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

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

Plaintiff,

vs.

TPS PARKING MANAGEMENT, INC., an
unknown business entity; TPS PARKING
MANAGEMENT, LLC, an unknown
business entity; and DOES 1 through 100,
inclusive,

Defendants.

Case No. 21STCV07881

Honorable Elaine Lu
Department SSC9

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 (Frank Degourville);
Declaration of Settlement Administrator
(Mayra Gonzalez); and [Proposed] Final
Approval Order and Judgment filed
concurrently herein]

Date: January 28, 2025
Time: 8:30 a.m.
Department: SSC9

Complaint Filed: March 1, 2021
FAC Filed: February 28, 2024
Trial Date: None Set

1 **PLEASE TAKE NOTICE** that on January 28, 2025, at 8:30 a.m., in Department SSC9 of
2 the above-entitled Court, located at 312 North Spring Street, Los Angeles, California 90012,
3 Plaintiff Frank Degourville (“Plaintiff” or “Class Representative”) will and hereby does move for
4 an order granting final approval of:

5 1. The Second Amended 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 **\$866,411.25** will be fully distributed to all
9 Class Members who do not submit a timely and valid Request for Exclusion
10 (“Settlement Class Members”);
11 • **No objections or Requests for Exclusion** were submitted to the Settlement
12 Administrator, Phoenix Class Action Administration Solutions (“Phoenix” or
13 “Settlement Administrator”);

14 2. Payment in the amount of **\$550,000.00** to Lawyers for Justice, PC (“Class
15 Counsel”), representing one-third (1/3) of the Total Settlement Amount, for the Attorneys’ Fees,
16 which is reasonable and justified on a percentage-basis, and also on a lodestar cross-check with a
17 multiplier of 1.80;

18 3. Payment in the amount of **\$16,088.75** to Class Counsel for litigation costs;

19 4. Payment in the amount of **\$10,000.00** to the Settlement Administrator for
20 Settlement Administration Costs;

21 5. Payment in the amount of **\$17,500.00** to Plaintiff Frank Degourville as an
22 Enhancement Payment, for his 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 \$190,000.00 (“PAGA Penalty
25 Amount”), of which seventy-five percent (75%), or **\$142,500.00** will be paid to the California
26 Labor and Workforce Development Agency (“LWDA”) (“LWDA Payment”) and twenty-five
27 percent (25%), or **\$47,500.00**, will be distributed to PAGA Members on a *pro rata* basis, based on
28 Workweeks during the PAGA Period (“Individual PAGA Payments”).

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 (Frank Degourville),
6 Settlement Administrator (Mayra Gonzalez of Phoenix) in support thereof; the pleadings and other
7 records on file with the Court in this matter; and such evidence and oral argument as may be
8 presented at the hearing on this Motion.

9
10 Dated: January 3, 2025

LAWYERS for JUSTICE, PC

11
12 By: _____


Yasmin Hosseini
Attorneys for Plaintiff and the Class

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MEMORANDUM OF POINTS AND AUTHORITIES

I. SUMMARY OF MOTION

Plaintiff Frank Degourville (“Plaintiff” or “Class Representative”) seeks final approval of: (1) the Total Settlement Amount of \$1,650,000.00¹; (2) attorneys’ fees in the amount of \$550,000.00, which is one-third (1/3) of the Total Settlement Amount, and reimbursement of litigation costs and expenses in the amount of \$16,088.75 to Lawyers for Justice, PC (“Class Counsel”) (“Attorneys’ Fees and Costs”)²; (3) Settlement Administration Costs in the amount of \$10,000.00 to Phoenix Class Action Administration Solutions (“Phoenix” or “Settlement Administrator”)³; (4) Enhancement Payment in the amount of \$17,500.00 to Plaintiff Frank Degourville;⁴ and (5) allocation of \$190,000.00 for penalties under the Private Attorneys General Act of 2004, California Labor Code § 2698, *et seq.* (“PAGA Penalty Amount”).⁵

Plaintiff seeks relief on behalf of the following Class:

All current or former hourly-paid or non-exempt employees of Defendant in California employed between March 1, 2017 through August 1, 2024 (“Class” or “Class Members”).⁶

This matter involved ongoing investigations, formal and informal discovery, review and analysis of thousand of pages of documents and data prior to and during the mediation conducted by the Honorable Michael Latin (Ret.), and settlement negotiations thereafter. This matter has required 362.40 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.⁷

¹ Second Amended Stipulation of Class Action and PAGA Settlement (“Settlement Agreement”), ¶ 9.11.

² *Id.*, ¶ 13.

³ *Id.*, ¶ 15.

⁴ *Id.*, ¶ 14.

⁵ *Id.*, ¶ 16.

⁶ *Id.*, ¶ 9.e. “Class Period” is defined as the period from March 1, 2017 through Preliminary Approval (i.e., August 1, 2024). See *id.*, ¶ 9.g.

⁷ Applying a reasonable rate of \$850 to 362.40 hours of work performed by Lawyers for Justice, PC and a modest multiplier of 1.80, the total enhanced lodestar fees are \$554,472.00, and Class Counsel seeks an attorneys’ fees award of \$550,000.00.

1 Plaintiff moves for final approval of the Enhancement Payment in the amount of
2 \$17,500.00 to Plaintiff Frank Degourville, to compensate Plaintiff for the time and effort that he
3 expended spearheading the lawsuits on behalf of the Class, PAGA Members, and the State of
4 California. Plaintiff also moves for final approval of the payment to the Settlement Administrator
5 in the amount of \$10,000.00 for Settlement Administration Costs. Plaintiff also moves for final
6 approval of the allocation of \$190,000.00 for the PAGA Penalty Amount, of which seventy-five
7 percent (75%), i.e., \$142,500.00 , will be paid to the California Labor Workforce and Development
8 Agency (“LWDA”) for its portion of the PAGA Penalty Amount (“LWDA Payment”), and twenty-
9 five percent (25%), i.e., \$47,500.00, will be distributed to all current and former hourly-paid or
10 non-exempt employees of Defendant in California employed between March 3, 2020 through
11 August 1, 2024 (“PAGA Members”).

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

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

25 In order to efficiently present the Court with adequate information to determine whether to
26 grant final approval of the Settlement and award Attorneys’ Fees and Costs, Enhancement
27 Payment, Settlement Administration Costs, and the allocation for PAGA Penalty Amount, Plaintiff
28 also moves for an order permitting the filing of this single consolidated memorandum, although it

exceeds the page limit established by California Rules of Court, Rule 3.1113(d), instead of filing several separate motions.

II. **PROCEDURAL HISTORY AND FACTUAL BACKGROUND**

Defendant TPS Parking Management, LLC conducts business as “The Parking Spot,” operating off-site parking lots near major airports nationwide. Plaintiff Frank Degourville is a former employee of Defendant.

On March 1, 2021, Plaintiff filed the Class Action Complaint for Damages (“Class Complaint”), thereby commencing the action entitled *Frank Degourville v. TPS Parking Management, Inc.* in the Superior Court of California for the County of Los Angeles, Case No. 21STCV07881 (the “Class Action”).

On March 12, 2021, Plaintiff provided written notice by online submission to the Labor and Workforce Development Agency and by certified mail to Defendant of the specific provisions of the California Labor Code that Defendant allegedly violated (“LWDA Letter”).

On March 16, 2021, Plaintiff filed an Amendment to Complaint (Fictitious/Incorrect Name) in the Class Action, amending fictitiously named Defendant DOE 1 with the true name, TPS Parking Management, LLC.

On May 17, 2021, Plaintiff filed a Complaint for Enforcement Under the Private Attorneys General Act, California Labor Code §2698, *et. seq.*, (“PAGA Complaint”) in the action entitled *Frank Degourville v. TPS Parking Management, LLC*, Superior Court of California for the County of Los Angeles, Case No. 21TRCV00367 (“PAGA Action”) (together with the Class Action, the “Actions”).

On June 3, 2021, Defendant filed an Answer and Affirmative Defenses to Plaintiff’s Class Action Complaint.

Plaintiff’s core allegation is that Defendant have violated the California Labor Code by engaging in a uniform practice and procedure, with respect to Plaintiff, Class Members, and PAGA Members of, *inter alia*, failing to pay all overtime and minimum wages, failing to provide compliant meal and rest periods and associated premium pay, failing to timely pay wages during employment and upon termination of employment, failing to provide compliant wage statements,

1 failing to maintain requisite payroll records, and failing to reimburse necessary business expenses,
2 and thereby engaged in unfair business practices in violation of California Business and
3 Professions Code section 17200, et seq. and conduct that gives rise to civil penalties pursuant to
4 PAGA. Plaintiff contends that he, the Class Members, and PAGA Members are entitled to, inter
5 alia, unpaid wages, penalties (including and not limited to penalties pursuant to PAGA), and
6 attorneys' fees.

7 Defendant has denied, and continues to deny, any liability and wrongdoing of any kind
8 associated with any of the allegations in the Actions, and further denies that the Actions are
9 appropriate for class treatment or representative adjudication for any purpose other than settlement.

10 On January 18, 2022, Plaintiff propounded multiple sets of discovery including Request
11 for Production of Documents, (Set One); Special Interrogatories, (Sets One & Two); and Form
12 Interrogatories, (Set One), on Defendant TPS Parking Management, Inc. On January 18, 2022
13 Plaintiff also noticed the deposition of Defendant's Person Most Knowledgeable regarding job
14 duties and organizational structure of Defendant.

15 On October 7, 2022, Plaintiff noticed the deposition of Defendant's Person Most
16 Knowledgeable regarding organizational structure on Defendant TPS Parking Management, Inc.

17 On November 9, 2022, Defendant filed an Objection to Plaintiff's First Notice of
18 Deposition of Defendant's Person Most Knowledgeable regarding organizational structure.

19 On December 1, 2022, Defendant filed an Answer to Plaintiff's Unverified Complaint in
20 the PAGA Action.

21 On December 5, 2022, Plaintiff filed a First Amended Notice of Deposition of
22 Defendant's Person Most Knowledgeable regarding organizational structure.

23 The Parties have actively litigated the matters since the Class Action was commenced on
24 March 1, 2021. On June 14, 2022, the Parties participated in a formal, full-day mediation
25 conducted by Hon. Michael Latin (Ret.), a well-regarded mediator experienced in mediating
26 complex labor and employment matters. With the aid of the mediator's evaluation, the Parties
27 ultimately reached the Settlement described herein to resolve the actions in their entirety.
28

On August 25, 2023, Plaintiff filed a Motion for Preliminary Approval of Class Action Settlement and supporting documents (“Motion for Preliminary Approval”).

On February 7, 2024, the Court published a Tentative Ruling and raised multiple points of inquiry, and the Parties were asked to file a consolidated complaint.

On February 28, 2024, Plaintiff filed a First Amended Consolidated Class Action Complaint for Damages and Enforcement Under the Private Attorneys General Act, California Labor Code Section 2698, *et. seq.* (“Operative Complaint”), thereby consolidating the Class Action and PAGA Action.

On April 18, 2024, Plaintiff filed a Supplemental Declaration of Yasmin Hosseini in Support of the Motion for Preliminary Approval, First Amended Stipulation to Class Action and PAGA Settlement, Declaration of Mary L. Ruberry, and [Revised Proposed] Order Granting Motion for Preliminary Approval of Class Action Settlement. On April 24, 2024, Plaintiff filed a Further Supplemental Declaration of Yasmin Hosseini in Support of the Motion for Preliminary Approval.

On May 23, 2024, the Court issued the Final Ruling Regarding the Motion for Preliminary Approval of Class Action Settlement and raised multiple points of inquiry.

On June 6, 2024, Plaintiff filed a Second Supplemental Declaration of Yasmin Hosseini in Support of Plaintiff’s Motion for Preliminary Approval of Class Action Settlement and Amendment No. 1 to the First Amended Stipulation of Class Action and PAGA Settlement.

On June 12, 2024, the Court issued a Minute Order and raised multiple points of inquiry.

On July 10, 2024, Plaintiff filed a Third Further Supplemental Declaration of Yasmin Hosseini in Support of Plaintiff’s Motion for Preliminary Approval of Class Action Settlement, Second Amended Stipulation of Class Action and PAGA Settlement (“Settlement,” “Agreement,” or “Settlement Agreement”), and [Second Further Revised Proposed] Order Granting Preliminary Approval of Class Action Settlement.

On August 1, 2024, Court issued a Minute Order Granting Preliminary Approval of Class Action Settlement (“Preliminary Approval Order”), thereby preliminarily approving the terms

of the Settlement, the Class Notice, and the proposed administration procedures and associated deadlines.

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

III. SUMMARY OF THE SETTLEMENT TERMS AND PLAN OF DISTRIBUTION

Under the terms of the Settlement Agreement, Defendant has agreed to pay a Total Settlement Amount of \$1,650,000.00, and also fund the amounts necessary to fully pay Defendant's share of payroll taxes.⁸ Subject to approval by the Court, the Net Settlement Amount will be calculated by deducting the following amounts from the Total Settlement Amount: (1) Attorneys' Fees and Costs, consisting of attorneys' fees in the amount of \$550,000.00 and reimbursement of litigation costs and expenses in the amount of \$16,088.75, to Class Counsel; (2) Enhancement Payment in the amount of \$17,500.00 to Plaintiff Frank Degourville; (3) Settlement Administration Costs in the amount of \$10,000.00 to Phoenix; and (4) the PAGA Penalty Amount in the amount of \$190,000.00.⁹ The Net Settlement Amount, which is estimated to be \$866,411.25, will be distributed in accordance with the Settlement Agreement and there is no reversion to Defendant.¹⁰

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: the Settlement Administrator will divide the final Net Settlement Amount by the Workweeks of all Settlement Class Members during the Class Period to yield the "Class Workweek Value," and multiply each Settlement Class Member's individual Workweeks during the Class Period by the Class Workweek Value to yield his or her Individual Settlement Share.¹¹

⁸ Settlement Agreement, ¶ 9.II.

⁹ *Id.*, ¶¶ 9.u., 13, 14, 15, 16.

¹⁰ This amount is higher than the amount stated in Paragraph 12 of the accompanying Declaration of Mayra Gonzalez of Phoenix Class Action Administration Solutions Regarding 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 \$20,000.00 and attorneys' fees in the amount of \$627,000.00, which are allocated under the Settlement. However, Class Counsel seeks the amount of only \$16,088.75 for reimbursement of litigation costs and expenses and \$550,000.00 for attorneys' fees, and the total difference of \$80,911.25 will remain part of the Net Settlement Amount.

¹¹ *Id.*, ¶ 17.a.

The Settlement Administrator will determine each PAGA Member's *pro rata* share of 25% the PAGA Penalty Amount ("Individual PAGA Payment"), according to the following methodology: the Settlement Administrator will divide the 25% portion of the PAGA Penalty Amount allocated to PAGA Members, i.e., \$47,500.00, by the total number of Workweeks worked by all PAGA Members during the PAGA Period ("Total PAGA Workweeks") resulting in the PAGA Workweek Value and then multiply each PAGA Member's individual Workweeks during the PAGA Period by the PAGA Workweek Value to yield his or her Individual PAGA Payment.¹²

Class Members had sixty (60) calendar days from the initial mailing of the Class Notice ("Response Deadline") to submit a Request for Exclusion, Objection and/or dispute of the Workweeks.¹³ The Response Deadline was November 11, 2024.¹⁴ ***As of the date of this Motion, the Settlement Administrator has not received any written objections to the Class Settlement ("Notice of Objection") or requests to be excluded from the Class Settlement ("Requests for Exclusion") from Class Members.***¹⁵

Each Individual Settlement Share will be allocated as follows: fifty percent (50%) as wages, which will be reported on an IRS Form W-2; and the remaining fifty percent (50%) as penalties and interest, which will be reported on an IRS Form 1099.¹⁶ The Settlement Administrator will withhold the employee's share of taxes and withholdings with respect to the wages portion of the Individual Settlement Shares, and issue checks to Settlement Class Members for their Individual Settlement Payments (i.e., payment of their Individual Settlement Share net of these taxes and withholdings).¹⁷ Defendant will separately pay any and all employer taxes owed on the wage portions of the Individual Settlement Shares.¹⁸ Any payment for an Individual PAGA Payment will be allocated as one hundred percent (100%) penalties, will not be subject to taxes or withholdings, and will be reported on an IRS Form-1099, if necessary.¹⁹

¹² Settlement Agreement, ¶ 17.b.

¹³ *Id.*, ¶ 9.hh.

¹⁴ Phoenix Decl., ¶¶ 11, 12, & 13.

¹⁵ *Id.*, ¶¶ 7 & 8.

¹⁶ Settlement Agreement, ¶ 28.

¹⁷ *Ibid.*

¹⁸ *Ibid.*

¹⁹ *Ibid.*

Each settlement check will be valid and negotiable for one hundred and eighty (180) calendar days from the date the checks are issued, and thereafter, shall be canceled.²⁰ For any Class Member whose Individual Settlement Payment check or Individual PAGA Payment check is uncashed and cancelled after the void date, the Settlement Administrator shall transmit the funds to the California Controller's Unclaimed Property Fund in the name of the Settlement Class Member and/or PAGA Member, thereby leaving no "unpaid residue" subject to the requirements of California Code of Civil Procedure Section 384, subd. (b).²¹ All Settlement Class Members and PAGA Members shall be bound by the terms and conditions of this Settlement Agreement regardless of whether or not they cash or otherwise negotiate their Individual Settlement Payment check and/or Individual PAGA Payment check.²²

IV. THE SETTLEMENT ADMINISTRATION PROCESS

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

On August 22, 2024, Defendant's counsel provided Phoenix a data file containing each Class Member's full name, last known mailing address, Social Security Number, start and end dates of employment by Defendant during the Class Period and, if applicable, during the PAGA Period, the number of Workweeks worked by each Class Member during the Class Period and each PAGA Member's Workweeks during the PAGA Period (collectively, "Class List").²³ The Class Data contained data for five hundred and ninety-nine (599) individuals identified as Class Members and three hundred and twenty-six (326) individuals identified as PAGA Members.²⁴ The mailing addresses contained in the Class List were processed and updated utilizing the National Change of Address Database ("NCOA") maintained by the U.S. Postal Service.²⁵ The NCOA contains requested changes of address filed with the U.S. Postal Service. In the event that any individual had filed a U.S. Postal Service change of address request, the address listed with the

²⁰ Settlement Agreement, ¶ 22.

²¹ *Id.*

²² *Ibid.*

²³ Phoenix Decl., ¶ 3.

²⁴ *Ibid.*

²⁵ *Id.*, ¶ 4.

NCOA would be utilized in connection with the mailing of the Class Notice.²⁶

On September 10, 2024, Phoenix mailed the Class Notice via U.S. First Class Mail to all five hundred and ninety-nine (599) individuals in the Class List.²⁷

A total of five (5) Class Notices were returned to Phoenix.²⁸ Of these, zero (0) notices were returned with a forwarding address.²⁹ Phoenix performed a computerized skip trace on the five (5) returned Class Notices that did not have a forwarding address, in an effort to obtain an updated address for the purpose of re-mailing the Class Notice.³⁰ As a result of this skip trace, all five (5) updates addresses were obtained and the Class Notices were promptly re-mailed to those Settlement Class Members, via U.S. First Class Mail.³¹ A total of five (5) Class Notices have been re-mailed.³² Zero (0) Class Notices have been deemed undeliverable.³³

As of the date of this Motion, the Settlement Administrator has not received any Notices of Objection.³⁴ As of the date of this Motion, the Settlement Administrator has not received any Requests for Exclusion from Class Members.³⁵

To date, there are five hundred and ninety-nine (599) Class Members who did not submit a timely and valid Request for Exclusion (“Settlement Class Members”), and who will be paid their portion of the Net Settlement Amount.³⁶ Pursuant to the terms of the Settlement, the Net Settlement Amount of approximately \$785,500.00 will be distributed to Settlement Class Members in accordance with the terms of the Settlement.³⁷ The highest Individual Settlement Share is currently estimated to be \$5,802.63 and the average Individual Settlement Share is currently estimated to be \$1,311.35.³⁸ The highest Individual PAGA Payment is currently estimated to be

²⁶ Ibid.

²⁷ Phoenix Decl., ¶ 5.

²⁸ *Id.*, ¶ 6.

²⁹ *Id.*, ¶ 6.

³⁰ Ibid.

³¹ Ibid.

³² Ibid.

³³ Ibid.

³⁴ *Id.*, ¶ 8.

³⁵ *Id.*, ¶ 7.

³⁶ *Id.*, ¶ 10.

³⁷ *Id.*, ¶ 12.

³⁸ *Id.*, ¶ 13. The actual average and highest Individual Settlement Payments will be larger than the amounts stated in the Phoenix Declaration because the Net Settlement Amount is larger due to the reimbursement of litigation costs and expenses being less than \$20,000 (the difference between the amount sought and the amount authorized under the Settlement, \$3,911.25, will be part of the Net Settlement Amount). See n.7, *supra*.

\$451.58 and the average Individual PAGA Payment is currently estimated to be \$145.71.³⁹

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

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

the strength of plaintiffs' case, the risk, expense, complexity and likely duration of further litigation, the risk of maintaining class action status through trial, the amount offered in settlement, the extent of discovery completed and the stage of the proceedings, the experience and views of counsel, the presence of a 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*,

³⁹ Phoenix Decl., ¶ 14.

91 Cal.App.4th at 251. Even if the proposed settlement affords relief that is substantially narrower than it would be if the cases 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 cases since the Class Action commenced on March 1, 2021. Class Counsel conducted significant investigation and formal and informal discovery into the facts of the cases, to assess the veracity, strength, and scope of the claims, and was preparing for class certification and trial prior to reaching the Settlement.⁴⁰

The Parties conducted significant formal and informal discovery and investigation into the facts of the cases, and also formally and informally exchanged thousands of pages of information, documents, and data throughout the course of the litigation and in connection with the mediation and settlement negotiations.⁴¹ The volume of data and documents that Class Counsel reviewed and analyzed included, and were not limited to: Plaintiff’s employment records and payroll records, multiple iterations of Defendant’s Employment Handbook, forms (including but not limited to TPS Driver Training Outline and Road Test Certification, Direct Deposit Authorization, California Healthy Workplaces, Healthy Families Act Leave Policy Acknowledgment Form, Driver/Valey Additional Employment Acknowledgement, Employee Authorization Agreement for Electronic Pay Stub, and Handbook Acknowledgement Form), procedures, and policies, internal memoranda, job descriptions, Defendant’s operations and employment practices and procedures, among other information and documents.⁴² Class Counsel propounded multiple sets of written discovery requests on Defendant (including, but not limited to Form Interrogatories—General (Set One), Special Interrogatories (Sets One and Two), and Requests for Production of Documents (Sets One)), and the Parties eventually agreed to engage in, and did engaged in, extensive formal and informal discovery. Class Counsel had the opportunity to interview Plaintiff and other Class

⁴⁰ Hosseini Decl., ¶ 6.

⁴¹ *Ibid.*

⁴² *Ibid.*

Members to gather facts and to identify potential witnesses.⁴³ Class Counsel developed liability, damages, and penalties valuation models in the course of litigation and in connection with the mediation and settlement negotiations, and met and conferred with Defendant's counsel on numerous occasions, e.g., to discuss issues relating to the pleadings, discovery, and the production of information, documents, and data in the course of litigation and the mediation and settlement negotiations.⁴⁴ Class Counsel reviewed and analyzed information, documents, and data obtained from Plaintiff, Defendant, and other sources.⁴⁵ Other work performed by Class Counsel included, and was not limited to, case strategy and analysis; drafting, reviewing, and revising the pleadings, motion-related papers, mediation brief, and settlement-related papers; and preparing for and attending court proceedings, settlement negotiations, and the mediation, among other tasks.⁴⁶

After conducting formal and informal discovery and investigation into the facts of the cases, the Parties participated in a formal, full-day mediation conducted by Hon. Michael Latin, (Ret.), a well-regarded mediator experienced in mediating complex labor and employment matters.⁴⁷ In the course of mediation and settlement negotiations, the Parties exchanged class 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, off-the-clock theory, meal and rest periods, representative PAGA claims, and wage-and-hour enforcement, as well as the evidence produced and analyzed, and the possibility of appeals, among other things.⁴⁸ During all settlement discussions, the Parties conducted their negotiations at arm's length in an adversarial position.⁴⁹ Arriving at a settlement that was acceptable to the Parties was not easy.⁵⁰ Defendant and its counsel felt very strongly about Defendant ability to prevail on the merits and to avoid class certification.⁵¹ Defendant and its counsel felt strongly about Defendant's ability to avoid class certification and

⁴³ Ibid.

⁴⁴ Hosseini Decl., ¶ 6.

⁴⁵ Ibid.

⁴⁶ Ibid.

⁴⁷ *Id.*, ¶ 8.

⁴⁸ Ibid.

⁴⁹ Ibid.

⁵⁰ Ibid.

⁵¹ Ibid.

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.⁵² 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 cases were 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.⁵³

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 thousands of pages of information, documents, and data obtained from Defendant, Plaintiff, 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.⁵⁴ The Settlement was based on this large volume of facts, evidence, and investigation.⁵⁵ Additionally, Class Counsel have extensive experience in handling complex wage-and-hour actions, including significant experience in employment class action litigation.⁵⁶

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

The Settlement, which provides for a Total Settlement Amount of \$1,650,000.00, represents a fair, adequate, and reasonable resolution of the case, given the risks inherent in litigating class and representative claims through certification proceedings, trial, and/or appeals.⁵⁷ 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.⁵⁸ Had the action not settled, Defendant would have vigorously challenged class certification, manageability of representative adjudication, and

⁵² Hosseini Decl., ¶ 8.

⁵³ Ibid.

⁵⁴ *Id.*, ¶ 7.

⁵⁵ *Id.*, ¶¶ 6-8.

⁵⁶ *Id.*, ¶¶ 13-18.

⁵⁷ *Id.*, ¶ 21.

⁵⁸ *Id.*, ¶¶ 7-11.

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.

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

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

of the Settlement, the Court can approve a resolution that provides a certain and substantial recovery for Class Members.

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

The Settlement, which provides for a Total Settlement Amount of \$1,650,000.00, represents a fair, reasonable, and adequate resolution of the case. 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 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 case, the Total Settlement Amount represents a considerable recovery.

Even after deducting Attorneys' Fees in the amount of \$550,000.00, costs in the amount of \$16,088.75, Enhancement Payment in the amount of \$17,500.00, Settlement Administration Costs in the amount of \$10,000.00, and the allocation of the PAGA Penalty Amount of \$190,000.00 from the Total Settlement Amount of \$1,650,000.00, the Net Settlement Amount is currently estimated to be \$866,411.25.⁵⁹ 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 Member will be paid a *pro rata* share of 25% of the PAGA Penalty Amount, based on the number of Workweeks during the PAGA Period credited to him or her.⁶⁰ To date, there are five hundred and ninety-nine (599) Settlement Class Members, representing one hundred percent (100%) of the Class Members.⁶¹ The highest Individual Settlement Share is currently estimated to be \$5,802.63 and the average Individual Settlement Share is currently estimated to be \$1,311.35.⁶² The highest Individual PAGA Payment is currently estimated to be \$451.58 and the average Individual PAGA Payment is currently estimated to be \$145.71.⁶³ These are significant individual recoveries, particularly in light

⁵⁹ Phoenix Decl., ¶ 12.

⁶⁰ Settlement Agreement, ¶¶ 17.a. and 17.b.

⁶¹ Phoenix Decl., ¶ 10.

⁶² *Id.*, ¶ 13.

⁶³ *Id.*, ¶ 14.

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 Members, the State of California, and PAGA Members.⁶⁴ 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.⁶⁵ 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.⁶⁶ 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.*⁶⁷ 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 Penalty Amount. California courts have

⁶⁴ Hosseini Decl., ¶ 21.

⁶⁵ *Id.*, ¶¶ 13-18.

⁶⁶ *Ibid.*

⁶⁷ Phoenix Decl., ¶ 8.

consistently found that a small number of objectors indicates the class’s 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, 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

1 in comparable litigation.” *Lealao, supra*, 82 Cal.App.4th at 50. Fee awards that are too small will
2 “chill the private enforcement essential to the vindication of many legal rights and obstruct the
3 representative actions that often relieve the courts of the need to separately adjudicate numerous
4 claims.” *Lealao, supra*, 82 Cal.App.4th at 53.

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

13 Historically, courts have awarded fees as high as fifty percent (50%) of the settlement,
14 depending on the circumstances of the case. Conte & Newberg, *Newberg on Class Actions* (4th
15 Ed., 2002) § 14.03; *see also In re Ampicillin Antitrust Litig.* (D.D.C. 1981) 526 F.Supp. 494
16 (awarding attorneys’ fees in the amount of 45% of the settlement amount of \$7.3 million); *Beech*
17 *Cinema, Inc. v. Twentieth-Century Fox Film Corp.* (S.D.N.Y. 1979) 480 F.Supp. 1195 (awarding
18 approximately 53% of the settlement amount as attorneys’ fees). California courts routinely
19 approve class action attorneys’ fees awards “averag[ing] around one-third of the recovery.” *Chavez*
20 *v. Netflix, Inc.* (2008) 162 Cal.App.4th 43, 66 n.11 (lower court found 20 to 40 percent range of
21 contingency fee in marketplace was appropriate in class actions); *see also Laffitte*, 1 Cal.5th at 488
22 & 506 (approving fee award of 1/3 of common fund of \$19 million).

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

24 California and federal courts have long recognized that an appropriate method for
25 determining the award of attorneys’ fees is based on a percentage of the total value of benefits
26 made available to class members by the settlement. *Laffitte*, 1 Cal.5th at 503; *Boeing Co. v. Van*
27 *Gemert* (1980) 444 U.S. 472, 478; *Paul, Johnson, Alston & Hunt v. Gaulty* (9th Cir. 1989) 886
28 F.2d 268, 272; *Vincent v. Hughes Air West, Inc.* (9th Cir. 1977) 557 F.2d 759, 769; *Serrano v.*

1 *Priest* (1977) 20 Cal.3d 25, 34.⁶⁸ The purpose of this equitable doctrine is to spread litigation costs
2 proportionally among all the beneficiaries so that the active beneficiary does not bear the entire
3 burden alone. See *Vincent*, *supra*, 557 F.2d at 769.

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

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

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

26
27
28 ⁶⁸ 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 the cases were originally filed, not only was it inescapably contingent, but the
2 prospect of a long, drawn-out battle with a defendant represented by experienced counsel, was
3 almost a certainty. By taking on this “battle” on a contingency basis, Class Counsel risked
4 substantial economic loss if the results were not successful. This substantial risk is the reason that
5 the courts approve the use of the percentage method when a settlement is obtained by the efforts
6 of class counsel. *See Vizcaino v. Microsoft* (9th Cir. 2002) 290 F.3d 1043, 1048-49 (discussing the
7 risks of engaging in litigation without certainty of compensation).

8 Under the terms of the Settlement Agreement, Defendant will pay a Total Settlement
9 Amount of \$1,650,000.00 on a non-reversionary basis. The requested attorneys’ fees are one-third
10 (1/3) of the total value of the monetary settlement. In light of Class Counsel’s successful
11 prosecution and resolution of the cases, the requested attorneys’ fees are appropriate and
12 reasonable.

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

20 The percentage method is consistent with, and is intended to mirror, the practice in the
21 private marketplace where contingent-fee attorneys typically negotiate percentage-fee
22 arrangements with their clients. The named plaintiff’s agreement to pay a contingent fee is
23 powerful evidence of a reasonable fee. One of the best ways to demonstrate the value of counsel’s
24 work to the class is to review the consideration agreed to be paid by the named plaintiff. If the
25 named plaintiff has employed counsel on a contingency-fee basis, it would indeed be inequitable
26 for the members of the class, who will enjoy the benefits of the settlement without incurring the
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1 risks of bringing the claim, to pay less than the named plaintiff. In this case, Plaintiff has agreed
2 to a contingency fee of at least one-third (1/3) of the recovery.⁶⁹

3 Furthermore, a percentage-fee award is not dependent on a determination of the actual
4 amount claimed by those entitled—it is the creation of the settlement that is the crucial fact. In
5 *Winslow v. Harold G. Ferguson Corp.*, the California Supreme Court expressly held that “it is
6 equitable that [the attorney’s] compensation and expenses should come from the entire fund saved
7 for all classes concerned before it is distributed.” *Winslow v. Harold G. Ferguson Corp.* (1944) 25
8 Cal.2d 274, 284. Likewise, *Lealao* expressly held that a percentage-based fee “may be calculated
9 on the basis of the total fund made available rather than the actual payments made to the class.”
10 *Lealao*, *supra*, 82 Cal.App.4th at 51; *see also Boeing*, *supra*, 444 U.S. at 478 (“a litigant or a
11 lawyer who recovers” a settlement “for the benefit of persons other than himself or his client is
12 entitled to a reasonable attorneys’ fee from the fund as a whole”).

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

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

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

25 In *Camden I Condominium Association, Inc. v. Dunkel*, the court identified twelve factors
26 to be considered in determining whether fee awards are reasonable: (1) the time and labor required;
27 (2) the novelty and difficulty of the questions involved; (3) the skill required to perform the legal
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⁶⁹ Hosseini Decl., ¶ 9.

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 Attorneys' Fees and Costs in the amount of \$550,000.00 (which is one-third (1/3) of the Total Settlement Amount) is commensurate with the time, effort, and expense dedicated to the cases, the contingent nature of Class Counsel's fee and the risks taken in commencing the cases, the skill and determination required, the results that Class Counsel have achieved, and the value of the settlement that Class Counsel have obtained for the Class Members.

1. Time & Labor.

Class Counsel used its experience and skills, and dedicated the full extent of resources, to litigate and bring this matter to a successful conclusion on behalf of the Class. Moreover, as demonstrated in the supporting declarations, Class Counsel has extensive experience in the handling of class actions and complex litigation cases.⁷⁰

As outlined in the Declaration of Yasmin Hosseini, Class Counsel has fully and actively participated in litigation of the cases.⁷¹ Prior to commencing the lawsuits, 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.⁷² During the litigation of the Actions, Class Counsel had the opportunity to interview Plaintiff and other Class Members; reviewed and analyzed thousands of pages of information, documents and data obtained from Defendant, Plaintiff, and other sources; and prepared liability, damages, penalties, and

⁷⁰ Hosseini Decl., ¶¶ 13-18.

⁷¹ *Id.*, Exh. A.

⁷² *Id.*, ¶ 7.

1 valuation calculations.⁷³ Class Counsel also met and conferred with Defendant's counsel over the
2 issues relating to pleadings, discovery, and the production of information, documents and data,
3 among other things; engaged in settlement negotiations with Defendant's counsel; and prepared
4 for and attended court proceedings, mediation, and settlement negotiations.⁷⁴

5 Class Counsel has dedicated staffing and monetary resources necessary to prosecute this
6 matter diligently and with maximum efficiency and has fully and actively participated in the
7 litigation process. The Task and Time Chart, which is attached as EXHIBIT A to the
8 accompanying Declaration of Yasmin Hosseini, sets forth in detail the hours that Lawyers for
9 Justice, PC has spent performing tasks on behalf of Plaintiff and the Class.⁷⁵ The Task and Time
10 Chart is thorough and comprehensive, and was prepared so that the Court can peruse it without
11 having to set forth each and every task in the body of this Motion. The Court is respectfully referred
12 to the chart, which sets forth the history of the work performed by Class Counsel, commencing
13 with the pre-filing analysis and research, and continuing up to settlement and final approval. Class
14 Counsel has spent 362.40 hours performing tasks and to obtain a significant recovery on behalf of
15 Plaintiff, the Class, the PAGA Members, and the State of California.⁷⁶ These hours were required
16 to bring the matters to their successful conclusion. In light of the value of time expended and the
17 carrying of costs involved in litigating this case, the requested attorneys' fees are fair, adequate,
18 and reasonable.

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

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

25 Class Counsel undertook significant investigation, analysis, and research prior to filing
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27 ⁷³ Hosseini Decl., ¶¶ 6 and 7.

28 ⁷⁴ *Id.*, ¶ 6.

⁷⁵ *Id.*, Exh. A.

⁷⁶ *Id.*, ¶¶ 11-12.

these cases, during the litigation, and prior to mediation. Class Counsel took steps to prepare the matter for class certification and representative adjudication and had every intention of taking the case to trial on a class-wide basis if Defendant did not offer an appropriate class-wide settlement. Despite all of the obstacles that had to be overcome, as demonstrated in the Declaration of Yasmin Hosseini, Class Counsel used its extensive experience in the handling of class actions and complex wage-and-hour litigation matters in order to obtain the Settlement with maximum efficiency.⁷⁷

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

The Settlement represents an excellent resolution of the action, given the risks inherent in litigating the cases through certification proceedings, trial, and/or appeals. Had the cases not settled, Defendant would have vigorously challenged certifiability, manageability of representative adjudication, and liability. Defendant, however, faced risks if the Court certified a class and allowed a jury to decide the claims. Additionally, preparing the cases for trial would have been expensive for the Parties.

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

As a result of this litigation and settlement negotiations, Defendant agreed to pay a Total Settlement Amount of \$1,650,000.00 to settle the matter. After deducting the Attorneys' Fees (\$550,000.00), litigation costs (\$16,088.75), Enhancement Payment (\$17,500.00), Settlement Administration Costs (\$10,000.00), and the allocation of the PAGA Penalty Amount (\$190,000.00) from the Total Settlement Amount, it is currently estimated that the Net Settlement

⁷⁷ Hosseini Decl., ¶¶ 13-18.

Amount is approximately \$866,411.25.⁷⁸ The Net Settlement Amount will be fully distributed in accordance with the terms of the Settlement. The highest Individual Settlement Share is currently estimated to be \$5,802.63 and the average Individual Settlement Share is currently estimated to be \$1,311.35.⁷⁹ The highest Individual PAGA Payment is currently estimated to be \$451.58 and the average Individual PAGA Payment is currently estimated to be \$145.71.⁸⁰ The Settlement offers significant monetary relief to the Settlement Class Members, the State of California, and PAGA Members.

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

Plaintiff entered into a contingency fee agreement with Class Counsel, and the representation of the Class provided by Class Counsel has been wholly contingent. Class Counsel took on the case without knowing whether any recovery would be obtained. Class Counsel has invested 362.40 hours of time to obtain relief on behalf of Plaintiff, Class Members, the State of California, and PAGA Members.⁸¹ Class Counsel has also incurred litigation costs and expenses in the amount of \$16,088.75.⁸²

Class Counsel has borne all of the risks and costs of litigation and will not receive any compensation until recovery is obtained.⁸³ Class Counsel is well-experienced in wage-and-hour class action and complex litigation and used that experience to obtain a great result.⁸⁴ The skill and determination that Class Counsel has shown, along with the results obtained, justify the requested Attorneys' Fees and Costs. Considering the amounts requested, the work performed, and the risks incurred, the requested fees and costs are reasonable and should be awarded.

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

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. A lawyer who both bears the risk of not being paid and provides legal services is not receiving the fair market

⁷⁸ Phoenix Decl., ¶ 12.

⁷⁹ *Id.*, ¶ 13.

⁸⁰ *Id.*, ¶ 149.

⁸¹ Hosseini Decl., ¶¶ 11 and Exh. A.

⁸² *Id.*, ¶ 19.

⁸³ *Ibid.*

⁸⁴ *Id.*, ¶¶ 13-18.

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.

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

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

The results achieved, in light of the difficulties inherent in similar cases and the specific difficulties faced in this matter, are considerable. The Settlement has yielded a positive response from the Class Members—no Class Members objected to the Class Settlement.⁸⁵

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 the matters. Class Counsel’s efforts have resulted in a settlement that provides for a Total Settlement Amount of \$1,650,000.00.⁸⁶ The Total Settlement Amount will be fully paid out, in accordance with the terms of the Settlement Agreement. The highest Individual Settlement Share is currently estimated to be \$5,802.63 and the average Individual Settlement Share is currently estimated to be \$1,311.35.⁸⁷ The highest Individual PAGA Payment is currently estimated to be \$451.58 and the average Individual PAGA Payment is currently estimated to be \$145.71.⁸⁸

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⁸⁵ Phoenix Decl., ¶ 8.

⁸⁶ *Id.*, ¶ 9.

⁸⁷ *Id.*, ¶ 13.

⁸⁸ *Id.*, ¶ 14.

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.⁸⁹

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

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

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

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

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

As discussed above, the cases were highly contested and required a significant amount of

⁸⁹ Hosseini Decl., ¶¶ 13-18.

1 time and labor. Defendant made it clear very early on that it disputed all of the allegations of the
2 cases and disputed that the matters were appropriate for class or representative treatment.
3 Defendant raised affirmative defenses and denied liability, and the pursuit of the cases involved
4 gathering and analyzing data not only from Defendant but also from the Class Members. The
5 handling of the cases involved a great amount of effort, and also required and involved the exercise
6 of a high level of skill, which Class Counsel has as a result of its extensive experience in
7 employment class actions and complex wage-and-hour litigation. Long and difficult battles would
8 have followed as the cases moved toward certification and trial, including taking and defending
9 depositions of Defendant's Person Most Knowledgeable designees, percipient witnesses, and
10 experts, propounding additional discovery requests and conducting additional document
11 production, and engaging in extensive motion practice. As Class Counsel geared up for these
12 battles, Class Counsel undertook intense preparation in an attempt to resolve the matters in their
13 entirety through mediation.

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

18 As discussed above in Part VI.C.1, *infra*, attached to the Declaration of Yasmin Hosseini
19 is a task and time chart that sets forth in detail the numerous tasks that Class Counsel performed
20 on behalf of Plaintiff and the Class, and the time required for completing those tasks.⁹⁰ The chart
21 demonstrates that Class Counsel has spent a total of 362.40 hours litigating the cases and finalizing
22 the Settlement.⁹¹ In light of the facts and circumstances of the cases, as well as the results that Class
23 Counsel has achieved on behalf of Plaintiff, Class Members, PAGA Members, and the State of
24 California, Class Counsel has spent a reasonable number of hours on this matter. In addition, Class
25 Counsel will continue to perform work on these matters through the date of final approval and in
26 connection with the implementation of the Settlement.

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28 ⁹⁰ Hosseini Decl., Exh. A.

⁹¹ *Id.*, ¶¶ 11 and 12, Exh. A.

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

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

10 Class Counsel has been actively involved in these matters, prior to their commencement
11 and all the way up to the present, and Class Counsel’s dedication to providing representation in
12 these cases has precluded other employment. Here, Class Counsel bore the risk that, despite all of
13 its efforts and skills employed, there may be no recovery. Ultimately, Class Counsel was successful
14 in reaching a settlement of \$1,650,000.00.

15 As set forth in the Declaration of Yasmin Hosseini, the professional backgrounds and
16 experience of Class Counsel support reasonable rates of compensation at least \$850 per hour for
17 services provided by Class Counsel.⁹² Lawyers for Justice, PC has been awarded attorneys’ fees,
18 compensating the firm at the blended rate of at least \$850 per hour for legal service performed, by
19 courts of this state.⁹³ While the circumstances of every case are unique, the fact remains that the
20 work performed and efforts undertaken by Class Counsel on behalf of the Class Members justify
21 the requested attorneys’ fees.

22 **3. The Risks Involved, Skill Required, Complexity of the Matter, and Results**
23 **Obtained Warrant Upward Enhancement of the Lodestar.**

24 Even when courts have opted to award fees in settlement fund cases based on time
25 reasonably expended on the action, courts have generally awarded these fees based on the actual
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28 ⁹² Hosseini Decl., ¶¶ 11 and 12.

⁹³ *Ibid.*

time expended (the lodestar) in conjunction with a multiplier of between 2 and 4. *Kerr v. Screen Extras Guild, Inc.* (9th Cir. 1975) 526 F.2d 67. Such a multiplier is warranted in this matter.

Courts frequently apply multipliers to enhance the lodestar to reflect the risks involved, the complexity of the litigation, and the other relevant facts. *Vizcaino*, 290 F.3d at 1051; *Graham v. DaimlerChrysler Corp.* (2004) 34 Cal.4th 553, 579 (“One of the most common fee enhancers [...] is for contingency risk.”). Such an enhancement “mirrors the established practice in the private legal market of rewarding attorneys for taking the risk of nonpayment by paying them a premium over their normal hourly rates for winning contingency cases.” *Vizcaino*, 290 F.3d at 1051; *accord Ketchum*, 24 Cal.4th at 1132-33. A risk multiplier also serves to bring the financial incentives for enforcing important rights “into line with incentives [attorneys] have to undertake claims for which they are paid on a fee-for-services basis.” *Ketchum*, 24 Cal. 4th at 1132.

In determining whether or not to enhance the lodestar, California courts take into account multiple factors, many of which were specifically addressed above in §§ VI.B-C, *infra*. See, *Cates* at 822-823. Multiple factors warrant enhancement in this case, including the following:

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

Ketchum, 24 Cal. 4th at 1134.

Adjustment of the base lodestar figure to compute an award of attorneys’ fees for a claim under the California Labor Code is appropriate. See *Id.*, at 1135-1136; *Serrano v. Priest* (1977) 20 Cal.3d 25, 48-49. “The lodestar is calculated by multiplying the reasonable hours expended by a reasonable hourly rate. The court may then enhance the lodestar with a multiplier, if appropriate.” *Wershba, supra*, 91 Cal.App.4th at 254. In the first stage of the lodestar adjustment method, the trial court determines the reasonable hourly rate of compensation for counsel, which it then

multiplies by the number of hours the court finds were reasonably spent preparing the case, to obtain the lodestar figure. *Ketchum*, *supra*, 24 Cal.4th at 1131-1132. The lodestar figure is the “basic fee for comparable legal services in the community” based upon the “hourly amount to which attorneys of like skill in the area would typically be entitled.” *Id.*, at 1132-1133 (quotation marks and citation omitted).

As discussed above, these were highly-contested matters which required an extensive amount of time and labor. Defendant raised defenses and denied liability, and the cases involved gathering and analyzing documents and data not only from Defendant but also from the Class Members. The handling of these matters involved a great amount of effort, and required the exercise of high-level of skill, which Class Counsel has as a result of extensive experience in employment class actions and wage-and-hour litigation. Class Counsel has been actively involved in the prosecution of the cases, prior to their commencement and Class Counsel’s work has continued all the way up to the present. Class Counsel’s dedication to the representation of the Class Members has precluded other employment.

Most importantly, all services were performed by Class Counsel on a contingent basis. Both California and federal courts recognize that attorneys should be compensated for taking on such contingent risks and provided with financial incentives to enforce important rights and protections like those at issue in the matter at hand. See, e.g., *Vizcaino*, 290 F.3d at 1051; *Ketchum*, 24 Cal. 4th at 1132-33. Here, Class Counsel bore the risk that, despite all of its efforts and the skill employed, there may be no recovery. Therefore, at a minimum, Class Counsel is entitled to a risk multiplier. The results obtained by way of Class Counsel’s efforts are significant here. Class Counsel was successful in achieving substantial results in the form of a settlement of \$1,650,000.00. Also, Class Counsel’s efforts throughout the matters demonstrate dedication to the interests of the Class Members.

Class Counsel’s application for attorneys’ fees in light of the facts and circumstances surrounding the matters is well within the range of reasonableness. While handling these matters, Class Counsel devoted the hours in legal time summarized above and detailed in the Task and

Time Chart, which is attached as EXHIBIT A to the Declaration of Yasmin Hosseini.⁹⁴ As the chart indicates, Class Counsel has worked 362.40 hours in the pursuit of these matters. The attorney task and time chart presents the entire picture. Applying a reasonable rate of \$850 per hour to 362.40 hours of work performed by Lawyers for Justice, PC would place a base lodestar value of \$308,040.00 on Class Counsel's services, and applying a modest multiplier of 1.80, the total enhanced lodestar fees are \$554,472.00.⁹⁵ Class Counsel seeks an attorneys' fee award of \$627,000.00 (equal to thirty-eight percent (38%) of the Total Settlement Amount). Far greater multipliers have been awarded in similar cases, and the total amount of fees sought by Class Counsel is also reasonable compared to fees awarded in similar cases. Courts routinely enhance lodestar amounts based on multipliers that "range from 2 to 4 or even higher." *Wershba, supra*, 91 Cal.App.4th at 255 (emphasis added); *see also, e.g., Chavez v. Netflix, Inc.* (2008) 162 Cal.App.4th 43, 66 (approving multiplier of 2.5); *Vizcaino*, 290 F.3d at 1051 (approving multiplier of 3.65); *Wal-Mart Stores, Inc. v. Visa U.S.A., Inc.* (2d Cir. 2005) 396 F.3d 96, 123 (approving multiplier of 3.5); *Craft v. County of San Bernardino* (C.D. Cal. 2006) 624 F.Supp.2d 1113, 1125 (awarding multiplier of 5.2 and referring to other cases with cross-check multipliers ranging from 4.5 to 19.6).

Therefore, application of a modest multiplier of 1.80 is warranted, and the lodestar as a cross-check to the percentage figure sought herein, strongly supports the reasonableness of the requested attorneys' fees award. Plaintiff respectfully requests that the Court grant final approval of, and award, attorneys' fees in the amount of **\$550,000.00** to Class Counsel .

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

The Settlement provides for reimbursement of litigation costs and expenses of up to \$20,000.00. As set forth in the Declaration of Yasmin Hosseini, Class Counsel seeks reimbursement of \$16,088.75 in litigation costs and expenses incurred in the cases.⁹⁶ This amount was reasonable and necessary in the prosecution of the cases and to obtain the Settlement.⁹⁷ The

⁹⁴ Hosseini Decl., Exh. A.

⁹⁵ *Id.*, ¶ 12; *see n.7, supra*.

⁹⁶ *Id.*, ¶ 19.

⁹⁷ *Ibid.*

cost savings of \$3,911.25 will be part of the Net Settlement Amount, which will be distributed to Settlement Class Members in accordance with the Settlement.⁹⁸ Accordingly, Plaintiff request that the Court award litigation costs and expenses in the amount of \$16,088.75 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 \$10,000.00.⁹⁹ The costs incurred and to be incurred include, but are not limited to, (i) preparing, printing, and mailing the *Notice of Class Action Settlement* (“Class Notice”); (ii) responding to inquiries from Class Members; (iii) calculating the number of workweeks each Class Member worked during the Class Period and the number of workweeks that each PAGA Member worked during the PAGA Period; (iv) determining the validity of letters indicating Requests for Exclusion, Objections to the Class Settlement, and/or dispute regarding the number of Workweeks submitted by Class Members; (v) calculating the Net Settlement Amount and the Individual Settlement Shares to Class Members; (vi) calculating and issuing the Individual Settlement Payments and distributing them to Settlement Class Members, and (vii) calculating and issuing the Individual PAGA Payments and distributing them to PAGA Members; (viii) issuing the payment to Class Counsel for Attorneys’ Fees and Costs, the Enhancement Payment to Plaintiff, and the employer/employee payroll taxes to the appropriate taxing authorities; and (ix) such other tasks as set forth in the Settlement Agreement or as the Parties mutually agree or as the Court orders.¹⁰⁰

Accordingly, the Court should grant final approval of payment to Phoenix, a necessary third-party Settlement Administrator, for its handling of the notice and settlement process, in the amount of \$10,000.00.

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⁹⁸ Ibid.

⁹⁹ Phoenix Decl., ¶ 16.

¹⁰⁰ *Id.*, ¶ 2.

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

The Settlement provides for an Enhancement Payment in the amount of \$17,500.00 to Plaintiff Frank Degourville to compensate Plaintiff for the time and effort that he expended on behalf of the Class. The requested Enhancement Payment is both common and reasonable and should be awarded.

In determining whether to make enhancement awards, 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.¹⁰¹ Plaintiff was available whenever Class Counsel needed him and actively tried to obtain, and gave, information to support the pursuit of the case.¹⁰²

Accordingly, it is appropriate and just for Plaintiff Frank Degourville to receive \$17,500.00 as reasonable Enhancement Payment, in addition to his individual settlement payment.

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¹⁰¹ Hosseini Decl., ¶ 20; Declaration of Frank Degourville (“Degourville Decl.”), ¶¶ 3-5.

¹⁰² Hosseini Decl., ¶ 20; Degourville Decl., ¶¶ 3-5.

X. CONCLUSION

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

Dated: January 3, 2025

LAWYERS for JUSTICE, PC



By: _____

Yasmin Hosseini
Attorneys for Plaintiff and the Class