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

MARCO RODRIGUEZ, individually, and on
behalf of other members of the general public
similarly situated and on behalf of other
aggrieved employees pursuant to the California
Private Attorneys General Act;

Plaintiff,

vs.

NEW PENN FINANCIAL, LLC, a Delaware
corporation; NEWREZ, LLC, a Delaware
company; and DOES 2 through 100, inclusive,

Defendants.

Case No.: 34-2018-00233729-CU-OE-GDS

Honorable Shama H. Mesiwala
Department 53

CLASS ACTION

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

[Declaration of Class Counsel (Edwin
Aiwasian); Declaration of Class
Representative (Marco Rodriguez);
Declaration of Administrator (Zach Cooley);
and [Proposed] Final Approval Order and
Judgment filed concurrently herewith]

Reservation No.: 2561826

Date: July 29, 2021
Time: 1:30 p.m.
Department: 53

Complaint Filed: May 25, 2018
FAC Filed: September 26, 2018
SAC Filed: April 19, 2021
Trial Date: None Set

1 **PLEASE TAKE NOTICE** that on July 29, 2021, at 1:30 p.m., in Department 53 of the
2 above-entitled Court, located at Gordon D. Schabor Courthouse, 720 9th Street, Sacramento,
3 California 95814, Plaintiff Marco Rodriguez (“Plaintiff”) will and hereby does move for an order
4 granting final approval of:

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

- 8 • A Net Settlement Fund of approximately **\$1,600,304.62** will be distributed to the
9 Class Members who did not timely opt out of the Settlement (“Participating Class
10 Members”);
11 • **No Objections** were submitted to the settlement administrator, Simpluris, Inc.
12 (“Administrator”);
13 • **No Requests for Exclusion** were submitted to the Administrator;

14 2. Payment in the amount of **\$1,140,000.00** to Lawyers *for* Justice, PC (“Class
15 Counsel”), representing thirty-eight percent (38%) of the Gross Settlement Fund, for attorneys’
16 fees, which is reasonable and justified on a percentage-basis and also based on a lodestar cross-
17 check with a multiplier of 1.53;

18 3. Payment in the amount of **\$49,995.38** to Class Counsel for reimbursement of
19 litigation costs and expenses;

20 4. Payment in the amount of **\$7,200.00** to the Administrator, Simpluris, Inc.
21 (“Simpluris”), for Administration Costs;

22 5. Payment in the amount of **\$15,000.00** to Plaintiff Marco Rodriguez, as a Service
23 Payment, for his time and effort in representing the Class; and

24 6. Allocation of the penalties under the Private Attorneys General Act of 2004,
25 California Labor Code section 2698, *et seq.*, in the amount of **\$250,000.00**, of which seventy-five
26 percent (75%), or \$187,500.00, will be paid to the California Labor and Workforce Development
27 Agency and twenty-five percent (25%), or \$62,500.00, will be part of the Net Settlement Fund
28 for distribution to the Participating Class Members.

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

4 Pursuant to Local Rule 1.06(A), the Court will make a tentative ruling on the merits of
5 this matter by 2:00 p.m., the court day before the hearing. The complete text of the tentative
6 rulings for the department may be downloaded off the court's website. If a party does not have
7 online access, they may call the dedicated phone number for the department as referenced in the
8 local telephone directory between the hours of 2:00 p.m. and 4:00 p.m. on the court day before
9 the hearing and receive the tentative ruling. If the parties do not call the Court and the opposing
10 party by 4:00 p.m. the court day before the hearing, no hearing will be held.

11 This motion is based upon the following Memorandum of Points and Authorities; the
12 Declarations of Class Counsel (Edwin Aiwazian), Class Representative (Marco Rodriguez), and
13 the Administrator (Zach Cooley of Simpluris) in support thereof; the pleadings and other records
14 on file with the Court in this matter; and such evidence and oral argument as may be presented at
15 the hearing on this Motion.

16 Dated: June 28, 2021

LAWYERS for JUSTICE, PC

17
18 By:



Edwin Aiwazian

Attorneys for Plaintiff and the Class

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D. The Lodestar Methodology Also Justifies Approval of the Requested Fees,
Because Class Counsel Has Performed Work That Is of Significant Value Based
On Reasonable Hours and Prevailing Hourly Rates of Compensation.26

1. *The Number of Hours Spent on the Litigation was Reasonable.*26

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MEMORANDUM OF POINTS AND AUTHORITIES

I. SUMMARY OF MOTION

Plaintiff Marco Rodriguez (“Plaintiff”) seeks final approval of: (1) the Gross Settlement Fund of \$3,000,000.00; (2) attorneys’ fees in the amount of \$1,140,000.00, which is thirty-eight percent (38%) of the Gross Settlement Fund, and reimbursement of litigation costs and expenses in the amount of \$49,995.38 (collectively, “Attorneys’ Fees and Costs Payment”) to Lawyers for Justice, PC (“Class Counsel”); (3) Administration Costs in the amount of \$7,200.00 to Simpluris, Inc. (“Simpluris” or “Administrator”); (4) Service Payment in the amount of \$15,000.00 to Plaintiff Marco Rodriguez; and (5) allocation of \$250,000.00 for penalties under the Private Attorneys General Act of 2004, California Labor Code § 2698, *et seq.* (“PAGA Payment”).

Plaintiff seeks relief on behalf of the following Class:

All current and former hourly-paid or non-exempt employees who worked for Defendant within the State of California at any time during the period from May 25, 2014 through April 15, 2021 (“Class” or “Class Members”).¹

This matter involved ongoing investigations, formal and informal discovery, review and analysis of thousands of pages of documents and data prior to and during three (3) mediation sessions conducted by David Rotman, Esq., and extensive settlement negotiations. This matter has required 953.70 hours of attorney time from Class Counsel. As will be demonstrated herein, the request for attorneys’ fees, which represents thirty-eight percent (38%) of the Gross Settlement Fund, 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

Plaintiff moves for final approval of the Service Payment in the amount of \$15,000.00, to compensate Plaintiff for the time and effort that he expended spearheading this lawsuit on behalf of the Class. Plaintiff also moves for final approval of the payment to the Administrator in the amount of \$7,200.00 for Administration Costs. Plaintiff also moves for final approval of

¹ Stipulation of Class Action and PAGA Settlement and Release (“Settlement Agreement”), §§ II.2.8 & II.2.8.

² Applying a modest multiplier of 1.53, the total enhanced lodestar fees are \$1,145,441.38, and Class Counsel seeks an attorneys’ fees award of \$1,140,000.00 (equal to 38% of the Gross Settlement Fund).

the allocation of \$250,000.00 for the PAGA Payment, of which \$187,500.00 will be paid to the California Labor Workforce and Development Agency (“LWDA”) for its portion of the PAGA Payment (“LWDA Payment”), and \$62,500.00 will be part of the Net Settlement Fund that will be distributed to Class Members who have not, by the Notice Response Deadline, postmarked a Request for Exclusion (“Participating Class Members”).

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

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

In order to efficiently present the Court with adequate information to determine whether to grant final approval of the Settlement and award Attorneys’ Fees and Costs Payment, Service Payment, Administration Costs, and PAGA Payment. Plaintiff also moves 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 NewRez LLC (formerly known as “New Penn Financial, LLC”) (“Defendant”) was founded in 2008 and is a leading nationwide lender that operates multiple lending channels, including Wholesale, Correspondent Lending, Direct-to-Consumer, Retail, and a network of Joint Venture partners. Within California, Defendant operates two locations in

1 Concord and Pasadena. Plaintiff Marco Rodriguez is a former employee of Defendant.

2 On May 25, 2018, Plaintiff filed a Class Action Complaint for Damages (“Original
3 Complaint”) against Defendant in the Sacramento County Superior Court (“Court”), thereby
4 commencing the above-captioned lawsuit (the “Action”).

5 On September 26, 2018, Plaintiff filed a First Amended Class Action Complaint for
6 Damages (“First Amended Complaint”). On November 30, 2018, Defendant filed an Answer to
7 Plaintiff’s First Amended Complaint.

8 On November 27, 2018, Plaintiff propounded multiple sets of written discovery requests
9 onto Defendant, including, but not limited to, Requests for Production of Documents, (Set One);
10 Special Interrogatories, (Sets One & Two); Form Interrogatories, (Set One); and noticed the
11 depositions of Defendant’s Person Most Knowledgeable designee regarding job duties and
12 organizational structure of Defendant. On December 18, 2018, Defendant propounded onto
13 Plaintiff Requests for Production of Documents, (Set One); Special Interrogatories, (Set One);
14 and Form Interrogatories, (Set One); and also noticed the deposition of Plaintiff, to which
15 Plaintiff objected. On February 11, 2019, Plaintiff propounded additional sets of discovery
16 requests onto Defendant.

17 On November 12, 2020, Plaintiff provided written notice to the Labor and Workforce
18 Development Agency (“LWDA”) giving notice of his intent to pursue a representative action
19 pursuant to the Labor Code Private Attorneys General Act of 2004 (“PAGA”), on behalf of
20 himself and the State of California, as well as on behalf of a proposed group of aggrieved
21 employees.

22 On April 19, 2021, Plaintiff filed a Second Amended Class Action Complaint for
23 Damages and Enforcement Under the Private Attorneys General Act, Cal. Labor Code § 2698, Et
24 Seq. (“Second Amended Complaint” or “Operative Complaint”), adding a cause of action for
25 violation of PAGA (Labor Code section 2698 *et seq.*) on behalf of Plaintiff and aggrieved
26 employees.

27 ///

28 ///

Plaintiff's core allegation is that Defendant has violated the California Labor Code by engaging in a uniform practice and procedure, with respect to Plaintiff 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 accurate 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 rise to penalties recoverable under the Private Attorneys General Act of 2004 (California Labor Code sections 2698, *et seq.*) ("PAGA").

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 May 25, 2018. The parties conducted significant formal and informal discovery, took and defended depositions of Defendant's Person Most Knowledgeable witness and Plaintiff, and exchanged thousands of pages of documents and data. The parties participated in a formal, full-day mediation session on March 17, 2020, and two half-day follow-up sessions on June 30, 2020 and August 10, 2020, all conducted by David Rotman, 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 March 18, 2021, Plaintiff filed a Motion for Preliminary Approval of Class Action Settlement and supporting documents. On April 15, 2021, the Court entered an Order Granting Preliminary Approval of Class Action Settlement ("Preliminary Approval Order"), thereby preliminarily approving the terms of the Settlement, the Notice Packet, and the proposed administration procedures and associated deadlines.

Plaintiff now moves for final approval of the Settlement, Attorneys' Fees and Costs Payment, Service Payment, 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 Gross Settlement Fund of \$3,000,000.00.³ Subject to approval by the Court, the Net Settlement Fund will be calculated by deducting the following amounts from the Gross Settlement Fund: (1) Attorneys' Fees and Costs Payment, consisting of attorneys' fees in the amount of \$1,140,000.00 and reimbursement of litigation costs and expenses in the amount of \$49,995.38, to Class Counsel; (2) Service Payment in the amount of \$15,000.00 to Plaintiff Marco Rodriguez; (3) Administration Costs in the amount of \$7,200.00 to Simpluris; and (4) LWDA Payment in the amount of \$187,500.00 for its 75% share of the PAGA Payment.⁴ The Net Settlement Fund, which is estimated to be 1,600,304.62, will be distributed in accordance with the Settlement Agreement.⁵

The parties have agreed that the Administrator will determine each Participating Class Member's *pro rata* share of the available Net Settlement Fund (i.e., "Individual Settlement Share"), in accordance with the Settlement Agreement and as follows:

- a. The Administrator will determine the amount of the Net Settlement Fund.⁶
- b. The Administrator will calculate the total number of actual weeks worked by the Participating Class Members during the Class Period ("Qualifying Workweeks").⁷
- c. The Administrator will then divide the Net Settlement Fund by the total Qualifying Workweeks worked by the entire Participating Class during the Class Period to arrive at a "Workweek Value."⁸
- d. The Administrator will then take that Workweek Value and multiply it by the number of Qualifying Workweeks worked by each Participating Class Member to yield his or her Individual Settlement Share.⁹

///

³ Settlement Agreement; § II.2.15.

⁴ *Id.*, §§ II.2.3, II.2.18, III.3.2, & III.3.8.

⁵ This amount is higher than the amount stated in Paragraph 14 of the accompanying Declaration of Zach Cooley Regarding Notice and Settlement Administration ("Simpluris Declaration" or "Simpluris Decl.") because the Administrator's calculation assumes that Class Counsel will obtain litigation costs and expenses in the maximum amount of \$85,000.00, which is allocated under the Settlement. However, Class Counsel seeks the amount of only \$49,995.38 for reimbursement of litigation costs and expenses, and the difference of \$35,004.62 will remain part of the Net Settlement Fund.

⁶ Settlement Agreement, § IV.4.16.1.

⁷ *Id.* § I.2.25 & IV.4.16.2. The period of time from May 25, 2014 to April 15, 2020 is referred to as the "Class Period". See *id.*, § I.2.9.

⁸ *Ibid.*

⁹ *Ibid.*

Participating Class Members will be issued payment of their Individual Settlement Share subject to reduction for the employee's and employer's share of taxes and withholdings for the wages portion of the Individual Settlement Shares ("Withholding and Taxes") (the net payment is referred to as their "Individual Settlement Payment").¹¹ Each Participating Class Member's Individual Settlement Payment will be allocated as follows: twenty percent (20%) to wages subject to withholdings, and eighty percent (80%) to interest, penalties, and non-wage damages.¹² The portion allocated to wages shall be reported on an IRS Form W-2 and the portions allocated to interest, penalties, and non-wage damages shall be reported on an IRS Form-1099 (if applicable).¹³ The Administrator will pay the employees' and employer's share of payroll taxes and contributions with respect to the wage portion of Individual Settlement Shares from the Gross Settlement Fund.¹⁴

Class Members had thirty-five (35) calendar days after the initial mailing of the Notice Packet to Class Members to dispute the number of Qualifying Workweeks credited to each of them, opt out of the Settlement, and/or object to the Settlement ("Notice Response Deadline").¹⁵ The Notice Response Deadline was June 24, 2021.¹⁶ The Administrator has not received any written requests for exclusion from the Settlement ("Requests for Exclusion") or objections to the Settlement ("Objections") from Class Members.¹⁷

The Individual Settlement Payment checks issued to Participating Class Members will remain valid and negotiable for one hundred eighty (180) calendar days from the date of mailing.¹⁸ If a Participating Class Member has not cashed his or her check by the 30th day from the date of the check's issuance, the Administrator will send a postcard reminding the Class Member to cash their check before the void date.¹⁹ Thereafter, Individual Settlement Payment checks that are not cashed or otherwise negotiated within the 180-day period will be cancelled,

¹¹ Settlement Agreement, §§ II.2.30 & IV.4.16.3.

¹² *Id.*, § IV.4.19.

¹³ *Ibid*

¹⁴ *Id.*, §§ 2.15 & 4.19

¹⁵ *Id.*, §§ II.2.20, IV.4.8 & IV.4.15.

¹⁶ Simpluris Decl., ¶ 9.

¹⁷ *Id.*, ¶¶ 10 & 11.

¹⁸ Settlement Agreement., § IV.4.28.

¹⁹ *Id.*, § IV.4.29.

1 and the funds associated with such cancelled checks will be transmitted by the Administrator to
2 the Unclaimed Property Division of the California State Controller's office with an identification
3 of each Participating Class Member and the amount attributable to each Participating Class
4 Member to be held and distributed in accordance with California Unclaimed Property Law,
5 California Code of Civil Procedure § 1500 *et seq.*²⁰

6 **IV. THE SETTLEMENT ADMINISTRATION PROCESS**

7 The Court-appointed Administrator, Simpluris, has taken all necessary steps to effectuate
8 the notice and settlement administration process, as set forth in the Court's April 15, 2021
9 Preliminary Approval Order.

10 On April 29, 2021, Simpluris received the Court-approved Notice Packet from Class
11 Counsel.²¹

12 On May 7, 2021, Simpluris received a mailing list from Defendant's counsel that
13 contained the full names, most recent known mailing addresses, job titles, telephone numbers,
14 Social Security numbers, and dates of employment from which the Administrator can calculate
15 the total number of Qualifying Workweeks ("Class List and Data").²² The Class List and Data
16 contained information for four hundred forty-seven (447) individuals identified as Class
17 Members.²³ Simpluris processed the names and addresses through the National Change of
18 Address Database ("NCOA") and updated the Class List and Data with any updated addresses
19 located.²⁴

20 On May 20, 2021, Simpluris mailed the Notice Packet via first class mail to four hundred
21 forty-seven (447) individuals identified as Class Members in the Class List and Data.²⁵

22 As of the date of this Motion, fifty-one (51) Notice Packets were returned as
23 undeliverable, of which four (4) were returned with forwarding addresses and forty-seven (47)
24 without forwarding addresses.²⁶ Simpluris promptly re-mailed the four (4) Notice Packets to

25 ²⁰ Settlement Agreement, § IV. 4.30.

26 ²¹ Simpluris Decl., ¶ 4.

27 ²² *Id.*, ¶ 5.

28 ²³ *Ibid.*

²⁴ *Id.*, ¶ 6.

²⁵ *Id.*, ¶ 7.

²⁶ *Id.*, ¶ 8.

1 their forwarding address and performed a skip-trace search on the forty-seven (47) Notice
2 Packets that were returned to Simpluris without forwarding addresses, located an updated
3 address for forty-three (43) Class Members, and promptly re-mailed the Notice Packet to the
4 updated addresses.²⁷ Ultimately, four (4) Notice Packets remain undeliverable because an
5 updated address was not located through skip-tracing.²⁸

6 As of the date of this Motion, the Administrator has not received any Objections or
7 Requests for Exclusion from Class Members.²⁹

8 To date, there are four hundred forty-seven (447) Class Members who did not submit a
9 timely and valid Request for Exclusion postmarked by the Notice Response Deadline, and are
10 therefore deemed to be Participating Class Members, representing 100% of the Class.³⁰ Pursuant
11 to the terms of the Settlement, the Net Settlement Fund of approximately \$1,600,304.63 will be
12 distributed to Participating Class Members in accordance with the terms of the Settlement.³¹ The
13 highest Individual Settlement Share is currently estimated to be \$18,469.27 and the average
14 Individual Settlement Share is currently estimated to be \$3,501.79.³² These amounts are subject
15 to reduction for the employee's and employer's share of Withholding and Taxes.

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

18 The trial court has broad discretion to determine whether a class action settlement is fair
19 and reasonable. *Chavez v. Netflix, Inc.* (2008) 162 Cal.App.4th 43, 52. To determine whether
20 the settlement is fair and reasonable, courts consider relevant factors such as:

21 the strength of plaintiffs' case, the risk, expense, complexity and likely duration
22 of further litigation, the risk of maintaining class action status through trial, the
23 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

24 ²⁷ *Ibid.*

25 ²⁸ *Ibid.*

26 ²⁹ Simpluris Decl., ¶¶ 10 & 11.

27 ³⁰ *Id.*, ¶ 14.

28 ³¹ *Ibid.*; see also, n.5, *supra*.

³² *Id.*, ¶ 15. The actual average and highest Individual Settlement Share will be larger than the amounts stated in the Simpluris 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 \$85,000.00 (the difference between the amount sought and the amount authorized under the Settlement, i.e., \$35,004.62, will be part of the Net Settlement Fund). See n.5, *supra*.

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.*

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

The parties actively litigated the Action since it was commenced on May 25, 2018. Counsel for the parties used the pre-mediation time period to investigate the veracity, strength, and scope of the claims, and also to prepare the matter for class certification, representative

1 adjudication, and trial.³³ The parties conducted significant formal and informal discovery and
2 investigation into the facts of the case, and also informally exchanged information and data in
3 preparation for mediation.³⁴ Class Counsel propounded multiple sets of written discovery
4 requests in various forms; reviewed Defendant's responses and supplemental thereto; worked
5 with Plaintiff to provide responses to multiple sets of discovery requests that were propounded
6 by Defendant; and prepared and served deposition notices.³⁵ Class Counsel prepared for and
7 took the deposition of Defendant's Person Most Knowledgeable witness and prepared for and
8 defended the deposition of Plaintiff.³⁶ Class Counsel also interviewed and obtained information
9 from Plaintiff and Class Members, including and not limited to the names of potential witnesses,
10 and reviewed and analyzed thousands of pages of documents and data produced by Defendant
11 and obtained through other sources.³⁷ The documents and data reviewed and analyzed by Class
12 Counsel included, and were not limited to, employment records of Plaintiff and other Class
13 Members, a detailed sampling of Class Members' time and pay data, multiple iterations of
14 Defendant's employee handbooks, The Shellpoint Family of Companies Employee Handbook
15 and the California Addendum to the Shellpoint Family of Companies Employee Handbook,
16 various acknowledgements (including, but not limited to, Defendant's Acknowledgement of
17 Receipt of Employee Handbook and Code of Conduct acknowledgement) and agreements
18 (including, but not limited to, Defendant's Position Description Acknowledgement & Agreement
19 and Confidentiality and Non-Solicitation Agreement), internal memoranda, job descriptions,
20 checklists (including, but not limited to, Defendant's Employee Separation Checklist),
21 Defendant's operations and employment practices, forms (including, but not limited to,
22 Defendant's Compensation and Hours form, Recommendation for Termination form, and
23 Separation from Employment form), procedures (including, but not limited to, Defendant's
24 Timekeeping Process and Recording Time Worked procedures), and policies (including, but not
25 limited to, Defendant's Cell Phone policy, Overtime policy, Working Hours policy, Attendance

26 ³³ Declaration of Edwin Aiwazian ("Aiwazian Decl."), ¶ 6.

27 ³⁴ *Ibid.*

28 ³⁵ *Ibid.*

³⁶ *Ibid.*

³⁷ *Ibid.*

1 policy, detailed Business Casual Attired dress policy, Travel & Expense Reimbursement policy,
2 Meal & Rest policies, Wage and Salary policy, and Payment Upon Termination policy), among
3 other information and documents.³⁸ Class Counsel researched applicable law, developed
4 damages/valuation models in preparation for mediation, and met and conferred with Defendant's
5 counsel on numerous occasions, e.g., to discuss issues relating to the pleadings, discovery, and
6 the production of documents and data prior to mediation.³⁹ Class Counsel also drafted three
7 mediation briefs for Plaintiff and reviewed two (2) mediation briefs from Defendant as well as
8 additional data provided by Defendant ahead of mediation.

9 After conducting significant formal and informal discovery and investigation into the
10 facts of the case, the parties participated in a formal, full-day mediation session and two half-day
11 mediation sessions conducted by David Rotman, Esq., a well-regarded mediator experienced in
12 mediating complex labor and employment matters.⁴⁰ Prior to and during mediation and
13 settlement discussions, the parties exchanged information and data, and discussed various
14 aspects of the case, including and not limited to, the risks and delays of further litigation, the
15 risks and expenses to the parties of proceeding with class certification, representative
16 adjudication, and trial, the law relating to off-the-clock theory, meal and rest periods,
17 representative PAGA claims, and wage-and-hour enforcement, the evidence produced and
18 analyzed, and the possibility of appeals, among other things.⁴¹ During all settlement discussions,
19 the parties conducted their negotiations at arm's length in an adversarial position.⁴² Arriving at a
20 settlement that was acceptable to the parties was not easy.⁴³ Defendant and its counsel felt very
21 strongly about Defendant's ability to prevail on the merits and to obtain a denial of class
22 certification, while Plaintiff and Class Counsel believed that class certification would be
23 obtained and Plaintiff would prevail at trial.⁴⁴ After conducting significant formal and informal
24 discovery and investigations, extensive settlement negotiations, and with the aid of the

25 _____
³⁸ *Ibid.*

26 ³⁹ *Ibid.*

27 ⁴⁰ Aiwazian Decl., ¶ 8.

28 ⁴¹ *Ibid.*

⁴² *Ibid.*

⁴³ *Ibid.*

⁴⁴ *Ibid.*

mediator's evaluation, the parties agreed that the matter was well-suited for settlement given the legal issues relating to Plaintiff's principal claims, as well as the costs and risks to the parties that would attend further litigation.⁴⁵

The Settlement takes into account the strengths and weaknesses of each side's position and the uncertainty of how the case might have concluded at certification, trial, and/or appeals. Class Counsel interviewed, and obtained information from Plaintiff and other Class Members.⁴⁶ Class Counsel also reviewed and analyzed thousands of pages of documents produced by Defendant and obtained through other sources, and performed significant research into the law concerning certification, off-the-clock theory, meal and rest periods, representative PAGA claims, wage-and-hour enforcement, Plaintiff's claims, and Defendant's defenses, as well as facts discovered.⁴⁷ The Settlement was based on this large volume of facts, evidence, and investigation.⁴⁸ Additionally, Class Counsel has extensive experience in handling complex wage-and-hour matters, including significant experience in employment class action litigation.⁴⁹

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

The Settlement, which provides for a Gross Settlement Fund of \$3,000,000.00, represents a fair, adequate, and reasonable resolution of the case, given the risks inherent in litigating class and representative claims through certification proceedings, trial, and/or appeals.⁵⁰ The Settlement was calculated using information and data uncovered through extensive case investigation, formal and informal discovery, and the exchange of information in the context of mediation.⁵¹ Had the Action not settled, Defendant would have vigorously challenged class certification, manageability of representative adjudication, and liability. Defendant contended that individualized questions of fact predominate over any common issues, and these issues would pose challenges to certification and representative adjudication. Defendant would have

⁴⁵ *Ibid.*

⁴⁶ Aiwazian Decl., ¶ 6.

⁴⁷ *Ibid.*

⁴⁸ *Id.*, ¶¶ 6 & 8.

⁴⁹ *Id.*, ¶¶ 15-18.

⁵⁰ *Id.*, ¶¶ 8 & 21.

⁵¹ *Id.*, ¶¶ 5-8.

likely argued again at trial, if any, that Plaintiff's claims were not appropriate for class-wide and/or representative adjudication. On the other hand, Defendant also faced the risk of the Court certifying a class and allowing a jury to decide Plaintiff's claims on a class-wide or representative basis. Additionally, preparation for trial would have been expensive for all parties.

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

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

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

2 The Settlement, which provides for a Gross Settlement Fund of \$3,000,000.00, represents
3 a fair, reasonable, and adequate resolution of the case. The Settlement was calculated using
4 information and data uncovered through extensive case investigation, formal and informal
5 discovery, and the exchange of information in the context of mediation. The Settlement takes
6 into account the potential risks and rewards inherent in any case and, in particular, in this matter.
7 Moreover, considering all of the facts in the case, the Gross Settlement Fund represents a
8 considerable recovery.

9 Even after deducting attorneys' fees in the amount of \$1,140,000.00, litigation costs and
10 expenses in the amount of \$49,995.38, Service Payment in the amount of \$15,000.00,
11 Administration Costs in the amount of \$7,200.00, and LWDA Payment in the amount of
12 \$187,500.00 from the Gross Settlement Fund of \$3,000,000.00, the Net Settlement Fund is
13 currently estimated to be \$1,600,304.63.⁵² Under the Settlement Agreement, the Gross
14 Settlement Fund will be paid out in accordance with the terms of the Settlement. As discussed in
15 Section III, *supra*, each Participating Class Member will be paid a *pro rata* share of the Net
16 Settlement Fund, based on the number of Qualified Workweeks credited to him or her. To date,
17 there are four hundred forty-seven (447) Participating Class Members, representing 100% of the
18 Class Members.⁵³ The highest Individual Settlement Share to a Participating Class Member is
19 currently estimated to be \$18,469.27 and the average Individual Settlement Share is currently
20 estimated to be \$3,501.79.⁵⁴ These are significant individual recoveries, particularly in light of
21 the risks of litigation.

22 At the final approval stage, "[a]n allocation formula need only have a reasonable, rational
23 basis [to warrant approval], particularly if recommended by experienced and competent class
24 counsel." *In re American Bank Note Holographics, Inc., Securities Litigation* (S.D.N.Y. 2001)
25 127 F.Supp.2d 418, 429-30. The *pro rata* allocation here is a fair and reasonable way to
26 distribute the Net Settlement Fund. In light of the above considerations, Class Counsel believes

27 ⁵² Simpluris Decl., ¶ 14; see n.5, *supra*.

28 ⁵³ *Id.*, ¶ 14.

⁵⁴ *Id.*, ¶ 15; see n.32, *supra*.

1 that the Settlement as a whole is fair, reasonable, and adequate, and in the best interest of the
2 Class Members.⁵⁵ Although the recommendations of Class Counsel are not conclusive, the
3 Court can properly take the recommendations into account, particularly if Class Counsel appears
4 to be competent, has experience with this type of litigation, and significant discovery and
5 investigation have been completed, as is the case here. Conte & Newberg, *Newberg on Class*
6 *Actions* (4th Ed., 2002) § 11.47. Accordingly, the Court should grant final approval of the
7 Settlement.

8 **D. The Class Was Represented by Competent Counsel.**

9 Class Counsel has extensive experience in employment class action law and complex
10 wage-and-hour litigation.⁵⁶ Lawyers for Justice, PC has been appointed class counsel in
11 numerous complex wage-and-hour cases, and has recovered millions of dollars for individuals in
12 California.⁵⁷ Both parties' counsel were capable of assessing the strengths and weaknesses of
13 the Class Members' claims against Defendant and the benefits of the Settlement under the
14 circumstances of the case and in the context of a private, consensual settlement agreement.

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

16 The Settlement has been well received by the Class – *not a single Class Member*
17 *objected to or opted out of the Settlement.*⁵⁸ Specifically, no objections have been made as to
18 the Gross Settlement Fund or requested Attorneys' Fees and Costs Payment, Service Payment,
19 Administration Costs, or the allocation for PAGA Payment. California courts have consistently
20 found that a small number of objectors indicates the class' support for a settlement and strongly
21 favors final approval. *Wershba, supra*, 91 Cal.App.4th at 250-51 (final approval granted despite
22 20 objectors); *7-Eleven Owners, supra*, 85 Cal.App.4th at 1152-53 (final approval granted
23 despite 9 objectors).

24 ///

25 ///

26 _____
27 ⁵⁵ Aiwazian Decl., ¶ 21.

28 ⁵⁶ *Id.*, ¶¶ 15-18.

⁵⁷ *Ibid.*

⁵⁸ Simpluris Decl., ¶¶ 10 & 11.

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

VI. THE ATTORNEYS' FEES AWARD REQUESTED BY CLASS COUNSEL IS FAIR AND REASONABLE AND SHOULD BE APPROVED

A. Legal Standard for Attorneys' Fees in a Class Action Settlement.

Trial courts have "wide latitude" in assessing the value of attorneys' fees and their decisions will "not be disturbed on appeal absent a manifest abuse of discretion." *Lealao v. Beneficial Cal., Inc.* (2000) 82 Cal.App.4th 19, 41; *Ketchum v. Moses* (2001) 24 Cal.4th 1122, 1132 (The "experienced trial judge is the best judge of the value of professional services rendered in his court[.]"); *Cellphone Termination Fee Cases* (2009) 180 Cal.App.4th 1110, 1118. Where the amount of a settlement is a "certain easily calculable sum of money," California courts may calculate attorneys' fees as a reasonable percentage of the settlement. Weil and Brown, *California Practice Guide, Civil Procedure Before Trial*, Chapter 14, § 14:145; *see also Laffitte v. Robert Half Int'l Inc.* (2016) 1 Cal.5th 480, 503; *Dunk, supra*, 48 Cal.App.4th at 1808. The percentage-of-the-benefit approach is preferred in class and representative actions because "it better approximates the workings of the marketplace than the lodestar approach." *Lealao, supra*, 82 Cal.App.4th at 49.

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

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

Historically, courts have awarded fees as high as fifty percent (50%) of the settlement, depending on the circumstances of the case. *Conte & Newberg, Newberg on Class Actions* (4th Ed., 2002) § 14.03; *see also In re Ampicillin Antitrust Litig.* (D.D.C. 1981) 526 F.Supp. 494 (awarding attorneys’ fees in the amount of 45% of the settlement amount of \$7.3 million); *Beech Cinema, Inc. v. Twentieth-Century Fox Film Corp.* (S.D.N.Y. 1979) 480 F.Supp. 1195 (awarding approximately 53% of the settlement amount as attorneys’ fees). California courts routinely approve class action attorneys’ fees awards “averag[ing] around one-third of the recovery.” *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, 34.⁵⁹ The purpose of this equitable doctrine is to spread litigation

⁵⁹ 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.

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

When the case was originally filed, not only was it inescapably contingent, but the prospect of a long, drawn-out battle with a defendant represented by experienced counsel, was almost a certainty. By taking on this "battle" on a contingency basis, Class Counsel risked substantial economic loss if the results were not successful. This substantial risk is the reason

1 that the courts approve the use of the percentage method when a settlement is obtained by the
2 efforts of class counsel. *See Vizcaino v. Microsoft* (9th Cir. 2002) 290 F.3d 1043, 1048-49
3 (discussing the risks of engaging in litigation without certainty of compensation).

4 Under the terms of the Settlement Agreement, Defendant will pay a Gross Settlement
5 Fund of \$3,000,000.00. The requested attorneys' fees are thirty-eight percent (38%) of the total
6 value of the monetary settlement. In light of Class Counsel's successful prosecution and
7 resolution of the case, the requested attorneys' fees are appropriate and reasonable.

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

15 The percentage method is consistent with, and is intended to mirror, the practice in the
16 private marketplace where contingent-fee attorneys typically negotiate percentage-fee
17 arrangements with their clients. A named plaintiff's agreement to pay a contingent fee is
18 powerful evidence of a reasonable fee. One of the best ways to demonstrate the value of
19 counsel's work to the class is to review the consideration agreed to be paid by the named
20 plaintiff. If the named plaintiff has employed counsel on a contingency-fee basis, it would
21 indeed be inequitable for the members of the class, who will enjoy the benefits of the settlement
22 without incurring the risks of bringing the claim, to pay less than the named plaintiff. In this
23 case, Plaintiff has agreed to a contingency fee of at least thirty-eight percent (38%) of the
24 recovery.⁶⁰

25 Furthermore, a percentage-fee award is not dependent on a determination of the actual
26 amount claimed by those entitled—it is the creation of the settlement that is the crucial fact. In
27 *Winslow v. Harold G. Ferguson Corp.*, the California Supreme Court expressly held that “it is

28 ⁶⁰ Aiwazian Decl., ¶ 9.

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 Plaintiff and the Class, 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 Plaintiff and Class Counsel. Thus, the requested attorneys’ fees are appropriate.

C. The Attorneys’ Fees Award Requested by Class Counsel Is Reasonable Based on the Factors Considered in Determination of Fee Awards.

In *Camden I Condominium Association, Inc. v. Dunkel*, the court identified twelve factors to be considered in determining whether fee awards are reasonable: (1) the time and labor required; (2) the novelty and difficulty of the questions involved; (3) the skill required to perform the legal services properly; (4) the preclusion of other employment by the attorney due to the acceptance of the case; (5) the customary fee; (6) whether the fee is fixed or contingent; (7) time limitation imposed by the client or the circumstances; (8) the amount involved and results obtained; (9) the experience, reputation and ability of the attorney; (10) the undesirability of the case; (11) the nature and length of the professional relationship with the client; and (12) awards in similar cases. *Camden I Condominium Association, Inc. v. Dunkel* (11th Cir. 1991) 946 F.2d 768, 772.

Each and every one of these factors favors the attorneys' fees sought here; however, some of the most relevant factors to this Court's fee determination will be addressed herein. The award of attorneys' fees in the amount of \$1,140,000.00 (which is 38% of the Gross Settlement Fund) 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 matter 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.⁶¹

As outlined in the Declaration of Edwin Aiwarzian, Class Counsel has fully and actively participated in litigation of this case.⁶² Prior to commencing the lawsuit, Class Counsel had conducted a significant amount of investigation into the factual and legal issues, Defendant's business, and its operations and employment policies, practices, and procedures.⁶³ During the litigation of the Action, Class Counsel interviewed Plaintiff and other Class Members; propounded formal written discovery requests and reviewed Defendant's responses and supplemental thereto; worked with Plaintiff to provide responses to discovery requests that were propounded by Defendant; prepared for and took the deposition of Defendant's Person Most Knowledgeable witnesses; prepared for and defending the deposition of Plaintiff; reviewed and analyzed thousands of pages of documents and data produced by Defendant and obtained through other sources; and prepared damages/valuation calculations.⁶⁴ Class Counsel also met and conferred with Defendant's counsel over the issues relating to pleadings, discovery, and the production of documents and data, among other things; engaged in extensive settlement

⁶¹ Aiwarzian Decl., ¶¶ 15-18.

⁶² *Id.*, Exh. A.

⁶³ *Id.*, ¶ 6 & Exh. A.

⁶⁴ *Id.*, ¶ 6.

1 negotiations with Defendant's counsel; drafted three mediation briefs for Plaintiff and reviewed
2 two mediation briefs from Defendant; and prepared for and attended court proceedings, three
3 mediation sessions, and settlement negotiation.⁶⁵

4 Class Counsel has devoted a considerable number of hours to this matter over the course of
5 the litigation process. The task and time chart, which is attached as EXHIBIT A to the
6 accompanying declaration of Edwin Aiwasian, sets forth in detail the hours that Class Counsel
7 has spent performing tasks on behalf of Plaintiff and the Class.⁶⁶ The task and time chart is
8 thorough and comprehensive, and was prepared so that the Court can peruse it without having to
9 set forth each and every task in the body of this Motion. The Court is respectfully referred to the
10 chart, which sets forth the history of the work performed by Class Counsel, commencing with
11 the pre-filing analysis and research, and continuing up to settlement and final approval. Class
12 Counsel has spent 953.70 hours performing tasks and to obtain a significant recovery on behalf
13 of Plaintiff and the Class.⁶⁷ These hours were required to bring this matter to its successful
14 conclusion. In light of the value of time expended and the carrying of costs involved in litigating
15 this case, the requested attorneys' fees are fair, adequate, and reasonable.

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

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

22 Class Counsel undertook significant investigation, analysis, and research prior to filing
23 this case, during the litigation, and prior to mediation. Class Counsel took steps to prepare the
24 matter for class certification and representative adjudication and had every intention of taking the
25 case to trial on a class-wide basis if Defendant did not offer an appropriate class-wide settlement.
26 Despite all of the obstacles that had to be overcome, as demonstrated in the Declaration of Edwin

27 ⁶⁵ *Ibid.*

28 ⁶⁶ Aiwasian Decl., Exh. A.

⁶⁷ *Id.*, ¶ 11.

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.⁶⁸

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 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 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 Gross Settlement Fund of \$3,000,000.00 to settle the matter. After deducting the attorneys' fees (\$1,140,000.00), litigation costs and expenses (\$49,995.38), Service Payment (\$15,000.00), Administration Costs (\$7,200.00), and LWDA Payment (\$187,500.00) from the Gross Settlement Fund, it is currently estimated that the Net Settlement Fund is approximately \$1,600,304.63.⁶⁹ The Net Settlement Fund will be distributed in accordance with the terms of the Settlement. The highest Individual Settlement Share to a Participating Class Member is currently estimated to be \$18,469.27 and the average Individual Settlement Share is currently

⁶⁸ Aiwazian Decl., ¶¶ 15-18.

⁶⁹ Simpluris Decl., ¶ 14; see n.5, *supra*.

1 estimated to be \$3,501.79.⁷⁰ The Settlement offers significant monetary relief to the
2 Participating Class Members.

3 **4. Whether the Fee Is Fixed or Contingent.**

4 Plaintiff entered into a contingency fee agreement with Class Counsel, and the
5 representation of the Class provided by Class Counsel has been wholly contingent. Class
6 Counsel took on the case without knowing whether any recovery would be obtained. Class
7 Counsel has invested 953.70 hours of time to obtain relief on behalf of Plaintiff and the Class.⁷¹
8 Class Counsel has also incurred litigation costs and expenses in the amount of \$49,995.38.⁷²

9 Class Counsel has borne all of the risks and costs of litigation and will not receive any
10 compensation until recovery is obtained.⁷³ Class Counsel is well-experienced in wage-and-hour
11 class action and complex litigation and used that experience to obtain a great result.⁷⁴ The skill
12 and determination that Class Counsel has shown, along with the results obtained, justify the
13 requested Attorneys' Fees and Costs Payment. Considering the amounts requested, the work
14 performed, and the risks incurred, the requested fees and costs are reasonable and should be
15 awarded.

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

18 A contingent fee must be higher than a fee for the same legal services paid as they
19 are performed. The contingent fee compensates the lawyer not only for the legal
20 services he renders but for the loan of those services. A lawyer who both bears the
21 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.

22 *Cates v. Chiang* (2013) 213 Cal.App.4th 791, 823 (internal quotes and citations omitted). Class
23 Counsel litigated the case on a contingent basis with all of the concomitant risk factors inherent
24 in such an uncertain undertaking. Had Class Counsel not been successful, the time that Class
25

26 ⁷⁰ Simpluris Decl., ¶ 15; see n.32, *supra*.

27 ⁷¹ Aiwazian Decl., ¶ 11, Exh. A.

28 ⁷² See Part VII, *infra*.

⁷³ Aiwazian Decl., ¶ 19.

⁷⁴ See *id.*, ¶¶ 15-18.

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 or opted out of the Settlement.⁷⁵

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 Plaintiff and the Class are reasonable in light of the risks inherent in further litigating this matter. Class Counsel’s efforts have resulted in a settlement that provides for a Gross Settlement Fund of \$3,000,000.00.⁷⁶ The Gross Settlement Fund will be paid out in accordance with the terms of the Settlement Agreement. The highest Individual Settlement Share to a Participating Class Member is currently estimated to be \$18,469.27 and the average Individual Settlement Share is currently estimated to be \$3,501.79.⁷⁷

6. The Reputation and Ability of the Attorneys.

Class Counsel is a recognized class action law firm that employed its attorneys’ knowledge, skills, and experience in bringing this case to a successful conclusion. Class Counsel has years of complex and class action litigation experience, has recovered millions of dollars on behalf of thousands of individuals in California, and has successfully handled numerous significant wage-and-hour class action and complex cases.⁷⁸

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⁷⁵ Simpluris Decl., ¶¶ 10 & 11.

⁷⁶ Aiwazian Decl., ¶¶ 5-8.

⁷⁷ Simpluris Decl., ¶ 15; see n.32, *supra*.

⁷⁸ Aiwazian Decl., ¶¶ 15-18.

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

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

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 matter was appropriate for class or representative treatment. Defendant raised affirmative defenses and denied liability, and the pursuit of this matter 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 their extensive experience in employment class actions and complex wage-and-hour litigation. Long and difficult battles

would have followed as the case moved toward certification and trial, including taking and defending additional depositions of Defendant's Person Most Knowledgeable designees, percipient witnesses, and experts, propounding additional discovery requests and conducting additional document production, and engaging in extensive motion practice. As Class Counsel geared up for these battles, Class Counsel undertook intense preparation in an attempt to resolve the entire matter through mediation.

Class Counsel had to bring together a large volume of data and documents that were produced by Defendant and obtained from Plaintiff and Class Members and through other sources. Class Counsel conducted extensive review and analysis of these documents and data to strategize the Action and to prepare for and 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 Plaintiff and the Class, and the time required for completing those tasks.⁷⁹ The chart demonstrates that Class Counsel has spent a total of 953.70 hours litigating the case and finalizing the Settlement.⁸⁰ In light of the facts and circumstances of the case, as well as the results that Class Counsel has achieved on behalf of Plaintiff and the Class Members, Class Counsel has spent a reasonable number of hours on this matter. In addition, Class Counsel will continue to perform work on this matter through the date of final approval and in connection with the implementation of the Settlement.

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

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

⁷⁹ See Aiwazian Decl., Exh. A.

⁸⁰ *Id.*, ¶ 11.

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 matter 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 \$3,000,000.00.

As set forth in the Declaration of Edwin Aiwasian, the professional backgrounds and experience of Lawyers for Justice, PC support a reasonable hourly rate of compensation of at least \$785 per hour for services provided by Class Counsel.⁸¹ Lawyers for Justice, PC has been awarded attorneys’ fees, compensating the firm at the rate of at least \$785 for legal service performed, by courts of this state.⁸² 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 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 in this case.

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

⁸¹ Aiwasian Decl., ¶ 12.

⁸² For example, 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 a higher 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 a higher hourly rate of \$831.38; 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 a higher hourly rate of \$845.64. Aiwasian Decl., ¶ 12.

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.

In determining whether or not to enhance the lodestar, California courts take into account multiple factors, many of which were specifically addressed above in §§ VI.B-C, *infra*. See, *Cates* at 822-23. Multiple factors warrant enhancement in this case, including the following:

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

Ketchum at 1134.

Adjustment of the base lodestar figure to compute an award of attorneys’ fees for a claim under the California Labor Code is appropriate. See *Id.*, at 1135-36; *Serrano v. Priest* (1977) 20 Cal.3d 25, 48-49. “The lodestar is calculated by multiplying the reasonable hours expended by a reasonable hourly rate. The court may then enhance the lodestar with a multiplier, if appropriate.” *Wershba, supra*, 91 Cal.App.4th at 254. In the first stage of the lodestar adjustment method, the trial court determines the reasonable hourly rate of compensation for counsel, which it then multiplies by the number of hours the court finds were reasonably spent preparing the case, to obtain the lodestar figure. *Ketchum, supra*, 24 Cal.4th at 1131-32. The lodestar figure is the “basic fee for comparable legal services in the community” based upon the “hourly amount to which attorneys of like skill in the area would typically be entitled.” *Id.*, at 1132-33 (quotation

marks and citation omitted).

As discussed above, this was a highly-contested matter which required an extensive amount of time and labor. Defendant raised defenses and denied liability, and the case involved gathering and analyzing documents and data not only from Defendant but also from the Class Members. The handling of this matter involved a great amount of effort, and required the exercise of high-level of skill, which Class Counsel has as a result of extensive experience in 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 is entitled to a risk multiplier. The results obtained by way of Class Counsel's efforts are significant here. Class Counsel was successful in achieving substantial results in the form of a settlement of \$3,000,000.00. 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 an exhibit to the Declaration of Edwin Aiwazian.⁸³ As the chart indicates, Class Counsel has worked 953.70 hours in the pursuit of this matter. The attorney task and time chart presents the entire picture. Applying a reasonable rate of \$785 per hour to the 953.70 hours of work performed by Lawyers for Justice, PC would place a base lodestar value of

⁸³ Aiwazian Decl., Exh. A.

\$748,654.50 on Class Counsel's services, and applying a modest multiplier of 1.53, the total enhanced lodestar fees are \$1,145,441.38.⁸⁴ Class Counsel seeks an attorneys' fee award of \$1,140,000.00 (equal to 38% of the Gross Settlement Fund 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 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 1.53 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. Plaintiff respectfully requests that the Court grant final approval of, and award, attorneys' fees in the amount of \$1,140,000.00 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 \$85,000.00. As set forth in the Declaration of Edwin Aiwazian, Class Counsel has incurred a total of \$49,995.38 in litigation costs and expenses.⁸⁵ 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.⁸⁶ The cost savings of \$35,004.62 will be part of the Net Settlement Fund, which will be distributed to the Participating Class Members in accordance with the Settlement.⁸⁷ Accordingly, Plaintiff requests that the Court award litigation costs and

⁸⁴ Aiwazian Decl., ¶ 11; *see n.2, supra*.

⁸⁵ *Id.*, ¶ 19.

⁸⁶ *Ibid.*

⁸⁷ *Ibid.*

1 expenses in the amount of \$49,995.38 to Class Counsel.

2 **VIII. THE ADMINISTRATION COSTS ARE FAIR AND REASONABLE AND**
3 **SHOULD BE APPROVED**

4 As set forth in the accompanying Simpluris Declaration, the total costs incurred and to be
5 incurred by Simpluris for the notice and settlement administration process are \$7,200.00.⁸⁸ The
6 costs incurred and to be incurred include, but are not limited to, expenses for formatting,
7 printing, and mailing the Notice Packet to the Class Members; performing skip-trace searches on
8 Notice Packets returned as undeliverable; re-mailing the Notice Packets to any updated addresses
9 located by skip-trace search; receiving, reviewing, and processing Requests for Exclusion,
10 Objections, and Qualifying Workweeks disputes (if any); handling inquiries from Class
11 Members regarding the Settlement; calculating Individual Settlement Payments and preparing
12 the associated tax forms; and transmitting payments, among other things.⁸⁹

13 Accordingly, the Court should grant final approval of payment to Simpluris, a necessary
14 third-party for handling of the notice and settlement process, in the amount of \$7,200.00.

15 **IX. THE REQUESTED SERVICE PAYMENT IS FAIR AND REASONABLE, AND**
16 **SHOULD BE APPROVED**

17 The Settlement provides for a Service Payment in the amount of \$15,000.00 to Plaintiff
18 Marco Rodriguez to compensate Plaintiff for the time and effort that he expended on behalf of
19 the Class. The requested Service Payment is both common and reasonable and should be
20 awarded.

21 In determining whether to make service payments, courts consider the following factors:
22 (1) the risk to the class representative in commencing suit, both financial and otherwise; (2) the
23 notoriety and personal difficulties encountered by the class representatives; (3) the amount of
24 time and efforts spent by the class representatives; (4) the duration of the litigation; and (5) the
25 personal benefit (or lack thereof) enjoyed by the class representatives as a result of the litigation.
26 *Vranken v. Atlantic Richfield Co.* (N.D. Cal. 1995) 901 F.Supp. 294, 299 (approving \$50,000
27

28 ⁸⁸ Simpluris Decl., ¶ 17.

⁸⁹ *Id.*, ¶ 3.

1 participation award to a single class representative).

2 The requested Service Payment is fair and appropriate because Plaintiff spent a
3 substantial amount of time and effort producing relevant documents and past employment
4 records, as well as providing the facts and evidence necessary to attempt to prove the allegations,
5 including and not limited to, by way of working with Class Counsel to prepare responses to
6 multiple sets of written discovery requests that were propounded by Defendant, preparing for and
7 attending a full-day deposition, and reviewing his deposition transcript.⁹⁰ Plaintiff was available
8 whenever Class Counsel needed him and actively tried to obtain, and gave, information that
9 would benefit the Class.⁹¹ Plaintiff spent numerous hours speaking with Class Counsel about his
10 claims, describing his work experiences with Defendant, and gathering and reviewing
11 documents.⁹² These services merit the requested Service Payment to Plaintiff, who has not
12 received any compensation for his efforts on behalf of the Class Members to date.⁹³

13 The requested Service Payment was fully disclosed in the Notice Packet that was mailed
14 to the Class Members. No objections were made with regards to the requested Service Payment.
15 Accordingly, it is appropriate and just for Plaintiff Marco Rodriguez to receive \$15,000.00 as a
16 reasonable Service Payment, in addition to his Individual Settlement Payment, for his services
17 on behalf of the Class.

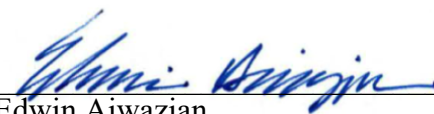
18 **X. CONCLUSION**

19 For the foregoing reasons, Plaintiff respectfully requests that the Court grant final
20 approval of the Settlement, and award the Attorneys' Fees and Costs Payment, Service
21 Payment, Administration Costs, and allocation for the PAGA Payment in their entirety, as
22 sought herein; and permit the filing of a memorandum that exceeds the page limit.

23 Dated: June 28, 2021

LAWYERS for JUSTICE, PC

24
25 By:


Edwin Aiwanian
Attorneys for Plaintiff and the Class

27 ⁹⁰ Aiwanian Decl., ¶ 20; Declaration of Marco Rodriguez ("Rodriguez Decl."), ¶¶ 3-5.

28 ⁹¹ Aiwanian Decl., ¶ 20; Rodriguez Decl., ¶¶ 3-5.

⁹² Aiwanian Decl., ¶ 20; Rodriguez Decl., ¶¶ 2-6.

⁹³ Rodriguez Decl., ¶ 9.