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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN BERNARDINO**

MAYRA CORTES, as an individual and on
behalf of all others similarly situated,

Plaintiff,

vs.

WETMORE TOOL AND ENGINEERING
COMPANY, a Delaware corporation; and
DOES 1 through 100, inclusive,

Defendants.

Case No. CIVDS2016160

*[Assigned for all purposes to the Hon. David S. Cohn,
Dept. S-26]*

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

Date: October 20, 2021

Time: 10:00 a.m.

Dept.: S-26

Concurrently filed with:

- ❖ Declaration of Elizabeth Nguyen
- ❖ Declaration of Scott M. Lidman
- ❖ Declaration of Milan Moore
- ❖ Declaration of Paul K. Haines
- ❖ Declaration of Plaintiff Mayra Cortes
- ❖ Declaration of Elizabeth Kruckenberg
- ❖ Proposed Order Granting Plaintiff's Motion for Final Approval
- ❖ Proposed Final Judgment

Action Filed

Trial Date: None Set

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MAYRA CORTES

1 **TO THE COURT, ALL PARTIES, AND THEIR ATTORNEYS OF RECORD:**

2 PLEASE TAKE NOTICE that pursuant to Rule 3.769 of the California Rules of Court, on
3 October 20, 2021 at 10:00 a.m. in Department S-26 of the above-entitled Court, located at 247 West
4 Third Street, San Bernardino, California 92415, Plaintiff Mayra Cortes (“Plaintiff”), individually and
5 on behalf of a class of similarly situated individuals, will and hereby does move this Court for:

- 6 1. Confirming the certification of the Settlement Class for settlement purposes under Section
7 382 of the California Code of Civil Procedure defined as follows:

8 All current and former non-exempt, hourly, employees of Defendant Wetmore
9 Tool and Engineering Company who worked in California at any time between
10 July 23, 2016 and June 14, 2021.

- 11 2. Confirming the appointment of Plaintiff Mayra Cortes as Class Representative;
12 3. Confirming the appointment of Scott M. Lidman, Elizabeth Nguyen, and Milan Moore of
13 Lidman Law, APC and Paul K. Haines of Haines Law Group, APC as Class Counsel;
14 4. Granting final approval of the Stipulation of Settlement (referred to hereinafter as
15 “Settlement”);
16 5. Approving an award of \$330,000.00 in attorneys’ fees to Class Counsel;
17 6. Approving an award of \$10,320.31 in costs to Class Counsel;
18 7. Approving an award of \$8,250.00 in costs to Phoenix Settlement Administrators for its
19 settlement administration services;
20 8. Approving a service award of \$10,000.00 to Plaintiff Mayra Cortes for her services as Class
21 Representative;
22 9. Approving an award of \$37,500.00 to the Labor & Workforce Development Agency
23 (“LWDA”); and
24 10. Entering final judgment in the form of the [Proposed] Order Granting Plaintiff’s Motion for
25 Final Approval of Class Action Settlement and Final Judgment filed concurrently herewith.

26 This Motion is based on this notice of motion, the memorandum of points and authorities, the
27 declarations of Scott M. Lidman, Elizabeth Nguyen, Milan Moore, Paul K. Haines, Plaintiff Mayra
28 Cortes, and Elizabeth Kruckenberg of Phoenix Settlement Administrators, and the exhibits attached

1 thereto, the pleadings and other papers filed in this action, and on any further oral or documentary
2 evidence or argument presented at the time of hearing.

3
4 Dated: September 24, 2021

Respectfully submitted,
LIDMAN LAW, APC

5
6
7 By:

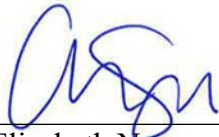

Elizabeth Nguyen
Scott M. Lidman
Attorneys for Plaintiff
MAYRA CORTES

TABLE OF CONTENTS

I.	INTRODUCTION	1
II.	FACTUAL AND PROCEDURAL BACKGROUND.....	2
	A. Plaintiff's Claims	2
	B. Mediation and Settlement.....	3
	C. Preliminary Approval of Settlement	4
III.	SUMMARY OF THE SETTLEMENT AND NOTICE PROCESS	4
	A. Settlement Class Definition	4
	B. Monetary Terms of the Settlement.....	5
	C. Summary of Notice Process	6
	1. Mailing of Notice Packets.....	6
	D. Timing of Payments	7
	E. Uncashed Funds.....	7
IV.	ARGUMENT	7
	A. This Court Should Confirm its Conditional Certification of the Settlement Class for Settlement Purposes Because It Meets All of the Requirements for Class Certification Under Code of Civil Procedure § 382.....	7
	B. This Court Should Finally Approve the Settlement Because it is a Fair, Adequate, and Reasonable Compromise of Disputed Wage and Hour Claims	8
	1. The Settlement was Reached at Arm's-Length, Through Experienced Counsel and an Experienced Mediator, and Was Based on Sufficient Information to Intelligently Negotiate a Fair Settlement in Light of the Claims Asserted and Risks of Continued Litigation.....	8
	2. The Settlement Fairly, Reasonably, and Adequately Compensates Class Members Because Each Participating Class Member Will Be Paid Based on the Extent of His or Her Damages	11
	3. The 100% Participation Rate and Absence of Any Objections Further Confirms that the Settlement is Fair, Adequate, and Reasonable.....	11
	C. The Requested Award of Attorneys' Fees is Reasonable as a Percentage of the Common Fund Confirmed by a Lodestar Cross-Check.....	12
	D. The Requested Cost Amount Warrants Final Approval as Fair, Adequate, and Reasonable	17
	E. The Court Should Finally Approve the Requested Administration Costs	17
	F. This Court Should Finally Approve Plaintiff's Requested Service Award Because It Is Fair, Adequate, and Reasonable in View of Plaintiff's Efforts and the Risks that She Assumed on Behalf of the Class.....	18
V.	CONCLUSION.....	19

TABLE OF AUTHORITIES

Federal Cases

<i>Air Line Stewards, etc., Local 550 v. American Airlines, Inc.</i> 455 F.2d 101 (7th Cir. 1972)	9
<i>Ashker v. Sayre</i> 2011 WL 825713 (N.D. Cal. 2011)	17
<i>Cicero v. DirectTV, Inc.</i> No. EDCV 07-1182, 2010 WL 2991486 (C.D. Cal. July 27, 2010).....	13
<i>Harris v. Marhoefer</i> 24 F.3d 16 (9th Cir. 1994)	17
<i>In re Immune Response Securities Litigation</i> 497 F. Supp. 2d 1166 (S.D. Cal. 2007).....	17
<i>In re Rite Aid Corp. Securities Litigation</i> 396 F.3d 294 (3d Cir. 2005).....	12
<i>Jones v. Spherion Staffing</i> No. LA-CV-11-06462-JAK(JCx) 2012 WL 3264081 (C.D. Cal. 2012)	10
<i>Rawlings v. Prudential-Bache Properties, Inc.</i> 9 F.3d 513 (6th Cir. 1993)	12
<i>Richmond v. Dart Industries, Inc.</i> 29 Cal.3d 462 (1981)	7
<i>Schiller v. David's Bridal, Inc.</i> 2012 WL 2117001 (E.D. Cal. 2012).....	15
<i>Sorenson v. PetSmart, Inc.</i> Case No. 2:06-CV-02674-JAM-DAD (E.D. Cal. Dec. 17, 2008)	15
<i>Trustees of Const. Indust. & Laborers Health & Welfare Trust v. Redland Ins. Co.</i> 460 F.3d 1253 (9th Cir. 2006)	17
<i>Tyson Foods, Inc. v. Bouaphakeo</i> 136 S. Ct. 1036 (2016).....	3
<i>Van Vranken v. Atlantic Richfield Co.</i> 901 F. Supp. 294 (N.D. Cal. 1995)	18
<i>Vizcaino v. Microsoft Corp.</i> 290 F.3d 1043 (9th Cir. 2002)	15

1	<i>Williams v. Centerplate, Inc.</i>	
2	2013 WL 4525428 (S.D. Cal. 2013)	15
3	<i>Williams v. Costco Wholesale Corp.</i>	
4	No. 02-cv-2003 IEG (AJB), 2010 WL 2721452 (S.D. Cal. July 7, 2010).....	13
5	State Cases	
6	<i>7-Eleven Owners for Fair Franchising v. Southland Corp.</i>	
7	85 Cal.App.4th 1135 (2000)	11
8	<i>Bell v. Farmers Ins. Exchange</i>	
9	115 Cal.App.4th 715 (2004)	18
10	<i>Brinker Restaurant Corp. v. Superior Court</i>	
11	53 Cal. 4th 1004 (2012)	10
12	<i>Chavez v. Netflix, Inc.</i>	
13	162 Cal.App.4th 43 (2008)	13
14	<i>City of Oakland v. Oakland Raiders</i>	
15	203 Cal.App.3d 78 (1988)	14
16	<i>Clark v. Am. Residential Servs. LLC</i>	
17	175 Cal.App.4th 785 (2009)	18
18	<i>Coalition for L. County Planning etc. Interest v. Bd. of Supervisors</i>	
19	76 Cal.App.3d 241 (1977)	14
20	<i>Consumer Privacy Cases</i>	
21	175 Cal.App.4th 545 (2009)	14
22	<i>Dunk v. Ford Motor Co.</i>	
23	48 Cal.App.4th 1794 (1996)	8, 11
24	<i>Kao v. Joy Holiday</i>	
25	12 Cal.App.5th 947 (2017)	10
26	<i>Ketchum v. Moses</i>	
27	24 Cal.4th 1122 (2001)	13
28	<i>Laffitte v. Robert Half Int’l, Inc.</i>	
	1 Cal.5th 480 (2016)	12, 13, 14
	<i>Malibu Outrigger Bd. of Governors v. Superior Court</i>	
	103 Cal.App.3d 573 (1980)	8
	<i>Mallick v. Superior Court</i>	
	89 Cal.App.3d 434 (1979)	8

1	<i>Maria P. v. Riles</i>	
2	43 Cal.3d 1281 (1987)	12
3	<i>Serrano v. Priest</i>	
4	20 Cal.3d 25 (1977)	12, 13
5	<i>Serrano v. Unruh</i>	
6	32 Cal.3d 621 (1982)	12
7	<i>Stambaugh v. Superior Court</i>	
8	62 Cal.App.3d 231 (1976)	8
9	<i>Thayer v. Wells Fargo Bank</i>	
10	92 Cal.App.4th 819 (2001)	13
11	<i>Wershba v. Apple Computer, Inc.</i>	
12	91 Cal.App.4th 224 (2001)	9, 12
13	<i>Westside Community for Independent Living, Inc. v. Obledo</i>	
14	33 Cal.3d 348 (1983)	12
15	Statutes and Rules	
16	Cal. Civ. Code § 1542.....	18
17	Cal. Civ. Proc. § 382.....	1, 7
18	Cal. Lab. Code § 218.5	12
19	Cal. Lab. Code § 226(e).....	10, 12
20	Cal. Lab. Code § 2699(g).....	12
21	C.R.C. Rule 3.764(c)(2).....	1
22	C.R.C. Rule 3.766(d)	21
23	C.R.C. Rule 3.766(e).....	21
24	Regulations	
25	8 Cal. Code Regs. § 13520.....	10

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. INTRODUCTION**

3 Plaintiff Mayra Cortes (“Plaintiff”) submits this memorandum of points and authorities in support
4 of her motion for final approval of the class action settlement (the “Settlement”) with Defendant Wetmore
5 Tool and Engineering Company (hereinafter referred to as “Wetmore” or “Defendant”) on behalf of the
6 Settlement Class defined as: “All current and former non-exempt, hourly, employees of Defendant
7 Wetmore Tool and Engineering Company who worked in California at any time between July 23, 2016
8 and June 14, 2021.”

9 In this non-reversionary Settlement of \$990,000, there are 313 Settlement Class Members,
10 rendering the average payment to Settlement Class Members to be approximately is \$1,857.60. This is
11 a favorable resolution of the highly disputed wage and hour claims in this case and the significant litigation
12 risks that Plaintiff faced. Since this Court granted preliminary approval on June 14, 2021, nothing has
13 changed to impact the propriety, fairness, adequacy and reasonableness of the Settlement. In addition,
14 after receiving notice of the Settlement and of their projected Settlement payments, no one submitted a
15 written objection or request for exclusion.

16 The amount allocated to settle the PAGA claim is \$50,000, of which \$37,500 (which is 75% of
17 \$50,000) will be paid to the LWDA and the remaining \$12,500 (which is 25% of \$50,000) will be paid to
18 the PAGA Employees. There are 165 PAGA Employees, rendering the average payment to PAGA
19 Employees to be approximately \$75.76.

20 As explained below, the Court should grant Plaintiff’s motion in its entirety because: (1) the
21 Settlement Class continues to meet the requirements for class certification for settlement purposes under
22 Code of Civil Procedure § 382; (2) the Settlement warrants final approval because it is a fair, adequate,
23 and reasonable compromise of the disputed claims in this case; and (3) the amounts requested for Class
24 Counsel’s attorneys’ fees and costs, Plaintiff’s Class Representative Service Award, payment to the Labor
25 Workforce Development Agency (“LWDA”), and settlement administration costs are all fair, adequate,
26 and reasonable. For these reasons, Plaintiff respectfully requests that this Court enter the [Proposed]
27 Order Granting Plaintiff’s Motion for Final Approval of Class Action Settlement and Final Judgment
28 submitted concurrently herewith.

1 **II. FACTUAL AND PROCEDURAL BACKGROUND**

2 On July 22, 2020, Plaintiff filed a putative class action complaint against Wetmore in San
3 Bernardino County Superior Court. *See* Declaration of Elizabeth Nguyen (“Nguyen Decl.”), ¶ 10. On
4 September 13, 2021, Plaintiff filed a First Amended Complaint adding causes of action for: (i) failure to
5 provide accurate, itemized wage statements; (ii) failure pay all final wages due upon separation of
6 employment; and (iii) civil penalties under the Labor Code Private Attorneys General Act (“PAGA”).
7 Nguyen Decl., ¶ 10.

8 **A. Plaintiff’s Claims**

9 As explained in detail in the Motion for Preliminary Approval, Plaintiff’s primary theories of
10 liability are related to Wetmore’s alleged failure to compensate its non-exempt employees for all time
11 worked, failure to provide meal periods, and failure to permit and authorize rest periods. With respect to
12 the failure to pay for all time worked, Plaintiff alleges that Defendant would keep track of Settlement
13 Class members’ time worked and would unlawfully round/shave their work time such that they would not
14 be fully paid for all time worked. Nguyen Decl., ¶¶ 11-21. With regard to missed meal periods, Plaintiff
15 alleges that Defendant’s meal period policies/practices failed to required employees to record the start and
16 stop times for alleged meal periods take and for at least a portion of the class period, Defendant would
17 automatically-deduct 30 minutes from Plaintiff’s and other non-exempt employees’ work time each shift
18 for a meal break regardless of whether a meal period was actually taken or not, and regardless of whether
19 it was less than 30 minutes, and Settlement Class members did not receive legally-complaint second meal
20 periods when they worked in excess of 10.0 hours.

21 Plaintiff alleges that she and Class Members were also not authorized and permitted to take all
22 required rest periods. Nguyen Decl., ¶ 13. Plaintiff alleges that she and other Settlement Class Members
23 were not authorized and permitted to take all required rest periods due to Defendant’s rest period
24 policies/practices which fail to authorize and permit all rest periods for every four hours worked, *or major*
25 *fraction thereof*. Nguyen Decl., ¶ 13. Specifically, Defendant did not authorize and permit Plaintiff to
26 take a 2nd rest period when she worked a shift in excess of 6.0 hours, nor a 3rd rest break for shifts worked
27 in excess of 10.0 hours. *Id.*

28 Plaintiff alleges that Wetmore issued inaccurate wage statements in violation of Labor Code

1 section 226 as a result of the alleged unpaid wages and unpaid meal and rest period premium wages
2 described above and for issuing wage statements that did not include all hours worked and the rate of pay,
3 and is thus liable for waiting time penalties and civil penalties under the Labor Code Private Attorney
4 General Act (“PAGA”). Nguyen Decl., ¶¶ 15-20.

5 As explained *infra* and in Plaintiff’s Motion for Preliminary Approval, Wetmore denies Plaintiff’s
6 claims and asserts several affirmative defenses, both on the merits and with respect to class certification.

7 **B. Mediation and Settlement**

8 After agreeing to participate in an early mediation, Wetmore informally produced time records
9 data for a random sample of the putative class selected by Plaintiff, as well as its wage and hour policies
10 and other relevant documents and information relevant to the claims alleged in advance of mediation.
11 Nguyen Decl., ¶ 22. Plaintiff contends that because a sampling of records for the putative class were
12 produced, the records are reliable. *Id.*; See e.g., *Tyson Foods, Inc. v. Bouaphakeo*, 136 S. Ct. 1036 (2016).

13 Plaintiff conducted an analysis of the payroll data and time records produced by Defendant. After
14 the detailed review of the payroll and time records and other documents and policies produced by
15 Defendant, Class Counsel drew on their extensive experience in similar cases to assess the strengths and
16 weaknesses of Plaintiff’s case. *Id.* This discovery also allowed the Parties to discuss the strengths and
17 weaknesses of Plaintiff’s various theories of liability on her claims, including Plaintiff’s contemplated
18 claims for waiting time penalties, inaccurate wage statements, and civil penalties under the PAGA. This
19 discovery allowed the parties to assess the merits and value of Plaintiff’s claims and Defendant’s defenses
20 thereto for mediation. *Id.*

21 On March 1, 2021, after extensive research and analysis, a full-day mediation was held with
22 Jeffrey A. Ross, Esq., a well-respected wage and hour class action mediator. Nguyen Decl., ¶ 23. During
23 mediation, the parties vigorously debated their opposing legal positions, the likelihood of certification of
24 Plaintiff’s claims, and the legal basis for the claims and defenses. *Id.* Ultimately, the parties agreed in
25 principle on a class-wide resolution. *Id.* As part of the negotiations and settlement discussions, the Parties
26 agreed that Plaintiff would file a First Amended Complaint adding causes of action for: (i) failure to
27 provide accurate, itemized wage statements pursuant to Labor Code section 226; (ii) failure pay all final
28 wages due upon separation of employment pursuant to Labor Code section 203; and (iii) civil penalties

under the under the PAGA pursuant to Labor Code sections 2699 *et seq.* *Id.* After a full day of mediation, the Parties reached an agreement and executed a MOU. Thereafter, the Parties signed the Stipulation of Settlement (“Settlement”). *Id.*

C. Preliminary Approval of Settlement

On April 19, 2021, Plaintiff filed her motion for preliminary approval of the Settlement. Nguyen Decl., ¶ 24. On June 14, 2021, the Court granted preliminary approval of the Settlement. Nguyen Decl., ¶ 24, Exh. A. At the time of preliminary approval of the Settlement, Plaintiff estimated there were approximately 274 Settlement Class Members based on the data provided prior to the March 1, 2021 mediation. Nguyen Decl. ¶24. The Settlement included an Escalator Clause that would have been triggered had the number of workweeks worked by the Settlement Class Members exceeded 40,705. Settlement, ¶ 5.D. The Settlement Administrator confirmed that total workweeks worked by the Settlement Class Members does not exceed this amount and the Escalator Clause was not triggered. Nguyen Decl, ¶ 24. As such, the exposure analysis detailed in Plaintiff’s Motion for Preliminary Approval has not changed, even though the total number of Settlement Class Members has slightly increased. Nguyen Decl, ¶ 24. Therefore, the Settlement remains fair, adequate, and reasonable.

Plaintiff will also provide the LWDA with a copy of the instant motion for final approval and supporting documents after the instant motion is filed and will file a supplemental proof of service prior to the hearing. Nguyen Decl., ¶ 40.

On July 20, 2021, the Settlement Administrator sent the Court-approved Notices of Settlement (consisting of the Notice of Proposed Class and Representative Action Settlement and Notice of Individual Settlement Payment) in English and Spanish to 313 Class Members, who had until September 20, 2021 to submit disputes, objections, and/or requests for exclusion. *See* Declaration of Elizabeth Kruckenberg of Phoenix Settlement Administrators (“Kruckenberg Decl.”), ¶ 8. As of the date of this filing, there have been no objections and no opt-outs. *Id.*, ¶¶ 12-15. Plaintiff now respectfully submits the Settlement for this Court’s final approval.

III. SUMMARY OF THE SETTLEMENT AND NOTICE PROCESS

A. Settlement Class Definition

The Settlement Class encompasses “All current and former non-exempt, hourly, employees of

1 Defendant Wetmore Tool and Engineering Company who worked in California at any time between July
2 23, 2016 and June 14, 2021.” Nguyen Decl., ¶ 25.

3 **B. Monetary Terms of the Settlement**

4 The Settlement requires Wetmore to pay a Gross Settlement Amount (“GSA”) of \$990,000.00.
5 Kruckenberg Decl., ¶ 16. The Net Settlement Amount (“NSA”) is the amount remaining from the GSA
6 after deducting requested attorneys’ fees (\$330,000.00) and verified costs (\$10,320.31), proposed Class
7 Representative Service Award to Plaintiff (\$10,000.00), and Settlement Administration costs (\$8,250.00),
8 PAGA payment (\$50,000.00). Based on these requested amounts, the NSA is calculated to be
9 approximately **\$581,429.69**. Kruckenberg Decl., ¶ 16; *See* Nguyen Decl., ¶ 29, Exh. B.

10 Each Settlement Class member’s Individual Settlement Award will be based on the following
11 formula:

12 i. Ninety-Five Percent (95%) of the Net Settlement Amount shall be allocated to
13 Settlement Class Members who worked during the Class Period, as follows: each
14 participating Settlement Class Member shall receive a proportionate settlement
15 share based upon the number of workweeks the Settlement Class Member worked
16 during the Class Period, the numerator of which is the Settlement Class Member’s
17 total workweeks worked during the Class Period, and the denominator of which is
18 the total workweeks worked by all Settlement Class Members (who do not opt out)
19 who worked during the Class Period. (Settlement, ¶ 6.B.i)

20 ii. Five Percent (5%) of the Net Settlement Amount shall be designated as the “Waiting
21 Time Amount.” Each participating Settlement Class Member whose employment
22 with Defendant was separated at any time during the Class Period shall receive a
23 portion of the Waiting Time Amount. The Waiting Time Amount shall be distributed
24 equally among each participating Settlement Class Member whose employment with
25 Defendant was separated at any time between July 23, 2017 and June 14, 2021.
26 (Settlement, ¶ 6.B.ii.)

27 In addition, Twelve Thousand Five Hundred Dollars and Zero Cents (\$12,500.00) of the Gross
28 Settlement Amount has been designated as the “PAGA Amount”. All PAGA Employees shall receive a

1 portion of the PAGA Amount. “PAGA Employees” include all current and former non-exempt, hourly,
2 employees of Defendant who worked in California (including those who submit a Request for Exclusion)
3 at any time between July 23, 2019 and June 14, 2021 (“PAGA Period”). A PAGA Employee shall receive
4 a portion of the PAGA Amount proportionate to the number of Workweeks that he or she worked during
5 the PAGA Period, and which will be calculated by multiplying the PAGA Amount by a fraction, the
6 numerator of which is the PAGA Employee’s number of Workweeks worked during the PAGA Period,
7 and the denominator of which is the total number of Workweeks worked by all PAGA Employees during
8 the PAGA Period.

9 Payments to Settlement Class members will be classified as 75% as penalties and interest; and
10 25% as wages. Settlement, ¶ 6.E.

11 The Settlement provides that the employer’s share of payroll taxes shall be paid separately from,
12 and in addition to, the Gross Settlement Amount. Settlement ¶ 5.C.

13 **C. Summary of Notice Process**

14 **1. *Mailing of Notice Packets***

15 On July 7, 2021, Wetmore provided Phoenix Settlement Administrators (“PSA”) with data files
16 with the names, last known addresses, phone numbers, social security numbers, the number of workweeks
17 worked during the Class Period and the PAGA Period. Kruckenberg Decl., ¶ 4. After performing address
18 updates and verifications, PSA mailed the Notice Packets (consisting of the Notice of Proposed Class and
19 Representative Action Settlement and Notice of Individual Settlement Payment) to the 313 Class
20 Members on July 20, 2021. *Id.*, ¶¶ 7-9. Following the initial mailing, 12 Notice Packets was returned to
21 PSA as undeliverable. *Id.*, ¶ 9. As a result of a skip trace, forwarding address provided by the Post Office,
22 or re-mail requests from Counsel or Class Members, eight (8) Notice Packets were re-mailed. *Id.*, ¶ 11.
23 As of the date of filing this final approval motion, four (4) Notice Packets remain undeliverable with no
24 forwarding address, and where no new address could be located through skip trace. *Id.*, ¶ 12.

25 The deadline for Class Members to submit objections, requests for exclusion, or disputes was
26 September 20, 2021. Kruckenberg Decl., ¶ 8.

27 As of the date of this filing, there were no objections and no opt-outs. *Id.*, ¶¶ 13-15. Accordingly,
28 as of the date of this Motion, the participation rate amongst the Settlement Class members is 100% and

the average estimated payment is \$1,857.60, with the highest estimated payment to a Settlement Class member being \$3,880.56, the lowest estimated payment to a Settlement Class member being \$151.64, and the median amount being \$1,500.74. *Id.*, ¶¶ 13 & 19.

D. Timing of Payments

Defendant shall pay the Gross Settlement Amount within thirty (30) days of the Effective Date. See Settlement ¶ 5.A.1.¹ The Settlement Administrator shall issue the individual payments, Class Counsel Award, Service Award, and LWDA payment no later than 17 calendar days after Defendant deposits the Gross Settlement Amount with the Settlement Administrator. *See* Settlement, ¶ 6.D.

E. Uncashed Funds

The Settlement provides that Class Members with 180 days from the date the Settlement Administrator mails the checks. After 180 days from the mailing, the Settlement Administrator will direct the amount of any settlement checks that have not been cashed to the Secretary of State- Unclaimed Property Fund in the name of the Class Members who did not cash those checks. Settlement ¶ 6.F; Nguyen Decl., ¶ 26.

IV. ARGUMENT

A. This Court Should Confirm its Conditional Certification of the Settlement Class for Settlement Purposes Because It Meets All of the Requirements for Class Certification Under Code of Civil Procedure § 382

Under Code of Civil Procedure § 382, a class may be certified if: (1) it is ascertainable and its members are too numerous for joinder to be practical; (2) the representative and absent class members share a community of interest, and questions of law and fact common to the class predominate over questions unique to individual class members; (3) the representative's claims are typical of the class' claims; and (4) the representative will fairly and adequately represent the class' interests. *See Richmond v. Dart Industries, Inc.* (1981) 29 Cal.3d 462, 470.

¹ Effective Date" refers to the date upon which both of the following have occurred: (i) final approval of the settlement is granted by the Superior Court of California for the County of San Bernardino, or other court assuming jurisdiction of this matter, and (ii) the Court's Judgment approving the settlement becomes Final. "Final" shall mean the latest of: (i) if there is an appeal of the Court's Judgment, the date the Judgment is affirmed on appeal, the date of dismissal of such appeal, or the expiration of the time to file a petition for writ of certiorari to the California Supreme Court, or, (ii) if a petition for writ of certiorari is filed, the date of denial of the petition for writ of certiorari, or the date the Judgment is affirmed pursuant to such petition; or (iii) if no appeal is filed, the expiration date of the time for filing or noticing any appeal of the Judgment. *See* Settlement ¶ 5.A.1.

1 Here, this Court found that the Settlement Class meets all the requirements for class certification
2 for settlement purposes when it granted preliminary approval of the Settlement on June 14, 2021. *See*
3 Nguyen Decl., ¶ 24; Exh. A. After the court entered an order granting preliminary approval, no events
4 have cast doubt on the propriety of this determination. In fact, the reaction of the Class Members thus
5 far to the Settlement has been strongly in support of the Settlement, with no Settlement Class members
6 objecting to and/or electing to opt-out of the Settlement. *See* Kruckenberg Decl., ¶¶ 13-15. This Court
7 should therefore confirm its conditional certification of the Settlement Class.

8 **B. This Court Should Finally Approve the Settlement Because it is a Fair, Adequate,**
9 **and Reasonable Compromise of Disputed Wage and Hour Claims**

10 California courts have a strong policy in favor of settlement. *See, e.g., Stambaugh v. Superior*
11 *Court*, 62 Cal.App.3d 231, 236 (1976). Unlike individual settlements, class action settlements involve a
12 court approval process that exists to prevent fraud, collusion, and unfairness to class members. *Malibu*
13 *Outrigger Bd. of Governors v. Superior Court*, 103 Cal.App.3d 573, 578-79 (1980). This approval
14 process consists of preliminary settlement approval, notice being given to class members, and a final
15 fairness and approval hearing being held, at which class members have the opportunity to be heard with
16 respect to the settlement. *Id.* Now that notice has been provided to the Settlement Class, Plaintiff
17 respectfully requests that the Court finally approve the Settlement as fair, adequate, and reasonable.

18 ***1. The Settlement was Reached at Arm's-Length, Through Experienced Counsel***
19 ***and an Experienced Mediator, and Was Based on Sufficient Information to***
20 ***Intelligently Negotiate a Fair Settlement in Light of the Claims Asserted and***
21 ***Risks of Continued Litigation***

22 A settlement is presumptively fair where it is reached through arm's-length bargaining, based on
23 sufficient discovery and investigation to allow counsel and the court to act intelligently, counsel is
24 experienced in similar litigation, and the percentage of objectors to the settlement is small. *Dunk v. Ford*
25 *Motor Co.*, 48 Cal.App.4th 1794, 1802 (1996). In deciding whether to approve a proposed settlement, a
26 trial court has broad powers to determine if the proposed settlement is fair under the circumstances of the
27 case. *Mallick v. Superior Court*, 89 Cal.App.3d 434, 438 (1979). In exercising these powers, the
28 overriding concern is to ensure that a proposed settlement is "fair, adequate, and reasonable." *Dunk*,
supra, 48 Cal.App.4th at 1801 (internal quotations omitted). Relevant factors for the Court to consider
include, but are not limited to:

1 [T]he strength of plaintiffs’ case, the risk, expense, complexity and likely duration of
2 further litigation, the risk of maintaining class action status through trial, the amount
3 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.

4 *Id.* These factors require balancing, are non-exhaustive and, as such, trial courts should tailor the factors
5 to each case and give due regard to “what is otherwise a private consensual agreement between the
6 parties.” *Id.*

7 “In the context of a settlement agreement, the test is not the maximum amount plaintiffs might
8 have obtained at trial on the complaint, but rather whether the settlement is reasonable under all of the
9 circumstances.” *Wershba v. Apple Computer, Inc.*, 91 Cal.App.4th 224, 250 (2001). Because settlements
10 inherently involve compromise, even settlements providing for substantially narrower relief than likely
11 would be obtained if the suit were successfully litigated can be reasonable because, “the public interest
12 may indeed be served by a voluntary settlement in which each side gives ground in the interest of avoiding
13 litigation.” *Id.* (quoting *Air Lines Stewards, etc., Local 550 v. American Airlines, Inc.*, 455 F.2d 101, 109
14 (7th Cir. 1972)).

15 Here, the Settlement resulted from extensive arm’s length settlement negotiations between
16 qualified and experienced counsel, with the assistance of a well-respected mediator, and is fair, adequate,
17 and reasonable for all Settlement Class members. While Plaintiff maintains that her claims are
18 meritorious, Plaintiff acknowledges that her position includes substantial risks and uncertainty, which
19 justifies a downward departure from the maximum exposure that Plaintiff’s calculated each claim carried.

20 As detailed in Plaintiff’s Motion for Preliminary Approval, there is risk of non-certification and/or
21 not prevailing on the merits with respect to each of Plaintiff’s claims. Nguyen Decl., ¶ 11. For example,
22 with respect to Plaintiff’s failure to pay for all time worked, Wetmore contends that it compensated the
23 Settlement Class members for all of their time worked and that the time punch data would necessarily
24 include minutes that were not compensable work time because the employees would not and could not
25 start performing any work prior to the start of the scheduled shift time given the nature of Wetmore’s
26 manufacturing operations. *Id.* With regard to missed meal periods, Plaintiff alleges that Defendant’s meal
27 period policies/practices failed to required employees to record the start and stop times for alleged meal
28 periods take and for at least a portion of the class period, Defendant would automatically-deduct 30

1 minutes from Plaintiff's and other non-exempt employees' work time each shift for a meal break
2 regardless of whether a meal period was actually taken or not, and regardless of whether it was less than
3 30 minutes, and Settlement Class members did not receive legally-complaint second meal periods when
4 they worked in excess of 10.0 hours. Nguyen Decl., ¶ 11. Wetmore points out that under *Brinker*
5 *Restaurant Corp. v. Superior Court* (2012) 53 Cal. 4th 1004, it is only required to "provide" the
6 opportunity to take meal periods, not "ensure" meal periods are taken, and that they have always done so.
7 *Brinker, supra*, 53 Cal.4th at 1038 (rejecting "ensure" standard). Finally, Wetmore contends Plaintiff's
8 meal period claim is not suited for class certification, since individual inquiries would be required to assess
9 which employees took non-compliant meal periods, how many meal periods were non-compliant or
10 missed, and the reasons why a particular employee took a non-compliant meal period or missed a meal
11 period during a particular shift. Nguyen Decl., ¶ 12.

12 As for Plaintiff's rest period claim, Wetmore contends it has always maintained and enforced
13 lawful rest period policies and practices, and that Class Members were authorized and permitted to take
14 all off-duty rest periods in compliance with California law. Nguyen Decl., ¶ 14. Wetmore also argues
15 that Plaintiff's rest period claim is inherently unsuited for class treatment as it requires an individualized
16 inquiry into whether each Class Member was in fact authorized and permitted to take a compliant rest
17 period, which would devolve into an unmanageable series of mini-trials. *Id.*

18 As for Plaintiff's wage statement claim, Wetmore argues that meal and rest period claims cannot
19 support a claim for wage statement penalties *Naranjo v. Spectrum Security Services, Inc.* (2019) 40 Cal.
20 App. 5th 444, *review granted*, 455 P.3d 704 (Cal. 2020). Wetmore further argues that its alleged wage
21 statement violations could not be shown to be "knowing and intentional," and that Plaintiff cannot show
22 that she or any other employee "suffer[ed] injury" as a result of the alleged wage statement violations, as
23 required by Lab. Code § 226(e) for imposition of penalties. Nguyen Decl., ¶ 16.

24 As for Plaintiff's claim for waiting time penalties, Wetmore asserts it has strong defenses to the
25 waiting time claim because there exist good-faith disputes as to Plaintiff's underlying claims, precluding
26 imposition of penalties. Nguyen Decl., ¶ 18. *See also* 8 Cal. Code Regs. § 13520 (a "good faith dispute
27 that any wages are due will preclude imposition of waiting time penalties"); *Kao v. Joy Holiday*, 12
28 Cal.App.5th 947, 963 (2017) (holding that "good faith dispute" over whether employee was exempt

precluded imposition of waiting time penalties over contested wages owed). *Id.*

Lastly, since Plaintiff's PAGA claim is a derivative claim based on the underlying claims, Wetmore asserts the PAGA claim would fail with those claims. Nguyen Decl., ¶ 20. Wetmore also maintains that given its good faith defenses, this Court would exercise its discretion to substantially reduce any PAGA penalties if it were to find Wetmore liable for any of Plaintiff's claims. *Id.*

These considerations bore heavily on the negotiations leading to the Settlement and also confirm that the Settlement is fair, adequate, and reasonable compromise in view of the risks of further litigation. Nguyen Decl., ¶ 21. As detailed in Plaintiff's Motion for Preliminary Approval, Plaintiff carefully vetted the claims at issue and conducted a detailed statistical analysis of class-wide data to arrive at the calculated damages figures. Thus, while these risks are far from exhaustive, they demonstrate that the Settlement is fair, adequate, and reasonable in view of them. *Id.*

2. *The Settlement Fairly, Reasonably, and Adequately Compensates Class Members Because Each Participating Class Member Will Be Paid Based on the Extent of His or Her Damages*

Individual settlement payments will be calculated based on the workweeks worked by each Class Member. *See* Settlement ¶ 6.B. This method of distribution compensates Class Members based on the estimated extent of their injuries, as Class Members who worked more workweeks, would have been subject to more of the alleged wage and hour violations than those who worked fewer workweeks. Thus, the formula for compensating Class Members is fair, adequate, and reasonable, as it is tethered to the damages and penalties that could be recovered by them.

3. *The 100% Participation Rate and Absence of Any Objections Further Confirms that the Settlement is Fair, Adequate, and Reasonable*

Class members' response to a settlement is relevant in evaluating whether it merits final approval. *Dunk, supra*, 48 Cal.App.4th at 1801. The lack of objections and requests for exclusion supports a fairness presumption. *See 7-Eleven Owners for Fair Franchising v. Southland Corp.* (2000) 85 Cal.App.4th 1135, 1152-53 (finding 9 objections and 80 opt-outs from a class of 5,454 showed a "particularly impressive" favorable response from class members). Here, as of the filing of this Motion, not a single Class Member has objected, not a single Class Member has elected to opt-out, and only four (4) of the 313 Notice Packets were returned undeliverable. Kruckenberg Decl., ¶¶ 12-15. The extremely favorable response of the Settlement Class further confirms that the Settlement is fair, adequate, and

1 reasonable.

2 **C. The Requested Award of Attorneys' Fees is Reasonable as a Percentage of the**
3 **Common Fund Confirmed by a Lodestar Cross-Check**

4 Plaintiff and the Settlement Class, as the prevailing parties in settlement, are entitled to recover
5 their attorneys' fees and costs for their wage claims. *See* Lab. Code §§ 218.5, 226(e) and 2699(g). A fee
6 award is justified where the legal action has produced its benefits by way of a voluntary settlement. *See,*
7 *e.g., Maria P. v. Riles*, 43 Cal.3d 1281, 1290-91 (1987); *Westside Community for Independent Living,*
8 *Inc. v. Obledo*, 33 Cal.3d 348, 352-53 (1983). When a settlement results in a common fund for the benefit
9 of a class, class counsel may be awarded fees as a percentage of the common fund. *See Wershba, supra,*
10 91 Cal.App.4th at 254 (recognizing the “percentage of recovery” method). The California Supreme Court
11 confirmed in *Laffitte v. Robert Half Int’l, Inc.*, 1 Cal.5th 480, 506 (2016), that “[t]he percentage of fund
12 method survives in California class action cases.” Specifically, the *Laffitte* Court held:

13 The recognized advantages of the percentage method—including relative ease of
14 calculation, alignment of incentives between counsel and the class, a better
15 approximation of market conditions in a contingency case, and the encouragement it
16 provides counsel to seek an early settlement and avoid unnecessarily prolonging the
17 litigation—convince us the percentage method is a valuable tool that should not be denied
18 our trial courts.”

19 *Id.* at 503 (internal citation omitted); *see also, e.g., Serrano v. Priest*, 20 Cal.3d 25, 34 (1977) (“when a
20 number of persons are entitled in common to a specific fund, and an action brought by a plaintiff or
21 plaintiffs for the benefit of all results in the creation or preservation of that fund, such plaintiff or plaintiffs
22 may be awarded attorney’s fees out of the fund.”); *Serrano v. Unruh*, 32 Cal.3d 621, 627 (1982) (in
23 awarding a fee from the common fund obtained for the benefit of all parties, the trial court acts within its
24 equitable power to prevent the other parties’ unjust enrichment.); *Rawlings v. Prudential-Bache*
25 *Properties, Inc.*, 9 F.3d 513, 516 (6th Cir. 1993) (the percentage of the fund method for calculating
26 attorneys’ fees more accurately reflects the results achieved for the putative class than the lodestar method
27 and “establishes reasonable expectations on the part of plaintiffs’ attorneys as to their expected recovery;
28 and it encourages early settlement, which avoids protracted litigation.”); *In re Rite Aid Corp. Securities*
Litigation, 396 F.3d 294, 300 (3rd Cir. 2005) (“The percentage-of-recovery method is generally favored
in common fund cases because it allows courts to award fees from the fund ‘in a manner that rewards
counsel for success and penalizes it for failure.’”) (citation omitted).

1 *Laffitte* also held that trial courts have discretion to assess reasonableness of fee awards with tools
2 such as the “lodestar cross-check,” whereby the trial court calculates class counsel’s lodestar (hours
3 worked multiplied by hourly rate) and determines whether the “lodestar multiplier” needed to bring the
4 lodestar on par with the percentage of recovery is reasonable. *Laffitte* at 503-06. While a trial court may
5 utilize the lodestar cross-check, it need not do so. *Id.* at 506 (“[w]e hold further that trial courts have
6 discretion to conduct a lodestar cross-check on a percentage fee, as the court did here; they also retain the
7 discretion to forgo a lodestar cross-check and use other means to evaluate the reasonableness of a
8 requested percentage fee.”)

9 Here, Class Counsel’s fee request of \$330,000.00 (one-third of the Gross Settlement Amount) is
10 fair and reasonable based on a percentage of the recovery confirmed with a lodestar cross-check. First,
11 “regardless whether the percentage method or the lodestar method is used, fee awards in class actions
12 average around one-third of the recovery.” *Chavez v. Netflix, Inc.*, 162 Cal.App.4th 43, 66, n.11 (2008);
13 *see also, e.g., Cicero v. DirectTV, Inc.*, No. EDCV 07-1182, 2010 WL 2991486 at * 7 (C.D. Cal. July 27,
14 2010) (observing that “30-50% [is] commonly awarded in cases in which the common fund is relatively
15 small” and that in California, “courts usually award attorneys’ fees in the 30-40% range in wage and hour
16 class actions...”); *Williams v. Costco Wholesale Corp.*, No. 02-cv-2003 IEG (AJB), 2010 WL 2721452
17 at * 6 (S.D. Cal. July 7, 2010) (collecting cases where courts awarded between 33.33% and 40% in
18 attorneys’ fees in wage and hour class actions). This is also consistent with Class Counsel’s experience
19 in similar wage and hour class action matters. *See* Nguyen Decl., ¶ 27. Thus, the percentage sought by
20 Class Counsel here (the same percentage sought by class counsel in *Laffitte*) is reasonable.

21 Next, as stated, under the lodestar method the court computes the “lodestar” amount by
22 multiplying the number of hours reasonably expended by each attorney or legal staff member by their
23 reasonable hourly rates. *See, e.g., Serrano v. Priest* 20 Cal.3d 25, 48 (1977). The court then enhances
24 this lodestar figure by a “multiplier” to account for a range of factors, such as the novelty and difficulty
25 of the case, its contingent nature, and the degree of success achieved. *Id.* at 49; *Ketchum v. Moses*, 24
26 Cal.4th 1122, 1132-36 (2001); *Thayer v. Wells Fargo Bank*, 92 Cal.App.4th 819, 834 (2001) (“There is
27 no hard-and-fast rule limiting the factors that may justify an exercise of judicial discretion to increase or
28 decrease a lodestar calculation”).

Under California law, lodestar multipliers can range from 2 to 4 or even higher. *See, e.g., Chavez, supra*, 162 Cal.App.4th at 49-50 (approving multiplier of approximately 2.5); *City of Oakland v. Oakland Raiders*, 203 Cal.App.3d 78 (1988) (approving multiplier of ~2.34); *Coalition for L. County Planning etc. Interest v. Bd. of Supervisors*, 76 Cal.App.3d 241, 251 (1977) (approving multiplier of ~2.04). In class actions such as this one, where the value of the benefit conferred to the class “can be monetized with a reasonable degree of certainty,” a court may “adjust the lodestar in comparison to a percentage of the common fund to ensure that the fee awarded is reasonable and within the range of fees freely negotiated in the legal marketplace in comparable litigation.” *Consumer Privacy Cases*, 175 Cal.App.4th 545, 557 (2009). In doing so, “the court determines, retrospectively, whether the litigation involved a contingent risk or required extraordinary legal skill justifying augmentation of the unadorned lodestar in order to approximate the fair market for such services.” *Id.* at 556; *see also Laffitte, supra*, 1 Cal.5th at 503-05.

In this case, Class Counsel have a lodestar of \$180,280.00 without the use of any multiplier, which results in a multiplier of approximately 1.83 compared to the \$330,000.00 fee request. Nguyen Decl., ¶ 32. A summary showing the number of hours of work performed by each attorney and paralegals is set forth below. The billing rates used are reasonable especially in light of the hourly rates identified based on years of experience in the *Laffey* Matrix, submitted concurrently herewith. *Id.*, at ¶ 33, Exh. C. Based on the *Laffey* Matrix, the hourly rate for a 23rd year attorney is \$914, the hourly rate for a 16th year attorney is \$759, and the hourly rate for a 6th year attorney is \$465, and the hourly rate for a second-year attorney is \$378. *See* Nguyen Decl., Exh. C.

Name	Rate	Hours	Pre-Multiplier Lodestar
Scott M. Lidman (23rd Year Attorney)	\$750	61.6	\$46,200
Elizabeth Nguyen (16th Year Attorney)	\$650	126.3	\$82,095
Paul K. Haines (15th Year Attorney)	\$650	25.1	\$16,315
Milan Moore (6th Year Attorney)	\$400	10.9	\$ 4,360
Romina Tamiry (2nd Year Attorney)	\$295	81.1	\$23,925
Paralegals	\$175	42.2	\$7,385
Total Lodestar			\$180,280

1 The fee award requested here is justified because Class Counsel achieved a significant monetary
2 recovery for the Settlement Class in an uncertain and risky case, while bearing the substantial burdens of
3 representation on a contingency basis, and the fees requested are in line with the market rate. *Vizcaino v.*
4 *Microsoft Corp.*, 290 F.3d 1043, 1048-51 (9th Cir. 2002) (finding that exceptional results in a contingency
5 case, significant risk and the absence of supporting precedents, are proper considerations in awarding
6 attorneys' fees).

7 First, Class Counsel negotiated a substantial recovery for the Settlement Class, resulting in a
8 current participation rate of 100%, and not a single Class Member has objected to the Settlement or to
9 Class Counsel's requested fees as of the date of this filing. *See* Kruckenberg Decl., ¶¶ 11-15.
10 Additionally, the *average* settlement payment in this case of approximately \$1,857.60 is in line with, and
11 above, settlement payments in similar wage and hour class action settlements. *See, e.g., Sorenson v.*
12 *PetSmart, Inc.*, Case No. 2:06-CV-02674-JAM-DAD (E.D. Cal. 2008) (wage and hour class action
13 settlement approved where average class member recovery was approximately \$60); *Schiller v. David's*
14 *Bridal, Inc.*, No. 1:10-cv-00616-AWI-SKO, 2012 WL 2117001, at *17 (E.D. Cal. 2012) (finding that
15 average payment to class members of less than \$200 was a "good" result); *Williams v. Centerplate, Inc.*,
16 Nos. 11-CV-2159-H-KSC, 12-CV-0008-H-KSC, 2013 WL 4525428, at *4 (S.D. Cal. 2013) (granting
17 final approval of class action settlement where average recovery for each class member was
18 approximately \$108). The fact that Class Counsel achieved these results without engaging in a protracted
19 legal battle, in the face of serious defense challenges and an uncertain legal landscape confirms the
20 strength of the results achieved.

21 As discussed above, this case presented significant risk as to both class certification and merits
22 considerations. Accordingly, it is fair and reasonable to account for these risks in compensating Class
23 Counsel. Class Counsel should also be compensated for the risks involved in undertaking this litigation
24 and expending considerable effort, all while working on a pure contingency basis. Since undertaking
25 representation of Plaintiff, Class Counsel have borne all the costs of litigation without receiving any
26 compensation. Nguyen Decl., ¶ 29. During this time, Class Counsel have expended \$9,755.31, in actual
27 costs, have devoted substantial time to this litigation and expect to incur approximately \$565 in future
28 costs for filing the instant motion, filing the final declaration regarding distribution of settlement, service

1 and messenger fees, postage fees, and/or CourtCall costs for future appearances.² Nguyen Decl., ¶ 29,
2 Exh. B. Class Counsel’s efforts have included conducting pre-filing investigation, analyzing Plaintiff’s
3 claims, conducting legal research, reviewing Wetmore’s documents and policies, analyzing Class
4 Members’ timekeeping and payroll records, preparing for and attending mediation, negotiating and
5 revising the long-form Settlement, preparing the Motion for Preliminary Approval of Settlement and Final
6 Approval, overseeing the settlement administration process, communicating with Class Members, and
7 otherwise litigating this case. *See* Nguyen Decl., ¶ 28. Given the considerable potential for adverse
8 outcomes in this case, including, but not limited to losing on class certification and/or merits issues, the
9 contingent risk borne by Class Counsel was great. Nguyen Decl., ¶ 31.

10 Class Counsel’s previous experience in litigating wage and hour class actions also supports the
11 reasonableness of the fee request. Class Counsel are well-versed in plaintiff and defense-side wage and
12 hour class action litigation, with substantial experience litigating claims for meal and rest period
13 violations, and related penalties. *See* Nguyen Decl., ¶¶ 3-8; Declaration Scott M. Lidman (“Lidman
14 Decl.”), ¶¶ 3-8; Declaration of Paul K. Haines (“Haines Decl.”), ¶¶ 3-8. They have been certified as class
15 counsel in numerous other cases. *Id.* Their experience in similar matters was integral in evaluating the
16 strengths and weaknesses of the case against Wetmore and the reasonableness of the Settlement. *See*
17 Nguyen Decl., ¶ 30. Practice in the narrow field of wage and hour litigation requires skill and knowledge
18 concerning the rapidly evolving substantive state law, as well as the procedural law of class action
19 litigation. *Id.* Because it is reasonable to compensate Class Counsel commensurate with their skill,
20 reputation, and experience, a fee award of one-third of the Gross Settlement Amount is reasonable.

21 Other factors also show that the fee amount requested in this case is reasonable under the
22 circumstances. This case involved nuanced legal issues including questions surrounding compensable
23 time in a manufacturing setting, Wetmore’s obligation to “provide” meal periods and “authorize and
24 permit” rest periods, and the propriety of statutory penalties, to name just a few. Nguyen Decl., ¶¶ 11-
25 21. Thus, Class Counsel’s requested fee award is fair, reasonable, and adequate and should be approved.

26 //

27
28 ² This includes total costs incurred by both law firms.

1 **D. The Requested Cost Amount Warrants Final Approval as Fair, Adequate, and**
2 **Reasonable**

3 Class Counsel have incurred \$10,320.31³ (including anticipatory expenses related to the instant
4 motion) in litigation costs. Class Counsel's request is fair, adequate, and reasonable, as all of these costs
5 are documented and reasonably incurred. *See* Nguyen Decl., ¶ 29; Exh. B. Moreover, the costs Plaintiff
6 seeks are the types of costs routinely approved by courts. *See, e.g., Harris v. Marhoefer*, 24 F.3d 16, 19
7 (9th Cir. 1994) (counsel should recover "those out-of-pocket expenses that would normally be charged
8 to a fee paying client"); *Ashker v. Sayre*, No. 05-03759 CW, 2011 WL 825713, at * 3 (N.D. Cal.
9 2011)("costs of reproducing pleadings, motions and exhibits are typically billed by attorneys to their fee-
10 paying clients" and are reimbursable); *Trustees of Const. Industry & Laborers Health and Welfare Trust*
11 *v. Redland Ins. Co.*, 460 F.3d 1253, 1258-59 (9th Cir. 2006) (legal research costs are reimbursable); *In re*
12 *Immune Response Securities Litigation*, 497 F. Supp. 2d 1166, 1177-78 (S.D. Cal. 2007) (mediation
13 expenses, consultant and expert fees, legal research, copies, postage, filing fees, messenger and overnight
14 delivery costs are reimbursable). Because the expense reimbursements requested by Class Counsel were
15 reasonably incurred, and no Class Member has objected to them, Plaintiff respectfully requests the Court
16 should grant the request for actual costs incurred.

17 **E. The Court Should Finally Approve the Requested Administration Costs**

18 Plaintiff also requests that the Court approve \$8,250.00 in administration costs to the Settlement
19 Administrator, Phoenix Settlement Administrators. As detailed in the declaration of Elizabeth
20 Kruckenberg on Behalf of Phoenix Settlement Administrators submitted herewith, PSA performed duties
21 in connection with this Settlement that were integral in effectuating the Settlement and the Notice process.
22 Among other things, PSA calculated each Class Member's individual settlement payment, updated
23 addresses contained in the class data supplied by Defendant, formatted and translated Notices of
24 Settlement for mailing, mailed Notices of Settlement to all 313 Class Members, created a static website,
25 kept the parties informed of any objections or requests for exclusion, and have otherwise administered
26 the Settlement. *See* Kruckenberg Decl., ¶¶ 2-20. For these reasons, PSA's requested costs are fair,
27 reasonable, and adequate, and should be finally approved.

28 ³ This amount includes the anticipated costs of \$565 for filing fees, service and messenger fees, postage
fees, and/or CourtCall costs for future court appearances.

1 **F. This Court Should Finally Approve Plaintiff’s Requested Service Award Because It**
2 **Is Fair, Adequate, and Reasonable in View of Plaintiff’s Efforts and the Risks that**
3 **She Assumed on Behalf of the Class**

4 Courts routinely approve service payments to compensate named plaintiffs for the services they
5 provide and the risks they incur during class action litigation. *See, e.g., Bell v. Farmers Ins. Exchange*,
6 115 Cal.App.4th 715, 726 (2004) (upholding “service payments” to named plaintiffs for their efforts in
7 bringing the case); *Van Vranken v. Atlantic Richfield Co.*, 901 F. Supp. 294 (N.D. Cal. 1995) (approving
8 \$50,000 service payment). In analyzing the requested service payment, courts consider the following
9 factors: the risk, both financial and otherwise, the class representative faced in bringing the suit; the
10 notoriety and personal difficulties encountered by the class representative; the actions the plaintiff has
11 taken to protect the interests of the class, the degree to which the class has benefitted from those actions,
12 and the amount of time and effort the plaintiff expended in pursuing the litigation. *See Golba v. Dick’s*
13 *Sporting Goods, Inc.* (2015) 238 Cal.App.4th 1251, 1272; *Clark v. Am. Residential Servs. LLC* (2009) 175
14 Cal.App.4th 785, 804.

15 Here, analyzing these factors weigh in favor of approving as part of the Settlement, Plaintiff’s
16 request for a service award in the amount of \$10,000.00 for her services to the Settlement Class, of which
17 \$5,000.00 is designated as payment for Plaintiff’s agreement and consideration to separate her
18 employment with Defendant. Nguyen Decl., ¶ 37; Declaration of Mayra Cortes (“Cortes Decl.”),⁴ Cortes
19 Decl., ¶¶ 3-12. Plaintiff provided substantial factual information and documents to Class Counsel,
20 attending multiple meetings with Class Counsel to discuss the claims and theories at issue in the litigation,
21 participating in the mediation, and undertook significant risks by agreeing to serve as the named plaintiff
22 in this case. In addition, Plaintiff has agreed separate her employment with Defendant and agreed to a
23 general release of all claims subject to a waiver of Civil Code § 1542. *See* Nguyen Decl., ¶ 37; Cortes
24 Decl., ¶¶ 3-12; Settlement ¶ 4. The class has benefitted from Plaintiff’s actions as the average settlement
25 amount is \$1,857.60.

26 Plaintiff understood that the lawsuit is a matter of public record and being part of the lawsuit could
27 stigmatize her and/or affect future employment. Cortes Decl., ¶ 8. Plaintiff also understood the risk that

28 ⁴ The declaration of Plaintiff Mayra Cortes was originally filed with this Court on April 19, 2021 in connection
with the Motion for Preliminary Approval. For the convenience of the Court, Plaintiff has re-filed her declaration
with the instant Motion.

1 she could be liable for Defendant's costs if she lost the case. Plaintiff accepted these risks and burdens
2 because she wanted Defendant to compensate its current and former employees for unpaid wages, unpaid
3 meal and rest period premium wages. *Id.* at ¶ 7-11. Plaintiff estimates she spent approximately 10 to 15
4 hours on activities related to this case. *Id.* at ¶ 9.

5 Additionally, after receiving notice of the proposed Class Representative Service Award for
6 Plaintiff, no Class Member has objected to the proposed award, as of the date of this filing. *See*
7 Kruckenberg Decl., ¶ 15. Thus, the service award to Plaintiff is appropriate and justified as part of the
8 Settlement and should be finally approved.

9 **V. CONCLUSION**

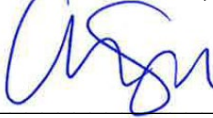
10 For the reasons stated herein, Plaintiff respectfully submits that this Court should grant Plaintiff's
11 motion in its entirety and adopt the [Proposed] Order Granting Plaintiff's Motion for Final Approval of
12 Class Action Settlement and Final Judgment submitted herewith.

13 Based on the terms of the agreement, Plaintiff proposes the deadline to the Settlement
14 Administrator declaration regarding the disbursement be set for **August 22, 2023**, which will provide
15 sufficient time for the uncashed checks to be sent to the State Controller after remaining uncashed for a
16 year after the 180-day expiration deadline.

17
18 Dated: September 24, 2021

Respectfully submitted,
LIDMAN LAW, APC

19
20 By:



Elizabeth Nguyen
Scott M. Lidman
Attorneys for Plaintiff
MAYRA CORTES