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

VERONICA BERNAL, individually, and on behalf of other members of the general public similarly situated; KAILIE FAGEN, individually, and on behalf of other members of the general public similarly situated and on behalf of other aggrieved employees pursuant to the California Private Attorneys General Act;

Plaintiffs,

vs.

A&E FAGEN, INC., a California corporation; and DOES 1 through 100, inclusive,

Defendants.

Case No. BC712866

Honorable Kenneth R. Freeman
Department SSC14

CLASS ACTION

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

[Declaration of Class Counsel (Yasmin Hosseini); Declaration of Class Representative (Kailie Fagen); Declaration of Settlement Administrator (Taylor Mitzner); and [Proposed] Final Approval Order and Judgment filed concurrently herein]

Date: February 4, 2025
Time: 11:00 a.m.
Department: SSC14

Complaint Filed: July 5, 2018
FAC Filed: May 19, 2022
Trial Date: None Set

1 **PLEASE TAKE NOTICE** that on February 4, 2025 at 11:00 a.m., in Department SSC14
2 of the above-entitled Court, located at 312 North Spring Street, Los Angeles, California 90012,
3 Plaintiff Kailie Fagen (“Plaintiff” or “Class Representative”) will and hereby does move for an
4 order granting final approval of:

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

- 8 • A Net Settlement Amount of approximately **\$88,459.26** will be fully distributed to all
9 Class Members who did not submit a timely and valid Request for Exclusion
10 (“Settlement Class Members”);
- 11 • **No Notices of Objection** were submitted to the settlement administrator, Phoenix
12 Settlement Administrators (“Phoenix” or “Settlement Administrator”);
- 13 • **No Requests for Exclusion** were submitted to the Settlement Administrator;

14 2. Payment in the amount of **\$64,166.67** to Lawyers *for* Justice, PC (“Class Counsel”),
15 representing one-third (1/3) of the Total Settlement Amount, for the attorneys’ fees, which is
16 reasonable and justified on a percentage-basis and also based on a lodestar cross-check;

17 3. Payment in the amount of **\$14,874.07** to Class Counsel for reimbursement of
18 litigation costs and expenses;

19 4. Payment in the amount of **\$7,500.00** to the Settlement Administrator for Settlement
20 Administration Costs;

21 5. Payment in the amount of **\$7,500.00** to Plaintiff Kailie Fagen as an Enhancement
22 Payment, for her time and effort in representing the Class; and

23 6. Allocation of the penalties under the Private Attorneys General Act of 2004,
24 California Labor Code section 2698, *et seq.*, in the amount of \$10,000.00 (“PAGA Amount”), of
25 which seventy-five percent (75%), or **\$7,500.00**, will be paid to the California Labor and
26 Workforce Development Agency (“LWDA”) (“LWDA Payment”) and twenty-five percent (25%),
27 or **\$2,500.00**, will be distributed to PAGA Employees on a *pro rata* basis (“PAGA Employee
28 Amount”).

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

4 This motion is based upon the following Memorandum of Points and Authorities; the
5 Declarations of Class Counsel (Yasmin Hosseini), Class Representative (Kailie Fagen), and
6 Settlement Administrator (Taylor Mitzner of Phoenix Settlement Administrators) in support
7 thereof; the pleadings and other records on file with the Court in this matter; and such evidence
8 and oral argument as may be presented at the hearing on this Motion.

9
10 Dated: January 3, 2025

LAWYERS for JUSTICE, PC

11
12 By: _____



Selena Matavosian

Attorneys for Plaintiff Kailie Fagen and the Class

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MEMORANDUM OF POINTS AND AUTHORITIES

I. SUMMARY OF MOTION

Plaintiff Kailie Fagen (“Plaintiff” or “Class Representative”) seeks final approval of: (1) the Total Settlement Amount of \$192,500.00¹; (2) attorneys’ fees in the amount of \$64,166.67 which is one-third (1/3) of the Total Settlement Amount², and reimbursement of litigation costs and expenses in the amount of \$14,874.07 (together, “Attorneys’ Fees and Costs) to Lawyers for Justice, PC (“Class Counsel”); (3) Settlement Administration Costs in the amount of \$7,500.00 to Phoenix Settlement Administrators (“Phoenix” or “Settlement Administrator”); (4) Enhancement Payment in the amount of \$7,500.00 to Plaintiff Kailie Fagen; and (5) allocation of \$10,000.00 for penalties under the Private Attorneys General Act of 2004, California Labor Code § 2698, *et seq.* (“PAGA Amount”).

Plaintiff seeks relief on behalf of the following Class:

All current and former hourly-paid or non-exempt employees of Defendant within the State of California employed at any time during the Class Period. (“Class” or “Class Members”).³

This matter involved ongoing investigations, formal and informal discovery, review and analysis of a large volume of documents and data prior to and during the mediation conducted by Lynn Frank, Esq., and settlement negotiations thereafter. This matter has required 327.10 hours of attorney time by Class Counsel. As will be demonstrated herein, the request for attorneys’ fees, which represents one-third (1/3) of the Total Settlement Amount, is fully supported by the use of the percentage-fee method. Courts have historically awarded fees of up to fifty percent (50%) of the recovery. The requested attorneys’ fees are also supported under the lodestar cross-check method.⁴

Plaintiff moves for final approval of the Enhancement Payment in the amount of \$7,500.00 to Plaintiff Kailie Fagen, to compensate Plaintiff for the time and effort that she expended

¹ Amended Joint Stipulation of Class Action and PAGA Settlement (“Settlement Agreement”), ¶ 6.nn.

² The Settlement Agreement and Class Notice provide that Class Counsel will seek an award of up to 35% of the Total Settlement Amount. However, Class Counsel only seeks attorneys’ fees equal to one-third of the Total Settlement Amount.

³ Settlement Agreement, ¶ 6.d. “Class Period” means the time period from July 5, 2014, through September 3, 2024. *See id.*, ¶ 6.f.

⁴ Applying a reasonable rate of \$850 to 327.10 hours of work performed by Lawyers for Justice, PC would place a base lodestar value of \$278,035.00 on Class Counsel’s services, and Class Counsel seeks an attorneys’ fees award of \$64,166.67.

spearheading the lawsuit on behalf of the Class, PAGA Employees, and the State of California. Plaintiff also moves for final approval of the payment to the Settlement Administrator in the amount of \$7,500.00 for Settlement Administration Costs. Plaintiff also moves for final approval of the allocation of \$10,000.00 for the PAGA Amount, of which seventy-five percent (75%), i.e., \$7,500.00, will be paid to the California Labor Workforce and Development Agency (“LWDA”) for its portion of the PAGA Amount (“LWDA Payment”), and twenty-five percent (25%), i.e., \$2,500.00 (“PAGA Employee Amount”), will be distributed to all Class Members employed by Defendant at any time during the PAGA Period (“PAGA Employees”).⁵

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

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

In order to efficiently present the Court with adequate information to determine whether to grant final approval of the Settlement and award Attorneys’ Fees and Costs, Enhancement Payment, Settlement Administration Costs, and the allocation for the PAGA Amount, Plaintiff also moves for an order permitting the filing of this single consolidated memorandum, although it exceeds the page limit established by California Rules of Court, Rule 3.1113(d), instead of filing several separate motions.

⁵ Settlement Agreement, ¶¶ 6.t, 6.w, 6.x, & 6.y. “PAGA Period” means the period from February 10, 2021, through September 3, 2024. *See id.*, ¶ 6.z.

1 **II. PROCEDURAL HISTORY AND FACTUAL BACKGROUND**

2 Defendant A&E Fagen, Inc. (“Defendant”) is a privately held grocery store in Whittier,
3 California. Plaintiff Kailie Fagen is a current employee of Defendant.

4 On July 5, 2018, former plaintiffs Veronica Bernal and Franchessca Alvarez-Reyes
5 (together, “Former Plaintiffs”) filed a Class Action Complaint for Damages (“Original
6 Complaint”) against Defendant and former defendant Whittier Grocery Outlet in the Los Angeles
7 County Superior Court (“Court”), thereby commencing the above-captioned lawsuit (“Action”).

8 On August 20, 2018, Defendant and former defendant Whittier Grocery Outlet filed an
9 Answer to the Original Complaint.

10 On December 3, 2018, former plaintiffs Veronica Bernal and Franchessca Alvarez-Reyes
11 propounded multiple sets of discovery on Defendant, including Requests for Production of
12 Documents, (Set One); Special Interrogatories, (Set One & Two); and Form Interrogatories –
13 General, (Set One), and served notices of depositions of Defendant’s Persons Most Knowledgeable
14 regarding organizational structure and wage-and-hour practices, along with requests for production
15 of documents.

16 On December 3, 2018, former plaintiffs Veronica Bernal and Franchessca Alvarez-Reyes
17 propounded multiple sets of discovery on former defendant Whittier Grocery Outlet, including
18 Requests for Production of Documents, (Set One); Special Interrogatories, (Set One & Two); and
19 Form Interrogatories – General, (Set One) and served notices of depositions of former defendant’s
20 Persons Most Knowledgeable regarding organizational structure and wage-and-hour practices,
21 along with requests for production of documents.

22 On January 4, 2019, Defendant served responses to former plaintiffs’ Requests for
23 Production of Documents, (Set One); Special Interrogatories, (Set One & Two); and Form
24 Interrogatories – General, (Set One), and objections to former plaintiff’s notices of deposition and
25 accompanying requests for production of documents.

26 On November 12, 2019, the Court entered an Order dismissing former defendant Whittier
27 Grocery Outlet without prejudice from the Action.

28 ///

1 On January 11, 2021, the Court entered an Order dismissing former plaintiff Franchessca
2 Alvarez-Reyes and her individual claims without prejudice from the Action.

3 On February 10, 2022, Plaintiff provided written notice to the California Labor and
4 Workforce Development Agency ("LWDA") by online submission and to Defendant by certified
5 mail, of the specific provisions of the California Labor Code that Defendant violated ("PAGA
6 Letter").

7 On May 19, 2022, former plaintiff Veronica Bernal and Plaintiff filed a First Amended
8 Class Action Complaint for Damages & Enforcement Under the Private Attorneys General Act,
9 California Labor Code § 2698, *Et Seq.* ("Operative Complaint"), which added Plaintiff and a cause
10 of action under PAGA.

11 On August 31, 2022, the Court entered an Order dismissing former plaintiff Veronica
12 Bernal and her individuals claims without prejudice from the Action.

13 On June 3, 2022, Defendant filed an Answer to the Operative Complaint.

14 Plaintiff's core allegation is that Defendant has violated the California Labor Code by
15 engaging in a uniform practice and procedure, with respect to Plaintiff and the Class Members, of,
16 *inter alia*, failing to pay all overtime and minimum wages, failing to provide compliant meal and
17 rest periods and associated premium pay, failing to timely pay wages during employment and upon
18 termination of employment, failing to provide compliant wage statements, failing to maintain
19 requisite payroll records, and failing to reimburse necessary business expenses, and thereby
20 engaged in unfair business practices in violation of California Business and Professions Code
21 section 17200, *et seq.* and conduct that gives rise to penalties pursuant to PAGA. Plaintiff
22 contends that she, and the Class Members, are entitled to, *inter alia*, unpaid wages, penalties
23 (including and not limited to, penalties pursuant to PAGA), and attorneys' fees.

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

28 ///

1 The Parties have actively litigated the Action since it was commenced on July 5, 2018. On
2 July 30, 2020, counsel for the Parties participated in a formal, full-day mediation conducted by
3 Lynn S. Frank, Esq. (the “Mediator”), a well-regarded mediator experienced in mediating complex
4 labor and employment matters. With the aid of the Mediator’s evaluation, the Parties ultimately
5 reached the Settlement described herein to resolve the Action in its entirety.

6 On August 16, 2023, Plaintiff filed a Motion for Preliminary Approval of Class Action
7 Settlement and supporting documents (“Motion for Preliminary Approval”).

8 On September 12, 2023, the Court issued a Checklist for Preliminary Approval of Class
9 Action Checklist (“Checklist”).

10 On March 11, 2024, the Parties filed a Joint Stipulation to Continue Plaintiff’s Deadline to
11 File Supplemental Papers in Support of Plaintiff’s Motion for Preliminary Approval of Class
12 Action Settlement (“March 11, 2024 Stipulation”), thereby seeking additional time to file
13 supplemental papers addressing the issues raised in the Checklist.

14 On March 18, 2024, Plaintiff filed a Supplemental Brief in Support of Plaintiff’s Motion
15 for Preliminary Approval of Class Action Settlement, Supplemental Declaration of Selena
16 Matavosian in Support of Plaintiff’s Motion for Preliminary Approval of Class Action Settlement,
17 Declaration of Edgar L. Fagen in Support of Motion for Preliminary Approval of Class Action
18 Settlement, and [Revised Proposed] Order Granting Preliminary Approval of Class Action
19 Settlement, thereby addressing the issues raised in the Checklist.

20 On March 20, 2024, the Court granted the March 11, 2024 Stipulation, thereby continuing
21 the deadline to file the supplemental papers from March 11, 2024 to March 18, 2024.

22 On March 22, 2024, Plaintiff filed a Further Supplemental Declaration of Selena
23 Matavosian in Support of Plaintiff’s Motion for Preliminary Approval of Class Action Settlement.

24 On April 9, 2024, the Court held a hearing on the Motion for Preliminary Approval (“April
25 9, 2024 Hearing”), wherein the Court requested additional information with regard to the Motion
26 for Preliminary Approval, continued the hearing to April 30, 2024 at 10:30 a.m., and set a deadline
27 to submit a supplemental declaration by April 26, 2024.

28 ///

1 On April 26, 2024, Plaintiff filed a Further Supplemental Declaration of Selena Matavosian
2 in Support of Plaintiff's Motion for Preliminary Approval of Class Action Settlement, thereby
3 addressing the issues raised at the April 9, 2024 Hearing.

4 On April 30, 2024, the Court held a hearing on the Motion for Preliminary Approval,
5 wherein the Court granted the Motion for Preliminary Approval and ordered the Parties to submit
6 a revised proposed order.

7 On July 11, 2024, Plaintiff filed the [Further Revised Proposed] Order Granting
8 Preliminary Approval of Class Action Settlement.

9 On September 3, 2024, the Court entered an Order Granting Preliminary Approval of
10 Class Action Settlement ("Preliminary Approval Order"), thereby preliminarily approving the
11 terms of the Settlement, the Class Notice, and the proposed administration procedures and
12 associated deadlines.

13 Plaintiff now moves for final approval of Attorneys' Fees and Costs, Enhancement
14 Payment, Settlement Administration Costs, and the allocation for PAGA Amount.

15 **III. SUMMARY OF THE SETTLEMENT TERMS AND PLAN OF DISTRIBUTION**

16 Under the terms of the Settlement Agreement, Defendant has agreed to fully fund the Total
17 Settlement Amount of \$192,500.00, and also fund the employer's share of taxes and contributions
18 in connection with the wages portion of Individual Settlement Shares ("Employer Taxes"), in four
19 (4) installment payments – a deposit of \$67,500.00 of the Total Settlement Amount into the
20 qualified settlement account established by the Settlement Administrator no later than thirty (30)
21 calendar days of Final Approval ("First Installment"), \$45,000.00 of the Total Settlement Amount
22 within six (6) months after the First Installment payment deadline ("Second Installment"),
23 \$40,000.00 of the Total Settlement Amount within six (6) months after the Second Installment
24 payment deadline ("Third Installment"), and \$40,000.00 of the Total Settlement Amount, plus an
25 amount sufficient to pay Employer Taxes, within six (6) months after the Third Installment
26 payment deadline ("Fourth Installment").⁶ Subject to approval by the Court, the Net Settlement
27 Amount will be calculated by deducting the following amounts from the Total Settlement Amount:

28 ⁶ Settlement Agreement, ¶¶ 6.m, 6.nn, & 9.d

(1) Attorneys' Fees and Costs, consisting of attorneys' fees in the amount of \$64,166.67 and reimbursement of litigation costs and expenses in the amount of \$14,874.07, to Class Counsel; (2) Enhancement Payment in the amount of \$7,500.00 to Plaintiff Kailie Fagen; (3) Settlement Administration Costs in the amount of \$7,500.00 to Phoenix; and (4) PAGA Amount in the amount of \$10,000.00.⁷ The Net Settlement Amount, which is estimated to be \$88,459.26, will be distributed in accordance with the Settlement Agreement.⁸

The Settlement Administrator will determine each Settlement Class Member's *pro rata* share of the Net Settlement Amount ("Individual Settlement Share"), according to the following methodology: After Final Approval of the Settlement, the Settlement Administrator will divide the final Net Settlement Amount by the Workweeks of all Settlement Class Members to yield the "Final Workweek Value," and multiply each Settlement Class Member's individual Workweeks by the Final Workweek Value to yield his or her Individual Settlement Share.⁹

The Settlement Administrator will determine each PAGA Employee's *pro rata* share of the PAGA Employee Amount ("Individual PAGA Payment"), according to the following methodology: The Settlement Administrator will divide the PAGA Employee Amount, i.e., 25% of the PAGA Amount, by the total number of PAGA Workweeks of all PAGA Employees to yield the "PAGA Workweek Value," and multiply each PAGA Employee's individual PAGA Workweeks by the PAGA Workweek Value to yield his or her Individual PAGA Payment.¹⁰

Class Members had forty-five (45) calendar days from the initial mailing of the Class Notice by the Settlement Administrator ("Response Deadline") to submit a Request for Exclusion, Notice of Objection, and/or dispute of the Workweeks and/or PAGA Workweeks.¹¹ The Response Deadline was November 12, 2024.¹² ***As of the date of this Motion, the Settlement Administrator has not received any written objections to the Class Settlement ("Notices of Objection") or letter***

⁷ Settlement Agreement, ¶¶ 10, 11, 12, & 13.

⁸ This amount is higher than the amount stated in Paragraph 14 of the accompanying Declaration of Taylor Mitzner with Respect to Notice and Settlement Administration ("Phoenix Declaration" or "Phoenix Decl.") because the Settlement Administrator's calculation assumes that Class Counsel will obtain litigation costs and expenses in the maximum amount of \$16,000.00, which is allocated under the Settlement. However, Class Counsel seeks the amount of only \$14,874.07 for reimbursement of litigation costs and expenses, and the total difference of \$1,125.93 will remain part of the Net Settlement Amount.

⁹ Settlement Agreement, ¶¶ 6.s & 14.b.

¹⁰ *Id.*, ¶¶ 6.q & 15.

¹¹ *Id.*, ¶ 6.jj.

¹² Phoenix Decl., ¶¶ 10-12.

1 *submitted by a Class Member indicating a request to be excluded from the Class Settlement*
2 *(“Requests for Exclusion”).¹³*

3 Each Settlement Class Member’s Individual Settlement Share will be allocated as follows:
4 twenty percent (20%) as wages, which will be reported on an IRS Form W-2; and the remaining
5 eighty percent (80%) as penalties, interest, and non-wage damages, which will be reported on an
6 IRS Form 1099.¹⁴ The Settlement Administrator will withhold the employee’s share of taxes and
7 withholdings with respect to the wages portion of the Individual Settlement Shares, and issue
8 checks to Settlement Class Members for their Individual Settlement Payments (i.e., payment of
9 their Individual Settlement Share net of these taxes and withholdings).¹⁵ Defendant will pay the
10 Employer Taxes separately and in addition to the Total Settlement Amount.¹⁶ Each Individual
11 PAGA Payment will be allocated as one hundred percent (100%) penalties and will be reported on
12 an IRS Form-1099 (if applicable) by the Settlement Administrator.¹⁷

13 Individual Settlement Payment and Individual PAGA Payment checks will be valid and
14 negotiable for one hundred and eighty (180) calendar days from the date the checks are issued, and
15 thereafter, shall be canceled.¹⁸ Pursuant to California Code of Civil Procedure Section 384, all
16 funds associated with such canceled checks will be transmitted to the California State Controller’s
17 Office Unclaimed Property Division in the name of the Settlement Class Member and/or PAGA
18 Employee at issue and in the amount of his or her respective Individual Settlement Payment and/or
19 Individual PAGA Payment within ten calendar (10) days after the expiration of the settlement
20 checks, or such other date that the Court orders.¹⁹

21 **IV. THE SETTLEMENT ADMINISTRATION PROCESS**

22 The Court-appointed Settlement Administrator, Phoenix, has taken all necessary steps to
23 effectuate the notice and settlement administration process, as set forth in the Court’s Preliminary
24 Approval Order.

25 _____
26 ¹³ Phoenix Decl., ¶¶ 10 & 11.

27 ¹⁴ Settlement Agreement, ¶ 25.

28 ¹⁵ Ibid.

¹⁶ Ibid.

¹⁷ Ibid.

¹⁸ *Id.*, ¶ 20.

¹⁹ Ibid.

On September 18, 2024, Phoenix received a data file from Defendant's Counsel that contained each Class Member's full name, last known mailing address, Social Security Number, start and end dates of employment as hourly-paid or non-exempt employees of Defendant in California during the Class Period, and such other information as is necessary for the Settlement Administrator calculate Workweeks and PAGA Workweeks (collectively, "Class List").²⁰ The Class List contained records for one hundred twenty-four (124) individuals identified as Class Members who worked a total of seven thousand three hundred ninety-one (7,391) Workweeks.²¹ Of the one hundred twenty-four (124) individuals, forty-five (45) are PAGA Employees.²²

On September 19, 2024, Phoenix conducted a National Change of Address ("NCOA") search in an attempt to update the class list of addresses as accurately as possible.²³ A search of this database provides updated addresses for any individual who has moved in the previous four (4) years and notified the U.S. Postal Service of their change of address.²⁴ To the extent that an updated address was found in the NCOA database, the updated address was used for the mailing of the Class Notice.²⁵ To the extent that no updated address was found in the NCOA database, the original address provided by Defendant's Counsel was used for the mailing of the Class Notice.²⁶

On September 26, 2024, Phoenix mailed the Class Notice via U.S. First Class Mail, in English and Spanish, to all one hundred twenty-four (124) individuals contained in the Class List.²⁷

A total of thirteen (13) Class Notices have been returned to Phoenix.²⁸ None were returned with a forwarding address.²⁹ For the thirteen (13) Class Notices returned from the Post Office without a forwarding address, Phoenix attempted to locate a current mailing address using TransUnion TLOxp, one of the most comprehensive address databases available for skip tracing.³⁰ Of the thirteen (13) Class Notices that were skip traced, nine (9) updated addresses were obtained

²⁰ Phoenix Decl., ¶ 4.

²¹ Ibid.

²² Ibid.

²³ *Id.*, ¶ 6.

²⁴ Ibid.

²⁵ Ibid.

²⁶ Ibid.

²⁷ *Id.*, ¶ 7.

²⁸ *Id.*, ¶ 8.

²⁹ Ibid.

³⁰ Ibid.

1 and the Class Notice was promptly re-mailed to those Class Members via first class mail.³¹ There
2 are four (4) Class Notices remain undeliverable since an updated address could not be obtained
3 via skip trace.³²

4 As of the date of this Motion, the Settlement Administrator has not received any Notices
5 of Objection, Requests for Exclusion, or disputes to Workweeks and/or PAGA Workweeks from
6 Class Members and PAGA Employees.³³

7 To date, there are one hundred twenty-four (124) Class Members who did not submit timely
8 and valid Requests for Exclusion and are therefore deemed to be Settlement Class Members,
9 representing 100% of the Class, and who will be paid their portion of the Net Settlement Amount.³⁴
10 Pursuant to the terms of the Settlement, the Net Settlement Amount of approximately \$88,459.26
11 will be distributed to Settlement Class Members in accordance with the terms of the Settlement.³⁵
12 The highest Individual Settlement Payment is currently estimated to be approximately \$4,882.92
13 and the average Individual Settlement Payment is currently estimated to be approximately
14 \$678.43.³⁶ The highest Individual PAGA Payment is currently estimated to be approximately
15 \$157.04 and the average Individual PAGA Payment is currently estimated to be approximately
16 \$55.56.³⁷

17 **V. THE COURT SHOULD GRANT FINAL APPROVAL OF THE CLASS ACTION**
18 **AND PAGA SETTLEMENT.**

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

22 the strength of plaintiffs' case, the risk, expense, complexity and likely duration of
23 further litigation, the risk of maintaining class action status through trial, the
24 amount offered in settlement, the extent of discovery completed and the stage of

25 ³¹ Phoenix Decl., ¶ 8.

26 ³² *Id.*, ¶ 9.

27 ³³ *Id.*, ¶¶ 10-12.

28 ³⁴ *Id.*, ¶ 13.

³⁵ *Id.*, ¶ 14; see also, n.8, *supra*.

³⁶ *Id.*, ¶ 15. The actual average and highest Individual Settlement Payment to a Settlement Class Member will be larger than the amounts stated in the Phoenix Declaration because the Net Settlement Amount is larger due to Class Counsel's request for reimbursement of litigation costs and expenses in an amount that is less than \$16,000 (the difference between the amount sought and the amount authorized under the Settlement, \$1,125.93, will be part of the Net Settlement Amount). See n.8, *supra*.

³⁷ *Id.*, ¶ 17.

the proceedings, the experience and views of counsel, the presence of a governmental participant, and the reaction of the class members to the proposed settlement.

Dunk v. Ford Motor Co. (1996) 48 Cal.App.4th 1794, 1801. “The list of factors is not exclusive and the court is free to engage in a balancing and weighing of the factors depending on the circumstances of each case.” *Wershba v. Apple Computer, Inc.* (2001) 91 Cal.App.4th 224, 245. “Due regard should be given to what is otherwise a private consensual agreement between the parties.” *Dunk, supra*, 48 Cal.App.4th at 1801.

The proponent of the settlement has the burden to show that it is fair and reasonable. *Wershba, supra*, 91 Cal.App.4th at 245. At the final approval stage, a presumption of fairness exists where, as here: “(1) the settlement is reached through arm’s-length bargaining; (2) investigation and discovery are sufficient to allow counsel and the court to act intelligently; (3) counsel is experienced in similar litigation; and (4) the percentage of objectors is small.” *Dunk, supra*, 48 Cal.App.4th at 1802. In reviewing a class settlement, the court need not reach any ultimate conclusions on the issues of fact and law that underlie the merits of the dispute. *7-Eleven Owners for Fair Franchising v. Southland Corp.* (2000) 85 Cal.App.4th 1135, 1146. The inquiry is not whether the settlement agreement is the best one that class members could have possibly obtained, but whether the settlement, taken as a whole, is “fair, adequate, and reasonable.” *Chavez v. Netflix, Inc.* (2008) 162 Cal.App.4th 43, 55. A settlement need not obtain 100 percent of the damages sought in order to be fair, reasonable, and ultimately, meaningful. *Wershba, supra*, 91 Cal.App.4th at 251. Even if the proposed settlement affords relief that is substantially narrower than it would be if the case were to be successfully litigated, that is no bar to a class settlement because the public interest may indeed be served by a voluntary settlement in which each side gives ground in the interest of avoiding prolonged litigation. *Id.*

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

The Parties actively litigated the case since the Action commenced on July 5, 2018. Class Counsel conducted significant investigation and formal and informal discovery into the facts of

1 the case to assess the veracity, strength, and scope of the claims, and was preparing the matter for
2 class certification and trial prior to reaching the Settlement.³⁸

3 The Parties conducted significant formal and informal discovery and investigation into the
4 facts of the case, and also exchanged a large volume of pages of information, documents, and data
5 throughout the course of litigation and in connection with mediation and settlement negotiations.³⁹
6 Class Counsel propounded Form Interrogatories – General (Set One), Special Interrogatories (Sets
7 One and Two), and Requests for Production of Documents (Set One) onto Defendant and former
8 defendant Whittier Grocery Outlet (“Former Defendant”), and served multiple notices of
9 deposition of Former Defendant’s and Defendant’s Person Most Knowledgeable designees, along
10 with accompanying requests for production of documents.⁴⁰ The volume of information,
11 documents, and data that Class Counsel reviewed and analyzed included and was not limited to:
12 Plaintiff’s and other Class Members’ employment records, a detailed sampling of Class Members’
13 time data and pay records, Defendant’s Employee Handbook, Defendant’s operations and
14 employment practices, forms, procedures, and policies (including, but not limited to, Defendant’s
15 policies regarding Full-Time/Part-Time and Temporary Status, Paydays and Distribution of
16 Paychecks, Hours of Work/Work Schedules, Breaks/Lunches, Overtime, Recording Time
17 Worked, Attendance, Dress Code, and Lunch Room and Lockers), among other information and
18 documents.⁴¹ Class Counsel had the opportunity to interview and obtain information from Former
19 Plaintiffs, Plaintiff, and percipient witnesses, and reviewed and analyzed a volume of information,
20 documents, and data obtained from Former Plaintiffs, Plaintiff, Defendant, and other sources.⁴²
21 Class Counsel also developed liability, damages, violation, and penalties valuation models in the
22 course of litigation and in connection with mediation and settlement negotiations and met and
23 conferred with Defendant’s counsel on numerous occasions, e.g., to discuss issues relating to the
24 pleadings, discovery, and the production of information, documents, and data in the course of
25 litigation and in connection with the mediation and settlement negotiations.⁴³ Other work

26 ³⁸ Declaration of Yasmin Hosseini (“Hosseini Decl.”), ¶ 6.

27 ³⁹ Ibid.

28 ⁴⁰ Ibid.

⁴¹ Ibid.

⁴² Ibid.

⁴³ Ibid.

performed by Class Counsel included, and was not limited to, case strategy and analysis; drafting, reviewing, and revising pleadings, motion-related papers, mediation brief, and settlement-related papers; and preparing for court proceedings, mediation and settlement negotiations, among other tasks.⁴⁴

After conducting formal and informal discovery and investigation into the facts of the case, the Parties participated in a formal, full-day mediation conducted by Lynn Frank, Esq., a well-regarded mediator experienced in mediating complex labor and employment matters.⁴⁵ In the course of the mediation and settlement negotiations, the Parties exchanged information, documents, and data, and discussed all aspects of the case, including and not limited to, the risks and delays of further litigation, the risks to the Parties of proceeding with class certification and trial, the law relating to class certification, manageability, off-the-clock theory, meal and rest periods, representative PAGA claims, and wage-and-hour law and enforcement, as well as the evidence produced and analyzed, and the possibility of appeals, among other things.⁴⁶ During all settlement discussions, the Parties conducted their negotiations at arm's length in an adversarial position.⁴⁷ Arriving at a settlement that was acceptable to the Parties was not easy.⁴⁸ Defendant contended that individualized questions of fact predominate over any common issues, and these issues would pose challenges to class certification and representative adjudication.⁴⁹ Defendant and its counsel felt strongly about Defendant's ability to avoid class certification and representative adjudication and prevail on the merits, while Plaintiff and Class Counsel believed that they would be able to obtain class certification and prevail at trial.⁵⁰ After conducting significant formal and informal discovery and investigations, settlement negotiations, and with the aid of the mediator's evaluation, the Parties agreed that the case was well-suited for settlement given the legal issues relating to Plaintiff's principal claims, as well as the costs and risks to the Parties that would attend further litigation.⁵¹

⁴⁴ Hosseini Decl., ¶ 6.

⁴⁵ *Id.*, ¶ 8.

⁴⁶ *Ibid.*

⁴⁷ *Ibid.*

⁴⁸ *Ibid.*

⁴⁹ *Ibid.*

⁵⁰ *Ibid.*

⁵¹ *Ibid.*

The Settlement takes into account the strengths and weaknesses of each side's position and the uncertainty of how the case might have concluded at certification, trial, and/or appeals. Class Counsel analyzed a large volume of information, documents, and data obtained from Former Plaintiffs, Plaintiff, Defendant, and other sources, and performed research regarding applicable law, which is evolving as it relates to certification, off-the-clock theory, meal and rest periods, representative PAGA claims, wage-and-hour enforcement, Plaintiff's claims, and Defendant's defenses thereto, as well as facts discovered.⁵² The Settlement was based on this large volume of facts, evidence, and investigation.⁵³ Additionally, Class Counsel have extensive experience in handling complex wage-and-hour actions, including significant experience in employment class action litigation.⁵⁴

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

The Settlement, which provides for a Total Settlement Amount of \$192,500.00, represents a fair, adequate, and reasonable resolution of the case, given the risks inherent in litigating class and representative claims through certification proceedings, trial, and/or appeals.⁵⁵ The Settlement was calculated using information and data uncovered through extensive case investigation, formal and informal discovery, and the exchange of information in the context of mediation and ongoing settlement negotiations.⁵⁶ Had the action not settled, Defendant would have vigorously challenged class certification, manageability of representative adjudication, and liability. Defendant contended that individualized questions of fact predominated over any common issues, and these issues would pose challenges to certification and representative adjudication. Defendant would have likely argued again at trial, if any, that Plaintiff's claims were not appropriate for class-wide and/or representative adjudication. On the other hand, Defendant also faced the risk of the Court certifying a class and allowing a jury to decide Plaintiff's claims on a class-wide or representative basis. Additionally, preparation for trial would have been expensive for all parties.

⁵² Hosseini Decl., ¶ 7.

⁵³ *Id.*, ¶¶ 6-8.

⁵⁴ *Id.*, ¶¶ 13-19.

⁵⁵ *Id.*, ¶¶ 8 & 22.

⁵⁶ *Id.*, ¶¶ 8-11.

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

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

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

25 The Settlement, which provides for a Total Settlement Amount of \$192,500.00, represents
26 a fair, reasonable, and adequate resolution of the case. The Settlement was calculated using
27 information and data uncovered through extensive case investigation, formal and informal
28 discovery, and the exchange of information in the context of preparing for mediation and

conducting ongoing settlement negotiations. The Settlement takes into account the potential risks and rewards inherent in any case and, in particular, in this matter. Moreover, considering all of the facts in the cases, the Total Settlement Amount represents a considerable recovery.

Even after deducting attorneys' fees in the amount of \$64,166.67, litigation costs in the amount of \$14,874.07, Enhancement Payment in the amount of \$7,500.00, Settlement Administration Costs in the amount of \$7,500.00, and the allocation of PAGA Amount of \$10,000.00 from the Total Settlement Amount of \$192,500.00, the Net Settlement Amount is currently estimated to be \$88,459.26.⁵⁷ Under the Settlement Agreement, the Total Settlement Amount will be fully paid out, in accordance with the terms of the Settlement. As discussed in Section III, *supra*, each Settlement Class Member will be paid a *pro rata* share of the Net Settlement Amount, based on the number of Workweeks credited to him or her, and each PAGA Employee will be paid a *pro rata* share of the PAGA Employee Amount, based on the number of PAGA Workweeks credited to him or her.⁵⁸ To date, there are one hundred twenty-four (124) Settlement Class Members, representing one hundred percent (100%) of the Class Members.⁵⁹ The highest Individual Settlement Payment is currently estimated to be approximately \$4,882.92 and the average Individual Settlement Payment is currently estimated to be approximately \$678.43.⁶⁰ The highest Individual PAGA Payment is currently estimated to be approximately \$157.04 and the average Individual PAGA Payment is currently estimated to be approximately \$55.56.⁶¹ These are significant individual recoveries, particularly in light of the risks of litigation.

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

⁵⁷ Phoenix Decl., ¶ 14; see also, n.8, *supra*.

⁵⁸ Settlement Agreement, ¶¶ 14 & 15.

⁵⁹ Phoenix Decl., ¶ 13.

⁶⁰ *Id.*, ¶ 15; see n.36, *supra*.

⁶¹ *Id.*, ¶ 17.

Members, the State of California, and PAGA Members.⁶² Although the recommendations of Class Counsel are not conclusive, the Court can properly take the recommendations into account, particularly if Class Counsel appears to be competent, has experience with this type of litigation, and significant discovery and investigation have been completed, as is the case here. Conte & Newberg, *Newberg on Class Actions* (4th Ed., 2002) § 11.47. Accordingly, the Court should grant final approval of the Settlement.

D. The Class Was Represented by Competent Counsel.

Class Counsel has extensive experience in employment class action law and complex wage-and-hour litigation.⁶³ Lawyers for Justice, PC has been appointed class counsel in numerous complex wage-and-hour cases, and has recovered millions of dollars for individuals in California.⁶⁴ Both parties' counsel were capable of assessing the strengths and weaknesses of the Class Members' claims against Defendant and the benefits of the Settlement under the circumstances of the case and in the context of a private, consensual settlement agreement.

E. There Are No Objections to the Class Settlement.

The Settlement has been well received by the Class – *not a single Class Member objected to the Class Settlement.*⁶⁵ Specifically, no objections have been made as to the Total Settlement Amount or requested Attorneys' Fees and Costs, Enhancement Payment, Settlement Administration Costs, or the allocation for the PAGA Amount. California courts have consistently found that a small number of objectors indicates the class' support for a settlement and strongly favors final approval. *Wershba, supra*, 91 Cal.App.4th at 250-51 (final approval granted despite 20 objectors); *7-Eleven Owners, supra*, 85 Cal.App.4th at 1152-53 (final approval granted despite 9 objectors).

Here, the lack of any objections speaks volumes about the fairness, reasonableness, and adequacy of this Settlement. Accordingly, the Settlement as a whole is presumed to be fair,

⁶² Hosseini Decl., ¶ 22.

⁶³ *Id.*, ¶¶ 13-19.

⁶⁴ *Ibid.*

⁶⁵ Phoenix Decl., ¶ 11.

reasonable, and adequate, and the Court should grant final approval of the Settlement in its entirety.
Dunk, supra, 48 Cal.App.4th at 1802.

VI. THE ATTORNEYS' FEES REQUESTED IS FAIR AND REASONABLE AND SHOULD BE APPROVED.

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

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

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

"The ultimate goal . . . is the award of a 'reasonable' fee to compensate counsel for their efforts, irrespective of the method of calculation." *Consumer Privacy Cases* (2009) 175

Cal.App.4th 545, 557-58 (quoting *Apple Computer, Inc. v. Superior Court*, *supra*, 126 Cal.App.4th at 1270). It is not an abuse of discretion to choose one method over another as long as the method chosen is applied consistently using percentage figures and/or rates that accurately reflect the marketplace. In cases where class members present claims against a settlement amount and the settlement agreement provides that the defendant agrees to paying the attorneys a percentage of the same, use of that percentage method is appropriate. *Lealao*, *supra*, 82 Cal.App.4th at 32.

Historically, courts have awarded fees as high as fifty percent (50%) of the settlement, depending on the circumstances of the case. Conte & Newberg, *Newberg on Class Actions* (4th Ed., 2002) § 14.03; *see also In re Ampicillin Antitrust Litig.* (D.D.C. 1981) 526 F.Supp. 494 (awarding attorneys' fees in the amount of 45% of the settlement amount of \$7.3 million); *Beech Cinema, Inc. v. Twentieth-Century Fox Film Corp.* (S.D.N.Y. 1979) 480 F.Supp. 1195 (awarding approximately 53% of the settlement amount as attorneys' fees). California courts routinely approve class action attorneys' fees awards "averag[ing] around one-third of the recovery." *Chavez v. Netflix, Inc.* (2008) 162 Cal.App.4th 43, 66 n.11 (lower court found 20 to 40 percent range of contingency fee in marketplace was appropriate in class actions); *see also Laffitte*, 1 Cal.5th at 488 & 506 (approving fee award of 1/3 of common fund of \$19 million).

B. A Fee Award of a Percentage of the Entire Fund Is Appropriate.

California and federal courts have long recognized that an appropriate method for determining the award of attorneys' fees is based on a percentage of the total value of benefits made available to class members by the settlement. *Laffitte*, 1 Cal.5th at 503; *Boeing Co. v. Van Gemert* (1980) 444 U.S. 472, 478; *Paul, Johnson, Alston & Hunt v. Gaulty* (9th Cir. 1989) 886 F.2d 268, 272; *Vincent v. Hughes Air West, Inc.* (9th Cir. 1977) 557 F.2d 759, 769; *Serrano v. Priest* (1977) 20 Cal.3d 25, 34.⁶⁶ The purpose of this equitable doctrine is to spread litigation costs proportionally among all the beneficiaries so that the active beneficiary does not bear the entire burden alone. *See Vincent*, *supra*, 557 F.2d at 769.

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⁶⁶ The California Supreme Court has urged trial courts to consider class action federal authority. *Green v. Obledo* (1981) 29 Cal.3d 126, 146; *Vasquez v. Superior Court* (1971) 4 Cal.3d 800, 821.

1 When a litigant's efforts result in a settlement from which others may derive benefits, the
2 litigant may require the passive beneficiaries to compensate those whose efforts brought about the
3 settlement. See, R. Pearle, *California Attorney Fee Awards* (CEB, 1993) § 7A, p. 5-7 (permitting
4 attorneys' fees and costs to be paid out of the settlement or directly on behalf of the other parties
5 enjoying the benefit of the settlement). Both state and federal courts have embraced this doctrine.
6 See *Serrano, supra*, 20 Cal.3d at 35; *Crampton v. Takegoshi* (1993) 17 Cal.App.4th 308, 317;
7 *Vincent, supra*, 557 F.2d at 769.

8 The propriety of calculating and awarding attorneys' fees as a percentage of a monetary
9 settlement that has, by litigation, been preserved or recovered for the benefit of others, has been
10 confirmed by the California Supreme Court. *Laffitte, supra*, 1 Cal.5th 480 at 486 & 506. The
11 California Supreme Court has taken the position that "[t]rial courts have discretion to conduct a
12 lodestar cross-check on a percentage fee," "they also retain the discretion to forgo a lodestar cross-
13 check and use other means to evaluate the reasonableness of a requested percentage fee[.]" and
14 "[t]he percentage [...] method survives in California." *Id.* (internal quotes omitted).

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

23 When the case was originally filed, not only was it inescapably contingent, but the prospect
24 of a long, drawn-out battle with a defendant represented by experienced counsel, was almost a
25 certainty. By taking on this "battle" on a contingency basis, Class Counsel risked substantial
26 economic loss if the results were not successful. This substantial risk is the reason that the courts
27 approve the use of the percentage method when a settlement is obtained by the efforts of class
28

counsel. *See Vizcaino v. Microsoft* (9th Cir. 2002) 290 F.3d 1043, 1048-49 (discussing the risks of engaging in litigation without certainty of compensation).

Under the terms of the Settlement Agreement, Defendant will pay a Total Settlement Amount of \$192,500.00 on a non-reversionary basis. The requested attorneys' fees are one-third (1/3) of the total value of the monetary settlement. In light of Class Counsel's successful prosecution and resolution of the case, the requested attorneys' fees are appropriate and reasonable.

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

The percentage method is consistent with, and is intended to mirror, the practice in the private marketplace where contingent-fee attorneys typically negotiate percentage-fee arrangements with their clients. The named plaintiff's agreement to pay a contingent fee is powerful evidence of a reasonable fee. One of the best ways to demonstrate the value of counsel's work to the class is to review the consideration agreed to be paid by the named plaintiff. If the named plaintiff has employed counsel on a contingency-fee basis, it would indeed be inequitable for the members of the class, who will enjoy the benefits of the settlement without incurring the risks of bringing the claim, to pay less than the named plaintiff. In this matter, Plaintiff has agreed to contingency fees of one third (1/3) of the recovery.

Furthermore, a percentage-fee award is not dependent on a determination of the actual amount claimed by those entitled—it is the creation of the settlement that is the crucial fact. In *Winslow v. Harold G. Ferguson Corp.*, the California Supreme Court expressly held that “it is equitable that [the attorney's] compensation and expenses should come from the entire fund saved for all classes concerned before it is distributed.” *Winslow v. Harold G. Ferguson Corp.* (1944) 25 Cal.2d 274, 284. Likewise, *Lealao* expressly held that a percentage-based fee “may be calculated

on the basis of the total fund made available rather than the actual payments made to the class.”
Lealao, supra, 82 Cal.App.4th at 51; *see also Boeing, supra*, 444 U.S. at 478 (“a litigant or a
lawyer who recovers” a settlement “for the benefit of persons other than himself or his client is
entitled to a reasonable attorneys’ fee from the fund as a whole”).

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

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

**C. The Attorneys’ Fees Requested Is Reasonable Based on the Factors
Considered in Determination of Fee Awards.**

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

Each and every one of these factors favors the attorneys’ fees sought here; however, some
of the most relevant factors to this Court’s fee determination will be addressed herein. The award
of attorneys’ fees in the amount of \$64,166.67 (which is one-third of the Total Settlement Amount)

is commensurate with the time, effort, and expense dedicated to the case, the contingent nature of Class Counsel's fee and the risks taken in commencing the case, the skill and determination required, the results that Class Counsel has achieved, and the value of the settlement that Class Counsel has obtained in this matter for the Class Members.

1. Time & Labor.

Class Counsel used its experience and skills, and dedicated the full extent of resources, to litigate and bring this matter to a successful conclusion on behalf of the Class. Moreover, as demonstrated in the supporting declarations, Class Counsel has extensive experience in the handling of class actions and complex litigation cases.⁶⁷

As outlined in the Declaration of Yasmin Hosseini, Class Counsel has fully and actively participated in litigation of the case.⁶⁸ Prior to commencing the lawsuit, Class Counsel had conducted a significant amount of investigation into the factual and legal issues, Defendant's business, and its operations and employment policies, practices, and procedures.⁶⁹ During the litigation of the action, Class Counsel had the opportunity to interview Plaintiff and other Class Members; reviewed and analyzed a large volume of pages of information, documents and data obtained from Defendant, Plaintiff, and other sources; and prepared liability, damages, penalties, and valuation calculations.⁷⁰ Class Counsel also met and conferred with Defendant's counsel over the issues relating to pleadings, discovery, and the production of information, documents and data, among other things; engaged in settlement negotiations with Defendant's counsel; and prepared for and attended court proceedings, mediation, and settlement negotiations.⁷¹

Class Counsel has dedicated staffing and monetary resources necessary to prosecute this matter diligently and with maximum efficiency and has fully and actively participated in the litigation process. The Task and Time Chart, which is attached as EXHIBIT A to the accompanying Declaration of Yasmin Hosseini, sets forth in detail the hours that Lawyers for Justice, PC has spent performing tasks on behalf of Plaintiff and the Class.⁷² The Task and Time

⁶⁷ Hosseini Decl., ¶¶ 13-19.

⁶⁸ *Id.*, Exh. A.

⁶⁹ *Id.*, ¶ 5.

⁷⁰ *Id.*, ¶ 6.

⁷¹ *Ibid.*

⁷² *Id.*, Exh. A.

1 Chart is thorough and comprehensive, and was prepared so that the Court can peruse it without
2 having to set forth each and every task in the body of this Motion. The Court is respectfully referred
3 to the chart, which sets forth the history of the work performed by Class Counsel, commencing
4 with the pre-filing analysis and research, and continuing up to settlement and final approval. Class
5 Counsel has spent 327.10 hours performing tasks and to obtain a significant recovery on behalf of
6 Plaintiff, the Class, the PAGA Employees, and the State of California.⁷³ These hours were required
7 to bring this matter to its successful conclusion. In light of the value of time expended and the
8 carrying of costs involved in litigating this matter, the requested attorneys' fees are fair, adequate,
9 and reasonable.

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

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

16 Class Counsel undertook significant investigation, analysis, and research prior to filing the
17 cases, during the litigation, and prior to the mediation. Class Counsel took steps to prepare the
18 matter for class certification and representative adjudication and had every intention of taking the
19 cases to trial on a class-wide basis if Defendant did not offer an appropriate class-wide settlement.
20 Despite all of the obstacles that had to be overcome, as demonstrated in the Declaration of Yasmin
21 Hosseini, Class Counsel used its extensive experience in the handling of class actions and complex
22 wage-and-hour litigation matters in order to obtain the Settlement with maximum efficiency.⁷⁴

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

24 The Settlement represents an excellent resolution of the action, given the risks inherent in
25 litigating the case through certification proceedings, trial, and/or appeals. Had the case not settled,
26 Defendant would have vigorously challenged certifiability, manageability of representative
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28 ⁷³ Hosseini Decl., ¶¶ 11-12.

⁷⁴ *Id.*, ¶¶ 13-19.

1 adjudication, and liability. Defendant, however, faced risks if the Court certified a class and
2 allowed a jury to decide the claims. Additionally, preparing the case for trial would have been
3 expensive for the Parties.

4 The Settlement at this stage is preferred over continued litigation because such resolutions
5 save time and money that would otherwise go to litigation. The risks and expenses of further
6 litigation outweighed any benefit that might have been gained otherwise. The Settlement provides
7 an immediate recovery, as opposed to an uncertain result in the future after prolonged litigation
8 involving expert discovery, trial preparation, class certification proceedings, and appellate review
9 of those proceedings. The Settlement offers present relief and/or recovery to Settlement Class
10 Members, the State of California, and PAGA Employees while avoiding the further expense, risk,
11 and delay in obtaining possible recovery at an unknown time in the future.

12 As a result of this litigation and settlement negotiations, Defendant agreed to pay a Total
13 Settlement Amount of \$192,500.00 to settle the matter. After deducting the attorneys' fees
14 (\$64,166.67), litigation costs (\$14,874.07), Enhancement Payment (\$7,500.00), Settlement
15 Administration Costs (\$7,500.00), and the PAGA Amount (\$10,000.00) from the Total Settlement
16 Amount, it is currently estimated that the Net Settlement Amount is approximately \$88,459.26.⁷⁵
17 The Net Settlement Amount will be fully distributed in accordance with the terms of the
18 Settlement. The highest Individual Settlement Payment is currently estimated to be approximately
19 \$4,882.92 and the average Individual Settlement Payment is currently estimated to be
20 approximately \$678.43.⁷⁶ The highest Individual PAGA Payment is currently estimated to be
21 approximately \$157.04 and the average Individual PAGA Payment is currently estimated to be
22 approximately \$55.56.⁷⁷ The Settlement offers significant monetary relief to the Settlement Class
23 Members, the State of California, and PAGA Employees.

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

25 Plaintiff entered into a contingency fee agreement with Class Counsel, and the
26 representation of the Class provided by Class Counsel has been wholly contingent. Class Counsel

27 ⁷⁵ Phoenix Decl., ¶ 14; see also, n.8, *supra*.

28 ⁷⁶ *Id.*, ¶ 15; see also, n.36, *supra*.

⁷⁷ *Id.*, ¶ 17.

1 took on the case without knowing whether any recovery would be obtained. Class Counsel has
2 invested 327.10 hours of time to obtain relief on behalf of Plaintiff, Class Members, the State of
3 California, and PAGA Employees.⁷⁸ Class Counsel has also incurred litigation costs and expenses
4 in the amount of \$14,874.07.⁷⁹

5 Class Counsel has borne all of the risks and costs of litigation and will not receive any
6 compensation until recovery is obtained.⁸⁰ Class Counsel is well-experienced in wage-and-hour
7 class action and complex litigation and used that experience to obtain a great result.⁸¹ The skill
8 and determination that Class Counsel has shown, along with the results obtained, justify the
9 requested attorneys' fees. Considering the amounts requested, the work performed, and the risks
10 incurred, the requested fees and costs are reasonable and should be awarded.

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

13 A contingent fee must be higher than a fee for the same legal services paid as they
14 are performed. The contingent fee compensates the lawyer not only for the legal
15 services he renders but for the loan of those services. A lawyer who both bears the
16 risk of not being paid and provides legal services is not receiving the fair market
value of his work if he is paid only for the second of these functions. If he is paid
no more, competent counsel will be reluctant to accept fee award cases.

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

22 **5. The Amount Involved and the Results Achieved.**

23 The results achieved, in light of the difficulties inherent in similar cases and the specific
24 difficulties faced in this matter, are considerable. The Settlement has yielded a positive response
25 from the Class Members—no Class Members objected to the Class Settlement.⁸²

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27 ⁷⁸ Hosseini Decl., ¶ 11, Exh. A.

⁷⁹ *Id.*, ¶ 20.

⁸⁰ *Ibid.*

⁸¹ *Id.*, ¶¶ 13-19.

⁸² Phoenix Decl., ¶ 11.

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

Here, the results achieved and obtained on behalf of Plaintiff and the Class are reasonable in light of the risks inherent in further litigating this matter. Class Counsel’s efforts have resulted in a settlement that provides for a Total Settlement Amount of \$192,500.00.⁸³ The Total Settlement Amount will be fully paid out, in accordance with the terms of the Settlement Agreement. The highest Individual Settlement Payment is currently estimated to be approximately \$4,882.92 and the average Individual Settlement Payment is currently estimated to be approximately \$678.43.⁸⁴ The highest Individual PAGA Payment is currently estimated to be approximately \$157.04 and the average Individual PAGA Payment is currently estimated to be approximately \$55.56.⁸⁵

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

Lawyers for Justice, PC is a recognized class action law firm that employed its attorneys’ knowledge, skills, and experience in bringing this matter to a successful conclusion. Class Counsel has years of complex and class action litigation experience, has recovered millions of dollars on behalf of thousands of individuals in California, and has successfully handled numerous significant wage-and-hour class action and complex cases.⁸⁶

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

While the percentage-of-the-benefit approach is endorsed as the better approximation of the workings of the marketplace than the lodestar approach, courts may also use the lodestar method to “cross-check” the results of the other. See *Laffitte, supra*, 1 Cal.5th at 505 (explaining

⁸³ Hosseini Decl., ¶ 9.

⁸⁴ Phoenix Decl., ¶ 15; see also, n.36, *supra*.

⁸⁵ *Id.*, ¶ 17.

⁸⁶ Hosseini Decl., ¶¶ 13-19.

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

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

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

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

As discussed above, the case was highly contested and required a significant amount of time and labor. Defendant made it clear very early on that it disputed all of the allegations of the case and disputed that the matter was appropriate for class or representative treatment. Defendant raised affirmative defenses and denied liability, and the pursuit of the case involved gathering and analyzing data not only from Defendant but also from the Class Members. The handling of the case involved a great amount of effort, and also required and involved the exercise of a high level of skill, which Class Counsel has as a result of its extensive experience in employment class actions and complex wage-and-hour litigation. Long and difficult battles would have followed as the case moved toward certification and trial, including taking depositions of Defendant’s Person Most Knowledgeable designees, percipient witnesses, and experts, propounding discovery requests and conducting additional document production, and engaging in extensive motion practice. As Class Counsel geared up for these battles, Class Counsel undertook intense preparation in an attempt to resolve the entire matter through mediation.

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1 Class Counsel had to bring together a large volume of pages of information, documents
2 and data that were obtained from Defendant, Plaintiff, and through other sources. Class Counsel
3 conducted extensive review and analysis of the information, documents and data to strategize the
4 action and to prepare for mediation and engage in settlement discussions.

5 As discussed above in Part VI.C.1, *infra*, attached to the Declaration of Yasmin Hosseini
6 is a task and time chart that sets forth in detail the numerous tasks that Class Counsel performed
7 on behalf of Plaintiff and the Class, and the time required for completing those tasks.⁸⁷ The chart
8 demonstrates that Class Counsel has spent a total of 327.10 hours litigating the case and finalizing
9 the Settlement.⁸⁸ In light of the facts and circumstances of the case, as well as the results that Class
10 Counsel has achieved in the case, Class Counsel has spent a reasonable number of hours on this
11 matter. In addition, Class Counsel will continue to perform work on this matter through the date
12 of final approval and in connection with the implementation of the Settlement.

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

15 Both California and federal courts recognize that attorneys should be compensated for
16 providing representation on a contingency basis and for taking on the risks associated with said
17 representation, as well as being provided with financial incentives to enforce important rights and
18 protections like those at issue in this action. See *Ketchum, supra*, 24 Cal.4th at 1132-33. In
19 awarding attorneys' fees, the aim is to mirror "the established practice in the private legal market
20 of rewarding attorneys for taking the risk of nonpayment by paying them a premium over their
21 normal hourly rates for winning contingency cases." See *id.*

22 Class Counsel has been actively involved in this matter, prior to its commencement and all
23 the way up to the present, and Class Counsel's dedication to providing representation in the case
24 has precluded other employment. Here, Class Counsel bore the risk that, despite all of its efforts
25 and skills employed, there may be no recovery. Ultimately, Class Counsel was successful in
26 reaching a settlement of \$192,500.00.

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28 ⁸⁷ Hosseini Decl., Exh. A.

⁸⁸ *Id.*, ¶¶ 11 & 12, Exh. A.

As set forth in the Declaration of Yasmin Hosseini, the professional backgrounds and experience of Class Counsel support reasonable rates of compensation at least \$850 per hour for services provided by Class Counsel.⁸⁹ Lawyers for Justice, PC has been awarded attorneys' fees, compensating the firm at the blended rate of at least \$850 per hour for legal services performed, by courts of this state.⁹⁰ While the circumstances of every case are unique, the fact remains that the work performed and efforts undertaken by Class Counsel on behalf of the Class Members justify the requested attorneys' fees.

Applying the rate of \$850 per hour to 327.10 hours for services provided by Class Counsel would place a reasonable value of \$278,035.00 based on lodestar, for the work performed by Class Counsel. However, Class Counsel only seeks attorneys' fees in the amount of \$64,166.67 which is one-third (1/3) of the total recovery, as provided for by the Settlement Agreement.

It also bears noting that a court may apply a multiplier in consideration for risk, efficiency, and/or obtaining a substantial result, to enhance the lodestar for purpose of cross-check. See *Ketchum*, 24 Cal.4th at 1133-34 (holding that a risk multiplier may be applied to compensate contingency fee attorneys at a fair market rate). Such an enhancement "mirrors the established practice in the private legal market of rewarding attorneys for taking the risk of nonpayment by paying them a premium over their normal hourly rates for winning contingency cases." *Vizcaino*, 290 F.3d at 1051; accord *Ketchum*, *supra*, 24 Cal.4th 1122, 1132-34. A risk multiplier also serves to bring the financial incentives for enforcing important rights "into line with incentives [attorneys] have to undertake claims for which they are paid on a fee-for-services basis." *Ketchum*, 24 Cal.4th at 1132. Courts have also approved fee awards with multipliers of 2 and even higher. See, e.g., *City of Oakland v. Oakland Raiders* (1988) 203 Cal.App.3d 78 (affirming a 2.34 multiplier without remand); *Wershba*, *supra*, 91 Cal.App.4th at 255 ("Multipliers can range from 2 to 4 or even higher."); *Sutter Health Uninsured Pricing Cases* (2009) 171 Cal.App.4th 495, 512 (applying a 2.52 multiplier on a lodestar cross-check); *Chavez*, *supra*, 162 Cal.App.4th at 66 (applying a 2.5 multiplier in a consumer class action).

⁸⁹ Hosseini Decl., ¶¶ 11 & 12.

⁹⁰ *Ibid.*

The lodestar method as a cross-check to the percentage figure sought strongly supports the reasonableness of the requested attorneys' fees. Accordingly, Plaintiffs respectfully request that the Court grant final approval of, and award, attorneys' fees in the amount of \$64,166.67 to Class Counsel.

VII. COSTS TO BE REIMBURSED TO CLASS COUNSEL ARE FAIR AND REASONABLE AND SHOULD BE APPROVED.

The Settlement provides for reimbursement of litigation costs and expenses of up to \$16,000.00. As set forth in the Declaration of Yasmin Hosseini, Class Counsel seeks reimbursement of \$14,874.07 in litigation costs and expenses incurred in this case.⁹¹ This amount was reasonable and necessary in the prosecution of the case and to obtain the Settlement, and is less than the maximum amount allocated under the Settlement Agreement.⁹² The cost savings of \$1,125.93 will be part of the Net Settlement Amount, which will be distributed to Settlement Class Members in accordance with the Settlement.⁹³ Accordingly, Plaintiff requests that the Court award litigation costs and expenses in the amount of \$14,874.07 to Class Counsel.

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

As set forth in the accompanying Phoenix Declaration, the total costs incurred and to be incurred by Phoenix for the notice and settlement administration process are \$7,500.00.⁹⁴ The costs incurred and to be incurred include, but are not limited to, (i) preparing, translating, printing, and mailing the Class Notice; (ii) responding to inquiries from Class Members and PAGA Employees; (iii) calculating the number of weeks each Class Member worked for Defendant as an hourly-paid or non-exempt employee in California during the Class Period and the number of weeks that each PAGA Employee worked for Defendant during the PAGA Period; (iv) determining the validity of Requests for Exclusion, Notices of Objection, and/or disputes regarding the number of Workweeks and/or PAGA Workweeks submitted by Class Members and/or PAGA Employees;

⁹¹ Hosseini Decl., ¶ 20.

⁹² Ibid.

⁹³ Ibid.

⁹⁴ Phoenix Decl., ¶ 17.

(v) calculating the Net Settlement Amount; (vi) calculating and issuing the Individual Settlement Payments and Individual PAGA Payments and distributing them to Settlement Class Members and PAGA Employees; (vii) issuing the payment to Class Counsel for Attorneys' Fees and Costs, Plaintiff for the Enhancement Payment, LWDA for the LWDA Payment, Phoenix for the Settlement Administration Costs, and the employer/employee payroll taxes to the appropriate taxing authorities; and (viii) such other tasks as set forth in the Settlement Agreement or as the Parties mutually agree or as the Court orders.⁹⁵

Accordingly, the Court should grant final approval of payment to Phoenix, a necessary third-party administrator, for its handling of the notice and settlement process, in the amount of \$7,500.00.

IX. THE REQUESTED ENHANCEMENT PAYMENT IS FAIR AND REASONABLE AND SHOULD BE APPROVED.

The Settlement provides for an Enhancement Payment in the amount of \$7,500.00 to Plaintiff Kailie Fagen to compensate Plaintiff for the time and effort that they expended on behalf of the Class. The requested Enhancement Payment is both common and reasonable and should be awarded.

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

The requested Enhancement Payment is fair and appropriate because Plaintiff spent a substantial amount of time and effort producing relevant documents and past employment records, as well as providing the facts and evidence to support the prosecution of the claims.⁹⁶ Plaintiff was

⁹⁵ Phoenix Decl., ¶ 3.

⁹⁶ Hosseini Decl., ¶ 21; Declaration of Kailie Fagen ("Fagen Decl."), ¶¶ 3-5.

1 available whenever Class Counsel needed her and actively tried to obtain, and gave, information
2 to support the pursuit of the case.⁹⁷

3 Accordingly, it is appropriate and just for Plaintiff Kailie Fagen to receive \$7,500.00, as a
4 reasonable Enhancement Payment, for her services on behalf of the Class, PAGA Employees, and
5 the State of California, in addition to her individual settlement payment.

6 **X. CONCLUSION**

7 For the foregoing reasons, Plaintiff respectfully requests that the Court grant final approval
8 of the Settlement, and award Attorneys' Fees and Costs, Enhancement Payment, Settlement
9 Administration Costs, and the allocation for PAGA Amount, in their entirety, as sought herein;
10 and permit the filing of a memorandum that exceeds the page limit.

11 Dated: January 3, 2025

LAWYERS for JUSTICE, PC

12
13 By:



14 Selena Matavosian
15 *Attorneys for Plaintiff Kailie Fagen and the Class*

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⁹⁷ Hosseini Decl., ¶ 21; Fagen Decl., ¶¶ 3-5.