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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES – SPRING STREET COURTHOUSE**

ARNOLD SAURIN, individually, and on
behalf of other members of the general public
similarly situated and on behalf of other
aggrieved employees pursuant to the California
Private Attorneys General Act; AJAYZEAU
BROWN, individually, and on behalf of other
members of the general public similarly
situated;

Plaintiffs,

vs.

VALLEY PRESBYTERIAN HOSPITAL, an
unknown business entity; and DOES 1 through
100, inclusive,

Defendants.

Case No.: 21STCV22597

Honorable William F. Highberger
Department SSC10

CLASS ACTION

**PLAINTIFFS' NOTICE OF MOTION
AND MOTION FOR FINAL APPROVAL
OF CLASS ACTION SETTLEMENT,
ATTORNEYS' FEES AND COSTS, AND
ENHANCEMENT PAYMENTS;
MEMORANDUM OF POINTS AND
AUTHORITIES IN SUPPORT THEREOF**

[Plaintiffs' Opposition to Objection to
Settlement Filed by Class Member
Mohammed Tekfaoui Declaration of Class
Counsel (Edwin Aiwazian, Joanna Ghosh,
and Brian J. St. John); Declarations of Class
Representatives (Arnold Saurin and
Ajayzeau Brown); Declaration of Settlement
Administrator (Jennifer Beliveau); and
[Proposed] Final Approval Order and
Judgment filed concurrently herewith]

Date: March 11, 2024
Time: 11:00 a.m.
Department: SSC10

Complaint Filed: June 15, 2021
FAC Filed: August 30, 2023
Trial Date: None Set

1 **PLEASE TAKE NOTICE** that on March 11, 2024, at 11:00 a.m., in Department SSC10
2 of the above-entitled Court, located at 312 North Spring Street, Los Angeles, California 90012,
3 Plaintiffs Arnold Saurin and Ajayzeau Brown (together “Plaintiffs”) will and hereby does move
4 for an order granting final approval of:

5 1. The Class, Collective, and PAGA Representative Action Settlement and Release
6 (referred to as “Settlement”) on the grounds that the Settlement is fair, adequate, and reasonable
7 because:

- 8 • A Class Settlement Fund of approximately **\$2,812,622.47** will be fully distributed to
9 the Class Members who did not submit a timely and properly opt out of the Class
10 Settlement (“Settlement Class Member”);
11 • **One (1) Objection** was submitted to the settlement administrator, Simpluris, Inc.,
12 (“Settlement Administrator”);
13 • **One (1) Request for Exclusion** was submitted to the Settlement Administrator;

14 2. Payment in the amount of **\$1,570,800.00** to Lawyers for Justice, PC (“Class
15 Counsel”), representing 33% of the original Total Settlement Amount, for attorneys’ fees, which
16 is reasonable and justified on a percentage-basis;

17 3. Payment in the amount of **\$13,640.75** to Class Counsel for reimbursement of
18 litigation costs and expenses;

19 4. Payment in the amount of **\$22,000.00** to the Settlement Administrator, Simpluris,
20 Inc., (“Simpluris”), for Settlement Administration Costs;

21 5. Payment in the amount of **\$10,000.00** to Plaintiff Arnold Saurin and **\$7,500.00** to
22 Plaintiff Ajayzeau Brown, as Enhancement Payments, for their time and effort in representing the
23 Class; and

24 6. Allocation of the penalties under the Private Attorneys General Act of 2004,
25 California Labor Code section 2698, *et seq.*, in the amount of \$500,000.00, of which seventy-five
26 percent (75%), or **\$375,000.00**, will be paid to the California Labor and Workforce Development
27 Agency (“LWDA Payment”) and twenty-five percent (25%), or **\$125,000.00**, will be distributed
28 to the PAGA Group (“PAGA Settlement Fund”).

1 This Motion is made pursuant to Rule 3.769 and Rule 3.1113(e) of the California Rules of
2 Court, which require approval by the Court of a class action settlement and permit the Court to
3 extend the page limit for memoranda.

4 This motion is based upon the following Memorandum of Points and Authorities; the
5 Declarations of Class Counsel (Joanna Ghosh and Brian J. St. John), Class Representatives
6 (Arnold Saurin and Ajayzeau Brown), and Settlement Administrator (Jennifer Beliveau of
7 Simpluris) in support thereof; the pleadings and other records on file with the Court in this matter;
8 and such evidence and oral argument as may be presented at the hearing on this Motion.

9
10 Dated: February 15, 2024

LAWYERS for JUSTICE, PC

11
12 By: 

Brian J. St. John

Attorneys for Plaintiffs and the Class

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MEMORANDUM OF POINTS AND AUTHORITIES

I. SUMMARY OF MOTION

Plaintiffs Arnold Saurin and Ajayzeau Brown (together, “Plaintiffs”) seek final approval of: (1) the escalated Total Settlement Amount of \$4,936,563.22¹; (2) attorneys’ fees in the amount of \$1,570,800.00, which is 33% of the original Total Settlement Amount², and reimbursement of litigation costs and expenses in the amount of \$13,640.75 (together, “Attorneys’ Fees and Costs”) to Lawyers for Justice, PC (“Class Counsel”); (3) Settlement Administration Costs in the amount of \$22,000.00 to Simpluris Inc., (“Simpluris” or “Settlement Administrator”); (4) Enhancement Payments in the amount of \$10,000.00 to Plaintiff Arnold Saurin (“Plaintiff Saurin”) and \$7,500.00 to Plaintiff Ajayzeau Brown (“Plaintiff Brown”), for a combined amount of \$17,500.00; and (5) allocation of \$500,000.00 for penalties under the Private Attorneys General Act of 2004, California Labor Code § 2698, *et seq.* (“PAGA Fund”).

Plaintiffs seek relief on behalf of the following Class:

All persons who were employed by Defendant as a non-exempt employee in California at any time during the Class Settlement Period (“Class” or “Class Members”).³

This matter involved ongoing investigations, formal and informal discovery, review and analysis of large volume of documents and data in the course of mediation conducted by Francis J. Ortman III, and settlement negotiations. This matter has required 644.70 hours of attorney time by Class Counsel. As will be demonstrated herein, the request for attorneys’ fees, which represents 33% of the original Total Settlement Amount, is fully supported by the use of the percentage-fee method. Courts have historically awarded fees of up to fifty percent (50%) of the recovery. The requested attorneys’ fees are also supported under the lodestar cross-check method.⁴

¹ Class Collective, and PAGA Representative Action Settlement and Release (“Settlement Agreement”), § I.25. Pursuant to § V.A.2 of the Settlement Agreement, the Total Settlement Amount was increased from \$4,760,000.00 to \$4,936,563.22. See Declaration of Jennifer Beliveau Regarding Notice and Administration (“Simpluris Declaration” or “Simpluris Decl.”), ¶ 10.

² See n.1, *supra*.

³ *Id.*, § I.3. “Class Settlement Period” is defined as the timed period from June 15, 2017 through the date the Court grants preliminary approval of the Settlement. See *id.*, § I.7.

⁴ Applying a modest multiplier of 2.87, the total enhanced lodestar fees are \$1,572,745.65, and Class Counsel seeks an attorneys’ fees award of \$1,570,800.00 (equal to 33% of the original Total Settlement Amount).

1 Plaintiffs move for final approval of the Enhancement Payments in the amount of
2 \$10,000.00 to Plaintiff Arnold Saurin and \$7,500.00 to Plaintiff Ajayzeau Brown, to compensate
3 Plaintiffs for the time and effort that they expended spearheading this lawsuit on behalf of the
4 Class, PAGA Group Members, and the State of California. Plaintiffs also move for final approval
5 of the payment to the Settlement Administrator in the amount of \$22,000.00 for Settlement
6 Administration Costs. Plaintiffs also move for final approval of the allocation of \$500,000.00 for
7 the PAGA Fund, of which \$375,000.00 will be paid to the California Labor Workforce and
8 Development Agency (“LWDA”) for its portion of the PAGA Fund (“LWDA Payment”), and
9 \$125,000.00 will be distributed to all persons who were employed by Defendant as a non-exempt
10 employee in California at any time during the PAGA Settlement Period (“PAGA Group
11 Members”) (“PAGA Settlement Fund”).

12 The requests for Attorneys’ Fees and Costs, Enhancement Payments, Settlement
13 Administration Costs, and allocation for the PAGA Fund were fully disclosed in the Notice of
14 Class Action Settlement (“Class Notice”) that was mailed to the Class Members. Most importantly,
15 as of the date of this Motion, *no objections have been raised regarding the terms of the Settlement,*
16 *amount of the settlement recovery, or any disbursements or allocations therefrom. A single*
17 *objection has been asserted, which concedes that the Settlement can be granted approval, but*
18 *raises an irrelevant attack on counsel, which is devoid of merit and is not based on any conduct*
19 *by counsel in the case nor result or outcome in the case; no Class Members have objected to the*
20 *requested Attorneys’ Fees and Costs, Enhancement Payments, Settlement Administration Costs,*
21 *or allocation for PAGA Fund.*⁵

22 The Settlement is fair, adequate, and reasonable, and is the product of arm’s-length, good-
23 faith negotiations by experienced counsel presided over by a highly-regarded mediator who is
24 experienced in mediating wage-and-hour class action lawsuits. Accordingly, the Court should
25 grant final approval of the Settlement, and award Attorneys’ Fees and Costs, Enhancement
26

27 ⁵ For the reasons discussed in the accompanying Plaintiffs’ Opposition to Objection to Settlement Filed by Class
28 Member Mohammed Tekfaoui and Declaration of Edwin Aiwazian in Support of Plaintiffs’ Opposition to Objection
to Settlement Filed by Class Member Mohammed Tekfaoui, the Objection lacks merit and should be overruled and
denied in its entirety.

1 Payments, Settlement Administration Costs, and PAGA Fund in the amounts as fully disclosed to
2 the Class and as requested herein.

3 In order to efficiently present the Court with adequate information to determine whether to
4 grant final approval of the Settlement and award Attorneys' Fees and Costs, Enhancement
5 Payments, Settlement Administration Costs, and PAGA Fund, Plaintiffs also move for an order
6 permitting the filing of this single consolidated memorandum, although it exceeds the page limit
7 established by California Rules of Court, Rule 3.1113(d), instead of filing several separate
8 motions.

9 **II. PROCEDURAL HISTORY AND FACTUAL BACKGROUND**

10 Defendant Valley Presbyterian Hospital ("Defendant") is a full-service hospital serving the
11 San Fernando Valley region. Plaintiff Saurin and Plaintiff Brown are former employees of
12 Defendant.

13 On April 5, 2021, notice was provided on behalf of Plaintiff Saurin to the Labor and
14 Development Agency and Defendant of Plaintiff Saurin's intent to pursue civil penalties against
15 Defendant, under the Private Attorneys General Act, for its alleged violations of the California
16 Labor Code and Industrial Welfare Commission Wage Orders.

17 On June 15, 2021, Plaintiff Saurin filed a First Amended Class Action Complaint for
18 Damages & Enforcement Under the Private Attorneys General Act, California Labor Code § 2698,
19 *Et Seq.* in the Los Angeles County Superior Court ("Court"), thereby commencing the above-
20 captioned lawsuit (the "Action").

21 On August 30, 2023, Plaintiff Saurin filed a First Amended Class Action Complaint for
22 Damages & Enforcement Under the Private Attorneys' General Act, California Labor Code §
23 2698, *Et Seq.* & Collective Action Under FLSA ("Operative Complaint"), adding Plaintiff Brown
24 as a named plaintiff and claims for violations of the Fair Labor Standards Act.

25 Plaintiffs' core allegation is that Defendant has violated the California Labor Code by
26 engaging in a uniform practice and procedure, with respect to Plaintiffs, Class Members, and
27 PAGA Group Members of, *inter alia*, failing to pay minimum and overtime wages, failing to
28 provide compliant meal and rest periods and associated premium pay, failing to timely pay wages

1 and associated waiting time penalties, failing to maintain accurate payroll records, failing to
2 provide compliant wage statements, and failing to reimburse necessary business-related expenses,
3 and thereby engaged in unfair business practices under the California Business and Professions
4 Code and conduct that gives rise to civil penalties recoverable under PAGA. Plaintiffs contend
5 that they, Class Members, and the PAGA Group Members, are entitled to, *inter alia*, unpaid wages,
6 penalties (including and not limited to, penalties pursuant to PAGA), and attorneys' fees.

7 Defendant has denied, and continues to deny, any liability and wrongdoing of any kind
8 associated with any of the allegations in the Action, and further denies that the case is appropriate
9 for class or representative treatment for any purpose other than for settlement purposes only.

10 The parties have actively litigated the matter since the Action commenced on June 15,
11 2021. The parties exchanged large volume of information, documents, and data throughout the
12 course of the litigation and in connection with mediation and settlement negotiations. On May 6,
13 2022, the Parties participated in a formal, full-day mediation conducted by Francis J. Ortman III,
14 a well-regarded mediator experienced in mediating complex labor and employment matters.
15 Although the parties did not reach a settlement at mediation, with the aid of the mediator's
16 evaluation, the Parties ultimately reached the Settlement described herein to resolve the Action in
17 its entirety.

18 On April 14, 2023, Plaintiff Saurin filed a Motion for Preliminary Approval of Class Action
19 Settlement and supporting documents. On June 7, 2023, the Court issued a Minute Order in which
20 the Court raised certain points of inquiry. On July 3, 2023, Plaintiffs filed a Supplemental
21 Declaration of Brian J. St. John in Support of the Motion for Preliminary Approval, and a Revised
22 Proposed Order. On August 16, 2023, a hearing was held on Plaintiffs' Motion for Preliminary
23 Approval, during which the Court raised additional points of inquiry. On August 30, 2023,
24 Plaintiffs filed a Further Supplemental Declaration of Brian J. St. John in Support of the Motion
25 for Preliminary Approval, and a Further Revised Proposed Order. On September 19, 2023, the
26 Court entered an Order Granting Plaintiffs' Motion for Preliminary Approval of Class Action
27 Settlement ("Preliminary Approval Order"), thereby preliminarily approving the terms of the
28

Settlement, the Class Notice, and the proposed administration procedures and associated deadlines.

Plaintiffs now move for final approval of the Settlement, Attorneys' Fees and Costs, Enhancement Payments, Settlement Administration Costs, and allocation for PAGA Fund.

III. SUMMARY OF THE SETTLEMENT TERMS AND PLAN OF DISTRIBUTION

Under the terms of the Settlement Agreement, Defendant has agreed to pay a Total Settlement Amount of \$4,936,563.22 by making a one-time deposit of the Total Settlement Amount within thirty (30) calendar days of the Effective Date.⁶ Subject to approval by the Court, the Class Settlement Fund will be calculated by deducting the following amounts from the Total Settlement Amount: (1) Attorneys' Fees and Costs, consisting of attorneys' fees in the amount of \$1,570,800.00 and reimbursement of litigation costs and expenses in the amount of \$13,640.75, to Class Counsel; (2) Enhancement Payments in the amount of \$10,000.00 to Plaintiff Saurin and \$7,500.00 to Plaintiff Brown, for a combined amount of \$17,500.00; (3) Settlement Administration Costs in the amount of \$22,000.00 to Simpluris; and (4) PAGA Fund in the amount of \$500,000.00.⁷ The Class Settlement Fund, which is estimated to be \$2,812,622.47⁸, will be distributed in accordance with the Settlement Agreement and there is no reversion to Defendant.

The Settlement Administrator will calculate each Settlement Class Member's *pro rata* share of the Class Settlement Fund ("Individual Class Settlement Share") as follows: each eligible Settlement Class Member's Individual Class Settlement Share will be determined based on their number of Class Workweeks Class Members who are separated from employment with Defendant as of the date the Court grant preliminary approval of the Settlement ("Separated Settlement Class Members") will have their Class Workweeks adjusted upward using a multiplier of 1.2 to account for the release of claims under California Labor Code section 201-203. The Class Workweeks calculations inclusive of the multiplier for Separated Settlement Class Members is referred to as

⁶ Settlement Agreement, § VIII.A.2.

⁷ *Id.*, §§ V.B.1, V.C.1, V.D, and V.E.

⁸ This amount is higher than the amount stated in Paragraph 16 of the accompanying Simpluris Declaration because the Settlement Administrator's calculation assumes that Class Counsel will obtain litigation costs and expenses in the maximum amount of \$45,000.00, which is allocated under the Settlement. However, Class Counsel seeks the amount of only \$13,640.75 for reimbursement of litigation costs and expenses, and the difference of \$31,359.25 will remain part of the Class Settlement Fund.

the “Enhanced Class Workweeks.”⁹ Individual Class Settlement Shares shall be determined by dividing the Class Settlement Fund by the total number of Workweeks for all Settlement Class Members (inclusive of Enhanced Workweeks for Separated Settlement Class Members), to arrive at a value per Class Workweek (“Class Workweek Value”), and then multiplying each Settlement Class Member’s individual Class Workweeks (inclusive of the Enhanced Workweeks for Separated Settlement Class Members) by the Class Workweeks Value.¹⁰

The Settlement Administrator will calculate each PAGA Group Member’s *pro rata* share of the PAGA Settlement Fund (“Individual PAGA Settlement Share”), as follows: each PAGA Group Member’s Individual PAGA Settlement Share will be determined based on their Workweeks worked for Defendant during the PAGA Settlement Period (“PAGA Workweeks”).¹¹ Individual PAGA Settlement Shares shall be determined by dividing the PAGA Settlement Fund by the total number of PAGA Workweeks for all PAGA Group Members, to arrive at a value per PAGA Workweek (“PAGA Workweek Value”), and then multiplying each PAGA Group Member’s individual PAGA Workweeks by the PAGA Workweek Value.¹²

Class Members had sixty (60) calendar days after the Settlement Administrator mails the Class Notice to Class Members to opt out of the Class Settlement, object to the Class Settlement, and/or dispute the number of Workweeks and/or PAGA Workweeks to which they were credited (“Response Deadline”).¹³ The Response Deadline was January 8, 2024.¹⁴ ***As of the date of this Motion, the Settlement Administrator has received one (1) written requests for exclusion from the Class Settlement (“Request for Exclusion”) and one (1) written objection (“Objection”) from Class Members.***¹⁵

Each Settlement Class Member’s Individual Class Settlement Share will be allocated as follows: thirty percent (30%) as wages, which will be reported on IRS Form W-2; and the remaining seventy percent (70%) as and non-wages, to be reported on IRS Form 1099 (if

⁹ Settlement Agreement, §§ VIII.B.1-2.

¹⁰ *Id.*, § VIII.B.3.

¹¹ *Id.*, §§ I.18 & VIII.C.1.

¹² *Id.*, § VIII.C.2.

¹³ *Id.*, § I.21.

¹⁴ Simpluris Decl., ¶ 11.

¹⁵ *Id.*, ¶¶ 12 and 13; see n.5, *supra*.

applicable).¹⁶ Settlement Class Members will be issued payment of their Individual Class Payment subject to reduction for the employee's share of taxes and withholdings with respect to the wage portion of each Individual Class Payment (the net payment is referred to as "Individual Class Settlement Payment").¹⁷ Each PAGA Group Member's Individual PAGA Settlement Share will be allocated as one hundred percent (100%) non-wages.¹⁸ Defendant will pay the employer's share of payroll taxes and contributions with respect to the wage portion of Individual Settlement Shares ("Employer Taxes") in addition to the Total Settlement Amount.¹⁹

The Individual Class Settlement Payment checks issued to Settlement Class Members and Individual PAGA Settlement Share checks issued to PAGA Group Members will be negotiable for one hundred eighty (180) calendar days from the date of issuance.²⁰ Settlement Class Members who cash, deposit, or otherwise negotiate their Individual Class Settlement Payment checks will be deemed to have opted in for purposes of the FLSA and thereby release the Released Parties from the Released Claims which arise under the FLSA.²¹ Individual Class Settlement Payment and individual PAGA Settlement Share checks that are not negotiated within the 180-day period will be cancelled.²² The funds associated with such cancelled checks will be transmitted by the Settlement Administrator within ten (10) calendar days after the expiration of the 180-day period, and sent to the Mid Valley Family YMCA.²³ The Parties and their counsel each represent that they do not have any financial interest in Mid Valley Family YMCA or otherwise have a leadership with Mid Valley Family YMCA that could create a conflict of interest.²⁴

IV. THE SETTLEMENT ADMINISTRATION PROCESS

The Court-appointed Settlement Administrator, Simpluris has taken all necessary steps to effectuate the notice and settlement administration process, as set forth in the Court's September 19, 2023, Preliminary Approval Order.

¹⁶ Settlement Agreement, § VIII.D.5.

¹⁷ *Id.*, § VIII.D.6.

¹⁸ *Id.*, § VIII.D.5.

¹⁹ *Id.*, § V.F.

²⁰ *Id.*, § VIII.D.3.

²¹ *Id.*, § VIII.D.2.

²² *Id.*, § VIII.D.3.

²³ *Ibid.*

²⁴ *Ibid.*

On October 19, 2023, Simpluris received a data filed from Defense Counsel that contained the full names, employee identification numbers, last known addresses, number of Workweeks worked during the Class Settlement Period and PAGA Settlement Period, and Social Security Numbers for all Class Members (“Class Data”).²⁵ The Class Data contained information for three thousand three hundred fourteen (3,314) individuals identified as Class Members and two thousand five hundred thirty-five (2,535) individuals identified as PAGA Group Members.²⁶ Simpluris processed the names and addresses through the National Change of Address Database (“NCOA”) and updated the Class Data with any updated addresses located.²⁷

On November 9, 2023, Simpluris mailed the Class Notice via U.S. first class mail to all three thousand three hundred fourteen (3,314) individuals identified as Class Members and two thousand five hundred thirty-five (2,535) individuals identified as PAGA Group Members on the Class Data.²⁸

As of the date of this Motion, one hundred forty-six (146) Class Notices were returned to Simpluris.²⁹ Simpluris performed a skip-trace search on the Class Notices that were returned to Simpluris without forwarding addresses, located an updated address for one hundred nineteen (119) Class Members, and promptly re-mailed the Class Notice to the updated addresses.³⁰ Ultimately, twenty-seven (27) Class Notices remain undeliverable because an updated address was not located through skip-tracing or the Class Notice was returned as undeliverable a second time.³¹

As of the date of this Motion, the Settlement Administrator has received one (1) Objection.³² As of the date of this Motion, the Settlement Administrator has received one (1) Request for Exclusion from Class Members.³³

To date, there are three thousand three hundred thirteen (3,313) Class Members who did not timely and properly opt out of the Class Settlement, and are therefore, deemed to be Settlement

²⁵ Simpluris Decl., ¶ 6.

²⁶ *Id.*, ¶¶ 6 & 8.

²⁷ *Id.*, ¶ 7.

²⁸ *Id.*, ¶ 8.

²⁹ *Id.*, ¶ 9.

³⁰ *Ibid.*

³¹ *Ibid.*

³² *Id.*, ¶ 13; see n.5, *supra*.

³³ *Id.*, ¶ 12.

Class Members.³⁴ Pursuant to the terms of the Settlement, the Class Settlement Fund of approximately \$2,812,622.47 will be distributed to Settlement Class Members in accordance with the terms of the Settlement.³⁵ The highest Individual Class Settlement Share is currently estimated to be \$1,996.20 and the average Individual Class Settlement Share is currently estimated to be \$839.25.³⁶ The highest Individual PAGA Settlement Share is currently estimated to be \$92.75 and the average Individual PAGA Settlement Share is currently estimated to be \$37.72.³⁷

V. THE COURT SHOULD GRANT FINAL APPROVAL OF THE CLASS ACTION SETTLEMENT.

The trial court has broad discretion to determine whether a class action settlement is fair and reasonable. *Chavez v. Netflix, Inc.* (2008) 162 Cal.App.4th 43, 52. To determine whether the settlement is fair and reasonable, courts consider relevant factors such as:

the strength of plaintiffs' case, the risk, expense, complexity and likely duration of further litigation, the risk of maintaining class action status through trial, the amount offered in settlement, the extent of discovery completed and the stage of the proceedings, the experience and views of counsel, the presence of a governmental participant, and the reaction of the class members to the proposed settlement.

Dunk v. Ford Motor Co. (1996) 48 Cal.App.4th 1794, 1801. "The list of factors is not exclusive and the court is free to engage in a balancing and weighing of the factors depending on the circumstances of each case." *Wershba v. Apple Computer, Inc.* (2001) 91 Cal.App.4th 224, 245. "Due regard should be given to what is otherwise a private consensual agreement between the parties." *Dunk, supra*, 48 Cal.App.4th at 1801.

The proponent of the settlement has the burden to show that it is fair and reasonable. *Wershba, supra*, 91 Cal.App.4th at 245. At the final approval stage, a presumption of fairness exists where, as here: "(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)

³⁴ Simpluris Decl., ¶ 15.

³⁵ *Id.*, ¶ 16; see also, n.1 and n.8, *supra*.

³⁶ *Id.*, ¶ 17. The actual average and highest Individual Class Settlement Shares will be larger than the amounts stated in the Simpluris Declaration because the Class Settlement Fund is larger due to Class Counsel's request for reimbursement of litigation costs and expenses in an amount that is less than \$45,000.00 (the difference between the amount sought and the amount authorized under the Settlement, i.e., \$31,359.25, will be part of the Class Settlement Fund). See n.8, *supra*.

³⁷ *Id.*, ¶ 19.

counsel is experienced in similar litigation; and (4) the percentage of objectors is small.” *Dunk, supra*, 48 Cal.App.4th at 1802. In reviewing a class settlement, the court need not reach any ultimate conclusions on the issues of fact and law that underlie the merits of the dispute. *7-Eleven Owners for Fair Franchising v. Southland Corp.* (2000) 85 Cal.App.4th 1135, 1146. The inquiry is not whether the settlement agreement is the best one that class members could have possibly obtained, but whether the settlement, taken as a whole, is “fair, adequate, and reasonable.” *Chavez v. Netflix, Inc.* (2008) 162 Cal.App.4th 43, 55. A settlement need not obtain 100 percent of the damages sought in order to be fair, reasonable, and ultimately, meaningful. *Wershba, supra*, 91 Cal.App.4th at 251. Even if the proposed settlement affords relief that is substantially narrower than it would be if the cases were to be successfully litigated, that is no bar to a class settlement because the public interest may indeed be served by a voluntary settlement in which each side gives ground in the interest of avoiding prolonged litigation. *Id.*

A. The Settlement Resulted from Arm’s-Length Negotiations Based Upon Extensive Investigation and Discovery.

The parties actively litigated the case since the Action commenced on June 15, 2021. Class Counsel conducted significant discovery and investigation into the facts of the case, to assess the veracity, strength, and scope of the claims, and prepare the matter for class certification and trial prior to reaching the Settlement.³⁸

The parties conducted significant discovery and investigation into the facts of the case, and also formally and informally exchanged large volume of information, documents, and data throughout the course of the litigation and in connection with mediation and settlement negotiations.³⁹ The volume of data and documents that Class Counsel reviewed and analyzed included but was not limited to: Plaintiffs employment records, Class Members’ time and pay data, datapoints regarding meal premiums, rest premiums, and overtime premiums paid, company policy acknowledgements, internal memoranda, job descriptions, new hire orientation checklists, and operations and employment practices, forms, procedures, and policies (including but not

³⁸ Declaration of Brian J. St. John (“St. John Decl.”), ¶ 6.

³⁹ St. John Decl., ¶ 6.

1 limited to Instructions and Training Materials Regarding Time/M meal/Rest Attestations, General
2 Orientation 2016 Quiz, New Hire Worksheet, Release Authorization and Fair Credit Reporting
3 Act Disclosure, Occupational Health Release Form, Meal Waivers (Employees in the Healthcare
4 Industry, 6-Hour, 12-Hour, and Non-Health Care), Summary of Meal and Rest Period Policy,
5 Confidentiality Agreement, Compliance Hotline Acknowledgement, Electronic Handbook
6 Acknowledgement, Code of Conduct Receipt, and COVID-19 Protocols and Related Notices),
7 among other information and documents.⁴⁰ Class Counsel developed damages/valuation models
8 in the course of litigation and in connection with mediation and settlement negotiations, and met
9 and conferred with Defendant's counsel on numerous occasions, e.g., to discuss issues relating to
10 the pleadings, case management, discovery, and exchange of information, documents, and data in
11 the course of litigation and in connection with mediation and settlement negotiations.⁴¹ Class
12 Counsel had the opportunity to interview and obtain information from Plaintiffs, other Class
13 Members, and percipient witnesses.⁴² Class Counsel propounded multiple sets of formal written
14 discovery requests on Defendant. Class Counsel also drafted pleadings and Plaintiffs' Mediation
15 Brief and prepared for and attended court proceedings, settlement negotiations, and the mediation,
16 among other tasks.⁴³

17 After conducting significant discovery and investigation into the facts of the case, the
18 parties participated in a formal, full-day mediation conducted by Francis J. Ortman, a well-
19 regarded mediator experienced in mediating complex labor and employment matters.⁴⁴ In the
20 course of mediation and settlement negotiations, the parties exchanged class information,
21 documents, and data, and discussed various aspects of the case, including and not limited to, the
22 risks and delays of further litigation, the risks and expenses to the parties of proceeding with class
23 certification and trial, the law relating to certification, off-the-clock theory, meal and rest periods,
24 representative PAGA claims, and wage-and-hour enforcement, the evidence produced and
25

26 ⁴⁰ St. John Decl., ¶ 6.

27 ⁴¹ Ibid.

28 ⁴² Ibid.

⁴³ Ibid.

⁴⁴ Ibid.

analyzed, and the possibility of appeals, among other things.⁴⁵ Class Counsel met with Defendant's Counsel on several occasions and candidly but confidentially exchanged confidential presentations and memoranda regarding class certification and merits issues, thereby considering material information regarding the legal theories and defenses thereto.⁴⁶ During all settlement discussions, the parties conducted their negotiations at arm's length in an adversarial position.⁴⁷ Arriving at a settlement that was acceptable to the parties was not easy.⁴⁸ Defendant and its counsel felt very strongly about Defendant's ability to prevail on the merits and to avoid class certification and representative adjudication, while Plaintiffs and Class Counsel believed that they would be able to obtain class certification and prevail at trial.⁴⁹ After conducting significant discovery and investigations, settlement negotiations, and with the aid of the mediator's evaluation, the Parties agreed that the case was well-suited for settlement given the legal issues relating to Plaintiffs' principal claims, as well as the costs and risks to the parties that would attend further litigation.⁵⁰

The Settlement takes into account the strengths and weaknesses of each side's position and the uncertainty of how the case might have concluded at certification, trial, and/or appeals. Class Counsel had the opportunity to interview, and obtain information from Plaintiffs and other Class Members.⁵¹ Class Counsel also reviewed and analyzed large volume of information, documents, and data obtained from Defendant, Plaintiffs, and other sources, and performed significant research into the applicable law, which is constantly evolving as it relates to certification, off-the-clock theory, meal and rest periods, IWC Wage Orders, representative PAGA claims, wage-and-hour enforcement, Plaintiffs' claims, and Defendant's defenses, as well as facts discovered.⁵² The Settlement was based on this large volume of facts, evidence, and investigation.⁵³ Additionally,

⁴⁵ St. John Decl., ¶ 6.

⁴⁶ *Id.*, ¶ 8.

⁴⁷ *Id.*, ¶ 6.

⁴⁸ *Ibid.*

⁴⁹ *Ibid.*

⁵⁰ *Ibid.*

⁵¹ *Ibid.*

⁵² *Ibid.*

⁵³ *Id.*, ¶¶ 6 & 8.

Class Counsel has extensive experience in handling complex wage-and-hour actions, including significant experience in employment class action litigation.⁵⁴

B. The Risks Inherent in Continued Litigation Favor Final Approval of the Settlement.

The Settlement, which provides for an escalated Total Settlement Amount of \$4,936,563.22⁵⁵, represents a fair, adequate, and reasonable resolution of the case, given the risks inherent in litigating class and representative claims through certification proceedings, trial, and/or appeals.⁵⁶ The Settlement was calculated using information and data uncovered through extensive case investigation, discovery, and the exchange of information in the context of mediation.⁵⁷ Had the action not settled, Defendant would have vigorously challenged class certification, manageability of representative adjudication, and liability. Defendant contended that individualized questions of fact predominate over any common issues, and these issues would pose challenges to certification and representative adjudication. Defendant would have likely argued again at trial, if any, that Plaintiffs' claims were not appropriate for class-wide and/or representative adjudication. On the other hand, Defendant also faced the risk of the Court certifying a class and allowing a jury to decide Plaintiff's claims on a class-wide or representative basis. Additionally, preparation for trial would have been expensive for all parties.

It is preferable to reach an early resolution of a dispute because such resolutions save time and money that would otherwise go to litigation. If this matter had settled after further litigation, the settlement amount would have taken into account the additional costs incurred, and there might have been less money available for Class Members and PAGA Group Members after all was said and done. This is not just an abstract contention. The risks and expenses of further litigation outweighed any benefit that might have been gained otherwise. These risks of further litigation include a determination that the claims were not suitable for class treatment and/or representative adjudication, failure to obtain certification, class de-certification after certification of a class,

⁵⁴ Declaration of Joanna Ghosh ("Ghosh Decl."), ¶¶ 8-13.

⁵⁵ See n.1, *supra*

⁵⁶ St. John Decl., ¶¶ 8 & 10; Ghosh Decl., ¶ 15.

⁵⁷ St. John Decl., ¶¶ 5-8.

1 allowing a jury to decide the claims asserted in the case, and the real possibility of no recovery
2 after years of litigation. Additionally, the parties were moving into the phase of the litigation where
3 they would have to conduct a significant amount of discovery, including and not limited to,
4 depositions of Defendant's Person Most Knowledgeable designees, expert witnesses, and
5 percipient witnesses, such as managers, supervisors, and other current and former employees
6 throughout the State of California. Additional discovery would have certainly arisen, which would
7 have cost the parties additional time and money. In contrast, the Settlement provides real and
8 significant benefits for the Class here and now, while avoiding the further expenses, risks, and
9 delay of prolonged litigation with only the possibility of recovery.

10 It would be grossly inefficient for such a large class of current and former employees to
11 bring individual actions to recover from Defendant for the alleged violations of wage-and-hour
12 laws. Moreover, the potential individual recovery that could be obtained by a Class Member would
13 not be significant enough to provide him or her with the incentive to sue. By granting final approval
14 of the Settlement, the Court can approve a resolution that provides a certain and substantial
15 recovery for Class Members, the State of California, and PAGA Group Members.

16 **C. The Settlement Is Fair, Reasonable, and Adequate.**

17 The Settlement, which provides for a Total Settlement Amount of \$4,936,563.22,
18 represents a fair, reasonable, and adequate resolution of the case. The Settlement was calculated
19 using information and data uncovered through extensive case investigation, discovery, and the
20 exchange of information in the context of preparing for mediation and conducting ongoing
21 settlement negotiations. The Settlement takes into account the potential risks and rewards inherent
22 in any case and, in particular, in this matter. Moreover, considering all of the facts in the case, the
23 Total Settlement Amount represents a considerable recovery.

24 Even after deducting attorneys' fees in the amount of \$1,570,800.00, litigation costs and
25 expenses in the amount of \$13,640.75, Enhancement Payments in the combined amount of
26 \$17,500.00, Settlement Administration Costs in the amount of \$22,000.00, and PAGA Fund in the
27 amount of \$500,000.00 from the Total Settlement Amount of \$4,7600,000.00, the Class Settlement
28

Fund is currently estimated to be \$2,812,622.47.⁵⁸ Under the Settlement Agreement, the Total Settlement Amount will be fully paid out, in accordance with the terms of the Settlement. As discussed in Section III, *supra*, each Settlement Class Member will be paid a *pro rata* share of the Class Settlement Fund, based on the number of Workweeks credited to him or her. To date, there are three thousand three hundred thirteen (3,313) Settlement Class Members, representing 99.97% of the Class Members.⁵⁹ The highest Individual Class Settlement Share to a Settlement Class Member is currently estimated to be \$1,996.20 and the average Individual Class Settlement Share is currently estimated to be \$839.25.⁶⁰ The highest Individual PAGA Settlement Share to PAGA Group Members is currently estimated to be \$92.75 and the average Individual PAGA Settlement Share is currently estimated to be \$37.72.⁶¹ These are significant individual recoveries, particularly in light of the risks of litigation.

At the final approval stage, “[a]n allocation formula need only have a reasonable, rational basis [to warrant approval], particularly if recommended by experienced and competent class counsel.” *In re American Bank Note Holographics, Inc., Securities Litigation* (S.D.N.Y. 2001) 127 F.Supp.2d 418, 429-30. The *pro rata* allocation here is a fair and reasonable way to distribute the Net Settlement Amount. In light of the above considerations, Class Counsel believes that the Settlement as a whole is fair, reasonable, and adequate, and in the best interest of the Class Members, the State of California, and PAGA Group Members.⁶² Although the recommendations of Class Counsel are not conclusive, the Court can properly take the recommendations into account, particularly if Class Counsel appears to be competent, has experience with this type of litigation, and significant discovery and investigation have been completed, as is the case here. Conte & Newberg, *Newberg on Class Actions* (4th Ed., 2002) § 11.47. Accordingly, the Court should grant final approval of the Settlement.

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⁵⁸ Simpluris Decl., ¶ 16; see also, n.1 and n.8, *supra*.

⁵⁹ *Id.*, ¶ 15.

⁶⁰ *Id.*, ¶ 17; see n.36, *supra*.

⁶¹ *Id.*, ¶ 19.

⁶² St. John Decl., ¶ 10; Ghosh Decl., ¶ 15.

D. The Class Was Represented by Competent Counsel.

Class Counsel has extensive experience in employment class action law and complex wage-and-hour litigation.⁶³ Lawyers for Justice, PC has been appointed class counsel in numerous complex wage-and-hour cases, and has recovered millions of dollars for individuals in California.⁶⁴ Both parties' counsel were capable of assessing the strengths and weaknesses of the Class Members' claims against Defendant and the benefits of the Settlement under the circumstances of the case and in the context of a private, consensual settlement agreement.

E. There Are No Objections to the Class Settlement and Only One (1) Objection Was Submitted.

The Settlement has been well received by the Class.⁶⁵ Specifically, no objections have been raised regarding the terms of the settlement, amount of the settlement recovery, or any disbursements or allocations therefrom. A single objection has been asserted, which concedes that the settlement can be granted approval, but raises an irrelevant attack on counsel, which is devoid of merit and is not based on any conduct by counsel in the case nor result or outcome in the case. For the reasons discussed in the accompanying Plaintiffs' Opposition to Objection to Settlement Filed by Class Member Mohammed Tekfaoui and Declaration of Edwin Aiwazian in Support of Plaintiffs' Opposition to Objection to Settlement Filed by Class Member Mohammed Tekfaoui, the Objection lacks merit and should be overruled and denied in its entirety. California courts have consistently found that a small number of objectors indicates the class' support for a settlement and strongly favors final approval. *Wershba, supra*, 91 Cal.App.4th at 250-51 (final approval granted despite 20 objectors); *7-Eleven Owners, supra*, 85 Cal.App.4th at 1152-53 (final approval granted despite 9 objectors).

Here, the fact that there are no objections to the terms of the settlement, amount of the settlement recovery, or any disbursements or allocations therefrom, speaks volumes about the fairness, reasonableness, and adequacy of the Settlement. To be clear, although an objection has been submitted, said objection concedes that the settlement can be granted approval, and merely

⁶³ Ghosh Decl., ¶¶ 8-13.

⁶⁴ *Ibid.*

⁶⁵ Simpluris Decl., ¶ 13.

1 raises an irrelevant attack on counsel, which is devoid of merit, which is not based on any conduct
2 by counsel in the case nor result or outcome in the case. Accordingly, the Settlement as a whole is
3 presumed to be fair, reasonable, and adequate, and the Court should grant final approval of the
4 Settlement in its entirety. *Dunk, supra*, 48 Cal.App.4th at 1802.

5 **VI. THE ATTORNEYS' FEES AWARD REQUESTED BY CLASS COUNSEL IS FAIR**
6 **AND REASONABLE AND SHOULD BE APPROVED.**

7 **A. Legal Standard for Attorneys' Fees in a Class Action Settlement.**

8 Trial courts have "wide latitude" in assessing the value of attorneys' fees and their
9 decisions will "'not be disturbed on appeal absent a manifest abuse of discretion.'" *Lealao v.*
10 *Beneficial Cal., Inc.* (2000) 82 Cal.App.4th 19, 41; *Ketchum v. Moses* (2001) 24 Cal.4th 1122,
11 1132 (The "experienced trial judge is the best judge of the value of professional services rendered
12 in his court[.]"); *Cellphone Termination Fee Cases* (2009) 180 Cal.App.4th 1110, 1118. Where
13 the amount of a settlement is a "certain easily calculable sum of money," California courts may
14 calculate attorneys' fees as a reasonable percentage of the settlement. Weil and Brown, *California*
15 *Practice Guide, Civil Procedure Before Trial*, Chapter 14, § 14:145; *see also Laffitte v. Robert*
16 *Half Int'l Inc.* (2016) 1 Cal.5th 480, 503; *Dunk, supra*, 48 Cal.App.4th at 1808. The percentage-
17 of-the-benefit approach is preferred in class and representative actions because "it better
18 approximates the workings of the marketplace than the lodestar approach." *Lealao, supra*, 82
19 Cal.App.4th at 49.

20 California law provides that an attorneys' fees award should be equivalent to fees paid in
21 the legal marketplace for the result achieved and risk incurred. *Id.* at 47-50; *Laffitte v. Robert Half*
22 *Int'l, Inc.* (2016) 1 Cal.5th 480, 503. In *Lealao*, the court held that when an action leads to a
23 recovery that can be "monetized" with a reasonable degree of certainty, the trial court should
24 "ensure that the fee awarded is within the range of fees freely negotiated in the legal marketplace
25 in comparable litigation." *Lealao, supra*, 82 Cal.App.4th at 50. Fee awards that are too small will
26 "chill the private enforcement essential to the vindication of many legal rights and obstruct the
27 representative actions that often relieve the courts of the need to separately adjudicate numerous
28 claims." *Lealao, supra*, 82 Cal.App.4th at 53.

1 “The ultimate goal . . . is the award of a ‘reasonable’ fee to compensate counsel for their
2 efforts, irrespective of the method of calculation.” *Consumer Privacy Cases* (2009) 175
3 Cal.App.4th 545, 557-58 (quoting *Apple Computer, Inc. v. Superior Court, supra*, 126 Cal.App.4th
4 at 1270). It is not an abuse of discretion to choose one method over another as long as the method
5 chosen is applied consistently using percentage figures and/or rates that accurately reflect the
6 marketplace. In cases where class members present claims against a settlement amount and the
7 settlement agreement provides that the defendant agrees to paying the attorneys a percentage of
8 the same, use of that percentage method is appropriate. *Lealao, supra*, 82 Cal.App.4th at 32.

9 Historically, courts have awarded fees as high as fifty percent (50%) of the settlement,
10 depending on the circumstances of the case. Conte & Newberg, *Newberg on Class Actions* (4th
11 Ed., 2002) § 14.03; see also *In re Ampicillin Antitrust Litig.* (D.D.C. 1981) 526 F.Supp. 494
12 (awarding attorneys’ fees in the amount of 45% of the settlement amount of \$7.3 million); *Beech*
13 *Cinema, Inc. v. Twentieth-Century Fox Film Corp.* (S.D.N.Y. 1979) 480 F.Supp. 1195 (awarding
14 approximately 53% of the settlement amount as attorneys’ fees). California courts routinely
15 approve class action attorneys’ fees awards “averag[ing] around one-third of the recovery.”
16 *Chavez v. Netflix, Inc.* (2008) 162 Cal.App.4th 43, 66 n.11 (lower court found 20 to 40 percent
17 range of contingency fee in marketplace was appropriate in class actions); see also *Laffitte*, 1
18 Cal.5th at 488 & 506 (approving fee award of 1/3 of common fund of \$19 million).

19 **B. A Fee Award of a Percentage of the Entire Fund Is Appropriate.**

20 California and federal courts have long recognized that an appropriate method for
21 determining the award of attorneys’ fees is based on a percentage of the total value of benefits
22 made available to class members by the settlement. *Laffitte*, 1 Cal.5th at 503; *Boeing Co. v. Van*
23 *Gemert* (1980) 444 U.S. 472, 478; *Paul, Johnson, Alston & Hunt v. Gaulty* (9th Cir. 1989) 886
24 F.2d 268, 272; *Vincent v. Hughes Air West, Inc.* (9th Cir. 1977) 557 F.2d 759, 769; *Serrano v.*
25 *Priest* (1977) 20 Cal.3d 25, 34.⁶⁶ The purpose of this equitable doctrine is to spread litigation costs
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28 ⁶⁶ The California Supreme Court has urged trial courts to consider class action federal authority. *Green v. Obledo*
(1981) 29 Cal.3d 126, 146; *Vasquez v. Superior Court* (1971) 4 Cal.3d 800, 821.

1 proportionally among all the beneficiaries so that the active beneficiary does not bear the entire
2 burden alone. See *Vincent, supra*, 557 F.2d at 769.

3 When a litigant's efforts result in a settlement from which others may derive benefits, the
4 litigant may require the passive beneficiaries to compensate those whose efforts brought about the
5 settlement. See, R. Pearle, *California Attorney Fee Awards* (CEB, 1993) § 7A, p. 5-7 (permitting
6 attorneys' fees and costs to be paid out of the settlement or directly on behalf of the other parties
7 enjoying the benefit of the settlement). Both state and federal courts have embraced this doctrine.
8 See *Serrano, supra*, 20 Cal.3d at 35; *Crampton v. Takegoshi* (1993) 17 Cal.App.4th 308, 317;
9 *Vincent, supra*, 557 F.2d at 769.

10 The propriety of calculating and awarding attorneys' fees as a percentage of a monetary
11 settlement that has, by litigation, been preserved or recovered for the benefit of others, has been
12 confirmed by the California Supreme Court. *Laffitte, supra*, 1 Cal.5th 480 at 486 & 506. The
13 California Supreme Court has taken the position that "[t]rial courts have discretion to conduct a
14 lodestar cross-check on a percentage fee," "they also retain the discretion to forgo a lodestar cross-
15 check and use other means to evaluate the reasonableness of a requested percentage fee[.]" and
16 "[t]he percentage [...] method survives in California." *Id.* (internal quotes omitted).

17 Courts have consistently recognized that class and representative action litigation is
18 increasingly necessary to protect the rights of individuals whose injuries and/or damages are too
19 small to economically justify legal action on an individual basis. Accordingly, in determining a
20 reasonable fee award, courts award fees to serve as an economic incentive for lawyers to pursue
21 such litigation in order to achieve increased access to the judicial system for meritorious claims
22 and to enhance deterrents to wrongdoing. This is especially true in situations where multiple
23 similar alleged wrongs would not be economically feasible to pursue individually, such as here.
24 See A. Conte, *Attorney Fee Awards* (2d Ed., 1993) 104, at 6.

25 When the case was originally filed, not only was it inescapably contingent, but the prospect
26 of a long, drawn-out battle with a defendant represented by experienced counsel, was almost a
27 certainty. By taking on this "battle" on a contingency basis, Class Counsel risked substantial
28 economic loss if the results were not successful. This substantial risk is the reason that the courts

1 approve the use of the percentage method when a settlement is obtained by the efforts of class
2 counsel. *See Vizcaino v. Microsoft* (9th Cir. 2002) 290 F.3d 1043, 1048-49 (discussing the risks of
3 engaging in litigation without certainty of compensation).

4 Under the terms of the Settlement Agreement, Defendant will pay a Total Settlement
5 Amount of \$4,936,563.22. The requested attorneys' fees are \$1,570,800.00, which is thirty-three
6 percent (33%) of the original Total Settlement Amount. In light of Class Counsel's successful
7 prosecution and resolution of the case, the requested attorneys' fees are appropriate and reasonable.

8 Compensating class counsel in class litigation on a percentage basis makes good sense
9 because: (1) it is consistent with the private marketplace where contingent fee attorneys are
10 customarily compensated on such a basis; (2) it aligns the interests of class counsel and absent
11 class members in achieving the maximum possible resolution of the cases; and (3) it encourages
12 the most efficient and expeditious resolution of the litigation by providing an incentive for early,
13 yet reasonable, settlement. The requested attorneys' fees in this matter satisfy all of those factors
14 and should be approved on a percentage basis.

15 The percentage method is consistent with, and is intended to mirror, the practice in the
16 private marketplace where contingent-fee attorneys typically negotiate percentage-fee
17 arrangements with their clients. A named plaintiff's agreement to pay a contingent fee is powerful
18 evidence of a reasonable fee. One of the best ways to demonstrate the value of counsel's work to
19 the class is to review the consideration agreed to be paid by the named plaintiff. If the named
20 plaintiff has employed counsel on a contingency-fee basis, it would indeed be inequitable for the
21 members of the class, who will enjoy the benefits of the settlement without incurring the risks of
22 bringing the claim, to pay less than the named plaintiff. In this case, Plaintiffs have each agreed to
23 a contingency fees of at least thirty-three percent (33%) of the recovery.⁶⁷

24 Furthermore, a percentage-fee award is not dependent on a determination of the actual
25 amount claimed by those entitled—it is the creation of the settlement that is the crucial fact. In
26 *Winslow v. Harold G. Ferguson Corp.*, the California Supreme Court expressly held that “it is
27 equitable that [the attorney's] compensation and expenses should come from the entire fund saved
28

⁶⁷ Ghosh Decl., ¶ 4.

for all classes concerned before it is distributed.” *Winslow v. Harold G. Ferguson Corp.* (1944) 25 Cal.2d 274, 284. Likewise, *Lealao* expressly held that a percentage-based fee “may be calculated on the basis of the total fund made available rather than the actual payments made to the class.” *Lealao, supra*, 82 Cal.App.4th at 51; *see also Boeing, supra*, 444 U.S. at 478 (“a litigant or a lawyer who recovers” a settlement “for the benefit of persons other than himself or his client is entitled to a reasonable attorneys’ fee from the fund as a whole”).

In *Wershba v. Apple Computer, Inc.* (2001) 91 Cal.App.4th 224, in determining reasonable attorneys’ fees, the Court of Appeal valued a settlement based on the total value of the settlement made available to class members by the efforts of counsel, decided in favor of granting fees as a percentage of the total value of the settlement, and rejected an objection that the fees be awarded based on the exact amount claimed by class members. *Id.* at 247.

Class Counsel has obtained a substantial recovery on behalf of Plaintiffs, the Class, PAGA Group Members, and the State of California, and the results achieved justify an attorneys’ fees award that is the equivalent of the standard market fee and that is consistent with the contingency-fee agreement entered into by and between Plaintiffs and Class Counsel. Thus, the requested attorneys’ fees are appropriate.

C. The Attorneys’ Fees Award Requested by Class Counsel Is Reasonable Based on the Factors Considered in Determination of Fee Awards.

In *Camden I Condominium Association, Inc. v. Dunkel*, the court identified twelve factors to be considered in determining whether fee awards are reasonable: (1) the time and labor required; (2) the novelty and difficulty of the questions involved; (3) the skill required to perform the legal services properly; (4) the preclusion of other employment by the attorney due to the acceptance of the cases; (5) the customary fee; (6) whether the fee is fixed or contingent; (7) time limitation imposed by the client or the circumstances; (8) the amount involved and results obtained; (9) the experience, reputation and ability of the attorney; (10) the undesirability of the cases; (11) the nature and length of the professional relationship with the client; and (12) awards in similar cases. *Camden I Condominium Association, Inc. v. Dunkel* (11th Cir. 1991) 946 F.2d 768, 772.

Each and every one of these factors favors the attorneys' fees sought here; however, some of the most relevant factors to this Court's fee determination will be addressed herein. The award of attorneys' fees in the amount of \$1,570,800.00 (which is 33% of the original Total Settlement Amount⁶⁸) is commensurate with the time, effort, and expense dedicated to the case, the contingent nature of Class Counsel's fee and the risks taken in commencing the case, the skill and determination required, the results that Class Counsel has achieved, and the value of the settlement that Class Counsel has obtained for the Class Members.

1. Time & Labor.

Class Counsel used its experience and skills, and dedicated the full extent of resources, to litigate and bring this matter to a successful conclusion on behalf of the Class. Moreover, as demonstrated in the supporting declarations, Class Counsel has extensive experience in the handling of class actions and complex litigation actions.⁶⁹

As outlined in the Declaration of Brian J. St. John and Declaration of Joanna Ghosh, Class Counsel has fully and actively participated in litigation of the Action.⁷⁰ Prior to commencing the lawsuit, Class Counsel had conducted a significant amount of investigation into the factual and legal issues, Defendant's business, and its operations and employment policies, practices, and procedures.⁷¹ During the litigation of the action, Class Counsel interviewed Plaintiffs and other Class Members; reviewed and analyzed large volume of documents and data produced by Defendant and obtained through other sources; and prepared damages/valuation calculations.⁷² Class Counsel also met and conferred with Defendant's counsel over the issues relating to pleadings, case management, discovery, and exchange of information, documents, and data, among other things; engaged in settlement negotiations with Defendant's counsel; and prepared for and attended court proceedings, mediation, and settlement negotiations.⁷³

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⁶⁸ See n.1, *supra*.

⁶⁹ Ghosh Decl., ¶¶ 8-13.

⁷⁰ St. John Decl., ¶¶ 4-8; Ghosh Decl., ¶ 6 & Exh. A.

⁷¹ St. John Decl., ¶ 6; Ghosh Decl., Exh. A.

⁷² St. John Decl., ¶ 6.

⁷³ *Ibid*.

Class Counsel has dedicated staffing and monetary resources necessary to prosecute this matter diligently and with maximum efficiency and has fully and actively participated in the litigation process. The Task and Time Chart, which is attached as EXHIBIT A to the accompanying Declaration of Joanna Ghosh, sets forth in detail the hours that Class Counsel has spent performing tasks on behalf of Plaintiffs and the Class.⁷⁴ The Task and Time Chart is thorough and comprehensive, and was prepared so that the Court can peruse it without having to set forth each and every task in the body of this Motion. The Court is respectfully referred to the chart, which sets forth the history of the work performed by Class Counsel, commencing with the pre-filing analysis and research, and continuing up to settlement and final approval. Class Counsel has spent 644.70 hours performing tasks and to obtain a significant recovery on behalf of Plaintiffs and the Class.⁷⁵ These hours were required to bring this matter to its successful conclusion. In light of the value of time expended and the carrying of costs involved in litigating these case, the requested attorneys' fees are fair, adequate, and reasonable.

2. The Skill Required to Perform Legal Services Properly.

The skill required to properly litigate the case is evident not only in the results achieved, but in the steps necessary to reach the same. Defendant retained well-respected counsel to represent its defenses. More specifically, Defendant and its counsel felt very strongly about Defendant's ability to obtain a denial of certification and to prevail on the merits. Plaintiffs and Class Counsel believed that the motion for class certification would be granted and that they would prevail at trial.

Class Counsel undertook significant investigation, analysis, and research prior to filing the case, during the litigation, and prior to mediation. Class Counsel took steps to prepare the matter for class certification and representative adjudication and had every intention of taking the case to trial on a class-wide basis if Defendant did not offer an appropriate class-wide settlement. Despite all of the obstacles that had to be overcome, as demonstrated in the Declaration of Joanna Ghosh, Class Counsel used its extensive experience in the handling of class actions and complex wage-

⁷⁴ Ghosh Decl., Exh. A.

⁷⁵ *Id.*, ¶ 6.

and-hour litigation actions in order to obtain the Settlement with maximum efficiency.⁷⁶

3. The Value of the Settlement for the Class Members.

The Settlement represents an excellent resolution of the action, given the risks inherent in litigating the case through certification proceedings, trial, and/or appeals. Had the case not settled, Defendant would have vigorously challenged certifiability, manageability of representative adjudication, and liability. Defendant, however, faced risks if the Court certified a class and allowed a jury to decide the claims. Additionally, preparing the cases for trial would have been expensive for the parties.

The Settlement at this stage is preferred over continued litigation because such resolutions save time and money that would otherwise go to litigation. The risks and expenses of further litigation outweighed any benefit that might have been gained otherwise. The Settlement provides an immediate recovery, as opposed to an uncertain result in the future after prolonged litigation involving expert discovery, trial preparation, class certification proceedings, and appellate review of those proceedings. The Settlement offers present relief and/or recovery to Settlement Class Members, the State of California, and PAGA Group Members while avoiding the further expense, risk, and delay in obtaining possible recovery at an unknown time in the future.

As a result of this litigation and of settlement negotiations, Defendant agreed to pay a Total Settlement Amount of \$4,936,563.22 to settle the matter. After deducting the attorneys' fees (\$1,570,800.00), litigation costs and expenses (\$13,640.75), Enhancement Payments (combined \$17,500.00), Settlement Administration Costs (\$22,000.00), and PAGA Fund (\$500,000.00) from the escalated Total Settlement Amount, it is currently estimated that the Class Settlement Fund is approximately \$2,812,622.47.⁷⁷ The Class Settlement Fund will be fully distributed in accordance with the terms of the Settlement. The highest Individual Class Settlement Share to a Settlement Class Member is currently estimated to be \$1,996.20 and the average Individual Class Settlement Share is currently estimated to be \$839.25.⁷⁸ The highest Individual PAGA Settlement Share is currently estimated to be \$92.75 and the average Individual PAGA Settlement Share is currently

⁷⁶ Ghosh Decl., ¶¶ 8-13.

⁷⁷ Simpluris Decl., ¶ 16; see also, n.1 and n.8, *supra*.

⁷⁸ *Id.*, ¶ 17; see n.8, *supra*.

estimated to be \$37.72.⁷⁹ The Settlement offers significant monetary relief to the Settlement Class Members, the State of California, and PAGA Group Members.

4. Whether the Fee Is Fixed or Contingent.

Plaintiffs entered into a contingency fee agreement with Class Counsel, and the representation of the Class provided by Class Counsel has been wholly contingent. Class Counsel took on the cases without knowing whether any recovery would be obtained. Class Counsel has invested 644.70 hours of time to obtain relief on behalf of Plaintiffs, Class Members, the State of California, and PAGA Group Members.⁸⁰ Class Counsel has also incurred litigation costs and expenses in the amount of \$13,640.75.⁸¹

Class Counsel has borne all of the risks and costs of litigation and will not receive any compensation until recovery is obtained.⁸² Class Counsel is well-experienced in wage-and-hour class action and complex litigation and used that experience to obtain a great result.⁸³ The skill and determination that Class Counsel has shown, along with the results obtained, justify the requested Attorneys' Fees and Costs. Considering the amounts requested, the work performed, and the risks incurred, the requested fees and costs are reasonable and should be awarded.

In determining the reasonableness of a fee award in a class action settlement, whether or not representation is provided on a contingency basis is an important factor:

A contingent fee must be higher than a fee for the same legal services paid as they are performed. The contingent fee compensates the lawyer not only for the legal services he renders but for the loan of those services. A lawyer who both bears the risk of not being paid and provides legal services is not receiving the fair market value of his work if he is paid only for the second of these functions. If he is paid no more, competent counsel will be reluctant to accept fee award cases.

Cates v. Chiang (2013) 213 Cal.App.4th 791, 823 (internal quotes and citations omitted). Class Counsel litigated the cases on a contingent basis with all of the concomitant risk factors inherent in such an uncertain undertaking. Had Class Counsel not been successful, the time that Class

⁷⁹ Simpluris Decl., ¶ 19.

⁸⁰ Ghosh Decl., ¶ 6 & Exh. A

⁸¹ See Part VII, *infra*; Ghosh Decl., ¶ 14.

⁸² Ghosh Decl., ¶ 14.

⁸³ *Id.*, ¶¶ 8-13.

Counsel has devoted to litigating the cases would have been for naught, and would not have produced any fee or any reimbursement of costs or expenses.

5. The Amount Involved and the Results Achieved.

The results achieved, in light of the difficulties inherent in similar cases and the specific difficulties faced in this matter, are considerable. The Settlement has yielded a positive response from the Class Members—only one (1) Class Member objected to the Class Settlement.⁸⁴

The court in *Camden* noted that, “a key element of the common fund case is that fees are [...] taken from the fund [...] and a common fund is itself the measure of success ... [and] represents the benchmark on which a reasonable fee will be awarded.” *Camden*, 946 F. 2d 768, fn. 28 (citing *Court Awarded Attorney Fees, Report of the Third Circuit Task Force* (October 8, 1985) 108 F.R.D. 237 and Newberg, *Attorney Fee Awards* § 2.07 (1986)).

Here, the results achieved and obtained on behalf of Plaintiffs and the Class are reasonable in light of the risks inherent in further litigating this matter. Class Counsel’s efforts have resulted in a settlement that provides for an escalated Total Settlement Amount of \$4,936,563.22.⁸⁵ The escalated Total Settlement Amount will be fully paid out, in accordance with the terms of the Settlement Agreement. The highest Individual Class Settlement Share to a Settlement Class Member is currently estimated to be \$1,996.20 and the average Individual Class Settlement Share is currently estimated to be \$1,353.85.⁸⁶ The highest Individual PAGA Settlement Share is currently estimated to be \$92.75 and the average Individual PAGA Settlement Share is currently estimated to be \$37.72.⁸⁷

6. The Reputation and Ability of the Attorneys.

Lawyers for Justice, PC is a recognized class action law firm that employed its attorneys’ knowledge, skills, and experience in bringing these cases to a successful conclusion. Class Counsel has years of complex and class action litigation experience, has recovered millions of dollars on

⁸⁴ Simpluris Decl., ¶ 13.

⁸⁵ St. John Decl., ¶¶ 6-8; Ghosh Decl., ¶ 4.

⁸⁶ Simpluris Decl., ¶ 17; see also n.36, *supra*.

⁸⁷ *Id.*, ¶ 19.

1 behalf of thousands of individuals in California, and has successfully handled numerous significant
2 wage-and-hour class action and complex cases.⁸⁸

3 **D. The Lodestar Methodology Also Justifies Approval of the Requested Fees,**
4 **Because Class Counsel Has Performed Work That Is of Significant Value**
5 **Based On Reasonable Hours and Prevailing Hourly Rates of Compensation.**

6 While the percentage-of-the-benefit approach is endorsed as the better approximation of
7 the workings of the marketplace than the lodestar approach, courts may also use the lodestar
8 method to “cross-check” the results of the other. See *Laffitte, supra*, 1 Cal.5th at 505 (explaining
9 that “[a] lodestar cross-check is simply a quantitative method for bringing a measure of the time
10 spent by counsel into the trial court’s reasonableness determination”); see also, e.g., *Vizcaino*, 290
11 F.3d at 1050 (“[W]hile the primary basis of the fee award remains the percentage method, the
12 lodestar may provide a useful perspective on the reasonableness of a given percentage award.”).
13 Importantly, “the lodestar calculation . . . does not override the trial court’s primary determination
14 of the fee as a percentage” of the settlement amount and “does not impose an absolute maximum
15 or minimum on the potential fee award.” *Laffitte, supra*, 1 Cal.5th at 505.

16 The lodestar is calculated based on reasonable hours at reasonable prevailing hourly rates
17 for the attorneys. *Ketchum, supra*, 24 Cal.4th at 1131-32. Under California law, counsel is entitled
18 to compensation for every hour reasonably spent on the matter. *Id.* at 1133.

19 **1. *The Number of Hours Spent on the Litigation was Reasonable.***

20 The reasonableness of hours is assessed by “the entire course of the litigation, including
21 pretrial matters, settlement negotiations, discovery, litigation tactics, and the trial itself[.]” *Vo v.*
22 *Las Virgenes Municipal Water Dist.* (2000) 79 Cal.App.4th 440, 447.

23 As discussed above, the cases were highly contested and required a significant amount of
24 time and labor. Defendant made it clear very early on that it disputed all of the allegations of the
25 cases and disputed that the matter was appropriate for class or representative treatment. Defendant
26 raised affirmative defenses and denied liability, and the pursuit of this matter involved gathering
27 and analyzing data not only from Defendant but also from the Class Members. The handling of

28 ⁸⁸ Ghosh Decl., ¶¶ 8-13.

the cases involved a great amount of effort, and also required and involved the exercise of a high level of skill, which Class Counsel has as a result of its extensive experience in employment class actions and complex wage-and-hour litigation. Long and difficult battles would have followed as the cases moved toward certification and trial, including taking and defending depositions of Defendant's Person Most Knowledgeable designees, percipient witnesses, and experts, propounding discovery requests and conducting additional document production, and engaging in extensive motion practice. As Class Counsel geared up for these battles, Class Counsel undertook intense preparation in an attempt to resolve the entire matter through mediation.

Class Counsel had to bring together large volume of data and documents that were produced by Defendant and obtained from Plaintiffs and Class Members and through other sources. Class Counsel conducted extensive review and analysis of these documents and data to strategize the action and to prepare for and attend mediation and engage in settlement discussions.

As discussed above in Part VI.C.1, *infra*, attached to the Declaration of Joanna Ghosh is a task and time chart that sets forth in detail the numerous tasks that Class Counsel performed on behalf of Plaintiffs and the Class, and the time required for completing those tasks.⁸⁹ The chart demonstrates that Class Counsel has spent a total of 644.70 hours litigating the case and finalizing the Settlement.⁹⁰ In light of the facts and circumstances of the case, as well as the results that Class Counsel has achieved in these case, Class Counsel has spent a reasonable number of hours 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.

2. The Fees Requested Represent a Reasonable Hourly Rate of Compensation in Light of Class Counsel's Efforts and Experience.

Both California and federal courts recognize that attorneys should be compensated for providing representation on a contingency basis and for taking on the risks associated with said representation, as well as being provided with financial incentives to enforce important rights and protections like those at issue in this action. See *Ketchum, supra*, 24 Cal.4th at 1132-33. In

⁸⁹ See Ghosh Decl., Exh. A.

⁹⁰ Ghosh Decl., ¶ 6.

1 awarding attorneys' fees, the aim is to mirror "the established practice in the private legal market
2 of rewarding attorneys for taking the risk of nonpayment by paying them a premium over their
3 normal hourly rates for winning contingency cases." See *id.*

4 Class Counsel has been actively involved in this case, prior to its commencement and all
5 the way up to the present, and Class Counsel's dedication to providing representation in this matter
6 has precluded other employment. Here, Class Counsel bore the risk that, despite all of its efforts
7 and skills employed, there may be no recovery. Ultimately, Class Counsel was successful in
8 reaching a settlement of \$4,936,563.22.

9 As set forth in the Declaration of Joanna Ghosh, the professional backgrounds and
10 experience of Class Counsel support a reasonable hourly rate of compensation of at least \$850 per
11 hour for services provided by Class Counsel.⁹¹ Lawyers for Justice, PC has been awarded
12 attorneys' fees, compensating the firm at the rate of at least \$850 for legal service performed, by
13 courts of this state.⁹² While the circumstances of every case is unique, the fact remains that the
14 work performed and efforts undertaken by Class Counsel on behalf of the Class Members justify
15 the requested attorneys' fees.

16 **3. The Risks Involved, Skill Required, Complexity of the Matter, and Results**
17 **Obtained Warrant Upward Enhancement of the Lodestar.**

18 Even when courts have opted to award fees in Total Settlement Amount cases based on
19 time reasonably expended on the action, courts have generally awarded these fees based on the
20 actual time expended (the lodestar) in conjunction with a multiplier of between 2 and 4. *Kerr v.*
21 *Screen Extras Guild, Inc.* (9th Cir. 1975) 526 F.2d 67. Such a multiplier is warranted in this case.

22 Courts frequently apply multipliers to enhance the lodestar to reflect the risks involved, the
23 complexity of the litigation, and the other relevant facts. *Vizcaino*, 290 F.3d at 1051; *Graham v.*
24 *DaimlerChrysler Corp.* (2004) 34 Cal.4th 553, 579 ("One of the most common fee enhancers [...] is for contingency risk."). Such an enhancement "mirrors the established practice in the private
25 legal market of rewarding attorneys for taking the risk of nonpayment by paying them a premium
26

27
28 ⁹¹ Ghosh Decl., ¶ 7.

⁹² *Ibid.*

over their normal hourly rates for winning contingency cases.” *Vizcaino*, 290 F.3d at 1051; *accord Ketchum*, 24 Cal.4th at 1132-33. A risk multiplier also serves to bring the financial incentives for enforcing important rights “into line with incentives [attorneys] have to undertake claims for which they are paid on a fee-for-services basis.” *Ketchum*, 24 Cal. 4th at 1132.

In determining whether or not to enhance the lodestar, California courts take into account multiple factors, many of which were specifically addressed above in §§ VI.B-C, *infra*. See, *Cates* at 822-823. Multiple factors warrant enhancement in this case, including the following:

- The time and labor required
- The skill requisite to perform the legal services properly
- The preclusion of other employment by the attorney due to the acceptance of the case
- The contingent nature of the fee
- The amount involved and results obtained
- The experience, reputation, and ability of the attorney
- Awards in similar cases

Ketchum at 1134.

Adjustment of the base lodestar figure to compute an award of attorneys’ fees for a claim under the California Labor Code is appropriate. See *Id.*, at 1135-1136; *Serrano v. Priest* (1977) 20 Cal.3d 25, 48-49. “The lodestar is calculated by multiplying the reasonable hours expended by a reasonable hourly rate. The court may then enhance the lodestar with a multiplier, if appropriate.” *Wershba, supra*, 91 Cal.App.4th at 254. In the first stage of the lodestar adjustment method, the trial court determines the reasonable hourly rate of compensation for counsel, which it then multiplies by the number of hours the court finds were reasonably spent preparing the case, to obtain the lodestar figure. *Ketchum, supra*, 24 Cal.4th at 1131-1132. The lodestar figure is the “basic fee for comparable legal services in the community” based upon the “hourly amount to which attorneys of like skill in the area would typically be entitled.” *Id.*, at 1132-1133 (quotation marks and citation omitted).

As discussed above, this was a highly contested matter which required an extensive amount of time and labor. Defendant raised defenses and denied liability, and the case involved gathering

1 and analyzing documents and data not only from Defendant but also from the Class Members. The
2 handling of this matter involved a great amount of effort, and required the exercise of high-level
3 of skill, which Class Counsel has as a result of extensive experience in employment class actions
4 and wage-and-hour litigation. Class Counsel has been actively involved in the prosecution of this
5 matter, prior to its commencement and Class Counsel's work has continued all the way up to the
6 present. Class Counsel's dedication to the representation of the Class Members has precluded other
7 employment.

8 Most importantly, all services were performed by Class Counsel on a contingent basis.
9 Both California and federal courts recognize that attorneys should be compensated for taking on
10 such contingent risks and provided with financial incentives to enforce important rights and
11 protections like those at issue in the matter at hand. See, e.g., *Vizcaino*, 290 F.3d at 1051; *Ketchum*,
12 24 Cal. 4th at 1132-33. Here, Class Counsel bore the risk that, despite all of its efforts and the skill
13 employed, there may be no recovery. Therefore, at a minimum, Class Counsel is entitled to a risk
14 multiplier. The results obtained by way of Class Counsel's efforts are significant here. Class
15 Counsel was successful in achieving substantial results in the form of a settlement of
16 \$2,459,000.00. Also, Class Counsel's efforts throughout the case demonstrate dedication to the
17 interests of the Class Members.

18 Class Counsel's application for attorneys' fees in light of the facts and circumstances
19 surrounding the matter is well within the range of reasonableness. While handling this matter,
20 Class Counsel devoted the hours in legal time summarized above and detailed in the Task and
21 Time Chart, which is attached as EXHIBIT A to the Declaration of Joanna Ghosh.⁹³ As the chart
22 indicates, Class Counsel has worked 644.70 hours in the pursuit of this matter. The attorney task
23 and time chart presents the entire picture. Applying a reasonable blended rate of \$850 per hour to
24 644.70 hours of work performed by Lawyers for Justice, PC would place a base lodestar value of
25 \$547,995.00 on Class Counsel's services, and applying a modest multiplier of 2.87, the total
26 enhanced lodestar fees are \$1,572,745.65.⁹⁴ Class Counsel seeks an attorneys' fee award of
27

28 ⁹³ Ghosh Decl., Exh. A.

⁹⁴ *Id.*, ¶ 6; see n.4, *supra*.

\$1,570,800.00 (equal to 33% of the original Total Settlement Amount⁹⁵). Far greater multipliers have been awarded in similar cases, and the total amount of fees sought by Class Counsel is also reasonable compared to fees awarded in similar cases. Courts routinely enhance lodestar amounts based on multipliers that “range from **2 to 4 or even higher.**” *Wershba, supra*, 91 Cal.App.4th at 255 (emphasis added); *see also, e.g., Chavez v. Netflix, Inc.* (2008) 162 Cal.App.4th 43, 66 (approving **multiplier of 2.5**); *Vizcaino*, 290 F.3d at 1051 (approving **multiplier of 3.65**); *Wal-Mart Stores, Inc. v. Visa U.S.A., Inc.* (2d Cir. 2005) 396 F.3d 96, 123 (approving **multiplier of 3.5**); *Craft v. County of San Bernardino* (C.D. Cal. 2006) 624 F.Supp.2d 1113, 1125 (awarding **multiplier of 5.2** and referring to other cases with cross-check **multipliers ranging from 4.5 to 19.6**).

The nature of the work performed, skill exercised, and the outcome in this matter—which involves an outstanding monetary recovery involving an escalated **Total Settlement Amount of \$4,936,563.22** (with a Class Settlement Fund of **at least \$2,812,622.47 to be paid to Settlement Class Members** with an average payment of approximately \$839.25 per Settlement Class Member, a **payment of \$125,000.00 to PAGA Group Members** with an average payment of \$37.72 per PAGA Group Member, and **payment of \$375,000.00 to the State of California**)—support the percentage fee sought and the application of a lodestar multiplier.⁹⁶

Therefore, application of a modest multiplier of 2.87 is warranted, and the lodestar as a cross-check to the percentage figure sought herein, strongly supports the reasonableness of the requested attorneys’ fees award. Plaintiff respectfully requests that the Court grant final approval of, and award, attorneys’ fees in the amount of \$1,570,800.00 to Class Counsel.

VII. COSTS TO BE REIMBURSED TO CLASS COUNSEL ARE FAIR AND REASONABLE AND SHOULD BE APPROVED.

The Settlement provides for reimbursement of litigation costs and expenses of up to \$45,000.00. As set forth in the Declaration of Joanna Ghosh, Class Counsel has incurred a total of \$13,640.75 in litigation costs and expenses.⁹⁷ This amount was reasonable and necessary in the

⁹⁵ See n.1, *supra*

⁹⁶ Simpluris Decl., ¶¶ 16-19. See n.8 & 36.

⁹⁷ Ghosh Decl., ¶ 24.

prosecution of the cases and to obtain the Settlement.⁹⁸ The cost savings of \$31,359.25 will be part of the Class Settlement Fund, which will be distributed to the Settlement Class Members in accordance with the Settlement.⁹⁹ Accordingly, Plaintiffs requests that the Court award litigation costs and expenses in the amount of \$13,640.75 to Class Counsel.

VIII. THE SETTLEMENT ADMINISTRATION COSTS ARE FAIR AND REASONABLE AND SHOULD BE APPROVED.

As set forth in the accompanying Simpluris, Inc. Declaration, the total costs incurred and to be incurred by Simpluris for the notice and settlement administration process are \$22,000.00.¹⁰⁰ The costs incurred and to be incurred include, but are not limited to, (i) disseminate the Class Notice, calculate the pro rate portion of the Class Settlement Fund that each Settlement Class Member would be entitled to receive under the Settlement (“Individual Class Settlement Share), calculate the pro rata portion of the PAGA Settlement Fund that each PAGA Group Member would be entitled to receive under the Settlement (“Individual PAGA Settlement Share”), prepare declarations regarding the settlement administration, provide weekly status reports, establish a Qualified Settlement Fund account pursuant to Section 468(B)(g) of the Internal Revenue Service Code, issue settlement checks, void uncashed settlement checks, calculate the Employer Taxes, and issue to Settlement Class Members forms W-2 (for the wage portion of Individual Class Settlement Shares) and forms 1099 (for the non-wage portion of Individual Class Settlement Shares and Individual PAGA Settlement Shares) for all amounts paid under this Settlement.¹⁰¹

Accordingly, the Court should grant final approval of payment to Simpluris, a necessary third-party for handling of the notice and settlement process, in the amount of \$22,000.00.

IX. THE REQUESTED ENHANCEMENT PAYMENTS ARE FAIR AND REASONABLE, AND SHOULD BE APPROVED.

The Settlement provides for a Enhancement Payments in the amount of \$10,000.00 to Plaintiff Arnold Saurin and \$7,500.00 to Plaintiff Ajayzeau Brown (for a combined total of

⁹⁸ Ghosh Decl., ¶ 24.

⁹⁹ Ibid.

¹⁰⁰ Simpluris Decl., ¶ 20.

¹⁰¹ *Id.*, ¶ 3.

1 \$17,500.00) to compensate Plaintiffs for the time and effort that they expended on behalf of the
2 Class. The requested Enhancement Payments are both common and reasonable and should be
3 awarded.

4 In determining whether to make an incentive payment, courts consider the following
5 factors: (1) the risk to the class representative in commencing suit, both financial and otherwise;
6 (2) the notoriety and personal difficulties encountered by the class representatives; (3) the amount
7 of time and efforts spent by the class representatives; (4) the duration of the litigation; and (5) the
8 personal benefit (or lack thereof) enjoyed by the class representatives as a result of the litigation.
9 *Vranken v. Atlantic Richfield Co.* (N.D. Cal. 1995) 901 F.Supp. 294, 299 (approving \$50,000
10 participation award to a single class representative).

11 The requested Enhancement Payments are fair and appropriate because Plaintiffs spent a
12 substantial amount of time and effort producing relevant documents and past employment records,
13 as well as providing the facts and evidence to support the prosecutions of the claims.¹⁰² Plaintiffs
14 were available whenever Class Counsel needed them and actively tried to obtain, and gave,
15 information to support the pursuit of the case.¹⁰³

16 Accordingly, it is appropriate and just for Plaintiff Arnold Saurin to receive \$10,000.00
17 and Plaintiff Ajayzeau Brown to receive \$7,500.00 as reasonable Enhancement Payments, for
18 their services on behalf of the Class, PAGA Group Members, and the State of California, in
19 addition to their individual class settlement payments.

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27 ¹⁰² St. John Decl., ¶ 9; Declaration of Arnold Saurin (“Saurin Decl.”), ¶¶ 3-5; Declaration of Ajayzeau Brown (“Brown
28 Decl.”), ¶¶ 3-5.

¹⁰³ St. John Decl., ¶ 9; Saurin Decl., ¶¶ 3-5; Brown Decl., ¶¶ 3-5.

X. CONCLUSION

For the foregoing reasons, Plaintiffs respectfully requests that the Court grant final approval of the Settlement, and award Attorneys' Fees and Costs, Enhancement Payments, Settlement Administration Costs, and allocation for the PAGA Fund, in their entirety, as sought herein; and permit the filing of a memorandum that exceeds the page limit.

Dated: February 15, 2024

LAWYERS for JUSTICE, PC

By:



Brian J. St. John
Attorneys for Plaintiffs and the Class