchum*, 24 Cal. 4th at 1138. Thus, any statutory fee awarded to prevailing attorneys must
22 account for contingent risk, generally by adjusting the base lodestar with a risk multiplier.

23 Furthermore, in fixing fees under the lodestar method, successful attorneys should recover “all
24 attorney fees reasonably expended, without limiting the fees to a proportion of [the] actual recovery.”
25 *Graciano*, 144 Cal. App. 4th at 164. “[T]here is ‘no mathematical rule requiring proportionality between
26 compensatory damages and attorneys’ fees award.’” *Harman v. City and County of San Francisco*, 158
27 Cal. App. 4th 407, 421 (2007) (citation omitted). For instance, in *Harman*, the court affirmed a fee award
28 of \$1.1 million on damages of \$33,300 under the Civil Rights Act after determining that it cannot be tied

1 to a proportion of the recovery. *Id.* at 419-22. Indeed, no actual monetary recovery is required at all;
2 rather, courts will award fees so long as the suit resulted in the benefits contemplated by statute. *See*
3 *Graham v. DaimlerChrysler Corp.*, 34 Cal. 4th 553, 570-76 (2004) (holding that a dismissed action that
4 led to a recall warrants full compensatory attorneys' fees using the lodestar-multiplier method); *County*
5 *of Los Angeles v. Super. Ct.*, 21 Cal. 4th 292, 304 n.2 (1999) (explaining that a small amount in damages
6 can "justify a substantial amount of attorneys' fees" due to the importance of deterrence).

7 These principles govern the determination of reasonable fees for Plaintiffs' Counsel.

8 **2. Plaintiffs' Counsel's Rates Are Reasonable**

9 To determine whether an attorney's charged rate is reasonable, the Court must evaluate whether
10 that rate is "within the range of reasonable rates charged by and judicially awarded comparative attorneys
11 for comparable work." *Children's Hospital & Med. Ctr. v. Bontá*, 97 Cal. App. 4th 740, 783 (2002).
12 Determination of a reasonable rate is derived from the community "where the services are rendered."
13 *MBNA Am. Bank v. Gorman*, 147 Cal. App. 4th Supp. 1, 13 (2006).

14 The rates for attorneys representing Plaintiffs are provided in the submitted billing summaries.
15 (Declaration of Raul Perez ["Perez Decl."] ¶ 19; Declaration of Larry W. Lee ["Lee Decl."] ¶ 14;
16 Declaration of William L. Marder ["Marder Decl."] ¶ 15; Declaration of Dennis S. Hyun ["Hyun Decl."] ¶
17 ¶ 10; Declaration of Edward W. Choi ["Choi Decl."] ¶ 6; Declaration of Arman Marukyan ["Marukyan
18 Decl."] ¶ 9.)

19 These rates should be approved, because they are within the range of similar attorneys in the
20 Southern California area where the services are rendered and where the action was litigated. *See*
21 *Marshall v. Northrup Grumman Corp.*, No. 16-cv-06794, 2020 WL 5668935, at *7 (C.D. Cal. Sept. 18,
22 2020) (approving attorney rates between \$490 and \$1,060 per hour); *Edwards v. First Am. Corp.*, No.
23 07-cv03796, 2016 WL 8999934, at *5 (C.D. Cal. Oct. 4, 2016) (rates of up to \$990 found reasonable);
24 *Urakhchin v. Allianz Asset Mgmt. of Am., L.P.*, No. 15-cv-01614, 2018 WL 8334858, at *6 (C.D. Cal.
25 July 30, 2018) (approving billing rates between \$600 and \$825 per hour for attorneys with more than ten
26 years of experience, \$325 to \$575 per hour for attorneys with ten or fewer years of experience, and \$250
27 per hour for paralegals and clerks); *Gutierrez v. Wells Fargo Bank, N.A.*, No. 07-cv-05923, 2015 WL
28 2438274, at *5 (N.D. Cal. May 21, 2015) (rates ranging \$475-\$975 for partners, \$300-\$490 for

1 associates); *In re Toyota Motor Corp. Unint. Accel. Mktg., Sales Pracs., & Prods. Liab. Litig.*, No. 10-
2 ml-02151, 2013 WL 12327929, at *33 n.13 (C.D. Cal. July 24, 2013) (rates ranging from \$150-\$950) ;
3 *Hashemi v. Bosley, Inc.*, No. CV 21-946 PSG (RAOX), 2022 WL 18278431, at *10 (C.D. Cal. Nov. 21,
4 2022) (finding that, in Los Angeles, partners litigating class action matters have hourly rates ranging
5 from \$304 to \$965, and associates have hourly rates ranging from \$287 to \$719); *Alvarez v. Sirius XM*
6 *Radio Inc.*, No. CV 18-8605 JVS(SSX), 2021 WL 1234878, at *11 (C.D. Cal. Feb. 8, 2021) (finding
7 hourly rates ranging from \$450 for an associate to \$950 for a partner “are reasonable given prevailing
8 rates in the Los Angeles region”); *In re MacBook Keyboard Litig.*, No. 5:18-CV-02813-EJD, 2023 WL
9 3688452, at *15 (N.D. Cal. May 25, 2023) (approving rates in a class action of \$875-\$1,195 per hour for
10 partners; \$385-\$850 per hour for associates).

11 3. The Hours Billed by Claimant’s Counsel to the Litigation Are Reasonable

12 In evaluating hours worked, the general principle is that “the attorney who takes [a statutory fee-
13 shifting] case can anticipate receiving full compensation for every hour spent litigating a claim even
14 against the most polemical opponent.” *Weeks v. Baker & McKenzie*, 63 Cal. App. 4th 1128, 1175
15 (1998). However, courts should not be “enmeshed in a meticulous analysis of every detailed facet of the
16 professional representation.” *Serrano v. Unruh*, 32 Cal. 3d 621, 642 (1982). Rather, “[t]he essential goal
17 in shifting fees (to either party) is to do rough justice, not to achieve auditing perfection.” *Fox v. Vice*,
18 131 S. Ct. 2205, 2216 (2011).

19 In determining the reasonableness of the hours expended, “the court should defer to the winning
20 lawyer’s professional judgment as to how much time he was required to spend on the case; after all, he
21 won, and might not have, had he been more of a slacker.” *Kerkeles v. City of San Jose*, 243 Cal. App. 4th
22 88, 196 Cal. Rpt. 3d 252, 265 (2015) (quoting *Moreno v. City of Sacramento*, 534 F.3d 1106, 1112 (9th
23 Cir. 2008)). Whether attorneys expended reasonable hours in pursuit of the litigation is the major
24 building block of any fee award. *See Serrano v. Unruh*, 32 Cal. 3d at 632 (“absent facts rendering the
25 award unjust, parties who qualify for a fee should recover for all hours reasonably spent.”). Typically, all
26 time reasonably spent by prevailing attorneys during the course of litigation should be awarded if it is the
27 type of work that would be paid by a fee-paying client. *Hensley v. Eckerhart*, 461 U.S. 424, 431 (1983).

28 Plaintiffs’ Counsel’s base lodestar of \$1,158,015.00 reflects their standard billing rates for

1 billable attorney time expended litigating this action multiplied by 1447.2 hours of attorney time. (Perez
2 Decl. ¶ 19; Lee Decl. ¶¶ 11-14, Exh. A; Marder Decl. ¶¶ 15-16, Exh. A; Hyun Decl. ¶¶ 8-10, Exh. A;
3 Choi Decl. ¶¶ 6-7, Exh. A; Marukyan Decl. ¶ 9, Exh. A.)

4 **4. Plaintiffs' Counsel Are Entitled to a 1.06 Risk Multiplier**

5 The requested fee of \$1,225,000 represents an application of a multiplier of 1.06 to the base
6 lodestar of \$1,158,015.00. A 1.06 multiplier is within normal range for multipliers which “can range
7 from 2 to 4 or even higher.” *Wershba v. Apple Computer, Inc.*, 91 Cal. App. 4th 224, 255 (2001); *see*
8 *also Vizcaino v. Microsoft Corp.*, 290 F.3d 1043, 1047 (9th Cir. 2002) (multipliers “ranging from one to
9 four are frequently awarded ... when the lodestar method is applied”).

10 Courts routinely accept multipliers ranging from 2 to 4. *See, e.g., Sutter Health Uninsured*
11 *Pricing Cases*, 171 Cal. App. 4th 495, 512 (2009) (applying a 2.52 multiplier); *Chavez*, 162 Cal. App.
12 4th at 66 (applying a 2.5 multiplier in a consumer class action); *Willner v. Manpower Inc.*, No. 11-CV-
13 02846-JST, 2015 WL 3863625, at *7 (N.D. Cal. June 22, 2015) (approving a 2.10 multiplier on
14 settlement of California Labor Code violations); *Dyer v. Wells Fargo Bank, N.A.*, 303 F.R.D. 326, 334
15 (N.D. Cal. 2014) (approving attorneys’ fees that resulted in lodestar multiplier of 2.83); *Hopkins v.*
16 *Stryker Sales Corp.*, No. 11-CV-02786-LHK, 2013 WL 496358, at *5 (N.D. Cal. Feb. 6, 2013)
17 (approving a multiplier of 2.76 in settlement of Labor Code violations).

18 Indeed, courts following *Laffitte II* have reaffirmed that a multiplier between 2 and 4 to be
19 reasonable and not so “extraordinarily high” as to require greater judicial scrutiny. *See Spann v. J.C.*
20 *Penney Corp.*, 211 F. Supp. 3d 1244, 1265 (C.D. Cal. Sept. 30, 2016) (finding that a 3.07 multiplier is
21 “well within the range for reasonable multipliers” under *Laffitte II*); *Beaver v. Tarsadia Hotels*, No. 11-
22 CV-01842-GPC-KSC, 2017 WL 4310707, at *13 (S.D. Cal. Sept. 28, 2017) (“The one-third fee Class
23 Counsel seeks reflects a multiplier of 2.89 on the lodestar which is reasonable for a complex class action
24 case.”).

25 A multiplier is needed primarily because Plaintiffs settled prior to filing a time-consuming
26 certification motion. As explained above, the decision to settle early is to be lauded, since Class
27 Members will now avoid the risks of additional litigation and are assured of substantial and immediate
28 monetary recovery. Indeed, under California law, “the promptness of settlement cannot be used to justify

1 the refusal to apply a multiplier to reflect the size of the class recovery without exacerbating the
2 disincentive to settle promptly inherent in the lodestar methodology.” *Lealao v. Beneficial Cal. Inc.*, 82
3 Cal. App. 4th 19, 52 (2000). According to *Lealao*, to not apply a multiplier under these circumstances
4 would undermine California policy, as “awards that are too small [will] chill the private enforcement
5 essential to the vindication of many legal rights and obstruct the representative actions that often relieve
6 the courts of the need to separately adjudicate numerous claims.” *Id.* at 53.

7 **B. The Reasonableness of the Requested Fee Award Is Supported by Other Factors**

8 In considering the reasonableness of the requested fee, California courts may also consider the
9 following factors: (1) the results achieved on behalf of the Class; (2) the response of the Class to the
10 settlement, including a lack of objections to the settlement terms, and particularly to the fee award;
11 (3) counsel’s preclusion from taking other work and the contingent nature of the fee award; and (4)
12 counsel’s experience, reputation, and ability. *See Laffitte II*, 1 Cal. 5th at 504-05 (holding that the court
13 may consider various factors in determining the reasonableness of the fees); *see also, Ketchum v. Moses*,
14 24 Cal. 4th 1122, 1132 (2001) (applying these factors in considering a fee award under the lodestar-
15 multiplier method).

16 **1. The Requested Attorneys’ Fees Are Supported by the Results Achieved on**
17 **Behalf of the Settlement Class**

18 As set forth more fully in the accompanying Memorandum of Points and Authorities in support
19 of the Motion for Final Approval of Class Action and PAGA Settlement, Plaintiffs’ Counsel negotiated a
20 total settlement valued at \$3,500,000 despite significant obstacles. As a result of Plaintiffs’ Counsel’s
21 efforts, Class Members stand to receive an average payment of \$317.66, and a highest payment of
22 \$3,200.78. (Bench Decl. ¶ 8.) By delivering this substantial benefit to class members, Plaintiffs’ Counsel
23 have achieved excellent results by any measure, but particularly in comparison to the typical recovery in
24 a wage-and-hour action.⁶ Accordingly, the cumulative benefits achieved by the Settlement favor
25

26 ⁶ *See, e.g., Badami v. Grassroots Campaigns, Inc.*, Case No. C 07-03465 JSW (N.D. Cal. Sept.
27 15, 2008) (average net recovery of approximately \$195); *Sandoval v. Nissho of Cal., Inc.*, Case No. 37-
28 2009-00091861 (San Diego County Super. Ct. Dec. 3, 2010) (average net recovery of approximately
\$145); *Fukuchi v. Pizza Hut*, Case No. BC302589 (L.A. County Super. Ct. Sept. 29, 2006) (average net
recovery of approximately \$120); *Contreras v. United Food Group, LLC*, Case No. BC389253 (L.A.

1 approval of the requested fees.

2 **2. The Class’s Response Supports the Settlement and the Negotiated**
3 **Attorneys’ Fees**

4 That this Settlement represents an excellent recovery is substantiated by the Class’s response to
5 date—to date, less than 0.2% of the Settlement Class has opted out, and not a single Class Member
6 objected to the Settlement. (*See* Bench Decl. ¶¶ 6-7.) *See also 7-Eleven Owners for Fair Franchising v.*
7 *Southland Corp.*, 85 Cal. App. 4th 1135, 1152-53 (2000) (a low number of objections is a strong
8 indicator that a settlement is fair and reasonable—”[a] mere 80 of the 5,454 national class members
9 elected to opt out [(1.5% of the entire Class)] and . . . [a] total of nine members . . . objected to the
10 settlement.”).

11 **3. The Requested Attorneys’ Fees Are Supported by the Contingent Risk**
12 **Assumed by Plaintiffs’ Counsel**

13 The contingent risk that Plaintiffs’ Counsel assumed in prosecuting the action supports the
14 requested attorneys’ fees and costs. Plaintiffs’ Counsel took this case on a pure contingency basis, and
15 had no guarantee that they would receive any remuneration for the many hours they spent litigating the
16 Class’s claims, or for the out-of-pocket costs they reasonably incurred to date.

17 By undertaking representation of a large number of affected employees in wage and hour
18 actions, attorneys like Plaintiffs’ Counsel inevitably must be prepared to make a significant investment of
19 time, energy, and resources. Courts have thus explained that a multiplier is needed because these kinds of
20 high-stakes, publicly-beneficial litigation are “fraught with uncertainty and even the most scrupulous
21 attorney will ‘win some and lose some.’” *Horsford v. Bd. of Trustees of California State Univ.*, 132 Cal.

22
23 _____
24 County Super. Ct. Sept. 10, 2009) (average net recovery of approximately \$120); *Bercea v. AE Retail*
25 *West*, Case No. 34-2012-00123947 (Sacramento County Super. Ct.) (average net recovery of
26 approximately \$105); *Ressler v. Federated Department Stores, Inc.*, Case No. BC335018 (L.A. County
27 Super. Ct. Jan. 27, 2009) (average net recovery of approximately \$90); *Palencia v. 99 Cents Only Stores*,
28 Case No. 34-2010-00079619 (Sacramento County Super. Ct.) (average net recovery of approximately
\$80); *Doty v. Costco Wholesale Corp.*, Case No. CV05-3241 FMC-JWJx (C.D. Cal. May 14, 2007)
(average net recovery of approximately \$65); *Sorenson v. PetSmart, Inc.*, Case No. 2:06-CV-02674-
JAM-DAD (E.D. Cal. Dec. 17, 2008) (average net recovery of approximately \$60); *Lim v. Victoria’s*
Secret Stores, Inc., Case No. 04CC00213 (Orange County Super. Ct. Jan. 20, 2006) (average net
recovery of approximately \$35); and *Gomez v. Amadeus Salon, Inc.*, Case No. BC392297 (L.A. County
Super. Ct. July 23, 2010) (average net recovery of approximately \$20).

1 App. 4th 359, 400 n. 11 (2005). Thus, “attorneys whose compensation depends on their winning the case
2 must make up in compensation in the cases they win for the lack of compensation in the cases they lose.”
3 *Vizcaino v. Microsoft Corp.*, 290 F.3d 1043, 1051 (9th Cir. 2002). Although they achieved a significant
4 victory here, compensation is necessary to make up for cases where Plaintiffs’ Counsel took on a
5 meritorious case, litigated the case expertly, but did not recover attorneys’ fees, either because the
6 defendant was insolvent or due to the pitfalls of litigation.

7 California courts and the Ninth Circuit recognize a need to reward plaintiffs’ counsel who accept
8 cases on a pure contingency basis. In *Ketchum v. Moses*, the California Supreme Court instructed courts
9 to upwardly adjust fee compensation to ensure that the fees account for contingency risk:

10 A lawyer who both bears the risk of not being paid and provides legal services is
11 not receiving the fair market value of his work if he is paid only for the second of
12 these functions. If he is paid no more, competent counsel will be reluctant to accept
fee award cases.

13 *Ketchum*, 24 Cal. 4th at 1133.

14 Similarly, in *In re Washington Pub. Power Supply*, the Ninth Circuit underscored the importance
15 of rewarding attorneys who take cases on a contingency basis:

16 It is an established practice in the private legal market to reward attorneys for
17 taking the risk of non-payment by paying them a premium over their normal
18 hourly rates for winning contingency cases. *See* Richard Posner, *Economic*
19 *Analysis of Law* § 21.9, at 534-35 (3d ed. 1986). Contingent fees that may far
20 exceed the market value of the services if rendered on a non-contingent basis are
accepted in the legal profession as a legitimate way of assuring competent
representation for plaintiffs who could not afford to pay on an hourly basis
regardless whether they win or lose.

21 *In re Washington Pub. Power Supply Sys. Sec. Litig.*, 19 F.3d 1291, 1299 (9th Cir. 1994) (“in the
22 common fund *context*, attorneys whose compensation depends on their winning the case, must make up
23 in compensation in the cases they win for the lack of compensation in the cases they lose.”).

24 As reflected in *Ketchum* and *In re Washington*, attorneys accepting contingent fee cases should
25 be compensated in amounts greater than those earned by attorneys who bill and receive payment by the
26 hour. If a contingent-fee attorney were awarded fees at the same level as an hourly-fee attorney, it would
27
28

1 be economically irrational for any attorney to accept the risks of contingent-fee case.⁷ Without the
2 application of a multiplier in cases where they prevail, Plaintiffs' Counsel would be barred by financial
3 realities from representing employees and consumers on contingency, which the firm does exclusively.
4 This would undermine California's strong policy of encouraging attorneys to represent low-income
5 individuals seeking unpaid back wages and other employment-related redress.

6 In summary, because attorneys pursuing claims on contingency will sometimes lose after
7 expending hundreds of hours, and often advancing thousands of dollars in expenses, an enhancement
8 ensures that the risks do not outstrip the incentives to pursue claims on behalf of employees. The high
9 contingent risk borne by Plaintiffs' Counsel thus supports the fee request.

10 **4. The Requested Attorneys' Fees Are Supported by Counsel's Experience,** 11 **Reputation, and Skill**

12 The "skill and experience of the attorneys and nature of work performed" are also evaluated
13 under California law in connection with a fee motion. *Northwest Energetic Services, LLC v. Cal.*
14 *Franchise Tax Bd.*, 159 Cal. App. 4th 841, 880 (2008). Plaintiffs' Counsel employ seasoned class action
15 attorneys who regularly litigate wage and hour claims through certification and on the merits, and have
16 considerable experience settling wage and hour class actions. (Perez Decl. ¶¶ 10-18; Lee Decl. ¶¶ 8-10;
17 Marder Decl. ¶¶ 8-14; Hyun Decl. ¶¶ 3-6; Choi Decl. ¶¶ 4-5; Marukyan Decl. ¶¶ 11-16.)

18 **5. A Percentage Cross-Check Confirms the Reasonableness of the Fee** 19 **Request**

20 Although Plaintiffs' Counsel's fees are warranted under the lodestar method, a percentage cross-
21 check also confirms the reasonableness of the award. *In re Consumer Privacy Cases*, 175 Cal. App. 4th
22

23 ⁷ See Richard A. Posner, *Economic Analysis of Law* (4th ed. 1992) pp. 534, 567 ("A contingent
24 fee must be higher than a fee for the same legal services paid as they are performed. The contingent fee
25 compensates the lawyer not only for the legal services he renders but for the loan of those services. The
26 implicit interest rate on such a loan is higher because the risk of default (the loss of the case, which
27 cancels the debt of the client to the lawyer) is much higher than that of conventional loans."); John
28 Leubsdorf, *The Contingency Factor in Attorney Fee Awards*, 90 Yale L.J. 473, 480 (1981) ("A lawyer
who both bears the risk of not being paid and provides legal services is not receiving the fair market
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."); ABA Model Code Prof. Responsibility, DR 2-
106(B)(8) (recognizing the contingent nature of attorney representation as an appropriate component in
considering whether a fee is reasonable).

1 545, 557 (2009) (permitting the use of a percentage cross-check on a lodestar request).

2 Here, Plaintiff's fees are capped at 35% of the total fund made available to the Class, which is
3 only 2% higher than the typical fee award of one-third. *Amaro v. Anaheim Arena Mgmt., LLC*, 69 Cal.
4 App. 5th 521, 545 (2021) ("Fee awards in class actions average around one-third of the recovery
5 regardless of whether the percentage method or the lodestar method is used.") (quoting *Chavez v. Netflix,*
6 *Inc.*, 162 Cal. App. 4th 43, 66, fn. 11 (2008)) (internal quotations omitted); Eisenberg & Miller, *Attorney*
7 *Fees in Class Action Settlements: An Empirical Study*, J. of Empirical Legal Studies, Vol. 1, Issue 1, 27-
8 78, March 2004, at 35 (independent studies of class action litigation nationwide conclude that fees
9 representing one-third of the total recovery is consistent with market rates).

10 The percentage cross-check confirms that the requested lodestar fees, representing 35% of the
11 fund made available to the Class, are reasonable and should be affirmed.

12 **C. Plaintiffs' Counsel's Costs Should Be Approved**

13 The request for reimbursement of costs, in the amount of \$78,234.24 is fair and reasonable. As
14 set forth in Plaintiffs' counsel's declaration, the costs were all directly incurred in the prosecution of these
15 actions. (Perez Decl. ¶ 23; Lee Decl. ¶ 15, Exh. B; Choi Decl. ¶ 8, Exh. B; Hyun Decl. ¶ 11; Marukyan
16 Decl. ¶ 17, Exh. B.) Pursuant to Labor Code §§ 218.5, 226(e), 1194, and the PAGA, as well as per the
17 Settlement Agreement, Plaintiffs' attorneys' costs should be awarded.

18 **D. The Class Representative Enhancement Payments are Fair and Reasonable**

19 Enhancement payments "are fairly typical in class action cases." *Cellphone Termination Fee*
20 *Cases*, 186 Cal. App. 4th 1380, 1393 (2010) (affirming enhancement payments of \$10,000); *Rodriguez*
21 *v. West Publishing Corp.*, 563 F.3d 948, 958 (9th Cir. 2009), citing 4 Newberg on Class Actions (4th ed.
22 2002) § 11:38, and Eisenberg & Miller, *Incentive Awards to Class Action Plaintiffs: An Empirical Study*,
23 53 UCLA L. Rev. 1303 (2006).⁸

24 The Class Representative Enhancement Payments are reasonable in light of Plaintiffs' service as
25

26 ⁸ Enhancement payments "are intended to compensate class representatives for work done on
27 behalf of the class, to make up for financial or reputational risk undertaken in bringing the action, and,
28 sometimes, to recognize their willingness to act as a private attorney general." *Rodriguez*, 563 F.3d at
958–59. "[T]he rationale for making enhancement or incentive awards to named plaintiffs is that they
should be compensated for the expense or risk they have incurred in conferring a benefit on other
members of the class." *Clark v. American Residential Services LLC*, 175 Cal. App. 4th 785 (2009).

1 class representatives. Indeed, but for Plaintiffs' service, Class Members would have recovered nothing
2 for their claims, and with the passage of time, the claims in controversy would have been barred. The
3 requested \$10,000 Class Representative Enhancement Payments are thus fair and reasonable
4 compensation for Plaintiffs' effort in prosecuting their actions on behalf of the class, regularly conferring
5 with counsel on the status of the case and the strategies for prosecuting the claims, and reviewing the
6 proposed settlement to ensure that its terms are fair and provide adequate relief for the Class. Plaintiffs
7 deserve the requested Class Representative Enhancement Payments because they "remained fully
8 involved and expended considerable time and energy during the course of the litigation." *See Schaffer v.*
9 *Litton Loan Servicing, LP*, No. CV 05-07673 MMM JCX, 2012 WL 10274679, at *19 (C.D. Cal. Nov.
10 13, 2012) (citation omitted). The amount of the requested Class Representative Enhancement Payment is
11 also reasonable by reference to the amounts the California Superior Court has awarded for similar wage
12 and hour settlements.⁹

13 The Class Representative Enhancement Payments are also appropriate because Plaintiffs would
14 otherwise "not gain any benefit beyond that [they] would receive as [ordinary class members]." *In re*
15 *Toys R Us-Delaware, Inc.--Fair & Accurate Credit Transactions Act (FACTA) Litig.*, 295 F.R.D. 438,
16 472 (C.D. Cal. 2014); *Van Vranken v. Atlantic Richfield Co.*, 901 F. Supp. 294, 299 (N.D. Cal. 1995)
17 (holding that a substantial award is appropriate where a class representative's claim made up "only a tiny
18 fraction of the common fund."). Absent the Class Representative Enhancement Payments, Plaintiffs will
19

20 ⁹ *See Carter v. GMRI Inc.*, No. RIC 1506085 (Riverside County Super. Ct. Jan. 10, 2017)
21 (awarding \$10,000 enhancement payments to the named plaintiffs); *Crook v. Barton Healthcare System*,
22 No. SC20150146 (El Dorado County Super. Ct. Dec. 9, 2016) (awarding \$10,000 enhancement payment
23 to the named plaintiff); *Singh v. American Building Supply, Inc.*, No. 34-2015-00179889-CU-OE-GDS
24 (Sacramento County Super. Ct. Oct. 3, 2016) (awarding \$10,000 enhancement payment to the named
25 plaintiff); *Alvarez v. MAC Cosmetics Inc.*, No. CIVDS1513177 (San Bernardino County Super. Ct. July
26 29, 2016) (awarding \$10,000 enhancement payments to the named plaintiffs); *Coffey v. Beverages &*
27 *More, Inc.*, No. BC477269 (L.A. County Super. Ct. July 26, 2016) (awarding \$10,000 enhancement
28 payment to the named plaintiff); *Restoration Hardware Wage and Hour Cases*, No. JCCP4794 (L.A.
County Super. Ct. April 28, 2016) (awarding \$10,000 enhancement payments to the named plaintiffs);
Cook v. United Insurance Co. of Amer., No. CIVMSC10-00425 (Contra Costa County Super. Ct. April
15, 2016) (awarding \$10,000 enhancement payments to the named plaintiffs); *Quintana v. Claire's*
Boutiques, Inc., No. 5:13-cv-00368-PSG (N.D. Cal. Dec. 1, 2015) (awarding \$10,000 enhancement
payments to the named plaintiffs); *Paredes v. American Family Care, Inc.*, No. 34-2014-00167060-CU-
OE-GDS (Sacramento County Super. Ct. Nov. 17, 2015) (awarding \$10,000 enhancement payment to
the named plaintiff); *Hoagland v. Brooks Brothers Group, Inc.*, No. BC511534 (L.A. County Super. Ct.
July 16, 2015) (awarding \$10,000 enhancement payment to the named plaintiff).

1 recover no more than other Class Members, despite undergoing personal sacrifice and reputational risk
2 in pursuing this litigation on behalf of the Class.

3 The Class Representative Enhancement Payments are also justified in light of the Civil Code
4 section 1542 waivers and general releases that Plaintiffs are required to provide Defendant as a condition
5 of settlement. Under the Civil Code section 1542 releases, Plaintiffs will release any and all known and
6 unknown claims they may have against Defendant arising out of their employment. These general
7 releases are considerably broader than the separate, narrower release required of the Class. *See*
8 *Billinghausen v. Tractor Supply Co.*, 306 F.R.D. 245, 267-68 (N.D. Cal. 2015) (awarding the plaintiff
9 \$5,000 for the general release along with \$10,000 enhancement payment for services as a class
10 representative); *La Fleur v. Medical Management Intern, Inc.*, No. 13-00398-VAP, 2014 WL 2967475,
11 *8 (C.D. Cal. June 25, 2014) (finding that the \$15,000 enhancement payment is warranted in part
12 because “the named plaintiffs have released all claims against [defendant], unlike the remainder of the
13 Class”).

14 Separately, the Class Representative Enhancement Payments are justified in light of the
15 reputational risk that Plaintiffs have assumed in bringing an action against a former employer. *See*
16 *Billinghausen v. Tractor Supply Co.*, 306 F.R.D. 245, 267-68 (N.D. Cal. 2015) (finding “personal
17 detriment” upon testimony that future employers can easily learn that a prospective employee served as a
18 plaintiff through the internet). By bringing their actions, Plaintiffs have assumed reputational risk that
19 may impact their ability to find employment in the future. Long after this action is forgotten by Class
20 Members, Plaintiffs will have to endure the risk of possibly being branded “litigious” by prospective
21 employers, and may have employment applications rejected on that basis alone.

22 In conclusion, the requested Class Representative Enhancement Payments are fair, adequate, and
23 reasonable compensation for Plaintiffs’ services on behalf of the Class and for the risks and personal
24 sacrifice they assumed, and for their general release of claims and waiver of Section 1542.

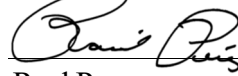
25 **III. CONCLUSION**

26 For the foregoing reasons, Plaintiffs respectfully request that this Court grant the Motion for
27 Attorneys’ Fees, Costs, and Class Representative Enhancement Payments.
28

1 Dated: March 27, 2025

Respectfully submitted,

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☐ **BY MAIL (ENCLOSED IN A SEALED ENVELOPE):** I deposited the envelope(s) for mailing in the ordinary course of business at Los Angeles, California. I am “readily familiar” with this firm’s practice of collection and processing correspondence for mailing. Under that practice, sealed envelopes are deposited with the U.S. Postal Service that same day in the ordinary course of business with postage thereon fully prepaid at Los Angeles, California.

☒ **BY E-MAIL:** I hereby certify that this document was served from Los Angeles, California, by e-mail delivery on the parties listed herein at their most recent known e-mail address or e-mail of record in this action.

☐ **BY PERSONAL SERVICE:** I delivered the document, enclosed in a sealed envelope, by hand to the offices of the addressee(s) named herein.

☐ **BY ELECTRONIC SERVICE:** I caused the document(s) to be transmitted electronically via One Legal eService to the individuals listed above, as they exist on that database. This will constitute service of the document(s).

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed this **March 28, 2025**, at Los Angeles, California.

Stacy Winberg

Type or Print Name

/s/ Stacy Winberg

Signature