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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF ORANGE**

RAEIGN VELASQUEZ, MIKAYLA ASEVO
and ERIC RIVAS on behalf of themselves and
on behalf of all persons similarly situated

Plaintiffs,

v.

TEAM BLAZE, a California Corporation;
GHOLAMREZA MEDALI, an individual; and
DOES 1 to 100, inclusive,

Defendants.

Case No. 30-2021-01187932-CU-OE-CXC

[Assigned for all purposes to the Hon. Melissa
R. McCormick, Dept. CX104]

**PLAINTIFFS' NOTICE OF MOTION AND
MOTION FOR FINAL APPROVAL OF
CLASS AND REPRESENTATIVE
ACTION SETTLEMENT;
MEMORANDUM OF POINTS AND
AUTHORITIES IN SUPPORT**

Date: May 8, 2025

Time: 2:00 p.m.

Dept.: CX104

Complaint Filed: March 9, 2021

Trial Date: Not set

TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that on May 8, 2025, at 2:00 p.m., or as soon thereafter as the
matter may be heard, before the Melissa R. McCormick, judge presiding, in Department CX104
of the above referenced Court located at 751 W. Santa Ana Blvd., Santa Ana, California 92701,
Plaintiffs Raeign Velasquez, Mikayla Asevo, and Eric Rivas (collectively, "Plaintiffs")

1 individually and on behalf of a proposed settlement class of similarly-situated individuals, will
2 and hereby do move for an Order: (1) granting final approval of the Class and Representative
3 Action Settlement Agreement and Addendum to the Class and Representative Action Settlement
4 Agreement (together, the “Settlement”); (2) awarding Class Counsel their attorneys’ fees in the
5 amount of \$200,000 and reimbursement of their litigation costs in the amount of \$29,375.77, (3)
6 awarding the Class Representative Enhancement to Plaintiffs in the amount of \$7,500 each, and
7 (4) awarding \$28,500 to Phoenix Settlement Administrators for its settlement administration
8 costs.

9 This Motion is made pursuant to Rule 3.769 of the California Rules of Court and Labor
10 Code Section 2699(1)(2), which provides for court approval of the settlement of a class and
11 Private Attorneys General Act action. The basis for this Motion is that the proposed settlement is
12 fair, adequate, and reasonable and satisfies all criteria for final approval under California law.
13 This Motion will be based on the Memorandum of Points and Authorities set forth herein, the
14 Declaration of Dennis Hyun, the Declaration of Zack Broslavsky, the Declaration of Jonathan A.
15 Weinman, the Declaration of Raeign Velasquez, the Declaration of Mikayla Asevo, the
16 Declaration of Eric Rivas, the Declaration of Sarkis Atoyan, the Declaration of Yami Burns,
17 Proposed Order, and such evidence or oral argument as may be presented at the hearing, and on
18 the complete records and file herein.

19
20 Dated: April 13, 2025

HYUN LEGAL, APC

21 By: 
22 _____
23 Dennis S. Hyun
24 Attorneys for Plaintiffs and the Class
25
26
27
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1 **I. INTRODUCTION**

2 Plaintiffs Raeign Velasquez’s, Mikayla Asevo’s, and Eric Rivas’ (“Plaintiffs” or “Class
3 Representatives”) Motion for Final Approval (“Motion”) seeks final approval of a proposed non-
4 reversionary Class and Representative Action Settlement Agreement. This Court preliminarily
5 approved the settlement on January 6, 2025 after receiving supplemental briefing, including the
6 Addendum to the Class and Representative Action Settlement Agreement and edits to the Notice
7 of Class Action Settlement/PAGA Settlement (“Notice”) and the Proposed Oder. The Class and
8 Representative Action Settlement Agreement and Addendum to the Class and Representative
9 Action Settlement Agreement (together, the “Agreement” or “Settlement Agreement”) will
10 release class claims that Defendants Team Blaze and Gholamreza Medali (collectively
11 “Defendants”) failed to provide meal periods and authorize and permit rest breaks in the manner
12 legally required, pay wages for all hours worked (including minimum and overtime wages),
13 provide accurate itemized wage statements, and pay all wages due upon termination to Plaintiffs
14 and all persons who were employed as non-exempt hourly employees in California by
15 Defendants from September 26, 2018 through January 6, 2025 (“Class” or “Class Members”).
16 The Settlement will also release PAGA claims for Plaintiffs and all person who were employed
17 as non-exempt hourly employees in California by Defendants from March 9, 2020 through
18 January 6, 2025 (“PAGA Group Members”).

19 Plaintiffs conducted formal and informal discovery, and engaged an expert to analyze
20 damages. Thereafter, the Parties attended mediation with well-respected retired Judge, the Hon.
21 Steven R. Denton (ret.). At mediation, in addition to disputing liability Defendants raised
22 financial hardship. The Parties subsequently retained a forensic accounting firm to review
23 financial records and provide an opinion as to Defendants’ financial ability to fund any potential
24 class and PAGA settlement. Based on its findings and after months of continued negotiations,
25 the Parties ultimately reached this settlement.

26 The Maximum Settlement Amount of \$600,000.00, which will be paid by Defendants in
27 six installments, will be distributed as follows:

- 28 • Net Settlement Amount of approximately \$259,624.23 distributed to 2197 class

members. *See* Declaration of Yami Burns in Support of Plaintiffs’ Motion for Final Approval (“Admin. Decl.”) ¶¶ 12-14;

- Class Representative Service Award of up to \$7,500.00 each, for a total of \$22,500;
- Class Counsel’s attorneys’ fees of up to \$200,000.00;
- Class Counsel’s litigation costs of \$29,375.77;¹
- Settlement Administration Costs of up to \$28,500;
- PAGA Payment of \$60,000.00, of which 75% shall be paid to the Labor Workforce Development Agency (the “LWDA”), or \$45,000.00, and 25% paid to PAGA Group Members, or \$15,000.00.

The Settlement Agreement is a product of diligent efforts and prolonged arms’ length negotiations by Class Counsel. Through this settlement, Class Members will receive a guaranteed recovery without the risk of an adverse judgment at the class certification stage, summary judgment, and/or trial, and without the risk of nonpayment by Defendants. In response to the Notice which includes the Exclusion Form (“Notice Packet”), none of the Class Members objected to the Settlement and none opted out. Since the Settlement Agreement did not require Class Members to submit a claim form, all Participating Class Members will receive their share of the settlement. The Participating Class Members will receive an average payment of approximately \$118.17, with the highest payout reaching approximately \$954.09, and the estimated lowest payment being \$5.85. Admin Decl., ¶ 14. The PAGA Group Members will receive an average payment of approximately \$9.37, with the highest payout reaching approximately \$58.35, and the estimated lowest payment being \$0.46. *Id.* ¶ 15.

In light of the favorable response, the facts and law set forth below, and the papers submitted in support of preliminary approval, Plaintiffs respectfully requests that the Court enter an order that (1) grants final approval of the Settlement; (2) enters final judgment; (3) orders distribution of the proportionate shares of the Settlement to Class Members and PAGA Group Members pursuant to the terms of the Settlement; and (4) approves payments for attorneys’ fees,

¹ The Settlement Agreement provides for up to \$50,000 in costs, but the litigation costs incurred by Class Counsel to date are only \$29,375.77.

litigation costs, Plaintiffs' Enhancement payment, Settlement Administration costs, and payment to the LWDA, as requested herein.

II. THE SETTLEMENT SATISFIES FINAL APPROVAL REQUIREMENTS

California courts consider whether a class action settlement is "fair, adequate and reasonable" when deciding whether to grant final approval. *Wershba v. AppleComputer, Inc.*, 91 Cal. App. 4th 224, 244-45 (2004); *Dunk v. Ford Motor Co.*, 48 Cal. App. 4th 1794, 1801 (1996). A settlement is "fair, adequate and reasonable" 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. "[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; *7-Eleven Owners for Fair Franchising v. Southland Corp.*, 85 Cal. App. 4th 1135, 1146 (2000).

A. The Court Found a Presumption of Fairness Exists at Preliminary Approval

On January 6, 2025, the Court granted Plaintiffs' Motion for Preliminary Approval of Class and Representative Settlement Agreement based on supplemental declarations, Addendum to the Class and Representative Action Settlement Agreement signed by all parties, edits to the Notice, and edits to the Proposed Order. *See* Declaration of Dennis Hyun in Support of Plaintiffs' Motion for Final Approval ("Hyun Decl."), ¶ 15, Ex. 1. The Court appointed Plaintiffs as the Class Representatives, Dennis S. Hyun of Hyun Legal, APC and Zack Broslavsky and Jonathan A. Weinman of Broslavsky & Weinman LLP as Class Counsel for the Class, Phoenix Class Action Administration Solutions ("Phoenix") as the Settlement Administrator, and approved the Notice be mailed to the Class Members and PAGA Group Members. *See* Preliminary Approval Order.

In moving for preliminary approval, Plaintiffs presented evidence that the Settlement Agreement is entitled to a presumption of fairness because (1) the Settlement was reached through arms-length bargaining after a full day mediation, subsequent negotiations, and forensic analysis, (2) Class Counsel conducted sufficient investigation and discovery, and (3) Class

Counsel are sufficiently experienced to be appointed. *See id.* At this time, the last factor, which examines the percentage of objectors, has been satisfied: no Class Members out of 2,197 objected to the Settlement and no Class Member has opted out. Admin Decl., ¶¶ 8-9; *see Dunk*, 48 Cal. App. 4th at 1802. Accordingly, the Court can presume that the Settlement Agreement is worthy of final approval.

B. Additional Factors Support Final Approval

A court's inquiry at final approval can include several other factors, including: (1) the strength of the plaintiff's case weighed against the risk, expense, complexity and likely duration of further litigation, as well as the risk of maintaining class action status through trial, (2) the amount offered in settlement, (3) the extent of discovery completed and the stage of the proceedings when settlement was reached, (4) the experience and views of counsel, (5) the presence of a governmental participant, and (6) the reaction of class members. *Wershba*, 91 Cal. App. 4th at 244-45.

1. The Strength of Plaintiffs' Case Weighed Against the Risks, Expense, Complexity and Likely Duration of Further Litigation, Including the Risk of Maintaining Class Action Status Through Trial

Based on review of documentary evidence and data produced by Defendants through informal discovery, a damage analysis prepared by Plaintiffs' expert, and an analysis of Defendants' financial condition by a forensic accounting firm, Class Counsel weighed the potential value of the claims being released by the proposed Settlement against the likelihood of prevailing at class certification and trial and the risk of Defendants' insolvency. Hyun Decl., ¶ 11.

Plaintiffs alleged that Defendants failed to provide meal periods and rest breaks, failed to pay all earned wages, and derivative penalties. While Class Counsel believe the alleged claims are meritorious and can be successfully litigated, there were significant risks and expenses associated with class certification and liability proceedings, including the level of discretion given to trial courts in determining whether to certify a class, which could result in no recovery for Class Members. Hyun Decl., ¶ 11. As the California Supreme Court ruled in *Sav-On v.*

1 *Superior Court*, 34 Cal. 4th 319 (2004), class certification is always a matter of the trial court’s
2 sound discretion. Decisions following *Sav-On* have reached different conclusions with respect to
3 certification of wage and hour claims.²

4 Here, Defendants contended that they maintained legally compliant meal and rest period
5 policies, and that any violations were not the result of employer-driven policies, but, rather,
6 employee choice. Hyun Decl., ¶ 11. As to specific claims, Plaintiffs’ meal period claim was
7 dependent on anecdotal evidence that Defendants altered time records. *Id.* Further, where the
8 time records did show violations, Defendants paid numerous meal period premiums, thus
9 offsetting their liability. *Id.* For the rest period claim, Plaintiffs would have had to rely on
10 witness testimony since there are no records pertaining to rest breaks, and Defendants could
11 have refuted Plaintiffs’ testimony with its own testimonial evidence, and individual inquiries
12 would be required to assess which employees failed to take all required rest periods. *Id.*
13 Plaintiffs’ unpaid wages claims are primarily based on allegations of time spent responding to
14 work calls/messages during off hours and not being paid to attend some meetings. These
15 allegations are also dependent on anecdotal evidence and individualized inquiries, and it may be
16 difficult to prove that off hour calls/messages happened on more than rare occasions and there
17 were more than a handful of meetings that were not compensated.

18 Additionally, Defendants argued that Plaintiffs could not prove that Defendants
19 “willfully” failed to pay wages in order to obtain waiting time penalties under Labor Code
20 section 203 and that good faith disputes existed as to Plaintiffs’ underlying claims. *Id.* at ¶ 12.
21 Defendants further argued its alleged wage statement violations could not be shown to be
22 “knowing and intentional,” and that Plaintiffs cannot show Class Members suffered injuries due
23 to wage statement violations, as required by Labor Code section 226. *Id.*

24 The recoverable damages and penalties in this case would also be significantly reduced
25 by the fact that the majority of Class Members have entered into arbitration agreements. *Id.* at

26 ² See, e.g., *Duran v. U.S. Bank Nat’l Ass’n*, 59 Cal. 4th 1 (2014) (certification ruling reversed by
27 the California Supreme Court after years of litigation); *Aguilar v. Cintas Corp.* No. 2, 144 Cal.
28 App. 4th 121 (2006) (reversing denial of certification); *Dunbar v. Albertson’s Inc.*, 141 Cal. App.
4th 1422 (2006) (affirming denial of certification).

13; *see also* Declaration of Sarkis A. Atoyan in Support of Plaintiffs’ Motion for Preliminary Approval.

With respect to the PAGA claim, pursuant to Labor Code § 2699(f)(2) the Court can decline to award PAGA penalties where “if, based on the facts and circumstances of the particular case, to do otherwise, would result in an award that is unjust, arbitrary and oppressive, or confiscatory.” Indeed, as shown in the Court of Appeal’s decision in *Carrington v. Starbucks Corp.*, 30 Cal. App. 5th 504 (2018), while the plaintiff prevailed on his PAGA claim upon trial, the trial court reduced the maximum PAGA penalty amount by 90%, citing the employer’s good faith attempt at complying with the law. *Id.* at 517. Upon review, the Court of Appeal found such reduction to be proper. *Id.* at 539. Defendants could also argue that the subsequent violations under PAGA only start to accrue after employers receive notice through a citation from the Labor Commissioner, further reducing the PAGA exposure. In addition, where there is a settlement of class claims, settlement of the PAGA claims may be substantially reduced below their standalone settlement value. *See, e.g., Stoddart v. Express Servs.*, 2020 U.S. Dist. LEXIS 186315, at *43-44 (E.D. Cal. Oct. 6, 2020); *Slavkov v. Fast Water Heater Partners I, LP*, 2017 U.S. Dist. LEXIS 116303, at *5 (N.D. Cal. July 25, 2017); *Swain v. Anders Grp., LLC*, 2023 U.S. Dist. LEXIS 67162, at *19-20 (E.D. Cal. Apr. 17, 2023).

Finally, as briefed during preliminary approval, Class Counsel had to take into account Defendants’ financial conditions and the risks of insolvency, which necessitated the installment payment structure of the settlement. Hyun Decl., ¶¶ 9 and 14; *see also* Declaration of Gholamreza Medali in Support of Plaintiffs’ Motion for Preliminary Approval; *Torrissi v. Tucson Elec. Power Co.*, 8 F.3d 1370, 1376 (9th Cir. 1993) (holding that lower court properly approved class action settlement because of the defendant’s financial condition; “Here one factor predominates to make clear that the district court acted within its discretion. That factor is Tucson's financial condition.”).

2. The Amount Offered in Settlement

The Settlement Agreement provides for Maximum Settlement Amount of \$600,000.00, which will be paid by Defendants in six installments. *See* Class and Representative Action

1 Settlement Agreement (the “Agreement”) ¶¶ 38-40, which is part of Exhibit A to the signed
2 Preliminary Approval Order. The settlement fund pays Class Counsel for their attorneys’ fees
3 and costs, Plaintiffs for their contributions to the case, the Settlement Administrator for its
4 expenses in administering the Settlement Agreement, and the LWDA for the PAGA claims,
5 leaving a Net Settlement Amount of \$259,355.77 to be distributed to Class Members and
6 \$15,000 to PAGA Group Members. Admin Decl., ¶¶ 13, 15. The settlement is non-reversionary
7 and the entire Net Settlement Amount will be paid to Participating Class Members. *See*
8 Addendum to Class and Representative Action Settlement Agreement (the “Addendum”) ¶ 3,
9 which is part of Exhibit A to the signed Preliminary Approval Order; *see also* Agreement, ¶ 38;
10 Admin Decl., ¶ 13. Individual PAGA Payments will be distributed to all PAGA Group Members,
11 regardless of whether or not they opted out of the Settlement. *See* Agreement, ¶ 55(i); Admin
12 Decl. ¶ 15. All applicable payroll taxes customarily paid by employers will be paid by
13 Defendants separate from the Maximum Settlement Amount. Agreement, ¶ 39(b); Admin Decl.,
14 16.

15 In accordance with the Settlement Agreement, the Net Settlement Amount will be
16 distributed to all Participating Class Members, and 25% of the PAGA Payment will be
17 distributed to all Class Members.³ *See* Addendum, ¶ 9. Each Participating Class Member is
18 entitled to a pro-rata payment from the Net Settlement Amount based on the Participating Class
19 Member’s number of workweeks in an hourly, non-exempt position during the Class Period
20 compared to the total number of workweeks of employment during the Class Period credited to
21 all Participating Class Members. *See* Addendum, ¶ 21. As a result, the estimated average net
22 recovery for the Class is \$118.17, the estimated highest payout is \$954.09 and the estimated
23 lowest gross payout is approximately \$5.85. *See* Admin Decl., ¶ 14. The average net recovery
24 here is significant compared to other wage and hour class action settlements on behalf of non-

25
26 ³ The Class Members and PAGA Group Members will receive two equal distributions. The first
27 distribution will be within 10 days after the second installment payment by Defendants, which
28 will be made 180 days after the final approval. The second distribution will be within 10 days
after the final installment payment by Defendants, which will be made 900 days after the final
approval. Agreement, ¶ 64.

exempt employees. See, e.g., *Palencia v. 99 Cents Only Stores*, No. 34-2010-00079619 (Sacramento County Super. Ct.) (average net recovery of approximately \$80); *Doty v. Costco Wholesale Corp.*, Case No. CV05-3241 FMC-JWJx (C.D. Cal. May 14, 2007) (average net recovery of approximately \$65); *Lim v. Victoria's Secret Stores, Inc.*, Case No. 04CC00213 (Orange County Super. Ct.) (average net recovery of approximately \$35); *Gomez v. Amadeus Salon, Inc.*, Case No. BC392297 (L.A. Super. Ct.) (average net recovery of approximately \$20). In addition, the highest Individual PAGA Payment to be paid is approximately \$58.35, the lowest Individual PAGA Payment to be paid is \$.46 and the average Individual PAGA Payment to be paid is approximately \$9.37. See Admin Decl., ¶ 15.

Accordingly, Class Counsel submit that the settlement amount and terms are fair, reasonable, and adequate in light of all known facts and circumstances and the potential risks associated with continued litigation set forth above.

3. The Extent of Discovery Completed and the Stage of Proceedings

From the inception of the case, Class Counsel have zealously represented the interests of the Class. Hyun Decl., ¶ 7. Class Counsel thoroughly investigated the Class Members' claims, applicable law, and the potential defenses. Specifically, Class Counsel evaluated the class claims using Defendants' data and documents produced through informal discovery including class members' time and payroll records, and engaged an expert, EconOne, to perform a damage analysis. *Id.* at 8. On February 10, 2022, the Parties attended a full day mediation with experienced employment law mediator and retired judge Hon. Steven R. Denton (Ret.), in an effort to resolve this class and representative action. *Id.* After a full day of arms-length negotiations and bargaining, the Parties did not reach a settlement, but they continued their settlement negotiations.

Because Defendants raised financial hardship, the Parties agreed that Defendants would submit financial information and documents to an independent neutral as part of their mediation settlement efforts. *Id.* ¶ 9. After vetting several neutrals, The Parties retained Karl Ehlert of Matson, Driscoll & Damico, LLP, a forensic accounting firm, to review Defendants' financial records and provide the Parties and their counsel with Mr. Ehlert's opinion as to the amount that

Defendants could afford in settlement. *Id.* Based on Mr. Ehler’s assistance and findings, and months of continued negotiations, the Parties ultimately reached this settlement. *Id.* The Parties negotiated the amount to be paid to the Class for the Labor Code violations and PAGA penalties, including the attorneys’ fees and costs, Class Representative Enhancement Payment, and Settlement Administration Costs. *Id.* ¶ 10. The settlement negotiations have been, at all times, adversarial and non-collusive in nature. *Id.* The settlement before the Court thus came only after the case was fully investigated by counsel and at the stage of the proceeding where the Parties could fully evaluate the strengths and weakens of their cases and the risks.

4. The Experience and Views of Counsel

Plaintiff are represented by Dennis S. Hyun of Hyun Legal, APC and Zack Broslavsky and Jonathan A. Weinman of Broslavsky & Weinman LLP. Class Counsel have been approved as class counsel on a number of prior cases, have litigated numerous other class action cases, and are competent to represent the Class. Hyun Decl., ¶¶ 3-6; Declaration of Zack Broslavsky in Support of Motion for Final Approval (“Broslavsky Decl.”) ¶¶ 3-6; Declaration of Jonathan A. Weinman Declaration of Yami Burns in Support of Motion for Final Approval (“Weinman Decl.”) ¶¶ 3-6.

5. The Presence of a Governmental Participant

The LWDA is a governmental participant in the Settlement. Plaintiffs gave notice of Settlement. Hyun Decl., ¶¶ 21-22, Ex. 7. The Settlement includes payment of \$45,500 (75% of \$60,000) in PAGA penalties to the LWDA. Agreement, ¶ 44. The remaining 25% of the amount allocated to PAGA penalties will be paid to the PAGA Group Members. *Id.*

The Settlement allocates a fair amount to the PAGA claims, especially since the circumstances of the settlement, rather than the amount allocated to PAGA claims, determine whether a PAGA settlement is appropriate. *See Nordstrom Com. Cases*, 186 Cal. App. 4th 576, 589 (2010). Here, weighing the Class Members’ best interest and considering that the non-PAGA claims are the real gravamen of the lawsuit, Plaintiffs found that the \$60,000 allocated to the PAGA claims was sufficient to address those claims. *See Id.* (holding that settlement allocating \$0 to the LWDA was fair, adequate and reasonable); *Rodriguez v. Danell Custom*

1 *Harvesting*, LLC, 293 F. Supp.3d 1117, 1133 (E.D. Cal. 2018) (approving \$10,000 allocation for
2 PAGA of \$1.5 million settlement). Further, Class Counsel has provided notice to the LWDA of
3 the Settlement as required by statute, and the LWDA has not objected to or commented on the
4 proposed Settlement or the amount allocated to PAGA penalties. Hyun Decl., ¶ 21.

5 **6. The Reaction of Class Members**

6 A court may properly infer that a class action settlement is fair, adequate and reasonable
7 when few class members object to or opt out of it. *Lealao v. Beneficial California, Inc.*, 82 Cal.
8 App. 4th 19, 51 (2000). Here, 2,197 Participating Class Members will receive the benefits of the
9 entire Net Settlement Amount (estimated as \$259,624.23), since no funds will revert to
10 Defendants. *See* Admin Decl. ¶ 13; Agreement ¶ 38. In response to the Notice Packet, which
11 included their estimated settlement shares, no Class Members objected to the Settlement. Admin
12 Decl., ¶ 9.

13 Accordingly, the Class Members' positive reaction to the Settlement supports the
14 conclusion that the Settlement is fair, adequate and reasonable.

15 **III. THE NOTICE PROCEDURE SATISFIES DUE PROCESS REQUIREMENTS**

16 The Court approved the method of providing notice to Class Members when it granted
17 preliminary approval of the Settlement. After conducting a search utilizing the National Change
18 of Address Database of the U.S. Postal Service, Phoenix mailed the Notice Packet (in English
19 and Spanish) to all Class Members on February 3, 2025. Admin Decl., ¶ 5. Ex. A. The Notice
20 Packet advised Class Members and PAGA Group Members of (1) the Settlement terms, (2) the
21 right of Class Members to participate in, opt out of, or object to the Settlement, and the right of
22 Class Members and PAGA Group Members to dispute the number of Workweeks/pay periods,
23 (3) the methods and deadlines by which to perform any of these acts, (4) the location and date of
24 the Final Approval Hearing and the methods by which a Class Member could be heard; and (5)
25 each Class Member's and PAGA Group Member's individualized information used to calculate
26 his or her share of the Settlement and how it would be calculated, and the estimated amount of
27 his or her individual settlement payment. Admin Decl., Ex. A.

28 After the Notice Packet was mailed, Phoenix received 13 Notice Packets which were

1 returned as undeliverable. Admin Decl., ¶ 6. After a skip trace, 11 Notice Packets were re-mailed
2 to updated addresses and only 2 Notice Packets remain undeliverable. *Id.* ¶¶ 6-7. This mailing
3 provided the best practicable means of notice to the Class Members. *See Phillips Petroleum Co.*
4 *v. Shutts*, 472 U.S. 797, 811-12 (1985); *Eisen v. Carlisle & Jacquelin*, 417 U.S. 156, 174-76
5 (1974) (individual notice must be sent to all class members who can be identified through
6 reasonable efforts); *Mullane v. Central Hanover Bank & Trust Co.*, 339 U.S. 306, 314 (1950)
7 (best practicable notice is that which is “reasonably calculated, under all the circumstances, to
8 apprise interested parties of the pendency of the action and afford them an opportunity to present
9 their objections”). The Class Members and PAGA Group Members were given 60 days to
10 respond to the Notice Packet. Admin Decl., ¶¶ 8-10. A claim form was not required for Class
11 Members to receive their share of the Settlement. Admin Decl., Ex. A. Accordingly, the notice
12 procedure satisfied due process.

13 As noted above, Phoenix has received zero objections and zero requests for exclusion, as
14 well as zero disputes of workweeks/pay periods. Admin Decl., ¶¶ 8-11.

15 **IV. THE REQUESTED ATTORNEYS’ FEES AND COSTS SHOULD BE APPROVED** 16 **BY THE COURT**

17 California courts recognize two standard methods for calculating attorney fee awards in
18 approving class action settlements. The more prevalent “percentage of recovery” (also known as
19 the “common fund”) method calculates attorneys’ fees based on a percentage of the common
20 benefit bestowed upon the class. The “lodestar-plus-multiplier” method uses class counsel’s
21 “lodestar” as a basis – determined by multiplying the hours counsel expended by their hourly
22 rates –which the Court may then enhance by a multiplier. *See Laffitte v. Robert Half Int’l, Inc.*, 1
23 Cal. 5th 480, 489 (2016) (recognizing both the “percentage of recovery” and
24 “lodestar/multiplier” methods). Class Counsel seeks an award of attorneys’ fees in the amount
25 of \$200,000.00, or one-third of the Maximum Settlement Amount. Class Counsel’s fee request is
26 reasonable under either of these methods, as explained below.

27 ///

1 **A. The Requested Fee Award Calculated as a Percentage of the Common Fund**
2 **is Fair and Reasonable**

3 Both California and federal courts have recognized that an appropriate method for
4 awarding attorneys' fees in class actions is to award a percentage of the "common fund" created
5 as a result of the settlement. *Wershba*, 91 Cal.App.4th at 254. The common fund theory is
6 grounded on the historic power of equity to permit the trustee of a fund for the benefit of others
7 in addition to himself, to recover his costs, including his attorneys' fees, from the fund or
8 property itself or directly from the other parties enjoying the benefit. *Serrano v. Priest*, 20 Cal.3d
9 25, 35 (1977). In *Laffitte*, the California Supreme Court held that it is not an abuse of discretion
10 for a trial court to utilize the percentage method for calculating an attorneys' fee award in a
11 common fund case. *See Laffitte*, 1 Cal. 5th at 503; *see also Serrano*, 20 Cal.3d at 35-40; *City and*
12 *County of San Francisco v. Sweet*, 12 Cal. 4th 105, 110 (1995). In so doing, the Court rejected
13 the appellant's arguments against use of the percentage method, pointing out that the method has
14 widespread acceptance in courts throughout the country. *Laffitte*, 1 Cal. 5th at 485-486. The
15 Court held "when class action litigation establishes a monetary fund for the benefit of the class
16 members, and the trial court in its equitable powers awards class counsel a fee out of that fund,
17 the court may determine the amount of a reasonable fee by choosing an appropriate percentage
18 of the fund created." *Id.* at 503. Explaining that the percentage method "is a valuable tool" for
19 trial courts to calculate attorneys' fees, the Court extolled "[t]he recognized advantages" of the
20 method, such as "ease of calculation, alignment of incentives between counsel and the class, a
21 better approximation of market conditions in a contingency case, and the encouragement it
22 provides counsel to seek an early settlement and avoid unnecessarily prolonging the litigation."
23 *Id.* (citations omitted).

24 In applying the common fund doctrine, California courts routinely award attorneys' fees
25 equaling one-third of the common fund's total potential value. *See, e.g., Laffitte v. Robert Half*
26 *Int'l, Inc.*, 231 Cal. App. 4th 860, 878 (2014) ("trial court's use of a percentage of 33 1/3 percent
27 of the common fund is consistent with [] awards in other class action lawsuits" and "studies
28 show that . . . fee awards in class actions average around one-third of the recovery"), *aff'd by*

1 *Laffitte*, 1 Cal. 5th at 489; *Chavez v. Netflix, Inc.*, 162 Cal. App. 4th 43, 66, n.11 (2008)
2 (“Empirical studies show that, regardless of whether the percentage method or the lodestar
3 method is used, fee awards in class actions average around one-third of the recovery”);
4 Eisenberg & Miller, Attorney Fees in Class Action Settlements: An Empirical Study, J. of
5 Empirical Legal Studies, Vol. 1, Issue 1, 27-78, March 2004, at 35 (independent studies of class
6 action litigation nationwide conclude that a one-third fee is consistent with market rates). Thirty-
7 three percent of the common fund is also reasonable because it best reflects the market rate for
8 contingency fees. See *Lealao*, 82 Cal. App. 4th at 47 (“attorneys providing the essential
9 enforcement services must be provided incentives roughly comparable to those negotiated in the
10 private bargaining that takes place in the legal marketplace”). Fees representing one-third of the
11 recovery reflect the rate negotiated in “typical contingency fee agreements [which] provide that
12 class counsel will recover 33% if the case is resolved before trial and 40% if the case is tried.”
13 *Fernandez v. Victoria Secret Stores LLC*, 2008 U.S. Dist. LEXIS 123546, *55-57 (C.D. Cal. July
14 21, 2008) (citing an academic study collecting contingency fee agreements and finding that a fee
15 award constituting 34% of the fund is reasonable on that basis). Because the negotiated fee
16 structure reflects the marketplace, it is reasonable and should be approved.

17 Here, Class Counsel zealously litigated and negotiated this matter, making the entire Net
18 Settlement Amount available to Class Members with no reversion to Defendants, and
19 Defendants’ payment of employer-side taxes separate from the Maximum Settlement Amount.
20 Despite Defendants’ financial distress, Class Members are receiving significant recovery,
21 averaging approximately \$118.17 each, with the highest payout reaching \$954.09, and another
22 \$60,000 has been allocated to PAGA claims. Admin Decl., ¶¶ 13-15. In short, the percentage
23 of fees sought by Class Counsel is in conformity with awards in similar cases in California and is
24 reasonable for the benefit obtained in this case.

25 **B. A Lodestar Cross-check Shows the Requested Fee is Fair and Reasonable**

26 Despite the widely recognized limitations of the so-called lodestar method⁴, California

27 ⁴ It has been recognized that, in practice, the lodestar method is difficult to apply, time-
28 consuming to administer, inconsistent in result, and capable of manipulation. The lodestar also

1 and federal courts acknowledge the utility of a lodestar “cross-check” for common fund awards.
2 *Lealao*, 82 Cal. App. 4th at 46-47. In *Laffitte*, the Court permitted use of a “lodestar cross
3 check,” by which the trial court would first select a percentage of the common fund for the fee
4 award, and then verify that the percentage chosen is fair and reasonable in light of the hours
5 attorneys spent working on the case. *Laffitte*, 1 Cal. 5th at 504. While some “multiplier” would
6 be expected, the multiplier should be “evaluated for reasonableness;” “rough parity” between the
7 lodestar and the percentage-based recovery would make sense. *Id.* at 496. The Court explained
8 that use of the lodestar cross-check represents “a blending of the two fee calculation methods”
9 (percentage and lodestar), where “one method is used to confirm or question the reasonableness
10 of the other's result.” *Id.* at 497. The Court in *Laffitte*, however, did not require a lodestar cross
11 check, and explained that courts “retain the discretion to forgo a lodestar cross-check and use
12 other means to evaluate the reasonableness of a requested percentage fee.” *Id.* at 505.

13 California’s lodestar/multiplier method is a two-step fee calculation method under which
14 the Court first determines a lodestar value for the fees by multiplying the time reasonably spent
15 by the plaintiffs’ counsel on the case by a reasonable hourly rate. *In re Consumer Privacy Cases*,
16 175 Cal. App. 4th 545, 556-557 (2014). The starting point in determining the appropriate hourly
17 fee is to discern the prevailing rate for similar work in the pertinent geographic region. *PLCM*
18 *Group v. Drexler*, 22 Cal. 4th 1084, 1096-97 (2000) (using prevailing hourly rate in community
19 for comparable legal services even though party used in-house counsel); *see also* Herr, *Manual*
20 *for Complex Litigation*, § 14.122 (1984) (“reasonable fees . . . are to be calculated according to
21 the prevailing market rates in the relevant community.”). The Court has discretion to apply the
22 rate currently charged by the attorneys at the time the approval is sought to compensate for a
23 contingent risk of nonpayment or a lengthy delay in receiving payment. *See Missouri v. Jenkins*,
24 491 U.S. 274, 284 (1989) (district court may adjust an attorney fee ‘for delay in payment . . . by
25 the application of current rather than historic hourly rates or otherwise”).

26 Courts are liberal in the evidence required to prove an attorney’s hours. Detailed time
27
28 creates inherent incentive to prolong the litigation until enough hours are accrued. Herr, David
F., *Manual for Complex Litigation*, § 14.121 (1988).

records are not required. An attorney’s testimony alone may suffice: “Testimony of an attorney as to the number of hours worked on a particular case is sufficient evidence to support an award of attorney fees, even in the absence of detailed time records.” *Martino v. Denevi*, 182 Cal. App. 3d 553, 559 (1986). Reasonable hours include, in addition to time spent during litigation, the time spent before the action is filed, including time spent interviewing the clients, investigating the facts and the law, and preparing the initial pleadings. *New York Gaslight Club, Inc. v. Carey*, 447 U.S. 54, 62 (1980). Further, the fee award should include fees incurred to establish and defend the attorneys’ fee claim. *Serrano v. Unruh*, 32 Cal. 3d 621, 639 (1982) [*Serrano IV*].

With respect to Class Counsel’s lodestar, to date, 386.9 hours have been expended by Class Counsel in this matter as of the date of this filing. Hyun Decl., ¶ 18, Ex. 2; Broslavsky Decl., ¶ 8, Ex. 1; Weinman Decl., 8, Ex 1. Mr. Hyun requests an hourly rate of \$850.00 per hour, which has been approved by other courts. Hyun Decl., ¶ 19. Messrs. Broslavsky and Weinman request an hourly rate of \$700. Broslavsky Decl., ¶ 9; Weinman Decl., ¶ 9.

Class Counsel dedicated significant resources to this case and divided the work so that tasks are accomplished efficiently. Hyun. Decl., ¶ 17. Multiplying the total hours billed by Class Counsel to the litigation of this case by their reasonable hourly rates yields a lodestar of \$300,125. Hyun Decl., ¶ 19, Ex. 2; Broslavsky Decl., ¶ 9, Ex. 1; Weinman Decl. ¶ 9, Ex. 1. As such, Class Counsel does not need a multiplier, and is asking for fees significantly less than the lodestar. Accordingly, the requested fee award is fair and reasonable, and should be awarded in its entirety.⁵

C. The Requested Cost Award is Reasonable

The Settlement Agreement allows Class Counsel to seek reimbursement of litigation costs in the amount of up to \$50,000. Since Class Counsel’s actual litigation costs are only \$29,375.77, they only seek reimbursement of this amount. Hyun Decl., ¶ 20, Exs. 3-6; Broslavsky Decl., ¶ 10, Exs. 2-5; *see also* Alba Conte, *Attorney Fee Awards* § 2:08 at 50-51

⁵ Class Counsel are to be paid 40% of the attorneys’ fees within 10 days after the second installment payment by Defendants (180 days after the final approval) and the remainder within 10 days after the final installment payment by Defendants (900 days after the final approval). Agreement, ¶ 42.

1 (“The prevailing view is that expenses are awarded in addition to the fee percentage.”). All of the
2 costs were reasonable and necessary for the prosecution and investigation of this case. *See id.*;
3 Agreement, ¶ 42.

4 **V. THE CLASS REPRESENTATIVE ENHANCEMENT IS REASONABLE**

5 Plaintiffs seek an enhancement award for accepting the responsibilities of representing
6 the interests of all Class Members and assuming the risks and potential costs that were not borne
7 by any other Class Members. A named plaintiff is eligible for payment that reasonably
8 compensates him or her for undertaking and fulfilling a fiduciary duty to represent absent class
9 members. *Cellphone Termination Fee Cases*, 186 Cal. App. 4th 1380, 1393 (2010); *Bell v.*
10 *Farmers Ins. Exch.*, 115 Cal. App. 4th 715, 726 (2004). “[T]he rationale for making
11 enhancement or incentive awards to named plaintiffs is that they should be compensated for the
12 expense or risk they have incurred in conferring a benefit on other members of the class.” *Clark*
13 *v. American Residential Services LLC*, 175 Cal. App. 4th 785 (2009). By actively pursuing this
14 action, Plaintiffs have furthered the California public policy goal of enforcing California’s wage
15 and hour laws. *See Sav-On Drug Stores*, 34 Cal. 4th at 340. Here, the requested awards are
16 appropriate and reasonable in light of the initiation and continuation of the action, the work
17 performed, and risks for payment of Defendants’ costs in the event of an unsuccessful outcome.

18 The Class Representatives in this case spent time with Class Counsel on a number of
19 occasions to discuss the case, including providing substantive information regarding Defendants’
20 practices, gathered documents related to their own claims and the claims of the Class, and
21 communicated with other Class Members to obtain evidence relating to the claims and witness
22 statements. Declaration of Raeign Velasquez in Support of Plaintiffs’ Motion for Final Approval
23 (“Velasquez Decl.”) ¶¶ 3-4; Declaration of Mikayla Asevo in Support of Plaintiffs’ Motion for
24 Final Approval (“Asevo Decl.”) ¶¶ 3-4; Declaration of Eric Rivas in Support of Plaintiffs’
25 Motion for Final Approval (“Rivas Decl.”) ¶¶ 3-4. Each Plaintiff estimates that they have spent
26 approximately 35-40 hours on this case. *Id.*

27 In addition to the invaluable services the Class Representatives provided, they assumed
28 professional and monetary risks. Plaintiffs could have possibly faced paying the costs of

Defendants had Plaintiffs not prevailed in this action. Velasquez Decl., ¶ 8; Asevo Decl., ¶ 8; Rivas Decl., ¶ 8. Moreover, because the lawsuit is a public record, Plaintiffs' future employment prospects could be negatively impacted. *Id.* Given the risks Plaintiffs faced from stepping forward for their fellow employees, they should be adequately compensated for their role in helping to obtain this Settlement.

Additionally, Class Members did not object to the amount of additional compensation sought by Plaintiffs, which combined represents only 3.75% of the \$600,000 Maximum Settlement Amount. As such, the award is reasonable in light of the substantial benefits Plaintiffs conferred upon the Class Members.⁶

VI. THE SETTLEMENT ADMINISTRATION COSTS ARE REASONABLE

The Parties mutually selected Phoenix as the Settlement Administrator, and the Court approved this choice at preliminary approval. *See* Preliminary Approval Order. Phoenix was responsible for updating Class Members' mailing addresses, preparing, printing and mailing the Notice Packets in English and Spanish, tracking any exclusions and objections by Class Members, providing weekly status reports, responding to any inquiries from counsel and Class Members, and submitting a declaration regarding its duties and work performed administering the Settlement. *See* generally Admin Decl. After the Court grants final approval, Phoenix will be responsible for calculating and mailing Individual Settlement Payments and PAGA settlement payments, distributing other payments as ordered by the Court, and performing other tasks as agreed to by the Parties or ordered by the Court. *See* Admin Decl., ¶ 2. The \$28,500 in administration costs match the latest quote by the Administrator submitted during the briefing on preliminary approval. *See* Supplemental Declaration of Dennis. S. Hyun in Support of Plaintiffs' Motion for Preliminary Approval, Ex. F.

VII. CONCLUSION

Based on the foregoing, Plaintiffs requests that this Court grant final approval of the

⁶ Class Representatives are to be paid in conjunction with Class Members, receiving half the amount within 10 days after the second installment payment by Defendants (180 days after the final approval) and half the amount after the final installment payment by Defendants (900 days after the final approval.) Agreement, ¶ 43.

1 Settlement, award Class Counsel's attorneys' fees in the amount of \$200,000 and litigation costs
2 in the amount of \$29,375.77, award the Class Representative Enhancement to Plaintiffs in the
3 amount of \$7,500 each, and award Phoenix its Settlement Administration costs in the amount of
4 \$28,500.

5
6
7 Dated: April 13, 2025

HYUN LEGAL, APC

8 By: 
9 Dennis S. Hyun
10 Attorneys for Plaintiffs and the Class
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