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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES**

CRYSTAL MARTINEZ RAMIREZ, an
individual, on behalf of herself and others
similarly situated

PLAINTIFF,

v.

SP PLUS CORPORATION; and DOES 1 thru
50, inclusive,

DEFENDANTS.

CASE NO. BC614253

[Case Assigned for All Purposes to Hon.
Robert B. Broadbelt in Dept. 53]

**NOTICE OF MOTION AND MOTION
FOR FINAL APPROVAL OF CLASS
SETTLEMENT; MEMORANDUM OF
POINTS AND AUTHORITIES IN
SUPPORT THEREOF**

*[Filed concurrently with motion for Approval
of Attorneys' Fees and Costs; Declarations
of Kelsey M. Szamet, Crystal Martinez
Ramirez, and Abigail Schwartz; [Proposed]
Order Granting Final Approval of Class
Action Settlement and Final Judgment]*

Date: April 16, 2019

Time: 8:30 a.m.

Dept.: 53

Reservation ID:917587802704

Complaint Filed: March 18, 2016
FAC: November 19, 2018

1 **TO ALL PARTIES AND TO THEIR ATTORNEYS OF RECORD:**

2 PLEASE TAKE NOTICE that on April 16, 2019 in Department 53 of the above-entitled
3 court, Plaintiff CRYSTAL MARTINEZ RAMIREZ ("Plaintiff") will, and hereby does, move
4 the Court for an Order of Final Approval of the Class Settlement in this case. Plaintiff requests
5 that the Court:

6 (1) Grant final approval of the Joint Stipulation of Class Action Settlement ("Settlement
7 Agreement"), a copy of which is attached to the concurrently-filed Declaration of Kelsey M.
8 Szamet as Exhibit "1";

9 (2) Award attorneys' fees and costs as detailed in the concurrently-filed Motion for
10 Attorneys' Fees and Costs;

11 (3) Award Rust Consulting, Inc. settlement administration fees of \$27,500.00 for its
12 services as Claims Administrator;

13 (4) Affirm Named Plaintiff Crystal Martinez Ramirez as Class Representative and award
14 a Class Representative payment of \$5,000.00; and

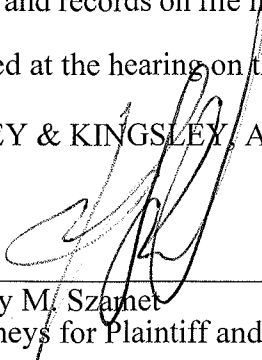
15 (5) Enter the Proposed Order Granting Final Approval of Class Action Settlement and
16 Final Judgment.

17 This Motion will be made pursuant to Code of Civil Procedure section 382 and California
18 Rules of Court, rule 3.769 on the grounds that the proposed Class Settlement is fair, adequate,
19 reasonable, and in the best interest of the Class and the parties.

20 The Motion will be based on this Notice of Motion, the attached Memorandum of Points
21 and Authorities, the Declarations of Kelsey M. Szamet, Crystal Martinez Ramirez, and Abigail
22 Schwartz of Rust Consulting, Inc.; all other papers and records on file in this action, and on such
23 oral and documentary evidence as may be presented at the hearing on this Motion.

24 Dated: April 2, 2019

KINGSLEY & KINGSLEY, APC

25
26 By: 

27 Kelsey M. Szamet
28 Attorneys for Plaintiff and the Proposed Class

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1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. INTRODUCTION**

3 Plaintiff Crystal Martinez Ramirez ("Plaintiff") submits this Motion for Final Approval
4 of Class Settlement and requests that the Court:

5 (1) Grant final approval of the Joint Stipulation of Class Action Settlement ("Settlement
6 Agreement"), a copy of which is attached to the concurrently-filed Declaration of Kelsey M.
7 Szamet as Exhibit "1";

8 (2) Award attorneys' fees and costs as detailed in the concurrently-filed Motion for
9 Attorneys' Fees and Costs;

10 (3) Award Rust Consulting, Inc. settlement administration fees of \$27,500.00 for its
11 services as Claims Administrator;

12 (4) Affirm Named Plaintiff Crystal Martinez Ramirez as Class Representative and award
13 a Class Representative payment of \$5,000.00; and

14 (5) Enter the Proposed Order Granting Final Approval of Class Action Settlement and
15 Final Judgment.

16 **II. FACTUAL BACKGROUND**

17 **A. Litigation Overview and Procedural History**

18 On February 4, 2016, Plaintiff sent a letter to Defendant and the Labor Workforce
19 Development agency giving notice of her intent to pursue a representative action under the
20 California Labor Code's Private Attorneys General Act ("PAGA") on behalf of herself, the State
21 of California, and on behalf of a proposed group of aggrieved employees. (Declaration of Kelsey
22 M. Szamet ¶ 5. ("Szamet Decl."); Sett. Agrmt. 5:10-13)

23 Plaintiff received confirmation that the LWDA was electronically served on February 4,
24 2016 and Defendant received the letter on February 8, 2016. (Szamet Decl. ¶ 6.; Sett. Agrmt.
25 5:14-15.)

26 On March 18, 2016, Plaintiff filed a representative action under the California Labor
27 Code's Private Attorneys General Act ("PAGA") alleging that Defendant provided Plaintiff and
28 other aggrieved employees with incomplete wage statements that violated Labor Code § 226(a)

1 and that it failed to reimburse expenses as required under Labor Code § 2802. (Szamet Decl. ¶
2 7.; Sett. Agrmt. 5:16-19.)

3 **B. The Discovery Process**

4 After the matter was at issue, the Parties began to engage in formal and informal
5 discovery to understand the nature of the allegations and the scope of potential liability. (Szamet
6 Decl. ¶ 8.; Sett. Agrmt. 5:20-25.) The Parties exchanged pertinent documents, information, and
7 data concerning the claims set forth in the Lawsuit, including Defendant's policies and practices
8 regarding the alleged violations of Labor Code §§ 226 and 2802, the number of allegedly
9 violative wage statements at issue, all versions of itemized wage statements issued to the class,
10 the number of pay periods at issue, as well as information regarding the number of allegedly
11 affected employees. (Szamet Decl. ¶ 9). Defendant also produced Plaintiff's wage statements,
12 time records, personnel file, payroll records, and other relevant documents. (Szamet Decl. ¶ 10).
13 Plaintiff was provided with the information necessary to fully-investigate the claims at issue and
14 evaluate the potential strengths and weaknesses of the claims at issue. (Szamet Decl. ¶ 11).

15 Through substantial formal and informal discovery and attendant discussions between
16 the Parties, Plaintiff learned that the number of Settlement Class Members is approximately
17 5,040 (including Plaintiff) and there are 134,255 itemized wage statements at issue. (Szamet
18 Decl. ¶ 12; Sett. Agrmt. 6:11-15.)

19 **C. Resolution Efforts**

20 On August 22, 2017, the Parties engaged in good faith, arms-length negotiations during
21 a day-long mediation with the assistance of the Hon. Herbert B. Hoffman (Ret.). (Szamet Decl.
22 ¶ 13; Sett. Agrmt. 5:26-6:6.) The Parties were unable to reach a settlement that day, but agreed
23 to engage in further discussions aided by Judge Hoffman. *Id.* After further discussions and the
24 gathering of more information, the Parties then conducted a second full-day mediation with
25 Judge Hoffman on October 18, 2017. *Id.* Again, the Parties were unable to reach resolution that
26 day. But after months of continued arms-length negotiations conducted by Judge Hoffman, the
27 Parties were able to reach a settlement of the Lawsuit subject to the approval of the Court. *Id.*
28 The Parties entered into a Memorandum of Understanding ("MOU"), effective December 19,

1 2017. (Szamet Decl. ¶ 14; Sett. Agrmt. 5:26-6:6.)

2 As part of settlement, the Parties agreed that Plaintiff shall file an amended complaint,
3 adding class claims under Labor Code §§ 226 and 2802. (Szamet Decl. ¶ 15.) Accordingly, on
4 June 26, 2018, Plaintiff submitted a joint stipulation permitting Plaintiff to file a First Amended
5 Complaint (“FAC”).¹ (Szamet Decl. ¶ 17.)

6 **D. Preliminary Approval Process**

7 On August 13, 2018, Plaintiff filed her Motion for Preliminary Approval of Class
8 Settlement. (Szamet Decl. ¶ 18.) On August 22, 2018, Ms. Huda’s counsel filed an objection to
9 Plaintiff’s Motion for Preliminary Approval. (Szamet Decl. ¶ 19.) Plaintiff filed a response to
10 Ms. Huda’s objection on August 30, 2018 on the grounds the objection was premature and lacks
11 merit. (Szamet Decl. ¶ 20.) Defendant also filed a response to Ms. Huda’s objection. (Szamet
12 Decl. ¶ 21.) At the September 6, 2018, Preliminary Approval hearing, Judge Anthony J. Mohr
13 declined to entertain the premature objection, finding that the proper time to consider objections
14 was at final approval, not preliminary approval. (Szamet Decl. ¶ 22.)

15 Judge Anthony J. Mohr granted Preliminary Approval of the Settlement Agreement on
16 November 16, 2018. (Szamet Decl. ¶ 23.) After Preliminary Approval was granted, the Parties
17 carried out the Notice process set forth in detail in the Settlement Agreement. (Szamet Decl. ¶
18 24.)

19 On February 5, 2019, through her Counsel, Sarah Huda submitted a request for exclusion
20 (i.e., “opt-out”) and a notice of objection to the class settlement. (Szamet Decl. ¶ 25). Because
21 Ms. Huda objected at preliminary approval, Plaintiff’s counsel anticipates that Ms. Huda’s
22 counsel may file an objection to Plaintiff’s instant Motion for Final Approval. (Szamet Decl. ¶
23 26).

24 Plaintiff now submits the Settlement Agreement for the Court’s review and requests that
25 the Court grant Final Approval and enter the Proposed Order Granting Final Approval of Class
26 Action Settlement and Final Judgment.

27 **III. THE PRELIMINARILY APPROVED SETTLEMENT**

28 ¹ The FAC was filed on November 19, 2018. (Szamet Decl. ¶ 16.)

1 **A. The Settlement Class**

2 For purposes of Settlement, the Settlement Class is defined as: all current and former
3 employees who work/worked for Defendant in the State of California during the “Covered
4 Period.” (Szamet Decl. ¶ 27; Sett. Agrmt. 5:4-8.) The “Settlement Class Members,” “Settlement
5 Class,” or “Class Members” shall not include any person who submits a timely and valid Request
6 for Exclusion as provided in this Agreement, or any person who previously released the Released
7 Claims under a separate agreement. *Id.*

8 The “Covered Period” is tailored to the alleged violation: (1) Labor Code § 226(a)
9 violations for the period of January 1, 2016 to November 16, 2018;² (2) Labor Code § 2802
10 violations for the period of March 3, 2015 to November 16, 2018; (3) PAGA violations arising
11 from Labor Code § 226(a) for the period of January 1, 2016 to November 16, 2018; and (4)
12 PAGA Violations arising from Labor Code § 2802 for the period of March 3, 2015 to November
13 16, 2018. (Szamet Decl. ¶ 28; Sett. Agrmt. 2:24-3:2.)

14 On or about December 7, 2018, Counsel for the Defendants provided the Claims
15 Administrator (Rust Consulting, Inc.) with a mailing list containing Class Member’s employee
16 identification number, full names, last known addresses, last known home telephone numbers,
17 Social Security Numbers and applicable employment information (“Class Data”). The Class
18 Data contained data for 5,027 potential Class Members. (Schwartz Decl. ¶ 8.)

19 Because five (5) class members opted out (Ms. Huda and four others), the final
20 Settlement Class contains 5,022 individuals. (Schwartz Decl. at ¶ 17.) There is a single
21 objection, which is from Ms. Huda. (*Id.*; *see also* Szamet Decl. ¶ 30)

22 **B. Settlement Payments**

23 As detailed fully in the Settlement Agreement, the Settlement provides for Defendant to
24 pay a non-reversionary Gross Settlement Amount \$1,180,000. The Gross Settlement Amount
25 includes the sum of the Individual Settlement Payments, the Class Representative Enhancement,
26 the Class Counsel’s Attorney’s Fees and Costs, PAGA Payment, and the Settlement
27

28 ² November 16, 2018 is the date Judge Anthony J. Mohr granted preliminary approval.
(Szamet Decl. ¶ 29.)

Administration Costs, as specified in the Settlement Agreement. (Szamet Decl. ¶ 31; Sett. Agrmt. ¶III, J.)

Plaintiff now requests final approval of the allocation of the Gross Settlement Amount to determine the Net Settlement Amount for distribution to the Settlement Class as follows:

Gross Settlement Amount	\$ 1,180,000.00
Class Representative Enhancement	\$ 5,000.00
Class Counsel's Fees (1/3 of Gross)	\$ 393,333.33
Class Counsel's Costs	\$ 11,000.00
PAGA Payment (\$25,000 with 75% or \$18,750 to LWDA)	\$ 18,750.00
Settlement Administration Costs	\$ 27,500.00
Net Settlement Amount	\$ 724,416.67

(Szamet Decl. ¶ 32; Sett. Agrmt. ¶III, J(6).)

The amount of each Class Member's individual settlement payment is an individualized amount that is based on the number of compensable pay periods worked by the Settlement Class Member during the Class Period. This individual amount shall be determined according to the formula set forth in the Settlement Agreement. (Sett. Agrmt. ¶J.1.A) The Settlement Agreement provides for a specific and detailed Workweek dispute process. (Sett. Agrmt. ¶I.3)

C. Class Notice

The procedures for giving notice to the Class Members, as set forth in the Settlement Agreement and Plaintiffs' Motion for Preliminary Approval, have been fully and properly carried out. (Schwartz Decl. ¶¶ 3-18.)

To date, Rust Consulting has received: five (5) opt outs and one (1) objection. (Schwartz Decl. ¶¶ 17-18.)

D. Check Mailed Settlement – No Reversion

The Parties agreed to, and the Court preliminary approved, a checks-mailed settlement without the possibility of reversion of settlement funds to Defendant. (Szamet Decl. ¶ 33). Under the Settlement, any checks issued to Settlement Class Members shall remain valid and negotiable for 180 days from the date of their issuance. (Szamet Decl. ¶ 34, Ex. 1, ¶ III. J(1)(d).) If a Settlement Class Member does not cash his or her settlement check within 180 days, the Settlement Agreement contemplates that uncashed funds shall be transmitted to the Department

1 of Industrial Relations Unpaid Wages Fund, pursuant to Court Approval, or that uncashed funds
2 shall be distributed pursuant to Cal. Code Civ. Proc. section 384(b)(3)(C). Id.

3 Class Counsel has learned recently from the Claims Administrator that the Department
4 of Industrial Relations Unpaid Wages Fund will no longer accept such funds. (Szamet Decl. ¶
5 35). As such, Class Counsel believes it is appropriate to distribute any uncashed funds to the
6 non-profit Bet Tzedek pursuant to Cal. Code Civ. Proc. section 384(b)(3)(C). (Szamet Decl. ¶
7 36.) Bet Tzedek provides free legal services to low-wage workers that are denied their rights
8 under the Labor Code. (Szamet Decl. ¶ 37.) Thus, there is a strong nexus between the mission
9 of Bet Tzedek and the interests of this litigation. (Szamet Decl. ¶ 38.)

10 **E. Individuals that Opt-Out of the Settlement Class Are No Longer Class**
11 **Members and Do Not Have Standing to Object**

12 On December 21, 2018, the Class Notice was mailed out and advised Class Members
13 that they could request exclusion or object by February 19, 2019. (Schwartz Decl. ¶ 10; Ex. A
14 [Class Notice].) On February 5, 2019, Sarah Huda submitted a request for exclusion and a notice
15 of objection to the class settlement. (Schwartz Decl. ¶ 18; Szamet Decl. ¶ 39) Because Ms.
16 Huda “opted-out”, she lacks standing to object.

17 It is well-established that only class members have standing to object to a settlement.
18 (*Roos v. Honeywell International, Inc.* (2015) 241 Cal.App.4th 1472, 1485 “[C]lass
19 membership is an essential prerequisite for standing to object. Objectors to a class settlement
20 who are not members of the class typically cannot demonstrate standing—under either the
21 federal case-or-controversy standard or under the state personal-interest standard—because they
22 will not be affected by the settlement.”]; *San Francisco NAACP v. San Francisco Unified School*
23 *Dist.* (1999) 59 F.Supp.2d 1021, 1032 “[N]onclass members have no standing to object to the
24 settlement of a class action.”.) Only a party aggrieved by deficiencies in the settlement may
25 object to it. (*Rebney v. Wells Fargo Bank* (1990) 220 Cal.App.4th 1117, 1128–32 [finding the
26 objectors lacked standing to challenge the expansion of the class and the fairness of the
27 settlement because they were not aggrieved by the defendant bank’s improper fee practices].)
28 Class members may either object or opt out, but they cannot do both. (*Rebney*, supra, 220

1 Cal.App.4th at p. 1128.)

2 Accordingly, this Court should decline to entertain any objection that Ms. Huda might
3 file.

4 **F. The Release is Narrowly Tailored**

5 “Released Claims” refers to:

6 [A]ll claims ... that are alleged, or that could have been alleged
7 against Defendant *arising out of the facts, circumstances, and*
8 *primary rights in the Complaint*... This release shall include ...
9 claims that were raised, or that could have been raised ... based on
10 the facts alleged, or that could have been alleged against Defendant
11 *arising out of the facts, circumstances, and primary rights in the*
12 *Complaint*.

13 (Szamet Decl. ¶ 40; Ex. 1, 2:12-23, emphasis added.)

14 In the present case, Plaintiff alleged facts and theories of liability in the FAC relating
15 only to violations of Labor Code §§ 226 and 2802; and a derivative PAGA claim based on these
16 underlying violations. (Szamet Decl. ¶ 41; *see also* FAC.) As such, the class does not waive,
17 for example, any claims for waiting time penalties under Labor Code § 203. Lastly, the Cal.
18 Civ. Code § 1542 waiver is applicable only to the named plaintiff. (Szamet Decl. ¶ 42; Ex. 1,
19 20:23-21:8.) For these reasons, the class release is narrowly tailored to the claims and facts
20 alleged in the FAC.

21 **IV. THE COURT SHOULD GRANT FINAL APPROVAL OF THE SETTLEMENT**

22 Pursuant to California Code of Civil Procedure § 1781(f), “a class action shall not be
23 dismissed or compromised without the approval of the court, and notice of the proposed
24 dismissal or compromise shall be given to all members of the Class in such manner as the court
25 directs” In deciding whether to grant final approval to a proposed class action settlement
26 under Code of Civil Procedure § 382, the court’s overriding concern is whether the proposed
27 settlement is “fair, adequate, and reasonable.” (*Dunk v. Ford Motor Co.* (1996) 48 Cal.App.4th
28 1794, 1801.)

29 **A. The Settlement is Entitled to a Presumption of Fairness**

30 “A presumption of fairness exists where: (1) the settlement is reached through arm’s

length bargaining; (2) investigation and discovery are sufficient to allow counsel and the court to act intelligently; (3) counsel is experienced in similar litigation; and (4) the percentage of objectors is small.” (*Dunk, supra*, 48 Cal.App.4th at p. 1802.) The proposed Settlement in the present case meets all of the *Dunk* factors and is therefore entitled to a presumption of fairness.

As to the first *Dunk* factor, this settlement is the result of adversarial, non-collusive, and arms-length negotiations. All settlement discussions were made by experienced and informed counsel, who believe that this settlement represents a favorable resolution for the Class. (Szamet Decl. ¶ 43.) On August 22, 2017, the Parties engaged in good faith, arms-length negotiations during a day-long mediation with the assistance of the Hon. Herbert B. Hoffman (Ret.). (Szamet Decl. ¶ 13; Sett. Agrmt. 5:26-6:6.) The Parties were unable to reach a settlement of the Lawsuit that day, but agreed to engage in further discussions aided by Judge Hoffman. *Id.* After further discussions and the gathering of more information, the Parties then conducted a second full-day mediation with Judge Hoffman on October 18, 2017. *Id.* Again, the Parties were unable to reach resolution that day. But after months of continued arms-length negotiations conducted by Judge Hoffman, the Parties were able to reach a settlement of the Lawsuit subject to the approval of the Court. *Id.*

Second, the Parties engaged in formal and informal discovery that permitted Class Counsel to fairly evaluate the strength of the case and the risks associated with ongoing litigation. (Szamet Decl. ¶ 44). The Parties exchanged information concerning the claims set forth in the Lawsuit, including Defendant’s policies and practices regarding the alleged violations of Labor Code §§ 226 and 2802, the number of allegedly violative wage statements at issue, all versions of itemized wage statements issued to the class, the number of pay periods at issue, as well as information regarding the number of allegedly affected employees. (Szamet Decl. ¶ 45). Defendant also produced Plaintiff’s wage statements, time records, personnel file, payroll records, and other relevant documents. (Szamet Decl. ¶ 46). Receipt of appropriate discovery allowed Class Counsel to fairly evaluate the exposure and risks associated with each claim alleged in the lawsuit. (Szamet Decl. ¶ 47.) Through substantial formal and informal discovery and attendant discussions between the Parties, Plaintiff learned that the number of Settlement

1 Class Members is approximately 5,040 (including Plaintiff) and there are 134,255 itemized wage
2 statements at issue. (Szamet Decl. ¶ 48.)

3 Third, Class Counsel have significant experience in cases of this type, including over 18
4 years prosecuting wage, hour, and working condition violations. (Szamet Decl. ¶ 49.) Class
5 Counsel is thus qualified to evaluate the class claims and viability of the defenses. Class Counsel
6 believes that the settlement is fair, reasonable, adequate, and in the best interests of the class,
7 given the risks inherent in litigation and the defenses asserted. (Szamet Decl. ¶ 50.)

8 Finally, the fourth *Dunk* factor considers the percentage of objectors. Here, there is only
9 a single objection, which is from Ms. Huda. (*Id.*; see also Szamet Decl. ¶ 51) One objector out
10 of the final Settlement Class of 5,022 is an exceedingly small proportion of objectors. As all of
11 the *Dunk* factors are satisfied, this settlement is entitled to a presumption of fairness.

12 **B. The Court Should Approve This Class Action Settlement Because It Satisfies**
13 **Each of the *Kullar* Factors**

14 The case of *Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th 116, 128, sets forth
15 several factors that the Court should analyze in determining whether to approve a class action
16 settlement. These factors include: (1) the strength of plaintiff's case; (2) the risk, expense,
17 complexity and likely duration of further litigation; (3) the risk of maintaining class action status
18 through trial; (4) the amount offered in settlement; (5) the extent of discovery completed and
19 stage of the proceedings; (6) the experience and views of counsel; (7) the presence of a
20 governmental participant; and (8) the reaction of the class members to the proposed settlement.

21 The proposed settlement satisfies each of these factors. (Szamet Decl. ¶ 52.)

22 **1. The Strength of Plaintiff's Case**

23 **a. The Risks Associated with the Wage Statement Claim**

24 Labor Code §226(a) requires, in relevant part:

25 An employer, semimonthly or at the time of each payment of wages,
26 shall furnish to his or her employee ... an accurate itemized
27 statement in writing showing ... (6) the inclusive dates of the period
28 for which the employee is paid, (7) the name of the employee and
only the last four digits of his or her social security number or an
employee identification number other than a social security number,

1 (8) the name and address of the legal entity that is the employer ...
2 and (9) all applicable hourly rates in effect during the pay period and
3 the corresponding number of hours worked at each hourly rate by
4 the employee.

5 Here, Plaintiff alleged that Defendant issued wage statements that violate this provision
6 by issuing itemized wage statements that fail to show four specific categories set forth in Labor
7 Code §226(a)(6)-(9). (Szamet Decl. ¶ 53.) Specifically, Plaintiff alleged that Defendant failed
8 to include the inclusive dates of the period for which the employee is paid, the name of the
9 employee, the name of the employer, and all applicable hourly rates in effect during the pay
10 period and the corresponding number of hours worked at each hourly rate by the employee.
(Szamet Decl. ¶ 54.)

11 Plaintiff takes the position that Defendant's itemized wage statements simply do not
12 show the required information. (Szamet Decl. ¶ 55.) Given that Plaintiff believes she could
13 establish that at least some of the itemized wage statements issued by Defendant did not include
14 the required information, Plaintiff was reasonably confident that she could establish that
15 Defendant violated Labor Code § 226(a). (Szamet Decl. ¶ 56.)

16 However, there were certainly risks to be weighed. (Szamet Decl. ¶ 57.) To recover
17 damages on a class claim under Labor Code § 226, Plaintiff must show the class suffered an
18 "injury" and that the violation was "knowing and intentional." Labor Code § 226(e)(1) provides:

19 An employee *suffering injury* as a result of a *knowing and*
20 *intentional* failure by an employer to comply with subdivision (a) is
21 entitled to recover the greater of all actual damages or fifty dollars
22 (\$50) for the initial pay period in which a violation occurs and one
23 hundred dollars (\$100) per employee for each violation in a
subsequent pay period, not to exceed an aggregate penalty of four
thousand dollars (\$4,000), and is entitled to an award of costs and
reasonable attorney's fees.

24 ///

25 (Emphasis added.) As explained below, Plaintiff perceived little risk that she could satisfy the
26 injury requirement for at least three of the violations of Labor Code § 226(a). (Szamet Decl. ¶
27 58.) However, Plaintiff perceived substantial risk in proving the Labor Code § 226(a) violation
28 was "knowing and intentional." (Szamet Decl. ¶ 59.)

1 Regarding the injury requirement, Defendant maintained that Plaintiff could not
2 articulate a cognizable injury here. (Szamet Decl. ¶ 60.) Pursuant to Labor Code § 226(e)(2)(B):

3 An employee is deemed to *suffer injury* for purposes of this
4 subdivision if the employer fails to provide accurate and complete
5 information as required by any one or more of items (1) to (9),
6 inclusive, of subdivision (a) **and** the employee cannot *promptly and*
easily determine from the wage statement alone one or more of the
following:

7 (i) [A]ny of the other information required to be provided on the
8 itemized wage statement pursuant to items (2) to (4), inclusive, (6),
9 and (9) of subdivision (a).

10 (ii) [Omitted.]

11 (iii) The name and address of the employer....

12 (iv) The name of the employee and only the last four digits of his or
13 her social security number or an employee identification number
other than a social security number.

14 (Emphasis added.) “‘[P]romptly and easily determine’ means a reasonable person would be able
15 to readily ascertain the information without reference to other documents or information.” Labor
16 Code § 226(e)(2)(C).

17 Here, Plaintiff alleged that Defendant failed to include the inclusive dates of the period
18 for which the employee is paid (Labor Code § 226(a)(6)), the name of the employee (Labor Code
19 § 226(a)(7)), the name of the employer (Labor Code § 226(a)(8)), and all applicable hourly rates
20 in effect during the pay period and the corresponding number of hours worked at each hourly
21 rate by the employee. (Labor Code § 226(a)(9)). (Szamet Decl. ¶ 61.) Plaintiff maintains that,
22 “from the wage statement alone,” the class cannot reasonably ascertain any of this information.
23 (Szamet Decl. ¶ 62.)

24 ///

25 Plaintiff certainly anticipated that Defendant would argue Plaintiff could easily
26 determine the start date of the pay period from the face of the wage statement alone by simply
27 counting back from the listed end date of the pay period and likewise. (Szamet Decl. ¶ 63.)
28 Contrary to Defendant’s anticipated argument, Plaintiff maintains that Plaintiff would have to

1 look at documents outside the four corners of the wage statement to determine the exact dates of
2 Defendant's pay periods. (Szamet Decl. ¶ 64.) In addition, Plaintiff maintains that courts have
3 long held that confusion is sufficient to establish injury under this simple standard. (*McKenzie*
4 *v. Federal Exp. Corp.*, (C.D. Cal. 2011) 765 F.Supp.2d 1222.) Nonetheless, Plaintiff had to
5 acknowledge that there was risk that the trier of fact would determine that the start date of the
6 pay period could easily be determined from the face of the wage statement alone. (Szamet Decl.
7 ¶ 65.) As it relates to the other three alleged violations of Labor Code § 226(a), however, Plaintiff
8 perceived little risk that she would be able to establish injury. (Szamet Decl. ¶ 66.)

9 Most importantly from a risk analysis perspective, however, is Plaintiff's ability to show
10 that any alleged Section 226(a) violation was "knowing and intentional." (Szamet Decl. ¶ 67.)
11 Defendant maintained that if a Court determined that there was any violation, it would be only a
12 technical violation of Labor Code § 226(a) that did not merit the imposition of penalties.
13 (Szamet Decl. ¶ 68.) Labor Code § 226(e)(3) ("For purposes of this subdivision, a 'knowing and
14 intentional failure' does not include an isolated and unintentional payroll error due to a clerical
15 or inadvertent mistake."); *see also* Labor Code § 226.3 (the Labor Commissioner has the
16 discretion to "decide not to penalize an employer for a first violation when that violation was
17 due to a clerical error or inadvertent mistake.") Plaintiff takes the position that issuing wage
18 statements to over 5,000 class members since January 1, 2016 to November 16, 2018 is unlikely
19 to be a mere clerical or inadvertent error. (Szamet Decl. ¶ 69.) Nevertheless, Plaintiff had to
20 recognize that there was risk that a trier of fact might ultimately be swayed by Defendant's
21 argument, and award **nothing** for the class claims under Labor Code § 226. (Szamet Decl. ¶ 70.)
22 The risk that the class could obtain nothing at trial warranted a significant discount. (Szamet
23 Decl. ¶ 71.)

24 ///

25 As for valuation of the Labor Code § 226 claim, Labor Code § 226(e) sets forth the
26 penalty scheme of \$50 for the initial violation and \$100 for each pay period thereafter with a
27 maximum of \$4,000 per employee. Here, the maximum available penalty would be
28

1 \$13,173,500.³ (Szamet Decl. ¶ 72.) This number is actually overstated because it does not
2 account for the \$4,000 maximum penalty per individual. (Szamet Decl. ¶ 74.) Labor Code §
3 226(e) (penalties per individual are “not to exceed an aggregate penalty of four thousand dollars
4 (\$4,000)[.]”) For class members who worked the entire class period the \$4,000 maximum would
5 be hit thereby lowering the overall potential penalty recovery. (Szamet Decl. ¶ 75.)

6 **b. The Risks Associated with the Labor Code § 2802 Claim**

7 Labor Code § 2802(a) provides:

8 An employer shall indemnify his or her employee for all necessary
9 expenditures or losses incurred by the employee in direct
10 consequence of the discharge of his or her duties, or of his or her
11 obedience to the directions of the employer, even though unlawful,
unless the employee, at the time of obeying the directions, believed
them to be unlawful.

12 As it relates to the Labor Code § 2802 allegations, there was also cognizable risk.
13 (Szamet Decl. ¶ 76.) Plaintiff maintained that she was required to clock in and out using her
14 cellphone. (Szamet Decl. ¶ 77.) Defendant strongly disputed this, and maintained that if Plaintiff
15 or any other workers did clock in and out using their personal cellphone, it was only a very
16 limited group of employees working at a handful of parking of kiosks and those employees also
17 generally had other available means to clock in and out such as through a desktop computer or
18 landline telephone. (Szamet Decl. ¶ 78.) Plaintiff’s Counsel vetted these arguments with
19 Plaintiff Ramirez. (Szamet Decl. ¶ 79.) In the end, Plaintiff disputed these facts, but if Defendant
20 were able to establish such facts, there could potentially be zero liability associated with this
21 claim. (Szamet Decl. ¶ 80.)

22 In addition, there was no evidence of a written policy requiring the class to clock-
23 in/clock-out on personal cell-phones. (Szamet Decl. ¶ 81.) The lack of a written policy created
24 a strong risk that the Labor Code § 2802 claim would not be certified, as Defendant would argue
25 that a person-by-person inquiry would have to be conducted and that individual issues certainly
26 predominated as a result. (Szamet Decl. ¶ 82.) If the case proceeded to trial, Plaintiff would have

27 ³ \$13,173,500 = ((initial violation of 5,040 [No. of approx. class members at mediation] x \$50
28 = \$252,000) + (subsequent violation of 129,215 [No. of subsequent wage statements in class
period] x \$100 = \$12,921,500)). (Szamet Decl. ¶ 73.)

1 to rely on oral testimony to not only prove the underlying § 2802 violation, but also to show that
2 the requirements of class certification are met. (Szamet Decl. ¶ 83.)

3 Moreover, even if Plaintiff were able to establish the facts and liability on this claim as
4 to the entire class or even a smaller subclass, there is a question as to what amount could be
5 recoverable. (Szamet Decl. ¶ 84.) If an employee is simply using a personal cellphone for a
6 limited amount of time per shift, there is an open question as to what amount an employer is
7 responsible for if that employee would have maintained the same personal cellphone anyway.
8 (Szamet Decl. ¶ 85.) Assuming the Court found that the Class was required to use their personal
9 cellphone to clock in and out without a secondary option available, the Court could still be
10 persuaded by the argument that the Class merely used personal cellphones for minutes or seconds
11 per shift to clock in and out. (Szamet Decl. ¶ 86.) Thus, even if Plaintiff established liability,
12 she could potentially be awarded mere dollars or pennies as a “reasonable percentage” of her
13 overall monthly cellphone costs. (Szamet Decl. ¶ 87.) (See *Cochran v. Schwan’s Home Services,*
14 *Inc.* (2014) 228 Cal.App.4th 1137 at 1144).

15 Considering the foregoing serious risks on the merits, class certification, and calculating
16 damages, Plaintiff believed that it was reasonable to value the reimbursement of cell-phone
17 expenses at \$10 per month, per employee. (Szamet Decl. ¶ 88.) Using 5,040 Class Members,
18 the maximum amount is amount \$2,116,800 (42 months x \$10/person x 5,040). (Szamet Decl.
19 ¶ 89.)

20 **c. The Risks Associated with the PAGA Claim**

21 California’s Private Attorneys General Act (“PAGA”), Labor Code § 2698, *et seq.*,
22 permits private litigants to recover civil penalties for violations of the Labor Code. PAGA
23 provides that plaintiffs may recover previously established civil penalties (section 2699(a)) or,
24 if none were established, plaintiffs may recover default penalties provided in section 2699(f) in
25 the amount of \$100 per employee per pay period for the initial violation and \$200 for subsequent
26 violations.

27 Here, Plaintiff sought civil penalties under PAGA for underling violations of Labor Code
28 §§ 226 and 2802 based on the facts previously discussed. (Szamet Decl. ¶ 90.) Since the PAGA

1 claim is derivative, if Plaintiff failed on the underlying Labor Code §§ 226 and 2802 claims,
2 Plaintiff would recover nothing under PAGA. (Szamet Decl. ¶ 91.) Plaintiff calculated the max
3 exposure under PAGA as \$13,425,500 (\$100 per wage statement) and \$26,347,000 (\$100 for
4 initial violation and \$200 for subsequent violations per wage statement). (Szamet Decl. ¶ 92.)
5 At trial, Plaintiff would take the position that the latter figure is the accurate one. (Szamet Decl.
6 ¶ 93.) However, Defendant will argue \$26,347,000 is not an accurate maximum exposure
7 calculation, as the higher “subsequent” \$200 violation rate does not apply. *See Amaral v. Cintas*
8 *Corp. No. 2*, 163 Cal.App.4th 1157, 1209 (2008) (holding the lower \$100 initial violate rate
9 applies “[u]ntil an employer has been notified that it is violating a Labor Code provision (whether
10 or not the Commissioner or court chooses to impose penalties), the employer cannot be presumed
11 to be aware that its continuing underpayment of employees is a ‘violation’ subject to penalties.”)

12 Regarding the PAGA claim for violations of Labor Code § 226(a), Plaintiff maintains
13 that an employee need not prove actual injury or a knowing and intentional failure to comply
14 with Labor Code § 226(a) in order to collect civil penalties pursuant to PAGA. (*See Raines v.*
15 *Coastal Pacific Food Distributors, Inc.* (2018) 23 Cal.App.5th 667; *see also Lopez v. Friant &*
16 *Associates, LLC* (2017) 15 Cal.App.5th 773.) In essence, in Plaintiff’s analysis, these recent
17 decisions render Labor Code § 226(a) essentially a strict liability statute when viewed through
18 the PAGA lens. (Szamet Decl. ¶ 94.) Nevertheless, the trial court has the discretion to reduce
19 civil penalties under PAGA for technical, non-harmful violations. Labor Code § 2699(e)(2) (“a
20 court may award a lesser amount than the maximum civil penalty amount specified by this part
21 if, based on the facts and circumstances of the particular case, to do otherwise would result in an
22 award that is unjust, arbitrary and oppressive, or confiscatory”). Here, Plaintiff saw a very real
23 threat that even after the time and expense associated with success at trial, the Court could, in its
24 discretion, ultimately award mere pennies on the dollar if it deemed the alleged violation as
25 technical or non-harmful to employees. (Szamet Decl. ¶ 95.) *See e.g., Carrington v. Starbucks*
26 *Corporation*, 30 Cal.App.5th 504, 241 Cal.Rptr.3d 647, 669 (2018) (affirming award of 10% of
27 maximum PAGA penalty on underlying meal break claim); *Sanchez et al. v. McDonald’s*
28 *Restaurants of California Inc. et al.*, No. BC499888, 2017 WL 4620746, at *14 (Super. Ct. Los

1 Angeles Jul 6, 2017) (awarding \$700,270 in PAGA penalties based upon underlying wage
2 violations when Plaintiff sought eight-figure penalty award).

3 This same, very real risk analysis applies to the underlying alleged violation of Labor
4 Code § 2802. Here, Plaintiff alleged that she was required to use her personal cellphone to clock
5 in and out while stationed at one of Defendant's parking kiosks. (Szamet Decl. ¶ 96) Though
6 there are some legal arguments to be made (as discussed above), the real risk identified by Class
7 Counsel was, again, that even after the time and expense associated with a successful trial, the
8 Court has the discretion to award mere pennies on the dollar for this penalty violation if the Court
9 were persuaded that Plaintiff and other putative Class Members did not actually incur any
10 sizeable extra cost because they would have maintained their personal cellphones anyway at the
11 same expenses regardless of having to clock in and out for their job. (Szamet Decl. ¶ 97.)

12 The significant uncertainty associated with the PAGA claim due to the Court's discretion
13 to reduce the maximum penalty amount, as well as the derivative nature of PAGA, required a
14 deep discount of the value of the PAGA claim for settlement purposes. (Szamet Decl. ¶ 98.) As
15 such, Plaintiff's Counsel believes that a PAGA payment of \$25,000 with 75% or \$18,750
16 allocated to the LWDA is fair and reasonable. (Szamet Decl. ¶ 99.)

17 **2. The Risk, Expense, Complexity, and Likely Duration of Further** 18 **Litigation**

19 Given the risks and uncertainty outlined above, some of the legal issues in this case are
20 unsettled and the risk for Plaintiff and the Class Members associated with this litigation was
21 high. (Szamet Decl. ¶ 100.) Moreover, there is significant expense associated with the class
22 certification process and a class action trial, which the Parties can avoid by entering into the
23 contemplated settlement. (*Id.*)

24 If the Court did eventually certify a wage statement class, trial of a case involving over
25 5,000 Class Members could certainly require the retention of expensive expert witnesses, the
26 accrual of extensive litigation costs, and a significant time overlay by the parties. (Szamet Decl.
27 ¶ 101.)

28 Finally, given the complexity and unsettled nature of the issues in this case it is likely

1 that any outcome at trial would have resulted in a lengthy and costly appeal. (Szamet Decl. ¶
2 102.) An appeal would result in further delay for the Class Members who are waiting for a
3 resolution in this matter. (Szamet Decl. ¶ 103.)

4 **3. The Risk of Maintaining Class Action Status through Trial**

5 This case has not been certified to be tried as a class action. (Szamet Decl. ¶ 104.) While
6 Plaintiff believes there is strong evidence to support certification of a proposed wage statement
7 class, certification is always hard fought and subject to judicial discretion. (Szamet Decl. ¶ 105.)
8 In addition, certification of a Labor Code section 2802 class would be difficult because there is
9 no written policy requiring the class to clock-in and out using their personal cell-phones.
10 (Szamet Decl. ¶ 106.) Moreover, in class actions, decertification is always a possibility. (Szamet
11 Decl. ¶ 107.) In attempting to certify a class, the parties would need to conduct multiple
12 depositions, including of the named Plaintiff and person(s) most knowledgeable regarding
13 Defendant's policies. (*Id.*) There is a risk for both sides as to what these depositions will reveal
14 and whether they will support class certification to the extent expected. (*Id.*)

15 **4. The Amount Offered in Settlement**

16 It was very difficult for the Parties to reach this Settlement. (Szamet Decl. ¶ 108.) This
17 settlement is the result of many months of adversarial, non-collusive, and arms-length
18 negotiations. (Szamet Decl. ¶ 109.) The Parties arrived at it only after extensive investigation
19 and discovery and a careful evaluation of the law, risks, and all information substantiating the
20 amount of penalties reasonably likely to be awarded to the class were the trier of fact to find
21 Defendant was liable. (Szamet Decl. ¶ 110.) As discussed above, the Parties attended two
22 unsuccessful, full-day mediations with Judge Hoffman and still were not able to reach a
23 resolution until several further rounds of negotiation aided by Judge Hoffman. (Szamet Decl. ¶
24 111.)

25 As for valuation of the Labor Code § 226(a) claim, Labor Code § 226(e) sets forth the
26 penalty scheme of \$50 for the initial violation and \$100 for each pay period thereafter with a
27 maximum of \$4,000 per employee.⁴ (Szamet Decl. ¶ 112.) Here, the maximum available penalty

28 ⁴ Labor Code § 226(e)(1): "An employee suffering injury as a result of a knowing and intentional failure by an
employer to comply with subdivision (a) is entitled to recover the greater of all actual damages or fifty dollars

1 would be \$13,173,500. (initial violation of 5,040 x \$50 = \$252,000 + subsequent violation of
2 129,215 x \$100 = \$12,921,500).⁵ (Szamet Decl. ¶ 113.)

3 With regard to the Labor Code § 2802 analysis, Plaintiff believes that it was reasonable
4 to value the reimbursement at \$10 per month, per employee. (Szamet Decl. ¶ 114.) Using
5 5,040 Class Members, the maximum amount is amount \$2,116,800 (42 months x \$10/person x
6 5,040). (Szamet Decl. ¶ 115.)

7 The exposure under PAGA was certainly the largest. In this matter, there are 134,255
8 itemized wage statements at issue, which translates to the same number of pay periods at issue.
9 (Szamet Decl. ¶ 116.) Using the PAGA statutory scheme of \$100/\$200 for the initial and
10 subsequent violations the maximum exposure amounts to \$26,347,000. (Szamet Decl. ¶ 117.)
11 However, it may very well be that this number is greatly overstated. (Szamet Decl. ¶ 118.)
12 While there is little authority directly on point, the Court in *Amaral v. Cintas Corp. No. 2*
13 addressed what constitutes an “initial” violation as opposed to a “subsequent” violation for
14 purposes of assessing penalties under California Labor Code sections 210 and 225.5. The Court
15 found that “until an employer has been notified that it is violating a Labor Code provision
16 (whether or not the Commissioner or court chooses to impose penalties), the employer cannot
17 be presumed to be aware that its continuing underpayment of employees is a ‘violation’ subject
18 to penalties.” *Id.* at 1209. While some practitioners have taken the position that providing notice
19 of a violation in the form of a PAGA notice letter to the LWDA would suffice, others take the
20 view that *Amaral* states that until the Labor Commissioner provides notice of a violation, only
21 the “initial” penalty amount can apply. If this argument is correct, then the maximum exposure
22 for PAGA penalties is reduced to \$13,425,500. (Szamet Decl. ¶ 119.)

23 Once Class Counsel determined the maximum potential damages they believed were at
24 issue, they carefully considered the risks detailed above and the likelihood of success on the

25 (\$50) for the initial pay period in which a violation occurs and one hundred dollars (\$100) per employee for each
26 violation in a subsequent pay period, not to exceed an aggregate penalty of four thousand dollars (\$4,000), and
is entitled to an award of costs and reasonable attorney’s fees.”

27 ⁵ This number is actually overstated because it does not account for the \$4,000 maximum penalty per individual.
28 This calculation assumes each “subsequent” violation would be valued at \$100 per pay period, but for class
members who worked the entire class period the \$4,000 maximum would be hit thereby lowering the overall
potential penalty recovery.

merits before determining that the proposed Settlement is a fair and reasonable result for the Settlement Class. (Szamet Decl. ¶ 120.) Class Counsel believes that the Class had a reasonable likelihood of success on the wage statement claims, but were keenly aware of the risk in establishing “injury” and that Defendant’s conduct was “knowing and intentional.” (Szamet Decl. ¶ 121.) As it relates to the section 2802 claim, the risks are detailed above and Plaintiff felt the largest risk related to certification of this claim, as there is no written policy requiring class members to clock-in/out using their personal cell-phones. (Szamet Decl. ¶ 122.) Finally, Counsel determined that the likelihood of success on the claim for PAGA penalties was strong, but felt that it was not likely that a court would award the maximum potential penalty of \$100 and \$200 because the statute vests the Court with discretion when it comes to any PAGA penalty award. (Szamet Decl. ¶ 123.)

In light of the above, Plaintiff’s Counsel believes that the proposed Settlement Amount of \$1,180,000 is fair and reasonable. (Szamet Decl. ¶ 124.)

5. The Experience and Views of Counsel

Kingsley & Kingsley is very experienced in prosecuting complex employment litigation, and the firm has focused its practice since the year 2000 on wage, hour, and working condition violations. (Szamet Decl. ¶¶ 126-127.) The firm is well versed in class action litigation and has diligently and aggressively pursued this action. (*Id.*) Kingsley & Kingsley currently serves as class counsel for dozens of pending class action lawsuits in Northern, Central, and Southern California. (*Id.*) A list of representative cases that Kingsley & Kingsley has handled is included in the accompanying declaration of counsel. (*Id.*) After factoring in the risks explained above, Class Counsel believes that the proposed settlement is fair and reasonable. (Szamet Decl. ¶ 128.)

6. The Proposed Plan of Allocation Is Fair and Reasonable

Plans of allocation are subject to the same standard of review as class action settlements; they must be “fair, adequate and reasonable.” (*See, e.g., Officers for Justice v. Civil Service Comm’n* (9th Cir. 1982) 688 F.2d 615, 624–625, 629–630.) Here, the proposed plan of allocation compensates Class Members on pro rata based on the number of compensable workweeks worked by the Class Member during the Class Period. The lump sum payment to each member

1 of the Settlement Class not excluding him/herself will be determined on an individualized basis
2 based upon the compensable pay periods worked by the Settlement Class Member. (Szamet
3 Decl.; Ex. 1, ¶III, J, 1.) This allocation distributes Settlement funds proportionally to each class
4 member's potential damages as related to length of employment during the operative period, and
5 should therefore be approved as fair, adequate, and reasonable. (*Id.*)

6 **7. Reaction of the Class Members to the Proposed Settlement is Positive**

7 Lastly, the reaction of the class members is relevant, and favors approval. *Kullar*, 168
8 Cal.App.4th at 128. Five (5) class members opted out and there is only a single objector in the
9 Settlement Class of 5,022 individuals. (Schwartz Decl. at ¶ 17; *see also* Szamet Decl. ¶ 125) Of
10 the 5,027 Class Notice packets mailed, only 41 remain undeliverable. (Schwartz Decl. at ¶¶ 10-
11 11; Ex. A [Class Notice].) Because there is only one objector, and the Class Notice reached
12 almost the entire settlement class, the reaction of the class members to the proposed class
13 settlement favors granting final approval.

14 **V. ENHANCEMENT TO PLAINTIFF**

15 The claims of the Class Representative, Crystal Martinez Ramirez, are typical of the
16 Class Members' claims. (Szamet Decl. ¶¶ 2-3.) Crystal Martinez Ramirez is an adequate Class
17 Representative because she has diligently, adequately and fairly represented the Class and has
18 not placed her interests above any member of the Class. (Szamet Decl. ¶ 170; Martinez Decl. ¶¶
19 4-13.)

20 Class Counsel requests an enhancement for Plaintiff in light of her valiant effort and time
21 expended in this matter. (Szamet Decl. ¶ 171) The time spent by Crystal Martinez Ramirez
22 include researching and identifying competent counsel, providing information to Class Counsel
23 regarding her relevant employment experiences, compiling documents, conducting conferences
24 with her attorneys to discuss the status of the case and the theories of liability, and reviewing
25 settlement documents. (Szamet Decl. ¶ 172; Martinez Decl. ¶ 7) Thus, in addition to the sums
26 paid to Class Members, Class Counsel request an enhancement payment to the Class
27 Representative of \$5,000.00, to be paid from the Gross Settlement Amount. (Szamet Decl. ¶
28 173.)

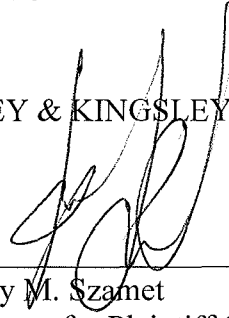
1 Class Counsel considers this to be a fair and reasonable enhancement. (Szamet Decl. ¶
2 174.) The enhancement takes into consideration the time, effort, and expenses incurred by
3 Crystal Martinez Ramirez in coming forward to litigate this matter on behalf of all Class
4 Members. (Szamet Decl. ¶ 175.) Additionally, the Class Representative was at risk for paying
5 Defendant's legal fees and costs if Defendant prevailed at trial. (Szamet Decl. ¶ 176.)

6 **VI. CONCLUSION**

7 Plaintiff respectfully submits that the proposed Settlement is fair, adequate, reasonable,
8 and in the best interest of the Class. Therefore, Plaintiff respectfully requests that the Court (1)
9 grant Final Approval of the Settlement and all of its terms; (2) award attorneys' fees and costs
10 in the amount detailed in the concurrently filed Motion for Attorneys' Fees and Costs; (3) award
11 Rust Consulting, Inc. claims administration fees of \$27,500.00; and (4) award the Named
12 Plaintiff an enhancement of \$5,000.00; and (5) enter judgment.

13
14 Dated: April 2, 2019

KINGSLEY & KINGSLEY, APC

15
16 By: 

17 Kelsey M. Szamet
18 Attorneys for Plaintiff CRYSTAL MARTINEZ
19 RAMIREZ and the Proposed Class
20
21
22
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28

(PROOF OF SERVICE)
[CCP 1013(a)(3)]
STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California. I am over the age of 18 years and not a party to the within action. My business address is 16133 Ventura Boulevard, Suite 1200, Encino, California 91436.

On April 2, 2019, I served all interested parties in this action the following documents described as **NOTICE OF MOTION AND MOTION FOR FINAL APPROVAL OF CLASS SETTLEMENT; MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT THEREOF** by placing a true copy thereof enclosed in a sealed envelope addressed as follows:

Spencer C. Skeen
Tim L. Johnson
Jesse C. Ferrantella
Nikolas T. Djordjevski
OGLETREE, DEAKINS, NASH,
SMOAK & STEWART, P.C.
4370 La Jolla Village Drive, Suite 990
San Diego, CA 92122
Attorneys for Defendants SP Plus Corporation,
Standard Parking Corporation IL, SP Plus Property Management, Inc.,
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Via Personal Service

PROOF OF SERVICE LIST CONTINUED ON NEXT PAGE

[] **(BY MAIL)** I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with U.S. postal service on that same day with postage fully prepaid at Encino, California in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

[XX] **(BY PERSONAL SERVICE)** I caused such envelope to be delivered to On-Call Legal, our process server who will cause it to be delivered by personal service to the offices of the addressee.

[XX] **(STATE)** I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on April 2, 2019, at Encino, California.

Michelle A. Tanzer

1 **PROOF OF SERVICE LIST CONTINUED**
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6 Matthew W. Gordon
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8 **MATERN LAW GROUP, PC**
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Reservation

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Status:

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Reservation Type:

Motion re: (Motion for Final Approval of Class Settlement)

Number of Motions:

1

Case Number:

BC614253

Case Title:

CRYSTAL MARTINEZ RAMIREZ VS SP PLUS CORPORATION ET AL

Filing Party:

Crystal Martinez Ramirez (Plaintiff)

Location:

Stanley Mosk Courthouse - Department 53

Date/Time:

August 5th 2019, 8:30AM

Confirmation Code:

CR-LRXXZGE5SCU6HW5LW

Fees

Description	Fee	Qty	Amount
Motion re: (name extension)	60.00	1	60.00
Credit Card Percentage Fee (2.75%)	1.65	1	1.65
TOTAL			\$61.65

Payment

Amount:

\$61.65

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CRYSTAL MARTINEZ RAMIREZ VS SP PLUS CORPORATION ET AL

Filing Party:

Crystal Martinez Ramirez (Plaintiff)

Location:

Stanley Mosk Courthouse - Department 53

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Motions

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Action

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03/21/2019 3:00PM	Rescheduled by the COURT Date: April 16th, 8:30AM Location: Stanley Mosk Courthouse - Department 53 Motions Recheduled: 1	
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