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

**CASCADE DRILLING WAGE AND
HOUR CASES**

List of Actions:

Martinez, et al. v. Cascade Drilling LP,
Alameda Case No. RG21090743

Lilla v. Cascade Drilling, LP, Contra Costa
Case No. C211568

Case No: RG21090743

ASSIGNED FOR ALL PURPOSES TO
JUDGE STEPHEN KAUS, DEPARTMENT 19

**PLAINTIFFS' NOTICE OF MOTION AND
MOTION FOR AWARD OF
REASONABLE ATTORNEYS' FEES AND
COSTS, CLASS REPRESENTATIVE
ENHANCEMENTS, AND SETTLEMENT
ADMINISTRATION FEES;
MEMORANDUM OF POINTS AND
AUTHORITIES IN SUPPORT THEREOF**

Date: June 26, 2023
Time: 3:00 p.m.
Dept. 19
Judge: The Hon. Stephen Kaus

Complaint Filed:
FAC Filed:

Reservation No: A21090743-002

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PLEASE TAKE NOTICE THAT on June 26, 2023 at 3:00 p.m., or as soon thereafter as the matter may be heard, in Department 19 of the above-entitled Court, located at 1221 Oak Street, Oakland, 4th Floor, California 94612, Plaintiffs Eugene Martinez, Robert Williams, and Jonathan Lilla (collectively “Plaintiffs”) will and hereby do move for the entry of an Order (1) approving an award of attorneys’ fees in the amount of \$533,333 and costs in the amount of \$13,815.16 to Class Counsel, (2) approving a Class Representative Enhancement Payments to Plaintiffs Martinez, Williams, and Lilla in the total amount of \$30,000 for serving as Class Representatives, (3) approving payment of settlement administration costs to Simpluris, Inc. in the amount of \$10,000.

This Motion will be based on the Memorandum of Points and Authorities set forth herein, the Stipulation of Class Action and Private Attorney General Act Settlement and Release (“Stipulation”), the Declarations of Eric A. Grover, Robert Spencer, Raul Perez, and Edwin Aiwasian, Eric Springer of Simpluris, Inc., and Plaintiffs Martinez, Williams, and Lilla and on the complete records and file herein.

Respectfully submitted,

Dated: June 1, 2023

KELLER GROVER LLP

By: _____



ERIC A. GROVER

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Attorneys for Plaintiffs and co-Class Counsel

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MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

This Court preliminarily approved the settlement of this putative class action on March 3, 2023.¹ Plaintiffs Eugene Martinez and Robert Williams (“*Martinez Plaintiffs*”) and Plaintiff Jonathan Lilla (collectively, “*Plaintiffs*” or “*Class Representatives*”), now move the Court for an award of reasonable attorneys’ fees and costs incurred during this litigation. Plaintiffs also seek an order approving the requested Class Representative Enhancement Payments to Plaintiffs and payment of the Settlement Administrator’s fees.

Plaintiffs and Cascade Drilling, L.P. (“*Defendant*” or “*Cascade*”), (collectively the “*Parties*”), participated in an all-day mediation session with skilled mediator Jill R. Sperber, Esq. As a result of the mediation, the parties agreed to settle the entire action. The Parties set forth all of the terms of the proposed settlement in the Stipulation, which the Court preliminarily approved.²

Plaintiffs seek an award to Class Counsel of attorneys’ fees in the amount of \$533,333 which is 33.33% of the total settlement amount, not counting the employer’s share of payroll taxes, and costs in the amount of \$13,815.16, which is less than the maximum amount estimated for costs in the Stipulation.³ Under California law, when the settlement produces a specific, identifiable common fund for the benefit of the entire class, the court may award attorneys’ fees using the percentage of the fund method.⁴ Class Counsel’s requested award of attorneys’ fees is reasonable and appropriate in light of the work performed by Class Counsel in the case, the contingent nature of this action, and the results achieved.⁵

¹ See Declaration of Eric A. Grover submitted in support of this Motion (“*Grover Decl.*”), Ex. 1 (the Stipulation of Class Action and Private Attorney General Act Settlement and Release (“*Stipulation*”)); Ex. 2 (the Court’s March 3, 2023 Order Granting Motion for Preliminary Approval of Class Action and Private Attorney General Act Settlement ((“*Preliminary Approval Order*”)). All “*Ex.*” references are exhibits to the Grover Declaration unless otherwise stated.

² Ex. 1; Ex. 2; Grover Decl. at ¶¶ 5, 15-18.

³ Grover Decl. at ¶¶ 56-80, Exs. 3-6; Declaration of Raul Perez of Capstone Law APC (“*Perez Decl.*”) at ¶¶ 16-20; Declaration of Edwin Aiwazian of Lawyers for Justice, PC (Aiwazian Decl.) at ¶¶ 7-19, Exs. A and B); see Ex. 1 at ¶ 39.

⁴ *Laffitte v. Robert Half Int’l, Inc.* (2016) 1 Cal.5th 480, 503 (clarifying that the percentage of the common fund is a proper method for awarding fees).

⁵ *Lealao v. Beneficial California, Inc.* (2000) 82 Cal.App.4th 19; *Williams v. MGM-Pathe* (Cont’d)

A lodestar “cross-check” confirms the reasonableness of Plaintiffs’ fee request.⁶ Class Counsel’s hourly rates are reasonable in light of their significant experience, skill, and expertise.⁷ Moreover, the rates are consistent with those of attorneys of similar qualifications practicing in the area of class actions and have been approved by numerous courts in similarly settled cases.⁸ Class counsel has provided details regarding Class Counsel’s hours spent litigating this action and hourly rates.⁹

Plaintiffs also request that the Court confirm the amount of the enhancement payments agreed to be paid to the Class Representatives in the amount of \$10,000 each to Plaintiff Martinez, Williams and Lilla.¹⁰ Courts approve incentive awards to plaintiffs when justified and appropriate to compensate plaintiffs for time, effort, and inconvenience.¹¹ The proposed enhancements are fair and reasonable.¹²

Plaintiffs also request the Court approve the fees of the Court-approved settlement administrator, Simpluris, Inc. (“Simpluris” or “Settlement Administrator”), which are \$10,000, which is less than the amount provided for in the Stipulation and the Notice of Class Action Settlement (“Notice”).¹³

II. SUMMARY OF RELEVANT FACTS AND PROCEDURAL HISTORY

Plaintiffs are filing their motion for final approval of the class and PAGA settlement simultaneously with this motion and have set forth the summary of facts and procedural history in the memorandum supporting that motion. To avoid repetition, Plaintiffs do not state the

Commc’ns Co. (9th Cir. 1997) 129 F.3d 1026, 1027; Grover Decl. at ¶¶ 10-17, 19, 56, 58, 70-77; Aiwazian Decl. at ¶¶ 3-10.

⁶ Grover Decl. at ¶¶ 57, 59-69; Aiwazian Decl. at ¶ 11, Ex. A.

⁷ Grover Decl. at ¶¶ 2-4, 31, 59, 61-63, 73; Aiwazian Decl. at ¶¶ 12-18.

⁸ Grover Decl. at ¶¶ 64-66; Aiwazian Decl. at ¶ 12.

⁹ Grover Decl. at ¶¶ 10-17, 58-63, Exs. 3-5; Perez Decl. at ¶¶ 16-19; Aiwazian Decl. at ¶¶ 3-6, 11-12, Ex. A.

¹⁰ See Ex. 1 at ¶ 40.

¹¹ *Clark v. Am. Residential Serv. LLC* (2009) 175 Cal.App.4th 785, 804 (internal quotations omitted), citing *Cook v. Niedert* (7th Cir.1998) 142 F.3d 1004, 1016 and *Van Vranken v. Atlantic Richfield Co.* (N.D. Cal. 1995) 901 F. Supp. 294, 299.

¹² Grover Decl. at ¶¶ 54-55; Aiwazian Decl. at ¶ 20; Declarations of Eugene Martinez, Robert Williams and Jonathan Lilla submitted with this motion.

¹³ See Declaration of Eric Springer on behalf of Simpluris, Inc. (“Simpluris”) filed with this brief, (“Simpluris Decl.”) at ¶ 15; see also, Ex. 1 at ¶ 41.

information here.

A. Class Counsel's work in litigating and settling this action.

Prior to filing this action, Class Counsel expended time and effort in investigating, researching and preparing the *Martinez* and *Lilla* actions for litigation. Class Counsel investigated and researched the named Plaintiffs' potential Labor Code claims, both in the individual context and as putative class claims. Class Counsel drafted and filed the complaints in the *Martinez* and *Lilla* actions.¹⁴

The Parties exchanged documents and written discovery. Class Counsel drafted Plaintiffs' written discovery requests, assisted Plaintiffs in drafting their responses to Defendant's written discovery requests, and reviewed documents produced by Defendant.¹⁵

During the discovery process, and after Defendant obtained 168 purported settlement agreements from individual putative class members, the Parties began discussing a possible settlement and ultimately agreed to participate in a joint mediation addressing both Actions.¹⁶

Class Counsel drafted a detailed mediation information request, which they sent to Defendant in preparation for mediation. In response to that request, Defendant informally provided information and documents necessary for Plaintiffs to engage in settlement discussions.¹⁷ In preparation for the mediation, Class Counsel reviewed and analyzed the relevant documents and information that Defendant provided.¹⁸

On May 20, 2022, the Parties participated in an all-day joint mediation session with skilled mediator Jill R. Sperber, Esq., who has significant experience mediating wage and hour class actions. The mediated negotiations resulted in the Parties reaching an agreement to settle the *Martinez* and *Lilla* actions, subject to the Court's approval. The terms of the Parties' settlement are set forth in the Stipulation.¹⁹

Following the mediation, Class Counsel drafted a detailed, formalized settlement

¹⁴ Grover Decl. at ¶ 10; Aiwazian Decl. at ¶¶ 2-3.

¹⁵ Grover Decl. at ¶ 11; Aiwazian Decl. at ¶¶ 4-5.

¹⁶ Grover Decl. at ¶ 12.

¹⁷ Grover Decl. at ¶ 13.

¹⁸ Grover Decl. at ¶ 14; Aiwazian Decl. at ¶ 5.

¹⁹ Grover Decl. at ¶ 15; Aiwazian Decl. at ¶ 6.

1 agreement and exhibits and negotiated the language and terms with counsel for Defendant until
2 the Stipulation and its exhibits were finalized and executed.²⁰ Class Counsel drafted and filed the
3 motion for preliminary approval and supporting papers.²¹

4 Plaintiffs moved for preliminary approval of the settlement on November 30, 2022.²² On
5 March 3, 2023, the Court preliminarily approved the settlement.²³

6 After the entry of the Preliminary Approval Order, Class Counsel spent time speaking
7 with Class Members and interacting with Defense Counsel and the Settlement Administrator on
8 notice and settlement administration issues. Class Counsel expect to spend additional time
9 working with Defense Counsel, the Settlement Administrator, speaking with Class Members,
10 finalizing this motion, preparing and filing the final approval motion, and preparing for and
11 attending the final fairness hearing.²⁴

12 **B. Status of the notice process and Class Members' response after preliminary**
13 **approval.**

14 The notice procedures set forth in the Stipulation and approved in the Court's Preliminary
15 Approval Order required the Court-approved Settlement Administrator, Simpluris, to distribute
16 notice of the class settlement through the U.S. mail.²⁵ Defendant identified 685 Class
17 Members.²⁶ On March 20, 2023, Simpluris mailed the Court-approved Notice to the 685 Class
18 Members.²⁷ 63 Notices were returned by the Post Office to Simpluris. Simpluris was able to
19 locate updated addresses for 32 of the returned Notices. Ultimately, only 31 out of 685 Notices
20 were undeliverable, a 95%, mailing success rate.²⁸

21
22
23 ²⁰ Grover Decl. at ¶ 16.

24 ²¹ Grover Decl. at ¶ 17.

25 ²² Grover Decl. at ¶ 17.

26 ²³ Ex. 2; Grover Decl. at ¶ 18.

27 ²⁴ Grover Decl. at ¶ 19.

28 ²⁵ Ex. 1 at ¶¶ 49-52; Ex. 2.

²⁶ Simpluris Decl. at ¶ 6.

²⁷ Simpluris Decl. at ¶¶ 7-8, Ex. A.

²⁸ Simpluris Decl. at ¶ 11; Grover Decl. at ¶ 27.

All Class Members had 45 days from the date that Simpluris initially mailed the Notice to them to opt out of or object to the settlement.²⁹ Thus, the deadline for Class Members to opt out or object was May 4, 2023.³⁰ Simpluris has received no objections, timely or late.³¹ Simpluris has received only one opt out, timely or late.³² Class Counsel has received no opt outs or objections, timely or late.³³

The Notice provided Class Members with information on how to dispute the number of Qualifying Workweeks stated on their individualized Notice.³⁴ One Class Member disputed the number of Qualifying Workweeks from Defendant's records that was pre-printed on his Notice. Simpluris worked with the Defendant to resolve the dispute and Simpluris has informed the Class Member that the dispute was not valid.³⁵

Because there is only one opt out, there are 684 Participating Class Members.³⁶ The average estimated individual gross settlement payment for each Participating Class Member is \$1,125.24 and the highest individual gross settlement payment to be paid will be approximately \$8,172.³⁷

C. The Stipulation and Notice clearly state the attorneys' fees

Class Counsel is requesting attorneys' fees in the amount of \$533,333, which is 33.33% of the amount Defendant is required to pay to fund the settlement (including the \$119,500 already paid by Defendant to the Pick Up Stix Settlement Group as a direct result of the filing of the Actions), not including the amount that it will pay for the employer's share of payroll taxes, plus \$13,815.16 in costs.³⁸ The requested fee amount is intended to compensate Class Counsel for the benefits achieved for the Class, the efficient and fair resolution of the Class claims, the risk of

²⁹ Ex. 1 at ¶¶ 55, 59; Grover Decl. at ¶28; Simpluris Decl. at ¶ 8.

³⁰ Grover Decl. at ¶ 28; see Simpluris Decl. at ¶ 8; Ex. 1 at ¶¶ 55, 59.

³¹ Simpluris Decl. at ¶ 13.

³² Simpluris Decl. at ¶ 12.

³³ Grover Decl. at ¶ 28.

³⁴ Ex. 1 at ¶ 53.

³⁵ Simpluris Decl. at ¶ 10; Grover Decl. at ¶ 29.

³⁶ Simpluris Decl. at ¶¶ 11-12, 14; Grover Decl. at ¶ 30.

³⁷ Simpluris Decl. at ¶ 14; Grover Decl. at ¶ 30.

³⁸ Grover Decl. at ¶¶ 56-80; see Ex. 1 at ¶¶ 2, 39.

1 taking on a complex class action on a contingency basis, the preclusion of accepting other work,
2 plus all of the work that Class Counsel already performed in litigating this action, documenting
3 the settlement, securing approval of the settlement, making sure that the settlement is fairly
4 administered and implemented, and obtaining dismissal of the action.³⁹ No Class Member
5 objected to the fee request.⁴⁰

6 **D. Enhancements for the Class Representatives.**

7 The Stipulation also provides a reasonable \$10,000 enhancement payment for each of the
8 Class Representatives Martinez, Williams and Lilla to compensate them for the risks, time and
9 effort they expended in coming forward to provide invaluable information in support of the
10 claims alleged in the complaint and for providing a general release.⁴¹ Plaintiffs have submitted
11 declarations in support of this request.

12 **E. Costs of administering the settlement.**

13 The Stipulation provides that Simpluris may be paid fees of up to \$20,000.⁴² Simpluris
14 has performed and will continue to perform tasks necessary to the administration of the
15 settlement, including providing notice to the Class Members, receiving requests for exclusion and
16 objections, processing all returned mail, calculating individual settlement payments, handling
17 inquiries from Class Members, and issuing and mailing settlement payments.⁴³ Simpluris is
18 seeking payment in the amount of \$10,000, which is less than the amount provided for in the
19 Stipulation.⁴⁴

20 **III. ARGUMENT**

21 **A. Class Counsel requests an award under the common benefit doctrine.**

22 1. A fee award of 33.33% is reasonable here.

23 Class Counsel seeks attorneys' fees of 33.33% of the amount Defendant will pay to fund
24

25 ³⁹ Grover Decl. at ¶¶ 10-17, 56, 58, 70-77; see Ex. 1 at ¶ 39, see also, ¶ 37.

26 ⁴⁰ Grover Decl. at ¶¶ 28, 75; Simpluris Decl. at ¶ 13.

27 ⁴¹ Ex. 1 ¶¶ 7, 40, 73 (general release that applies only to the named Plaintiffs), compare ¶ 57
(narrow release that applies to the Participating Class Members); Grover Decl. at ¶¶ 54-55.

28 ⁴² Ex. 1 at ¶ 41.

⁴³ See generally, Simpluris Declaration.

⁴⁴ Simpluris Decl. at ¶ 15; see Ex. 1 at ¶ 41.

the settlement, not including the amount that it will pay for the employer's share of the payroll taxes, under the "common fund" doctrine. The California Supreme Court recently clarified that the percentage of the common fund is a proper and accepted method for awarding fees.⁴⁵ Indeed, courts have long recognized the "common fund" or "common benefit" doctrine, under which attorneys who create a common fund or benefit for a group of persons may be awarded their fees and costs to be paid out of the fund.⁴⁶ In *Laffitte*, the California Supreme Court held that,

when class action litigation establishes a monetary fund for the benefit of the class members, and the trial court in its equitable powers awards class counsel a fee out of that fund, the court may determine the amount of a reasonable fee by choosing an appropriate percentage of the fund created."⁴⁷

The California Supreme Court also noted that the percentage of the fund method "more accurately reflects the results achieved" than the lodestar method, serves as a "better approximation of market conditions in a contingency case," and encourages "counsel to seek an early settlement and avoid unnecessarily prolonging the litigation."⁴⁸

Plaintiffs have created a fixed common fund from which reasonable attorneys' fees can be recovered. Each Settlement Class Member will receive an ascertainable settlement payment. Thus, the common fund doctrine enables the Court to determine a reasonable fee with "some exactitude."⁴⁹

Accordingly, Class Counsel's fee request of 33.33% of the amount Defendant will pay to fund the settlement, not including the employer's share of payroll taxes, is fair and reasonable and is within the range of awards in California.

2. The circumstances of this case support the requested fee award.

Given the results achieved under the circumstances of this litigation, a fee award of

⁴⁵ *Laffitte*, *supra*, 1 Cal.5th at 503.

⁴⁶ *Id.*; see also, *Serrano v. Priest* ("Serrano III") (1977) 20 Cal.3d 25, 34; *Glendale City Employees' Assoc. v. City of Glendale* (1975) 15 Cal.3d 328, 341, fn.19; *In re Consumer Privacy Cases* (2009) 175 Cal.App.4th 545, 557; *Boeing Co. v. Van Gemert* (1980) 444 U.S. 472, 478; *Mills v. Electric Auto-Lite Co.* (1970) 396 U.S. 375, 391-392.

⁴⁷ *Laffitte*, *supra*, 1 Cal.5th at 503 (providing an extended analysis of California law regarding fee award methodology).

⁴⁸ *Id.* at 503-04.

⁴⁹ *Paul, Johnson, Alston & Hunt v. Gaulty* (9th Cir. 1989) 886 F.2d 268, 271.

33.33% is reasonable. As encapsulated in *Sumitomo Copper Litigation*:⁵⁰

No one expects a lawyer whose compensation is contingent on the success of his services to charge, when successful, as little as he would charge a client who in advance of the litigation has 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.

In that vein, this Court should consider the contingency nature of this case, the uncertainty of the outcome, the quality of the counsel, and the preclusion from other employment.⁵¹

a) The contingent nature of this case.

Class Counsel provided experienced, competent representation and obtained a substantive settlement for the Class Members while prosecuting the case on a contingency basis. As the California Supreme Court has explained:

A contingent fee must be higher than a fee for the same legal services paid as they are performed. The contingent fee compensates the lawyer not only for the legal services he renders but for the loan of those services. The implicit interest rate on such a loan is higher because the risk of default (the loss of the case, which cancels the debt of the client to the lawyer) is much higher than that of conventional loans. A lawyer who both bears the 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.⁵²

From the outset of the case to the present, prosecution of this action has involved substantial financial risk for Class Counsel. Class Counsel undertook this matter on a purely contingent basis, with no assurance of recovery.⁵³ In addition to their time, Class Counsel placed at risk its own resources to prosecute this action with no guarantee of success. The risks of this case are apparent in that class certification would likely have been a hard-fought issue, especially given the uncertainty regarding certification. Further, even if Plaintiffs successfully certified the class over Defendant's opposition, there still was no guarantee of success at trial or in any

⁵⁰ *In Re Sumitomo Copper Litig.*, (S.D.N.Y. 1999) 74 Supp. 2d 393, 396.

⁵¹ See Grover Decl. at ¶¶ 56, 70-76; Aiwazian Decl. at ¶¶ 7-10.

⁵² *Ketchum v. Moses* (2001) 24 Cal.4th 1122, 1132-1133 (internal citation, quotations omitted).

⁵³ Grover Decl. at ¶¶ 70-71; Aiwazian Decl. at ¶ 10.

subsequent appeals.⁵⁴ Despite such challenges, Class Counsel was able to persuade Defendant that it faced sufficient exposure such that it was willing to settle Plaintiffs' claims.

Additionally, Defendant had embarked on a Pick Up Stix campaign in advance of the mediation. Although Plaintiffs made efforts to attack the program, Defendant was permitted to solicit release agreements. Before Defendant agreed to pause the campaign while the parties went to mediation, 168 Class Members had signed releases. If no settlement was reached, Defendant would have resumed the release campaign and undoubtedly would have obtained additional releases. The settlement also provides additional compensation for the 168 Class Members who signed releases.⁵⁵

b) The experience, reputation, and ability of counsel, and the skill they displayed in litigation.

Class Counsel has substantial experience in complex class action litigation, including employment class actions.⁵⁶ Because of their experience and skill, Class Counsel was able to develop a thorough factual record regarding Defendant's off the clock pay, meal period, rest break and expense reimbursement policies and practices.⁵⁷ Class Counsel persuaded Defendant that settlement was a better option than the costs and risks of continued and prolonged litigation and obtained an excellent result for the Class Members.

c) The results achieved.

The results of the settlement support Class Counsel's request for attorneys' fees. Class Counsel achieved an exceptional result in this case, under all the circumstances.⁵⁸ The Parties reached a non-collusive, arm's-length settlement, with the assistance of a respected mediator, after formal and informal discovery and thoughtful negotiation.⁵⁹

⁵⁴ Grover Decl. at ¶¶ 70-71.

⁵⁵ Grover Decl. at ¶ 72.

⁵⁶ Grover Decl. at ¶¶ 2-4, 31, 59, 61-63, 73; Perez Decl. at ¶¶ 7-15, Ex. 1; Aiwazian Decl. at ¶¶ 13-18.

⁵⁷ Grover Decl. at ¶¶ 10-14, 74.

⁵⁸ Grover Decl. at ¶¶ 31-46, 74.

⁵⁹ Grover Decl. at ¶ 15; Aiwazian Decl. at ¶¶ 5-6.

Class Members’ support for the results achieved by Class Counsel is demonstrated by the absence of any objections to either the settlement or to Class Counsel’s request for fees, both of which were described clearly in the Notice.⁶⁰ Class Counsel’s prosecution of this action resulted in tangible benefits for the Settlement Class Members. Because only a single Class Member has opted out, the estimated \$769,667 Net Settlement Fund will be divided by 684 Participating Class Members.⁶¹ Each Participating Class Member will receive, on average, an individual gross settlement payment of \$1,125.24.⁶² Class Members who are also PAGA Members also will receive individual PAGA payments included with their Individual Settlement Payment according to the formula set forth in the Stipulation.⁶³

d) Preclusion of other employment.

As California law recognizes, Class Counsel’s commitment to this litigation should not be assessed in a vacuum. A relevant factor in determining attorneys’ fees is whether the litigation required Class Counsel to forego other employment.⁶⁴ Additional work was available that Class Counsel had to forego to devote the time necessary to pursue this litigation.⁶⁵

B. A cross-check using the lodestar method supports Class Counsel’s fee request.

The California Supreme Court has held that that conducting a lodestar cross-check to confirm the reasonableness of a percentage fee award is not required and is at the trial court’s discretion.⁶⁶ If this Court opts to conduct a lodestar cross-check, that methodology also supports Class Counsel’s fee request. Because this is a common fund case, the lodestar method, if used at all, serves only to cross check the reasonableness of the fee request.⁶⁷

⁶⁰ Simpluris Decl. at ¶ 13, Ex. A (Notice); Grover Decl. at ¶¶ 28, 46, 75.

⁶¹ Simpluris Decl. at ¶ 14; Ex. 1 at ¶¶ 13, 14, 22, 46(a); Grover Decl. at ¶ 30. In addition, \$25,000 will be paid out to the PAGA Members. Grover Decl. at ¶ 34.

⁶² Simpluris Decl. at ¶ 14; Grover Decl. at ¶¶ 30, 38.

⁶³ Ex. 1 at ¶¶ 42, 45, 46(b).

⁶⁴ See *Serrano III*, *supra*, 20 Cal.3d at 49.

⁶⁵ Grover Decl. at ¶ 76; Aiwazian Decl. at ¶ 10.

⁶⁶ *Laffitte*, *supra*, 1 Cal.5th at 506.

⁶⁷ See, e.g., *Glass v. UBS Fin. Servs., Inc.* (9th Cir. 2009) 331 F. App’x 452, 456 (approving the district court’s “informal lodestar cross-check” for confirming the reasonableness of the percentage award); *Vizcaino v. Microsoft Corp.* (9th Cir. 2002) 290 F.3d 1043, 1050 (similar).

Class Counsel's hourly rates are summarized in the Grover, Perez and Aiwazian Declarations filed in support of this motion.⁶⁸ Class Counsel's hourly rates are well within the range of those found permissible for attorneys practicing class action litigation in the Northern District/San Francisco area market.⁶⁹ Class Counsel has spent approximately 867.20 hours litigating this case through May 25, 2023, as described in further detail in the Grover, Perez and Aiwazian Declarations.⁷⁰ Class Counsel expects to work another 15 hours completing the work on this motion and the final approval motion, preparing for and participating in the Final Approval Hearing, and dealing with claims administration issues.⁷¹ The lodestar for Class Counsel through May 25, 2023 is \$603,140.⁷² The expected final lodestar for Class Counsel is \$615,140.⁷³ The fees requested represent a negative multiplier on the final lodestar.⁷⁴

C. No Class Member objected to the attorney fee award.

Counsel's intention to request payment of attorneys' fees and out-of-pocket costs was clearly disclosed to each Class Member in the Court-approved class settlement Notice.⁷⁵ No

⁶⁸ Grover Decl. at ¶¶ 59, 61-63; Perez Decl. at ¶ 16; Aiwazian Decl. at ¶ 12.

⁶⁹ See, e.g., *Gonzalez v. S. Wine & Spirits of Am., Inc.*, (9th Cir. 2014) 555 F. App'x 704, 704-05 (reversing district court's order reducing attorneys' hourly rates without considering evidence of "prevailing hourly rates for comparable legal services in the community"); *Acosta v. Frito-Lay, Inc.* (N.D. Cal. May 14, 2018) No. 15-cv-02128-JSC, 2018 U.S. Dist. LEXIS 75988, at *37-39 (similar range of rates for Bay Area counsel experienced in complex class actions were reasonable); *Nitsch v. DreamWorks Animation SKG Inc.* (N.D. Cal. June 5, 2017) No. 14-cv-04062-LHK, 2017 U.S. Dist. Lexis 86124, at *32-33 (similar); *O'Bannon v. NCAA* (N.D. Cal. July 13, 2015) No. 09-cv-03329-CW (NC), 2015 U.S. Dist. LEXIS 91514, at *14 (similar); *Williams v. SuperShuttle Int'l, Inc.* (N.D. Cal. Feb. 12, 2015) No. 12-cv-06493-WHO, 2015 U.S. Dist. LEXIS 19341, at *5 (similar); *Steinfeld v. Discover Fin. Servs.* (N.D. Cal. Mar. 31, 2014) No. C 12-01118 JSW, 2014 U.S. Dist. LEXIS 48540, at *4-5 (similar); *Vedachalam v. Tata Consulting Serv. Ltd.* (N.D. Cal. July 18, 2013) No. C 06-0963 CW, 2013 U.S. Dist. LEXIS 100796, at *8 (similar); *Bolton v. U.S. Nursing Corp.* (N.D. Cal. Oct. 18, 2013) No. C 12-4466 LB, 2013 U.S. Dist. LEXIS 150299, at *14-15 (similar); see also, Grover Decl. at ¶¶ 64-66 (noting range of hourly rates approved in recent Bay Area fee orders); Perez Decl. at ¶¶ 17-19 (similar); Aiwazian Decl. at ¶ 12 (similar).

⁷⁰ Grover Decl. at ¶¶ 10-17, 58-59, Exs. 3-5; Aiwazian Decl. at ¶¶ 2-6, 11, Ex. A.

⁷¹ Grover Decl. at ¶¶ 18, 58.

⁷² Grover Decl. at ¶¶ 67-69; Perez Decl. at ¶ 16; Aiwazian Decl. at ¶¶ 11-12, Ex. A.

⁷³ Grover Decl. at ¶ 69; Aiwazian Decl. at ¶ 11, Ex. A.

⁷⁴ Grover Decl. at ¶ 69.

⁷⁵ Simpluris Decl., Ex. A.

objection, timely or late, was filed opposing the request for the maximum potential award of attorneys' fees and costs, signaling the Class Members' approval of the attorneys' fees award.⁷⁶

D. Class Counsel's request for costs also is reasonable.

Class Counsel's request for costs in the amount of \$13,815.16 is less than the maximum amount estimated in the Stipulation and Notice.⁷⁷ As detailed in the Grover, Perez and Aiwazian Declarations, in the course of this litigation, Class Counsel has incurred actual out-of-pocket costs in the amount of \$13,515.16 to date and expects to incur another \$300 in filing fees and service costs, for total costs of \$13,815.16.⁷⁸ In connection with a settlement, "[a]ttorneys may recover their reasonable expenses that would typically be billed to paying clients in non-contingency matters."⁷⁹

As demonstrated in the Class Counsel declarations, the incurred costs included mediation fees, filing fees, courier charges, legal research fees, conference call charges, and mailing charges.⁸⁰ The costs that Class Counsel incurred litigating this action benefitted the Class Members and are the type of costs that would be billed to a non-contingency client and, therefore, are appropriate for reimbursement. Class Counsel's \$13,815.16 cost request is reasonable, is less than the amount estimated in the Notice and Stipulation, and should be granted.

⁷⁶ Simpluris Decl. at ¶ 13; Grover Decl. at ¶¶ 28, 75.

⁷⁷ Ex. 1 at ¶ 39; Simpluris Decl., Ex. A (Notice).

⁷⁸ Grover Decl. at ¶¶ 78-80, Ex. 6; Perez Decl. at ¶ 20; Aiwazian Decl. at ¶ 19, Ex. B.

⁷⁹ See e.g., *In re Omnivision Techs.* (N.D. Cal. 2007) 559 F. Supp. 2d 1036, 1048 (approving reimbursement of "photocopying, printing, postage and messenger services, court costs, legal research on Lexis and Westlaw, experts and consultants, and the costs of travel for various attorneys and their staff."); *Morrison v. Am. Nat'l Red Cross*, (N.D. Cal. Jan. 8, 2021) No. 19-cv-02855-HSG, 2021 U.S. Dist. LEXIS 4043, at *22 (approving reimbursement of mediation costs, travel related fees, filing and service of process fees); *Larsen v. Trader Joe's Co.* (N.D. Cal. July 11, 2014) No. 11-cv-05188-WHO, 2014 U.S. Dist. LEXIS 95538, at *32 (approving reimbursement of "the type of expenses routinely charged to hourly clients"); *In re United Energy Corp. Sec. Litig.* (C.D. Cal. Mar. 9, 1989) MDL No. 726, 1989 WL 73211, at *6 (approving reimbursement of filing fees, postage, telephone bills, photocopying, legal research assistance, deposition costs, and witness fees, citing Newberg, Attorney Fee Awards, § 2.19 (1987)). See also, *Greko v. Diesel U.S.A., Inc.* (N.D. Cal. Apr. 26, 2013) No. 10-cv-02576 NC, 2013 U.S. Dist. LEXIS 60114, at *35 (approving reasonable costs in class settlement); *Van Vranken, supra*, 901 F. Supp. at 299 (same).

⁸⁰ See Grover Decl. at ¶ 78, Ex. 6; Perez Decl. at ¶ 20; Aiwazian Decl. at ¶ 19, Ex. B.

E. The Class Representatives' enhancements are also reasonable.

As Class Representatives, Plaintiffs seek Enhancement Payments in the amount of \$10,000 each for Plaintiffs Martinez, Williams and Lilla.⁸¹ These payments are intended to recognize the respective time and effort that, as Class Representatives, they spent on behalf of the Settlement Class.⁸²

When determining whether incentive awards are appropriate, courts consider a variety of non-exclusive factors such as:

the actions the plaintiff has taken to protect the interests of the class, the degree to which the class has benefitted from those actions, and the amount of time and effort the plaintiff expended in pursuing the litigation . . . the risk to the class representative in commencing suit, both financial and otherwise, the notoriety and personal difficulties encountered by the class representative, the duration of the litigation, and the personal benefit (or lack thereof) enjoyed by the class representative as a result of the litigation.⁸³

In this case, the Class Representatives performed the following tasks, among others:

(1) assisted Counsel in investigating and substantiating the claims alleged in this action; (2) assisted in the preparation of the complaints in the Actions; (3) produced evidentiary documents to Counsel; and (4) assisted in the preparation for the mediation and settlement of this litigation.⁸⁴ Moreover, as with any plaintiff who files a civil action, the Class Representatives undertook the financial risk that, in the event of a judgment in favor of Defendant in this action, they could have been personally responsible for the costs awarded in favor of the Defendant.

Not a single Class Member has objected to the enhancements requested on behalf of the Class Representatives who brought this litigation on their behalf and who secured a benefit for them.⁸⁵ In light of the work that the Class Representatives performed on behalf of Class

⁸¹ Ex. 1 at ¶¶ 7, 40.

⁸² Grover Decl. at ¶¶ 54-55; Aiwazian Decl. at ¶ 20; *see also*, Declarations of Eugene Martinez, Robert Williams and Jonathan Lilla submitted with this motion.

⁸³ *Clark, supra*, 175 Cal.App.4th at 804 (internal quotations omitted), *citing Cook, supra*, 142 F.3d at 1016 and *Van Vranken, supra*, 901 F. Supp. at 299.

⁸⁴ *See generally*, Martinez, Williams and Lilla Declarations; *see* Grover Decl. at ¶¶ 54-55; Aiwazian Decl. at ¶ 20.

⁸⁵ *See* Simpluris Decl. at ¶ 13; Grover Decl. at ¶ 28; Aiwazian Decl. at ¶ 20.

Members, and the Class Members' positive response to the settlement, the requested enhancements are reasonable and appropriate.

F. Plaintiffs seek approval of the Settlement Administrator's fees incurred.

As part of the preliminary approval process, the Court approved the hiring of Simpluris as the Settlement Administrator.⁸⁶ In preliminarily approving the Stipulation, the Court also tentatively approved the payment to Simpluris of up to \$20,000 to perform all of the duties required to administer the settlement.⁸⁷ Simpluris has performed all of its required duties to date and is committed to completing the settlement administration process.⁸⁸ Simpluris has calculated that its actual costs of administering the settlement will be \$10,000;⁸⁹ which is the amount that Plaintiffs request the Court approve as part of its final order approving the Settlement.

IV. CONCLUSION

For all of the foregoing reasons, Plaintiffs request that the Court (1) approve Class Counsel's request for an award of attorneys' fees in the amount of \$533,333, (2) approve Class Counsel's request for payment of costs in the amount of \$13,815.16, (3) approve the Class Representative's enhancement payments in the total amount of \$30,000, and (4) approve payment to Simpluris in the amount of \$10,000 for the costs it incurred administering this settlement.

Respectfully submitted,

KELLER GROVER LLP

Dated: June 1, 2023

By:



ERIC A. GROVER

ROBERT W. SPENCER

Attorneys for Plaintiffs and co-Class Counsel

⁸⁶ See generally, Ex. 2.

⁸⁷ See id.

⁸⁸ See generally, Simpluris Declaration.

⁸⁹ Simpluris Decl. at ¶ 15.

PROOF OF SERVICE

I, JOEY GONZALEZ, am employed in the County of San Francisco, State of California. I am over the age of eighteen and not a party to the within action. My business address is 1965 Market Street, San Francisco, California 94103. On **June 1, 2023**, in the case of *Cascade Drilling Wage and Hour Cases*, Alameda County Superior Court Case Number RG21090743, I served the foregoing document(s):

PLAINTIFFS' NOTICE OF MOTION AND MOTION FOR AWARD OF REASONABLE ATTORNEYS' FEES AND COSTS, CLASS REPRESENTATIVE ENHANCEMENTS, AND SETTLEMENT ADMINISTRATION FEES; MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT THEREOF

on the interested party(ies) below, using the following means:

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☒	(BY ELECTRONIC SERVICE) by electronically mailing a true and correct copy in PDF format through our electronic mail system to the email address(es) set forth above, or as stated on the attached service list per agreement between the parties.
☒	(STATE) I declare under penalty of perjury under the laws of the State of California that the above is true and correct.



JOEY GONZALEZ