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IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF LOS ANGELES

ALBERT THOMPKINS and NATALIE KATIE BERNICE JOHNSON, Individually and on behalf of the general public as private attorney general, Plaintiffs, v. HOST INTERNATIONAL INC., dba HMS HOST, a Delaware Corporation; and DOES 1-50, inclusive, Defendants.	CASE NO.: 21STCV20440 Hon. Nicholas F. Daum Dept. 47 (Stanley Mosk) **MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF PLAINTIFFS' MOTION FOR FINAL APPROVAL OF CLASS ACTION SETTLEMENT** Date: May 12, 2026 Time: 9:00 a.m. Dept.: 47

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TABLE OF CONTENTS

TABLE OF AUTHORITIES

Cases

Statutes

Rules

Treatises

MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

Plaintiffs Albert Thompkins and Natalie Katie Bernice Johnson ("Plaintiffs" or "Class Representatives") respectfully moves for final approval of a $975,000.00 non-reversionary, Gross Settlement Amount ("GSA") memorialized in the Parties' Class and PAGA Action Settlement Agreement and Class Notice ("Agreements", "Settlement Agreement" or "S.A.") which after deductions for attorneys' fees and costs, the Class Representative Service Awards, Settlement Administration fees, and the payment to the LWDA, will provide an estimated Net Settlement Fund ("NSF") to the participating Class Members of approximately $ as follows:

	Total Amount
Gross Settlement Fund	$975,000.00
Attorneys' Fees (1/3 of GSA)	$325,000.00
Actual Litigation Costs	$37,118.14
Administrator Costs	$30,000.00
PAGA Penalty	$100,000.00
Class Representative Service Awards	$20,000.00
Net Class Settlement Amount	**$511,889.26**[1]

The Settlement was preliminarily approved on October 3, 2025. On January 30, 2026 the Court-approved Notice Packet (consisting of the Notice of Class Action and PAGA Settlement, Change of Address form, and pre-printed return envelope) was sent to 4,163 Class Members via U.S. First Class Mail.[2] Through these means, the Notice Packet informed the Class Members of their rights and benefits under the Settlement, including their estimated Settlement Payments if they did not request exclusion, and the March 31, 2026 deadline to dispute workweeks, request exclusion, or object to the Settlement.[3] Following the March 31, 2026 deadline, **one (1) objection has been raised and one (1) Class Member opted out**. These results demonstrate the overall

[1] Administrator Declaration of Katie Tran on behalf of APEX Class Action LLC, ("Tran Decl.") ¶ 16. On December 8 2025, Apex informed Counsel for Defendant that the Escalator Clause had been triggered. Defendant elected to increase the Net Settlement Amount by $49,007.40. (*Id.* ¶ 6.)
[2] *Id.,* ¶ 11.
[3] *Id.,* ¶¶ 12-13, Exhs. B, C.

tremendous support for this Settlement which represents a 99.98% participation rate.[4] As a result of the successful Notice campaign, the compendium of information available to the Parties and their counsel, and Class Counsel's and Class Members' support for this Settlement as fair and reasonable, it now merits final approval.

II. RELEVANT PROCEDURAL HISTORY AND FACTUAL BACKGROUND

For a discussion of relevant procedural history and facts regarding this case, please see the Declaration of James Hawkins In Support of Final Approval ("Hawkins Decl.") at paragraphs 2 to 8.

III. SUMMARY OF SETTLEMENT AND NOTICE PROCESS

Under the preliminarily-approved Settlement, Defendant will pay $975,000.00 ("Gross Settlement Amount" or "GSA") for the release of Class Members' claims, which are only those claims actually alleged in the action or that could have been alleged based on the facts stated in the operative Complaint, consistent with principles of *res judicata.* (*See, Rangel v. PLS Check Cashers of California, Inc.*, 899 F.3d 1106 (9th Cir. 2018).[5] Further key terms include:

"Class Members" means "All current and former non-exempt employees employed by Host in California at any of the Airports[6] during the time period of January 30, 2019 through May 1, 2025. (Settlement Agreement ¶¶ 1.5, 1.6, 1.13). Defendant represents there are approximately 4,250 in the Class Period.

"Aggrieved Employees" means "All current and former non-exempt employees employed by Host in California at any of the Airports during the time period of March 25, 2020, to the date of May 1, 2025. (Settlement Agreement ¶¶ 1.4, 1.5, 1.33). Defendant represents there are approximately 3,054 Aggrieved Employees.

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[4] *Id.,* ¶¶ 14-15.

[5] This Motion occasionally cites federal case law and commentaries thereon which construe authority for conditional class certification and settlement approval in California courts. The California Supreme Court has authorized and urged California's trial courts to use federal resources for guidance in considering class issues. *Vasquez v. Superior Court,* 4 Cal.3d 800, 821 (1971); *Green v. Obledo*, 29 Cal.3d 126, 145-46 (1981).

[6] "Airports" means Fresno Yosemite International Airport, John Wayne International Airport, Oakland International Airport, Palm Springs Airport, Sacramento International Airport, San Diego International Airport, San Francisco International Airport and/or San Jose International Airport." (Settlement Agreement ¶ 1.5).

Class Counsel Award. The Settlement provides for an attorneys' fees and costs award of 1/3 of GSA (i.e. $325,000.00), a typical percentage[7] in the resolution of common fund wage and hour cases. Class Counsel have devoted numerous hours to and faced significant risk in the prosecution of these matters and, more importantly, made a substantial fund available to a large number of otherwise-underrepresented, low-paid workers. Class Counsel also incurred ordinary litigation costs over the past 5 years and now seeks costs of $37,118.14. Notably, this amount does not account for additional future expenses in overseeing the settlement process, making appearances, filing court documents, ensuring claims administration compliance with this Court's orders, responding to Class Members, etc. Since costs in the amount of $37,118.14 are reasonable and served to benefit the Class, they warrant reimbursement. (Settlement Agreement ¶ 3.2.2).

PAGA Payment Amount. The Settlement also provides for $100,000.00 to be paid to settle any and all claims for which penalties under PAGA may be sought or are otherwise available. Of the $100,000.00 PAGA Payment Amount, 75% will be paid to the LWDA in the amount of $75,000.00. The remaining 25% will be paid to the Aggrieved Employees in the amount of $25,000.00. (Settlement Agreement ¶ 3.2.5).

Class Representative Service Award. The Settlement also provides for a Class Representative Service Payment as a service payment to the Plaintiffs for their role as Class Representatives in the amount of $10,000.00 each (totaling $20,000.00) for their time, risk and effort in bringing the lawsuit, representing the large Class, and in consideration for the claims released.[8] The proposed $20,000.00 Service Award is also reasonable given the minimal impact these amounts will have on any settling Class Member's level of recovery. (Settlement Agreement ¶ 3.2.1).

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[7]*See, e.g., Davis v. The Money Store, Inc.*, Case No. 99AS01716 (Sacramento Super. Ct. 2000) (33 1/3 % fee award); *Haitz v. Meyer, et al.*, No. 572968-3 (Alameda Super. Ct., 1990) (45% fee award); *Ibrahimi v. Walgreen*, (Contra Costa Super. Ct. 2019) Case No. MSC16-02120) (35% fee award in wage and hour class action); *Rippee v. Boston Mkt. Corp.*, 2006 U.S. Dist. LEXIS 101136 (S.D. Cal. Oct. 10, 2006) (40% fee award); Exhibit "D" (Compendium of Settlement Item Awards).

[8] Hawkins Decl., ¶ 30; *See generally* Declaration of Albert Thompkins In Support of Final Approval ("Thompkins Decl.") and Declaration of Natalie Bernice Johnson In Support of Final Approval ("Johnson Decl.").

Settlement Administration Costs. The settlement administration costs of $30,000.00 are reasonable given the size of the Class and the work required to send the Notice, process settlement checks, set up and administer a settlement website, communicate extensively with Class Members and Class Counsel, and perform post Final Approval administration.[9]

Results of the Notice Process. In accordance with the Court's granting of preliminary approval, the Settlement Administrator sent the Notices by first class mail to all Class Members at their last known addresses, updated using the National Change of Address ("NCOA") Database. As detailed below, when Notices were returned by the post office, the claims administrator researched further, performed "skip traces" and then, when possible, re-mailed those Notices to better mailing addresses. Only 80 Notice Packets out of the 4,163 Notices were deemed undeliverable – an excellent result in wage and hour actions.[10] The deadline for Settlement Class Members to exclude themselves or object to the Settlement was March 31, 2026. **Only one (1) Class Member opted out and one (1) Class Members objected, resulting in 99.98% participation**.[11]

The Participating Class Members are expected to receive an estimated, average Individual Settlement Payment of $122.54 with the highest Individual Settlement Payment currently estimated to be $844.04 and the lowest estimated to be $2.60.[12] The average PAGA Payment to the eligible Aggrieved Employees is currently estimated to be $8.19 with the highest PAGA Share currently estimated to be $47.95 with the lowest estimated to be $0.36.[13] These are significant individual recoveries, particularly in light of the risks of litigation.

IV. THE SETTLEMENT MERITS FINAL APPROVAL

When evaluating a class action settlement under California Code of Civil Procedure § 382 for final approval, a court's inquiry focuses upon whether the settlement is "fair, adequate and reasonable." *Wershba v. Apple Computer Inc.*, 91 Cal.App.4th 224, 244-245 (2004); *Dunk v. Ford Motor Co.*, 48 Cal.App.4th 1794, 1801 (1996). A settlement is "fair, adequate and reasonable"

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[9] Tran Decl., ¶ 20.
[10] *Id.,* ¶ 10.
[11] *Id.,*¶¶ 12-15.
[12] *Id.,* ¶ 12.
[13] *Id.* ¶ 19.

and, therefore, merits final approval when "the interests of the class are better served by the settlement than by further litigation." *Manual for Complex Litigation* (4th ed. 2008) § 21.61, 462 ("*Manual*"). These conditions are met here.

While the Court possesses "broad discretion" in determining whether a proposed class action settlement is fair, the Court's inquiry "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 negotiation Parties, and that the settlement, taken as a whole, is fair, reasonable and adequate to all concerned." *Dunk*, 48 Cal.App.4th at 1801 (quoting *Officers for Justice Civil Serv. Comm'n*, 688 F.2d 615, 625 (9th Cir. 1982)). A court's approval of a class action settlement will only be reversed for a clear abuse of discretion. *Dunk*, 48 Cal.App.4th at 1802.

A. <u>THE SETTLEMENT IS PRESUMED FAIR</u>

"[A] presumption of fairness exists where: (1) the settlement is reached through arm's-length bargaining; (2) investigation and discovery are sufficient to allow counsel and the court to act intelligently; (3) counsel is experienced in similar litigation; and (4) the percentage of objectors is small. *Dunk*, 48 Cal.App.4th at 1802 (citing Newberg & Conte*, Newberg on Class Actions (2002)* § 11.41, pp. 11-91). Here, the Settlement clearly meets these points and, as this Court noted in its preliminary approval Order, it is, thus, presumed fair.

The Settlement was reached through arm's-length negotiations. On October 12, 2023, the Parties participated in an all-day mediation presided over by Hon. Amy Hogue, Ret., and again on March 28, 2024, but were unable to reach a resolution. After the two mediation sessions, and with the help of the mediator, subsequent negotiations resulted in the class-wide resolution of this matter to fully resolve the Class and PAGA Actions.[14] Finally, as discussed *infra*, **one Class Members objected, and one opted out**. Accordingly, the presumption that the Settlement is fair applies. *See In re Bluetooth Headset Prod. Liab. Litig.*, 654 F.3d 935, 948 (9th Cir. 2011) (the presence of a neutral mediator is a factor weighing in favor of finding of no collusion); *In re Apple Computer,*

[14] Hawkins Decl., ¶ 7.

Inc. Derivative Litig., No. C 06-4128 JF (HRL), 2008 U.S. Dist. LEXIS 108195 (N.D. Cal. Nov. 5, 2008) (mediator's participation weighs considerably against any inference of a collusive settlement); *D'Amato v. Deutsche Bank*, 236 F.3d 78, 85 (2d Cir. 2001) (a "mediator's involvement in pre-certification settlement negotiations helps to ensure that the proceedings were free of collusion and undue pressure."); *Villegas v. J.P. Morgan Chase & Co.*, No. 09–00261, 2012 WL 5878390, at *6 (N.D. Cal. Nov. 21, 2012) (participation in mediation "tends to support the conclusion that the settlement process was not collusive"); *Ogbuehi v. Comcast of California/Colorado/Fla./Oregon, Inc.*, 303 F.R.D. 337, 350 (E.D. Cal. 2014) (participation in mediation "tends to support the conclusion that the settlement process was not collusive"). At all times, the Parties' negotiations were adversarial and non-collusive.

B. AS THIS COURT PREVIOUSLY FOUND, THE RELEVANT CRITERIA SUPPORT FINAL APPROVAL

California Courts consider several factors in deciding whether to grant final approval of a class action settlement, including (1) the amount offered in settlement, (2) the risks inherent in continued litigation, (3) the complexity, expense, and likely duration of the litigation absent settlement, (4) the extent of discovery completed and the stage of the proceedings when settlement was reached, (5) the experience and views of class counsel, and (6) the reaction of class members. *Dunk*, 48 Cal.App.4th at 1801; *Wershba*, 91 Cal.App.4th at 244-45; *Kullar v. Foot Locker Retail, Inc.*, 168 Cal.App.4th 116, 119 (2008). Here, evaluation on each of these factors favors final approval of the Settlement.

1. The Value of the Settlement and the Risks Inherent in Continued Litigation Favor Final Approval

In seeking approval, a settling party must provide sufficient information to "enable the court to make an independent assessment of the adequacy of the settlement terms." *Kullar v. Foot Locker Retail, Inc*., 168 Cal. App. 4th 116, 131-32 (2008). However, "[i]t is well-settled law that a cash settlement amounting to only a fraction of the potential recovery will not per se render the settlement inadequate or unfair." *See Officers for Justice v. Civil Serv. Comm'n of City & Cty. of San Francisco*, 688 F.2d 615, 628 (9th Cir. 1982). "The proposed settlement is not to be judged against a hypothetical or speculative measure of what might have been achieved by the negotiators." *Id.* at 625. "Estimates of a fair settlement figure are tempered by factors such as the risk of losing at trial, the expense of litigating the case, and the expected delay in recovery (often measured in years)." *In re Toys R Us-Delaware, Inc.-- Fair & Accurate Credit Transactions Act (FACTA) Litig.*, 295 F.R.D. 438, 453 (C.D. Cal. 2014). In other words, in valuing the claims within a realistic *range* of outcomes, the settling plaintiff should discount the value of the settled claims for risks such as changes in the law, the probability of success, and other factors.[15]

Settling parties are not, however, required to partake in a hypothetical accounting exercise: "**Kullar does not … require any such explicit statement of [maximum] value;** it requires a record which allows 'an understanding of the amount that is in controversy and the realistic range of outcomes of the litigation.'" *Munoz v. BCI Coca-Cola Bottling Co.*, 186 Cal. App. 4th 399, 409-10 (2010) (quoting *Kullar*, 168 Cal. App. 4th at 120 (emphasis added)). Overall, "the most important factor" in determining "whether a settlement is fair and reasonable" is the "strength of the case for plaintiffs on the merits, balanced against the amount offered in the settlement." *Id*. at 409 n.6 (quoting *Kullar*, 168 Cal. App. 4th at 130). As explained in detail below, the Gross Settlement Amount is within the range of reasonableness in light of the nature and magnitude of the claims being settled and the various potential impediments to recovery.

Defendant denies any wrongdoing and denies liability with respect to the matters alleged

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[15] Federal district courts also recognize that there is an inherent "range of reasonableness" in determining whether to approve a settlement "which recognizes the uncertainties of law and fact in any particular case and the concomitant risks and costs necessarily inherent in taking any litigation to completion." *In re World Trade Ctr. Lower Manhattan Disaster Site Litig.*, 66 F. Supp. 3d 477, 482 (S.D.N.Y. 2015); *see also Nat'l Rural Telecomm. Coop. v. Directv, Inc.*, 221 F.R.D. 523, 527 (C.D. Cal. 2004) ("well-settled law that a proposed settlement may be acceptable even though it amounts to only a fraction of the potential recovery"); *In re Global Crossing Sec. and ERISA Litig.*, 225 F.R.D. 436, 461 (S.D.N.Y. 2004) ("settlement amount's ratio to the maximum potential recovery need not be the sole, or even dominant, consideration when assessing settlement's fairness"); *In re IKON Office Solutions, Inc. Sec. Litig.*, 194 F.R.D. 166, 184 (E.D. Pa. 2000) ("the fact that a proposed settlement constitutes a relatively small percentage of the most optimistic estimate does not, in itself, weigh against the settlement; rather the percentage should be considered in light of strength of the claims"); *Officers for Just. v. Civ. Serv. Comm'n of City & Cty. of San Francisco*, 688 F.2d 615, 628 (9th Cir. 1982) (it is "the complete package, taken as a whole rather than the individual component parts, that must be examined for overall fairness").

in the Complaint and believe that they have valid defenses to all of Plaintiffs' claims. Defendant further contends that they complied with all wage and hour laws applicable to the employment of Plaintiffs and other Class Members. To date, no class has been certified and no court has made any findings that Defendant engaged in any wrongdoing or in any wrongful conduct, or otherwise acted improperly or in violation of any law, rule or regulation with respect to any of the issues presented in this action. Defendant contends it implemented written policies and maintained practices that complied with the requirements of the California Labor Code and applicable California Wage Orders. Defendant contends all minimum wages, overtime wages, and double time wages were paid in compliance with California law and applicable California Wage Orders. In addition, an individualized investigation into the circumstances surrounding failure to pay wages is warranted because such claims can only be decided on a case-by-case basis, common issues do not predominate and class certification is neither superior nor proper. Defendant contends that Plaintiffs and Class Members were not subject to any bonuses or other remuneration requiring recalculation of the regular rate for overtime. Lastly, Defendant asserts it maintained a policy of no off the clock work, and the facts and circumstances regarding off the clock were not supported in this case. (Hawkins Decl., ¶¶ 13, 22-41.)

Defendant contends Plaintiffs could not successfully argue that derivative waiting time penalties were owed. Further, Plaintiffs would still face a difficult, if not impossible, hurdle to overcome the willfulness threshold required by Labor Code section 203. Plaintiffs evaluated and considered the former Class Members who have separated from Defendant's employ during the Class Period. Plaintiffs applied the three-year statute of limitations and argued that the employer's underlying violation was willful. Defendant disagreed with this analysis, with respect to the "willfulness" prong and argued that Plaintiffs could not show willfulness. The considerable risk that Defendant could defeat certification and prevail on its defenses defeating any and all recovery to the class warranted a compromise of the class claims. Similarly, Defendant contend that they have complied with all such requirements with respect to payroll records and wage statements at all times. Further, Plaintiffs would still face a difficult, if not impossible, hurdle to overcome the willfulness threshold required by Labor Code section 226. (*Id.* ¶ 37.)

Defendant contends its practices have been in compliance with applicable law as set forth above, and that Plaintiff has no basis for asserting a claim under the UCL. (*Id.*)

Accounting for the risks of continued litigation and impediments to discovery, Plaintiffs determined that a settlement amounting to $975,000.00 was fair and reasonable, and accounts for an approximate 18% of total possible damages and penalties and courts have routinely approved settlements that provided a similar discounted range of the maximum potential recovery. (Hawkins Decl. ¶ 40). *See, e.g., In re Warfarin Sodium Antitrust Litig.,* 212 F.R.D. 231, 256-58 (D. Del. 2002) (recognizing that a reasonable settlement amount can be 1.6% to 14% of the total estimated damages); *In Re Armored Car Antitrust Litig.,* 472 F. Supp. 1357, 1373 (N.D. Ga. 1979) (settlements with a value of 1% to 8% of the estimated total damages were approved); *In Re Four Seasons Secs. Laws Litig.,* 58 F.R.D. 19, 37 (W.D. Okla.1972) (approving 8% of damages); *Balderas v. Massage Envy Franchising, LLP,* 2014 WL 3610945, at *5 (N.D. Cal. July 21, 2014) (finding that settlement which amounted to 8% of maximum recovery "[fell] within the range of possible initial approval based on the strength of plaintiff's case and the risk and expense of continued litigation."); *In re Omnivision Techs., Inc.,* 559 F. Supp. 2d 1036, 1042 (N.D. Cal. 2008) (approving settlement of 6% to 8% of estimated damages).[16] (*Id.*)

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[16] *See also In re Uber FCRA Litig*., No. 14-cv-05200-EMC, 2017 U.S. Dist. LEXIS 101552, at *23- 24 (N.D. Cal. June 29, 2017) (granting preliminary approval to class action settlement where gross settlement fund, prior to deducting attorneys' fees and services awards, was valued at 7.5% or less of total possible verdict); *Viceral v. Mistras Grp., Inc*., No. 15-cv-02198-EMC, 2016 U.S. Dist. LEXIS 140759, at *21 (N.D. Cal. Oct. 11, 2016) (granting preliminary approval to class action settlement representing "8.1% of the full verdict value" with net settlement amount representing approximately 5.3% of full verdict value); *Stovall-Gusman v. W.W. Granger, Inc.*, No. 13-cv-02540-HSG, 2015 WL 3776765, at *4 (N.D. Cal. June 17, 2015) (granting final approval to settlement with net recovery to Plaintiffs valued at 7.3% of potential maximum recovery); *Cruz v. Sky Chefs, Inc*., No. 12-cv-02705-DMR, 2014 WL 7247065, at *5 (N.D. Cal. Dec. 19, 2014) (granting final approval where gross settlement amount represented 8.6% of the maximum potential recovery from the class claims and estimated amount distributable to class after accounting for attorneys' fees and other deductions represented approximately 6.1% of maximum potential recovery); *In re LDK Solar Sec. Litig.*, No. 07-cv-05182-WHA, 2010 WL 3001384, at *2 (N.D. Cal. July 29, 2010) (granting final approving where "[t]he proposed settlement amount is [. . .] only about five

C. **THE COMPLEXITY, EXPENSE AND LIKELY DURATION OF CONTINUED LITIGATION SUPPORT APPROVAL**

In evaluating for fairness, the Court should weigh the benefits of settlement against the expense and delay involved in achieving an equivalent or even more favorable result at trial. *Young v. Katz*, 447 F.2d 431, 433 (5th Cir. 1971); *Kullar*, 168 Cal.App.4th 116, 120 (2008). As California jurists have recognized, there exists "an overriding public policy favoring settlement of class actions." *Ferguson v. Lieff, Cabraser, Heimann & Bernstein*, 30 Cal.4th 1037, 1054 (2003) (citing *Franklin v. Kayrpo Corp.*, 884 F.2d 1222, 1229 (9th Cir. 1989) ("public policy favor[s] the compromise and settlement of disputes")). The alternative to a class action, namely numerous individual actions, could tax private and judicial resources for years. Given the relatively modest, though not inconsequential, amount of damages individual Class Members allegedly incurred, it would be uneconomical to secure individual legal representation, even for those with the resources to do so. But, here, the Settlement provides *all* Class Members, regardless of their means, the opportunity of monetary recovery in a prompt and efficient manner, without the risk of the Court denying class certification and/or finding no liability, and these workers recovering nothing at all.

Class Counsel also considered that, even if Plaintiffs prevailed, on both class certification and liability, the remaining processes could be lengthy and costly, potentially including appeals. As such, even a successful judicial resolution at the trial court level can be just the beginning of a lengthy, expensive process, stalling payments to class members for years. This judicial purgatory is compounded by the risk of adverse appellate rulings, which would remand the action to the trial court for further litigation, possibly with negative precedent.[17] The complexity, expense, and delay of continued litigation in this matter supports final approval of the Settlement.

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percent of the estimated damages before fee and costs—even before any reduction thereof for attorney's fees and costs.").

[17] *See*, *e.g.*, *Chau v. Starbucks Corp.*, 174 Cal.App.4th 688 (2009) (appellate court reversed an $86 million restitution award to a certified class of hourly employees).

D. THE DISCOVERY AND FACTUAL INVESTIGATION SUPPORT APPROVAL

The Settlement comes at a point in the litigation where counsel for Plaintiffs and Defendant had clear views of the strengths and weaknesses of their respective cases. "[T]he extent of discovery completed and the stage of the proceedings" are factors courts consider in determining the fairness, adequacy and reasonableness of a settlement." *Dunk*, 48 Cal.App.4th at 1794. Class Counsel conducted extensive pre-filing due diligence and engaged in informal discovery. The parties also engaged in substantial discovery, including Defendant's production of all of its written wage and hour policies, and data consisting of time records, payroll records, and other data for employees of Defendant, including tens of thousands of lines of data and hundreds of pages of other employment related documents. Undoubtedly, the parties have thoroughly investigated, and are sufficiently knowledgeable of the facts to form educated assessments regarding their respective positions and the value of the case.[18]

All of this was confirmed by the extensive mediation, during which all of the claims and defenses were thoroughly argued and vetted by the experienced mediator, which led directly to the mediator's proposal that is the basis of the agreed settlement.

E. THE EXPERIENCE AND VIEWS OF COUNSEL FAVOR FINAL APPROVAL

Class Counsel supports the Settlement as fair, reasonable, and adequate, and believes it in the best interest of the Class as a whole.[19] Class Counsel has substantial experience prosecuting complex litigation and/or class action lawsuits, has prosecuted a multitude of such cases involving the same issues as presented here.[20] As discussed above, Class Counsel is intimately familiar with the litigation, having conducted extensive investigation and negotiation on behalf of the class. The

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[18] Hawkins Decl., ¶¶ 11-17.

[19] "When approving class action settlements, the court must give considerable weight to class counsel's opinions due to counsel's familiarity with the litigation and its previous experience with class action lawsuits." *Alberto v. GMRI, Inc.*, *Not Rpt'd in* F. Supp. 2d, 2008 WL 4891201 (E.D. Cal. 2008) (*citing Officers for Justice*, 688 F.2d at 625 and *In re Washington Public Power Supply System Securities Litigation*, 720 F. Supp. 1379, 1392 (D. Ariz. 1989)).

[20] Hawkins Decl., ¶¶ 46-50; Bibiyan Decl., ¶¶ 9-13.

endorsement by well-informed and qualified counsel of a settlement as fair, adequate, and reasonable is entitled to significant weight. *Dunk*, 48 Cal.App.4th at 1802; *Ellis Naval Air Rework Facility*, 87 F.R.D. 15 (N.D. Cal. 1980); *Boyd*, 485 F. Supp 610, 617 (N.D. Cal. 1979).

F. THE CLASS MEMBERS' REACTION FAVORS FINAL APPROVAL

Finally, when determining if a settlement is reasonable, a court looks to "the reaction of class members to the proposed settlement." *Dunk*, 48 Cal.App.4th at 1801; *Wershba*, 91 Cal.App.4th at 244-245; *Kullar*, 168 Cal.App.4th at 119. Here, Class Members' response to the Settlement has been favorable; there is only one opt out and one objection. The result speaks volumes about the fairness, reasonableness, and adequacy of this Settlement. Class Members' reaction thus shows tremendous support for the Settlement. Accordingly, the Settlement as a whole is presumed to be fair, reasonable, and adequate, and the Court should grant final approval of the Settlement in its entirety. *Dunk*, 48 Cal.App.4th at 1802.

V. THE COURT-ORDERED NOTICE PROGRAM IS CONSTITUTIONALLY SOUND AND HAS BEEN FULLY IMPLEMENTED

California statutory and case law vests the Court with discretion in fashioning an appropriate notice program. *Cal. Civ. Code* § 1781; *Cartt v. Superior Court*, 50 Cal.App.3d 960, 973-974 (1975). To protect the rights of absent class members, the parties must provide the class with the best notice practicable, but due process does not require actual notice to parties who cannot reasonably be identified. *See, Phillips Petroleum Co. v. Shutts*, 472 U.S. 797, 811-812 (1985); *Eisen v. Carlisle & Jacquelin*, 417 U.S. 156 (U.S. 1974); *Manual* § 21.311, n. 882 at 432; *Cal. Rules of Ct., Rule* 3.766(d).

The Court-approved Notice program met this standard and has now been fully implemented. The Settlement Administrator mailed the Notice Package to the entire class on January 30, 2026. Only 80 Notice Packets out of the 4,163 mailed Notices were deemed undeliverable. This is unquestionably an excellent result.[21] Moreover, the singular objection and

[21] Tran Decl., ¶¶ 7-10.

the single opt-out request to the Settlement demonstrates that the Class does overall support the Settlement. It is a good result for those Class Members who were harmed.

VI. AN AWARD OF ATTORNEYS' FEES AND COSTS IS APPROPRIATE

A. A COMMON FUND FEE AWARD IS WARRANTED

Public policy promotes approval of fee requests since "[t]he function of an award of attorney's fees is to encourage the bringing of meritorious…claims which might otherwise be abandoned because of the financial imperatives surrounding the hiring of competent counsel." *City of Riverside v. Rivera*, 477 U.S. 561, 578 (1986) (internal quotation marks and citations omitted). Additionally, attorneys' fees are awarded based on the value of the common benefit made available to the class, regardless of whether the settlement contains a reversion provision. *Williams v. MGM-Pathe Communs. Co.*, 129 F.3d 1026, 1027 (9th Cir. 1997); *Boeing Co. v. Van Gemert*, 44 U.S. 472, 480-81 (1980). In this case, there will be no reversion of any kind to the Defendant, further rendering the fees request appropriate. Specifically, the Settlement provides for an attorneys' fee award of 1/3 of the Gross Settlement Amount (i.e. $325000.00), a typical percentage in the resolution of common fund cases.[22] Class Counsel has devoted numerous hours to and faced significant risk[23] in the prosecution of this matter and, more importantly, made a substantial fund available to a large number of otherwise-underrepresented, low-paid workers.

The "common fund" method, or "percentage-of-the-benefit" analysis, calculates attorneys' fees based on a percentage of the common benefit to the class. *In re Consumer Privacy Cases,* 175 Cal.App.4th 545 (2009); *Serrano v. Priest*, 20 Cal.3d 25 (1977). In cases where a common fund has been created—i.e., where each class member will "receive a mathematically ascertainable

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[22] *See, e.g., Barbosa v. Cargill Meat Solutions Corp.,* 2013 U.S. Dist. LEXIS 93194 (E.D. Cal. 2013) (33% fee award of gross fund); *Boyd v. Bank of Am. Corp.*, No. SACV 13-0561-DOC, 2014 WL 6473804, at *9 (C.D. Cal. 2014) (33 1/3% fee award in wage and hour class action); *Morris v. Lifescan, Inc*. 54 Fed.Appx. 663 (9th Cir. 2003) (affirming 33% fee award); *Savage v. California Family Health LLC*, Case No. 34-2016-00192282-CU-OE-GDS (Sacramento Super. Ct. 2017) (1/3 fee award in wage and hour class action); *Vasquez v. Coast Valley Roofing, Inc.*, 266 F.R.D. 482 (E.D. Cal. 2010) (33 1/3% award in wage and hour class action)

[23] Class Counsel undertook this matter solely on a contingent basis, with no guarantee regarding the potential duration of the litigation or even the ultimate reimbursement of fees or costs. Looking, *ad hoc*, at the fact that if a settlement did occur, that doesn't change the risks accepted at the inception of the case or at any point along its timeline. Nor , looking more broadly, does it account for the countless cases that do not settle, do not settle well and/or are dismissed after sometimes thousands of hours of work thereon.

payment"[24]—California state courts,[25] the Ninth Circuit[26] and the United States Supreme Court[27] agree that awarding attorneys' fees as a percentage of the common fund is the proper method.[28]

The *Serrano* factors further justify the common fund fee award.[29] *Serrano* explained the trial courts may consider additional factors when considering a fee award: (1) time and labor required, (2) the contingent nature of the fee agreement, (3) extent to which the nature of the litigation precluded other employment by the attorneys, (4) experience, reputation, and ability of the attorneys who performed services in the litigation and their displayed skill, (5) amount involved and the results obtained, and (6) the informed consent of the client to the fee agreement. *Serrano*, 20 Cal.3d at 49.

1. Time and Labor

Class Counsel has invested considerable amounts of time and labor in litigating the Class' claims, incurring approximately 473.40 hours combined in prosecuting this litigation.[30] In so doing, Class Counsel drew on their experience litigating wage and hour class actions against employers very much like this one in order to minimize wasted effort. Class Counsel's efforts include, *inter alia*, conducting written discovery (both formal and informal), production and review of documents, obtaining data for mediation, interviews with putative Class Members, a mediation session and continued hard-fought negotiations. [31]

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[24]*Vasquez*, 266 F.R.D. 482 at *491 (E.D. Cal. 2010).

[25]*Lealao v. Beneficial California*, 82 Cal.App.4th 19 (2000); *Serrano v. Priest*, 20 Cal.3d 25 (1977).

[26]*Staten v. Boeing Co.*, 327 F.3d 938, 952 (9th Cir. 2003); *Powers v. Eichen*, 229 F.3d 1249, 1256 (9th Cir. 2000).

[27]The United States Supreme Court has always computed common fund fee awards on a percentage of the fund basis. *Boeing Co. v. Van Gemert*, 444 U.S. 472, 100 S Ct. 745 (1980); *Central Railroad & Banking Co. of Georgia v. Pettus*, 113 U.S. 116, 5 S.Ct. 387 (1885); *Sprague v. Ticonic Nat'l Bank,* 307 U.S. 161, 59 S.Ct. 777 (1939).

[28]A lodestar approach (enhanced by a multiplier) can be used as an alternative to the common fund theory when "there is no way to gauge the net value of the settlement or any percentage thereof." *Hanlon v. Chrysler Corp.*, 150 F.3d 1011, 1029 (9th Cir. 1998).

[29]*Serrano v. Priest*, 20 Cal.3d 25 (1977); *Dunk v. Ford Motor Co.*, 48 Cal.App.4th 1794 (1996).

[30] Hawkins Decl., ¶ 54; Bibiyan Decl., ¶ 17.

[31]Attorney fee awards in common funds cases are intended to compensate class counsel for work performed both before *and after* the date of judgment. In nearly every class action, the efforts during litigation and in pursuing approval of the settlement are only part of the overall work picture. Post-judgment, class counsel is required to stay in close contact with the claims administrator to ensure payment of the settlement proceeds, to communicate with class members, with their CPAs (regarding the tax treatment of settlement proceeds), even with other attorneys, to report compliance with the terms of the Court's final approval order thereon and myriad other tasks. Although rarely discussed in connection with requests for attorneys' fees and costs, it's not unusual for some of these efforts to take place years after judgment. With a class of this magnitude, these are efforts that will assuredly be required by Class Counsel.

2. Contingent Nature of Fees, Preclusion of Other Employment and Informed Consent of Plaintiff

The fee award is further supported by the contingency risk assumed in prosecuting the case.[32] The California Supreme Court has recognized that attorney fee awards should be enhanced to compensate attorneys for the risks of loss involved in contingency cases. *Ketchum v. Moses*, 24 Cal.4th 1122, 1133 (2001); *Graciano v. Robinson Ford Sales, Inc.*, 144 Cal.App.4th 140, 154 (2006); *See also, In re Consumer Privacy Cases*, 175 Cal.App.4th at 556.

Class Counsel undertook this matter solely on a contingent basis, with no guarantee regarding the potential duration of the litigation or the ultimate recovery of fees or costs. While Class Counsel believes the claims in this case are meritorious, it also recognized the factual and legal challenges involved in complex litigation, generally, as well as the specific risks posed by the facts in this case. While attorneys who represent corporations are routinely paid on an hourly basis, plaintiffs in wage and hour cases can rarely afford to pay their attorneys by the hour, especially if they expect to be represented by a law firm well known for achieving good results. As firms committed to wage and hour class actions, including the one at hand, Class Counsel must accept these cases on a wholly contingent basis, with no guarantee of recovery of fees, or even the reimbursement of litigation costs. As California case law recognizes, Class Counsel's commitment to this litigation should not be assessed in a vacuum.[33] The 473.40 hours Class Counsel spent on litigation, investigation and settlement efforts in this case prevented them from pursuing other hourly or contingency fee-based work.

Therefore, the agreement of Plaintiffs to enter contingency fee arrangements supports the requested attorney fee award. *Glendora*, 155 Cal.App.3d at 472. Here, Plaintiffs entered into

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[32]California courts "agree...that 'riskiness,' difficulty or contingent nature of the litigation is a relevant factor in determining a reasonable attorney fee award." *Salton Bay Marina, Inc.*, 172 Cal.App.3d at 955 (*citing La Mesa-Spring Valley School Dist. of San Diego County v. Nobuo Otsuka*, 57 Cal. 2d 309, 316 (1962); *See also, In re Quantum Health Resources, Inc. Sec. Litig.*, 962 F. Supp. 1254, 1257 (C.D. Cal. 1997).

[33]*Glendora Community Redevelopment Agency*, 155 Cal.App.3d at 475 (recognizing that "a busy lawyer" with a good "reputation" might be "reluctant to accept the employment because of the preclusion of other business"); *Cal. Rules Prof. Conduct, R*. 4-200 (B)(4) (when determining whether a fee is appropriate, individual attorneys must consider "[t]he likelihood, if apparent to the client, that the acceptance of the particular employment will preclude other employment by the member").

consensual contingency fee agreements and expressly endorse Class Counsel's request for attorneys' fees and costs. Additionally, Class Members have been notified of the requested attorneys' fees and costs by means of the Notice.[34] In light of the work performed, risks assumed and results achieved, it is clear that Class Counsel's fee request is supported and should be approved.

3. Experience of Class Counsel

The experience and ability of Class Counsel were essential to the settlement achieved here. Class Counsel developed an extensive factual record, convinced Defendant of its exposure, and expertly negotiated the terms of the Settlement. Only counsel who have a successful history litigating these types of cases and who are well versed in class action litigation and wage and hour law in this jurisdiction could have effectively marshaled the evidence and presented it to achieve this Settlement.[35] "The overall result and benefit to the class from the litigation is the most critical factor in granting a fee award." *In re Omnivision Techs.*, 559 F. Supp. 2d 1036, 1046 (N.D. Cal. 2007). Here, Class Counsel was still able to secure a great result for Class Members despite the risks in this case.

B. <u>THE LODESTAR METHODOLOGY ALSO JUSTIFIES APPROVAL OF THE REQUESTED FEES</u>

While the percentage-of-the-benefit approach is endorsed as the better approximation of the workings of the marketplace than the lodestar approach, courts may also use the lodestar method to "cross-check" the results of the other.[36] The lodestar is calculated based on reasonable hours at reasonable prevailing hourly rates for the attorneys, and counsel is entitled to compensation for every hour reasonably

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[34] Litigants are familiar with one-third fee recoveries being the norm–this percentage (or higher awards of 35% or 40%) being common in employment, personal injury and other areas of litigation within the commonplace experience of these class members. Also, as suggested by the compendium of examples cited throughout this brief, it is a judicial benchmark as well. Indeed, "[e]mpirical studies show that…fee awards in class actions average around one-third of the recovery." *4 Newberg* § 14.6

[35] Hawkins Decl., ¶¶ 46-50; Bibiyan Decl., ¶¶ 9-13.

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

spent on the matter. *Ketchum v. Moses* (2001) 24 Cal.4th 1122, 1131-33. The reasonableness of hours is assessed by "the entire course of the litigation, including pretrial matters, settlement negotiations, discovery, litigation tactics, and the trial itself[.]" *Vo v. Las Virgenes Municipal Water Dist.* (2000) 79 Cal.App.4th 440, 447.

Class Counsel's fee request is reasonable when calculated using the lodestar method. Under the lodestar method, a base fee amount is calculated from a compilation of time reasonably spent on the case and the reasonable hourly compensation of the attorney. *Serrano*, 20 Cal. 3d at 48. The court then may enhance this lodestar figure by a "multiplier" to account for a range of factors, such as the novelty and difficulty of the case, its contingent nature, and the degree of success achieved. *Id*. at 49; *see also Ketchum v. Moses*, 24 Cal.4th 1122, 1132-36 (2001); *Thayer v. Wells Fargo Bank*, 92 Cal.App.4th 819, 834 (2001), ["[t]here is no…rule limiting the factors that may justify an exercise of judicial discretion to [adjust the] lodestar"].

Here, Class Counsel spent approximately 473.40 hours combined litigating this matter and finalizing the Settlement for a lodestar value of approximately $382,008.00.[37] In light of the facts and circumstances of this matter, as well as the results that Class Counsel have achieved, Class Counsel have spent a reasonable number of hours performing work on this matter. In addition, Class Counsel will continue to perform work on this matter through the date of final approval and in connection with the implementation of the Settlement. Where "exceptional effort produced an exceptional benefit," a fee award may be enhanced. *Thayer v.* 92 Cal. App. 4th at 838; *In re Vitamin Cases*, 110 Cal. App. 4th 1041, 1058-1059 (2003) (high-quality work from counsel supports multiplier). Here, Class Counsel's combined lodestar exceeds the requested $325,000.00 amount, and are not seeking to apply a multiplier. Therefore, the requested attorneys' fees in the amount of $325,000.00 is reasonable warranted.

C. <u>CLASS COUNSEL'S COSTS ARE REASONABLE</u>

Over the course of this litigation, Class Counsel incurred ordinary litigation costs over the past five years totaling $37,118.14. While the Settlement provided a ceiling for litigation costs of

[37] Hawkins Decl., ¶ 53; Bibiyan Decl., ¶17 .

$45,000.00, Class Counsel kept costs at bay and are now respectfully seeking litigation costs in the amount of $37,118.14.[38] Noteably, this amount does not account for additional future expenses in overseeing the settlement process, making appearances, filing court documents, ensuring claims administration compliance with this Court's orders, responding to Class Members, etc. Since these costs are reasonable and serve to benefit the class, they warrant reimbursement.[39]

VII. REPRESENTATIVE PLAINTIFF DESERVES THE PROPOSED ENHANCEMENT AWARD

The Settlement further provides for, and Plaintiffs now requests and Service Award payments of $10,000.00 each totaling $20,000.00. A Service Award to the lead Plaintiffs in class action litigations are commonplace and are "intended to compensate class representatives for work done on behalf of the class, to make up for financial or reputational risk undertaken in bringing the action".[40] Service Awards "are intended to advance public policy by encouraging individuals to come forward and perform their civic duty in protecting the rights of the class and to compensate class representatives for their time, effort and inconvenience … Federal authority is in accord."[41]

Courts in California may consider the following factors in determining the appropriateness of such an award: (1) the risk to the class representative in commencing suit, (2) the notoriety and personal difficulties encountered by the class representative, (3) the amount of time and effort spent by the class representative, (4) the duration of the litigation, and (5) the personal benefit (or lack thereof) enjoyed by the class representative as a result of the litigation. *Van Vranken v.*

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[38] Hawkins Decl., ¶ 54, Exh. 1; Bibiyan Decl., ¶ 18, Exh. 1.

[39] *In re United Energy Corp. Sec. Litig.*, *Not Rpt'd in* F.Supp., 1989 WL 73211, * 6 (C.D. Cal. 1989) ("[a]n attorney who creates or preserves a common fund by judgment or settlement for the benefit of a class is entitled to receive reimbursement of reasonable fees and expenses involved"); 1 Alba Conte, *Attorney Fee Awards* § 2:08 at 50-51 ("The prevailing view is that expenses are awarded in addition to the fee percentage."); *In re Warner Comm. Sec. Litig*., 618 F.Supp. 735 (S.D.N.Y.1985); *In re GNC Shareholder Litig.: All Actions*, 668 F.Supp. 450, 452 (W.D. Pa. 1987)
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[40] Plaintiffs risked being "blacklisted" by other future employers for having sued this defendant in a class action. As well stated by a New York Southern District Court: "[T]he fact that a plaintiff has filed a federal lawsuit is searchable on the internet and may become known to prospective employers when evaluating the person . . . Even where there is not a record of actual retaliation, notoriety, or personal difficulties, class representatives merit recognition for assuming the risk of such for the sake of absent class members." *Guippone v. BH S&B Holdings LLC*, 2011 U.S. Dist. LEXIS 126026, at **4, 20 (S.D.N.Y. Oct. 28, 2011).

[41] *In re California Indirect Purchases*, 1998 WL 1031494, 11 (Alameda Super. Ct. 1998) (internal citations omitted).

Atlantic Richfield Co., 901 F. Supp. 294, 299 (N.D. Cal. 1995).

The proposed Service Award is reasonable given the work the Plaintiffs performed on behalf of fellow Class Members, the risks they faced and those continued to be faced for their participation in the litigation (e.g., retaliation from future employers), and the minimal impact the request will have on the amount of any class member's level of recovery. As detailed in Plaintiffs' declarations, previously submitted in support of Preliminary Approval, Plaintiffs spent considerable time prosecuting this action with Class Counsel. This included and was not limited to frequent emails and telephone calls with counsel to address issues surrounding the organizational structure of the company, job duties they and other Class Members performed, production of document, responding to discovery, and communications surrounding mediation and settlement.[42]

VIII. REIMBURSEMENT OF ADMINISTRATION FEES IS APPROPRIATE

As set forth in the accompanying APEX Class Action LLC ("APEX") Declaration, the total costs incurred and to be incurred by APEX for the notice and settlement administration process are $30,000.00. This amount includes the total cost for services in connection with the administration of the Settlement, including fees incurred and anticipated future costs for completion of the administration. This amount includes the total cost for services in connection with the administration of the Settlement, including fees incurred and anticipated future costs for completion of the administration.[43]

Accordingly, the Court should grant final approval of payment to APEX., a necessary third-party for its handling of the notice and settlement process, in the amount of $30,000.00.

IX. CONCLUSION

Based upon the foregoing, Plaintiffs respectfully request the Court grant final approval of the Settlement and approve Class Counsel's application for attorneys' fees and costs, the PAGA

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[42] Hawkins Decl., ¶ 55, Exhs. 2 and 3.
[43] Tran Decl., ¶ 20.

Penalty Payment, the requested Service Awards to Plaintiffs, and reimbursement of the settlement administration costs.

Dated: April 20, 2026

Respectfully submitted,
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By: ______________________
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