

Edwin Aiwarzian (SBN 232943)
Arby Aiwarzian (SBN 269827)
Joanna Ghosh (SBN 272479)
LAWYERS for JUSTICE, P.C.
410 West Arden Avenue, Suite 203
Glendale, California 91203
Tel: (818) 265-1020 / Fax: (818) 265-1021

Anthony J. Orshansky (SBN 199364)
Jennifer L. Connor (SBN 241480)
COUNSELONE, P.C.
9301 Wilshire Boulevard, Suite 650
Beverly Hills, California 90210
Tel: (310) 277-9945 / Fax: (424) 277-3727

Attorneys for Plaintiff

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN DIEGO**

KIM ALDRIDGE, individually, and on behalf
of other members of the general public
similarly situated,

Plaintiff,

v.

LUTH RESEARCH LLC, an unknown
business entity; and DOES 1 through 100,
inclusive,

Defendant.

Case No.: 37-2019-00011479-CU-OE-CTL

Honorable Katherine A. Bacal
Department 69

**PLAINTIFF'S NOTICE OF MOTION
AND MOTION FOR FINAL APPROVAL
OF CLASS AND REPRESENTATIVE
ACTION SETTLEMENT, ATTORNEYS'
FEES AND COSTS, AND CLASS
REPRESENTATIVE'S
ENHANCEMENT PAYMENT**

Final Approval Hearing

Date: July 09, 2021

Time: 1:30 p.m.

Dept.: C-69

Complaint Filed: February 28, 2019

1 **PLEASE TAKE NOTICE** that on July 09, 2021 at 1:30 p.m., or as soon thereafter as
2 the matter may be heard before the Honorable Katherine A. Bacal, in Department C-69 of the
3 San Diego County Superior Court, located at 330 West Broadway, San Diego, California 92101,
4 Plaintiff Kim Aldridge (“Plaintiff”), individually and on behalf of a class of similarly situated
5 individuals, will and hereby does move this Court for entry of an Order pursuant to California
6 Code of Civil Procedure § 382 and Rule 3.769 of the California Rules of Court:

- 7 1. Confirming certification of the conditionally certified Class for settlement purposes
8 under California Code of Civil Procedure § 382;
- 9 2. Confirming the appointment of Plaintiff Kim Aldridge as Class Representative for
10 settlement purposes;
- 11 3. Confirming the appointment of Lawyers *for* Justice, P.C. and CounselOne, P.C. as
12 Class Counsel for settlement purposes;
- 13 4. Granting final approval of the parties’ Class Action Settlement Agreement
14 (“Settlement Agreement”);
- 15 5. Approving an award of \$245,000 in attorneys’ fees to Class Counsel;
- 16 6. Approving an award of \$8,622.82 in actual litigation costs reimbursement to Class
17 Counsel;
- 18 7. Approving an award of \$20,500 in actual costs to CPT Group, Inc. for its settlement
19 administration services;
- 20 8. Approving an enhancement payment of \$7,500 to Plaintiff Kim Aldridge;
- 21 9. Approving an award of \$20,000 for penalties under the Private Attorneys General Act
22 (“PAGA”), \$15,000 of which will be paid to the California Labor & Workforce
23 Development Agency (“LWDA”); and
- 24 10. Entering final judgment in the form of the [Proposed] Judgment and Order Granting
25 Plaintiff’s Motion for Final Approval of Class and Representative Action Settlement,
26 Attorneys’ Fees and Costs, and Class Representative’s Enhancement Payment, filed
27 concurrently with this Motion.

28 ///

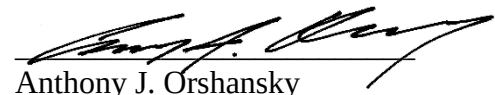
1 This Motion is made on the following grounds: (1) the conditionally-certified Class
2 continues to meet the requirements for class certification for settlement purposes only under Code
3 of Civil Procedure § 382; (2) Plaintiff and Class Counsel continue to be adequate representatives
4 of the Class; (3) the settlement is a fair, adequate, and reasonable compromise of disputed wage
5 and hour claims; (4) the requested awards of attorneys' fees and costs, enhancement payment,
6 LWDA payment for its share of PAGA penalties, and settlement administration costs are all fair,
7 adequate, and reasonable; and (5) in light of the foregoing, the [Proposed] Judgment and Order
8 Granting Plaintiff's Motion for Final Approval of Class and Representative Action Settlement,
9 Attorneys' Fees and Costs, and Class Representative's Enhancement Payment submitted
10 concurrently herewith should be entered to give finality to, and allow for disbursements from,
11 the settlement.

12 This motion is based on this Notice of Motion; the attached Memorandum of Points and
13 Authorities; the supporting declarations of Anthony J. Orshansky, Edwin Aiwarzian, Kim
14 Aldridge, and Abel E. Morales of CPT Group, Inc., and the exhibits attached thereto; the
15 Settlement Agreement; all other pleadings and papers on file in this action; and on any further
16 oral or documentary evidence or argument presented at the time of hearing. Finally, given the
17 multiplicity of issues addressed in this Motion, Plaintiff believes that there is good cause to
18 exceed the 20-page limit set forth in California Rule of Court 3.764(c)(2), and respectfully
19 requests that the Court consider Plaintiff's memorandum of points and authorities, which is 25-
20 pages in length.

21
22 Dated: June 16, 2021

Respectfully submitted,
COUNSELONE, P.C.

23
24 By:


Anthony J. Orshansky
Attorneys for Plaintiff and the Class

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

TABLE OF CONTENTS

I.	INTRODUCTION	1
II.	FACTUAL AND PROCEDURAL BACKGROUND.....	2
III.	SUMMARY OF THE SETTLEMENT AND NOTICE PROCESS	5
A.	The Class Definition	5
B.	Monetary Terms.....	5
C.	Summary of Notice Process.....	6
D.	Timing of Payments.....	7
IV.	ARGUMENT	8
A.	This Court Should Confirm Its Conditional Certification of the Settlement Class for Settlement Purposes Because It Meets All of the Requirements for Class Certification under Code of Civil Procedure § 382	8
B.	This Court Should Finally Approve the Settlement Because It Is a Fair, Adequate, and Reasonable Compromise of Disputed Wage and Hour Claims	8
1.	<i>The Settlement Was Reached at Arm’s Length, through Experienced Counsel and a Respected Mediator, and Was Based on Sufficient Information to Intelligently Negotiate a Fair Settlement in Light of the Claims Asserted and Risks of Continued Litigation.....</i>	9
2.	<i>The Settlement Fairly, Reasonably, and Adequately Compensates Settlement Class Members Because Each Settlement Class Member Will Be Paid Based on the Extent of His or Her Injury</i>	15
3.	<i>The 99.87% Participation Rate and Absence of Any Objections Further Confirms That the Settlement Is Fair, Adequate, and Reasonable</i>	15
C.	The Requested Award of Attorneys’ Fees Is Reasonable as a Percentage of the Common Fund	16

1	D.	The Requested Award of Attorneys' Fees Is Reasonable as Evidenced by the	
2		Lodestar Cross-Check Method.....	19
3	E.	The Requested Cost Reimbursement Is Fair, Adequate, and Reasonable	23
4	F.	The Court Should Finally Approve the Requested Settlement	
5		Administration Costs	24
6	G.	This Court Should Finally Approve Plaintiff's Requested Class Representative	
7		Enhancement Payment Because It Is Fair, Adequate, and Reasonable in Light of	
8		Plaintiff's Efforts and the Risks Assumed on Behalf of the Class	24
9	V.	CONCLUSION.....	25

TABLE OF AUTHORITIES

	Page(s)
Cases	
<i>7-Eleven Owners for Fair Franchising v. Southland Corp.</i> , 85 Cal. App. 4th 1135 (2000)	15
<i>Ashker v. Sayre</i> , No. 05-03759 CW, 2011 WL 825713 (N.D. Cal. 2011).....	23
<i>Augustus v. ABM Security Service, Inc.</i> , 2 Cal. 5th 257 (2016)	12, 20
<i>Bell v. Farmers Ins. Exchange</i> , 115 Cal. App. 4th 715 (2004)	24
<i>Bihun v. AT&T Information System</i> , 13 Cal. App. 4th 976 (1993)	20
<i>Chavez v. Netflix, Inc.</i> , 162 Cal. App. 4th 43 (2008)	17
<i>Dunk v. Ford Motor Co.</i> , 48 Cal. App. 4th 1794 (1996)	9, 15
<i>Gattuso v. Harte-Hanks Shoppers, Inc.</i> , 42 Cal. 4th 554 (2007)	12
<i>Glendora Comm. Redev. Agency v. Demeter</i> , 155 Cal. App. 3d 456 (1984)	22
<i>Harris v. Marhoefer</i> , 24 F. 3d 16 (9th Cir. 1994)	23
<i>In re Immune Response Securities Litigation</i> , 497 F. Supp. 2d 1166 (S.D. Cal. 2007).....	23
<i>Laffitte v. Robert Half Intern. Inc.</i> , 1 Cal. 5th 480 (2016)	16, 19, 22
<i>Ling v. P.F. Chang's China Bistro, Inc.</i> , 245 Cal. App. 4th 1242 (2016)	14
<i>Malibu Outrigger Bd. of Governors v. Superior Court</i> , 103 Cal. App. 3d 573 (1980)	8, 9
<i>Mallick v. Superior Court</i> , 89 Cal. App. 3d 434 (1979)	9

1	<i>Maria P. v. Riles,</i>	
2	43 Cal. 3d 1281 (1987)	16
3	<i>Mark v. Spencer,</i>	
4	166 Cal. App. 4th 219 (2008)	19
5	<i>Naranjo v. Spectrum Security Service, Inc.,</i>	
6	40 Cal. App. 5th 444 (2019)	13, 18
7	<i>Rawlings v. Prudential-Bache Properties, Inc.,</i>	
8	9 F. 3d 513 (6th Cir. 1993)	16
9	<i>Richmond v. Dart Industries, Inc.,</i>	
10	29 Cal. 3d 462 (1981)	8
11	<i>In re Rite Aid Corp. Securities Litigation,</i>	
12	396 F. 3d 294 (3d Cir. 2005).....	16
13	<i>Schiller v. David's Bridal, Inc.,</i>	
14	2012 WL 2117001 (E.D. Cal. June 11, 2012)	18
15	<i>Serrano v. Priest,</i>	
16	20 Cal. 3d 25 (1977)	16, 20
17	<i>Serrano v. Unruh,</i>	
18	32 Cal. 3d 621 (1982)	16
19	<i>Stambaugh v. Superior Court,</i>	
20	62 Cal. App. 3d 231 (1976)	8
21	<i>Thurman v. Bayshore Transit Management, Inc.,</i>	
22	203 Cal. App. 4th 1112 (2012)	14
23	<i>Troester v. Starbucks Corp.,</i>	
24	5 Cal. 5th 829 (2018)	11
25	<i>Trustees of Const. Industry & Laborers Health and Welfare Trust v. Redland</i>	
26	<i>Ins. Co.,</i>	
27	460 F. 3d 1253 (9th Cir. 2006)	23
28	<i>Van Vranken v. Atlantic Richfield Co.,</i>	
	901 F. Supp. 294 (N.D. Cal. 1995)	22, 24
	<i>Vizcaino v. Microsoft Corp.,</i>	
	290 F. 3d 1043 (9th Cir. 2002)	18, 22
	<i>Wershba v. Apple Computer, Inc.,</i>	
	91 Cal. App. 4th 224 (2001)	9, 10, 16, 22
	<i>Westside Community for Independent Living, Inc. v. Obledo,</i>	
	33 Cal. 3d 348 (1983)	16

1	<i>Williams v. Centerplate, Inc.</i> , 2013 WL 4525428 (S.D. Cal. 2013).....	18
2	<i>Wilson v. Bank of Am. Natl. Trust & Savs. Assn.</i> Case No. 643872 (Cal. Sup. Ct., Aug. 16, 1982).....	22
3	<i>Zest IP Holdings, LLC v. Implant Direct MFG., LLC</i> , 2014 U.S. Dist. LEXIS 167563 (S.D. Cal. 2014).....	21
4	Statutes	
5		
6	Business & Professions Code § 17200 <i>et seq.</i>	13
7	Civil Code § 1542	24
8	Code of Civil Procedure § 340.....	13
9	Code of Civil Procedure § 382.....	2, 8
10	Code of Civil Procedure § 384.....	8
11	Labor Code § 203.....	13, 14
12	Labor Code § 226.....	13
13	Labor Code § 2699 <i>et seq.</i>	13
14	Labor Code § 2802.....	12
15	Other Authorities	
16		
17	Cal. Rules of Court, Rule 3.769.....	19
18	Rules Prof. Conduct, Rule 1.5.1	19
19		
20		
21		
22		
23		
24		
25		
26		
27		
28		

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. INTRODUCTION**

3 Plaintiff Kim Aldridge (“Plaintiff”) hereby submits this Memorandum of Points and
4 Authorities in support of her Motion for Final Approval of this class and representative action
5 settlement (the “Settlement”) on behalf of all persons employed in California by Defendant Luth
6 Research, LLC (“Defendant” or “Luth”) as hourly-paid or non-exempt employees at any time
7 during the period from February 18, 2015 through May 31, 2020 (the “Settlement Period”).

8 In this non-reversionary Settlement, all Settlement Class Members will ***automatically***
9 ***receive*** payments without the need to submit a claim form, resulting in an average individual
10 settlement award of approximately ***\$507.77*** to each of the ***772*** Settlement Class Members. *See*,
11 (Declaration of Abel E. Morales Regarding Notification and Settlement Administration
12 (“Morales Decl.”) ¶ 11), filed concurrently herewith.¹ This is a very favorable resolution of the
13 disputed wage and hour claims in this case, especially in light of the significant litigation risks
14 that Plaintiff faced, including, but not limited to, off-the-clock claims that are difficult to prove
15 from an evidentiary standpoint and miscalculated overtime due to bonuses that are arguably
16 discretionary, along with the usual waiver arguments raised by employers defending meal and
17 rest break allegations. An adverse ruling on certification or merits could have crippled or
18 potentially prevented these putative class members from recovering any amount in this action.
19 Further, this Settlement is an excellent result given the precarious financial condition of
20 Defendant, which requires Defendant to obtain third-party funding and make installment
21 payments over time. (Settlement Agreement ¶¶ I.4., III.14(a)-(b).) As of the date of the filing of
22 this Motion, ***not a single Settlement Class Member has filed an objection*** to the Settlement after
23 receiving notice of the proposed Settlement and the projected estimated individual settlement
24 payments, and ***only one Class Member requested exclusion*** from the Settlement, resulting in a
25 ***99.87% participation rate***. (Morales Decl. ¶¶ 9-11.)

26 As explained below, the Court should grant Plaintiff’s motion in its entirety because: (1)
27

28 ¹ The actual average individual settlement award is \$522.51 because Class Counsel’s costs total \$8,622.82, not
\$20,000 as allocated in the Settlement. 1

1 the conditionally certified Class continues to meet the requirements for class certification for
2 settlement purposes under Code of Civil Procedure § 382; (2) the Settlement is a fair, adequate,
3 and reasonable compromise of the disputed claims in this case; and (3) the amounts requested
4 for Class Counsel’s attorneys’ fees and costs, Plaintiff’s enhancement payment, LWDA payment,
5 and settlement administration costs are all fair, adequate, and reasonable. In light of the
6 foregoing, this Court should enter the [Proposed] Judgment and Order Granting Final Approval
7 of Class and Representative Action Settlement, submitted concurrently herewith.

8 **II. FACTUAL AND PROCEDURAL BACKGROUND**

9 This litigation arises out of former employee Plaintiff Kim Aldridge’s allegations that
10 Defendant ignored numerous California wage and hour laws and protections applicable to her
11 and other similarly situated hourly-paid or non-exempt employees. Specifically, Plaintiff alleges
12 that she was subjected to uncompensated time arising from pre- and post- shift duties (e.g.,
13 answering phones from supervisors and co-workers, assisting customers, performing assigned
14 work tasks, and activating or deactivating security systems). In addition, Plaintiff did not receive
15 all the overtime payments owed because Defendant failed to incorporate shift differential pay
16 and non-discretionary bonuses into her regular rate of pay. Plaintiff reports that her meal and rest
17 breaks were often interrupted and on-duty because she was required to answer questions from
18 supervisors and co-workers, assist customers, and perform other work-related tasks. Yet, Plaintiff
19 did not receive premium payments for each of those days where she received non-compliant meal
20 and rest breaks. Plaintiff also incurred out-of-pocket expenses for personal cell phone usage
21 devoted to work activities, including communication with supervisors and co-workers. Such
22 alleged non-compliance also gives rise to derivative claims for inaccurate wage statements,
23 untimely wages upon separation, along with assessments of statutory penalties, civil penalties,
24 and restitution. *See, Declaration of Kim Aldridge in Support of Plaintiff’s Motion for Final*
25 *Approval* (“Aldridge Decl.”) ¶ 3, filed concurrently herewith. *See also, Declaration of Anthony*
26 *J. Orshansky in Support of Plaintiff’s Motion for Final Approval* (“Orshansky Decl.”) ¶¶ 6-7,
27 filed concurrently herewith.

28 On February 28, 2019, Plaintiff filed this putative class action in San Diego County

1 Superior Court, on behalf of herself and also to vindicate the rights of other non-exempt
2 employees in California alleging the following claims: (1) failure to pay all overtime; (2) failure
3 to provide meal periods and/or pay premiums owed thereon; (3) failure to provide rest breaks
4 and/or pay premiums owed thereon; (4) failure to pay all minimum wages; (5) failure to timely
5 pay all wages owed upon separation; (6) failure to pay wages timely during employment; (7)
6 failure to provide accurate itemized wage statements; (8) failure to maintain accurate pay records;
7 (9) failure to reimburse business expenses; and (10) unfair business practices. On May 1, 2019,
8 Defendant filed its Answer asserting a general denial and affirmative defenses. (Orshansky Decl.
9 ¶ 8.)

10 Class Counsel notified Defendant and the LWDA of the alleged Labor Code violations,
11 and after waiting the requisite time, met the requirements for a PAGA claim. Thereafter, with the
12 Court's permission, the operative First Amended Complaint ("FAC") was filed that added a
13 PAGA representative action as the eleventh cause of action. *See, Order Granting Stipulation Re*
14 *Leave To File FAC*, dated January 25, 2021 (granting Plaintiff's leave to amend to file the FAC
15 and deeming Defendant's Answer to the original Complaint as applicable to the FAC dated
16 January 26, 2021.) (Orshansky Decl. ¶¶ 9-10.) Plaintiff's lawsuit thus sought to recover unpaid
17 wages, including minimum and overtime compensation, premiums for improper meal and rest
18 breaks, reimbursement of business expenses, along with final wage payments, restitution,
19 damages, liquidated damages, statutory penalties, civil penalties, injunctive and other equitable
20 relief, prejudgment interest, and attorneys' fees and costs on behalf of herself and other similarly
21 situated employees. (Id. ¶ 11.)

22 In advance of mediation, Plaintiff conducted formal and informal discovery and
23 investigation including, and not limited to, propounding multiple sets of written discovery
24 requests and noticing the depositions of Defendant's person most knowledgeable designee. Some
25 of the discovery was hotly contested and resulted in objections. (Id. ¶ 12.) Thereafter, counsel
26 for the Parties undertook the meet and confer process. (Ibid.) Defendant produced a substantial
27 amount (*i.e.*, over 20,000 pages) of documentation for Class Counsel's review including, but not
28 limited to, the following: Plaintiff's personnel file, Defendant's employee handbooks, written

1 policies and procedures regarding its timekeeping protocol (including time-tracking practices),
2 payment of wages, provision and tracking of meal and rest breaks, and reimbursement of business
3 expenses, along with actual employee time records, payroll information, and wage statements.
4 (Id. ¶ 13.)

5 Class Counsel reviewed Class Members' time and pay records to determine violation
6 rates. Defendant also provided composite data for the Class including the number of putative
7 Class Members and the mix of current versus former employees, the average number of hours
8 per shift, the median rate of pay, the number of workweeks and pay periods in aggregate, along
9 with other relevant data counts. Class Counsel analyzed the documents produced by Defendant
10 and Class Members to determine Defendant's degree of potential liability on the alleged causes
11 of action and estimate the amount of damages. (Id. ¶ 14.)

12 After extensive legal research and analysis, as well as Plaintiff's comprehensive review
13 of the documents and data produced by Defendant, the Parties participated in a full-day mediation
14 before Louis Marlin, Esq., a highly respected neutral in California who specializes in wage and
15 hour class action mediations. (Id. ¶ 15.) During mediation, the Parties exchanged their conflicting
16 views on Defendant's liability and exposure valuations, debated their legal positions, and
17 discussed all aspects of the case, including the risks and delays of litigation and the risks for
18 proceeding with a motion for class certification, liability under the claims asserted, and the
19 implications of a PAGA representative action. (Id. ¶ 16.) These were contentious issues because
20 of the legal and the factual complexities in this case. (Ibid.) At all times settlement discussions
21 were conducted at arm's-length. *See*, (Orshansky Decl. ¶ 17.) *See also*, Declaration of Edwin
22 Aiwazian in Support of Plaintiff's Motion for Final Approval ("Aiwazian Decl.") ¶ 7, filed
23 concurrently herewith.

24 The mediation did not immediately result in a settlement. The Parties continued to
25 negotiate with the assistance of Mr. Marlin for several weeks. After extensive negotiations and
26 much effort, the Parties accepted the mediator's proposal of the major terms to settle the action.
27 (Orshansky Decl. ¶ 17.) The Parties subsequently finalized the terms of the Settlement and
28 executed the long-form Class Action Settlement Agreement ("Settlement" or "Settlement

Agreement”) - *see*, (Class Action Settlement Agreement, dated October 14, 2020, attached at **Exhibit “A”** to Orshansky Decl. ¶¶ 4, 18 filed concurrently herewith) – and which the Court preliminarily approved on March 05, 2021. *See*, Court’s Amended Order Granting Preliminary Approval of Class Action Settlement dated May 05, 2021.

On April 09, 2021, CPT Group, Inc. (“CPT”) mailed the Court-approved 6-page *Notice of Pendency of Putative Class Action, Proposed Settlement, and Hearing Date for Court Approval*, along with the Court-approved 3-page *Settlement Allocation Form* (collectively, “Notice Packets”), via U.S. first class mail to all 773 Class Members.² *See*, (Morales Decl. ¶¶ 4-5.) Class Members had until May 24, 2021 to submit disputes, opt-outs/requests for exclusion, or objections. (*Id.* ¶ 7.) In the interim, CPT received return mailings of some Notice Packets, but received updated addresses and/or conducted further skip-trace searches and remailed 221 Notice Packets. (*Ibid.*) As of the date of this filing, CPT received ***no objections*** and ***one request for exclusion*** rendering an overall participation rate of **99.87%** of the 773 Class Members. (*Id.* ¶¶ 9-11.) Given the current participation rate and estimated preliminarily approved deductions from the settlement amount, the average individual settlement payment is \$507.77. (*Id.* ¶ 11.) Plaintiff now respectfully submits the Settlement for this Court’s final approval.

III. SUMMARY OF THE SETTLEMENT AND NOTICE PROCESS

A. The Class Definition

For settlement purposes only, the Class to be confirmed for certification is as follows: All persons employed in California by Defendant Luth Research LLC as hourly-paid or non-exempt employees at any time during the period from February 28, 2015 through May 31, 2020 (collectively, the “Class” or “Class Members”). (Settlement Agreement ¶¶ II.1 and II.27.)

B. Monetary Terms

Defendant will pay a ***non-reversionary settlement amount*** (“Gross Settlement Fund”) of ***Seven Hundred Thousand Dollars (\$700,000)***. *See*, (Settlement Agreement ¶¶ II.9, III.2);

² Plaintiff reports that the original estimate of 799 putative class members provided in the preliminary approval briefing was overstated due to duplicates. Upon culling the class list for duplicates, the actual count is 773 Class Members. (Orshansky Decl. ¶ 35.)

(Orshansky Decl. ¶¶ 5, 21.) The Net Settlement Fund is the amount remaining from the Gross Settlement Fund after deducting Court-approved amounts for attorneys' fees (\$245,000) and actual litigation costs reimbursement (\$8,622.82 [which is less than the allocated amount of \$20,000]), class representative enhancement payment (\$7,500), actual settlement administration costs (\$20,500 [which is less than the allocated amount of \$22,000]), and payment to the LWDA for its share of PAGA civil penalties (\$15,000). *See*, (Settlement Agreement ¶¶ II.13, III.2, III.14(c)-(f)); (Orshansky Decl. ¶ 23.) The average individual settlement payment to Settlement Class Members is therefore estimated at \$507.77. (Morales Decl. ¶ 12.)

Each Settlement Class Members will receive a proportional share of the Net Settlement Fund based on his or her number of eligible workweeks during the Settlement Period, *to wit*, February 28, 2015 through May 31, 2020. *See*, (Settlement Agreement ¶ III.4); (Orshansky Decl. ¶ 24.) The Net Settlement Fund will be allocated among Settlement Class Members according to each Settlement Class Member's workweeks during the Settlement Period as a *pro rata* portion of the total combined workweeks of all the Settlement Class Members during the Settlement Period. (Settlement Agreement ¶ III.4); (Orshansky Decl. ¶ 24.) As a result, the consideration paid to each individual Settlement Class Member is tailored to the impact of Defendant's alleged violation as well as the claims he or she is releasing. (Orshansky Decl. ¶ 24.)

The Gross Settlement Fund does not include the employer's share of payroll taxes on payments to Settlement Class Members' wages, which Defendant shall pay separately. (Settlement Agreement ¶¶ III.2, III.5.) Payments to Settlement Class Members will be classified as one-third (33.33%) wages to be reported on an IRS Form W-2, one-third (33.33%) penalties, and one-third (33.33%) interest to be reported on an IRS 1099 Form. (Settlement Agreement ¶ III.5.)

C. Summary of Notice Process

On March 23, 2021, Defendant's counsel provided CPT Group, Inc., the Court-approved Settlement Administrator, with a list of Class Members containing the full names, last known mailing addresses, last known telephone number(s), Social Security numbers, and compensable workweeks information for all Class Members during the Settlement Period. (Morales Decl. ¶

1 5.) This class list contained 773 Class Members. (Ibid.) On April 09, 2021, after performing
2 national change of address updates and verifications, which resulted in 82 updated addresses,
3 CPT mailed the Notice Packets via U.S. first class mail to all 773 Class Members. (Id. ¶¶ 6-7.)
4 Following the initial mailing, as a result of either a skip trace, request from counsel or Class
5 Member, a total of 221 Notice Packets were re-mailed, plus three Notice Packets had forwarding
6 addresses provided, and which were re-mailed by the Post Office. (Id. ¶ 8.)

7 Class Members had until May 24, 2021 to submit disputes, opt-outs/requests for
8 exclusion, or objections. (Id. ¶ 7.) As of the date of this filing, not a single Settlement Class
9 Member has objected to the Settlement, only one Class Member has opted-out for a 99.87%
10 participation rate, and making the total 772 Settlement Class Members. (Id. ¶¶ 9-11.) The average
11 estimated Settlement Payment is approximately \$507.77.

12 **D. Timing of Payments**

13 The Settlement calls for the Gross Settlement Fund to be funded in four (4) separate and
14 equal installment payments: (i) the first installment will be due within ten (10) calendar days
15 after the judgment becomes final; (ii) the second installment will be due within six (6) months
16 after the judgment becomes final; (iii) the third installment will be due within twelve (12) months
17 after the judgment becomes final, and (iv) the fourth installment will be due within eighteen (18)
18 months after the judgment becomes final. (Settlement Agreement ¶ III.14(a)); (Orshansky Decl.
19 ¶ 30.)

20 Distribution of the Gross Settlement Fund, however, will occur in two distributions made
21 by the Settlement Administrator as follows: (i) one-half of the Gross Settlement Fund (to include
22 one-half of the attorneys' fees, one-half of the litigation costs, one-half of the enhancement
23 award, one-half of the settlement administration costs, one-half of the PAGA payment to the
24 LWDA, and one-half of the Net Settlement Fund) within fifteen (15) calendar days after
25 Defendant makes its second installment payment; and (ii) the remaining one-half of the Gross
26 Settlement Fund shall be paid within fifteen (15) calendar days after Defendant makes its fourth
27 and final payment as specified above. (Settlement Agreement ¶ III.14(b)); (Orshansky Decl. ¶
28 31.) In the event that there are any uncashed checks remaining after 180 days, the uncashed

checks will be cancelled, and any remaining funds shall be distributed to the State of California's Unclaimed Property Fund in the names of the Settlement Class Members who failed to cash their checks and results in "no unpaid residue" under California Code of Civil Procedure § 384. (Settlement Agreement ¶ III.14(h)); (Orshansky Decl. ¶ 32.)

IV. ARGUMENT

A. **This Court Should Confirm Its Conditional Certification of the Settlement Class for Settlement Purposes Because It Meets All of the Requirements for Class Certification under Code of Civil Procedure § 382**

Under Code of Civil Procedure § 382, a class may be certified if: (1) it is ascertainable and its members are too numerous for joinder to be practical; (2) the representative and absent class members share a community of interest, and questions of law and fact common to the class predominate over questions unique to individual class members; (3) the representative's claims are typical of the class' claims; and (4) the representative will fairly and adequately represent the class' interests. *See, Richmond v. Dart Industries, Inc.*, 29 Cal. 3d 462, 470 (1981). Here, this Court found that the proposed Class meets all the requirements for class certification for settlement purposes when it granted preliminary approval of the Settlement on March 05, 2021. *See, (Court's Amended Order Granting Preliminary Approval* dated March 05, 2021.) *See also, (Orshansky Decl.* ¶¶ 33, 94-99.) Since then, no events have cast doubt on the propriety of this determination, and in fact, the reaction of the Class Members has been overwhelmingly supportive of the Settlement, with zero Settlement Class Members objecting to the Settlement, only one Settlement Class Member choosing to opt out, for a 99.87% participation rate. *See, (Morales Decl.* ¶¶ 9-11.) This Court should therefore confirm its conditional certification of the Class.

B. **This Court Should Finally Approve the Settlement Because It Is a Fair, Adequate, and Reasonable Compromise of Disputed Wage and Hour Claims**

California courts have a strong policy in favor of settlement. *See, e.g., Stambaugh v. Superior Court*, 62 Cal. App. 3d 231, 236 (1976). Unlike individual settlements, class action settlements involve a court approval process that exists to prevent fraud, collusion, and unfairness to class members. *Malibu Outrigger Bd. of Governors v. Superior Court*, 103 Cal. App. 3d 573, 578-79 (1980). This approval process consists of preliminary settlement approval, notice being

1 given to class members, and a final fairness and approval hearing being held, at which class
2 members have the opportunity to be heard with respect to the settlement. *Id.* Now that notice has
3 been provided to Class Members, Plaintiff respectfully requests that the Court finally approve
4 the Settlement as fair, adequate, and reasonable.

5 **1. The Settlement Was Reached at Arm's Length, through Experienced**
6 **Counsel and a Respected Mediator, and Was Based on Sufficient**
7 **Information to Intelligently Negotiate a Fair Settlement in Light of the**
8 **Claims Asserted and Risks of Continued Litigation**

9 A settlement is presumptively fair where it is reached through arms'-length bargaining,
10 based on sufficient discovery and investigation to allow counsel and the court to act intelligently,
11 counsel is experienced in similar litigation, and the percentage of objectors to the settlement is
12 small. *Dunk v. Ford Motor Co.*, 48 Cal. App. 4th 1794, 1802 (1996). In deciding whether to
13 approve a proposed settlement, a trial court has broad powers to determine if the proposed
14 settlement is fair under the circumstances of the case. *Mallick v. Superior Court*, 89 Cal. App. 3d
15 434, 438 (1979). In exercising these powers, the overriding concern is to ensure that a proposed
16 settlement is "fair, adequate, and reasonable." *Dunk, supra*, 48 Cal. App. 4th at 1801 (internal
17 quotations omitted). Relevant factors for the Court to consider include, but are not limited to:

18 [T]he strength of plaintiffs' case, the risk, expense, complexity and likely
19 duration of further litigation, the risk of maintaining class action status
20 through trial, the amount offered in settlement, the extent of discovery
21 completed and the stage of the proceedings, the experience and views of
22 counsel, the presence of a governmental participant, and the reaction of the
23 class members to the proposed settlement. *Id.*

24 These factors require balancing, are non-exhaustive and, as such, trial courts should tailor the
25 factors to each case and give due regard to "what is otherwise a private consensual agreement
26 between the parties." *Id.*

27 "In the context of a settlement agreement, the test is not the maximum amount plaintiffs
28 might have obtained at trial on the complaint, but rather whether the settlement is reasonable
under all of the circumstances." *Wershba v. Apple Computer, Inc.*, 91 Cal. App. 4th 224, 250
(2001). Because settlements inherently involve compromise, even settlements providing for
substantially narrower relief than what may be obtained if the suit were successfully litigated can
be reasonable because "the public interest may indeed be served by a voluntary settlement in

1 which each side gives ground in the interest of avoiding litigation.” *Id.* (quoting *Air Lines*
2 *Stewards, etc., Local 550 v. American Airlines, Inc.*, 455 F. 2d 101, 109 (7th Cir. 1972)).

3 Here, the Settlement resulted from extensive arm’s-length settlement negotiations
4 between qualified and experienced counsel with the assistance of a well-respected mediator.
5 (Orshansky Decl. ¶ 17); (Aiwazian Decl. ¶¶ 7, 11-23.) While Plaintiff maintains that her claims
6 are meritorious, Plaintiff acknowledges the substantial risks and uncertainty in proceeding with
7 class certification and eventually trial, which justify a downward departure from the maximum
8 exposure that Plaintiff calculated that each claim carried. For the reasons discussed herein, Class
9 Counsel thus posit that the Settlement is fair, adequate, and reasonable for all Settlement Class
10 Members. (Orshansky Decl. ¶¶ 43-87); (Aiwazian Decl. ¶ 26.)

11 As detailed in Plaintiff’s Motion for Preliminary Approval (“Plaintiff’s MPA”)
12 previously submitted, Defendant argued that Plaintiff would be unable to certify a class outside
13 of the settlement context for a variety of reasons. First and foremost, looking at the procedural
14 posture, Defendant argued that Plaintiff would face significant hurdles to certification and
15 individualized issues as to whether a given employee was provided a specific meal period on a
16 specific shift, or whether a meal period was waived. (Orshansky Decl. ¶ 45.) Even if Plaintiff
17 prevailed and certified a class action, there is no guarantee Defendant would not later move for
18 and obtain decertification. If the Court either denied class certification or later decertified it, the
19 Class would recover nothing and Class Members would be forced to proceed on the basis of
20 individual claims only. (*Ibid.*)

21 Looking at the merits of Plaintiff’s claims, Defendant contended that there is substantial
22 uncertainty due to the factual and legal complexity of the case (*i.e.*, factual variance and
23 evidentiary difficulty of proving off-the-clock claims and legal complexity as to defenses such
24 as the discretionary nature of bonuses used to calculate the regular rate of pay for overtime).
25 Specifically, the Parties posited as follows:

26 **Minimum and Overtime Claims.** Plaintiff alleges that she was subjected to
27 uncompensated time arising from pre- and post-shift duties that were worked off-the-clock, along
28 with work performed during interrupted meal periods. Class Counsel analyzed documents

1 produced in conjunction with interviews of Plaintiff and Class Members and estimated the
2 incidence of off-the-clock activity at approximately thirty minutes of unpaid time per workweek,
3 yielding an estimated \$349,119.84 in damages. (Orshansky Decl. ¶¶ 48-50.) Defendant
4 responded that such off-the-clock time is unauthorized and *de minimis*. Plaintiff counters that
5 such defense lacks viability in light of *Troester v. Starbucks Corp.*, 5 Cal. 5th 829 (2018) given
6 that the California Supreme Court refused to allow the *de minimis* defense. (Id. ¶¶ 51-53.) What
7 is not, clear, however, is to what extent the *de minimis* defense would apply where uncaptured
8 hours were associated with occasionally – rather than regularly - recurring activities. Plaintiff
9 recognizes that off-the-clock claims are inherently difficult to prove in the absence of
10 recordkeeping. (Id. ¶ 54.)

11 Further, Plaintiff contends that Defendant failed to incorporate shift differential pay and
12 non-discretionary bonuses into Class Members’ regular rates of pay for purposes of calculating
13 overtime. Plaintiff calculated this failure to result in a \$59,726.25 underpayment of overtime
14 wages. (Id. ¶ 55.) Defendant, however, contends this amount is inflated because most bonuses
15 are discretionary in nature. (Ibid.) In light of these arguments, Plaintiff applied appropriate
16 discounts for the risk of non-certification and being unsuccessful on the merits. (Id. ¶ 43.) *See*
17 *also, Plaintiff’s MPA*, pp. 17-19.

18 **Meal Period And Rest Break Violations.** Defendant contended that it maintained
19 facially compliant meal and rest break policies and provided timely meal periods and rest breaks
20 to employees. In practice, Plaintiff’s review of the data production of employee time punches
21 arguably demonstrates a 34.20% violation rate of non-compliance for meal periods. (Orshansky
22 Decl. ¶ 62.) Significantly, there are depicted multiple apparent incidences of purported “missed,”
23 “short,” or “late” meal periods which, based on the time records, would result in \$795,811.67 in
24 premiums owed. (Id. ¶¶ 56, 62.) In reply, Defendant maintained that any short, late, or missed
25 meal periods are the result of employee-choice and not an overarching policy and/or practice and
26 obtained employee declarations stating that any time punches to the contrary were the result of
27 voluntary waiver. (Id. ¶ 57.) Defendant also argued that class certification on these claims would
28 be improper, as it would require a series of individualized mini-trials to determine whether an

1 employee was provided a specific meal period on a specific shift, or whether a meal period was
2 waived. (Id. ¶ 58.) Defendant further disputes Plaintiff’s characterization of working conditions,
3 liability, and damages, and possesses documentary and testimonial evidence rebutting Plaintiff’s
4 allegations. (Ibid.)

5 Plaintiff also alleges that hourly employees did not receive timely compliant rest breaks,
6 nor did Defendant relinquish control over how employees spent their 10-minute rest breaks. *See*,
7 *Augustus v. ABM Security Service, Inc.*, 2 Cal. 5th 257, 260 (2016). Plaintiff estimates a 20%
8 violation rate for non-compliant rest breaks resulting in an estimated \$465,386.94 in premiums
9 owed. (Orshansky Decl. ¶ 62.) For its part, Defendant attempted to distinguish *Augustus, supra*,
10 which involved security guards who were required to monitor a pager, phone, or other device as
11 having an added constraint that is not present in this case. (Id. ¶¶ 59-60.) Unlike meal periods,
12 rest breaks do not need to be recorded, thus, establishing Defendant’s exertion of pressure and
13 control leading to violation across different job positions with different managers is apt to be
14 difficult. (Id. ¶ 61.) In light of these considerations, Class Counsel applied appropriate discounts
15 for settlement purposes. (Id. ¶ 43.) *See also*, Plaintiff’s MPA, pp. 19-21.

16 **Unreimbursed Expenses.** Plaintiff alleges that she was not reimbursed for cell phone
17 expenses attributed to work-related calls. Specifically, Plaintiff and Class Members were
18 required to use their personal cell phones to communicate with supervisors and co-workers for
19 reasons related to work, yet Defendant failed to reimburse them. (Orshansky Decl. ¶ 63.)
20 Defendant contended that it had a policy and practice of reimbursing for necessary business-
21 related expenses generally, but that Plaintiff and Class Members never requested reimbursement
22 for said cell phone expenses. (Id. ¶ 64.) Further, Defendant posited that rarely, if ever, were
23 employees required to use their personal cell phone for business purposes, *see*, (Orshansky Decl.
24 ¶ 65.), and distinguishing a “necessary” expense from an unnecessary one would require
25 individualized inquiry. Labor Code § 2802; *Gattuso v. Harte-Hanks Shoppers, Inc.*, 42 Cal. 4th
26 554 (2007). Regardless, Defendant argued that any such expenses incurred by employees were
27 minimal given the wide availability of low-cost cellular phone plans and its occurrence so
28 infrequent as to render the claims unsuitable for class treatment. (Orshansky Decl. ¶ 66.)

1 Recognizing the difficulty of certifying this claim and quantifying damages, Plaintiff assigned it
2 a *de minimis* (i.e., under \$50,000 class-wide) value. (*Id.* ¶ 66.) *See also*, Plaintiff's MPA, p. 22.

3 **Wage Statement Violations.** Plaintiff alleges a cause of action under Labor Code §
4 226(a) for Defendant's failure to provide accurate itemized wage statements. This cause of action
5 is derivative of the foregoing because if Defendant did not provide wages for all hours worked,
6 meal and rest break premiums, reimbursements for business expenses, and so forth, then the wage
7 statements were inevitably inaccurate. (*Orshansky Decl.* ¶¶ 67-68.) Based on the Labor Code's
8 \$50 initial violation, plus the \$100 per pay period subsequent violation rates, Plaintiff estimates
9 the total wage statement exposure to be \$489,100. (*Ibid.*) Defendant contended, however, that
10 Labor Code § 226(e) penalties are not automatic. Rather, the employee must show that
11 Defendant's noncompliance was "knowing and intentional." (*Id.* ¶ 69.) Defendant suggested that
12 any noncompliance was not knowing and intentional. (*Ibid.*) Moreover, Defendant argued that
13 meal and rest break violations cannot support derivative wage statement penalties. *See, Naranjo*
14 *v. Spectrum Security Service, Inc.*, 40 Cal. App. 5th 444, 474 (2019) (holding violations of Labor
15 Code's meal break provisions do not entitle employees to pursue the derivative wage statement
16 penalties). *C.f.*, but *review granted*, *Naranjo v. Spectrum Security Services, Inc.*, 455 P. 3d 704,
17 257 Cal. Rptr. 3d 188 (Cal., Jan. 02, 2020) (Cal. Sup. Ct. No. S258966). (*Orshansky Decl.* ¶ 70.)
18 Because the recovery for this cause of action is penalties, the statute of limitations is only one
19 year prior to the filing of the original complaint. *See*, Code Civ. Proc. § 340. (*Id.* ¶ 71.) The
20 Parties discussed these issues, and in light of these considerations, Class Counsel factored in a
21 reduction of liability and damages for this cause of action. (*Id.* ¶ 72.) *See also*, Plaintiff's MPA,
22 pp. 23-24.

23 **Derivative Waiting Time, PAGA Penalties, and UCL.** Plaintiff asserted causes of
24 action for Defendant's failure to timely pay all wages due employees at separation, civil penalties
25 under the PAGA, and engaging in unfair, unlawful and fraudulent business practices. *See, Labor*
26 *Code* §§ 203, 2699 *et seq.* and *Business & Professions Code* § 17200 *et seq.* (*Orshansky Decl.*
27 ¶¶ 73-82.) As with other claims, Defendant vigorously disagreed and defended. For example,
28 Defendant argued that waiting time penalties are not appropriate because it attempted to pay

employees all final wages owed in good faith upon their separation, therefore precluding a finding of willfulness necessary to obtain waiting time penalties. (Orshansky Decl. ¶ 74.) Moreover, Defendant maintains that no waiting time penalties are recoverable from alleged meal or rest break violations. *See, Ling v. P.F. Chang's China Bistro, Inc.*, 245 Cal. App. 4th 1242, 1261 (2016) (holding that waiting time penalties are not recoverable as a result of unpaid meal and rest premiums). Although estimated at approximately \$1,830,340.80 in waiting time penalties, Class Counsel applied discounts relative to the likelihood of prevailing on the underlying claims, along with the difficulty of proving the “willful” prong of Labor Code § 203. (Orshansky Decl. ¶ 80.)

The success of Plaintiff’s PAGA claim is wholly dependent upon the success of her underlying claims occurring within the one-year statute of limitations applicable to the PAGA. (Id. ¶ 75.) Additionally, Plaintiff recognizes that the Court has discretion to reduce any award of PAGA penalties where it views them as duplicative. *See, Thurman v. Bayshore Transit Management, Inc.*, 203 Cal. App. 4th 1112, 1135 (2012) (affirming reduction of PAGA penalties). (Orshansky Decl. ¶¶ 78-79.) As a result, Plaintiff valued the PAGA claim unstacked based on just one violation of the Labor Code at \$978,200 using the default “initial” \$100 and “subsequent” \$200 per pay period rates in calculating penalties. (Orshansky Decl. ¶ 80.) *See also, Plaintiff’s MPA*, pp. 24-27.

Summary. The foregoing considerations not only bore heavily on the negotiations leading to the Settlement, but also confirm that the Settlement is a fair, adequate, and reasonable compromise in view of the risks of further litigation. Plaintiff and Class Counsel carefully vetted the claims at issue and conducted a detailed analysis of Defendant’s produced data to arrive at the calculated damages. In the end, it was determined that the \$700,000 Gross Settlement Fund recovery represents an approximate **40.22% of the realistic possible recovery to Class Members** recoverable at trial. (Orshansky Decl. ¶¶ 83-84.) Plaintiff presented a detailed *Clark and Kullar* analysis in connection with her motion for preliminary approval, *see, Plaintiff’s MPA*, pp. 17-28, previously filed, which has not changed in the interim. Thus, for reasons of economy and space, Plaintiff refers the Court to her prior preliminary approval filing and to the concurrently

1 filed Orshansky Decl. ¶¶ 47-86, for detailed claim valuation estimates. Finally, it must be
2 reiterated that the settlement amount achieved is even more significant given Defendant's
3 precarious financial condition, for which Defendant will obtain a loan and make installment
4 payments over time. (Settlement Agreement ¶¶ I.4., III.14(a)-(b)); (Orshansky Decl. ¶ 87.) While
5 the above-described risks are far from exhaustive, they demonstrate that the Settlement is fair,
6 adequate, and reasonable in light of them.

7 **2. The Settlement Fairly, Reasonably, and Adequately Compensates**
8 **Settlement Class Members Because Each Settlement Class**
9 **Member Will Be Paid Based on the Extent of His or Her Injury**

10 Individual settlement payments will be calculated based on the proportionate number of
11 eligible weeks worked by each Settlement Class Member during the Settlement Period, *to wit*,
12 February 28, 2015 through May 31, 2020. *See*, (Settlement Agreement ¶¶ II.26, II.27, and III.4.)
13 This method of distribution compensates Settlement Class Members based on the estimated
14 extent of their injuries. Settlement Class Members who worked more work weeks during the
15 Settlement Period were subjected to more of the alleged wage and hour violations than those who
16 worked fewer work weeks. Thus, the formula for compensating Settlement Class Members is
17 fair, adequate, and reasonable, as it is tethered to the damages and penalties that they could have
18 recovered.

19 **3. The 99.87% Participation Rate and Absence of Any Objections Further**
20 **Confirms That the Settlement Is Fair, Adequate, and Reasonable**

21 The Settlement Class Members' response to the Settlement is relevant in evaluating
22 whether it merits final approval. *Dunk, supra*, 48 Cal. App. 4th at 1801. Further, the absence of
23 objections and only a single request for exclusion supports a fairness presumption. *See, 7-Eleven*
24 *Owners for Fair Franchising v. Southland Corp.*, 85 Cal. App. 4th 1135, 1152-53 (2000) (finding
25 9 objections and 80 opt-outs from a class of 5,454 showed a "particularly impressive" favorable
26 response from class members). Here, not a single Settlement Class Member objected to the
27 Settlement, and only one individual opted out, resulting in a 99.87% participation rate. (Morales
28 Decl. ¶¶ 9-11.) This extremely positive reaction from the Settlement Class further confirms that
the Settlement is fair, adequate, and reasonable.

1 C. **The Requested Award of Attorneys’ Fees Is Reasonable as a Percentage of**
2 **the Common Fund**

3 A percentage method may be used to calculate a reasonable fee in a common fund case
4 such as this. *Laffitte v. Robert Half Intern. Inc.*, 1 Cal. 5th 480, 503 (2016). A fee award is justified
5 where the legal action has produced its benefits by way of a voluntary settlement. *See, e.g., Maria*
6 *P. v. Riles*, 43 Cal. 3d 1281, 1290-91 (1987); *Westside Community for Independent Living, Inc.*
7 *v. Obledo*, 33 Cal. 3d 348, 352-53 (1983). When a settlement results in a common fund for the
8 benefit of a class, class counsel may be awarded fees as a percentage of the common fund. *See,*
9 *Wershba, supra*, 91 Cal. App. 4th at 254 (recognizing the “percentage of recovery” method). The
10 California Supreme Court confirmed in *Laffitte v. Robert Half Int’l, Inc.* that “[t]he percentage
11 of fund method survives in California class action cases.” 1 Cal. 5th at 506. Specifically, the
12 *Laffitte* Court held:

13 The recognized advantages of the percentage method—including relative
14 ease of calculation, alignment of incentives between counsel and the class, a
15 better approximation of market conditions in a contingency case, and the
16 encouragement it provides counsel to seek an early settlement and avoid
17 unnecessarily prolonging the litigation—convince us the percentage method
18 is a valuable tool that should not be denied our trial courts. *Id.*, at 503
19 [internal citation omitted].

20 *See also, e.g., Serrano v. Priest*, 20 Cal. 3d 25, 34 (1977) (“when a number of persons are entitled
21 in common to a specific fund, and an action brought by a plaintiff or plaintiffs for the benefit of
22 all results in the creation or preservation of that fund, such plaintiff or plaintiffs may be awarded
23 attorney’s fees out of the fund.”); *Serrano v. Unruh*, 32 Cal. 3d 621, 627 (1982) (in awarding a
24 fee from the common fund obtained for the benefit of all parties, the trial court acts within its
25 equitable power to prevent the other parties’ unjust enrichment.); *Rawlings v. Prudential-Bache*
26 *Properties, Inc.*, 9 F. 3d 513, 516 (6th Cir. 1993) (the percentage of the fund method for
27 calculating attorneys’ fees more accurately reflects the results achieved for the putative class than
28 the lodestar method and “establishes reasonable expectations on the part of plaintiffs’ attorneys
as to their expected recovery; and it encourages early settlement, which avoids protracted
litigation.”); *In re Rite Aid Corp. Securities Litigation*, 396 F. 3d 294, 300 (3d Cir. 2005) (“The
percentage-of-recovery method is generally favored in common fund cases because it allows
courts to award fees from the fund ‘in a manner that rewards counsel for success and penalizes

1 it for failure.”)

2 Here, Class Counsel’s fee request of thirty-five percent of the Gross Settlement Fund –
3 and which will not be fully paid to Class Counsel until the last installment and final distribution
4 scheduled eighteen months after final judgment, *see*, (Settlement Agreement ¶ III.14(a)-(b)) - is
5 fair and reasonable based on the percentage of the recovery method. First, “regardless whether
6 the percentage method or the lodestar method is used, fee awards in class actions average around
7 one-third of the recovery.” *Chavez v. Netflix, Inc.*, 162 Cal. App. 4th 43, 66, n.11 (2008). Second,
8 this is also consistent with Class Counsel’s experience in similar wage and hour class action
9 matters. *See*, (Orshansky Decl. ¶ 104); (Aiwazian Decl. ¶ 23.) Third, in fact, class counsel in
10 contingency-fee cases typically receive attorneys’ fees of one-third or more of the common fund.³
11 *See also*, 4 Newberg on Class Actions § 14.6 (4th Ed. 2013) (“No general rule can be articulated
12 on what is a reasonable percentage of a common fund. Usually 50% of the fund is the upper limit
13 on a reasonable fee award from a common fund in order to assure that the fees do not consume a
14 disproportionate part of the recovery obtained for the class, although somewhat larger
15 percentages are not unprecedented.”)

16 The fee award requested here is justified because Class Counsel achieved a significant
17 monetary recovery for the Settlement Class in an uncertain, complex, and risky case while

18 ³ *See, e.g., Evans et al. v. Coca-Cola* (Los Angeles County Super. Ct. 2001 Case No. BC 220525 (Hon. Richard C.
19 Hubbell)) (approving an award of attorney’s fees of at least 33-1/3% of the settlement); *Moreno v. Miller Brewing*
20 (Los Angeles County Super. Ct. April 2004 BC 278170 (Hon. David M. Minning)) (same); and *Eaton, et al. v.*
21 *Adolph Coors Company* (Orange County Super. Ct. 2003 Case No. 01CC00140 (Hon. Stephen J. Sundvold)) (at
22 least same award); *Kimbell v. Abercrombie & Fitch Stores, Inc.* (Los Angeles County Super. Ct. 2006 Case No. BC
23 277359 (Hon. Kenneth R. Freeman)) (same); *Daum v. Claim Jumper Restaurants* (Orange County Super. Ct. 2006
24 Case No. 02CC10201 (Hon. Ronald L. Bauer)) (final approval of same); *Moore v. IKEA* (Los Angeles County Super.
25 Ct. 2006 Case No. BC 263646 (Hon. Peter Lichtman)) (final approval of same); *Big Lots Overtime Cases* (San
26 Bernardino County Super. Ct. February 2004, JCCP Proceeding No. 4283 (Hon. Walter L. Blackwell, III)) (same);
27 and *Fitzpatrick v. Baja Fresh* (Los Angeles Super. Ct. Case No. BC 265578 (Hon. Anthony J. Mohr)) (same). In
28 *Crandall v. U-Haul* (Los Angeles County Super. Ct., Case No. BC178775), the Honorable Steven Czuleger awarded
a 40% attorney fee request in an overtime-exemption class action. In *Bushnell v. Cremar, Inc.* (Orange County
Super. Ct., Case No. 657778), the Honorable Donald E. Smallwood awarded attorneys’ fees of 38%. In *Abzug v.*
Kerkorian CA000981 (Los Angeles County Super. Ct., November 1990), the Honorable R. William Schoettler
awarded a 45% fee; in *Haitz v. Meyer, et al.*, Alameda County Super. Court, 8-20-1990 No. 572968-3, the court
awarded a 40% fee. In *Elliott v. Clothestime* (Orange County Super. Ct., Case No. 01-CC00333), the Honorable
Jonathan Cannon awarded a 40% fee in a wage-and-hour class action which had not yet proceeded to the class
certification stage. And in both *Rippee v. Boston Market Corporation*, Case No. 05 CV 1359 BTM (JMA) and *Barile*
v. Boston Market Corporation, Case No. 05 CV 1360 BTM (JMA), the Honorable Judge Barry T. Moskowitz
awarded a 40% fee to plaintiffs’ counsel in wage-and-hour class actions that had not proceeded to the class-
certification stage.

bearing the substantial burdens of representation on a contingency basis, and the fees requested are in line with the market rate. *See, Vizcaino v. Microsoft Corp.*, 290 F. 3d 1043, 1048-1051 (9th Cir. 2002) (finding that exceptional results in a contingency case, significant risk and the absence of supporting precedents, are proper considerations in awarding attorneys' fees). (Orshansky Decl. ¶¶ 105-106.) Class Counsel negotiated a substantial recovery for the Settlement Class Members, resulting in a participation rate of 99.87%. *See, (Morales Decl.* ¶ 11.) Further, no Settlement Class Member objected to the Settlement or to Class Counsel's requested fees. (*Id.* ¶ 9.) Additionally, the average individual settlement payment of approximately \$507.77 exceeds average settlement payments in similar wage and hour class action settlements.⁴ Class Counsel achieved these results in the face of serious defense challenges (*i.e.*, evidentiary challenges of off-the-clock work, arguably discretionary nature of bonuses, and waiver of meal and rest break arguments), and in the face of an uncertain legal landscape (*i.e.*, questionable stacking of penalties and pending *Naranjo* decision.)

As discussed above, this case presented significant risks of both non-certification as well as potential challenges on the merits of Plaintiff's claims. (Orshansky Decl. ¶ 107.) Accordingly, it is fair and reasonable to account for these risks in compensating Class Counsel. Class Counsel should also be compensated for the risks involved in undertaking this litigation and expending considerable effort, all while working on a pure contingency basis. (*Id.* ¶¶ 105-109); (Aiwazian Decl. ¶¶ 7-8, 24.) Since undertaking representation of Plaintiff, Class Counsel bore all the costs of litigation without receiving any compensation to date. (Orshansky Decl. ¶ 107); (Aiwazian Decl. ¶ 24.) Over the past two years, Class Counsel expended upfront costs and devoted substantial time to this litigation. *See, (Orshansky Decl.* ¶¶ 107, 109, 117); (Aiwazian Decl. ¶¶

⁴ *See, e.g., Ressler v. Federated Department Stores, Inc.*, Case No. BC335018 (L.A. County Super. Ct. Jan. 2, 2009) (average recovery of \$90); *Palencia v. 99 Cents Only Stores*, Case No. 34-2010-00079619 (Sacramento County Super. Ct.) (average recovery of \$80); *Lim v. Victoria's Secret Stores, Inc.*, Case No. 04CC00213 (Orange County Super. Ct. Jan. 20, 2006) (average recovery of \$35); *Gomez v. Amadeus Salon, Inc.*, Case No. BC392297 (L.A. County Super. Ct. July 23, 2010) (average recovery of \$20); *Sorenson v. PetSmart, Inc.*, Case No. 2:06-CV-02674-JAM-DAD (E.D. Cal. 2008) (wage and hour class action settlement approved where average class member recovery was approximately \$60); *Williams v. Centerplate, Inc.*, 2013 WL 4525428, at *4 (S.D. Cal. 2013) (granting final approval of class action settlement where average recovery for each class member was approximately \$108); and *Schiller v. David's Bridal, Inc.*, Case No. 1:10-cv-00616-AWI-SKO, 2012 WL 2117001 at *17 (E.D. Cal. June 11, 2012) (finding that average payment to class members of less than \$200 was a "good" result).

10, 24.) Given the considerable potential for adverse outcomes in this case including, but not limited to, being unable to proceed on a class-wide basis, risking unfavorable adjudication on the merits, and/or prevailing against a judgment proof defendant entity, the contingent risk borne by Class Counsel was great. (Orshansky Decl. ¶¶ 109-111.)

Class Counsel’s previous experience in litigating wage and hour class actions also supports the reasonableness of the fee request. Class Counsel are well-versed in plaintiff-side wage and hour class action litigation, with substantial experience litigating claims for unpaid wages, meal and rest period violations, and related penalties, and have been certified as class counsel in numerous other cases. (Orshansky Decl. ¶¶ 88-92); (Aiwazian Decl. ¶¶ 10-23.) Class Counsel’s experience in similar matters was integral in evaluating the strengths and weaknesses of this case and the reasonableness of the Settlement. (Orshansky Decl. ¶ 108.) Practice in the narrow field of wage and hour litigation requires skill and knowledge concerning the rapidly evolving substantive state and federal law, as well as the procedural law of class action litigation. (Orshansky Decl. ¶ 108.)

Irrespective of the actual attorneys’ fees amount ultimately awarded, Class Counsel report to the Court the existence of client-approved written fee agreement whereby the two law firms, Lawyers *for* Justice, P.C. and CounselOne, P.C., agreed to fees split of 60% and 40% respectively. *See, Mark v. Spencer*, 166 Cal. App. 4th 219 (2008); Rules Prof. Conduct, rule 1.5.1; Cal. Rules of Court, rule 3.769. (Orshansky Decl. ¶ 101.) The [Proposed] Final Judgment and Order Approving Class and Representative Action Settlement submitted concurrently herewith denotes the same.

Because it is reasonable to compensate Class Counsel commensurate with their skill, reputation, and experience, the requested fee award is fair and reasonable, in accord with the principles outlined by the California Supreme Court in *Laffitte*, and should therefore be approved.

D. The Requested Award of Attorneys’ Fees Is Reasonable as Evidenced by the Lodestar Cross-Check Method

Significantly, *Laffitte* also held that trial courts have discretion to assess reasonableness of fee awards with tools such as the lodestar cross-check, though they need not do so. *Laffitte*, *supra*, 1 Cal. 5th at 506. (“We hold further that trial courts have discretion to conduct a lodestar

1 cross-check on a percentage fee...they also retain the discretion to forego a lodestar cross-check
2 and use other means to evaluate the reasonableness of a requested percentage fee.”) This Court
3 can and should award attorneys’ fees and costs based on the percentage fee alone in light of the
4 excellent results achieved and for the reasons stated. Nevertheless, the lodestar “cross-check”
5 here also supports the requested contingency-fee percentage.

6 A lodestar cross-check analysis typically happens in three steps. First, a trial court must
7 determine a baseline guide or “lodestar” figure based on the time spent and reasonable hourly
8 compensation for each attorney involved in the case. *Serrano v. Priest*, 20 Cal. 3d 25, 48 (1975).
9 Second, the court sets a reasonable hourly fee to apply to the time expended, with reference to
10 the prevailing rates in the geographical area in which the action is pending. *Bihun v. AT&T*
11 *Information System*, 13 Cal. App. 4th 976, 997 (1993). Finally, a “multiplier” is selected with
12 reference to factors substantially similar to those applied to the common-fund analysis: (1) the
13 novelty and difficulty of issues involved; (2) the skill displayed in presenting them; (3) the extent
14 to which the nature of the litigation precluded other employment by the attorneys; and (4) the
15 contingent nature of the fee award, based on the uncertainty of prevailing on the merits and of
16 establishing eligibility for the award. *Serrano, supra*, 20 Cal. App. 3d at 49.

17 As for the *Serrano* factors, all militate strongly in favor of the requested fee award. Chief
18 among these are factual risks and evidentiary challenges of substantiating unrecorded time and
19 Defendant’s failure to authorize and permit breaks on a class wide basis. (Orshansky Decl. ¶
20 114.) Class certification was by no means a foregone conclusion. Defendant argued that Plaintiff
21 would be unable to certify a class outside of the settlement context because Plaintiff’s claims on
22 the merits would require a series of individualized mini-trials. (Ibid.) For example, Plaintiff
23 would face significant hurdles to certification given that Defendant raised individualized
24 affirmative defenses such as waiver of meal breaks and that on-premises rest breaks are not
25 equivalent to on-call liability in the *Augustus* case progeny. (Ibid.) If Plaintiff prevailed and
26 certified a class action, there is no guarantee that Defendant would not later move for and obtain
27 decertification. If the Court either denied class certification or later decertified it, the Settlement
28 Class would recover nothing and Settlement Class Members would be forced to retain their own

counsel and proceed on the basis of individual claims only.

Moreover, the attorneys' fees award is intended to reimburse Class Counsel for all uncompensated work that they have already done and for all the work they will continue to do. To investigate, litigate, and ultimately negotiate and craft the Settlement, Class Counsel spent a substantial number of hours working on this case. Class Counsel expended a significant amount of time involved in activities including, but not limited to, the following: (1) conducting pre-filing investigation; (2) analyzing Plaintiff's claims; (3) conducting legal research and analysis; (4) conducting discovery; (5) meeting and conferring; (6) reviewing policies and procedures regarding Defendant's timekeeping protocol (including its off-the-clock and time-tracking practices), payment of wages, premiums, bonuses, and calculation of overtime, its provision and tracking of meal and rest breaks, and reimbursement of business expenses; (7) examining actual employee time records, payroll information, and wage statements; (8) building a damages model; (9) preparing, briefing, and attending mediation; (10) negotiating and preparing the long-form Settlement Agreement; (11) drafting the preliminary approval motion, supporting papers, and preparing to attend the preliminary approval hearing; (12) overseeing the class notice process; (13) communicating with Class Members; (14) drafting the final approval motion and supporting documents; and otherwise litigating the case. *See*, (Orshansky Decl. ¶ 115.) *See also*, (Aiwazian Decl. ¶¶ 3-7.)

The work Class Counsel did was meaningful and their hourly rates are commensurate with experience and the prevailing rates among defense and plaintiffs' firms that regularly litigate wage-and-hour class actions.⁵ Multiplying the attorney hours expended by the Lawyers for Justice, P.C. and CounselOne, P.C. firms by their respective hourly rates yields an aggregated

⁵ The reasonableness of Class Counsel's hourly rates is further confirmed by comparing such rates with the rates of comparable counsel practicing complex and class litigation as detailed in the National Law Journal Billing Survey. *See, e.g., Zest IP Holdings, LLC v. Implant Direct MFG., LLC*, 2014 U.S. Dist. LEXIS 167563 (S.D. Cal. 2014) (finding that "Mayer Brown's \$775 average billing rate for partners" and "Mayer Brown's \$543 average associate billing rate" are reasonable rates when compared within 21 other firms practicing in the Southern District of California.) This survey is useful to show that Class Counsel's rates are in line with the comparable rates of the defense counsel that opposes these types of class claims, such as Mayer Brown. In another example, Sheppard Mullin Richter & Hampton, who is opposing counsel in many cases prosecuted by Class Counsel charges rates as high as \$875 for partners and \$535 for associates. Similarly, Paul Hastings, another opposing counsel in these types of cases, charges between \$900 and \$750 for partners and \$755 and \$335 for associates. Thus, the rates charged by Class Counsel for comparable work are less than these examples and are therefore undoubtedly reasonable.

lodestar figure of \$234,794.75. *See*, (Orshansky Decl. ¶¶ 117-122.) *See also*, (Aiwazian Decl. ¶¶ 9-10.) A multiplier of only 1.04 is necessary to yield the requested fees of \$245,000.

The requested multiplier in this case is within even the modest multipliers that are accepted by California courts. *See*, *Vizcaino v. Microsoft Corp.*, 290 F. 3d 1043, 1050-1051 (9th Cir. 2002) (looking to multipliers awarded in comparable cases as evidence of reasonableness; affirming 3.65 multiplier). Multipliers routinely range from 3 to 5, and it is not uncommon that multipliers of between 5 and 10, or higher, are applied. *See, e.g., Wilson v. Bank of Am. Natl. Trust & Savs. Assn.* Case No. 643872 (Cal. Sup. Ct., Aug. 16, 1982) (multiplier of 10); *Glendora Comm. Redev. Agency v. Demeter*, 155 Cal. App. 3d 456, 465 (1984) (affirming multiplier of 12, and expressly rejecting argument that fee was either exorbitant or unconscionable); *Wershba v. Apple Computer, Inc.*, 91 Cal. App. 4th 224, 255 (2001) (noting that “[m]ultipliers can range from 2 to 4 or even higher”); *Van Vranken v. Atlantic Richfield Co.*, 901 F. Supp. 294, 298 (N.D. Cal. 1995) (3-4 are in the “range [of] common” multipliers for class actions); *Sierra Club v. County of San Diego*, San Diego County Superior Court No. 37-2012-00101054-CU-TT-CTL, Fee Order filed August 7, 2015 (2.0 multiplier in CEQA case); *Laffitte, supra*, 1 Cal. 5th at 487-88 (multiplier of 2.03 to 2.13); *Chau, et al. v. CVS RX Services, Inc.*, Los Angeles County Superior Court No. BC349224, Order Granting Final Approval of Class Action Settlement, Reasonable Attorneys’ Fees and Costs and Service Payments to the Class Representatives, a 3.8 multiplier was applied based primarily on contingent risk and the “excellent results [] obtained [] with relative efficiency”). Recently, on October 23, 2020, the California Court of Appeal issued its ruling in *Santana v. FCA US, LLC*, Case No. G057244, G058020, affirming the trial court’s award of fees to plaintiff’s attorneys in a contingency case utilizing a 2.0 multiplier explaining:

Under our precedents, the unadorned lodestar reflects the general local hourly rate for a fee-bearing case; it does not include any compensation for contingent risk, extraordinary skill, or any other factors a trial court may consider under *Serrano III*. The adjustment to the lodestar figure, *e.g.*, to provide a fee enhancement reflecting the risk that the attorney will not receive payment if the suit does not succeed, constitutes earned compensation; unlike a windfall, it is neither unexpected nor fortuitous. Rather, it is intended to approximate market-level compensation for such services, which typically includes a premium for the risk of nonpayment or delay in payment of attorney fees. *Id.* at 20 (citing *Ketchum v. Moss* (2001) 24 Cal.4th 1122, 1138).

1 The *Santana* court concluded a multiplier was appropriate to account for the contingency factor.

2 Thus, the modest 1.04 multiplier needed to align the requested fee award with the attorney
3 hours expended is considerably less than those higher multipliers that have been approved in
4 California. Accordingly, the lodestar cross-check affirms that the fee award requested does in
5 fact fall within the range of reasonableness. (Orshansky Decl. ¶¶ 123-124.)

6 **E. The Requested Cost Reimbursement Is Fair, Adequate, and Reasonable**

7 Class Counsel incurred and respectfully request reimbursement of up to \$8,622.82 -
8 which is less than the Settlement Agreement’s allocation of up to \$20,000 - in actual litigation
9 costs. (Orshansky Decl. ¶¶ 125-129, along with itemized cost chart); (Aiwazian Decl. ¶ 24, along
10 with itemized cost statement attached at internal exhibit B.) Class Counsel’s request is fair,
11 adequate, and reasonable, as all of these costs are documented and reasonably incurred.
12 Moreover, the costs for which Plaintiff seeks reimbursement are all the types of costs routinely
13 approved by courts. *See, e.g., Harris v. Marhoefer*, 24 F. 3d 16, 19 (9th Cir. 1994) (counsel
14 should recover “those out-of-pocket expenses that would normally be charged to a fee paying
15 client”); *Ashker v. Sayre*, No. 05-03759 CW, 2011 WL 825713, at * 3 (N.D. Cal. 2011) (“costs
16 of reproducing pleadings, motions and exhibits are typically billed by attorneys to their fee-
17 paying clients” and are reimbursable); *Trustees of Const. Industry & Laborers Health and*
18 *Welfare Trust v. Redland Ins. Co.*, 460 F. 3d 1253, 1258-1259 (9th Cir. 2006) (legal research
19 costs are reimbursable); *In re Immune Response Securities Litigation*, 497 F. Supp. 2d 1166,
20 1177-78 (S.D. Cal. 2007) (mediation expenses, legal research, copies, postage, filing fees,
21 messenger and overnight delivery costs are reimbursable). No Class Member objected to the
22 Settlement, including Class Counsel’s request for up to \$20,000 in reimbursement of costs.
23 (Morales Decl. ¶ 9.) Because the expense reimbursements requested by Class Counsel were
24 reasonably incurred, and no Settlement Class Member has objected to them, the Court should
25 grant Class Counsel’s request for reimbursement of \$8,622.8 for litigation costs. (Orshansky
26 Decl. ¶ 129); (Aiwazian Decl. ¶ 24.)

27 ///

28 ///

1 **F. The Court Should Finally Approve the Requested Settlement Administration**
2 **Costs**

3 Plaintiff also requests that the Court approve \$20,500 in administration costs to the
4 Settlement Administrator, CPT Group, Inc. *See*, (Settlement Agreement ¶ III.14(f) (agreeing to
5 an amount up to \$22,000)); (Morales Decl. ¶ 12.) As detailed in the declaration Abel E. Morales
6 on behalf of the Settlement Administrator submitted concurrently with this Motion, CPT
7 performed duties in connection with this Settlement that were instrumental in effectuating the
8 Settlement and the notice process. Among other things, CPT calculated each Class Member's
9 individual settlement payment, updated addresses contained in the class data supplied by
10 Defendant (*e.g.*, NCOA and skip-traces), formatted Notice Packets for mailing, mailed Notice
11 Packets to all 773 Class Members, kept the Parties informed of any communications received
12 from the Class Members, and otherwise administered the Settlement. *See*, (Morales Decl.,
13 *passim.*) For these reasons, CPT's requested costs are fair, reasonable, and adequate, and should
14 be finally approved.

15 **G. This Court Should Finally Approve Plaintiff's Requested Class**
16 **Representative Enhancement Payment Because It Is Fair, Adequate, and**
17 **Reasonable in Light of Plaintiff's Efforts and the Risks Assumed on Behalf**
18 **of the Class**

19 Courts routinely approve enhancement payments to compensate named plaintiffs for the
20 services they provide and the risks they incur during class action litigation. *See, e.g., Bell v.*
21 *Farmers Ins. Exchange*, 115 Cal. App. 4th 715, 726 (2004) (upholding "service payments" to
22 named plaintiffs for their efforts in bringing the case); *Van Vranken v. Atlantic Richfield Co.*, 901
23 F. Supp. 294 (N.D. Cal. 1995) (approving \$50,000 service payment).

24 Here, Plaintiff seeks an enhancement payment of \$7,500, and believes that this request is
25 reasonable given her considerable efforts in this case, the risks she undertook on behalf of Class
26 Members, and her general release of all claims against Luth Research LLC subject to a waiver
27 of Civil Code § 1542. (Settlement Agreement ¶ III.7.) *See also*, (Orshansky Decl. ¶ 133);
28 (Aiwazian Decl. ¶ 25); (Aldridge Decl. ¶¶ 1-19.) Among other things, Plaintiff participated in
lengthy in-person and telephonic communication with her attorneys; reviewed relevant
documents and information; provided guidance regarding the duties of other hourly employees;

1 identified potential witnesses; strategized as to what documents and/or information about Luth
2 Research's policies, practices, and procedures would be helpful to obtain in support of her claims;
3 engaged in lengthy discussions with her attorneys in advance of the mediation and reviewed the
4 mediation brief and discussed damage models; made herself available for a full day of settlement
5 negotiations; discussed the terms of the Settlement with her counsel, reviewed and signed the
6 Settlement Agreement; and regularly communicated with her attorneys and their staff about the
7 status of the litigation. (Orshansky Decl. ¶ 134); (Aiwazian Decl. ¶ 25); (Aldridge Decl. ¶¶ 12-
8 14.) Plaintiff invested significant time and effort into seeing this litigation through resolution.
9 See, (Aldridge Decl., *passim*, detailing approximately 45 hours through preliminary approval);
10 (Orshansky Decl. ¶ 135.) The 772 Settlement Class, who would not be receiving anything if it
11 were not for Plaintiff's decision to pursue these claims, will benefit greatly from her participation.
12 (Orshansky Decl. ¶ 136); (Aiwazian Decl. ¶ 25); (Aldridge Decl. ¶ 12.)

13 Plaintiff has diligently, adequately, and fairly represented Settlement Class Members, is
14 a member of the Settlement Class, has no conflicts, and has not placed her interests above those
15 of any member of the Class. (Aldridge Decl. ¶¶ 8-9, 14.) Plaintiff Aldridge is not receiving any
16 compensation additional to that provided by the Settlement. (Id. ¶ 19.) In fact, as part of the
17 Settlement, Plaintiff has entered into a general release of claims which is broader than the release
18 that applies to other Settlement Class Members. (Settlement Agreement ¶¶ III.6, III.7.) Moreover,
19 after receiving notice of the proposed amount for the Class Representative enhancement
20 payment, no Settlement Class Member objected. (Orshansky Decl. ¶139); (Morales Decl. ¶ 9.)
21 Thus, Plaintiff's request for an enhancement payment is appropriate and justified as part of the
22 Settlement, and should be finally approved.

23 **V. CONCLUSION**

24 For the reasons stated herein, Plaintiff respectfully submits that this Court should grant
25 Plaintiff's Motion and adopt the [Proposed] Judgment and Order Granting Final Approval of
26 Class and Representative Action Settlement, submitted concurrently herewith.

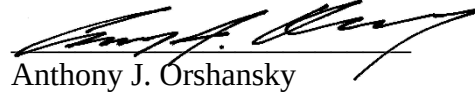
27 ///

28 ///

1 Dated: June 16, 2021

Respectfully submitted,
COUNSELONE, P.C.

2
3 By:



4 Anthony J. Orshansky
Attorneys for Plaintiff and the Class
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28