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SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF ORANGE

MANUEL FRANCO and ALFONSO
GUZMAN, on behalf of themselves, on
behalf of all persons similarly situated, and
on behalf of the State of California as a
private attorney general,

Plaintiffs,

vs.

STATES LOGISTICS SERVICES, INC., a
California Corporation; and DOES 1
through 50, inclusive,

Defendants.

CASE No. **30-2022-01239095-CU-OE-CXC**

**MEMORANDUM OF POINTS AND
AUTHORITIES IN SUPPORT OF MOTION FOR
FINAL APPROVAL OF CLASS SETTLEMENT
AND AWARD OF ATTORNEYS' FEES, COSTS
AND SERVICE AWARD**

Hearing Date: July 24, 2025

Hearing Time: 2:00 p.m.

[Hearing scheduled by Order dated March 7, 2025]

Judge: Hon. Layne H. Melzer

Dept.: CX102

Action Filed: January 3, 2022

Trial Date: Not set

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1 **I. INTRODUCTION**

2 The parties to this action have reached a Settlement and the Court preliminarily approved the
3 First Amended Class Action and PAGA Settlement Agreement (the “Agreement”), a true and correct
4 copy of which is attached as Exhibit #2 to the Declaration of Norman Blumenthal (“Blumenthal
5 Decl.”).¹ In accordance with the Order Granting Motion for Preliminary Approval dated March 7, 2025
6 (“Preliminary Approval Order”), the approved Class Notice has been disseminated to the Class.²

7 The purpose of this hearing is to determine whether the proposed settlement of the litigation
8 should be finally approved. Plaintiffs Manuel Franco and Alfonso Guzman (“Plaintiffs”) respectfully
9 submit for final approval, including attorneys’ fees, costs and the service awards, and the proposed entry
10 of the Final Approval Order and Judgment, submitted herewith. The settlement represents an excellent
11 result for the Class and avoids the delays, risks, and costs of further litigation. After disseminating the
12 notice to the members of the Class, there were **no objections and only seven (7) requests for**
13 **exclusion**, which means that nearly the entire Class (99.5%) has elected to participate in the Settlement.
14 Blumenthal Decl. ¶4. This is a positive response from the Class evidencing their collective approval of
15 the settlement. As a result, Plaintiffs respectfully submit that the class settlement should be finally
16 approved for the same reasons that the Court preliminarily approved the settlement as fair, reasonable,
17 and adequate.

18 **II. THE SETTLEMENT BEFORE THE COURT**

19 As consideration for this Settlement, the Gross Settlement Amount to be paid by Defendant
20 States Logistics Services, Inc. (“Defendant”) is One Million One Hundred Forty-Nine Thousand Five
21 Hundred Dollars (\$1,149,500.00) (the “Gross Settlement Amount”). (Agreement at ¶¶ 1.22 and 3.1.)
22 Under the Settlement, the Gross Settlement Amount consists of the following elements: (1) Individual
23 Class Payments; (2) Individual PAGA Payments; (3) the LWDA PAGA Payment; (4) Class Counsel
24 Fees Payment; (5) Class Counsel Litigation Expenses Payment; (6) Class Representative Service

25 _____
26 ¹ Capitalized terms are defined in the Agreement.

27 ² The “Class” is defined as “all individuals who were employed by Defendant in the State of
28 California and classified as a non-exempt employee at any time during the Class Period.” The “Class
Period” is defined as “May 2, 2020 to July 20, 2024..” (Preliminary Approval Order at ¶4.)

1 Payments; and (7) Administration Expenses Payment. (Agreement at ¶ 1.22.) Blumenthal Decl. ¶3(a).
2 The Gross Settlement Amount does not include Defendant's share of payroll taxes. (Agreement at ¶
3 3.1.) The Gross Settlement Amount shall be all-in with no reversion to Defendant. (Agreement at ¶
4 3.1.) Blumenthal Decl. ¶3(b). The following is a table of the key financial terms of the Settlement and
5 the proposed deductions:

6 **\$1,149,500.00** (Gross Settlement Amount)

- 7 - \$20,000.00 (Plaintiffs' proposed service awards not to exceed \$10,000 each)
- 8 - \$45,000.00 (Class Counsel Litigation Expenses Payment - not to exceed amount)
- 9 - \$383,166.67 (Class Counsel Fees Payment - not to exceed 1/3 of settlement)
- 10 - \$25,000.00 (PAGA Payment - 75% to LWDA / 25% to Aggrieved Employees)
- 11 - \$13,950.00 (Administration Expenses Payment)

12 **\$662,383.33** (Net Settlement Amount)

13 The specific details of the Settlement were discussed in the Motion for Preliminary Approval and are
14 set forth again in the Declaration of Blumenthal at ¶¶ 3(c)-3(i).

15 The Settlement is fair, adequate and reasonable to the class and should be finally approved for
16 the same reasons the Court granted preliminary approval of the Settlement, agreeing that the settlement
17 is "fair, adequate, and reasonable." (Preliminary Approval Order at ¶ 1.) In sum, the Settlement valued
18 at \$1,149,500.00 is an excellent result for the Class. This result is particularly favorable in light of the
19 fact that liability and class certification in this case were far from certain in light of the defenses asserted
20 by Defendant. Given the complexities of this case, the defenses asserted, the uncertainty of class
21 certification, along with the uncertainties of proof at trial and appeal, the proposed settlement is fair,
22 reasonable and adequate, and should be finally approved. Blumenthal Decl. ¶3(j).

23 **III. GENERAL STANDARDS APPLICABLE TO JUDICIAL REVIEW AND APPROVAL** 24 **OF CLASS ACTION SETTLEMENTS**

25 Settlements of disputed claims are favored by the courts. *Huens v. Tatum*, 52 Cal. App. 4th 259,
26 265 (1997). In evaluating settlements, the courts have long recognized that compromise is particularly
27 appropriate since such litigation is difficult and notoriously uncertain. *7-Eleven Owners for Fair Fran.*
28 *v. Southland Corp.*, 85 Cal. App. 4th 1135, 1151 (2000) ("[V]oluntary conciliation and settlement are
the preferred means of dispute resolution. This is especially true in complex class action litigation.")

The court must decide whether the proposed settlement falls within the range of reasonable
settlements, taking into account that settlements are compromises between the parties reflecting

1 subjective, unquantifiable judgments concerning the risks and possible outcomes of litigation. *See*
2 *Wershba v. Apple Computer*, 91 Cal. App. 4th 224, 246 (2001) (“The proposed settlement is not to be
3 judged against a hypothetical or speculative measure of what might have been achieved had plaintiffs
4 prevailed at trial.”) In *Wershba*, the Court explained that “the merits of the underlying class claims are
5 not a basis for upsetting the settlement of a class action.” *Id.*; *see also 7-Eleven, supra*, at 1150.

6 In these cases, courts have repeatedly emphasized that there is a strong initial presumption that
7 the compromise is fair and reasonable. *Wershba*, 91 Cal. App. 4th at 245. Courts should not substitute
8 their judgment for that of the parties who negotiated the settlement. *Id.* at 246. The presumption of
9 fairness exists where: (1) investigation and discovery are sufficient to allow counsel and the court to
10 act intelligently; (2) the settlement is reached through arm's-length bargaining; (3) counsel is
11 experienced in similar litigation; and (4) the percentage of objectors is small. *Dunk v. Ford Motor Co.*,
12 48 Cal. App. 4th 1794, 1801 (1996). Here, the facts and circumstances compel the conclusion that the
13 proposed settlement satisfies that standard and the presumption applies.

14 **IV. THE SETTLEMENT IS FAIR, REASONABLE AND ADEQUATE**

15 The Court must determine whether the settlement is fair, adequate, and reasonable. *Dunk v.*
16 *Ford Motor Co.*, 48 Cal.App.4th 1794, 1801 (1996); *see also Officers for Justice v. Civil Service*
17 *Com'n*, 688 F.2d 615, 625 (9th Cir. 1982). The trial court has broad discretion to determine whether
18 the settlement is fair. *Cellphone Termination Fee Cases*, 180 Cal.App.4th 1110, 1117 (2009). “The
19 well-recognized factors that the trial court should consider in evaluating the reasonableness of a class
20 action settlement agreement include 'the strength of plaintiffs' case, the risk, expense, complexity and
21 likely duration of further litigation, the risk of maintaining class action status through trial, the amount
22 offered in settlement, the extent of discovery completed and the stage of the proceedings, the experience
23 and views of counsel, the presence of a governmental participant, and the reaction of the class members
24 to the proposed settlement.’” *Kullar v. Foot Locker Retail, Inc.*, 168 Cal.App.4th 116, 128 (2008)
25 (internal citations omitted); *see also Munoz v. BCI Coca-Cola Bottling Co. of L. A.*, 186 Cal.App.4th
26 399, 408 (2010).

27 The list of factors is not exhaustive and should be tailored to each case. *Dunk, supra*, at 1801.
28

1 Due regard should be given to what is otherwise a private consensual agreement between the parties.
2 *Id.* The inquiry “must be limited to the extent necessary to reach a reasoned judgment that the
3 agreement is not the product of fraud or overreaching by, or collusion between, the negotiating parties,
4 and that the settlement, taken as a whole, is fair, reasonable and adequate to all concerned.” *Id.*
5 “Ultimately, the [trial] court's determination is nothing more than 'an amalgam of delicate balancing,
6 gross approximations and rough justice.' [Citation omitted.]” *Id.*

7 These factors are analyzed seriatim below, and all support final approval of the class action
8 settlement before this Court, consistent with this Court’s Preliminary Approval Order.

9 **A. The Settlement Satisfies the California Test for Fairness**

10 1. The Investigation and Analysis of Documents are Sufficient to Allow Counsel
11 and the Court to Act Intelligently

12 Over the course of almost three years of litigation, the Parties engaged in the investigation of
13 the claims, including the production of documents, class data, and other information, allowing for the
14 full and complete analysis of liabilities and defenses to the claims in this Action. The procedural history
15 and investigation performed was detailed at length in support of the motion for preliminary approval.
16 The Settlement was the product of one arms-length mediation and contentious negotiations, both during
17 and after mediation, presided over by mediator Hon. William C. Pate (Ret.). The details of the litigation
18 are set forth in the Blumenthal Decl. at ¶¶ 6(a)-6(g).

19 2. The Settlement was Reached Through Arm’s Length Bargaining

20 This settlement is the result of extensive and hard-fought litigation as well as negotiations before
21 an experienced and well-respected mediator. Defendant has expressly denied and continues to deny any
22 wrongdoing or legal liability arising out of the conduct alleged in the Action. Plaintiffs and Class
23 Counsel have determined that it is desirable and beneficial to the Class to resolve the Released Class
24 Claims of the Class in accordance with this Settlement, based upon the experience of Class Counsel
25 who has previously litigated similar claims against other employers. Blumenthal Decl. ¶7(a).

26 The Parties attended an arms-length mediation session with Hon. William C. Pate (Ret.), a
27 respected jurist and experienced mediator of wage and hour class actions, in order to reach this
28 Settlement. In preparation for the mediation, Defendant provided Plaintiffs and Class Counsel with

1 payroll and employment data and other information regarding the Class Members, various internal
2 documents, and other compensation and employment-related materials. Class Counsel analyzed the
3 data with the assistance of damages expert Berger Consulting and prepared and submitted a mediation
4 brief to the mediator. Following the all-day mediation session, with after arms' length negotiations both
5 during and after the mediation, the Parties agreed to this Settlement based upon a mediator's proposal.
6 Blumenthal Decl. ¶7(b).

7 The fact that the settlement was negotiated with the assistance of an experienced mediator
8 supports approval. *Alberto v. GMRI, Inc.*, 252 F.R.D. 652, 666 (E.D. Cal. Jun 24, 2008); *Glass v. UBS*
9 *Fin. Servs.*, 2007 U.S. Dist. LEXIS 8476; 15 Wage & Hour Cas. 2d (BNA) 1330, at *15 (N.D. Cal.
10 2007) ("The settlement was negotiated and approved by experienced counsel on both sides of the
11 litigation, with the assistance of a well-respected mediator with substantial experience in employment
12 litigation[, and] this factor supports approval of the settlement").

13 From June 2024 to September 2024, the original settlement agreement and exhibits thereto were
14 finalized and executed. On November 8, 2024, Plaintiffs moved for preliminary approval of the
15 settlement. The November 8, 2024 hearing was continued to January 17, 2025 and, in advance of the
16 January 17, 2025 hearing, the Court issued a Tentative Ruling that requested the Parties address certain
17 issues. The Parties subsequently amended and executed the Agreement, and Plaintiffs filed a
18 supplemental declaration to address the Courts' concerns. On March 7, 2025, the Court issued its Order
19 granting preliminary approved of the settlement as fair, adequate, and reasonable to the Class.
20 Blumenthal Decl. ¶7(c).

21 3. Class Counsel is Experienced in Similar Litigation

22 Class Counsel in this matter has extensive class action experience and has represented thousands
23 of persons in class actions including employment litigation, wage and hour class actions, and complex
24 litigation. Class Counsel has previously litigated wage and hour class actions involving employees and
25 claims similar to this case and have been approved as experienced class counsel during contested
26 motions in state and federal courts throughout California. The experience of counsel and class action
27 cases managed and settled by the Class Counsel in this action is provided to the Court in the Blumenthal
28 Decl. at Exhibit #1; *see also* Declaration of Nazo Koulloukian ["Koulloukian Decl."] at ¶¶ 15-20 and

1 Declaration of Sahag Majarian [“Majarian Decl.”] at ¶¶ 2-4.) Class Counsel have participated in every
2 aspect of the settlement discussions and have concluded the settlement is fair, adequate and reasonable
3 and in the best interests of the Class. Blumenthal Decl. ¶ 3(j).

4 4. There Are No Objections and Few Requests for Exclusion

5 The reaction of the Class unequivocally supports approval of the Settlement. On April 7, 2025,
6 the Administrator mailed the Court-approved Class Notice to the Class Members, which provided each
7 class member with the terms of the Settlement, including notice of the claims at issue and the financial
8 terms of the settlement, including the attorneys' fees, costs, and service award that were being sought,
9 how individual settlement awards would be calculated, and the specific, estimated payment amount to
10 that individual. See Declaration of Makenna Snow (“Snow Decl.”) ¶ 8, Exh. A. In disseminating the
11 notice, the Administrator followed the notice procedures authorized by the Court in its Preliminary
12 Approval Order. Significantly, there have been no objections and only seven (7) requests for exclusion.
13 Snow Decl. ¶¶ 12-13. As such, nearly the entire Class (99.56%) will participate in the Settlement and
14 will be sent a settlement check. See Snow Decl. at ¶¶ 15-17; Blumenthal Decl. ¶4.

15 The absence of any objector strongly supports the fairness, reasonableness and adequacy of the
16 Settlement. See *In re Austrian & German Bank Holocaust Litigation*, 80 F.Supp.2d 164, 175 (S.D.N.Y.
17 2000) (“If only a small number of objections are received, that fact can be viewed as indicative of the
18 adequacy of the settlement.”); *Stoetznner v. U.S. Steel Corp.*, 897 F.2d 115, 118-119 (3d. Cir. 1990) (29
19 objections out of 281 member class “strongly favors settlement”); *Laskey v. Int’l Union*, 638 F.2d 954
20 (6th Cir. 1981) (The fact that 7 out of 109 class members objected to the proposed settlement should
21 be considered when determining fairness of settlement). Here, where there are no objections, the
22 approval of the class is evident.

23 5. The Strength of Plaintiffs’ Case

24 The Action generally alleges that Plaintiffs and other Class Members were not properly paid all
25 overtime wages for hours worked and at the correct rate of pay, were not provided meal and rest periods
26 or paid premiums at the correct rate of pay in lieu thereof, were not timely paid earned wages, were not
27 provided reimbursement for required expenses, were not provided accurate itemized wage statements,
28 were not paid all wages at the time of termination, and were not provided safe and healthful working

1 conditions. The Action seeks unpaid wages, penalties, attorney fees, litigation costs, and any other
2 equitable or legal relief allegedly due and owing to Plaintiffs and the other Class Members by virtue of
3 the foregoing claims. Blumenthal Decl. ¶5.

4 Where both sides face significant uncertainty, the attendant risks favor settlement. *Hanlon v.*
5 *Chrysler Corp.*, 150 F.3d 1011, 1026 (9th Cir. 1998). Here, a number of defenses asserted by Defendant
6 present serious threats to the claims of the Plaintiffs and the other Class Members. Defendant asserted
7 that Defendant's practices complied with all applicable Labor laws. Defendant argued that Class
8 Members were paid for all time worked and that all work time was properly recorded. Defendant
9 argued that there was no miscalculation of the regular rate. Defendant contended that its meal and rest
10 period policies fully complied with California law and Defendant did not fail to provide the opportunity
11 for legally required meal and rest breaks. Defendant contended that there was no failure to pay for
12 business expenses, and that any cell phone usage was merely convenient and voluntary such that
13 reimbursement was not legally required. Finally, Defendant could argue that the Supreme Court
14 decision in *Brinker v. Superior Court*, 53 Cal. 4th 1004 (2012), weakened Plaintiffs' claims, on liability,
15 value, and class certifiability as to the meal and rest period claims. Defendant also argues that based
16 on its facially lawful practices, Defendant acted in good faith and without willfulness, which if accepted
17 would negate the claims for waiting time penalties and/or inaccurate wage statements. See e.g. *Naranjo*
18 *v. Spectrum Sec. Servs., Inc.*, 15 Cal. 5th 1056, 1065 (2024) ("if an employer reasonably and in good
19 faith believed it was providing a complete and accurate wage statement in compliance with the
20 requirements of section 226, then it has not knowingly and intentionally failed to comply with the wage
21 statement law.") If successful, Defendant's defenses could eliminate or substantially reduce any
22 recovery to the Class. While Plaintiffs believe that these defenses could be overcome, Defendant
23 maintains these defenses have merit and therefore present a serious risk to recovery by the Class.
24 Blumenthal Decl. ¶8(a).

25 In a similar wage and hour case, the federal district court in *Hopson v. Hanesbrands Inc.*, 2009
26 U.S. Dist. LEXIS 33900 (N.D. Cal. 2009), explained in approving an overtime class action settlement:

27 Plaintiffs may have a strong case, but the risks inherent in continued litigation are great.
28 Defendants strongly deny liability for Plaintiffs' principal claim... [...T]he gross
settlement amount and the Class Members' expected net recovery, after fees and other

costs are deducted, appear to be a reasonable compromise, in light of the risks of litigation.

2009 U.S. Dist. LEXIS 33900 at *19-20 (N.D. Cal. 2009); *see also Browning v. Yahoo!, Inc.*, 2007 U.S. Dist. LEXIS 86266, at *30 (N.D. Cal. 2007) (“In considering the strength of Plaintiff’s case, legal uncertainties at the time of settlement - particularly those which go to fundamental legal issues - favor approval.”).

As recognized in a federal decision approving settlement of an overtime wage class action:

The potential complexity and possible duration of trial also weigh in favor of granting final approval. Plaintiffs acknowledge the difficulties of proving damages, recognize the uncertainty of outcome, and believe defendant would appeal in the event of adverse judgment. A post-judgment appeal would require many years to resolve and delay payment to class members. Plaintiffs believe the benefits of a guaranteed recovery today outweigh an uncertain future result. Accordingly, plaintiffs argue, and the Court agrees, the actual recovery confers substantial benefits on the class that outweigh the potential recovery through full adjudication.

Barcia v. Contain-A-Way, Inc., 2009 U.S. Dist. LEXIS 17118, *9 (S.D. Cal. 2009); *see also Louie v. Kaiser Foundation Health Plan, Inc.*, 2008 U.S. Dist. LEXIS 78314, *14 (S.D. Cal. 2008).

There was also a significant risk that, if the Action was not settled, Plaintiffs would be unable to obtain a certified class and maintain the certified class through trial, and thereby not recover on behalf of any other employees. At the time of the mediation, Defendant forcefully opposed the propriety of class certification, arguing that individual issues precluded class certification. Further, as demonstrated by the California Supreme Court decision in *Duran v. U.S. Bank National Assn.*, 59 Cal. 4th 1 (2014), there are significant hurdles to overcome for a class-wide recovery even where the class has been certified. While other cases have approved class certification in wage and hour claims, class certification in this action was hotly disputed and the maintenance of a certified class through trial was by no means a foregone conclusion. Blumenthal Decl. ¶8(b).

In sum, the Settlement is a fair and reasonable result, and provides the Class with a significant recovery, particularly when viewed in light of the fact that the Defendant asserted serious and substantial defenses both to liability and to class certification. The maximum and average class member allocation are \$1,314.50 and \$477.22, respectively. *See* Snow Decl. ¶17. Given the complexities of this case, the defenses, along with the uncertainties of proof and appeal, the proposed Settlement is fair, reasonable and adequate, and should be finally approved. Blumenthal Decl. at ¶8(e).

6. The Risk, Expense, Complexity, and Likely Duration of Further Litigation

As demonstrated by the decision in *Duran*, the complexities and duration of further litigation

1 cannot be overstated. There is little doubt that Defendant would post a bond and appeal in the event
2 of an adverse judgment. A post-judgment appeal by Defendant would have required many more years
3 to resolve, assuming the judgment was affirmed. If the judgment was not affirmed in total, then the case
4 could have dragged on for years after the appeal. The benefits of a guaranteed recovery today outweigh
5 an uncertain result three or more years in the future. Blumenthal Decl. ¶8(c).

6 Plaintiffs and Class Counsel recognize the expense and length of a trial against Defendant
7 through possible appeals which could take at least another two or three years. Class Counsel also have
8 taken into account the uncertain outcome, the risk of litigation, especially in complex actions such as
9 this one. Class Counsel are also mindful of and recognize the inherent problems of proof under, and
10 alleged defenses to, the claims asserted in the Action. Moreover, post-trial motions and appeals would
11 have been inevitable. Costs would have mounted and recovery would have been delayed if not denied,
12 thereby reducing the benefits of an ultimate victory. The Settlement confers substantial benefits upon
13 the Class. Based upon their evaluation, Plaintiffs and Class Counsel have determined that the
14 Settlement set forth in the Agreement is in the best interest of the Class. Blumenthal Decl. ¶8(c).

15 Although Plaintiffs and Class Counsel believe that their case has merit, which Defendant
16 continue to vigorously deny, they recognized the potential risks both sides would face if litigation of
17 the Action continued. As the federal court held in *Glass*, where the parties faced uncertainties similar
18 to those in this litigation:

19 In light of the above-referenced uncertainty in the law, the risk, expense, complexity,
20 and likely duration of further litigation likewise favors the settlement. Regardless of how
21 this Court might have ruled on the merits of the legal issues, the losing party likely
22 would have appealed, and the parties would have faced the expense and uncertainty of
23 litigating an appeal. "The expense and possible duration of the litigation should be
24 considered in evaluating the reasonableness of [a] settlement."

25 *Id.* at *12.

26 7. The Amount Offered in Settlement

27 The Settlement in this case is fair, reasonable and adequate considering Defendant's defenses
28 to Plaintiffs' claims. As set forth in the Declaration of Nordrehaug in support of preliminary approval
which discussed the value of the class claims in detail, the Gross Settlement Amount compares
favorably to the value of the claims. Based upon 1,388 Participating Class Members who collectively

1 worked an estimated 111,363 workweeks, the Gross Settlement Amount provides an average value of
2 \$828 per Class Member and \$10.32 per workweek and, after deductions, the Net Settlement Amount
3 provides an average recovery of \$477.22 per Class Member and a recovery of \$5.94 per workweek.
4 Blumenthal Decl. at ¶8(d).

5 The calculations to compensate for the amount due for the Class at the time of the mediation
6 were calculated by Berger Consulting, Plaintiffs' damage expert. As to the Class whose claims are at
7 issue in this Action, Plaintiffs used the expert to analyze the data and determine the potential unpaid
8 wages for the employees. For the Class, maximum potential damages as calculated by Plaintiffs' expert
9 were calculated to be \$85,218 for the alleged unpaid wages due to rounding, \$161,395 for the alleged
10 unpaid overtime wages, \$3,247,819 for the alleged unpaid wages due to off-the-clock work based upon
11 1 hour per week, \$2,453 for the alleged unpaid overtime due to miscalculation of the regular rate,
12 \$6,417 in alleged underpaid meal premiums and sick pay due to the miscalculation of the regular rate,
13 \$877,072 for alleged meal period damages based upon a 12.4% potential violation rate observed in the
14 time records for shifts worked and after deducting meal premiums already paid by Defendant,
15 \$1,906,795 for alleged rest period damages based upon a 19.6% potential violation rate observed in the
16 time records for rest periods., and \$132,995 for alleged unreimbursed business expenses for personal
17 cell phone usage at \$5 per month. As a result, the total damage valuation was calculated that Defendant
18 was subject to a maximum damage claim in the amount of \$6,420,136. As to potential penalties,
19 Plaintiffs calculated that potential waiting time penalties were a maximum of between \$2,706,529 and
20 \$3,722,905, depending on the predicate violation, and potential wage statement penalties were
21 \$5,032,000.³ Defendant vigorously disputed Plaintiffs' calculations and exposure theories. Blumenthal
22 Decl. ¶8(d).

23
24
25 ³ While Plaintiffs alleged claims for statutory penalties pursuant to Labor Code Sections 203 and
26 226, at mediation Plaintiffs recognized that these claims were subject to additional, separate defenses
27 asserted by Defendant, including, a good faith dispute defense as to whether any premium wages for
28 meal or rest periods or other wages were owed given Defendant's position that Plaintiffs and Class
Members were properly compensated. *See Nordstrom Commission Cases*, 186 Cal. App. 4th 576, 584
(2010) ("There is no willful failure to pay wages if the employer and employee have a good faith dispute
as to whether and when the wages were due.").

Consequently, the Gross Settlement Amount of \$1,149,500.00 represents more than 17.9% of the maximum value of the alleged damages at issue in this case at the time this Settlement was negotiated.⁴ Importantly, the recent decision that good faith belief of compliance by the employer in *Naranjo v. Spectrum Sec. Servs., Inc.*, 15 Cal.5th 1056, 1065 (2024), could completely negate the claims for waiting time and wage statement penalties, even if wages were owed to the Class. The above maximum calculations should then be adjusted in consideration for both the risk of class certification and the risk of establishing class-wide liability on all claims. Given the amount of the settlement as compared to the potential value of claims in this case and the defenses asserted by Defendant, this settlement is fair and reasonable.⁵ Clearly, the goal of this litigation has been met. Blumenthal Decl. ¶8(d).

V. THE REQUESTED ATTORNEYS' FEES, COSTS AND SERVICE AWARD SHOULD BE APPROVED

A. The Attorneys' Fees are Reasonable and Supported by the Percentage of the Fund Method

Class Counsel request a fee award calculated at one-third (1/3) of the total value of the settlement for the successful prosecution and resolution of this action. California state and federal courts have recognized that an appropriate method for determining award of attorneys' fees is based on a percentage of the total value of benefits to class members by the settlement. *Wershba v. Apple Computer, Inc.*, 91 Cal.App.4th 224, 254 (2001); *Serrano v. Priest*, 20 Cal.3d 25, 34 (1977); *Boeing Co.*

⁴ Because the PAGA claim is not a class claim and primarily is paid to the State of California, Plaintiffs did not included the PAGA claim in this discussion of the value of the class claims. The PAGA claim was addressed in the Declaration of Kyle Nordrehaug at ¶33 filed in support of Plaintiffs' Motion for Preliminary Approval..

⁵ See *Glass v. UBS Fin. Servs.*, 2007 U.S. Dist. LEXIS 8476 (N.D. Cal. 2007) (approving a settlement where the settlement amount constituted approximately 25% of the estimated overtime damages for the class); *Stovall-Gusman v. W.W. Granger, Inc.*, 2015 U.S. Dist. LEXIS 78671, at *12 (N.D. Cal. 2015) (granting final approval where "the proposed Total Settlement Amount represents approximately 10% of what class might have been awarded had they succeeded at trial."); *Viceral v. Mistras Grp., Inc.*, 2016 WL 5907869 (N.D. Cal. 2016) (approving wage and hour class action settlement amounting to 8.1% of full value); *Ma v. Covidien Holding, Inc.*, 2014 WL 2472316, (C.D. Cal. 2014) (approving wage and hour class action settlement worth "somewhere between 9% and 18%" of maximum valuation).

1 v. *Van Gemert*, 444 U.S. 472, 478 (1980); *Vincent v. Hughes Air West, Inc.*, 557 F.2d 759, 769 (9th Cir.
2 1997). The purpose of this equitable doctrine is to avoid unjust enrichment to the Class and to “spread
3 litigation costs proportionally among all the beneficiaries so that the active beneficiary does not bear
4 the entire burden alone.” *Vincent*, 557 F.2d at 769.

5 The California Supreme Court has provided guidance regarding the award of attorneys’ fees in
6 wage and hour class action settlements. Under California law, the award of attorneys’ fees in common
7 fund wage and hour class action settlements should start with the percentage method. See *Laffitte v.*
8 *Robert Half Int’l*, 1 Cal. 5th 480, 503 (2016) (“We join the overwhelming majority of federal and state
9 courts in holding that when class action litigation establishes a monetary fund for the benefit of the class
10 members, and the trial court in its equitable powers awards class counsel a fee out of that fund, the court
11 may determine the amount of a reasonable fee by choosing an appropriate percentage of the fund
12 created”). Under the percentage of the fund method, a court’s objective remains to “mimic the market”
13 in fixing a reasonable fee. See *Gaskill v. Gordon*, 160 F.3d 361, 363 (7th Cir. 1998).

14 First, the fee award representing one-third of the fund clearly falls within that range and is
15 consistent with other rulings of other courts and comprehensive surveys of class action settlements and
16 fee awards. Attorneys’ fees awards of one-third of the fund are within the expected range in the market
17 in legal services. See Fitzpatrick, *An Empirical Study of Class Action Settlements and Their Fee Award*,
18 7 J. Empirical Leg. Stud. 811, 833 (2010) (analyzing 444 cases between 2006-2007 and concluding that
19 “[m]ost fee awards were between 25 percent and 35 percent”). In *Laffitte*, the Court expressly approved
20 of a one-third fee award. Such similar awards by other Courts are set forth in the Blumenthal Decl. ¶11.

21 Second, the results delivered by Class Counsel also support the requested percentage of the fund.
22 Here, Plaintiffs and their counsel secured a \$1,149,500.00 settlement for the benefit of the Class, and
23 not one Class Member objected. The Settlement was possible only because Class Counsel was able to
24 convince Defendant that Plaintiffs could potentially prevail on the contested issues regarding liability,
25 maintain class certification, overcome difficulties in proof as to monetary relief and take the case to trial
26 if need be. Blumenthal Decl. ¶10(f). In successfully navigating these hurdles Class Counsel displayed
27 the necessary skills in both wage and hour and class action litigation. Moreover, as discussed above,
28 there were significant risks to the contingent litigation. See *Barbosa v. Cargill Meat Solutions Corp.*,

1 297 F.R.D. 431, 449 (E.D. Cal. 2013) (“**Like this case, where recovery is uncertain, an award of**
2 **one-third of the common fund as attorneys' fees has been found to be appropriate.**”)

3 Third, “the response of the class members to attorneys’ fee notice, though not decisive, is
4 relevant to the ... reasonable determination” regarding fees. *Swedish Hospital v. Shalala*, 1 F.3d 1261,
5 1272 (D.C. Cir. 1993). A positive response rate tends to suggest that the court’s “approximation of the
6 market” for fees is well supported. *Id.* at 1269. Here, the Class Notice specifically notified the Class that
7 Class Counsel would be seeking a one-third fee award. Again, there were no objections.

8 Fourth, it is recognized that one of the primary factors justifying an enhanced attorney’s fees
9 reward is the attendant risks inherent in the litigation. Here, it is clear that a settlement fund of
10 \$1,149,500.00 has been created. For Class Counsel, the fees here were wholly contingent in nature and
11 the case presented far more risk than the usual contingent fee case. Among the risks was the cost
12 inherent in class action litigation, as well as a long battle with a corporate Defendant who had retained
13 a premier and highly experienced defense firm. **Counsel retained on a contingency fee basis, whether**
14 **in private matters or in class action litigation, is entitled to a premium above their hourly rate in**
15 **order to compensate for both the risks and the delay in payment.** *See e.g. Stanger v. China Elec.*
16 *Motor, Inc.*, 812 F.3d 734, 741 (9th Cir. 2016) (courts "must" apply a risk enhancement); *Stetson v.*
17 *Grissom*, 821 F.3d 1157, 1166 (9th Cir. 2016) (abuse of discretion not to apply risk multiplier).

18 Fifth, the requested fee award is supported by the lodestar cross-check. The reasonableness of
19 the requested attorneys’ fee of one-third equal to \$383,166.67 is also established by reference to Class
20 Counsel’s lodestar in this matter.⁶ **The contemporaneous billing records for Class Counsel evidence**
21 **that through June 27, 2025, Class Counsel’s total combined lodestar is \$374,135, with significant**
22 **additional fees still to be incurred to complete final approval and the settlement process.**
23 Blumenthal Decl. at ¶12 and Exhibit #3 [\$228,280.00]; Koulloukian Decl. at ¶¶ 22-24 and Exhibits 2-3
24 [lodestar of \$124,010.00]; Majarian Decl. at ¶ 9 and Exhibit A [lodestar of \$25,845.00]. The requested
25 fee award is therefore currently equivalent to Class Counsel’s total loadstar with a negligible multiplier

26 _____
27 ⁶Class Counsel’s fee aware shall be allocated among Class Counsel as follows: 50% to Blumenthal
28 Nordrehaug Bhowmik De Blouw LLP, 25% to Koul Law Firm, and 25% to Law Offices of Sahag Majarian, II.

1 cross-check of 1.02, and there will be additional lodestar incurred by Class Counsel to complete the
2 settlement process and manage the settlement distribution and reports. Blumenthal Decl. at ¶12. Such
3 a cross-check is below the range of positive multipliers approved in other cases such as *Laffitte* and
4 *Vizcaino v. Microsoft Corp.*, 290 F.3d 1043, 1051 (9th Cir. 2002).⁷

5 For such reasons, Class Counsel's request for attorneys' fees in the amount of one-third of the
6 common fund is fair and reasonable, and should be approved.

7 **B. The Reimbursement of Litigation Expenses**

8 The Agreement provides at paragraph 3.2(b), that Class Counsel may seek a "Class Counsel
9 Litigation Expenses Payment of not more than \$45,000." Class Counsel requests reimbursement for
10 incurred litigation expenses and costs in the amount of \$30,942.18. Class Counsel have incurred
11 combined expenses in the amount of \$30,942.18 based upon counsel's billing records, which is less than
12 the "not to exceed" amount of \$45,000. These litigation expenses include filing fees, mediation
13 expenses, expert expenses (Berger Consulting, J.S. Held, and Mark O. Falkenhagen), transcript costs,
14 attorney service charges (Knox, OneLegal), research charges (LexisNexis), document purchases from
15 Court, and appearance fees, all of which are costs normally billed to and paid by the client.⁸ The details
16 of the litigation expenses incurred are set forth the Blumenthal Decl. at ¶13 and Exhibits #3 and 4
17 [expenses of \$29,334.34]; Koulloukian Decl. at ¶ 21 and Exhibit 1 [expenses of \$3,360.71]; Majarian
18 Decl. at ¶ 10 and Exhibit B [expenses of \$2,571.01]. These costs were reasonably incurred in the
19

20
21 ⁷ See *Laffitte, supra*, 1 Cal.5th at 487 (approving 1/3 fee award with 2.13 multiplier); *Vizcaino*
22 *supra*, at 1051 (3.65 multiplier approved); *Pellegrino v. Robert Half Intern., Inc.*, 182 Cal.App.4th 278
23 (2010) (in class actions reasonable multipliers of 2.0 to 4.0 are often applied); *Wershba*, 91 Cal. App.
24 4th at 255 ("multipliers can range from 2 to 4 or even higher."); *In re Sutter Health Uninsured Pricing*
25 *Cases*, 171 Cal.App.4th 495, 512 (2009) (affirming 2.52 multiplier as "fair and reasonable"); *Chavez*
v. Netflix, Inc., 162 Cal.App.4th 43, 66 (2008) (affirming 2.53 multiplier as well within the approved
range of 2 to 4); *Taylor v. Fedex Freight, Inc.*, 2016 U.S. Dist. LEXIS 142202 (E.D. Cal. 2016) (2.26
multiplier).

26 ⁸ Nontaxable costs are properly awarded where authorized by the parties' agreement. *Stetson*, 821
27 F.3d at 1165. Accordingly, "[e]xpenses such as reimbursement for travel, meals, lodging, photocopying,
28 long-distance telephone calls, computer legal research, postage, courier service, mediation, exhibits,
documents scanning, and visual equipment are typically recoverable." *Rutti v. Lojack Corp., Inc.*, 2012
WL 3151077, at *12 (C.D. Cal. 2012).

1 prosecution of the Action. Blumenthal Decl. at ¶13. Because these costs were necessary to the
2 successful prosecution of these claims, the request should be granted.

3 **C. The Service Award Is Reasonable and Should be Approved**

4 Plaintiffs respectfully submit that for their service as the class representatives, Plaintiffs should
5 be awarded the agreed service award of \$10,000 each, in accordance with the Agreement for their time,
6 risk and effort expended on behalf of the Class as the class representatives. (Agreement at ¶ 3.2(a).)
7 Defendant has agreed to this payment and there have been no objections to the requested service awards.
8 The Blumenthal Decl., at ¶14, provides a long list of equivalent service awards approved in California
9 in similar cases, which further supports the request in this case. The Plaintiffs' Declarations are
10 submitted in support of this request.

11 As the representatives of the Class, Plaintiffs performed their duties to the Class admirably and
12 without exception. Plaintiffs worked extensively with Class Counsel during the course of the litigation,
13 responding to numerous requests, searching for documents, working with counsel, and reviewing the
14 settlement documentation. Blumenthal Decl. at ¶ 14. Plaintiffs' Declarations detail the involvement,
15 stress and risks they undertook as a result of this Action. Plaintiffs also assumed the serious risk that
16 they might possibly be liable for costs and fees to Defendant, as well as the reputational risk of being
17 "blacklisted" by other future employers for having filed a class action on behalf of employees.
18 Blumenthal Decl. at ¶15. Without the Plaintiffs' participation, cooperation and information, no other
19 employees would be receiving any benefit. Blumenthal Decl. at ¶¶ 15-16.

20 The payment of service awards to successful class representatives is appropriate and the amount
21 of \$10,000 each is well within the currently awarded range for similar settlements. *See, e.g., Andrews*
22 *v. Plains All Am. Pipeline L.P.*, 2022 U.S. Dist. LEXIS 172183, at *11 (C.D. Cal. 2022) (finding that
23 the requested service awards of \$15,000 each are appropriate); *Reynolds v. Direct Flow Med., Inc.*, 2019
24 U.S. Dist. LEXIS 149865, at *19 (N.D. Cal. 2019) (granting request for \$12,500 service award);
25 *Mathein v. Pier 1 Imps. (U.S.), Inc.*, 2018 U.S. Dist. LEXIS 71386 (E.D. Cal. 2018) (awarding \$12,500
26 where average class member payment was \$351); *Louie v. Kaiser Foundation Health Plan, Inc.*, 2008
27 WL 4473183, *7 (S.D. Cal. Oct. 06, 2008) (awarding \$25,000 service award to each of six plaintiffs
28 in overtime class action); *Glass v. UBS Fin. Servs.*, 2007 WL 221862, *16-17 (N.D. Cal. 2007)

1 (awarding \$25,000 service award in overtime class action). Class Counsel respectfully request approval
2 of the Class Representative Service Payments in accordance with the Agreement.

3 **VI. CONCLUSION**

4 Plaintiffs respectfully submit that the proposed settlement satisfies the standard of fairness
5 established in California law and should therefore be finally approved as fair, reasonable and adequate
6 and requests entry of the Final Approval Order and Judgment, submitted herewith.

7 Respectfully submitted,

8 Dated: June 27, 2025

BLUMENTHAL NORDREHAUG BHOWMIK DE BLOUW LLP

9 By: /s/ Kyle Nordrehaug
10 Kyle R. Nordrehaug
Attorneys for Plaintiffs