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7
8 **SUPERIOR COURT OF CALIFORNIA**
9
10 **FOR THE COUNTY OF SACRAMENTO**

11 AHMAD ZUBAIR HUSSAINI, individually
12 and on behalf of all other similarly situated
13 employees,

14 Plaintiff,

15 vs.

16 INTEGRATED RESOURCES, INC., a
17 California Corporation; SIEMENS
18 MOBILITY, INC., a Delaware Corporation;
and DOES 1 to 100, inclusive,

19 Defendants.

Case No. 34-2021-00297152

*Assigned for All Purposes to Hon. Jill H. Talley,
Department 27*

CLASS ACTION

**MEMORANDUM OF POINTS &
AUTHORITIES IN SUPPORT OF
PLAINTIFF'S MOTION FOR FINAL
APPROVAL OF CLASS ACTION AND PAGA
SETTLEMENT**

Date: March 24, 2023

Time: 9:00 a.m.

Dept.: 27

Judge: Hon. Jill H. Talley

Filed: March 23, 2021

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Trial Date: None Set

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I. INTRODUCTION AND OPENING SUMMARY OF ARGUMENT

Plaintiff Ahmad Zubair Hussaini (“Plaintiff”) seeks final approval of a wage and hour class action and Private Attorneys General Act (“PAGA”) settlement in the gross amount of \$395,000. *See generally* Exhibit A (Joint Stipulation Regarding Class Action and PAGA Settlement and Release [“Agreement”]). Plaintiff brought this class action individually and on behalf of similarly situated employees who worked for Defendants Integrated Resources, Inc., and Siemens Mobility, Inc., (“Defendants”) (Plaintiff and Defendants sometimes collectively referred to as the “Parties”). There are approximately 1,205 Class Members. *See* Declaration of Cassandra Polites (“Decl. Polites”), ¶ 11. Plaintiff worked for Defendants in California from May 6, 2020, to July 11, 2020, and Plaintiff was subject to all the same policies and practices that are alleged to be unlawful in this litigation. *See generally* Exhibit B (Plaintiff’s Operative Complaint); Declaration of Ahmad Zubair Hussaini (“Decl. Hussaini”) ¶ 2. Plaintiff has alleged that Defendants 1) failed to pay overtime wages, 2) failed to pay minimum wages, 3) failed to provide meal periods or pay premiums in lieu thereof, 4) failed to provide rest periods or pay premiums in lieu thereof, 5) failed to provide accurate wage statements, 6) failed to timely pay all final wages, 7) failed to reimburse employees for incurred expenses, and 8) engaged in unfair competition. *See generally* Exhibit B. Plaintiff has also alleged Defendants are liable for civil penalties under the PAGA based on these violations. *See id.*; Exhibit C (Plaintiff’s Ltr. to the Labor and Workforce Development Agency [“LWDA”] Regarding PAGA Claims). These violations primarily stem from Plaintiff’s allegations that Defendants violated California law by 1) failing to properly record and pay for all hours worked due to rounding and requiring off-the-clock work, 2) failing to authorize and permit timely meal periods and/or a second meal period and first, second, and third rest periods, 3) failing to pay meal and rest period premiums for missed, short, and late meal and rest periods, 4) failing to reimburse employees for expenses incurred for work, including but not limited to, personal cell phone use to track employees time as well as other work tasks and travel expenses required as part of the employees position, and 5) failing to pay daily overtime. The waiting time penalties, unfair competition, and PAGA claims are derivative of these violations. *See* Exhibit B.

Defendants have denied all of Plaintiff’s allegations in their entirety and any liability or wrongdoing of any kind. *See* Declaration of Justin P. Rodriguez (“Decl. Rodriguez”), ¶ 5. Defendants

1 have denied that this case is appropriate for class certification other than for purposes of settlement.
2 *See id.* However, subject to Court approval, the parties have been able to compromise and settle all
3 asserted claims as a result of extensive investigations, informal document and data exchanges, and
4 extended negotiations relating to all aspects of the asserted claims. *See* Exhibit A. Plaintiff's counsel
5 believes that the proposed Agreement is in the best interest of Class Members based on the discovery,
6 investigations, negotiations, and a detailed knowledge of the issues in this case. *See* Decl. Rodriguez,
7 ¶¶ 3, 6-10. The prospect of potential class certification, Defendant's factual and legal contentions,
8 difficulties of complex litigation, the lengthy process of establishing specific damages and various
9 possible delays and appeals were carefully considered by Plaintiff and Plaintiff's counsel in agreeing to
10 the proposed Agreement. *See id.*

11 The reaction of Class Members to the preliminary approved Agreement has been
12 overwhelmingly positive and gives substantial support to the Agreement and all terms and allocations
13 therein being fair, reasonable, and adequate. Only three Class Members opted out of the settlement and
14 there have been zero objections to the Agreement. *See* Decl. Polites, ¶¶ 9-10. It is well within the
15 discretion of this Court to grant final approval of the proposed settlement, which satisfies all of the
16 criteria for final settlement approval under California law. Accordingly, Plaintiff requests that the
17 Court: (1) certify the proposed settlement class; (2) grant final approval of the Agreement; (3) find that
18 the procedures used to notify Class Members complied with due process; 4) grant Plaintiffs' request for
19 attorney's fees and costs, the Enhancement Payment to the Class Representatives, and Claims
20 Administration Costs; and (5) approve and adopt the proposed order granting final approval, which is
21 filed concurrently herewith.

22 **II. PROCEDURAL AND LITIGATION HISTORY**

23 Plaintiff filed a class action complaint on approximately March 23, 2021, in the Sacramento
24 County Superior Court against Defendants. Plaintiff exhausted administrative remedies under the
25 PAGA by providing notice of the claims and violations to the LWDA. *See* Exhibit C; Cal. Lab. Code §
26 2699.3(a), (c); Decl. Rodriguez, ¶ 3. Then, Plaintiff filed a First Amended Class Action Complaint on
27 approximately May 12, 2021, to include a PAGA claim. *See id.*; Exhibit B. There is no date set for a
28 motion for certification or trial in this matter. *See* Decl. Rodriguez, ¶ 4.

III. INVESTIGATION AND DISCOVERY CONDUCTED

Plaintiff thoroughly investigated issues affecting certification, the merits of the class claims, and potential damages for such claims. *See id.* at ¶¶ 3, 6-10. Plaintiff worked during the time all of Defendants' policies and practices at issue in the Complaint were in effect and provided information regarding these policies and practices, enabling pre-filing investigations to take place. *See Decl. Hussaini* ¶¶ 2, 5-6. The Parties engaged in informal discovery and exchange of documents, including a representative sampling of employee data, such as timecards, paystubs, payroll data, and relevant policies for the entirety of the statute of limitations applicable to the asserted claims. The discovery covered all aspects of the asserted claims, including certification issues, merits issues, damages, the scope and configuration of Class Members, the content and implementation of the wage and hour policies at issue, issues relating to manageability concerns at trial, among other relevant areas. *See Decl. Rodriguez*, ¶ 7. The information allowed Plaintiff to determine the extent and frequency of any violations in accordance with Plaintiff's contentions and create an accurate damages model to assess the reasonableness of any settlement. *See id.*

IV. NEGOTIATION AND PROPOSED SETTLEMENT

a. Plaintiff and Defendants Engaged in Extensive Arm's Length Negotiations

The final settlement occurred only after extended, and sometimes contentious, arm's length negotiations. Over the course of approximately two (2) years, Plaintiff has been investigating the claims and discussing with Defendants' counsel the merits of the claims and issues present in this case. *See id.* at ¶¶ 3, 6-10. The Parties exchanged substantial amounts of information and legal analysis in connection with these discussions. *See id.* It was only after these extended discussions, which included a full day mediation with Glenn E. Lerman and a mediator's proposal four months after the mediation, that the Parties were able resolve all claims and enter into the Agreement. *See id.* at ¶ 8.

b. The Terms of the Agreement

Under the Agreement, Defendants have agreed to the following:

1. The following groups of individuals are covered by the Settlement: (1) Aggrieved Employees: all non-exempt employees who have been, or continue to be, employed in California by Integrated Resources, Inc., at any time between March 8, 2020, up to October 21, 2022; and (2) Class

Members: all non-exempt employees who have been, or continue to be, employed in California by Integrated Resources, Inc., at any time between March 23, 2017, up to October 21, 2022.¹ See Exhibit A, ¶¶ 1.2, 1.5, 1.6, 1.24.

2. Defendants will pay the Gross Settlement Amount of \$395,000, which is exclusive of the employer's share of payroll taxes. See *id.* at ¶ 5.1. No portion of the Gross Settlement Amount will revert to Defendants. See *id.* at ¶ 5.6. Aggrieved Employees will still be paid their share of the PAGA Payment regardless of whether they opt out of being Class Members. See *id.* at ¶¶ 7.5.1, 7.8.3.

3. Up to \$15,000 will be paid to Plaintiff as an Enhancement Payment. This amount will be in addition to any amount Plaintiff may be entitled to under the terms of the Agreement. See *id.* at ¶ 5.4.

4. The parties agree that the cost of administering this class action settlement shall be paid from the settlement proceeds. Any Settlement Administrator Costs shall be paid from the Gross Settlement Amount. Subject to Court approval, the Parties have selected ILYM Group, Inc. to act as the Settlement Administrator, whose final costs are \$12,500. See Decl. Polites, ¶ 16. The difference between the actual Settlement Administrator Costs and the originally allocated \$20,000 under the Agreement, will be added to the Net Settlement Amount and paid to Class Members on a pro rata basis. See Exhibit A, ¶ 5.3; Decl. Rodriguez, ¶ 25.

5. The Parties agree that \$10,000 of the Gross Settlement Amount shall be allocated to resolving claims under the PAGA. Seventy-Five percent (75%) of the PAGA Payment will be paid to the LWDA and Twenty-Five percent (25%) will be paid to Aggrieved Employees. See Exhibit A, ¶ 5.5. Given the risk to proving the claims on the merits, the derivative nature of the penalties, the efforts by Defendant to maintain compliant policies and take corrective action, the presence of what may likely be deemed good faith disputes, and the Court's discretion to reduce any penalty award, Plaintiff believes the \$10,000 PAGA Payment allocation represents a meaningful settlement aimed at deterring non-compliance given the facts of this case. See Decl. Rodriguez, ¶¶ 9-10; see also *Nordstrom Com. Cases*, 186 Cal.App.4th 576, 589 (2010) (approving \$0 allocation to the resolution of PAGA claims

¹ During the notice period, Defendant exercised its option to reduce the Class Period to October 21, 2022, to avoid paying additional funds under the escalator provision of paragraph 10.1 of the Agreement. See Exhibit A, ¶ 10.1; Decl. Polites, ¶ 4.

1 based on their being disputed and being part of a class settlement which was evaluated based on the
2 terms of the agreement overall); *Junkersfeld v. Med. Staffing Sols., Inc.*, 2022 WL 2318173, at *8 n.2
3 (E.D. Cal. 2022) (collecting cases with PAGA settlement values ranging from .037%-1%); *Jennings v.*
4 *Open Door Marketing, LLC*, 2018 WL 4773057, *9 (N.D. Cal. 2018) (approving settlement of PAGA
5 claims at 0.6% of total estimated value due to risk of no recovery); *Ruch v. AM Retail Grp., Inc.*, 2016
6 WL 5462451, *7 (N.D. Cal. 2016) (approving \$10,00 PAGA settlement allocation where total PAGA
7 penalty exposure was approximately \$5.2 million, or 0.2% of total estimated value); *Davis v. Cox*
8 *Commc'ns California, LLC*, 2017 U.S. Dist. LEXIS 63514, *1 (S.D. Cal. 2017) (preliminarily
9 approving \$4,000 PAGA allocation in \$275,000 settlement); *Moore v. Fitness Int'l, LLC*, 2014 U.S.
10 Dist. LEXIS 8358, *5 (S.D. Cal. 2014) (approving \$2,500 PAGA allocation when attorneys' fees award
11 alone amounted to \$200,000); *Jack v. Hartford Fire Ins. Co.*, 2011 U.S. Dist. LEXIS 118764, *6 (S.D.
12 Cal. 2011) (approving \$3,000 PAGA allocation in \$1,200,000 settlement); *Singer v. Becton Dickinson*
13 *& Co.*, 2010 U.S. Dist. LEXIS 53416, *2 (S.D. Cal. 2010) (approving \$3,000 PAGA allocation in
14 \$1,000,000 settlement); *Hopson v. Hanesbrands Inc.*, 2009 U.S. Dist. LEXIS 33900, *9 (N.D. Cal.
15 2009) (approving \$1,500 PAGA allocation in \$1,026,000 settlement); *Syed v. M-I, L.L.C.*, 2017 U.S.
16 Dist. LEXIS 24880, *34-35 (E.D. Cal. 2017) (approving \$100,000 PAGA allocation in a \$3,950,000
17 settlement even though PAGA exposure was calculated at \$53,600,000, or 0.2% of total estimated
18 value); *Garcia v. Gordon Trucking, Inc.*, 2012 U.S. Dist. LEXIS 160052, at *7 (E.D. Cal. 2012)
19 (approving \$10,000 PAGA allocation in a \$3,700,000 settlement); *Franco v. Ruiz Food Prod., Inc.*,
20 2012 WL 5941801, at *14 (E.D. Cal. 2012) (\$10,000 in PAGA payment from \$2,500,000 settlement
21 fund); *Chu v. Wells Fargo Investments, LLC*, 2011 WL 672645, at *1 (N.D. Cal. 2011) (approving
22 PAGA settlement payment of \$7,500 to the LWDA out of \$6.9 million common-fund settlement).

23 6. Up to thirty-five percent (35%) of the Gross Settlement Amount will be paid for
24 Plaintiff's attorneys' fees. Defendants will not oppose any application for attorneys' fees so long as it is
25 within this threshold. See *id.* at ¶ 5.2. Additionally, the Parties agree that Plaintiff will be entitled to
26 the actual litigation costs, which are \$10,630.98. See Exhibit D (Plaintiff's Counsel's Itemized Costs).
27 The difference between the actual costs and the originally allocated \$15,000 will be redistributed to
28 Class Members on a pro rata basis. See Exhibit A, ¶ 5.2.

1 7. Any Settlement Administrator Costs, any amounts paid for attorneys' fees and costs, the
2 Class Representative Enhancement Payment, and PAGA Payment will be paid out from the Gross
3 Settlement Amount, not in addition to the Gross Settlement Amount. *See* Exhibit A, ¶¶ 5.1-5.5.

4 8. Class Members who fail to timely opt-out of this settlement will waive all Qualified
5 Class Member's Released Claims as set forth in the Agreement. *See* Exhibit A, ¶¶ 1.5, 1.6, 1.28-1.29,
6 1.32, 6.1. Aggrieved Employees will waive all Released PAGA Claims as set forth in the Agreement
7 regardless of whether they opt out of being a Class Member. *See id.* at ¶¶ 1.2, 1.24, 1.31-1.32, 6.2,
8 7.5.1.

9 9. For any portion of the Gross Settlement Amount allocated to Qualified Class Members
10 and/or Aggrieved Employees that is not claimed by them by cashing their respective settlement checks
11 within 180 calendar days of issuance, that remaining amount shall be donated equally, *i.e.*, 50/50 to
12 Capital Pro Bono, Inc., and the Center for Workers' Rights under the doctrine of *cy pres*. *See* Exhibit
13 A, at ¶ 5.6.

14 **c. Allocation of Settlement Funds**

15 Payment to Qualified Class Members and Aggrieved Employees of their Individual Settlement
16 Amount will not require the submission of a claim form. A Net Settlement Amount will be determined
17 by subtracting from the Gross Settlement Amount any amounts for approved attorneys' fees and costs,
18 any Enhancement Payment to the Class Representative, the Settlement Administrator Costs, and the
19 PAGA Payment. Each Class Member's share will be determined by dividing their total weeks worked
20 within the Class Period by the total weeks worked by all Class Members within the Class Period. That
21 fraction will then be multiplied by the Net Settlement Amount to arrive at the Class Member's
22 individual share of the Net Settlement Amount. Each Aggrieved Employee's share of the 25% portion
23 of the PAGA Payment will be determined by dividing their total weeks worked within the PAGA
24 Period by the total weeks worked by all Aggrieved Employees within the PAGA Period. That fraction
25 will then be multiplied by the 25% portion of the PAGA Payment to arrive at the Aggrieved
26 Employee's individual share. *See* Exhibit A, at ¶¶ 1.16, 1.19, 1.23, 5.5, 5.8.

1 **V. PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT AND THE**
2 **SUBSEQUENT CLASS ACTION ADMINISTRATION**

3 Plaintiff's motion for preliminary approval of the class action settlement was approved by the
4 Court on November 4, 2022. To comply with Class Members' due process rights, the parties enlisted
5 an exhaustive method to ensure the best practical means possible was used to provide notice to the
6 class. The parties provided the Settlement Administrator the names, last known address, and social
7 security numbers for the class. The Settlement Administrator then updated this information by doing
8 an address trace for each individual using this information prior to mailing. *See* Decl. Polites, ¶¶ 4-5.
9 If the notices were returned as undeliverable, further investigation was performed and they were re-
10 mailed using updated information. *See id.* at ¶¶ 7-8. Of the 1208 Notice Packets mailed, only 29 were
11 undeliverable after use of these methods. *See id.* at ¶ 8. The Notice included information regarding the
12 requested attorneys' fees, costs, payment to the LWDA, administration costs, and tax allocations. *See*
13 Exh. A to Decl. Polites. The average distribution to participating class members is approximately
14 \$174.99, the maximum distribution is approximately \$1,952.03. *See id.* at ¶ 13. No objections to the
15 preliminarily approved settlement have been made and only three Class Members opted out. *See* Decl.
16 Polites, ¶¶ 9-10.

17 It is not required that Class Members be given actual notice of a class settlement; instead, the
18 best practicable notice under the circumstances is all that is required. *See Silber v. Mabon*, 18 F.3d
19 1449, 1453 (9th Cir. 1994); *Briseno v. ConAgra Foods, Inc.*, 844 F.3d 1121, 1129 (9th Cir. 2017);
20 *Walsh v. CorePower Yoga LLC*, 2017 U.S. Dist. LEXIS 163991, at *12-14 (N.D. Cal. 2017); *Wright v.*
21 *Linkus Enters.*, 259 F.R.D. 468, 474-75 (E.D. Cal. 2009). In *Silber v. Mabon*, 18 F.3d 1449 (9th Cir.
22 1994), the Court rejected a class member's argument that he had not received due process because he
23 did not receive notice until after the opt out period, finding that, so long as the notice process utilized is
24 the best practicable under the circumstances, due process is satisfied even if there is no actual receipt of
25 the notice. *See Silber*, 18 F.3d at 1453-1454. A similar finding was made in *Briseno v. Conagra*
26 *Foods, Inc.*, 844 F.3d 1121 (9th Cir. 2017). With regard to any undeliverable Notice in this case, the
27 Court in *Rannis v. Recchia*, 380 F. App'x 646 (9th Cir. 2010) found that class members who did not
28 receive actual notice due to their mailings being deemed undeliverable were still properly held to be

part of the class settlement because they received the best notice practicable under the circumstances. *See Rannis v. Recchia*, 380 F. App'x at 650-651. In *Noel v. Thrifty Payless, Inc.*, 7 Cal.5th 955, 980-984 (2019), the California Supreme Court noted that California has adopted a similar approach regarding providing notice to class members.

The notice method in *Rannis* is similar to that used in the present case. For example, the Notice contains all information necessary for a Class Member to assess the litigation, the settlement, and whether they wanted to participate, object, or opt-out. *See* Exh. A to Decl. Polites. The Settlement Administrator utilized a national change of address database, forwarding notices, and skip tracing in an effort to ensure that all reasonable means were exhausted in attempting to provide Class Members notice of this settlement. *See* Decl. Polites, ¶¶ 4-8. The content of the notice provided and the manner in which it was provided to Class Members was the best practicable notice to satisfy due process.

VI. THE AGREEMENT WARRANTS FINAL APPROVAL AS IT IS FAIR, REASONABLE, AND ADEQUATE AS TO ALL CLASS MEMBERS, PROVIDING AN EXCELLENT RECOVERY UNDER THE FACTS OF THIS CASE

A class action may not be dismissed, compromised, or settled without Court approval and the decision to approve or reject a settlement is committed to the Court's sound discretion. *See* Cal. Rules of Court, Rule 3.769; Fed. R. Civ. Proc., Rule 23(e)²; *Wershba v. Apple Computer, Inc.*, 91 Cal. App. 4th 224, 234-35 (2001); *see also* Cal. Lab. Code §§ 2699(l)(2) (requiring Court review of PAGA settlements). However, courts should give "proper deference to the private consensual decision of the parties," since "the court's intrusion upon what is otherwise a private consensual agreement negotiated between the parties to a lawsuit must be limited to the extent necessary to reach a reasoned judgment that the agreement is not the product of fraud or overreaching by, or collusion between, the negotiating parties, and that the settlement, taken as a whole, is fair, reasonable and adequate to all concerned." *Hanlon v. Chrysler Corp.*, 150 F.3d 1011, 1027 (9th Cir. 1998). Where a settlement is reached on terms agreeable to all parties, a court should disapprove of the settlement "only with considerable circumspection." *Jamison v. Butcher & Sherrerd*, 68 F.R.D. 479, 481 (E.D. Pa. 1975). The law favors

²The California Supreme Court has authorized California's trial courts to rely on these federal resources to decide class certification issues. *See Green v. Obledo*, 29 Cal.3d 126, 145-46 (1981).

1 settlement of lawsuits, particularly class actions and other complex cases where substantial resources
2 can be conserved by avoiding the time, expense, and rigors of formal litigation. *See Neary v. Regents of*
3 *Univ. of Cal.*, 3 Cal. 4th 273, 277-81 (1992).

4 **a. The Terms of The Settlement Are Fair and Within the Range of Reasonableness**

5 The purpose of the Court’s final evaluation of a proposed class action settlement is to determine
6 only whether the proposed settlement is within the range of possible approval and whether notice to the
7 class of its terms and conditions and the scheduling of a formal fairness hearing is warranted. *See*
8 *Wershba*, 91 Cal. App. 4th at 234-35. If the Court finds a proposed settlement falls within “the range of
9 reasonableness,” it should grant final approval of the class action settlement. *See, e.g., North County*
10 *Contr. ’s Assn., Inc. v. Touchstone Ins. Svcs.*, 27 Cal. App. 4th 1085, 1089-90 (1994); *Kullar v. Foot*
11 *Locker Retail, Inc.*, 168 Cal. App. 4th 116, 133 (2008). To make the fairness determination, the Court
12 must consider several factors, including:

13 the strength of the Plaintiff’s case, the risk, expense, complexity and likely
14 duration of further litigation, the risk of maintaining class action status
15 through trial, the amount offered in settlement, the extent of discovery
16 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.

17 *Dunk v. Ford Motor Co.*, 48 Cal. App. 4th 1794, 1801 (1996). However, this Court should
18 begin its analysis with a presumption that the proposed settlement is fair. “A presumption of fairness
19 exists where: (1) the settlement is reached through arm’s length bargaining; (2) investigation and
20 discovery are sufficient to allow counsel and the court to act intelligently; (3) counsel is experienced in
21 similar litigation; and (4) the percentage of objectors is small.” *Id.* at 1802; *see also In re Heritage*
22 *Bond Litig.*, 2005 WL 1594403, at *10 (C.D. Cal. June 10, 2005) (“It is established that the absence of
23 a large number of objectors to a proposed class action settlement raises a strong presumption that the
24 terms of a proposed class settlement action are favorable to the class members”).

25 **i. The Settlement is a Result of Extensive, Non-Collusive Arm’s Length**
26 **Negotiations Between the Parties**

27 Settlement of this case was reached only after substantial investigation, litigation, and extensive
28 arm’s length negotiations lasting nearly two (2) years, which included a full day mediation and

1 resolution through a mediator’s proposal, which occurred four (4) months after mediation. *See* Decl.
2 Rodriguez, ¶¶ 3, 6-10. At all times, the negotiations were adversarial and contentious, although still
3 professional in nature. *See id.*

4 **ii. The Extent of Investigation and Discovery Completed Provided Ample**
5 **Information to Enter Into an Informed and Reasonable Settlement**

6 The Parties were in possession of all necessary information during the negotiations. The Parties
7 engaged in substantial investigation and informal discovery, which included all necessary components
8 for evaluating the class claims and creating an accurate damages model. *See id.* at ¶¶ 3, 6-10. Plaintiff
9 was in possession of this information prior to calculating any damages in this case. *See id.* As a result,
10 Plaintiff was able to make a reasonable estimation of Defendants' potential liability. *See id.* For these
11 reasons, the settlement now before the Court was reached at a stage where “the parties certainly have a
12 clear view of the strengths and weaknesses of their cases” sufficient to support the settlement. *See*
13 *Boyd v. Bechtel Corp.*, 485 F.Supp. 610, 617 (N.D. Cal. 1979).

14 **iii. Plaintiff’s Counsel are Experienced in Similar Litigation**

15 Plaintiff’s counsel have considerable experience in complex litigation such as class and PAGA
16 actions. *See* Decl. Rodriguez, ¶¶ 11-20. This experience makes them acutely aware of the risks of
17 complex litigation and the hurdles the claims may face if this matter proceeded to trial. *See id.* Thus,
18 Plaintiff’s counsel are qualified to evaluate the class claims, the value of settlement versus moving
19 forward with litigation, and viability of possible affirmative defenses. Plaintiff’s counsel believe that
20 the Agreement is fair, reasonable, and adequate in light of the risks associated with the PAGA claims,
21 the Court’s discretion to lower the amount of penalties ultimately awarded, the uncertainties of
22 complex litigation, and the secured benefit to the class. *See* Decl. Rodriguez, ¶¶ 6, 9-10.

23 **iv. No Class Members Objected and Only Three Class Members Opted Out**

24 The reaction by Class Members to the Agreement and all the terms and allocations stated
25 therein is overwhelmingly positive. **Zero Class Members have objected to any aspect of the**
26 **Agreement and only three have opted out.** *See* Decl. Polites ¶¶ 9-10. This provides strong evidence
27 that the settlement is fair, reasonable, and adequate. *In re Heritage Bond Litig.*, 2005 WL 1594403, at
28 *10 (“It is established that the absence of a large number of objectors to a proposed class action

1 settlement raises a strong presumption that the terms of a proposed class settlement action are favorable
2 to the class members”); *Nat’l Rural Telecommunications Coop. v. DIRECTV, Inc.*, 221 F.R.D. 523, 529
3 (C.D. Cal. 2004) (“That unanimous, positive reaction to the Proposed Settlement is compelling
4 evidence that the Proposed Settlement is fair, just, reasonable, and adequate”).

5 **v. The Settlement is Fair, Reasonable, and Adequate Based on the Strength of**
6 **Plaintiff's Case and the Risks and Costs of Further Litigation**

7 A review of the Agreement’s terms does not give rise to any doubts about its fairness. Based on
8 the records and facts of this case, Plaintiff has secured a gross recovery of approximately 5.6% and a
9 net recovery of approximately 2.9% of the claims maximum value, respectively. *See id.* at ¶¶ 9-10.
10 When comparing to the more realistic ranges of recovery, the gross recovery is approximately 9.7% to
11 27.5% and the net recovery is approximately 5.1% to 14.5% of the realistic range of recovery. *See id.*
12 Additionally, the average net award per class member is approximately \$174.99 and the highest
13 recovery is approximately \$1,952.03. *See Decl. Polites* ¶ 13. This settlement is a reasonable
14 compromise of the class and PAGA claims, and is within the percentile ranges of the total available
15 damages that have been approved in other class settlements. *See Wershba*, 91 Cal. App. 4th at 246,
16 250; *Rebney v. Wells Fargo Bank*, 220 Cal.App.3d 1117, 1139 (1990); *Officers for Justice v. Civil Serv.*
17 *Comm’n*, 688 F.2d 615, 628 (9th Cir. 1982); *see also In re Omnivision Technologies, Inc.*, 559
18 F.Supp.2d 1036, 1042 (2007) (noting that certainty of recovery in settlement of 6% of maximum
19 potential recovery after reduction for attorney’s fees was higher than median percentage for recoveries
20 in shareholder class action settlements, averaging 2.2%-3% from 2000 through 2002); *Bravo v. Gale*
21 *Triangle, Inc.*, 2017 U.S. Dist. LEXIS 77714 (C.D. Cal. 2017) (approving a settlement where the net
22 recovery to class members was approximately 7.5% of the projected maximum recovery amount); *Avila*
23 *v. Cold Spring Granite Co.*, 2017 U.S. Dist. LEXIS 130878 (E.D. Cal. 2017) (approving a settlement
24 with a gross recovery of 11% of the projected maximum damages available and a net recovery of
25 approximately 6.7% of the projected maximum recovery); *Bellinghausen v. Tractor Supply Co.*, 306
26 F.R.D. 245 (N.D. Cal. 2015) (approving a settlement where the gross recovery was approximately 8.5%
27 of the projected maximum recovery); *Schiller v. David’s Bridal, Inc.*, 2012 U.S. Dist. LEXIS 80776 at
28 *48 (E.D. Cal. 2012) (“Class Members will receive an average of approximately \$198.70, with the

1 highest payment to a Class Member being \$695.78 . . . Overall, the Court finds that the results achieved
2 are good, which is highlighted by the fact that there was no objection to the settlement amount or the
3 attorneys’ fees requested.”); *Gardner v. GC Servs., LP*, 2012 U.S. Dist. LEXIS 47043, 18 (S.D. Cal.
4 2012) (“the results achieved in this case were very favorable. Class members are provided with
5 immediate monetary relief, with an average award of around several hundred dollars and a minimum
6 award of \$50”).

7 **vi. The Proposed Settlement is a Reasonable Compromise of Claims**

8 In *Kullar v. Foot Locker Retail, Inc.*, 168 Cal.App.4th 116 (2008), the Court required additional
9 information be presented in class action settlements “to ensure that the recovery represents a reasonable
10 compromise, given the magnitude and apparent merit of the claims being released, discounted by the
11 risks and expenses of attempting to establish and collect on those claims by pursuing the
12 litigation” *Id.* at 129. *Munoz v. BCI Coca-Cola Bottling Co. of Los Angeles*, 186 Cal.App.4th 399
13 (2010), clarified that *Kullar* does not require an illusory prediction of the outer reaches of exposure
14 without taking into account the actual risks of litigation such as dispositive motions and trial. *Kullar*
15 also does not require an explicit statement of the maximum amount to be recovered if a plaintiff
16 prevailed on all the claims, provided there is a record that allows “an understanding of the amount that
17 is in controversy and the realistic range of outcomes of the litigation.” *Id.* at 409. The *Munoz* court
18 found the record before the trial court was sufficient, having included the number of class members,
19 relevant payroll data, declarations describing hours and overtime worked, as well as variances in duties
20 and rest and meal period experience, and a companion action alleging less than \$5,000,000 in damages.
21 This information constituted “an adequate basis from which to garner a reasonably adequate
22 understanding of the amount that is in controversy within the meaning of *Kullar*.” *Id.* Plaintiff
23 similarly relied upon pay period data, payroll data, and Class Member data to determine the realistic
24 potential damages suffered by the class as a whole. *See Decl. Rodriguez ¶¶ 6-11*. Further, while
25 Plaintiff believes Defendants faced significant exposure, Defendant has contended that substantial
26 barriers to class recovery exist. Specifically, Defendant contends Plaintiff would face numerous
27 challenges to certify the class and bring the alleged claims on a class and representative basis.
28 Defendants contend that Plaintiff’s claims were not suitable for class certification because individual

1 issues and affirmative defenses would predominate should this case go to trial. *See Brinker Restaurant*
2 *Corp. v. Superior Court*, 53 Cal.4th 1051 (2012); *Duran v. U.S. Bank Nat. Assn.*, 59 Cal.4th 1, 35-36
3 (2014). Plaintiff disagrees with Defendants’ assertions; however, there is a risk that the Court may
4 deny class certification, and, even if Plaintiff prevailed at class certification, proving the amount of
5 wages owed to each Class Member would be an expensive, time consuming, and uncertain proposition.
6 Ultimately, Plaintiff secured a percentage of the total likely damages for the putative class that is well
7 within the range of what has been found to be sufficient in several other cases. *See, supra*, Section
8 V.a.v; *see also, e.g., In re Omnivision Technologies, Inc.*, 559 F.Supp.2d at 1042; *Reed v. 1-800*
9 *Contacts, Inc.*, 2014 U.S. Dist. LEXIS 255 (S.D. Cal. 2014) (approving a settlement of \$11.7 million
10 where the maximum range of damages was \$5,000 for each of the alleged 300,000 instances of
11 unlawful recording violations (\$1.5 billion), equaling approximately .78% of the total demand and
12 approximately \$800 per class member). The Settlement represents a reasonable compromise given the
13 percentage of the potential damages that was secured, the average recovery per Class Member, the
14 Court’s ability and discretion to cut PAGA penalties, Defendants’ legal and factual grounds for
15 defending the action, and the uncertainty of class certification. *See Decl. Rodriguez ¶¶ 9-10; see also*
16 *Linney v. Cellular Alaska P’ship*, 151 F.3d 1234, 1242 (9th Cir. 1998) (“The fact that a proposed
17 settlement may only amount to a fraction of the potential recovery does not, in and of itself, mean that
18 the proposed settlement is grossly inadequate and should be disapproved”); *City of Detroit v. Grinnell*
19 *Corp.*, 495 F.2d 448, 455 (2d Cir. 1974) (“In fact there is no reason, at least in theory, why a
20 satisfactory settlement could not amount to a hundredth or even a thousandth part of a single percent of
21 the potential recovery”).

22 **b. Certification of the Class is Appropriate**

23 Class certification is appropriate when (1) the class is ascertainable and (2) there is “a well-
24 defined community of interest in the questions of law and fact involved affecting the parties to be
25 represented.” *Dunk*, 48 Cal. App. 4th at 1806. The “community of interest” element “embodies three
26 factors: (1) common questions of law or fact predominate; (2) class representatives with claims or
27 defenses typical of the class; and (3) class representatives who can adequately represent the class.” *Id.*
28 Here, the Court conditionally certified the settlement class on November 4, 2022, and nothing has

happened in the interim that would warrant changing that decision. *See Garcia v. City of King City*, 2017 WL 363257, *4 (N.D. Cal. 2017); *Messineo v. Ocwen Loan Servicing, LLC*, 2017 WL 733219, *4 (N.D. Cal. 2017). Here, the parties agree that, for the purposes of settlement, these prerequisites are met. *See Exhibit A*.

i. The Proposed Settlement Class is Ascertainable and Sufficiently Numerous

The proposed settlement class is ascertainable because all putative Class Members can be readily identified through employee personnel and payroll files. *See Noel v. Thrifty Payless, Inc.*, 7 Cal.5th 955, 980 (2019); *Rose v. City of Hayward*, 126 Cal.App.3d 926, 932 (1981); *Lee v. Dynamex, Inc.*, 166 Cal. App. 4th 1325, 1334 (2008). The numerosity requirement is met because there are 1,205 Class Members, which makes joinder of all members impracticable. *See Gay v. Waiters' & Dairy Lunchmen's Union*, 489 F.Supp. 282 (N.D. Cal. 1980), *aff'd* 694 F.2d 531 (9th Cir. 1982); *Hebbard v. Calgrove*, 28 Cal. App. 3d 1017, 1030 (1972) (noting no set minimum to meet the numerosity prerequisite, but a class as few as twenty-eight (28) members is acceptable).

ii. The Commonality, Predominance, and Typicality Requirements are Met

The commonality requirement is met when there are questions of law or fact regarding the class as a whole. *See Hanlon*, 150 F.3d at 1019. Commonality requires only that some common legal or factual questions exist; Plaintiff need not show that all issues in the litigation are identical. *See Richmond v. Dart Ind., Inc.*, 29 Cal.3d 462, 473 (1981); *City of San Jose v. Superior Court*, 12 Cal.3d 447, 460 (1974). Common questions of law or fact must also predominate over individual questions and class-wide treatment of a dispute must be superior to individual litigation.³ *See Richmond*, 29 Cal.3d at 469. Predominance requires a putative class be sufficiently cohesive to warrant adjudication by representation. *See Hanlon*, 150 F.3d at 1022. The typicality requirement is met when claims of the named representative are typical of those of the class, though "they need not be substantially identical." *Id.* at 1020; *Classen v. Weller*, 145 Cal. App. 3d 27, 46-47 (1983).

The common questions of law and fact in this case stem from Plaintiff's contention that Defendants violated California law by 1) failing to properly record and pay for all hours worked due to

³When assessing predominance and superiority, a court may consider that the class will be certified for settlement purposes only and that manageability of trial is therefore irrelevant. *See Amchem Products v. Windsor*, 521 U.S. 591 (1997).

1 rounding and requiring off-the-clock work, 2) failing to authorize and permit timely meal periods
2 and/or a second meal period and first, second, and third rest periods, 3) failing to pay meal and rest
3 period premiums for missed, short, and late meal and rest periods, 4) failing to reimburse employees for
4 expenses incurred for work, including but not limited to, personal cell phone use to track employees
5 time as well as other work tasks and travel expenses required as part of the employees position, and 5)
6 failing to pay daily overtime. *See* Exhibit B. The waiting time penalties, unfair competition, and
7 PAGA claims are derivative of these violations. *See id.* Plaintiff and the Class Members seek the same
8 remedies under state law. Under these specific circumstances, the commonality and predominance
9 requirements are satisfied. Regarding the typicality requirement, Plaintiff contends he suffered from
10 the same unlawful policies, treatment, and circumstances as Class Members did, will request the same
11 remedies, and will rely on the same methods of proof to establish liability and damages. *See id.* Thus,
12 the typicality requirement is also satisfied for settlement purposes.

13 **iii. The Adequacy Requirement is Met**

14 The adequacy of representation requirement is met if the named representative and counsel have
15 no interests adverse to those of the putative class members and are committed to vigorously prosecuting
16 the case on behalf of the class. *See Hanlon*, 150 F.3d at 1020; *McGhee v. Bank of America*, 60
17 Cal.App.3d 442, 450-51 (1976). Those standards are met here. Plaintiff and the putative Class
18 Members will receive a pro rata share of the settlement based on the number of workweeks they
19 worked for Defendants. *See* Exhibit A. Finally, any settlement class member who wished to opt-out of
20 the settlement was able to do so, and was also able to dispute their number of assigned workweeks.

21 There is no conflict of interest between Plaintiff and Class Members. Plaintiff and Plaintiff's
22 counsel have pursued the claims made in the operative Complaint vigorously on behalf of the class.
23 Plaintiff's counsel, with Plaintiff's assistance, thoroughly investigated the claims made in this case by
24 speaking with Plaintiff and reviewing substantial amounts of documents. Plaintiff's counsel thereafter
25 engaged Defendants' counsel in settlement discussions over the course of approximately two (2) years.
26 Moreover, Plaintiff's counsel has experience defending and bringing wage and hour claims. Because
27 Plaintiff's counsel has vigorously pursued Plaintiff's and the Class Members' claims, the adequacy
28 requirement is met. *See generally* Decl. Rodriguez.

1 **VII. THE AMOUNTS REQUESTED FOR ATTORNEY’S FEES AND COSTS, AN**
2 **ENHANCEMENT PAYMENTS TO THE CLASS REPRESENTATIVES, AND**
3 **SETTLEMENT ADMINISTRATOR COSTS ARE REASONABLE AND SHOULD**
4 **BE APPROVED**

5 The Notice of Settlement sent to Class Members specifically identified the allocations for
6 attorney’s fees and costs, the Class Representative Enhancement Payments, and Settlement
7 Administrator Costs. *See* Exh. A to Decl. Polites. The reaction of Class Members to these requested
8 amounts provides useful evidence of whether they are reasonable. *See In re Heritage Bond Litig.*, 2005
9 WL 1594403, *21 (“The absence of objections or disapproval by class members to Class Counsel’s fee
10 request further supports finding the fee request reasonable”). As noted above, there were no objections
11 raised to the Agreement or any term or allocation therein whatsoever. *See* Decl. Polites, ¶¶ 9-10. In
12 addition to Class Members’ reactions supporting the requested amount, the facts and applicable case
13 law also support awarding these amounts in full.

14 An award of attorney’s fees should include compensation for all hours reasonably spent. *See*
15 *Ketchum v. Moses*, 24 Cal.4th 1122, 1133 (2001); *see also Hensley v. Eckerhart*, 461 U.S. 424, 431
16 (1983) (finding hours are reasonably spent if they are the kind normally billed to a fee-paying client).
17 California has not adopted any “benchmark” percentage utilized by several federal courts. *See Emmons*
18 *v. Quest Diagnostics Clinical Lab ’ys, Inc.*, 2017 WL 749018, at *7 (E.D. Cal. 2017) (“Notably, while
19 the California Supreme Court recognized the Ninth Circuit’s 25 percent benchmark for percentage
20 awards in common fund cases, it did not adopt such a benchmark for California cases”). Instead, “[t]he
21 benchmark in determining attorney fees is reasonableness.” *Karton v. Ari Design & Constr., Inc.*, 61
22 Cal.App.5th 734, 744 (2021).

23 **a. A Fee of Thirty-Five Percent of the Common Fund Is Reasonable Because It Is Within**
24 **the Ranges Historically Approved by Courts in Class Settlements and a Lodestar**
25 **Cross Check Validates the Proposed Fee**

26 An award of attorney’s fees under the common fund doctrine is appropriate in this case as there
27 is sufficiently identifiable class of beneficiaries (*e.g.* the settlement class), the benefits received can be
28 accurately traced to the settlement Plaintiff and Class Counsel were able to negotiate on behalf of Class
29 Members, and the fee can be shifted with exactitude to those benefiting as the fee request is a specific,
30 lump-sum percentage of the fund. *See Laffitte v. Robert Half Internat., Inc.*, 1 Cal.5th 480, 506 (2016);
31 *Paul, Johnson, Alston & Hunt v. Gaulty*, 886 F.2d 268, 271 (9th Cir. 1989); *Boeing Co. v. Van*

1 *Gemert*, 444 U.S. 472, 477-478 (1980) (“A lawyer who recovers a common fund for the benefit of
2 persons other than . . . her client is entitled to a reasonable attorney’s fee from the fund as a whole.”).
3 The requested fee, 35% of the common fund, is within ranges awarded in other cases. *See Martin v.*
4 *Ameripride Servs.*, 2011 U.S. Dist. LEXIS 61796, *22-23 (S.D. Cal. 2011) (collecting cases); *Birch v.*
5 *Office Depot, Inc.*, USDC Southern District, Case No. 06cv1690 DMS (WMC) (awarding 40% fee on a
6 \$16 million wage and hour class action settlement); *Rippee v. Boston Mkt. Corp.*, USDC Southern
7 District, Case No. 05cv1359 BTM (JMA) (awarding a 40% fee on a \$3.75 million wage and hour class
8 action settlement); Decl. Rodriguez, ¶ 21.

9 To the extent there may be some Courts that have granted fees at a percentage less than 35%,
10 that does not justify an arbitrary cap on Class Counsel’s fees in this case. First, in many instances, the
11 treatises or cases discussing these percentages are relying on federal decisions guided by a
12 “benchmark” percentage of 25% that has not been adopted by the California Supreme Court. *See*
13 *Emmons*, 2017 WL 749018, at *7. This artificially lowers the average percentage of fees awarded.
14 Second, many of the same decisions and treatises refer to cases that have a substantial gross settlement
15 fund to begin with, which will generally correspond to a lower percentage of fees being deemed
16 reasonable. *See Vizcaino v. Microsoft Corp.*, 290 F.3d 1043, 1052 (9th Cir. 2002) (compiling an
17 appendix of class settlements with gross settlement funds of \$53 million to \$193 million and a range of
18 2.8% to 40% in awarded attorney’s fees, averaging approximately 22%). Rather than acting as a cap on
19 any fee, the percentages applied in cases are a tool to cross check the reasonableness of the fee just as
20 the lodestar method is a tool to cross check the reasonableness of the requested percentage. *See Karton*,
21 61 Cal.App.5th at 744; *Vizcaino*, 290 F.3d at 1048 (“courts cannot rationally apply any particular
22 percentage—whether 13.6 percent, 25 percent or any other number—in the abstract, without reference
23 to all the circumstances of the case”).

24 To the extent the Court wishes to exercise its discretion to conduct a lodestar cross check, the
25 cross check only validates the fee request. *See Laffitte*, 1 Cal.5th at 503-506. Again, an award of
26 attorney’s fees should include compensation for all hours reasonably spent. *See Ketchum*, 24 Cal.4th at
27 1133; *see also Hensley*, 461 U.S. at 431 (finding hours are reasonably spent if they are the kind
28 normally billed to a fee-paying client). To date, Class Counsel has spent approximately 242.8 hours

1 performing tasks that would normally be billed to any fee playing client in complex litigation and
2 estimate that this number will increase to approximately 252.8 after monitoring the disbursement of all
3 funds and compliance hearing(s). See Decl. Rodriguez, ¶ 22; Exhibit F; *Syers Props. III, Inc. v. Rankin*,
4 226 Cal.App.4th 691, 699 (2014) (“Because time records are not required under California law ... ,
5 there is no required level of detail that counsel must achieve.”) (internal quotations omitted).
6 At the prevailing market rates for Class Counsel’s level of experience and this type of complex
7 litigation, this equates to a lodestar of approximately \$152,160. See Decl. Rodriguez, ¶¶ 22-23;
8 *Children’s Hosp. and Med. Ctr. v. Bonta*, 97 Cal.App.4th 740, 746 (2002) (noting rates were reasonable
9 where they were “within the range of reasonable rates charged by and judicially awarded comparable
10 attorneys for comparable work”).

11 The reasonableness of Class Counsel’s fee request is also demonstrated by the fact that the
12 amount requested would actually result in a negative multiplier to their lodestar. Multipliers are
13 typically awarded in contingent fee litigation to compensate counsel for the risk of non-payment:

14 It is an established practice in the private legal market to reward attorneys
15 for taking the risk of non-payment by paying them a premium over their
16 normal hourly rates for winning contingency cases. See *Richard Posner*,
17 *Economic Analysis of Law* § 21.9, at 534-35 (3d ed. 1986). Contingent
18 fees that may far exceed the market value of the services if rendered on a
non-contingent basis are accepted in the legal profession as a legitimate
way of assuring competent representation for Plaintiff who could not
afford to pay on an hourly basis regardless whether they win or lose.

19 *Chem. Bank v. City of Seattle (In re Wash. Pub. Power Supply Sys. Sec. Litig.)*, 19 F.3d 1291, 1299 (9th
20 Cir. 1994). Moreover, “in the common fund context, attorneys whose compensation depends on their
21 winning the case, must make up in compensation in the cases they win for the lack of compensation in
22 the cases they lose.” *Id.* at 1300-01; see also *Ketchum*, 24 Cal.4th at 1138 (“The adjustment to the
23 lodestar figure, *e.g.*, to provide a fee enhancement reflecting the risk that the attorney will not receive
24 payment if the suit does not succeed, constitutes earned compensation; unlike a windfall, it is neither
25 unexpected nor fortuitous”); *Wershba*, 91 Cal.App.4th at 255 (“Multipliers can range from 2 to 4 or
26 even higher”). Because awarding attorney’s fees at the requested 35% would still result in a negative
27 multiplier, a lodestar cross check validates the common fund percentage requested and the Court should
28 grant Class Counsel’s fee request. See Decl. Rodriguez, ¶¶ 21-23.

1 **b. Class Counsel's Expenses and Costs Were Necessarily Incurred to Achieve the Benefit**
2 **Obtained**

3 The appropriate analysis in determining whether particular costs are compensable is whether
4 they are of the type typically billed by attorneys to paying clients in the marketplace. *See Harris v.*
5 *Marhoefer*, 24 F.3d 16, 19 (9th Cir. 1994) ("Harris may recover as part of the award of attorney's fees
6 those out-of pocket expenses that 'would normally be charged to a fee paying client'"); *Abrams v.*
7 *Lightolier, Inc.*, 50 F.3d 1204, 1225 (3d Cir. 1995); *Bratcher v. Bray-Doyle Indep. Sch. Dist. No. 42*, 8
8 F.3d 722, 725-26 (10th Cir. 1993). The categories of expenses for which Class Counsel seek
9 reimbursement here are categories normally charged to hourly clients and, therefore, should be
10 reimbursed out of the common fund. *See Decl. Rodriguez*, ¶ 24; Exhibit D.

11 **c. Class Counsel's Request for Class Representatives Enhancement Payments Is Justified**
12 **In Light of The Results Achieved for the Class**

13 A service payment to a named plaintiff is intended to recognize their time and effort on behalf
14 of the class. Indeed, courts routinely approve incentive awards to compensate named plaintiffs for the
15 services they provide and the risks they incurred during the course of the class action litigation. *See*
16 *Ingram v. The Coca Cola Co.*, 200 F.R.D. 685, 694 (N.D. Ga. 2001) (approving incentive awards of
17 \$300,000.00 to each named plaintiff); *Van Vranken v. Atlantic Richfield Co.*, 901 F.Supp. 294 (N.D.
18 Cal. 1995) (approving a \$50,000.00 participation award); *Cellphone Termination Fee Cases*, 186
19 Cal.App.4th 1380, 1393 (2010) (approving \$10,000 awards to each of the four (4) named plaintiffs).

20 In this case Plaintiff provided substantial support in helping to secure payment to Class
21 Members. Plaintiffs have spent tremendous amounts of time and effort to help secure payment for
22 Class Members. *See Decl. Rodriguez*, ¶ 7; *Decl. Hussaini*, ¶¶ 2-3, 5-8. Plaintiff is also subject to a
23 much broader release of claims than Class Members, including a Civil Code section 1542 release.
24 Payment of \$15,000.00 to Plaintiff is appropriate given the risk, assistance, time required, and burden
25 experienced in bringing and resolving this case, especially since this amount was identified in the
26 Notice of Settlement and no objections to it have been received. *See West v. Circle K Stores, Inc.*, 2006
27 U.S. Dist. LEXIS 76558, at *7-*8, *12, *27 (E.D. Cal. 2006) (awarding a \$15,000 representative
28 enhancement where 10,000 class members were to receive a gross award of approximately \$500 each

1 from the \$5,000,000 settlement); *Dent v. ITC Serv. Group*, 2013 U.S. Dist. LEXIS 139359, at *9-*10,
2 *15-*16 (D. Nev. 2013) (awarding a \$15,000 representative enhancement out of a \$150,000 settlement
3 for approximately 530 class members).

4 **d. The Court Should Approve the Payment of Settlement Administrator Costs**

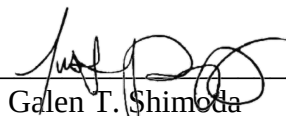
5 Since being preliminarily approved as the Settlement Administrator, ILYM Group, Inc., has
6 carried out its duties as set forth in the Court's order and the Agreement. *See generally* See Decl.
7 Polites. Under the Agreement, a maximum of \$20,000 was set aside for potential Settlement
8 Administrator Costs. ILYM Group, Inc.'s final costs are \$12,500.00, well under the potential
9 maximum Class Members were given notice of. Plaintiff requests that the Court approve payment to
10 the Settlement Administrator in the amount of \$12,500.00 to compensate it for the costs of
11 administration as part of the final order approving the Settlement.

12 **VIII. CONCLUSION**

13 For all of the foregoing reasons, Plaintiff respectfully requests that this Court certify the class
14 for settlement purposes; grant final approval of the proposed settlement, including the Enhancement
15 Payment, the payment to the LWDA under PAGA, Class Counsel's application for reasonable
16 attorneys' fees and costs, and the Settlement Administration Costs; find that the Notice of Settlement,
17 and administration process satisfied Class Members' due process rights; and adopt the proposed order
18 submitted concurrently herewith.

19
20 Dated: February 28, 2023

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21
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