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

CARL HANEY, as an individual and on behalf
of all others similarly situated,

Plaintiff,

vs.

PENINSULA PACKAGING, LLC, a
California limited liability company; and
DOES 1 through 50, inclusive,

Defendants.

Case No.: VCU285695

[Assigned for all purposes to the Hon. Bret
D. Hillman, Dept. 7]

**PLAINTIFF'S NOTICE OF MOTION
AND MOTION FOR FINAL APPROVAL
OF CLASS ACTION SETTLEMENT;
MEMORANDUM OF POINTS AND
AUTHORITIES IN SUPPORT**

Date: December 6, 2022
Time: 8:30 A.M.
Dept.: 7

Complaint Filed: January 25, 2021
FAC Filed: January 6, 2022
Trial Date: None Set

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

2 **PLEASE TAKE NOTICE** that on December 6, 2022, at 8:30 a.m., or as soon
3 thereafter as the matter may be heard, before the Honorable Brett Hillman, judge presiding, in
4 Department 7 of the above referenced Court located at 221 S. Mooney Blvd., Room 303,
5 Visalia, California 93291, Plaintiff Carl Haney (“Plaintiff”) will and hereby does move this
6 Court for an Order:

7 1. Granting final approval to the Amended Stipulation of Settlement (“Stipulation”
8 or “Settlement Agreement”) in this action;

9 2. Approving distribution of the settlement funds to the Settlement Class Members
10 pursuant to the terms of the Settlement Agreement;

11 3. Approving Plaintiff’s request for an award of the Class Representative
12 Enhancement Payment of \$10,000.00 to Plaintiff pursuant to the terms of the Settlement
13 Agreement;

14 4. Approving Class Counsel’s request for an award of attorneys’ fees of thirty-one
15 percent (31%) of the Maximum Settlement Amount, or \$201,500.00, and reimbursement of
16 actual litigation costs of \$11,496.75, pursuant to the terms of the Settlement Agreement;

17 5. Approving Plaintiff’s request for payment of the settlement administration costs
18 to Phoenix Settlement Administrators in the amount of \$6,500.00, pursuant to the terms of the
19 Settlement Agreement;

20 6. Approving Plaintiff’s request for payment to the California Labor & Workforce
21 Development Agency (“LWDA”) for \$48,000.00 pursuant to the Private Attorneys General
22 Act, pursuant to the terms of the Settlement Agreement; and

23 7. Entering final judgment as to all Settlement Class Members in this action.

24 This Motion is made pursuant to Rule 3.769 of the California Rules of Court, which
25 provides for court approval of the settlement of a purported class action and allows the Court
26 to grant final certification of a class for settlement purposes. In light of the overwhelmingly
27 positive response, as shown by the lack of opt-outs and objections to the settlement, there is no
28 question that the settlement is fair, reasonable, and adequate and thus should be granted final
approval.

1 This Motion will be based on the attached Memorandum of Points and Authorities and
2 the supporting Declarations of Larry W. Lee, Mai Tulyathan, Plaintiff Carl Haney, and Taylor
3 Mitzner of Phoenix Settlement Administrators, upon the oral arguments of counsel (should
4 there be any), and on the complete records and file herein.

5
6 DATED: November 9, 2022

DIVERSITY LAW GROUP, P.C.

7
8 By: 

Larry W. Lee

Mai Tulyathan

Attorneys for Plaintiff, the Class, and Aggrieved
Employees

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1 **I. INTRODUCTION**

2 Plaintiff Carl Haney (“Plaintiff”) now seeks the Court’s final approval of the
3 Settlement Agreement. The Settlement Agreement provides for a \$650,000.00 **non-**
4 **reversionary** fund to be created for the benefit of the Class¹, from which attorneys’ fees,
5 litigation costs, service payment to the named Plaintiff, payment to the California Labor and
6 Workforce Development Agency (“LWDA”), and costs of settlement administration are to be
7 paid. The entire Net Settlement Amount after these deductions will be paid to all Class
8 Members who did not opt-out of the Settlement.

9 The history of this litigation was previously detailed in Plaintiff’s Motion for
10 Preliminary Approval of Class Action Settlement, the supplemental brief thereto and the
11 subsequent ex parte amending the Settlement Agreement. The Court preliminary approved
12 this Settlement Agreement on August 19, 2022, directing distribution of class notice and
13 scheduling the hearing for final approval of the settlement (the “Preliminary Approval Order”).

14 As directed by the Court, the Settlement Administrator selected by the Parties—
15 Phoenix Settlement Administrators—distributed the Class Notice to 226 Settlement Class
16 Members. (Declaration of Taylor Mitzner on behalf of Phoenix Settlement Administrators
17 (“Mitzner Decl.”) at ¶ 5.) To date, **there have been no requests for exclusions and/or**
18 **objections to the settlement submitted by any Class Members.** (*Id.* at ¶¶ 8-9.) As such,
19 there is a 100% participation rate. Thus, in light of the lack of objections and opt-outs, an
20 inference can be made that the Class supports the Court’s Preliminary Approval Order finding
21 that the Settlement Agreement is fair and reasonable.

22 In addition to the results of the notice process, for the same reasons as set forth earlier
23 in Plaintiff’s Motion for Preliminary Approval of Class Action Settlement, the following
24 represents the basic points supporting final approval of the settlement:

- 25 ▪ The settlement provides a total settlement sum of \$650,000.00, which is **non-**

26
27 ¹ The “Class” as used herein consists of “All non-exempt employees of Defendant in the State of
28 California who were allegedly underpaid sick pay while working on
Shifts B or C, and whose employment ended (either voluntarily or involuntarily) at any time
from January 25, 2018 to October 27, 2021 (the “Class Period”).”

1 **reversionary;**

2 ▪ The settlement is fair given that participating Class Members will receive (*after*
3 *deductions for fees, costs, etc.*) a substantial amount of money—approximately \$1,648.24 to
4 each participating Class Member (*See* Mitzner Decl. at ¶ 11);

5 ▪ Class Members did not need to submit claim forms to participate in the
6 settlement, but are being paid automatically;

7 ▪ Plaintiff conducted significant investigation in this case, including informal
8 discovery and exchanges of information by Plaintiff and Defendant of class data for the entire
9 class necessary for Plaintiff to fully evaluate this case;

10 ▪ A highly regarded settlement administrator, Phoenix Settlement Administrators,
11 was retained to administer the settlement for approximately \$6,500.00 (*See* Mitzner Decl. at ¶
12 13); and

13 ▪ The State of California’s LWDA will also be the beneficiary of this settlement,
14 as it will receive \$48,000.00 pursuant to the PAGA, should this settlement be granted final
15 approval.

16 Accordingly, the Court should grant Final Approval consistent with the Preliminary
17 Approval Order.

18 **II. CLASS MEMBERS WERE PROVIDED PROPER NOTICE OF THE**
19 **SETTLEMENT**

20 The notice procedures required by the Preliminary Approval Order have been followed
21 and satisfy all due process rights of Settlement Class Members. Specifically, the Preliminary
22 Approval Order contemplated that the Notice of Class Action Settlement (“Class Notice”), as
23 approved in the Preliminary Approval Order, be sent to all Class Members by U.S. first class
24 mail, as specified in the Settlement Agreement. As agreed by the Parties, Phoenix Settlement
25 Administrators would serve as the Settlement Administrator for this case.

26 As clearly stated in the Mitzner Declaration on behalf of Phoenix Settlement
27 Administrators, notice was provided to Class Members, as required by the Preliminary
28 Approval Order. On August 29, 2022, the Settlement Administrator received a Class Member

1 mailing list from Defendant’s counsel that included 226 Class Members. (Mitzner Decl. at ¶
2 3.) Prior to mailing the Class Notice, the Settlement Administrator conducted a National
3 Change of Address (NCOA) search to correct and/or update the class list in case of any address
4 changes. (*Id.* at ¶ 4.) On September 7, 2022, the Settlement Administrator mailed the
5 Settlement Class Notice to all Class Members on the mailing list via U.S. first class mail. (*Id.*
6 at ¶ 5.) As of the date of this filing, only one Class Notice remains undeliverable. (*Id.* at ¶¶ 6-
7 7.)

8 Further, the Class Notice provided Settlement Class Members, in both English and
9 Spanish, with Class Counsel’s and the Settlement Administrator’s contact information and
10 website, where they could further seek information regarding the settlement, ask questions,
11 review pleadings in the case, and update their address.

12 The provision of sending the notice to Settlement Class Members as described above
13 meets the requirements for the “best notice practicable” in this case as necessary to protect the
14 due process rights of Class Members. (*See, Phillips Petroleum Co. v. Shutts* (1985) 472 U.S.
15 797, 811-12 (provision of “best notice practicable” with description of the litigation and
16 explanation of opt-out rights satisfies due process); *Eisen v. Carlisle & Jacquelin* (1974) 417
17 U.S. 156, 174-75 (individual notice must be sent to class members who can be identified
18 through reasonable means); *Mullane v. Central Hanover Bank & Trust Co.* (1950) 339 U.S.
19 306, 314 (best practicable notice is that which is “reasonably calculated, under all the
20 circumstances, to apprise interested parties of the pendency of the action and afford them an
21 opportunity to present their objections”).)

22 Here, all Settlement Class Members were provided with a mailing that explained the
23 settlement and allowed Class Members to seek information, ask questions, and exclude
24 themselves and/or object to the settlement, if so desired. As such, proper notice has been given
25 to the Settlement Class Members. Thus, the Court may determine the fairness and adequacy of
26 the Settlement and enter its Order granting final approval, secure in the knowledge that all
27 absent Settlement Class Members have been given the opportunity to participate fully in the
28 settlement, exclusion, and the approval process.

1 **III. THE SETTLEMENT TERMS ARE FAIR, ADEQUATE, AND REASONABLE,**
2 **AND THE SETTLEMENT SHOULD BE GIVEN FINAL APPROVAL**

3 **A. Strength of Plaintiff's Case and Likelihood of Certifying the Class**

4 The Court already addressed the requirements for certifying a class for settlement
5 purposes in its Order granting preliminary approval. Plaintiff briefly addresses the
6 requirements again here.

7 **1. The Class is Ascertainable**

8 Whether a class is "ascertainable" within the meaning of Code of Civil Procedure § 382
9 "is determined by examining (1) class definition, (2) the size of the class, and (3) the means
10 available for identifying the class members." (*Reyes v. San Diego County Board of*
11 *Supervisors* (1987) 196 Cal.App.3d 1263, 1271.)

12 Here, the Settlement Class is comprised of all non-exempt employees of Defendant in
13 the State of California who were allegedly underpaid sick pay while working on Shifts B or C,
14 and whose employment ended (either voluntarily or involuntarily) at any time from January
15 25, 2018 to October 27, 2021. There are 226 individuals that comprise the Settlement Class.
16 (Mitzner Decl. at ¶ 5.) This is more than the minimum required to certify a class.

17 Within the context of manageability, the issue is whether there exists sufficient means
18 for identifying class members at the remedial stage. (*Reyes*, 196 Cal.App.3d at pp. 1274-75.)
19 Settlement Class Members have already been identified by Defendant and notice was provided
20 to all of the above Settlement Class Members

21 **2. There is a Community of Interest**

22 The "community of interest" requirement embodies three separate factors: (1)
23 predominant common questions of law or fact; (2) class representatives whose claims are
24 typical of the class; and (3) class representatives who can adequately represent the class.
25 (*Richmond*, 29 Cal.3d at p. 470; *Reese v. Wal-Mart Stores, Inc.* (1999) 73 Cal.App.4th 1225,
26 1234.)

27 **a. There are Predominant Common Questions of Law and Fact**

28 "The ultimate question in every case of this type [class actions] is whether...the issues

1 which may be jointly tried, when compared with those requiring separate adjudication, are so
2 numerous and substantial that the maintenance of a class action would be advantageous to the
3 judicial process and to the litigants.” (*Lockheed Martin Corp. v. Superior Court* (2003) 29
4 Cal.4th 1096, 1104-05.)

5 For Plaintiff’s claims, Plaintiff alleges that Defendant, as a matter of its corporate
6 policy, practice, or procedure, failed to pay sick pay wages at the “regular rate” of pay as
7 required under California law. As these are uniform corporate policies, practices, and
8 procedures, the claims can be jointly tried and thus the predominance requirement is satisfied.

9 Defendant denies that liability could be established on a class-wide basis and contends
10 instead that liability and damages would need to be conducted on a case-by-case basis. With
11 respect to Plaintiff’s claims, it is Defendant’s position that any purported regular rate
12 miscalculation was unintentional and based on an unintentional error. Defendant also asserts
13 that it has revised its regular rate calculations to ensure that sick pay is paid at the correct
14 regular rate. Further, Defendant contends that it has no further liability for the regular rate
15 claims since it has paid back any underpayments owed to its employees after this lawsuit was
16 filed. In addition to these defenses, Plaintiff also faces risk with regard to prevailing on class
17 certification of the sick pay regular rate claim, as there is currently no precedent in California
18 courts for certification of a sick pay regular rate class.

19 **b. Plaintiff’s Claims are Typical of the Class Claims**

20 The purported class representative’s claim must be “typical” but not necessarily
21 identical to the claims of other class members; it is sufficient that the representative is similarly
22 situated so that he or she will have the motive to litigate on behalf of the class. (*Classen v.*
23 *Weller* (1983) 145 Cal.App.3d 27, 45.) Courts look to whether class members have similar
24 injuries, “whether the action is based on conduct which is not unique to the named Plaintiff,”
25 and whether other class members were injured by the same conduct. (*Hanon v. Dataproducts*
26 *Corp.* (9th Cir. 1992) 976 F.2d 497, 508.) The purpose of the typicality requirement “is to
27 assure that the interest of the named representative aligns with the interests of the class.” (*Id.*
28 at p. 508.)

1 Plaintiff was subjected to the same payroll policies as all other Class Members. In this
2 regard, Plaintiff was employed by Defendant as an hourly, non-exempt employee from about
3 August 12, 2019, to about July 31, 2020. (Declaration of Carl Haney (“Haney Decl.”) at ¶ 2.)
4 Like other members of the Class, Plaintiff was not paid sick leave at the regular rate of pay,
5 and as such was underpaid said wages. (*Id.* at ¶ 2.) Furthermore, as a result of the
6 underpayment of paid sick leave, the wage statements issued by Defendant to Plaintiff did not
7 comply with Labor Code § 226(a). (*Id.* at ¶ 2.)

8 In other words, Plaintiff was subjected to the same policies and practices as other Class
9 Members. Accordingly, Plaintiff’s claims are aligned with the interests of the Class and
10 typicality is satisfied.

11 **c. Plaintiff Adequately Represented the Class**

12 The class representative, through qualified counsel, must be capable of “vigorously and
13 tenaciously” protecting the interests of the class members. (*Simons v. Horowitz* (1984) 151
14 Cal.App.3d 834, 846.)

15 Here, Plaintiff does not have any interests adverse to the Class, nor have any such
16 issues been raised or presented. (Haney Decl. at ¶ 5.) Plaintiff has taken all necessary steps to
17 represent the interests of the Class, including meeting and conferring with his counsel,
18 providing information and documents to his counsel, and reviewing pleadings and the
19 Settlement Agreement in this case. (*Id.* at ¶ 5.) For such reasons, Plaintiff has adequately
20 represented the Class members and will continue to do so.

21 **B. Risks, Expenses, and Complexity of Further Litigation**

22 Plaintiff believes that a class can be certified; however, Plaintiff also believes in the
23 fairness of the settlement that is based on factoring in the uncertainty and risks to Plaintiff
24 involved in not prevailing on one or more of the causes of action or theories alleged in the
25 operative Complaint, the possibility of non-certification, and potential for appeals. These risks
26 on class certification are compounded by the California Supreme Court’s holding in *Duran v.*
27 *U.S. Bank Nat’l Ass’n* (2014) 59 Cal.4th 1.

28 As stated above, Defendant alleges that the classes could not have been certified, given

1 its position that its policies are compliant with the Labor Code and that any liability would
2 need to be determined on a case-by-case basis. Further, Defendant contends that there is no
3 further liability on the regular rate claims as it has paid back underpayments to Settlement
4 Class Members. Additionally, there is no precedent from any California courts granting class
5 certification of a sick pay regular rate claim, which presents another risk to Plaintiff prevailing
6 on class certification. Based on the foregoing, there were risks that Plaintiff would not have
7 obtained the total amount of penalties alleged, and a substantial amount of complex issues that
8 would have necessitated significant expenditure of time and expenses. Therefore, the risks,
9 expenses, and complexity of further litigation warrant granting of this Motion.

10 **C. The Terms of the Settlement, Negotiation of Settlement, and Reception of**
11 **the Settlement by Class Members All Strongly Support the Conclusion that**
12 **the Settlement is Fair, Adequate, and Reasonable**

13 Without reiterating the Parties' showing that the Settlement Agreement and the
14 negotiation process that led up to it was fair and adequate, as set forth in detail in the Motion
15 for Preliminary Approval of Class Action Settlement and the subsequent briefings, the Parties
16 highlight the following facts. The Settlement Agreement was the product of negotiations
17 between highly able and experienced attorneys on both sides who possessed the relevant data
18 and extensive legal research which they had carefully analyzed. (Declaration of Larry W. Lee
19 ("Lee Decl.") at ¶ 3.) The Parties engaged in arm's length negotiations at mediation with
20 neutral Louis Marlin, Esq., with substantial follow-up. (*Id.*) Indeed, when it was discovered
21 that the Settlement Class was more than 2 times the size of the original group, the Parties met
22 and conferred at length and had to amend the Settlement Agreement, and in particular, to
23 increase the settlement amount, to ensure that all Settlement Class Members' settlement
24 amounts were not diluted. (*Id.* at ¶ 4)

25 The results after mailing of the Class Notice support confirmation of the Court's
26 preliminary approval of the settlement with final approval of the settlement, as evidenced by
27 the fact that **no Class Members opted out and/or submitted any written objections to the**
28 **settlement.** (Mitzner Decl. at ¶¶ 8-9.) The Court may appropriately infer that the class action
settlement is fair, adequate, and reasonable, given that not a single class member has submitted
a request for exclusion and/or an objection. (*See Class Plaintiffs v. City of Seattle* (9th Cir.

1992) 955 F.2d 1268, 1291.)

D. Under Well-Established Legal Principles, the Court Should Grant Final Approval of the Settlement

1. Standard of Review

On a motion for final approval of a class action settlement under California Code of Civil Procedure Section 382 and California Rule of Court 3.769, a court's inquiry is whether the settlement is "fair, adequate and reasonable." (*Officers for Justice v. Civil Serv. Comm'n* (9th Cir. 1982) 688 F.2d 615, 625, *cert. denied subnom.*, *Byrd v. Civil Serv. Comm'n* (1983) 459 U.S. 1217.) A settlement is fair, adequate, and reasonable, and therefore merits final approval, when "the interests of the class are better served by the settlement than by further litigation." (*See Manual for Complex Litigation, Fourth* § 21.6 at 309 (Fed. Jud. Ctr., 4th ed. 2004) ("MCL").) The law favors settlement, particularly in class actions and other complex cases, where substantial resources can be conserved by avoiding the time, cost, and rigors of formal litigation. (*See* 4 Alba Conte & Herbert B. Newberg, *Newberg on Class Actions* § 11.41 (4th ed. 2002); *Class Plaintiffs v. City of Seattle* (9th Cir. 1992) 955 F.2d 1268, 1276; *Van Bronkhorst v. Safeco Corp.* (9th Cir. 1976) 529 F.2d 943, 950.)

Although the Court possesses "broad discretion" in determining that a proposed class action settlement is fair, the Court's role must be limited to the extent necessary to reach a reasoned judgment that the agreement is not the product of fraud or overreaching by, or collusion between, the negotiating parties, and that the settlement, taken as a whole, is fair, reasonable, and adequate to all concerned. (*See Officers for Justice*, 688 F.2d at p. 625.) Accordingly, the Court should give due regard to what is otherwise a "private consensual agreement" between the parties. (*Id.*; *see also Church v. Consolidated Freightways, Inc.* (N.D. Cal. 1993) 1993 WL 149840; *In re Wash. Pub. Power Supply Sys. Sec. Litig.* (D. Ariz. 1989) 720 F.Supp. 1379, *aff'd sub nom.*; *City of Seattle*, 955 F.2d 1268; MCL § 21.6 at 309 ("The judicial role in reviewing a proposed settlement is critical, but limited to approving the proposed settlement, disapproving it, or imposing conditions on it. The judge cannot rewrite the agreement").)

1 A court's approval of a class action settlement will only be reversed for a clear abuse of
2 discretion. (*See Dunk v. Ford Motor Co.* (1996) 48 Cal.App.4th 1794, 1801; *Officers for*
3 *Justice*, 688 F.2d at p. 626 ("reverse only upon a strong showing that the district court's
4 decision was a clear abuse of discretion"); *Class Plaintiffs*, 955 F.2d at p. 1276; *Ackerman v.*
5 *Kassar* (9th Cir. 1993) 1993 WL 326453; *Linney v. Cellular Alaska P'ship* (9th Cir. 1998) 151
6 F.3d 1234, 1238.)

7 As the court cautioned in *7-Eleven Owners for Fair Franchising v. Southland Corp.*:

8 "It cannot be overemphasized that neither the trial court in
9 approving the settlement nor this Court in reviewing that approval
10 have the right or duty to reach any ultimate conclusions on the
11 issues of fact and law which underlie the merits of the dispute. It is
12 well settled that in the judicial consideration of proposed
settlements, 'the [trial] judge does not try out or attempt to decide
the merits of the controversy,' [citation] and the appellate court
'need not and should not reach any dispositive conclusions on the
admittedly unsettled legal issue.'"

13 (*7-Eleven Owners for Fair Franchising v. Southland Corp* (2000) 85 Cal.App.4th 1135, 1146.)

14 **2. The Settlement is Presumed to Be Fair**

15 The Court should begin its analysis with the presumption that the settlement is fair and
16 should be approved:

17 [A] presumption of fairness exists where: (1) the settlement is
18 reached through arm's-length bargaining; (2) investigation and
19 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.

20 (*Dunk*, 48 Cal.App.4th at p. 1802; *accord, Ellis v. Naval Air Rework Facility* (N.D. Cal. 1980)
21 87 F.R.D. 15, 18; *In re Wash. Pub Power Supply*, 720 F.Supp. at p. 1387.)

22 The settlement in the case at bar warrants approval and carries a presumption of
23 fairness. As previously noted in the application for Preliminary Approval and the subsequent
24 briefing, this current settlement was negotiated at arm's length after a full day of mediation
25 with neutral Louis Marlin, Esq. and significant discussions thereafter. (Lee Decl. at ¶ 3.)
26 Additionally, Class Counsel engaged in informal discovery before mediation, including
27 reviewing the production of class data. (*Id.*) The exchange of informal discovery allowed
28 Class Counsel to conduct a full analysis of exposure. (*Id.*)

1 Further, Class Counsel is highly experienced in this type of litigation. As shown in the
2 supporting declarations, Class Counsel has significant experience in class actions and
3 employment wage and hour matters. (Lee Decl. at ¶¶ 7-12; Tulyathan Decl. at ¶¶ 8-11.)

4 **3. Two-Way Costs and Other Risks Inherent in Continued Litigation**
5 **Favor Final Approval**

6 To assess the fairness, adequacy, and reasonableness of a class action settlement, the
7 Court also should weigh the immediacy and certainty of substantial settlement proceeds
8 against the risks inherent in continued litigation. (*See also In re General Motors Corp.* (3d
9 Cir. 1995) 55 F.3d 768, 806 (“present value of the damages plaintiffs would likely recover if
10 successful, appropriately discounted for the risk of not prevailing, should be compared with the
11 amount of the proposed settlement”) (internal citations omitted); *Girsh v. Jepson* (3d Cir.
12 1975) 521 F.2d 1 53, 157; *Boyd v. Bechtel Corp.* (N.D. Cal. 1979) 485 F.Supp. 610, 616-17.)

13 If Plaintiff pursued this case without settlement and failed to prevail, Plaintiff would
14 have been potentially responsible for Defendant’s fees and costs. (Haney Decl. at ¶ 7.) As
15 such, should individual current or former employees of Defendant bring individual claims on
16 the same causes of action, they would each face the uncertainty of prevailing and the
17 possibility of paying costs to Defendant. Accordingly, such claims likely would not be
18 brought by many of these employees—thus, this lawsuit achieves a true benefit for the class
19 that they might not otherwise get or seek as individuals. Here, given that a fair and reasonable
20 settlement has been reached, neither Plaintiff nor any of the Settlement Class Members will be
21 required to pay for Defendant’s litigation costs.

22 The risks of this case were weighed by Class Counsel and should be considered a
23 significant factor by the Court in its determination of final approval. Class Counsel obtained a
24 significant settlement for the Class that resulted in a fair recovery which at the same time
25 provides for finality and no risk of costs by the Class Members or Class Representative.

26 The Settlement Agreement also affords the Class prompt, fair relief while avoiding
27 significant legal and factual battles that otherwise may have prevented the Class from
28 obtaining any recovery at all. While Class Counsel believe the Settlement Class Members’

1 claims are meritorious and can be successfully litigated, they are experienced and fully
2 understand the inherent risks and uncertainty involved with such matters as the resolution of
3 class certification, the outcome of a potential trial, and the outcome of any appeals that would
4 inevitably follow should the Class prevail at trial. Class Counsel has also assessed the same
5 risks in connection with the current settlement. Because the settlement provides immediate
6 and substantial relief, without the attendant risks and delay of continued litigation—not to
7 mention the threat of litigation fees and costs—Class Counsel believe that the settlement
8 warrants the Court’s final approval.

9 **4. The Complexity, Expense, and Likely Duration of Continued**
10 **Litigation Against Defendant Favor Final Approval**

11 Another factor considered by courts in approving a settlement is the complexity,
12 expense, and likely duration of the litigation. (*See Officers for Justice*, 688 F.2d at p. 625;
13 *Girsh*, 521 F.2d at p. 157.) In applying this factor, the Court must weigh the benefits of the
14 settlement against the expense and delay involved in achieving an equivalent or more
15 favorable result at trial. (*Young v. Katz* (5th Cir. 1971) 447 F.2d 431, 433-34.)

16 As noted above, continued litigation could have led to appeals on several issues. On
17 the other hand, the settlement that was reached provides to all Class Members—regardless of
18 their means—fair relief in a prompt and efficient manner. Were the Court to deny final
19 approval, the Class Members would be left without a remedy as a practical matter and courts
20 across the State would have to address the issues presented here in a piecemeal, costly, and
21 time-consuming manner. The settlement in this case is therefore consistent with the
22 “overriding public interest in settling and quieting litigation” that is “particularly true in class
23 action suits.” (*See Van Bronkhorst*, 529 F.2d at p. 950 (footnote omitted); *see also 4 Newberg*
24 *at* § 11.41.) Here, this case could have involved years of litigation, especially given that the
25 sick pay regular rate claim has never been certified by a California court before.

26 **5. The Opinion of Experienced Counsel Favors Final Approval**

27 Class Counsel supports the settlement as fair, reasonable, and adequate, and in the best
28 interest of the Class Members as a whole. (Lee Decl. at ¶ 4; Tulyathan Decl. at ¶ 4.) Similarly,

counsel for Defendant is in favor of this settlement. The endorsement of qualified and well-informed counsel of a settlement as fair, reasonable, and adequate is entitled to significant weight by the Court in its final approval determination. (*See Officers for Justice*, 688 F.2d at p. 625; *Ellis*, 87 F.R.D. at p. 18; *Boyd*, 485 F.Supp. at p. 617; *Linney*, 151 F.3d at p. 1242.)

IV. THE PROPOSED PROCEDURE FOR UNCASHED SETTLEMENT CHECKS SHOULD BE APPROVED

As referenced in the Motion for Preliminary Approval, to the extent any uncashed settlement funds remain after 180 days of the mailing of the individual settlement checks, the Parties have agreed that all such uncashed settlement funds shall be distributed to the *cy pres* recipient Legal Aid At Work, a nonprofit organization that provide legal services and advocacy work, in accordance with C.C.P. § 384.

Pursuant to C.C.P. § 384, unpaid residue or unclaimed or abandoned class member funds in class action litigation shall be distributed “to nonprofit organizations or foundations that support projects that will benefit the class or similarly situated persons, or that promote the law consistent with the objectives and purposes of the underlying cause of action, to child advocacy programs, or to **nonprofit organizations providing civil legal services to the indigent.**” (*See* Code of Civ. Proc. § 384(b) (emphasis added).)

V. THE REQUESTED CLASS REPRESENTATIVE ENHANCEMENT SHOULD BE APPROVED

While Plaintiff acknowledges that this Court preliminarily approved \$7,500 as the class representative enhancement, Plaintiff respectfully requests that this Court reconsider said amount and award the maximum allowable amount under the Settlement Agreement of \$10,000. As set forth in his declaration, Plaintiff met with Class Counsel, had numerous discussions with Class Counsel, and provided substantive information regarding Defendant’s policies and practices at issue in this case. (Haney Decl. at ¶ 4.) Accordingly, Plaintiff provided invaluable information, evidence, and documents that resulted in this settlement.

In addition to the invaluable services that he provided, Plaintiff also took significant risks, both professionally and monetarily, in acting as Class Representative, seeking benefits

1 on behalf of the Class. (*Id.* at ¶ 7.) Because the claims alleged by the Class Representative
2 involved the payment of costs to the prevailing party, Plaintiff could have possibly faced
3 paying the costs of Defendant, had he not prevailed in this action. (*Id.*) Despite this, however,
4 Plaintiff agreed to pursue this case on behalf of the Class.

5 Also, given that future employers are much less likely to hire individuals who have
6 filed employment-related lawsuits, particularly cases of this nature, the Class Representative
7 also faced significant risk in not being able to find suitable employment and/or face retaliation
8 from prospective employers, all as a result of filing of this case against Defendant. Plaintiff
9 took these risks upon himself to the benefit of the Class. (*Id.*) Class Members did not have to
10 file individual lawsuits and bear the risks of payment of fees/costs if they did not prevail, nor
11 did they have to face the potential for retaliation and not getting future employment had they
12 filed a lawsuit which is a public record. These are significant benefits that weigh in favor of
13 granting the requested enhancement.

14 Moreover, under the original settlement that this Court had previously approved, which
15 was for a gross settlement sum of \$350,000, this Court had already preliminarily approved the
16 class enhancement of \$7,500. However, as noted in the Court's records, and with the
17 persistence of Plaintiff and Plaintiff's counsel, upon discovering the increase in the number of
18 Settlement Class Members, Plaintiff and his counsel were able to significantly increase the
19 gross settlement amount by an additional \$300,000 for a total of \$650,000. While increasing
20 the gross settlement amount by more than 85%, Plaintiff did not seek an increase in the
21 maximum allowable amount of \$10,000 for his enhancement. Rather, despite being able to
22 seek such a drastic increase in the gross settlement amount, Plaintiff agreed to not seek any
23 increase in his enhancement, all for the benefit of the Settlement Class.

24 Finally, this litigation has resulted in a significantly valuable benefit to the Class.
25 Specifically, and as mentioned above, upon the filing of this lawsuit, Defendant decided to
26 issue payments to the Settlement Class Members for the underpaid sick pay wages, thus
27 allowing the Settlement Class Members to recover 100% of their underpaid sick pay wages
28 that were alleged in this lawsuit. At that point, all that was left for Plaintiff to seek in this

lawsuit were penalties pursuant to Labor Code §§ 201-203, 226 and PAGA, all of which require a high standard of proof and further subject to the discretion of this Court. Despite such challenges, Plaintiff and his counsel were still able to recoup over \$1600 per Settlement Class Member for such penalties. Again, this is on top of the underpaid sick pay wages that Defendant had already paid back on its own. Indeed, for many Settlement Class Members, this amounted to a significant windfall as the underpaid wages were likely significantly less than their individual settlement amounts. Given the significant benefits achieved by Plaintiff, Plaintiff respectfully requests that this Court award \$10,000 for his commitment, dedication, and risks taken for this litigation.

Courts have routinely granted approval of settlements containing such enhancements. (See *Van Vranken v. Atlantic Richfield Co.* (N.D. Cal. 1995) 901 F.Supp. 294, 299-300 (incentive award of \$50,000); *In re Dun & Bradstreet Credit Servs. Customer Litig.* (S.D. Ohio 1990) 130 F.R.D. 366, 374 (two incentive awards of \$ 55,000, and three incentive awards of \$35,000); *Brotherton v. Cleveland* (S.D. Ohio 2001) 141 F.Supp.2d 907, 913-14 (granting a \$50,000 incentive award); *Enter. Energy Corp. v. Columbia Gas Transmission Corp.* (S.D. Ohio 1991) 137 F.R.D. 240, 251-52 (\$50,000 awarded to each class representative); *Glass v. UBS Fin. Servs.* (N.D. Cal. Jan. 27, 2007) No. C-06-4068, 2007 U.S. Dist. LEXIS 8476, at *51-52 (awarding \$25,000 incentive award in FLSA overtime wages class action); *Cook v. Niedert* (7th Cir. 1998) 142 F.3d 1004, 1016 (affirming \$25,000 Incentive award to class representative in ERISA case).)

VI. THE REQUESTED ATTORNEYS' FEES SHOULD BE APPROVED

Similar to Plaintiff's enhancement amount, Class Counsel also acknowledges that this Court preliminarily approved attorneys' fees in the amount of \$152,212.50, which is based on Class Counsel's lodestar with a 1.5 multiplier. However, as also noted by this Court, the lodestar did not take into account of any hours spent by Class Counsel since March 7, 2022, i.e., up through the time the Court approved the original settlement.

Based on the updated lodestar, which includes the additional time spent by Class Counsel since March 7, 2022, and for the additional reasons stated below, Class Counsel

1 respectfully request that this Court grant a fee award calculated at 31% of the Maximum
2 Settlement Amount, or \$201,500, for the successful prosecution and resolution of this action.

3 California state and federal courts have recognized that an appropriate method for
4 determining award of attorneys' fees is based on a percentage of the total value of benefits to
5 Class Members by the settlement. (*Wershba v. Apple Computer, Inc.* (2001) 91 Cal.App.4th
6 224, 254; *Serrano v. Priest* (1977) 20 Cal.3d 25, 34 [*Serrano III*]; *Boeing Co. v. Van Gemert*
7 (1980) 444 U.S. 472, 478; *Vincent v. Hughes Air West, Inc.* (9th Cir. 1997) 557 F.2d 759, 769.)
8 The purpose of this equitable doctrine is to avoid unjust enrichment to the Class and to "spread
9 litigation costs proportionally among all the beneficiaries so that the active beneficiary does
10 not bear the entire burden alone." (*Vincent v. Hughes Air West, Inc.*, *supra*, 557 F.2d at p. 769.)
11 The California Supreme Court issued its ruling regarding the award of attorney's fees in wage
12 and hour class action settlements in *Laffitte*. Under California law, the award of attorneys'
13 fees in common fund wage and hour class action settlements is proper under the percentage
14 method. (*See Laffitte v. Robert Half Int'l* (2016) 1 Cal.5th 480, 503 ("We join the
15 overwhelming majority of federal and state courts in holding that when class action litigation
16 establishes a monetary fund for the benefit of the class members, and the trial court in its
17 equitable powers awards class counsel a fee out of that fund, the court may determine the
18 amount of a reasonable fee by choosing an appropriate percentage of the fund created").)
19 Under the percentage of the fund method, the Court's objective remains to "mimic the market"
20 in fixing a reasonable fee. (*See Gaskill v. Gordon* (7th Cir. 1998) 160 F.3d 361, 363 (J.
21 Posner) ("When a fee is set by a court rather than by contract, the object is to set it at a level
22 that will approximate what the market will set....The judge, in other words, is trying to mimic
23 the market in legal services.").)

24 Here, the fee award representing 31% of the fund clearly falls within that range and is
25 consistent with other rulings of other courts and comprehensive surveys of class action
26 settlements and fee awards. (*See Martin v. AmeriPride Servs.* (S.D. Cal. 2011) 2011 U.S.
27 Dist. LEXIS 61796, 23 (recognizing that "courts may award attorney's fees in the 30-40%
28 range in wage and hour class actions that result in recovery of a common fund under \$10

million”); *see also* Eisenberg & Miller, *Attorney Fees in Class Action Settlements: An Empirical Study: 1993-2008*, 7 J. of Empirical Leg. Stud. 248, 262, fn.16 (2010) (independent studies of class action litigation nationwide conclude that fees in the range sought here are consistent with market rates).)

Further, “the response of the class members to attorneys’ fee notice, though not decisive, is relevant to the... reasonable determination” regarding fees. (*Swedish Hospital v. Shalala* (D.C. Cir. 1993) 1 F.3d 1261, 1272.) A positive response rate tends to suggest that the court’s “approximation of the market” for fees is well supported. (*Id.* at p. 1269.) In this case, the Class Notice specifically notified Class Members that Class Counsel would be seeking up to \$201,500 in attorneys’ fees. To date, no Class Member has objected to the settlement. This strong favorable response also supports the requested fees.

In addition, it is recognized that one of the primary factors justifying an enhanced attorney’s fees reward is the attendant risks inherent in the litigation. As observed in *City of Detroit v. Grinnell Corp.*:

No one expects a lawyer whose compensation is contingent upon his success to charge, when successful, as little as he would charge a client who had agreed to pay for his services, regardless of success. Nor, particularly in complicated cases producing large recoveries, is it just to make a fee depend solely on the reasonable amount of time expended.

(*City of Detroit v. Grinnell Corp* (2d Cir. 1974) 495 F.2d 448, 470.) Here, it is clear that a settlement fund of \$650,000.00 has been created as the entire amount is to be paid out without any reversions. For Class Counsel, the fees here were wholly contingent in nature and the case presented far more risk than the usual contingent fee case. Among the risks was the cost inherent in class action litigation, as well as a potentially drawn-out battle with a corporate Defendant.

As secondary support for the percentage of the fund method, courts have discretion to “cross-check” the fees awarded through the lodestar method. However, the *Laffitte* Court “emphasize[d] [that] the lodestar calculation, when used in this manner, does not override the trial court’s primary determination of the fee as a percentage of the common fund and thus

1 does not impose an absolute maximum or minimum on the potential fee award.” (*Laffitte*, 1
2 Cal.5th at p. 505; *In re Rite Aid Corp. Secs. Litig.* (3d Cir. 2005) 396 F.3d 294, 306-307 (“[The
3 lodestar cross-check does not trump the primary reliance on the percentage of common fund
4 method”).)

5 The Supreme Court in *Laffitte* stated: “If the multiplier calculated by means of a
6 lodestar cross-check is extraordinarily high or low, the trial court should consider whether the
7 percentage used should be adjusted so as to bring the imputed multiplier within a justifiable
8 range, but the court is not necessarily required to make such an adjustment.” (*Id.*) Thus, a
9 lodestar cross-check is aimed at astronomical multipliers. Indeed, cross-checks are not
10 required; in many cases, performing a cross-check “undermines” one of the primary reasons
11 for using the percentage method: aligning counsel’s incentives with the benefits delivered to
12 the class and discouraging protracted litigation. (*Id.* at p. 506 (finding trial courts “retain the
13 discretion to forgo a lodestar cross-check”); *Report of the Third Circuit Task Force, Court*
14 *Awarded Attorney Fees* (1985) 108 F.R.D. 237, 258; *Lealao v. Beneficial California, Inc.*
15 (2000) 82 Cal.App.4th 19, 29-30 (citing the recommendations of the Third Circuit Task Force
16 with approval and observing that “[t]he criticisms of the lodestar approach set forth in this
17 Report are now echoed by many authorities, who have been most vocal about the manner in
18 which it exacerbates the problem of ‘cheap settlements’ and burdens already overworked trial
19 judge”).)

20 Courts have defined reasonable multipliers on a lodestar cross-check to “range from 2
21 to 4 or even higher.” (*Wershba v. Apple Computer, Inc.* (2001) 91 Cal.App.4th 224, 255; see
22 also, e.g., *Sutter Health Uninsured Pricing Cases* (2009) 171 Cal.App.4th 495, 512 (applying a
23 2.52 multiplier on a cross-check in an antitrust class action); *Chavez*, 162 Cal.App.4th at p. 60
24 (applying a 2.5 multiplier on a lodestar cross-check); *City of Oakland v. Oakland Raiders*, 203
25 Cal.App.3d 78 (1988) (affirming a 2.34 multiplier without remand).) The intermediate court in
26 *Laffitte*, after finding that “2 to 4” is a reasonable range for multipliers on a cross-check,
27 affirmed a 2.13 multiplier. (*Laffitte*, 231 Cal.App.4th at pp. 881-82.) The intermediate court
28 opinion was affirmed in full by the California Supreme Court in its new decision guiding lower

1 courts on assessing fees.

2 With respect to Class Counsel's lodestar, to date, approximately 190.1 hours have been
3 expended by Class Counsel in this matter. (Tulyathan Decl. at ¶ 12, Ex. A; Lee Decl. at ¶ 9,
4 Ex. A.) Moreover, Class Counsel expects to incur approximately 15 additional hours in
5 finalizing this settlement, including handling any post-approval matters and settlement issues
6 that may arise. (Tulyathan Decl. at ¶ 13; Lee Decl. at ¶ 10.) Mr. Lee requests an hourly rate of
7 \$750.00 per hour. (Lee Decl. at ¶ 11.) Ms. Tulyathan requests an hourly rate of \$500.00.
8 (Tulyathan Decl. at ¶ 14.) The courts are quite liberal in the evidence required to prove an
9 attorney's hours. Detailed time records are not required. An attorney's testimony alone may
10 suffice: "Testimony of an attorney as to the number of hours worked on a particular case is
11 sufficient evidence to support an award of attorney fees, even in the absence of detailed time
12 records." (*Martino v. Denevi* (1986) 182 Cal.App.3d 553, 559.)

13 Reasonable hours include, in addition to time spent during litigation, the time spent
14 before the action is filed, including time spent interviewing the clients, investigating the facts
15 and the law, and preparing the initial pleadings. (*New York Gaslight Club, Inc. v. Carey*
16 (1980) 447 U.S. 54, 62.) Further, the fee award should include fees incurred to establish and
17 defend the attorneys' fee claim. (*Serrano v. Unruh* (1982) 32 Cal.3d 621, 639 [*Serrano IV*].)
18 Thus, Class Counsel requests that the court find that these hours were reasonable in this
19 litigation.

20 A reasonable hourly rate is the prevailing rate charged by attorneys of similar skill and
21 experience in the relevant community. (*PLCM Group, Inc. v. Drexler* (2000) 22 Cal.4th 1084,
22 1095.) The court may consider other factors when determining a reasonable hourly rate, e.g.,
23 the attorney's skill and experience, the nature of the work performed, the relevant area of
24 expertise and the attorney's customary billing rates. (*Flannery v. California Highway Patrol*
25 (1998) 61 Cal.App.4th 629, 632-33.)

26 Class Counsel's skill and experience justify the requested rate. As shown in the
27 supporting declarations, Class Counsel have significant experience in the area of employment
28 and wage and hour class actions. Specifically, Class Counsel's practice focuses on

1 representing employees in employment matters, particularly wage and hour cases. (Lee Decl.
2 at ¶¶ 6-12; Tulyathan Decl. at ¶¶ 8-11.) As such, based on the hours and applicable rate, the
3 total lodestar to be expended by Class Counsel through finalizing this settlement will be
4 approximately \$123,625.00, based on 205.1 total hours. (Lee Decl. at ¶ 11; Ex. A; Tulyathan
5 Decl. at ¶ 14, Ex. A.)

6 Once the court establishes the lodestar amount, it may enhance the fee award by a
7 multiplier in order to make an appropriate fee award. (*Serrano III*, 20 Cal.3d at p. 48.) The
8 pertinent factors include the difficulty of the questions involved and the skill in presenting
9 them, the contingent nature of the fee award, the extent to which the litigation precluded other
10 employment, and the percentage-of-the-fund the attorney would have received on the fair
11 market. (*Id.*, *Lealao*, 82 Cal.App.4th at p. 49.) However, this list is not exhaustive, and the
12 court can consider other factors it deems important in setting the multiplier. (*Ketchum v.*
13 *Moses* (2001) 24 Cal.4th 1122, 1139.)

14 *Lealao* contains several factors justifying an enhancement based on the percentage-of-
15 the-benefit, namely, commendable conduct by counsel, and significant recoveries by Class
16 Members, all of which were previously detailed above. *Lealao*, 82 Cal. App. 4th at 51-53. As
17 in *Lealao*, the Class was notified of the settlement and attorneys' fee request. The extreme
18 effort undertaken by counsel, as shown by their hours and the significantly high value being
19 paid for claims, shows considerable skill. As stated above, Defendant initiated payments to the
20 Settlement Class Members of the underpaid amounts after the initiation of this lawsuit. Thus,
21 despite having the Settlement Class Members promptly paid 100% of their underpaid sick pay
22 wages, Plaintiff and Class Counsel were able to recoup an additional \$1600+ in penalties for
23 the Settlement Class Members, which as discussed above, would have required a high burden
24 of proof to establish and further subject to the discretion of this Court. Not only was Class
25 Counsel instrumental in such recovery, but upon discovery of the increase in Settlement Class
26 Members, Class Counsel further protected the Settlement Class' interests by obtaining an
27 additional \$300,000 and further increasing each individual Settlement Class Member's pro-rata
28 portion of the settlement. Class Counsel believes that they have exhibited extraordinary efforts

1 for the benefit of the Settlement Class. Based on such conduct, Class Counsel believes that the
2 requested multiplier is warranted.

3 The multiplier should also be enhanced because of the contingent nature of counsel's
4 fee recovery. The risks in taking on a class action case are enormous, not the least of which is
5 time and effort. This type of risk and effort justifies a multiplier, particularly in view of the
6 contingent nature of the fee arrangement in this case.

7 Thus, the risks are very real and substantial for Class Counsel. Not only has Plaintiff's
8 counsel undertaken a significant risk in this matter, but in the face of that risk they have
9 achieved an excellent settlement. Thus, their work in obtaining the settlement in this matter has
10 been commendable.

11 Finally, based upon Plaintiff's counsel's lodestar of \$123,625.00, Plaintiff's request for
12 a multiplier of 1.63 is reasonable and fair, particularly based on the factors described above.
13 *Wershba v. Apple Computer, Inc.*, 91 Cal. App. 4th 224 (Ct.App.2001) (noting that courts
14 using the lodestar method to calculate attorney fees awards in class actions typically apply
15 multipliers in the range of 2 to 4); *Boyd v. Bank of Am. Corp.*, 2014 U.S. Dist. LEXIS 162880
16 (C.D. Cal. Nov. 18, 2014) (awarding 33% of the common fund, based on a multiplier of 2.58,
17 in a wage and hour class action settlement); *Vandervort v. Balboa Capital Corp.*, 8 F. Supp. 3d
18 1200, 1210 (C.D. Cal. 2014) (awarding 33% of the common fund, based on a multiplier of
19 2.52).
20

21 Finally, it is also critical to note that prompt settlement cannot be used to diminish the
22 fee or the enhancement based on a percentage-of-the-fund. (*Lealao*, 82 Cal.App.4th at p. 52
23 (the promptness of settlement "cannot be used to justify the refusal to apply a multiplier").)
24 According to *Lealao*, courts placed "an extraordinarily high value" on settlement, and counsel
25 should be rewarded, not punished, for achieving this goal in a timely fashion. (*Id.*)

26 As such, the requested fee award is fair and reasonable, and should be awarded in its
27 entirety. Class Counsel risked not only a great deal of time, but also a great deal of expense to
28 ensure the successful litigation of this action on behalf of all Settlement Class Members. For

these reasons, Class Counsel's request for attorneys' fees in the amount of \$201,500.00 should be approved as fair, reasonable, and adequate.

VII. THE COURT SHOULD APPROVE THE REQUEST FOR REIMBURSEMENT OF COSTS

The request for reimbursement of costs, in the amount of \$11,496.75 is fair and reasonable, especially in light of the fact that the Parties agreed that Plaintiff's counsel may seek up to \$20,000.00 as reimbursement for litigation costs under the Settlement Agreement. As set forth in Plaintiff's counsel's declaration, the costs were all directly incurred in the prosecution of this action, including but not limited to, filing and service fees, postage fees, and costs associated with mediation. (Lee Decl. at ¶ 13, Ex. B.) As such, the requested costs should be approved as fair and reasonable.

VIII. THE SETTLEMENT ADMINISTRATOR'S FEES AND COSTS SHOULD BE APPROVED

Pursuant to the terms of the Settlement Agreement, the fees and costs of the Settlement Administrator, Phoenix Settlement Administrators, are to be paid out of the class settlement funds. As shown on the Declaration of Taylor Mitzner, the settlement administration fees expended in this matter amount to a total of \$6,500.00, which is the amount that was agreed upon by the Parties. (Mitzner Decl. at ¶ 13, Ex. B.) For such reasons, it is requested that the Settlement Administrator's fees be approved.

IX. CONCLUSION

For all the foregoing reasons, and on the basis of the authorities cited herein, Plaintiff respectfully submits that the standards for final approval have been met and the terms of the Settlement Agreement are fair, adequate, and reasonable.

Accordingly, Plaintiff respectfully requests that the Court enter an Order in the form proposed and submitted:

1. Granting final approval to the proposed Settlement Agreement in this action;
2. Approving distribution of the settlement funds to the Class Members pursuant to the terms of the Settlement Agreement;

1 3. Approving Plaintiff's request for an award of the class representative
2 enhancement of \$10,000.00, with payment pursuant to the terms of the Settlement Agreement;

3 4. Approving Class Counsel's request for an award to Class Counsel for \$201,500
4 in attorneys' fees and \$11,496.75 in costs, with payment pursuant to the terms of the
5 Settlement Agreement;

6 5. Approving Plaintiff's request for payment of the settlement administration costs
7 to Phoenix Settlement Administrators in the amount of \$6,500.00, with payment pursuant to
8 the terms of the Settlement Agreement;

9 6. Approving Plaintiff's request for payment to the LWDA for \$48,000.00, with
10 payment pursuant to the terms of the Settlement Agreement; and

11 7. Entering final judgment as to all members of the Class in this action.
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14 DATED: November 9, 2022

DIVERSITY LAW GROUP, P.C.

15 By: 
16 _____

Larry W. Lee

Mai Tulyathan

17 Attorneys for Plaintiff, the Class, and Aggrieved
18 Employees
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