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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

CHRISTOPHER ORNELAS, on behalf of
himself and all others similarly situated and
CHRISTOPHER NIETO, on behalf of
himself and all others aggrieved,

Plaintiffs,

vs.

TEKSYSTEMS, INC., a Maryland
Corporation; and DOES 1 through 10,
inclusive,

Defendants.

Case No. 19STCV39944

ASSIGNED FOR ALL PURPOSES TO:

The Honorable Carolyn B. Kuhl
Department 12

CLASS AND REPRESENTATIVE ACTION

**MEMORANDUM OF POINTS AND
AUTHORITIES IN SUPPORT OF MOTION
FOR ORDER GRANTING FINAL
APPROVAL OF CLASS AND PAGA ACTION
SETTLEMENT**

Hearing Set By March 27, 2024 Order

Date: August 29, 2024

Time: 10:30 a.m.

Dept: SS12

Judge: Carolyn B. Kuhl

Complaint filed: November 6, 2019

Trial date: Not set

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I. INTRODUCTION

Plaintiffs Christopher Ornelas and Christopher Nieto (“Plaintiffs”) seek final approval of a \$179,000 non-reversionary wage and hour class and Private Attorneys General Act (“PAGA”) settlement for a putative class of 25 non-exempt California employees of Defendant TEKsystems, Inc. (“TEKsystems” or “Defendant”) employed as security system installers at any time during the period from November 6, 2015 through July 20, 2023 (the “Class Period”) and 328 aggrieved employees employed by TEKsystems from July 23, 2020 through July 20, 2023 (“PAGA Period”). Declaration of Marta Manus, (“Manus Decl.”), ¶15.

Support for the Settlement is strong. There are no objections, and with zero Class Members requesting exclusion, a participation rate of 100%. The sole dispute is under investigation, the results of which will be provide in ILYM’s supplemental declaration. The 25 Participating Class Members can expect to receive an average estimated payment of \$714, and highest payment of \$2,482. The 328 Aggrieved Employees can expect to receive an average estimated payment of \$57, and highest payment of \$296. The Class Representatives are estimated to receive \$270 (Christopher Ornelas) and \$100 (Christopher Ornelas). (Rounded to nearest dollar amount). Declaration of Nick Castro on behalf of ILYM Group, Inc., (“ILYM Decl.”), ¶¶13, 15-17; Manus Decl. ¶¶16-18, 31, 32, 37.

II. THE PARTIES

A. Defendant

TEKsystems is a staffing and recruitment company that provided services to meet its clients’ needs. Among Defendant’s clients are various residential and commercial security companies. Manus Decl. ¶19.

B. Plaintiffs

Plaintiff Christopher Ornelas worked for TEKsystems in California as an hourly non-exempt security system installer until approximately July 2016. Declaration of Christopher Ornelas filed January 17, 2024 in Support of Preliminary Approval, (“Ornelas Decl.”), ¶3. Plaintiff Christopher Nieto worked for TEKsystems in California as an hourly non-exempt security system installer from May 2015 to May 2018 and from May 2019 to October 2021.

1 Declaration of Christopher Nieto filed January 17, 2024 in Support of Preliminary Approval,
2 (“Nieto Decl.”), ¶3. See, Manus Decl. ¶20.

3 **C. The Class and Aggrieved Employees**

4 The proposed Class is comprised of 25 individuals employed by Defendant as hourly
5 paid, non-exempt “security system installers” in California at any time during the Class Period,
6 and who signed an arbitration agreement with Defendant. Manus Decl. ¶21. The Class Members
7 worked a combined 2,379 workweeks during the Class Period. *Id*; ILYM Decl. ¶6.

8 Aggrieved Employees were employed by Defendant during the PAGA Period. There are
9 328 Aggrieved Employees that worked 9,892 Pay Periods during the PAGA Period. Manus
10 Decl. ¶22; ILYM Decl. ¶6.

11 **III. PRE-MEDIATION LITIGATION**

12 On November 6, 2019, Plaintiff Christopher Ornelas commenced this action by filing a
13 Class Action Complaint in Los Angeles Superior alleging a cause of action for violation of the
14 UCL predicated on violations of the California Labor Code. On July 23, 2021, Plaintiff Ornelas
15 filed a First Amended Complaint adding Christopher Nieto as a named plaintiff and alleging
16 causes of action against TEKsystems for civil penalties under the PAGA for violations of the
17 California Labor Code. Manus Decl. ¶23.

18 The Court has not granted class certification. However, on May 10, 2021, the Court
19 granted TEKsystems’s Motion to Deny Class Certification with respect to non-exempt “security
20 system installers” who were employed by TEKsystems at any time within the State of
21 California since November 6, 2015 and who signed an arbitration agreement with Defendant.
22 Manus Decl. ¶24.

23 **IV. MEDIATION**

24 To prepare for mediation, Plaintiffs requested, and Defendant produced, key data that
25 included: (1) total number of putative class members; (2) aggregate number of workweeks
26 worked by putative class members through the date of mediation; (3) average hourly rate of
27 pay; (4) and the amount of reimbursements paid by Defendant to putative class members. In
28 addition, Defendant produced excel spreadsheet data containing Plaintiff Ornelas’s time records

(through Pay Period ending July 31, 2016). Manus Decl. ¶25.

After receipt of the data and an analysis of the information produced by, Plaintiffs' Counsel retained the services of a damages' consultant to review the information and data to assess violation rates for unpaid or underpaid expense reimbursements for tools, mileage, and cell phone expenses, unpaid or underpaid wages, including overtime wages for all hours worked including travel time between work appointments and hours worked taking inventory, and PAGA civil penalties, and to extrapolate the damages to the putative Class. Manus Decl. ¶26.

On February 2, 2021, the Parties attended mediation with Honorable Wynne Carvill (Ret.), an experienced and respected wage and hour mediator who was a presiding judge in the Alameda County Superior Court from 2003 – 2019, serving in the Complex Litigation division from 2012 – 2015. The Parties engaged in a day of serious, informed and lengthy arms'-length negotiations, but were unable to reach a settlement at the mediation. Thereafter, the Parties continued their settlement efforts and engaged in extensive post-mediation settlement negotiations, which resulted in a Settlement in principle and a memorandum of understanding executed in July of 2023. The Parties continued to negotiate all necessary terms and entered the Class Action and PAGA Settlement Agreement and Class Notice, ("Agreement"), preliminary approved by the Court on March 27, 2024. Manus Decl. ¶27.

V. SUMMARY OF PROPOSED SETTLEMENT

A. Settlement Terms

The Parties have agreed the Action be settled for the Gross Settlement Amount of \$179,000.00 ("GSA") which, subject to Court approval, includes: (a) attorneys' fees of \$59,660.70 (one-third of the GSA) to compensate Class Counsel for work performed and remaining to be performed in securing final Court approval [60% to Cohelan Khoury & Singer, and 40% to Mesriani Law Group, APLC. Manus Decl. ¶29]; (b) Class Counsel's litigation expenses of up to \$9,500.00; (c) Service Payments of \$5,000.00 each to Plaintiffs Christopher Ornelas and Christopher Nieto in consideration of their initiation and prosecution of the action, work performed, and risks undertaken for the payment of costs in the event the case was unsuccessful, and benefits conferred on absent Class Members; (d) PAGA Payment of

1 \$75,000.00 of which \$56,250.00 (75%) will be paid to the LWDA, and \$18,750.00 (25%) will
2 be distributed to Aggrieved Employees; and (e) actual Administration expenses to ILYM of
3 \$7,000.00. Manus Decl. ¶28; ILYM Decl. ¶14. In addition to the GSA, Defendant will pay the
4 Employer Tax Obligations. *Id.*

5 After approved deductions, the estimated \$17,839.30 Net Settlement Amount (“NSA”)
6 will be distributed pro rata to Participating Class Members by dividing the number of weeks
7 each Class member worked during the Class Period by the number of Work Weeks all Class
8 Members worked during the Class Period and multiplying that number by the Net Settlement
9 Amount. Manus Decl. ¶30; ILYM Decl. ¶14. Participating Class Members will receive an
10 estimated \$7.50 for each Workweek worked during the Class Period (\$17,839.30 GSA / 2,379
11 Workweeks), and will receive average estimated payments of \$714, and highest payment of
12 \$2,482. (Rounded to nearest dollar). Manus Decl. ¶¶16, 31; ILYM Decl. ¶¶6, 15.

13 Aggrieved Employees will divide the 25% (\$18,750.00) PAGA payment based on the
14 number of pay period worked in the PAGA Period in relation to the total number of pay period
15 worked by all Aggrieved Employees during the PAGA Period. Aggrieved Employees will
16 receive an estimated \$1.90 for each pay period worked during the PAGA Period (\$18,750 /
17 9,892 pay periods), with an average payment of \$57, and highest payment of \$296. (Rounded to
18 nearest dollar). Manus Decl. ¶¶17, 32; ILYM Decl. ¶¶6, 16.

19 Twenty percent (20%) of each Participating Class Member’s Individual Class Payment
20 will be allocated to settlement of wage claims (the “Wage Portion”). The Wage Portions are
21 subject to tax withholding and will be reported on an IRS W-2 Form. Eighty percent (80%) of
22 each Participating Class Member’s Individual Class Payment will be allocated to settlement of
23 claims for penalties (the “Non-Wage Portion”). The Non-Wage Portions are not subject to wage
24 withholdings and will be reported on IRS 1099 Forms. Manus Decl. ¶33. The Individual PAGA
25 Payments to Aggrieved Employees will be apportioned as one-hundred percent (100%)
26 penalties and reported on IRS 1099 Forms. *Id.*

27 Settlement Payment checks uncashed 180 days after the date of issuance will be
28 transmitted to the State of California, Controller’s Office, Unclaimed Property Division in the

1 name of the Class Member and/or Aggrieved Employee. Manus Decl. ¶34; ILYM Decl. ¶18.

2 **B. Preliminary Approval, Notice to the Class, and Its Response**

3 **1. Preliminary Approval and Class Notice**

4 The Settlement was preliminarily approved on March 27, 2024. Manus Decl. ¶35. On
5 June 4, 2024, after receiving a data file from Defendant, and searching the National Change of
6 Address database and updating Class Member addresses, the Administrator mailed a Class
7 Notice to Class Members and Aggrieved Employees, informing them of (1) the pendency of the
8 Action; (2) proposed settlement terms; (3) automatic payment of Settlement shares if exclusion
9 not requested; (4) released claims; (5) right to object or request exclusion, and (6) and the date,
10 time and place of the final approval hearing. Manus Decl. ¶36; ILYM Decl. ¶8, Exh. A.

11 **2. The Class' Response to the Notice**

12 The Class response to the Settlement was extremely favorable. No objections and zero
13 requests for exclusion were received. Manus Decl. ¶¶16, 37; ILYM Decl. ¶¶11, 12.

14 The Court determined the first three Dunk factors were met when it granted preliminary
15 approval: (1) the settlement was reached through arm's-length bargaining; (2) investigation and
16 discovery allowed counsel and the court to act intelligently; and, (3) counsel was experienced in
17 similar litigation. The fourth factor could not be known until the Class had notice and an
18 opportunity to respond. *Dunk v. Ford Motor Co.*, 48 Cal. App. 4th 1794, 1801-1802 (1996).

19 The fourth *Dunk* factor was established when the Class, after receiving notice, and
20 having an opportunity to respond, overwhelmingly approved the Settlement.

21 **3. Released Claims**

22 Released Class Claims are: All claims that were alleged, or reasonably could have been
23 alleged, based on the Class Period facts stated in the Operative Complaint, including all claims
24 for violation of California's Unfair Competition Law predicated on violation of the California
25 Labor Code sections 510, 1194, 1194.2, 1197.1 and 2802. The release shall apply to Plaintiffs
26 and the Participating Class Members during the Class Period. Except as set forth in Paragraph
27 3(u) of this Judgment, Participating Class Members do not release any other claims, including
28 claims for vested benefits, wrongful termination, violation of the Fair Employment and Housing
Act, unemployment insurance, disability, social security, workers' compensation, or claims

1 based on facts occurring outside the Class Period.

2 Release PAGA Claims are: All claims for PAGA penalties that were alleged, or
3 reasonably could have been alleged, based on the PAGA Period facts stated in the Operative
4 Complaint, and the PAGA Notice, including PAGA penalties for: (1) failure to pay all wages,
5 (2) failure to reimburse business expenses, (3) failure to provide accurate wage statements, (4)
6 failure to timely pay wages due during and upon termination of employment, and (5) failure to
7 maintain accurate records. The release shall apply to Plaintiffs the Aggrieved Employees, the
8 Labor & Workforce Development Agency, and the State of California during the PAGA Period.

9 **VI. THE SETTLEMENT IS FAIR, ADEQUATE, AND REASONABLE**

10 The Preliminary Approval Motion analyzed the Settlement in light of *Dunk's* factors
11 supporting a presumption of fairness, and the factors determining whether a settlement is in the
12 Class' best interest, and is adequate and reasonable, under *Kullar v. Foot Locker Retail, Inc.*,
13 168 Cal.App.4th 116, 130 (2008). The Court carefully reviewed and ruled on these analyses and
14 they are incorporated here by reference. See, Memorandum of Points and Authorities in support
15 Preliminary Approval Motion filed March 24, 2022 (ROA #73) at 8:13 – 13:17, and January 4,
16 2024 Order Granting Preliminary Approval of Class Action Settlement (ROA #194), at ¶3.

17 Nothing has changed since Preliminary Approval to negate the presumption of fairness.
18 Class Counsel remains convinced the Settlement is in the Class' best interest.

19 **VII. ATTORNEYS' FEES ARE REASONABLE AND SHOULD BE AWARDED**

20 Class Counsel requests attorneys' fees of \$59,660.70, one-third of GSA, and litigation
21 costs of \$9,500.00 (actual costs are \$12,418.22). Counsel have expended 255.2 hours, a
22 \$170,700.00 lodestar. Manus Decl. ¶¶39, 40, 49, Exh. 1 (A-D) - Time Records; Exh. 2 –
23 Itemized Costs; Declaration of Rodney Mesriani, ("Mesriani Decl."), ¶¶8, 11, Exh. A - Time
24 Records; Exh. B - Itemized Costs.

25 **A. The Results Achieved Support the Fee Request**

26 The most important factor to consider in granting a fee award is the success obtained.
27 *In re Heritage Bond Litig. v. U.S. Trust Co. of Tex., N.A.*, No. 02-ML-1475 (RCx), 2005 U.S.
28 Dist. LEXIS 13627, *27 (C.D. Cal. June 10, 2005) (citing *Hensley v. Eckerhart*, 461 U.S. 424

(1983)). An excellent result was achieved, enforcing the law and providing benefits to the Class.

The Class was provided notice of all settlement terms, including Counsel's request of award of attorneys' fees up to one-third of the GSA. ILYM Decl. ¶8, Exh. A, Section 3.2(B). No Class Member objected to the attorneys' fees award. *Id.* at ¶11.

B. A Fee Award Based on a Percentage of the Common Fund is Appropriate

The California Supreme Court recognized it is appropriate to award attorneys' fees based on a percentage of the total value of benefits to Class Members from the settlement, also known as the "common fund" method. *Laffitte v. Robert Half International, Inc.*, 1 Cal.5th 480, 503 (2016); *Serrano v. Priest*, 20 Cal.3d 25, 34 (*Serrano III*) (1977); *Vincent v. Hughes Air West, Inc.* 557 F.2d 759, 769 (9th Cir. 1977). (California courts look to federal courts analyzing class issues. *Wershba v. Apple Computer, Inc.*, 91 Cal. App. 4th 224, 239-40 (2001)).

"[T]he lodestar method is not necessarily utilized in common fund cases." *Lealao v. Beneficial California, Inc.*, 82 Cal.App.4th 19, 27 (2000); *Dunk*, at 1808 (attorneys' fees may be percentage of common fund where settlement amount is certain or easily calculable).

The purpose of the common fund approach is to "spread litigation costs proportionally among all the beneficiaries so that the active beneficiary does not bear the entire burden alone." *Vincent, supra*, 557 F.2d at 769. "[O]ne who expends attorneys' fees in winning a suit which creates a fund from which others derive benefits may require those passive beneficiaries to bear a fair share of the litigation costs." *Quinn v. State of California*, 15 Cal.3d 162, 167 (1995). The common fund doctrine has been applied "consistently in California when an action brought by one party creates a fund in which other persons are entitled to share." *City and County of San Francisco v. Sweet*, 12 Cal.4th 105, 110 (1995).

A common fund fee award is especially appropriate here as it spreads the attorneys' fees among all beneficiaries of the fund; aligns incentives between counsel and the class; better approximates market conditions in a contingency case; and encourages class counsel to seek early settlement and avoid unnecessarily prolonging litigation, which prevents unnecessary use of judicial and party resources, and delay in compensating the class. *Laffitte*, 1 Cal.5th at 503.

1 With the guiding principle that early class action settlements are favored and may not
2 diminish an award of attorneys' fees, Class Counsel submits the fee request should be
3 awarded, based on the risks and complexities of prosecuting the action, the contingent nature
4 of any fee, their experience in handling cases of this type, fees commonly awarded in these
5 cases, and vindication of the Class' rights.

6 Class Counsel undertook representation at their own expense, with compensation
7 wholly contingent upon providing a Class benefit. Class Members will receive substantial
8 benefits from the proposed Settlement. Based on the defined and clearly traceable Class
9 benefit, the Court may award a percentage of the common fund as attorneys' fees.

10 **C. One-Third of the Common Fund is a Reasonable Fee**

11 "California courts routinely award attorneys' fees of one-third of the common fund."
12 *Beaver v. Tarsadia Hotels*, 2017 U.S. Dist. LEXIS 160214, *28 (S.D. Cal. Sept. 28, 2017).
13 Several studies of class action fee awards have found the median common fund fee award is
14 approximately one-third of the total settlement fund. *See, e.g., Chavez v. Netflix, Inc.*, 162 Cal.
15 App. 4th 43, 66, n.11 (2008) ("fee awards in class actions average around one-third of the
16 recovery."); Reagan W. Silber and Frank E. Goodrich, *Common Funds and Common Problems:*
17 *Fee Objections and Class Counsel's Response*, 17 Rev. Litig. 525, 546 (1998); T. Willging, L.
18 Hooper and R. Niemic, *Empirical Study of Class Actions in Four Federal District Courts: Final*
19 *Report to the Advisory Committee on Civil Rules*, 90 (1996) (attorneys' fees in class litigation
20 "were generally in the traditional range of approximately one-third of the total settlement").

21 Counsel's request for one-third of the common fund is in the mid-range of awards which
22 commonly range from 20% to 50%, and is fair compensation for undertaking complex, risky,
23 litigation on a contingent basis, and for the result achieved for the Class. Manus Decl. ¶41.

24 Some courts have found an award of 33% of a common fund is the "benchmark" in
25 California. *Smith v. CRST Van Expedited, Inc.*, No. 10-CV-1116-IEG (WMC), 2013 U.S. Dist.
26 LEXIS 6049, *14 (S.D. Cal. Jan. 14, 2013) ("These percentages compare favorably with" the
27 California (33%) benchmark.); *Dennis v. Kellogg Co.*, No. 09-CV-1786-L (WMc), 2013 U.S.
28 Dist. LEXIS 163118, at *7 (S.D. Cal. Nov. 14, 2013).

Class Counsel's fee request is consistent with market rates, awards in similar California cases, including to Class Counsel, is reasonable, and should be awarded. Manus Decl. ¶42.

D. A Lodestar Cross-Check is Not Required

Many Courts decline to consider a lodestar cross-check. See, *Glass v. UBS Financial Services, Inc.*, No. 06-4066-MMC, 2007 U.S. Dist. LEXIS 8476 (N.D. Cal. Jan. 26, 2007) ("no need to conduct a lodestar cross-check [as] [c]lass counsel's prompt action in negotiating a settlement while the state of the law remained uncertain should be fully rewarded"); *Lopez v. Youngblood*, No. 07-0474-DLB, 2011 U.S. Dist. LEXIS 99289 (E.D. Cal. Sep. 1, 2011) ("lodestar cross-check is not required in this circuit, and in a case such as this, is not a useful reference.")

Even when used, a cross-check "calculation need entail neither mathematical precision nor bean-counting," is not a "full-blown lodestar inquiry," and "can be performed with a less exhaustive cataloguing and review of counsel's hours." *Barbosa v. Cargill Meat Solutions Corp*, 297 F.R.D. 431, 451 (E.D. Cal. July 2, 2013).

Under the lodestar method, a base fee is calculated from compilation of time reasonably spent on the case and the reasonable hourly compensation of the attorneys. *Serrano v. Priest*, *supra*, at 48. The court then enhances the lodestar by a "multiplier" to account for a range of factors, such as the novelty and difficulty of the case, its contingent nature, and the degree of success achieved. *Id.*, at 49; see also *Ketchum v. Moses*, Cal.4th 1122, 1132-36 (2001).

Class Counsel's lodestar is \$170,700.00, \$111,039.30 greater than the \$59,660.70 fee award sought. If the fee award were calculated using the lodestar, rather than the common fund method, no multiplier would be needed. Class Counsel's work to obtain a class settlement was reasonable and necessary and is reflected in the excellent result achieved for Class Members. Manus Decl. ¶¶40, 42; Mesriani Decl. ¶8.

E. A Lodestar Cross-Check is Not Required

A lodestar cross-check is not required, and a court may decline to perform one. There is "no need to conduct a lodestar cross-check [as] [c]lass counsel's prompt action in negotiating a settlement while the state of the law remained uncertain should be fully rewarded." *Glass v.*

1 *UBS Financial Services, Inc.*, *supra*, at 8476. A “lodestar cross-check is not required in this
2 circuit, and in a case such as this, is not a useful reference.” *Lopez v. Youngblood*, No. 07-0474-
3 DLB, 2011 U.S. Dist. LEXIS 99289 (E.D. Cal. Sep. 1, 2011)

4 Even when used, a cross-check “calculation need entail neither *mathematical* precision
5 nor bean-counting,” is not a “full-blown lodestar inquiry,” and “can be performed with a less
6 exhaustive cataloguing and review of counsel’s hours.” *Barbosa v. Cargill Meat Solutions*
7 *Corp*, 297 F.R.D. 431, 451 (E.D. Cal. July 2, 2013).

8 Class Counsel’s work to obtain a class settlement was *reasonable* and necessary and is
9 reflected in the excellent result achieved for Class Members. Manus Decl. ¶40, Exh. 1 (A-D) -
10 Time Records; Mesriani Decl. ¶8, Exh. A - Time Records.

11 **F. Counsel’s Hourly Rates Are Reasonable**

12 Class Counsel are entitled to hourly rates charged by attorneys of comparable
13 experience, reputation, and ability for similar litigation. *Ketchum*, *supra* at, 1133; *Children’s*
14 *Hospital and Med. Center v. Bonta*, 97 Cal. App. 4th 740, 783 (2002) (affirming rates as
15 “within the range of reasonable rates charged by and judicially awarded comparable attorneys
16 for comparable work”). When determining reasonable rates, Courts may consider attorney skill
17 and experience, nature of the work, and an attorney’s relevant area of expertise and customary
18 billing rates. *Flannery v. California Highway Patrol*, 61 Cal. App. 4th 629, 632 (1998).

19 Class Counsel’s skill and experience support their hourly rates and are in line with rates
20 typically approved in California wage and hour class actions and previously awarded to Class
21 Counsel by many courts. Cohelan Khoury & Singer’s practice is limited to litigating class and
22 representative actions on behalf of employees and consumers, and the firm has been appointed
23 Class Counsel, or Co-Class Counsel, in over 300 such cases. Manus Decl. ¶¶2-14, 42, 47. For
24 the past two decades, Mesriani Law Group, APLC has represented plaintiffs in individual
25 employment disputes as well as complex and class action litigation, including wage and hour,
26 labor and employment, consumer protection, and other public interest class actions, and has
27 been appointed Class Counsel in numerous cases. Mesriani Decl. ¶¶4-6.

28 Class Counsel’s skill and experience support their hourly rates: **Cohelan Khoury &**
- 10 -

Singer: Founding Partner, Isam C. Khoury - \$925; Managing Partner, Michael D. Singer - \$995; Associate, Marta Manus - \$700; Former Associate, J. Jason Hill - \$700; **Mesriani Law Group, APLC:** Principal Partner, Rodney Mesriani - \$795. In fact, the Laffey Matrix would actually provide for a rate increase: Founding Partner, Isam C. Khoury - \$1,057 (20+ years out of law school); Managing Partner, Michael D. Singer - \$1,057 (20+ years out of law school); Associate Attorney, Marta Manus - \$878 (11-19 years out of law school); Former Associate, J. Jason Hill - \$1,057 (20+ years out of law school); **Mesriani Law Group, APLC:** Principal Partner, Rodney Mesriani - \$1,057 (20+ years out of law school). Manus Decl. ¶40, 48, Exh. 3 - Laffey Matrix; Mesriani Decl. ¶¶8, 10.

G. Class Counsel's Total Hours are Reasonable

Hours are reasonable if, "at the time rendered, [they] would have been undertaken by a reasonable and prudent lawyer to advance or protect his client's interest." *Moore v. Jas. H. Matthews & Co.*, 682 F.2d 830, 839 (9th Cir. 1982). *Norman v. Housing Auth.*, 836 F.2d 1292, 1306 (11th Cir. 1988) ("The measure of reasonable hours is determined by the profession's judgment of the time that may be conscionably billed and not the least time in which it might theoretically have been done").

H. Litigation Expenses Are Reasonable

The Settlement allows Class Counsel to recover up to \$9,500.00 in costs. As counsel's actual costs of \$12,418.22 exceeded this amount, the request remains \$9,500.00. These costs were reasonable and necessary. Manus Decl. ¶49, Exh. 2 - Costs; Mesriani Decl. ¶11, Exh. B - Costs.

VIII. THE PROPOSED PAGA PAYMENT IS REASONABLE

The \$75,000 PAGA Payment representing 41.9% of the \$179,000 settlement amount, is well within the range approved by California courts. *See Alcala v. Meyer Logistics, Inc.* (C.D. Cal. June 17, 2019) 2019 LEXIS 166879, *26 (PAGA penalties 1.25% of settlement reasonable as "within the zero to two percent range for PAGA claims approved by courts."); *In re M.L. Stern Overtime Litig.* (S.D. Cal. Apr. 13, 2009) 2009 LEXIS 31650, *1 (PAGA penalties 2% of settlement reasonable); *Magadia*, 384 F. Supp. 3d at p. 1101, citing, among others, *Ceja-*

1 *Corona v. CVS Pharm., Inc.* (E.D. Cal. Jan. 14, 2015) 2015 U.S. Dist. LEXIS 5118 (\$10,000
2 PAGA penalties in \$900,000 settlement, or 1.1% of settlement, reasonable, recommendation
3 adopted, (E.D. Cal. Mar. 3, 2015) 2015 U.S. Dist. LEXIS 25730)).

4 A court has authority to completely reduce penalties, as long as not to “zero.” *Thurman*
5 *v. Bayshore Transit Management, Inc.* (2012) 203 Cal. App. 4th 1112, 1135. See also
6 *Carrington v. Starbucks Corp.* (2018) 30 Cal. App. 5th 504, 517 (Plaintiff requested “nearly
7 \$70 million in penalties;” trial court’s \$150,000 award upheld on appeal.). Plaintiffs believed
8 reasonable exposure was no more than 25% of maximum exposure, or \$514,100 (25% of
9 \$2,056,400 total PAGA penalties) based on factors considered in determining reasonable
10 exposure for Class claims, the discretionary nature of PAGA penalties, and Court’s ability to
11 reduce penalties to nearly zero, and that “courts have inherent authority to ensure that PAGA
12 claims can be fairly and efficiently tried and, if necessary, may strike a claim that cannot be
13 rendered manageable.” *Wesson v. Staples the Office Superstore, LLC* (September 9, 2021) 2021
14 Cal. App. LEXIS 743, *18.

15 The LWDA was provided with the Motion for Preliminary Approval and the
16 Agreement. The LWDA raised no objection. Manus Decl. ¶53, Exh. 4 - LWDA Confirmation
17 of Receipt dated January 17, 2024. The LWDA was served with this Final Approval Motion
18 when filed. *Id.*, Exh. 5 - LWDA Confirmation of Receipt.

19 **IX. THE SERVICE AWARDS REQUESTED ARE REASONABLE**

20 Plaintiffs seeks a \$5,000 service payment each for the risks they took, the work they did,
21 and the money their efforts will confer on the Class based on the lawsuit they filed against
22 TEKsystems. Ornelas Decl. ¶15; Nieto Decl. ¶13. Plaintiffs estimates they spent more than
23 forty hours working on this case with their attorneys, which they detail in their declaration.
24 Ornelas Decl. ¶9; Nieto Decl. ¶8. Plaintiffs also executed a general release in conjunction with
25 the Settlement. Manus Decl. ¶50.

26 These service award payments comport with others awarded by California district
27 courts under similar circumstances. *See, e.g. Dakota Med., Inc. v. RehabCare Grp., Inc.*
28 (E.D.Cal. Sep. 20, 2017, No. 1:14-cv-02081-DAD-BAM) 2017 U.S.Dist.LEXIS 154458, at

*37-38 (\$15,000 incentive award, where sixty to seventy hours worked on case; class support for award; relatively high payments to other class members averaging \$1,300; despite “little associational or reputational risk” to Plaintiff); *Connelly v. Starbucks Corp.* (E.D.Cal. Sep. 28, 2023, No. 1:21-cv-00746-SAB) 2023 U.S.Dist.LEXIS 175711, at *35 (granting an “incentive and release payment of \$10,000” to the plaintiff from a \$242,000 class action settlement in recognition work performed and release given); *Overton v. Hat World, Inc.* (E.D.Cal. Oct. 3, 2012, No. 2:11-CV-01645-LKK-KJN) 2012 U.S.Dist.LEXIS 144116, at *9 (finding \$10,000 Service Enhancement for a plaintiff for work performed and general release given). Indeed, Class Counsel have achieved enhancement awards for Plaintiffs of \$10,000 or more in cases of similar value. Thus, this Court should award Plaintiffs \$5,000 each (\$10,000 total) in recognition of their service to the Class and general release. Manus Decl. ¶51.

The Class received notice Plaintiffs requested \$5,000.00 each “as a Service Payment to the named Plaintiffs for filing the Action, working with Class Counsel and representing the Class.” ILYM Decl. ¶8, Exh. A, Section 3.2(B). No Class Member objected. *Id.* at ¶11; Manus Decl. ¶52.

X. CONCLUSION

The Settlement favorably resolves what would otherwise be uncertain and lengthy litigation. Class Counsel respectfully requests the Court grant final approval of the Settlement, approve the Service Payments, attorneys’ fees and costs, and administration expenses as requested.

Respectfully submitted,

COHELAN KHOURY & SINGER
MESRIANI LAW GROUP, APLC

Dated: August 7, 2024

By: 
Marta Manus, Esq.
Counsel for Plaintiffs CHRISTOPHER
ORNELAS and CHRISTOPHER NIETO