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SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES – SPRING STREET COURTHOUSE

JENNY GARRIDO, individually, and on behalf of other members of the general public similarly situated; and JUAN RIVAS, FRANKIE BETANCOURT, JESSE ORTIZ, 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,

Plaintiffs,

vs.

ACORN ENGINEERING COMPANY, a California corporation; MORRIS GROUP INTERNATIONAL, an unknown business entity; and DOES 1 through 100, inclusive,

Defendants.

Case No.: 19STCV36680

Honorable Carolyn B. Kuhl
Department SSC12

CLASS ACTION

PLAINTIFFS' NOTICE OF MOTION AND MOTION FOR FINAL APPROVAL OF CLASS ACTION SETTLEMENT, ATTORNEY FEES AND COSTS, AND SERVICE AWARDS; MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT THEREOF

[Declaration of Class Counsel (Edwin Aiwazian); Declarations of Class Representatives (Jenny Garrido, Juan Rivas, Frankie Betancourt, and Jesse Ortiz); Declaration of Settlement Administrator (Jarrod Salinas); and [Proposed] Final Approval Order and Judgment filed concurrently herewith]

Date: June 27, 2023
Time: 10:30 a.m.
Department: SSC12

Complaint Filed: October 15, 2019
FAC Filed: February 11, 2021
Trial Date: None Set

1 **PLEASE TAKE NOTICE** that on June 27, 2023, at 10:30 a.m., in Department SSC12
2 of the above-entitled Court, located at 312 North Spring Street, Los Angeles, California 90012,
3 Plaintiffs Jenny Garrido, Juan Rivas, Frankie Betancourt, and Jesse Ortiz (“Plaintiffs”) will and
4 hereby do move for an order granting final approval of:

5 1. The Class and Representative Action Settlement Agreement (“Settlement,”
6 “Agreement,” or “Settlement Agreement”) on the grounds that the Settlement is fair, adequate,
7 and reasonable because:

- 8 • A Net Settlement Amount of approximately **\$2,112,110.23** will be fully distributed to
9 the Class Members who do not submit a timely and valid Request for Exclusion
10 (“Participating Class Members”);
11 • **No Notices of Objection** were submitted to the settlement administrator, Phoenix
12 Settlement Administrators, also referred to as Phoenix Class Action Administration
13 Solutions (“Phoenix” or “Settlement Administrator”);
14 • **Only Four (4) Requests for Exclusion** were submitted to the Settlement
15 Administrator, representing 0.6% of the Class;

16 2. Payment in the amount of **\$1,225,000.00** to Lawyers for Justice, PC (“Class
17 Counsel”), representing thirty-five percent (35%) of the Maximum Settlement Amount, for
18 attorneys’ fees, which is reasonable and justified on a percentage-basis, and also based on a
19 lodestar cross-check with a multiplier of 2.3;

20 3. Payment in the amount of **\$13,899.77** to Class Counsel for reimbursement of
21 litigation costs and expenses;

22 4. Payment in the amount of **\$9,000** to the Settlement Administrator, for Settlement
23 Administration Costs;

24 5. Payments in the amount of **\$10,000.00** each to Plaintiffs Jenny Garrido, Juan
25 Rivas, Frankie Betancourt, and Jesse Ortiz, as Service Awards, for their time and effort in
26 representing the Class; and

27 6. Allocation of the penalties under the Private Attorneys General Act of 2004,
28 California Labor Code section 2698, *et seq.*, in the amount of \$100,000.00, of which seventy-five

1 percent (75%), or **\$75,000.00**, will be paid to the California Labor and Workforce Development
2 Agency, and twenty-five percent (25%), or **\$25,000.00**, will be distributed to all current and
3 former non-exempt, hourly-paid California employees who were employed by Acorn
4 Engineering Company during the PAGA Period (“PAGA Group Members”).

5 This Motion is made pursuant to Rule 3.769 and Rule 3.1113(e) of the California Rules
6 of Court, which require approval by the Court of a class action settlement and permit the Court to
7 extend the page limit for memoranda.

8 This motion is based upon the following Memorandum of Points and Authorities; the
9 Declarations of Class Counsel (Edwin Aiwazian), Class Representatives (Jenny Garrido, Juan
10 Rivas, Frankie Betancourt, and Jesse Ortiz), and the Settlement Administrator (Jarrod Salinas of
11 Phoenix) in support thereof; the pleadings and other records on file with the Court in this matter;
12 and such evidence and oral argument as may be presented at the hearing on this Motion.

13 Dated: June 2, 2023

LAWYERS for JUSTICE, PC

14
15 By:



16 Annabel Blanchard
17 Attorneys for Plaintiffs and the Class
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MEMORANDUM OF POINTS AND AUTHORITIES

I. SUMMARY OF MOTION

Plaintiffs Jenny Garrido, Juan Rivas, Frankie Betancourt, and Jesse Ortiz (“Plaintiffs”) seek final approval of: (1) the Maximum Settlement Amount of \$3,500,000.00; (2) attorneys’ fees in the amount of \$1,225,000.00, which is thirty-five percent (35%) of the Maximum Settlement Amount, and reimbursement of litigation costs and expenses in the amount of \$13,889.77 (together, “Attorney Fees and Costs”) to Lawyers for Justice, PC (“Class Counsel”); (3) Settlement Administration Costs in the amount of \$9,000.00 to Phoenix Settlement Administrators, also referred to as Phoenix Class Action Administration Solutions (“Phoenix” or “Settlement Administrator”); (4) Service Awards in the amount of \$10,000.00 each to Plaintiffs Jenny Garrido, Juan Rivas, Frankie Betancourt, and Jesse Ortiz, for a combined amount of \$40,000.00; and (5) allocation of \$100,000.00 for penalties under the Private Attorneys General Act of 2004, California Labor Code § 2698, *et seq.* (“PAGA Payment”).

Plaintiffs seek relief on behalf of the following Class:

All current and former non-exempt, hourly-paid California employees who were employed by Acorn Engineering Company during the Class Period (“Class” or “Class Members”).¹

This case involved ongoing investigations, formal and informal discovery, review and analysis of a large volume of documents and data in the course of litigation and in connection with mediation conducted by Steven Rottman, Esq., and extensive settlement negotiations. This matter has required 710.90 hours of attorney time by Class Counsel. As will be demonstrated herein, the request for attorneys’ fees, which represents thirty-five percent (35%) of the Maximum Settlement Amount, is fully supported by the use of the percentage-fee method. Courts have historically awarded fees of up to fifty percent (50%) of the recovery. The requested attorneys’ fees are also supported under the lodestar cross-check method.²

¹ Class and Representative Action Settlement Agreement (“Settlement Agreement”), ¶ I.3. “Class Period,” means the period from October 15, 2015, to Preliminary Approval. *See id.*, ¶ I.6.

² Applying a modest multiplier of 2.3, the total enhanced lodestar fees are \$1,266,302.50, and Class Counsel seeks an attorneys’ fees award of \$1,225,000.00 (equal to 35% of the Maximum Settlement Amount).

1 Plaintiffs move for final approval of the Service Awards in the amount of \$10,000.00
2 each to Plaintiffs Jenny Garrido, Juan Rivas, Frankie Betancourt, and Jesse Ortiz, to compensate
3 Plaintiffs for the time and effort that they expended spearheading this lawsuit on behalf of the
4 Class, the PAGA Group Members, and the State of California. Plaintiffs also move for final
5 approval of the payment to the Settlement Administrator in the amount of \$9,000 for Settlement
6 Administration Costs. Plaintiffs also move for final approval of the allocation of \$100,000.00 for
7 the PAGA Payment, of which \$75,000.00 will be paid to the California Labor Workforce and
8 Development Agency (“LWDA”) for its portion of the PAGA Payment (“LWDA Payment”),
9 and \$25,000.00 will be distributed to the PAGA Group Members on a *pro rata* basis, based on
10 their Workweeks (“PAGA Group Member Amount”) during the time period from December 8,
11 2019 to January 31, 2023 (“PAGA Period”).³

12 The requests for Attorney Fees and Costs, Service Awards, Settlement Administration
13 Costs, and allocation for the PAGA Payment were fully disclosed in the Notice of Proposed
14 Class Action Settlement (“Class Notice”) that was mailed to the Class Members. Most
15 importantly, as of the date of this Motion, *not a single Class Member has objected to any aspect*
16 *of the Class Settlement, including the requested Attorney Fees and Costs, Service Awards,*
17 *Settlement Administration Costs, or allocation for PAGA Payment.*

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

24 In order to efficiently present the Court with adequate information to determine whether
25 to grant final approval of the Settlement and award Attorney Fees and Costs, Service Awards,

26 ³ Settlement Agreement, ¶ I.22. At the January 31, 2023 hearing on Plaintiffs’ Motion for Preliminary Approval of
27 Class Action, the Court flagged that the PAGA Period was defined in the Settlement Agreement as starting on
28 December 28, 2019 while the PAGA Period was defined in the Class Notice as starting on December 8, 2019. The
Court ordered the parties to confirm which date is correct and to use the correct date in the Class Notice that is
distributed to the Class. Per the Court’s instructions, the parties confirmed that the correct start date for the PAGA
Period is December 8, 2019, and this is the date that was referenced in the Class Notice distributed to the Class.

Settlement Administration Costs, and PAGA Payment, Plaintiffs also move for an order permitting the filing of this single consolidated memorandum, although it exceeds the 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 Acorn Engineering Company manufactures various plumbing fixtures, such as hand washing stations, toilets and urinals, and electronic water management systems for schools, prisons, government, and commercial markets. Plaintiffs are former employees of Defendant.

On October 15, 2019, Plaintiff Jenny Garrido filed a Class Action Complaint for Damages (“Complaint”), against Defendant and Morris Group International, in the Los Angeles Superior Court (“Court”), thereby commencing the above-captioned lawsuit. On December 6, 2019, Defendant and Morris Group International filed an Answer to the Complaint.

On September 29, 2020, Plaintiff Juan Rivas provided written notice to the labor and Workforce Development Agency by certified mail to the LWDA, to Defendant, and to Morris Group International of the specific provisions of the California Labor Code that Plaintiff Juan Rivas alleges were violated (“Rivas PAGA Notice”). Additionally, on September 29, 2020, Plaintiff Frankie Betancourt provided written notice to the LWDA, Defendant, and Morris Group International of the specific provisions of the California Labor Code that were violated (“Betancourt PAGA Notice”). On October 7, 2020, Plaintiff Jesse Ortiz provided written notice to the LWDA, Defendant, and Morris Group International of the specific provisions of the California Labor Code that were violated (“Ortiz PAGA Notice”).

On February 11, 2021, Plaintiffs filed a First Amended Class Action Complaint for Damages & Enforcement Under the Private Attorneys General Act, California Labor Code § 2698, Et Seq. (“Operative Complaint”), which added Plaintiffs Juan Rivas, Frankie Betancourt, and Jesse Ortiz as named plaintiffs and added an eleventh cause of action for civil penalties under PAGA.

Plaintiffs’ core allegation is that Defendant has violated the California Labor Code by engaging in a uniform practice and procedure, with respect to Plaintiffs and the Class Members,

of, *inter alia*, failing to pay minimum and overtime wages, failing to provide compliant meal and rest periods and associated premium pay, failing to timely pay wages during employment and upon termination of employment, failing to provide compliant wage statements, failing to maintain requisite payroll records, and failing to reimburse necessary business-related expenses, and thereby engaged in unfair business practices under the California Business and Professions Code section 17200, *et seq.*, and conduct that gives to penalties pursuant to PAGA. Plaintiffs contend that they, and the Class Members, are entitled to, *inter alia*, unpaid wages, penalties, (including and not limited to, penalties pursuant to PAGA), and attorneys' fees.

On March 12, 2021, Defendant and Morris Group International answered the Operative Complaint and identified that Morris Group International is not a legal entity.

Defendant has denied, and continues to deny, any liability and wrongdoing of any kind associated with any of the allegations in the case, and further denies that the case is appropriate for class or representative treatment for any purpose other than for settlement purposes only.

The Parties have actively litigated the matter since it was commenced October 15, 2019. The parties conducted significant formal and informal discovery and exchanged a large volume of information, documents, and data. Class Counsel served multiple sets of written discovery requests which were propounded on Defendant (including and not limited to Requests for Production of Documents, Special Interrogatories, and Form Interrogatories), and served Notices of Deposition of Defendant's Person Most Knowledgeable Designees, along with requests for production of documents. On February 7, 2022, the parties participated in a formal, full-day mediation conducted by Steven Rottman, Esq., a well-regarded mediator experienced in mediating complex labor and employment matters. After conducting significant formal and informal discovery and investigation into the facts of the case and with the aid of the mediator's evaluation, the parties ultimately reached the Settlement described herein to resolve the case in its entirety.

On November 30, 2022, Plaintiffs filed a Motion for Preliminary Approval of Class Action Settlement and supporting documents. On January 31, 2023, a hearing was held on Plaintiffs' Motion for Preliminary Approval. On January 31, 2023, the Court entered an Order

Granting Plaintiffs' Motion for Preliminary Approval of Class Action Settlement ("Preliminary Approval Order"), thereby preliminarily approving the terms of the Settlement, the Class Notice, and the proposed administration procedures and associated deadlines.

Plaintiffs now move for final approval of the Settlement, Attorney Fees and Costs, Service Awards, Settlement Administration Costs, and allocation for PAGA Payment.

III. SUMMARY OF THE SETTLEMENT TERMS AND PLAN OF DISTRIBUTION

Under the terms of the Settlement Agreement, Defendant has agreed to pay a Maximum Settlement Amount of \$3,500,000.00. Subject to approval by the Court, the Net Settlement Amount will be calculated by deducting the following amounts from the Maximum Settlement Amount: (1) Attorney' Fees and Costs, consisting of attorneys' fees in the amount of \$1,225,000.00 and reimbursement of litigation costs and expenses in the amount of \$13,889.77, to Class Counsel; (2) Service Awards in the amount of \$10,000.00 each to Plaintiffs, for a combined amount of \$40,000.00; (3) Settlement Administration Costs in the amount of \$9,000.00 to Phoenix; (4) PAGA Payment in the amount of \$100,000.00 allocated to penalties under the Private Attorneys General Act ("PAGA"), of which 75% (i.e., \$75,000.00) will be distributed to the Labor and Workforce Development Agency ("LWDA") and 25% (i.e. \$25,000.00) will be distributed on a *pro rata* basis to all current and former non-exempt, hourly-paid California employees who were employed by Acorn Engineering Company during the PAGA Period ("PAGA Group Members").⁴ The Net Settlement Amount, which is estimated to be \$2,112,110.23, will be distributed in accordance with the Settlement Agreement and there is no reversion to Defendant.⁵

The Settlement Administrator will calculate each Participating Class Member's share of the available Net Settlement Amount ("Individual Settlement Payment") as follows: the Settlement Administrator will calculate the total number of weeks Class Members worked at

⁴ Settlement Agreement, ¶¶ III.50, III.51, III.52, and III.53.

⁵ This amount is higher than the amount stated in Paragraph 11 of the accompanying Declaration of Administrator (Jarrod Salinas for Phoenix Settlement Administrators) Regarding Notice and Settlement Administration ("Phoenix Declaration" or "Phoenix Decl.") because the Settlement Administrator's calculation assumes that Class Counsel will obtain litigation costs and expenses in the maximum amount of \$16,000.00, which is allocated under the Settlement. However, Class Counsel seeks the amount of only \$13,889.77 for reimbursement of litigation costs and expenses, and the difference of \$2,110.23 will remain part of the Net Settlement Amount.

1 least one shift for Defendant in a non-exempt, hourly-paid position in California during the Class
2 Period (“Workweeks”). The Settlement Administrator will divide each Participating Class
3 Member’s individual number of Workweeks by the total number of Workweeks of all
4 Participating Class Members worked during the Class Period, and multiply the resulting fraction
5 by the Net Settlement Amount.⁶

6 The Settlement Administrator will calculate the total number of Workweeks for all
7 PAGA Group Members worked during the PAGA Period. The Individual PAGA Payment that
8 each PAGA Group Member will be eligible to receive will be calculated by dividing each PAGA
9 Group Member’s individual number of Workweeks worked during the PAGA Period by the total
10 number of Workweeks of all PAGA Group Members worked during the PAGA Period, and
11 multiplying the resulting fraction by the PAGA Group Member Amount.⁷

12 Class Members had sixty (60) calendar days after the initial mailing of the Class Notice
13 to submit a Request for Exclusion, Notice of Objection, and/or Workweeks Dispute (“Response
14 Deadline”).⁸ The Response Deadline was May 15, 2023.⁹ The Settlement Administrator has
15 received four (4) written requests for exclusion from the Class Settlement (“Request for
16 Exclusion”).¹⁰ The Settlement Administrator has not received any objections to the Class
17 Settlement (“Notices of Objection”) from Class Members.¹¹

18 The Individual Settlement Payments shall be deemed twenty percent (20%) as wages, to
19 be reported on IRS Form W-2, and eighty percent (80%) as non-wages and interest to be
20 reported on IRS Form 1099 (if applicable).¹² Participating Class Members will be issued
21 payment of their Individual Settlement Payment subject to reduction for the employee’s share of
22 taxes and withholding with respect to the wage portion of Individual Settlement Payment.¹³
23 Individual PAGA Payments will be allocated as one hundred percent (100%) penalties (to be
24

25 ⁶ Settlement Agreement, ¶¶ I.36 & VI.68(b).

26 ⁷ Settlement Agreement, ¶ VI.68(a).

27 ⁸ *Id.*, ¶ I.17.

28 ⁹ Phoenix Decl., ¶¶ 7, 8, 9, Exh. A.

¹⁰ Phoenix Decl., ¶ 7

¹¹ *Id.*, ¶ *.

¹² Settlement Agreement, ¶ VI.69.

¹³ *Ibid.*

reported on IRS Form 1099).¹⁴

Individual Settlement Payment checks issued to Participating Class Members and Individual PAGA Payment checks issued to PAGA Group Members will be negotiable for one hundred eighty (180) calendar days from the date of issuance.¹⁵ The Settlement Administrator may, at its discretion, distribute the Individual Settlement Payment and Individual PAGA Payment by way of a single check that combines both payments (if applicable). Individual Settlement Payment and/or Individual PAGA Payment checks that are not negotiated within the 180-day period will be cancelled. The funds associated with said cancelled checks will be transmitted by the Settlement Administrator to the Controller of the State of California to be held pursuant to the Unclaimed Property Law, California Civil Code Section 1500, et seq., in the name of the Participating Class Member and/or PAGA Employee whose check is cancelled and in the respective amount of the cancelled check.¹⁶

IV. THE SETTLEMENT ADMINISTRATION PROCESS

The Court-appointed Settlement Administrator, Phoenix, has taken all necessary steps to effectuate the notice and settlement administration process, as set forth in the Court's January 31, 2023 Preliminary Approval Order.

On February 22, 2023, Phoenix received a mailing list from Defendant's counsel that contained the following information for each Class Member: last-known full name, mailing address, telephone number, Social Security Number, Workweeks worked as a non-exempt, hourly-paid employee of Defendant in California during: (1) the period from October 15, 2015 to February 7, 2022; (2) the Class Period; and (3) the PAGA Period ("Class List").¹⁷ The Class List contained information for 634 individuals identified as Class Members.¹⁸ Phoenix processed the names and addresses through the National Change of Address Database ("NCOA") and updated the Class List with any updated addresses located.¹⁹

On March 16, 2023, Phoenix mailed the Class Notice via first class mail to 634

¹⁴ *Id.*, ¶ VI.69.

¹⁵ *Id.*, ¶ VI.73.

¹⁶ *Ibid.*

¹⁷ *Id.*, ¶ 3.

¹⁸ *Ibid.*

¹⁹ *Id.*, ¶ 4.

individuals identified as Class Members in the Class List.²⁰

As of the date of this Motion, twenty six (26) Class Notices were returned as undeliverable without forwarding addresses.²¹ Phoenix performed a skip-trace search on the twenty-sixur (26) Class Notices that were returned to Phoenix without forwarding addresses, located an updated address for twenty-three (23) Class Members, and promptly re-mailed the Class Notice to the updated addresses.²² Ultimately, three (3) Class Notices remain undeliverable because an updated address was not located through skip-²³

As of the date of this Motion, the Settlement Administrator has not received any Notices of Objection from Class Members.²⁴

The Settlement Administrator has received four (4) valid and timely Requests for Exclusion from the Class Settlement.²⁵

To date, there are 630 Class Members who did not submit a timely and valid Request to be Excluded, and are therefore, deemed to be Participating Class Members.²⁶ Pursuant to the terms of the Settlement, the Net Settlement Amount of approximately \$2,112,110.23 will be distributed to Participating Class Members in accordance with the terms of the Settlement.²⁷ The highest Individual Settlement Payment is currently estimated to be \$7,857.51 and the average Individual Settlement Payment is currently estimated to be \$3,349.21.²⁸The highest Individual PAGA Payment is currently estimated to be \$100.00 and the average Individual PAGA Payment is currently estimated to be \$51.98.²⁹

V. THE COURT SHOULD GRANT FINAL APPROVAL OF THE CLASS ACTION SETTLEMENT.

²⁰ Phoenix Decl., ¶ 5.

²¹ *Id.*, ¶ 6.

²² *Ibid.*

²³ *Ibid.*

²⁴ *Id.*, ¶ 8.

²⁵ *Id.*, ¶ 7.

²⁶ *Id.*, ¶ 10.

²⁷ Phoenix Decl., ¶ 11; see also, n.5, *supra*.

²⁸ *Id.*, ¶ 12. The actual average and highest Individual Settlement Payments will be larger than the amounts stated in the Phoenix Declaration because the Net Settlement Fund is larger due to Class Counsel's request for reimbursement of litigation costs and expenses in an amount that is less than \$16,000.00 (the difference between the amount sought and the amount authorized under the Settlement, \$2,110.23, will be part of the Net Settlement Fund). See n.5, *supra*.

²⁹ *Id.*, ¶ 13.

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 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 case 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.*

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1 A. **The Settlement Resulted from Arm’s-Length Negotiations Based Upon**
2 **Extensive Investigation and Discovery.**

3 The parties actively litigated the case since it was commenced on October 15, 2019.
4 Counsel for the parties used the pre-mediation time period to investigate the veracity, strength,
5 and scope of the claims, and also to prepare the matter for class certification, representative
6 adjudication, and trial, prior to reaching Settlement.³⁰ The parties conducted significant formal
7 and informal discovery and investigation into the facts of the case, and also informally
8 exchanged information and data in preparation for mediation.³¹ Class Counsel served multiple
9 sets of written discovery requests which were propounded on Defendant and Morris Group
10 International (including but not limited to requests for production of documents, special
11 interrogatories, and form interrogatories), and several notices of deposition of Defendant’s
12 person most knowledgeable designees, along with request for production of documents;
13 reviewed Defendant’s responses thereto; and prepared and served numerous deposition notices.³²
14 Class Counsel also had the opportunity to interview and obtain information from Plaintiffs and
15 other Class Members, and reviewed and analyzed a large volume of information, documents and
16 data obtained from Plaintiffs, Defendant, and other sources.³³ The documents and data reviewed
17 and analyzed by Class Counsel included, and were not limited to, employment records of
18 Plaintiffs and other Class Members, a detailed sampling of Class Members’ payroll legend,
19 company policy acknowledgements and agreements (e.g., Acknowledgement of At-Will
20 Employment, Acknowledgement of Receipt for Alcohol and Drug Policy, Receipt of
21 Transitional Return to Work Program Policy, Receipt of Pamphlets, Photo Agreement, Pre-
22 Employment Medical Physical Agreement, Confidentiality Agreement, and Defendant’s
23 employee handbook and operations and employment practices, policies, and procedures
24 documents (including, and not limited to, regarding Procedures for Injuries on the Job, Overtime,
25 Time Keeping, Hours of Work, Meal and Rest Periods, Non-Disclosure of Confidential
26 Information/Trade Secrets, Attendance and Punctuality, Paid Sick Leave, Workplace Accidents,

27 ³⁰ Declaration of Edwin Aiwazian (“Aiwazian Decl.”), ¶ 6.

28 ³¹ *Id.*, ¶ 6.

³² *Ibid.*

³³ *Ibid.*

1 Software Code of Ethics, Absence and Incident Guidelines, Company Voicemail Policy,
2 Company Email and Internet Policy, Cellphone and Electronic Device Policy, Vendor Gratuity
3 Policy, and Company Policy Update), among other information and documents..³⁴ Class Counsel
4 researched applicable law, developed liability, damages, and penalties valuation models in
5 connection with mediation and settlement negotiations, and met and conferred with Defendant's
6 counsel on numerous occasions, e.g., to discuss issues relating to the pleadings, case
7 management, discovery, and the production of information, documents, and data in the course of
8 litigation as well as mediation and settlement negotiations. Other work performed by Class
9 Counsel included, and was not limited to, case strategy and analysis; drafting, reviewing, and
10 revising the pleadings, mediation brief, and settlement-related motions; preparing for and
11 attending court proceedings; and preparing for and participating in mediation and settlement
12 negotiations, among other tasks..³⁵

13 After conducting significant formal and informal discovery and investigation into the
14 facts of the case, a formal, full-day mediation was conducted by Steven Rottman, Esq., a well-
15 regarded mediator experienced in mediating complex labor and employment matters..³⁶ In the
16 course of litigation and in connection with mediation and settlement discussions, the parties
17 exchanged information and documents, and discussed various aspects of the case, including and
18 not limited to, the risks and delays of further litigation, the risks and expenses to the Parties of
19 proceeding with class certification and/or representative adjudication, the law relating to class
20 certification, off-the-clock theory, meal and rest periods, PAGA representative actions, wage-
21 and-hour law and enforcement, the evidence produced and analyzed, and the possibility of
22 appeals, among other things..³⁷ During all settlement discussions, the parties conducted their
23 negotiations at arm's length in an adversarial position..³⁸ Arriving at a settlement that was
24 acceptable to the parties was not easy..³⁹ Defendant and its counsel felt very strongly about
25 Defendant's ability to prevail on the merits and to obtain a denial of class certification. Plaintiffs

26 ³⁴ Declaration of Edwin Aiwazian ("Aiwazian Decl."), ¶ 6.

27 ³⁵ Aiwazian Decl., ¶ 6.

28 ³⁶ *Id.*, ¶ 8.

³⁷ *Ibid.*

³⁸ *Ibid.*

³⁹ *Ibid.*

1 and Class Counsel believed that they would be able to obtain class certification and prevail at
2 trial.⁴⁰ After conducting significant formal and informal discovery and investigations, extensive
3 settlement negotiations, and with the aid of the mediator's evaluation, the parties agreed that the
4 case was well-suited for settlement given the legal issues relating to Plaintiffs' principal claims,
5 as well as the costs and risks to the parties that would attend further litigation.⁴¹

6 The Settlement takes into account the strengths and weaknesses of each side's position
7 and the uncertainty of how the case might have concluded at certification, trial, and/or appeals.
8 Class Counsel had the opportunity to interview, and obtain information from Plaintiffs and other
9 Class Members.⁴² Class Counsel also reviewed and analyzed a large volume of information,
10 documents and data obtained from Defendant, Plaintiffs, and other sources, and performed
11 significant research into the applicable law, which is constantly evolving as it relates to class
12 certification, off-the-clock theory, meal and rest periods, PAGA representative actions, wage-
13 and-hour law and enforcement, Plaintiffs' claims and damages, and Defendant's defenses, as
14 well as facts discovered.⁴³ The Settlement was based on this large volume of facts, evidence, and
15 investigation.⁴⁴ Additionally, Class Counsel has extensive experience in handling complex wage-
16 and-hour matters, including significant experience in employment class and representative action
17 litigation.⁴⁵

18 **B. The Risks Inherent in Continued Litigation Favor Final Approval of the**
19 **Settlement.**

20 The Settlement, which provides for a Maximum Settlement Amount of \$3,500,000.00,
21 represents a fair, adequate, and reasonable resolution of the case, given the risks inherent in
22 litigating class and representative claims through certification proceedings, trial, and/or
23 appeals.⁴⁶ The Settlement was calculated using information and data uncovered through
24 extensive case investigation, formal and informal discovery, and the exchange of information in
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26 ⁴⁰ Declaration of Edwin Aiwazian ("Aiwazian Decl."), ¶ 8.

27 ⁴¹ Ibid.

28 ⁴² Aiwazian Decl., ¶ 6.

⁴³ *Id.*, ¶ 6.

⁴⁴ *Id.*, ¶¶ 6 & 8.

⁴⁵ *Id.*, ¶¶ 15-18.

⁴⁶ *Id.*, ¶¶ 8 & 21.

1 the context of preparing for mediation and conducting ongoing settlement negotiations.⁴⁷ Had the
2 action not settled, Defendant would have vigorously challenged class certification, manageability
3 of representative adjudication, and liability. Defendant contended that individualized questions
4 of fact predominated over any common issues, and these issues would pose challenges to
5 certification and representative adjudication. Defendant would have likely argued again at trial, if
6 any, that Plaintiffs' claims were not appropriate for class-wide and/or representative
7 adjudication. On the other hand, Defendant also faced the risk of the Court certifying a class and
8 allowing a jury to decide Plaintiffs' claims on a class-wide or representative basis. Additionally,
9 preparation for trial would have been expensive for all parties.

10 It is preferable to reach an early resolution of a dispute because such resolutions save
11 time and money that would otherwise go to litigation. If this case had settled after further
12 litigation, the settlement amount would have taken into account the additional costs incurred, and
13 there might have been less money available for Class Members after all was said and done. This
14 is not just an abstract contention. The risks and expenses of further litigation outweighed any
15 benefit that might have been gained otherwise. These risks of further litigation include a
16 determination that the claims were unsuitable for class treatment and/or representative
17 adjudication, failure to obtain certification, class de-certification after certification of a class,
18 allowing a jury to decide the claims asserted in the case, and the real possibility of no recovery
19 after years of litigation. Additionally, the Parties were moving into the phase of the litigation
20 where they would have to conduct a significant amount of additional discovery, including and
21 not limited to, depositions of Defendant's Person Most Knowledgeable designees, expert
22 witnesses, and percipient witnesses, such as managers, supervisors, and other current and former
23 employees throughout the State of California. Discovery would have certainly arisen, which
24 would have cost the Parties additional time and money. In contrast, the Settlement provides real
25 and significant benefits for the Class here and now, while avoiding the further expenses, risks,
26 and delay of prolonged litigation with only the possibility of recovery.

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⁴⁷ Declaration of Edwin Aiwazian ("Aiwazian Decl."), ¶¶ 5-8.

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

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

8 The Settlement, which provides for a Maximum Settlement Amount of \$3,500,000.00,
9 represents a fair, reasonable, and adequate resolution of the case. The Settlement was calculated
10 using information and data uncovered through extensive case investigation, formal and informal
11 discovery, and the exchange of information in the context of preparing for mediation and
12 conducting ongoing settlement negotiations. The Settlement takes into account the potential risks
13 and rewards inherent in any case and, in particular, in this case. Moreover, considering all of the
14 facts in the case, the Maximum Settlement Amount represents a considerable recovery.

15 Even after deducting attorneys' fees in the amount of \$1,225,000.00, litigation costs and
16 expenses in the amount of \$13,889.77, Service Awards in the combined amount of \$40,000.00,
17 Settlement Administration Costs in the amount of \$9,000.00, and PAGA Payment in the amount
18 of \$100,000.00 from the Maximum Settlement Amount of \$3,500,000.00, the Net Settlement
19 Amount is currently estimated to be \$2,112,110.23.⁴⁸ Under the Settlement Agreement, the
20 Maximum Settlement Amount will be fully paid out without any reversion to Defendant, in
21 accordance with the terms of the Settlement. As discussed in Section III, *supra*, each
22 Participating Class Member will be paid a *pro rata* share of the Net Settlement Amount, based
23 on the number of Workweeks during the Class Period credited to him or her, and each PAGA
24 Group Member will be paid a *pro rata* share of the PAGA Group Member Amount based on
25 their Workweeks during the PAGA Period. To date, there are 630 Participating Class Members,
26 representing 99.37% of the Class Members.⁴⁹ The highest Individual Settlement Payment to a
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28 ⁴⁸ Phoenix Decl., ¶ 11; see n.5, *supra*.

⁴⁹ Phoenix Decl., ¶ 10.

Participating Class Member is currently estimated to be \$7,857.51 and the average Individual Settlement Payment is currently estimated to be \$3,349.21.⁵⁰ The highest Individual PAGA Payment to a PAGA Group Member is currently estimated to be \$100.00 and the average Individual PAGA Payment is currently estimated to be \$51.98.⁵¹ These are significant individual recoveries, particularly in light of the risks of litigation.

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.⁵² 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 and representative action law and complex wage-and-hour litigation.⁵³ 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.⁵⁴ 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.

⁵⁰ Phoenix Decl., ¶ 12; see n.28, *supra*.

⁵¹ *Id.*, ¶ 13

⁵² Aiwasian Decl., ¶ 21.

⁵³ Aiwasian Decl., ¶¶ 15-18.

⁵⁴ *Ibid.*

1 **E. There Are No Notices of Objection to the Class Settlement.**

2 The Settlement has been well received by the Class – ***not a single Class Member***
3 ***objected to the Class Settlement.***⁵⁵ Specifically, no objections have been made as to the
4 Maximum Settlement Amount or requested Attorney Fees and Costs, Service Awards,
5 Settlement Administration Costs, or the allocation for PAGA Payment. California courts have
6 consistently found that a small number of objectors indicates the class’ 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
9 approval 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
13 entirety. *Dunk, supra*, 48 Cal.App.4th at 1802.

14 **VI. THE ATTORNEY 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
21 rendered in his court[.]”); *Cellphone Termination Fee Cases* (2009) 180 Cal.App.4th 1110, 1118.
22 Where the amount of a settlement is a “certain easily calculable sum of money,” California
23 courts may calculate attorneys’ fees as a reasonable percentage of the settlement. Weil and
24 Brown, *California Practice Guide, Civil Procedure Before Trial*, Chapter 14, § 14:145; *see also*
25 *Laffitte v. Robert Half Int’l Inc.* (2016) 1 Cal.5th 480, 503; *Dunk, supra*, 48 Cal.App.4th at 1808.
26 The percentage-of-the-benefit approach is preferred in class and representative actions because
27
28

⁵⁵ Phoenix Decl., ¶ 8.

1 “it better approximates the workings of the marketplace than the lodestar approach.” *Lealao*,
2 *supra*, 82 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*
5 *Half Int’l, Inc.* (2016) 1 Cal.5th 480, 503. In *Lealao*, the court held that when an action leads to
6 a 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
9 will “chill the private enforcement essential to the vindication of many legal rights and obstruct
10 the representative actions that often relieve the courts of the need to separately adjudicate
11 numerous 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
15 Cal.App.4th at 1270). It is not an abuse of discretion to choose one method over another as long
16 as the method chosen is applied consistently using percentage figures and/or rates that accurately
17 reflect the marketplace. In cases where class members present claims against a settlement
18 amount and the settlement agreement provides that the defendant agrees to paying the attorneys a
19 percentage of the same, use of that percentage method is appropriate. *Lealao, supra*, 82
20 Cal.App.4th at 32.

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

range of contingency fee in 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, 34.⁵⁶ 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).

Courts have consistently recognized that class and representative action litigation is

⁵⁶ 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.

1 increasingly necessary to protect the rights of individuals whose injuries and/or damages are too
2 small to economically justify legal action on an individual basis. Accordingly, in determining a
3 reasonable fee award, courts award fees to serve as an economic incentive for lawyers to pursue
4 such litigation in order to achieve increased access to the judicial system for meritorious claims
5 and to enhance deterrents to wrongdoing. This is especially true in situations where multiple
6 similar alleged wrongs would not be economically feasible to pursue individually, such as here.
7 See A. Conte, *Attorney Fee Awards* (2d Ed., 1993) 104, at 6.

8 When the case was originally filed, not only was it inescapably contingent, but the
9 prospect of a long, drawn-out battle with a defendant represented by experienced counsel, was
10 almost a certainty. By taking on this “battle” on a contingency basis, Class Counsel risked
11 substantial economic loss if the results were not successful. This substantial risk is the reason
12 that the courts approve the use of the percentage method when a settlement is obtained by the
13 efforts of class counsel. See *Vizcaino v. Microsoft* (9th Cir. 2002) 290 F.3d 1043, 1048-49
14 (discussing the risks of engaging in litigation without certainty of compensation).

15 Under the terms of the Settlement Agreement, Defendant will pay a Maximum
16 Settlement Amount of \$3,500,000.00. The requested attorneys’ fees are thirty-five percent (35%)
17 of the total value of the monetary settlement. In light of Class Counsel’s successful prosecution
18 and resolution of the case, the requested attorneys’ fees are appropriate and reasonable.

19 Compensating class counsel in class litigation on a percentage basis makes good sense
20 because: (1) it is consistent with the private marketplace where contingent fee attorneys are
21 customarily compensated on such a basis; (2) it aligns the interests of class counsel and absent
22 class members in achieving the maximum possible resolution of the case; and (3) it encourages
23 the most efficient and expeditious resolution of the litigation by providing an incentive for early,
24 yet reasonable, settlement. The requested attorneys’ fees in this matter satisfy all of those factors
25 such and should be approved on a percentage basis.

26 The percentage method is consistent with, and is intended to mirror, the practice in the
27 private marketplace where contingent-fee attorneys typically negotiate percentage-fee
28 arrangements with their clients. A named plaintiff’s agreement to pay a contingent fee is

powerful evidence of a reasonable fee. One of the best ways to demonstrate the value of counsel's work to the class is to review the consideration agreed to be paid by the named plaintiff. If the named plaintiff has employed counsel on a contingency-fee basis, it would indeed be inequitable for the members of the class, who will enjoy the benefits of the settlement without incurring the risks of bringing the claim, to pay less than the named plaintiff. In this case, Plaintiffs have each agreed to a contingency fee of at least thirty-five percent (35%) of the recovery.⁵⁷

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

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

Class Counsel has obtained a substantial recovery on behalf of Plaintiffs, Class, and the State of California, and the results achieved justify an attorneys’ fees award that is the equivalent of the standard market fee and that is consistent with the contingency-fee agreement entered into by and between Plaintiffs and Class Counsel. Thus, the requested attorneys’ fees are appropriate.

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⁵⁷ Aiwazian Decl., ¶ 9.

C. **The Attorney 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 \$1,225,000.00 (which is 35% of the Maximum Settlement Amount) is commensurate with the time, effort, and expense dedicated to the case, the contingent nature of Class Counsel's fee and the risks taken in commencing the case, the skill and determination required, the results that Class Counsel has achieved, and the value of the settlement that Class Counsel has 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 case to a successful conclusion on behalf of the Class. Moreover, as demonstrated in the supporting declaration, Class Counsel has extensive experience in the handling of class actions and complex litigation matters.⁵⁸

As outlined in the Declaration of Edwin Aiwazian, Class Counsel has fully and actively participated in litigation of this case.⁵⁹ Prior to commencing the lawsuit, Class Counsel had

⁵⁸ Aiwazian Decl., ¶¶ 15-18.

⁵⁹ *Id.*, Exh. A.

1 conducted a significant amount of investigation into the factual and legal issues, Defendant's
2 business, and its operations and employment policies, practices, and procedures.⁶⁰ During the
3 litigation of the action, Class Counsel had the opportunity to interview Plaintiffs and other Class
4 Members; served multiple formal written discovery requests and reviewed Defendant's responses
5 thereto; reviewed and analyzed a large volume of information, documents and data produced by
6 Defendant and obtained through other sources; and prepared damages/valuation calculations.⁶¹
7 Class Counsel also met and conferred with Defendant's counsel over the issues relating to
8 pleadings, case management, discovery, and the production of information, documents, and data
9 in the course of litigation as well as mediation and settlement negotiations. Other work
10 performed by Class Counsel included, and was not limited to, case strategy and analysis;
11 drafting, reviewing, and revising the pleadings, mediation brief, and settlement-related motions;
12 preparing for and attending court proceedings; and preparing for and participating in mediation
13 and settlement negotiations, among other tasks..⁶²

14 Class Counsel has dedicated staffing and monetary resources necessary to prosecute this
15 case diligently and with maximum efficiency and has fully and actively participated in the
16 litigation process. The Task and Time Chart, which is attached as EXHIBIT A to the
17 accompanying Declaration of Edwin Aiwazian, sets forth in detail the hours that Class Counsel
18 has spent performing tasks on behalf of Plaintiffs, the Class, and the State of California.⁶³ The
19 Task and Time Chart is thorough and comprehensive, and was prepared so that the Court can
20 peruse it without having to set forth each and every task in the body of this Motion. The Court is
21 respectfully referred to the chart, which sets forth the history of the work performed by Class
22 Counsel, commencing with the pre-filing analysis and research, and continuing up to settlement
23 and final approval. Attorneys at Lawyers for Justice, PC have spent 710.90 hours performing
24 tasks and to obtain a significant recovery in the case.⁶⁴ These hours were required to bring this
25 matter to its successful conclusion. In light of the value of time expended and the carrying of
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27 ⁶⁰ Aiwazian Decl., ¶ 6 & Exh. A.

⁶¹ *Id.*, ¶ 6.

⁶² *Ibid.*

⁶³ Aiwazian Decl., Exh. A.

⁶⁴ *Id.*, ¶ 11.

costs involved in litigating this case, the requested attorneys' fees are fair, adequate, and reasonable.

2. The Skill Required to Perform Legal Services Properly.

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

Class Counsel undertook significant investigation, analysis, and research prior to filing this case, during the litigation, and prior to mediation. Class Counsel took steps to prepare the matter for class certification and representative adjudication and had every intention of taking the case to trial on a class-wide basis if Defendant did not offer an appropriate class-wide settlement. Despite all of the obstacles that had to be overcome, as demonstrated in the Declaration of Edwin Aiwazian, Class Counsel used its extensive experience in the handling of class actions and complex wage-and-hour litigation matters in order to obtain the Settlement with maximum efficiency.⁶⁵

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

The Settlement represents an excellent resolution of the action, given the risks inherent in litigating the case through certification proceedings, trial, and/or appeals. Had the case not settled, Defendant would have vigorously challenged certifiability, manageability of representative adjudication, and liability. Defendant, however, faced risks if the Court certified a class and allowed a jury to decide the claims. Additionally, preparing the case for trial would have been expensive for the parties.

The Settlement at this stage is preferred over continued litigation because such resolutions save time and money that would otherwise go to litigation. The risks and expenses of further litigation outweighed any benefit that might have been gained otherwise. The Settlement provides an immediate recovery, as opposed to an uncertain result in the future after prolonged

⁶⁵ Aiwazian Decl., ¶¶ 15-18.

litigation involving expert discovery, trial preparation, class certification proceedings, and appellate review of those proceedings. The Settlement offers present relief and/or recovery to Participating Class Members and the State of California 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 extensive settlement negotiations, Defendant agreed to pay a Maximum Settlement Amount of \$3,500,000.00 to settle the matter. After deducting the attorneys' fees (\$1,225,000.00), litigation costs and expenses (\$13,889.77), Service Awards (combined, \$40,000.00), Settlement Administration Costs (\$9,000.00), PAGA Payment (\$100,000.00) from the Maximum Settlement Amount, it is currently estimated that the Net Settlement Amount is approximately \$2,112,110.23.⁶⁶ The Net Settlement Amount will be fully distributed in accordance with the terms of the Settlement. The highest Individual Settlement Payment to a Participating Class Member is currently estimated to be \$7,857.51 and the average Individual Settlement Payment is currently estimated to be \$3,349.21.⁶⁷ The highest Individual PAGA Payment to a PAGA Group Member is currently estimated to be \$100.00 and the average Individual PAGA Payment is currently estimated to be \$51.98.⁶⁸ The Settlement offers significant monetary relief to the Participating Class Members and the State of California.

4. Whether the Fee Is Fixed or Contingent.

Plaintiffs 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 710.90 hours of time to obtain relief on behalf of Plaintiffs, the Class, and the State of California.⁶⁹ Class Counsel has also incurred litigation costs and expenses in the amount of \$13,889.77.⁷⁰

Class Counsel has borne all of the risks and costs of litigation and will not receive any compensation until recovery is obtained.⁷¹ Class Counsel is well-experienced in wage-and-hour

⁶⁶ Phoenix Decl., ¶ 11; see n.5, *supra*.

⁶⁷ *Id.*, ¶ 12; see n.28, *supra*.

⁶⁸ *Id.*, ¶ 13

⁶⁹ Aiwasian Decl., ¶ 11, Exh. A.

⁷⁰ See Part VII, *infra*.

⁷¹ Aiwasian Decl., ¶ 19.

class action and complex litigation and used that experience to obtain a great result.⁷² The skill and determination that Class Counsel has shown, along with the results obtained, justify the requested Attorney 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 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.

Cates v. Chiang (2013) 213 Cal.App.4th 791, 823 (internal quotes and citations omitted). Class Counsel litigated the case on a contingent basis with all of the concomitant risk factors inherent in such an uncertain undertaking. Had Class Counsel not been successful, the time that Class Counsel has devoted to litigating the case would have been for naught, and would not have produced any fee or any reimbursement of costs or expenses.

5. The Amount Involved and the Results Achieved.

The results achieved, in light of the difficulties inherent in similar cases and the specific difficulties faced in this matter, are considerable. The Settlement has yielded a positive response from the Class Members—no Class Members objected to the Settlement.⁷³

The court in *Camden* noted that, “a key element of the common fund case is that fees are [...] taken from the fund [...] and a common fund is itself the measure of success ... [and] represents the benchmark on which a reasonable fee will be awarded.” *Camden*, 946 F. 2d 768, fn. 28 (citing *Court Awarded Attorney Fees, Report of the Third Circuit Task Force* (October 8, 1985) 108 F.R.D. 237 and Newberg, *Attorney Fee Awards* § 2.07 (1986)).

Here, the results achieved and obtained on behalf of Plaintiffs and the Class are reasonable in light of the risks inherent in further litigating this case. Class Counsel’s efforts

⁷² Aiwazian Decl., ¶¶ 15-18.

⁷³ Phoenix Decl., ¶ 8.

1 have resulted in a settlement that provides for a Maximum Settlement Amount of
2 \$3,500,000.00.⁷⁴ The Maximum Settlement Amount will be fully paid out, in accordance with
3 the terms of the Settlement Agreement. The highest Individual Settlement Payment to a
4 Participating Class Member is currently estimated to be \$7,857.51 and the average Individual
5 Settlement Payment is currently estimated to be \$3349.21.⁷⁵ The highest Individual PAGA
6 Payment to a PAGA Group Member is currently estimated to be \$100.00 and the average
7 Individual PAGA Payment is currently estimated to be \$51.98.⁷⁶

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

9 Lawyers for Justice, PC is a recognized class action law firm that employed its attorneys’
10 knowledge, skills, and experience in bringing this case to a successful conclusion. Class Counsel
11 has years of complex and class action litigation experience, has recovered millions of dollars on
12 behalf of thousands of individuals in California, and has successfully handled numerous
13 significant wage-and-hour class action and complex cases.⁷⁷

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

17 While the percentage-of-the-benefit approach is endorsed as the better approximation of
18 the workings of the marketplace than the lodestar approach, courts may also use the lodestar
19 method to “cross-check” the results of the other. See *Laffitte, supra*, 1 Cal.5th at 505 (explaining
20 that “[a] lodestar cross-check is simply a quantitative method for bringing a measure of the time
21 spent by counsel into the trial court’s reasonableness determination”); see also, e.g., *Vizcaino*,
22 290 F.3d at 1050 (“[W]hile the primary basis of the fee award remains the percentage method,
23 the lodestar may provide a useful perspective on the reasonableness of a given percentage
24 award.”). Importantly, “the lodestar calculation . . . does not override the trial court’s primary
25 determination of the fee as a percentage” of the settlement amount and “does not impose an
26 absolute maximum or minimum on the potential fee award.” *Laffitte, supra*, 1 Cal.5th at 505.

27 ⁷⁴ Aiwazian Decl., ¶¶ 5-8.

28 ⁷⁵ Phoenix Decl., ¶ 12; see n.28, *supra*.

⁷⁶ Phoenix Decl., ¶ 13

⁷⁷ Aiwazian Decl., ¶¶ 15-18.

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

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

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

As discussed above, the case was highly contested and required a significant amount of time and labor. Defendant made it clear very early on that it disputed all of the allegations of the case and disputed that the case was appropriate for class or representative treatment. Defendant raised affirmative defenses and denied liability, and the pursuit of this case involved gathering and analyzing data not only 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 has as a result of its 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 taking and defending depositions of Defendant's Person Most Knowledgeable designees, percipient witnesses, and experts, propounding additional discovery requests and conducting additional document production, and engaging in additional, extensive motion practice. As Class Counsel geared up for these battles, Class Counsel undertook intense preparation in an attempt to resolve the entire case through mediation.

Class Counsel had to bring together a large volume of information, documents and data that were obtained from Defendant, Plaintiffs, 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 Edwin Aiwazian is a task and time chart that sets forth in detail the numerous tasks that Class Counsel performed

on behalf of Plaintiffs and the Class, and the time required for completing those tasks.⁷⁸ The chart demonstrates that Class Counsel has spent a total of 710.90 hours litigating the case and finalizing the Settlement.⁷⁹ In light of the facts and circumstances of the case, as well as the results that Class Counsel has achieved on behalf of Plaintiffs and the Class Members, Class Counsel has spent a reasonable number of hours on this case. In addition, Class Counsel will continue to perform work on this case 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 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 case, 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 \$3,500,000.00.

As set forth in the Declaration of Edwin Aiwasian, the professional backgrounds and experience of Class Counsel support a reasonable hourly rate of compensation of at least \$750 per hour for services provided by Class Counsel.⁸⁰ Lawyers for Justice, PC has been awarded attorneys' fees, compensating Lawyers for Justice, PC at the rate of at least \$750 for legal service

⁷⁸ See Aiwasian Decl., Exh. A.

⁷⁹ Aiwasian Decl., ¶ 11.

⁸⁰ Aiwasian Decl., ¶ 12.

performed, by courts of this state.⁸¹ While the circumstances of every case is unique, the fact remains that the work performed and efforts undertaken by Class Counsel on behalf of the Class Members, PAGA Group Members, and the State of California justify the requested attorneys’ fees.

3. The Risks Involved, Skill Required, Complexity of the Matter, and Results Obtained Warrant Upward Enhancement of the Lodestar.

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. Such a multiplier is warranted here.

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 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*, 24 Cal. 4th at 1132.

⁸¹ For example, final approval of the class action settlement in *Thereasa Carrozzella v. Basalite Concrete Products, LLC* (Sacramento County Superior Court Case No. 34-2017-00220214-CU-OE-GDS) was granted on February 21, 2020, and the award of attorneys’ fees involved an hourly rate of \$766.05; final approval of the class and representative action settlement in *Alice Rutledge, et al. v. Healthport Technologies, LLC* (Alameda County Superior Court Case No. RG16835813) was granted on June 11, 2019, and the award of attorneys’ fees involved an hourly rate of \$764.82; final approval of the class and representative action settlement in *Seth Swan v. Pace Supply* (Sonoma County Superior Court Case No. SCV258764) was granted on February 6, 2019, and the award of attorneys’ fees involved an hourly rate of \$855.96; final approval of the class and representative action settlement in *Stanley Bland, et al. v. Telecare Corporation* (Alameda County Superior Court Case No. RG16811450) was granted on November 21, 2018, and the award of attorneys’ fees involved an hourly rate of \$831.38; final approval of the class and representative action settlement in *Maryjo Ungerbuhler Anderson v. Boyett Petroleum* (Stanislaus County Superior Court Case No. 2020582) was granted on May 15, 2018, and the award of attorney’s fees involved an hourly rate of \$780.77; and final approval of the class and representative action settlement in *Demetrius Camarillo v. Blue Diamond Growers* (Sacramento County Superior Court Case No. 34-2015-00175871) was granted on June 30, 2017, and the award of attorneys’ fees involved an hourly rate of \$845.64. Aiwazian Decl., ¶ 12.

1 In determining whether or not to enhance the lodestar, California courts take into account
2 multiple factors, many of which were specifically addressed above in §§ VI.B-C, *infra*. See,
3 *Cates* at 822-823. Multiple factors warrant enhancement in this case, including the following:

- 4 • The time and labor required
- 5 • The skill requisite to perform the legal services properly
- 6 • The preclusion of other employment by the attorney due to the acceptance of the case
- 7 • The contingent nature of the fee
- 8 • The amount involved and results obtained
- 9 • The experience, reputation, and ability of the attorney
- 10 • Awards in similar cases

11 *Ketchum* at 1134.

12 Adjustment of the base lodestar figure to compute an award of attorneys' fees for a claim
13 under the California Labor Code is appropriate. See *Id.*, at 1135-1136; *Serrano v. Priest* (1977)
14 20 Cal.3d 25, 48-49. "The lodestar is calculated by multiplying the reasonable hours expended
15 by a reasonable hourly rate. The court may then enhance the lodestar with a multiplier, if
16 appropriate." *Wershba, supra*, 91 Cal.App.4th at 254. In the first stage of the lodestar adjustment
17 method, the trial court determines the reasonable hourly rate of compensation for counsel, which
18 it then multiplies by the number of hours the court finds were reasonably spent preparing the
19 case, to obtain the lodestar figure. *Ketchum, supra*, 24 Cal.4th at 1131-1132. The lodestar figure
20 is the "basic fee for comparable legal services in the community" based upon the "hourly amount
21 to which attorneys of like skill in the area would typically be entitled." *Id.*, at 1132-1133
22 (quotation marks and citation omitted).

23 As discussed above, this was a highly-contested matter which required an extensive
24 amount of time and labor. Defendant raised defenses and denied liability, and the case involved
25 gathering and analyzing documents and data not only from Defendant but also from the Class
26 Members. The handling of this matter involved a great amount of effort, and required the
27 exercise of high-level of skill, which Class Counsel has as a result of extensive experience in
28 employment class actions and wage-and-hour litigation. Class Counsel has been actively

involved in the prosecution of this matter, prior to its commencement and Class Counsel's work has continued all the way up to the present. Class Counsel's dedication to the representation of the Class Members has precluded other employment.

Most importantly, all services were performed by Class Counsel on a contingent basis. Both California and federal courts recognize that attorneys should be compensated for taking on such contingent risks and provided with financial incentives to enforce important rights and protections like those at issue in the matter at hand. See, e.g., *Vizcaino*, 290 F.3d at 1051; *Ketchum*, 24 Cal. 4th at 1132-33. Here, Class Counsel bore the risk that, despite all of their efforts and the skill employed, there may be no recovery. Therefore, at a minimum, Class Counsel are entitled to a risk multiplier. The results obtained by way of Class Counsel's efforts are significant here. Class Counsel were successful in achieving substantial results in the form of a settlement of \$3,500,000.00. Also, Class Counsel's efforts throughout the case demonstrate dedication to the interests of the Class Members.

Class Counsel's application for attorneys' fees in light of the facts and circumstances surrounding the matter is well within the range of reasonableness. While handling this matter, Class Counsel devoted the hours in legal time summarized above and detailed in the Task and Time Chart, which is attached as EXHIBIT A to the Declaration of Edwin Aiwazian.⁸² As the chart indicates, Class Counsel has worked 710.90 hours in the pursuit of this matter. The attorney task and time chart presents the entire picture. Applying a reasonable rate of \$750 per hour to 710.90 hours of work performed by Lawyers for Justice, PC would place a base lodestar value of \$535,175.00 on Class Counsel's services, and applying a modest multiplier of 2.3, the total enhanced lodestar fees are \$1,226,302.50.⁸³ Class Counsel seeks an attorneys' fee award of \$1,225,000.00 (equal to 35% of the Maximum Settlement Amount based on the Settlement Agreement). Far greater 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

⁸² Aiwazian Decl., Exh. B.

⁸³ Aiwazian Decl., ¶ 11; see n.2, *supra*.

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).

Therefore, application of a modest multiplier of 2.3 is warranted, and the lodestar as a cross-check to the percentage figure sought herein, strongly supports the reasonableness of the requested attorneys’ fees award. Plaintiffs respectfully request that the Court grant final approval of, and award, attorneys’ fees in the amount of \$1,225,000.00 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 \$16,000.00. As set forth in the Declaration of Edwin Aiwazian, Class Counsel seeks reimbursement of \$13,889.77 in litigation costs and expenses incurred in this case.⁸⁴ This 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.⁸⁵ The cost savings of \$2,110.23 will be part of the Net Settlement Amount, which will be distributed to the Participating Class Members in accordance with the Settlement.⁸⁶ Accordingly, Plaintiffs request that the Court award litigation costs and expenses in the amount of \$13,889.77 to Class Counsel.

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

As set forth in the accompanying Phoenix Declaration, the total costs incurred and to be incurred by Phoenix for the notice and settlement administration process are \$9,000.00.⁸⁷ The costs incurred and to be incurred include, but are not limited to, expenses for formatting, printing, translating, and mailing the Class Notice to the Class Members in both English and

⁸⁴ Aiwazian Decl., ¶ 19.

⁸⁵ *Ibid.*

⁸⁶ Aiwazian Decl., ¶ 19.

⁸⁷ Phoenix Decl., ¶ 2.

Spanish; performing skip-trace searches on Class Notices returned as undeliverable; re-mailing the Class Notices to any updated addresses located by skip-trace search; receiving, reviewing, and processing Requests for Exclusion, Notices of Objection, and Workweeks Disputes (if any); handling inquiries from Class Members regarding the Settlement; calculating Individual Settlement Payments and Individual PAGA Payments; and preparing the associated tax forms; and transmitting payments, among other things.⁸⁸

Accordingly, the Court should grant final approval of payment to Phoenix, a necessary third-party administrator, for its handling of the notice and settlement process, in the amount of \$9,000.00.

IX. THE REQUESTED SERVICE AWARDS ARE FAIR AND REASONABLE AND SHOULD BE APPROVED.

The Settlement provides for Service Awards in the amount of \$10,000.00 each for Plaintiffs Jenny Garrido, Juan Rivas, Frankie Betancourt and Jesse Ortiz (for a combined total of \$40,000.00) to compensate Plaintiffs for the time and effort that they expended on behalf of the Class, the PAGA Group Members, and the State of California. The requested Service Awards are both common and reasonable and should be awarded.

In determining whether to make 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 efforts 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 Service Awards are fair and appropriate because Plaintiffs spent a substantial amount of time and effort producing relevant documents and past employment records, as well as providing the facts and evidence necessary to attempt to prove the

⁸⁸ Phoenix Decl., ¶ 3.

1 allegations.⁸⁹ Plaintiffs were available whenever Class Counsel needed them and actively tried
2 to obtain, and gave, information that would facilitate the pursuit of class and PAGA claims.⁹⁰
3 Plaintiffs spent numerous hours speaking with Class Counsel about their claims, describing their
4 work experiences with Defendant, and gathering and reviewing documents.⁹¹ These services
5 merit the requested Service Awards to Plaintiffs, who have not received any compensation for
6 their efforts on behalf of the Class Members to date.⁹²

7 The requested Service Awards were fully disclosed in the Class Notice that was mailed to
8 the Class Members. No Notices of Objection were submitted with regards to the requested
9 Service Awards. Accordingly, it is appropriate and just for Plaintiffs Jenny Garrido, Juan Rivas,
10 Frankie Betancourt, and Jesse Ortiz to each receive \$10,000.00, as reasonable Service Awards,
11 for their services on behalf of the Class, the PAGA Group Members, and the State of California,
12 in addition to their individual settlement payments.

13 **X. CONCLUSION**

14 For the foregoing reasons, Plaintiffs respectfully request that the Court grant final
15 approval of the Settlement, and award Attorney Fees and Costs, Service Awards, Settlement
16 Administration Costs, and allocation for the PAGA Payment, in their entirety, as sought herein;
17 and permit the filing of a memorandum that exceeds the page limit.

18 Dated: June 2, 2023

LAWYERS for JUSTICE, PC

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20 By:



Annabel Blanchard
Attorneys for Plaintiffs and the Class

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27 ⁸⁹ Aiwazian Decl., ¶ 20; Declaration of Ignacio Perez (“Perez Decl.”), ¶¶ 3-5; Declaration of Karen Rios (“Rios
Decl.”), ¶¶ 3-5; Declaration of Liszandra Padilla (“Padilla Decl.”), ¶¶ 3-5.

28 ⁹⁰ Aiwazian Decl., ¶ 20; Perez Decl., ¶¶ 3-5; Rios Decl., ¶¶ 3-5; Padilla Decl., ¶¶ 3-5.

⁹¹ Aiwazian Decl., ¶ 20; Perez Decl., ¶¶ 2-6; Rios Decl., ¶¶ 2-6; Padilla Decl., ¶¶ 2-6.

⁹² Garrido Decl., ¶ 9; Rivas Decl., ¶ 9; Betancourt Decl., ¶ 9, Ortiz Decl., ¶9.