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

BRANDON HAWKINS AND BRIAN
CANADY, individually, and on behalf of
others similarly situated;

Plaintiffs,

vs.

ONTEL SECURITY SERVICES, INC., a
California corporation; and DOES 1
through 100, inclusive,

Defendant.

Case No. CV-20-005404

Consolidated with Case No. CV-21-002299

Honorable John D. Freeland
Department 23

CLASS ACTION

**PLAINTIFFS' NOTICE OF MOTION AND
MOTION FOR FINAL APPROVAL OF CLASS
ACTION AND PAGA SETTLEMENT, CLASS
COUNSEL AWARD AND CLASS
REPRESENTATIVE ENHANCEMENT
AWARDS; MEMORANDUM OF POINTS AND
AUTHORITIES**

Date: April 11, 2025
Time: 8:30 a.m.
Department: 23

AMANDA OLVERA and SABRINA
MENDIOLA 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;

Plaintiffs,

vs.

ONTEL SECURITY SERVICES, INC., a
California corporation; and DOES 1
through 100, inclusive,

Defendant.

Hawkins Complaint

Filed: December 3, 2020

Hawkins FAC

Filed: January 8, 2021

Olvera Complaint

Filed: April 29, 2021

Olvera FAC Filed: June 24, 2021

Olvera SAC Filed: January 5, 2022

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Attorneys for Plaintiffs Brandon Hawkins and Brian Canady and Class

1 **PLEASE TAKE NOTICE** that on April 11, 2025, at 8:30 a.m., in Department 23 of the
2 above-entitled Court, located at 801 10th Street, Modesto, California 95354, Plaintiffs Brian
3 Canady, Brandon Hawkins, Amanda Olvera, and Sabrina Mendiola (collectively, “Plaintiffs” or
4 “Class Representatives”) will and hereby do move for an order granting final approval of:

5 1. The Joint Stipulation of Class Action and PAGA Settlement and Release of Claims
6 (“Agreement,” “Settlement,” or “Settlement Agreement”) on the grounds that the Settlement
7 Agreement is fair, adequate, and reasonable because a **Net Settlement Amount** of approximately
8 **\$335,574.19** will be fully distributed to all Class Members who do not submit a timely and valid
9 Request for Exclusion (“Settlement Class Members”), and **no Objections or Requests for**
10 **Exclusion** were submitted to the Settlement Administrator, Xpand Legal Consulting (“Xpand” or
11 “Settlement Administrator”);

12 2. Payment in the amount of **\$262,500.00** to Lawyers for Justice, PC, Polaris Law
13 Group and Hyun Legal, APC (collectively, “Class Counsel”), representing thirty-five percent
14 (35%) of the Maximum Settlement Amount, for the attorneys’ fees, which is reasonable and
15 justified on a percentage-basis, and also on a lodestar cross-check;

16 3. Payment in the amount of **\$16,925.81** to Class Counsel for litigation costs;

17 4. Payment in the amount of **\$10,000.00** to the Settlement Administrator for
18 Settlement Administration Costs;

19 5. Payment in the amount of **\$10,000.00** to each Plaintiff (for a total of \$40,000.00)
20 as the Class Representative Enhancement Awards, for their time and effort in representing the
21 Class;

22 6. Allocation of the penalties under the Private Attorneys General Act of 2004,
23 California Labor Code section 2698, *et seq.*, in the amount of **\$75,000.00** (“PAGA Payment”), of
24 which seventy-five percent (75%), or **\$56,250.00**, will be paid to the California Labor and
25 Workforce Development Agency (“LWDA”) (“LWDA Payment”) and twenty-five percent (25%),
26 or **\$18,750.00**, will be distributed to Aggrieved Employees on a *pro rata* basis, based on Qualified
27 PAGA Pay Periods during the PAGA Release Period; and
28

7. Payment in the amount of **\$10,000.00** to Plaintiff Mendiola as a General Release Payment for executing the California Civil Code section 1542 release.

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

This motion is based upon the following Memorandum of Points and Authorities; the Declarations of Class Counsel (Yasmin Hosseini, Dennis Hyun and William Marder), Class Representatives (Brian Canady, Brandon Hawkins, Amanda Olvera, and Sabrina Mendiola) and Settlement Administrator (Jonathan Paul of Xpand Legal Consulting) in support thereof; the pleadings and other records on file with the Court in this matter; and such evidence and oral argument as may be presented at the hearing on this Motion.

Dated: March 19, 2025

LAWYERS for JUSTICE, PC

By: 
Yasmin Hosseini
Attorneys for Plaintiffs Amanda Olvera,
Sabrina Mendiola and the Class

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1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. SUMMARY OF MOTION**

3 Plaintiffs Brian Canady, Brandon Hawkins, Amanda Olvera, and Sabrina Mendiola
4 (collectively, “Plaintiffs” or “Class Representatives”) seeks final approval of: (1) the Maximum
5 Settlement Amount of \$750,000.00¹; (2) attorneys’ fees in the amount of \$262,500.00, which is
6 thirty-five percent (35%) of the Maximum Settlement Amount², and reimbursement of
7 litigation costs in the amount of \$16,925.81 (together, “Class Counsel Award”) to Lawyers *for*
8 Justice, PC, Polaris Law Group and Hyun Legal, APC (“Class Counsel”)³; (3) Settlement
9 Administration Costs in the amount of \$10,000.00 to Xpand Legal Consulting (“Xpand” or
10 “Settlement Administrator”)⁴; (4) Class Representative Enhancement Awards in the amount of
11 \$10,000.00 to each Plaintiff (\$40,000.00 total)⁵; (5) allocation of \$75,000.00 for penalties under
12 the Private Attorneys General Act of 2004, California Labor Code § 2698, *et seq.* (“PAGA
13 Payment”); and (6) General Release Payment in the amount of \$10,000.00 to Plaintiff
14 Mendiola.⁶

15 Plaintiffs seek relief on behalf of the following Class:

16 All current and former hourly-paid or non-exempt employees who worked for
17 Defendant in California during the Class Release Period (“Class” or “Class
18 Members ”).⁷

19 Plaintiffs move for final approval of Class Counsel Award. This matter involved ongoing
20 investigations, formal and informal discovery, review and analysis of a large volume of documents
21 and data prior to and during the formal mediation, and settlement negotiations thereafter. This
22 matter has required 257.60 hours of attorney time by Class Counsel. As will be demonstrated
23 herein, the request for attorneys’ fees, which represents thirty-five percent (35%) of the
24

25 ¹ Joint Stipulation of Class Action and PAGA Settlement and Release of Claims (“Settlement Agreement”), § I.W.

26 ² *Id.*, § I.F.

27 ³ *Id.*, § I.E.

28 ⁴ *Id.*, § III.L.6.

⁵ *Id.*, § I.AA.

⁶ *Id.*, § III.L.3.a.

⁷ *Id.*, § I.D. “Class Release Period” means the period from and including December 3, 2016 through August 4, 2024.
See id., § I.I.

Maximum Settlement Amount, is fully supported by the use of the percentage-fee method. The requested attorneys' fees are also supported under the lodestar cross-check method.⁸

Plaintiffs move for final approval of the Class Representative Enhancement Awards in the amount of \$10,000.00 each to compensate Plaintiffs for the time and effort that they expended spearheading the lawsuit on behalf of the Class Members, Aggrieved Employees, and the State of California. Plaintiffs also move for final approval of the payment to the Settlement Administrator in the amount of \$10,000.00 for Settlement Administration Costs. Plaintiffs also move for final approval of the allocation of \$75,000.00 for the PAGA Payment, of which seventy-five percent (75%), i.e., \$56,250.00, will be paid to the California Labor Workforce and Development Agency ("LWDA") for its portion of the PAGA Penalties ("LWDA Payment"), and twenty-five percent (25%), i.e., \$18,750.00, will be distributed to the all current and former hourly-paid or non-exempt employees who worked for Defendant in California at any time during the PAGA Release Period ("Aggrieved Employees").⁹ Plaintiffs also move for final approval of the General Release Payment in the amount of \$10,000.00 to compensate Plaintiff Mendiola for executing the California Civil Code section 1542 release.

The requests for Class Counsel Award, Class Representative Enhancement Awards, Settlement Administration Costs, PAGA Payment and General Release Payment were fully disclosed in the Notice of Class and PAGA Action Settlement that was mailed to the Class Members. As of the date of this Motion, *not a single Class Member has opted-out or objected to any aspect of the Class Settlement, including the requested Class Counsel Award, Class Representative Enhancement Awards, Settlement Administration Costs, allocation for the PAGA Payment or General Release Payment.*¹⁰

⁸ Applying a reasonable rate of \$850 to 257.60 hours of work performed by Lawyers for Justice, PC, \$900 to 73.30 hours of work performed by Polaris Law Group, and \$900 to 221.10 hours of work performed by Hyun Legal, APC, place a total base lodestar value of \$483,920.00 on Class Counsel's services, and Class Counsel seeks an attorneys' fees award of \$262,500.00

⁹ Settlement Agreement, § I.C. "PAGA Release Period" means the period from and including March 3, 2020 through August 4, 2024. *See id.*, § I.BB.

¹⁰ The Response Deadline is April 5, 2025. Plaintiffs will be submitting the Settlement Administrator's Supplemental Declaration after the expiration of the Response Deadline, but before the hearing on this Motion regarding any opt-outs, objections, or Class Member disputes.

1 The Settlement Agreement is fair, adequate, and reasonable, and is the product of arm's-
2 length, good-faith negotiations by experienced counsel presided over by a highly-regarded
3 mediator who is experienced in mediating wage-and-hour class action lawsuits. Accordingly, the
4 Court should grant final approval of the Settlement Agreement, and award the Class Counsel
5 Award, Class Representative Enhancement Awards, Settlement Administration Costs, PAGA
6 Payment, and General Release Payment in the amounts as fully disclosed to the Class and as
7 requested herein.

8 In order to efficiently present the Court with adequate information to determine whether to
9 grant final approval of the Settlement Agreement and award the Class Counsel Award, Class
10 Representative Enhancement Awards, Settlement Administration Costs, PAGA Payment, and
11 General Release Payment, Plaintiff also moves for an order permitting the filing of this single
12 consolidated memorandum, although it exceeds the page limit established by California Rules of
13 Court, Rule 3.1113(d), instead of filing several separate motions.

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

15 Defendant Ontel Security Services, Inc. ("Defendant") is a security company offering
16 services including on-site guards, vehicle patrols and swift alarm response. Plaintiffs are former
17 employees of Defendant.

18 On December 3, 2020, Plaintiff Brandon Hawkins ("Hawkins") filed a complaint against
19 Defendant in the Stanislaus County Superior Court on behalf of himself and other non-exempt
20 employees who worked for Defendant in California for unpaid wages and penalties for alleged
21 wage and hour violations of the California Labor Code, penalties for wage and hour violations
22 under the California Private Attorneys General Act ("PAGA"), and claims under the Unfair
23 Competition Law (the "UCL"), California Business and Professions Code section 17200, *et seq.*
24 On January 8, 2021, Hawkins filed a First Amended Complaint ("FAC"), which added Brian
25 Canady ("Canady") as a plaintiff.

26 On April 29, 2021, Plaintiffs Olvera and Mendiola filed their Class Action Complaint
27 against Defendant in a case entitled, *Amanda Olvera, et al. v. Ontel Security Services, Inc.*,
28 Stanislaus Superior Court Case No. CV-21-002299 ("*Olvera Action*"). On June 24, 2021,

1 Plaintiffs Olvera and Mendiola filed a First Amended Complaint to bring Plaintiff Olvera's claims
2 for Enforcement Under the Private Attorneys General Act, California Labor Code § 2698, Et Seq.
3 against Defendant. On January 5, 2022, Plaintiffs Olvera and Mendiola filed a Second Amended
4 Complaint to bring Plaintiff Mendiola's claims for Enforcement Under the Private Attorneys
5 General Act, California Labor Code § 2698, Et Seq. against Defendant.

6 On September 23, 2024, Plaintiffs filed a Joint Stipulation to Consolidate Case Numbers
7 CV-20-005404 and CV-21-002299, which the Court signed on the same date. Pursuant to
8 Court's Order to Consolidate Case Numbers CV-20-005404 and CV-21-002299 which deemed
9 Case Number CV-20-005404 the lead case for case administration and filing purposes.

10 On August 7, 2023, the Parties participated in a formal, full-day mediation conducted by
11 Honorable David Buckley (Ret.), a well-regarded mediator experienced in mediating complex
12 labor and employment matters. With the aid of the mediator's evaluations, the Parties agreed on
13 monetary terms and some key elements of the Settlement described herein.

14 Plaintiffs' core allegation is that Defendant has violated the California Labor Code by
15 engaging in a uniform practice and procedure, with respect to Plaintiffs and the Class Members,
16 of, *inter alia*, failing to pay all overtime and minimum wages, failing to provide compliant meal
17 and rest periods and associated premium pay, failing to timely pay wages during employment and
18 upon termination of employment, failing to provide compliant wage statements, failing to maintain
19 requisite payroll records, and failing to reimburse necessary business expenses, and thereby
20 engaged in unfair business practices in violation of California Business and Professions Code
21 section 17200, *et seq.* and conduct that gives rise to penalties pursuant to PAGA. Plaintiffs contend
22 that they and the Class Members, are entitled to, *inter alia*, unpaid wages, penalties (including and
23 not limited to, penalties pursuant to PAGA), and attorneys' fees and costs.

24 On October 15, 2024, Plaintiffs filed the Motion for Preliminary Approval of Class Action
25 and PAGA Settlement and supporting documents ("Motion for Preliminary Approval").

26 On November 21, 2024, the Court tentative ruling granting Plaintiffs' Motion for
27 Preliminary Approval with instructions to make modifications to the Notice of Class and PAGA
28 Action Settlement and Proposed Order.

On December 2, 2024, Plaintiffs filed a [Revised Proposed] Order Granting Preliminary Approval of Class Action and PAGA Settlement.

On December 9, 2024, the Court entered an Order Granting Preliminary Approval of Class Action and PAGA Settlement (“Preliminary Approval Order”), thereby preliminarily approving the terms of the Settlement Agreement, the Notice of Class and PAGA Action Settlement, and the proposed administration procedures and associated deadlines.

Plaintiffs now move for final approval of Class Counsel Award, Class Representative Enhancement Awards, Settlement Administration Costs, allocation for PAGA Payment and General Release Payment.

III. SUMMARY OF THE SETTLEMENT TERMS AND PLAN OF DISTRIBUTION

Under the terms of the Settlement Agreement, Defendant has agreed to make a deposit of the Maximum Settlement Amount of \$750,000.00 into a qualified settlement account within thirty (30) calendar days of the Effective Date.¹¹ Subject to approval by the Court, the Net Settlement Amount will be calculated by deducting the following amounts from the Maximum Settlement Amount: (1) Class Counsel Award, consisting of attorneys’ fees in the amount of \$262,500.00 and reimbursement of litigation costs and expenses in the amount of \$16,925.81, to Class Counsel; (2) Class Representative Enhancement Awards in the amount of \$10,000.00 to each Plaintiff (\$40,000.00 total); (3) Settlement Administration Costs in the amount of \$10,000.00 to Xpand; (4) PAGA Payment in the amount of \$75,000.00; and (5) General Release Payment in the amount of \$10,000.00 to Plaintiff Mendiola.¹² The Net Settlement Amount, which is estimated to be \$335,574.19 will be distributed in accordance with the Settlement Agreement and there is no reversion to Defendant.¹³

¹¹ Settlement Agreement, §III.L.1.

¹² *Id.*, §I.X.

¹³ This amount is higher than the amount stated in Paragraph 14 of the accompanying Declaration of Jonathan Paul Regarding Notice and Settlement Administration (“Xpand Declaration” or Xpand Decl.”) because the Settlement Administrator’s calculation assumes that Class Counsel will seek litigation costs and expenses in the maximum amount of \$60,000.00 allocated under the Settlement Agreement. However, Class Counsel seeks the amount of \$16,925.81 for litigation costs and expenses, and the difference of \$43,074.19 will remain part of the Net Settlement Amount.

The Parties have agreed that the Settlement Administrator will determine each Settlement Class Member's *pro rata* share of the available Net Settlement Amount ("Individual Settlement Payment"), in accordance with the Settlement Agreement and as follows:

The number of Qualified Class Workweeks for each Settlement Class Member will be divided by the total number of Qualified Class Workweeks for all Settlement Class Members. The result of the division will be the "Payment Ratio" for each Settlement Class Member. Each Settlement Class Member's Payment Ratio then will be multiplied by the Net Settlement Amount to calculate each Settlement Class Member's share of the Net Amount.¹⁴

The Parties have agreed that the Settlement Administrator will determine each Aggrieved Employee's *pro rata* share of the PAGA Employee Fund ("Individual PAGA Payment"), in accordance with the Settlement Agreement and as follows:

The number of Qualified PAGA Pay Periods for each Aggrieved Employee will be divided by the total number of Qualified PAGA Pay Periods for all Aggrieved Employees. The result of the division will be the "Payment Ratio" for each Aggrieved Employee. Each Aggrieved Employee's Payment Ratio then will be multiplied by the \$18,750 portion of the PAGA Payment that is allocated for distribution to the Aggrieved Employees to calculate each Aggrieved Employee's Individual PAGA Payment.¹⁵

Class Members had forty-five (45) calendar days from the initial mailing of the Notice of Class and PAGA Action Settlement ("Response Deadline") to submit a Request for Exclusion, Objection and/or dispute of the calculation of Qualified Class Workweeks and/or Qualified PAGA Pay Periods.¹⁶ The Response Deadline is April 5, 2025.¹⁷ ***As of the date of this Motion, the Settlement Administrator has not received any written objections to the Class Settlement ("Objection"), disputes to the calculation of Qualified Class Workweeks and/or Qualified PAGA Pay Periods or requests to be excluded from the Class Settlement ("Request for Exclusion").***¹⁸

Each Individual Settlement Payment will be allocated as follows: twenty percent (20%) as wages, which will be reported on an IRS Form W-2; and the remaining eighty percent (80%) as statutory penalties and interest, which will be reported on an IRS Form 1099.¹⁹ The Settlement

¹⁴ *Id.*, § III.L.2.a.

¹⁵ *Id.*, § III.L.2.b.

¹⁶ *Id.*, § I.OO.

¹⁷ Xpand Decl., ¶ 8.

¹⁸ *Id.*, ¶¶ 6-8.

¹⁹ Settlement Agreement, § III.L.2.c.

1 Administrator will calculate Defendant's share of payroll taxes which will be paid from the
2 Maximum Settlement Amount.²⁰ Individual PAGA Payments will be allocated as 100% statutory
3 penalties and will be reported on an IRS Form-1099 (if applicable) by the Settlement
4 Administrator.²¹

5 Individual Settlement Payment and Individual PAGA Payment checks will remain valid
6 for one hundred and eighty (180) calendar days from the date the checks are issued, after which
7 point they will be canceled.²² The funds remaining and associated with canceled checks will be
8 sent to the following cy pres recipient pursuant to California Code of Civil Procedure section 384:
9 Legal Aid at Work.²³

10 **IV. THE SETTLEMENT ADMINISTRATION PROCESS**

11 The Court-appointed Settlement Administrator, Xpand Legal Consulting, has taken all
12 necessary steps to effectuate the notice and settlement administration process, as set forth in the
13 Court's Preliminary Approval Order.

14 On December 17, 2024, Defendant's counsel provided Xpand a data file that contained
15 each Class Member's and Aggrieved Employee's full name, last-known home or mailing address,
16 Social Security and Employee ID Numbers, and number of workweeks worked by each Class
17 Member during the Class Release Period, and number of pay periods worked by each Aggrieved
18 Employee during the PAGA Release Period ("Class Data and Aggrieved Employee Data").²⁴ The
19 Class Data and Aggrieved Employee Data contained data for 688 individuals identified as Class
20 Members who worked 36,286 Qualified Class Workweeks, of whom 396 were Aggrieved
21 Employees who worked 10,072 Qualified PAGA Pay Periods.²⁵ The mailing addresses contained
22 in the Class Data and Aggrieved Employee Data were processed and updated utilizing the National
23 Change of Address Database ("NCOA") maintained by the U.S. Postal Service.²⁶

24 On February 19, 2025, Xpand mailed the Notice of Class and PAGA Action Settlement via

25 ²⁰ *Id.*, § I.W.

26 ²¹ *Id.*, § III.L.2.c.

27 ²² *Id.*, § III.L.2.e.

28 ²³ *Id.*

²⁴ Xpand Decl., ¶ 4.

²⁵ *Id.*, ¶¶ 4 & 13.

²⁶ *Id.*, ¶ 4.

U.S. First Class Mail to all 688 individuals identified as Class Members in the Class Data.²⁷ A total of 17 Notices of Class and PAGA Action Settlement were returned to Xpand without a forwarding address.²⁸ Xpand performed an advanced address search (i.e. skip trace) on all of these addresses. Through the advanced address searches, Xpand was able to locate 17 updated addresses and Xpand promptly re-mailed a Notice of Class and PAGA Action Settlement to those updated addresses.²⁹

The Settlement Administrator has received zero Requests for Exclusion, zero Objections, and zero disputes to the calculation of Qualified Class Workweeks and/or Qualified PAGA Pay Periods from Class Members.³⁰ Thus, as of this date, there are 688 Class Members who did not submit a timely and valid Request for Exclusion (“Settlement Class Members”), and who will be paid their portion of the Net Settlement Amount.³¹ Pursuant to the terms of the Settlement Agreement, the Net Settlement Amount of approximately \$335,574.19 will be distributed to Class Members in accordance with the terms of the Settlement Agreement. The highest Individual Settlement Payment is currently estimated to be at least \$3,244.38 and the average Individual Settlement Payment is currently estimated to be at least \$425.15.³² The highest Individual PAGA Payment is currently estimated to be at least \$215.95 and the average Individual PAGA Payment is currently estimated to be at least \$47.35.³³

V. THE COURT SHOULD GRANT FINAL APPROVAL OF THE CLASS ACTION AND PAGA 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’ cases, 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

²⁷ Ibid.

²⁸ Ibid.

²⁹ Ibid.

³⁰ *Id.*, ¶¶ 6-8.

³¹ *Id.*, ¶ 14.

³² *Id.*, ¶ 14. The actual average and highest gross amount payable to a Class Member will be larger than the amounts stated in the Xpand Declaration because the Net Settlement Amount is larger due to Class Counsel’s request for reimbursement of litigation costs and expenses is less than \$60,000.00 (the difference between the amount sought and the amount authorized under the Settlement, \$43,074.19, will be part of the Net Settlement Amount). See n.8, *supra*.

³³ *Id.*, ¶ 14.

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*, 48 Cal.App.4th at 1801.

The proponent of the settlement has the burden to show that it is fair and reasonable. *Wershba*, 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) counsel is experienced in similar litigation; and (4) the percentage of objectors is small.” *Dunk*, 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*, 162 Cal.App.4th at 55. A settlement need not obtain 100 percent of the damages sought in order to be fair, reasonable, and ultimately, meaningful. *Wershba*, 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 Informal Discovery.

The Parties have actively litigated the cases since the *Hawkins* Action was commenced on December 3, 2020 and the *Olvera* Action was commenced on April 29, 2021. Class Counsel conducted significant investigation and formal and informal discovery into the facts of the cases,

1 to assess the veracity, strength, and scope of the claims, and was preparing for class certification
2 and trial prior to reaching the Settlement Agreement.³⁴

3 The Parties conducted significant formal and informal discovery and investigation into the
4 facts of the cases, and also formally and informally exchanged a large volume of information,
5 documents, and data in connection with the mediation and settlement negotiations.³⁵ The large
6 volume of documents, data, and information that Class Counsel reviewed and analyzed included,
7 but was not limited to: Plaintiff Mendiola's employment records, time and pay data the Class,
8 company policy acknowledgments, forms, procedures and policies, among other information and
9 documents.³⁶ On January 13, 2021, Plaintiffs Hawkins and Canady served their First Set of
10 Requests for Production of Documents and Special Interrogatories.³⁷ On June 3, 2022, Plaintiff
11 Olvera and Plaintiff Mendiola each served Defendant with Form Interrogatories – General (Set
12 One), Requests for Admission (Set One), Requests for Document Production (Set One), Special
13 Interrogatories (Sets One & Two) and reviewed Defendant's responses thereto.³⁸ Additionally, on
14 July 20, 2022, Defendant served Form Interrogatories—General (Set One), Requests for
15 Document Production (Set One), and Special Interrogatories (Set One) on Plaintiff Olvera and
16 Plaintiff Mendiola.³⁹ The Parties eventually agreed to engage in, and did engage in, extensive
17 informal discovery. Class Counsel had the opportunity to interview Plaintiffs and other Class
18 Members to gather facts and to identify potential witnesses.⁴⁰ Class Counsel developed liability,
19 damages, violation, and penalties valuation models in the course of litigation and in connection
20 with the mediations and settlement negotiations, and met and conferred with Defendant's counsel
21 on numerous occasions, e.g., to discuss issues relating to the pleadings, case management,
22 discovery, and the production of information, documents, and data in the course of litigation and
23 the mediation and settlement negotiations, and settlement.⁴¹ Class Counsel reviewed and analyzed
24

25 ³⁴ Declaration of Yasmin Hosseini ("Hosseini Decl."), ¶ 6.

26 ³⁵ Ibid.

27 ³⁶ Ibid.

28 ³⁷ Declaration of Dennis Hyun ("Hyun Decl."), ¶ 7.

³⁸ Ibid.

³⁹ Ibid.

⁴⁰ Ibid.

⁴¹ Ibid.

1 information, documents, and data obtained from Plaintiffs, Defendant, and other sources.⁴² Other
2 work performed by Class Counsel included, and was not limited to, case strategy and analysis;
3 researching, drafting, reviewing, and revising the pleadings, motion-related papers, mediation
4 brief, and settlement-related papers; and preparing for and attending court proceedings, settlement
5 negotiations, and the mediation, among other tasks.⁴³

6 After conducting formal and informal discovery and investigation into the facts of the
7 cases, the Parties participated in a formal, full-day mediation session conducted by the Honorable
8 Daniel Buckley (Ret.), a well-regarded mediator experienced in mediating complex labor and
9 employment matters.⁴⁴ In the course of the mediation and settlement negotiations, the Parties
10 exchanged class information, documents, and data, and discussed all aspects of the cases, including
11 and not limited to, the risks and delays of further litigation, the risks to the Parties of proceeding
12 with class certification and trial, the law relating to class certification, off-the-clock theory, meal
13 and rest periods, representative PAGA claims, as well as the evidence produced and analyzed, and
14 the possibility of appeals, among other things.⁴⁵ During all settlement discussions, the Parties
15 conducted their negotiations at arm's length in an adversarial position.⁴⁶ Arriving at a settlement
16 that was acceptable to the Parties was not easy. Defendant and its counsel felt very strongly about
17 Defendant's ability to prevail on the merits and to avoid class certification.⁴⁷ Defendant and its
18 counsel felt strongly about Defendant's ability to avoid class certification and representative
19 adjudication and prevail on the merits, while Plaintiffs and Class Counsel believed that they would
20 be able to obtain class certification and prevail at trial.⁴⁸ After conducting significant formal and
21 informal discovery and investigations, settlement negotiations, and with the aid of the mediator's
22 evaluation, the Parties agreed that the case was well-suited for settlement given the legal issues
23
24

25 ⁴² Ibid.

26 ⁴³ Ibid.

27 ⁴⁴ *Id.*, ¶ 8.

28 ⁴⁵ Ibid.

⁴⁶ Ibid.

⁴⁷ Ibid.

⁴⁸ Ibid.

relating to Plaintiffs' principal claims, as well as the costs and risks to the Parties that would attend further litigation.⁴⁹

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

The Settlement accounts for the risks inherent in litigating class and representative claims through certification proceedings, trial, and/or appeals.⁵⁰ The Settlement was calculated using information and data uncovered through extensive case investigation, formal and informal discovery, and the exchange of information, data and documents in the context of mediation and settlement negotiations.⁵¹ 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 predominated 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 Plaintiffs' 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 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 unsuitable for class treatment and/or representative adjudication, failure to obtain certification, class de-certification after certification of a class, allowing a jury to decide the claims asserted in the cases, and the real possibility of no recovery after years of litigation. Additionally, the Parties were moving into the phase of the litigation where they would have to conduct a

⁴⁹ Ibid.

⁵⁰ Ibid.

⁵¹ *Id.*, ¶¶ 6-8.

significant amount of additional formal discovery, including and not limited to, depositions of Defendant's Person Most Knowledgeable designees, expert witnesses, and percipient witnesses, such as managers, supervisors, and other current and former employees throughout the State of California. In contrast, the Settlement Agreement provides real and significant benefits for the Class here and now, while avoiding the further expenses, risks, and delay of prolonged litigation with only the possibility of recovery.

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

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

The Settlement represents a fair, reasonable, and adequate resolution of the cases. The Settlement was calculated using information and data uncovered through extensive case investigation, formal and informal discovery, and the exchange of information in the context of preparing for mediation and conducting ongoing settlement negotiations. The Settlement takes into account the potential risks and rewards inherent in any case and, in particular, in this matter. Moreover, considering all of the facts in the cases, the Maximum Settlement Amount represents a considerable recovery.

The Net Settlement Amount is currently estimated to be \$335,574.19.⁵² Each Settlement Class Member will be paid a *pro rata* share of the Net Settlement Amount, based on the number of Qualified Class Workweeks credited to him or her during the Class Release Period, and each Aggrieved Employee will be paid a *pro rata* share of the \$18,750.00 of the PAGA Payment, based on the number of Qualified PAGA Pay Periods during the PAGA Release Period credited to him or her.⁵³ There are 688 Settlement Class Members, representing 100% of the Class Members.⁵⁴ The

⁵² Xpand Decl., ¶ 14.

⁵³ Settlement Agreement, ¶¶ III.F.1., III.F.3.

⁵⁴ Xpand Decl., ¶ 14.

highest Individual Settlement Payment is currently estimated to be at least \$3,244.38 and the average Individual Settlement Payment is currently estimated to be at least \$425.15.⁵⁵ The highest Individual PAGA Payment is currently estimated to be \$215.95 and the average Individual PAGA Payment is currently estimated to be \$47.35.⁵⁶ 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 Agreement as a whole is fair, reasonable, and adequate, and in the best interest of the Class Members, the State of California, and Aggrieved Employees.⁵⁷ 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 Agreement.

D. The Class Was Represented by Competent Counsel.

Class Counsel has extensive experience in employment class action law and complex wage-and-hour litigation. 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.⁵⁸ Likewise, counsel for Plaintiffs Hawkins and Canady have been appointed as class counsel in numerous class actions and have tried certified class actions.⁵⁹ Both parties’ counsel were capable of assessing the strengths and weaknesses of the Class Members’ claims against Defendant and

⁵⁵ Ibid.

⁵⁶ Ibid.

⁵⁷ Hosseini Decl., ¶ 21.

⁵⁸ *Id.*, ¶¶ 13-17.

⁵⁹ Hyun Decl. ¶ 6; Declaration of William L. Marder (“Marder Decl.”), ¶¶ 13-14.

the benefits of the Settlement Agreement under the circumstances of the cases and in the context of a private, consensual settlement agreement.

E. There Are No Objections to the Class Settlement.

The Settlement Agreement has been well received by the Class – *not a single Class Member objected to the Class Settlement as of this date.*⁶⁰ Specifically, no objections have been made as to the Maximum Settlement Amount or requested Class Counsel Fees and Expenses, Class Representative Service Award, Settlement Administration Costs, or PAGA Penalties. California courts have consistently found that a small number of objectors indicates the class’s support for a settlement and strongly favors final approval. *Wershba*, 91 Cal.App.4th at 250-51 (final approval granted despite 20 objectors); *7-Eleven Owners*, 85 Cal.App.4th at 1152-53 (final approval granted despite 9 objectors).

Accordingly, the Settlement as a whole is presumed to be fair, reasonable, and adequate, and the Court should grant final approval of the Settlement Agreement in its entirety. *Dunk*, 48 Cal.App.4th at 1802.

VI. THE CLASS COUNSEL AWARD REQUESTED IS FAIR AND REASONABLE AND SHOULD BE APPROVED.

A. Legal Standard for Attorneys’ Fees in a Class Action Settlement.

Trial courts have “wide latitude” in assessing the value of attorneys’ fees and their decisions will “not be disturbed on appeal absent a manifest abuse of discretion.” *Lealao v. Beneficial Cal., Inc.* (2000) 82 Cal.App.4th 19, 41; *Ketchum v. Moses* (2001) 24 Cal.4th 1122, 1132 (The “experienced trial judge is the best judge of the value of professional services rendered in his court[.]”); *Cellphone Termination Fee Cases* (2009) 180 Cal.App.4th 1110, 1118. Where the amount of a settlement is a “certain easily calculable sum of money,” California courts may calculate attorneys’ fees as a reasonable percentage of the settlement. Weil and Brown, *California Practice Guide, Civil Procedure Before Trial*, Chapter 14, § 14:145; see also *Laffitte v. Robert Half Int’l Inc.* (2016) 1 Cal.5th 480, 503; *Dunk*, 48 Cal.App.4th at 1808. The percentage-of-the-

⁶⁰ Xpand Decl., ¶ 8.

benefit approach is preferred in class and representative actions because “it better approximates the workings of the marketplace than the lodestar approach.” *Lealao*, 82 Cal.App.4th at 49.

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

“The ultimate goal . . . is the award of a ‘reasonable’ fee to compensate counsel for their efforts, irrespective of the method of calculation.” *Consumer Privacy Cases* (2009) 175 Cal.App.4th 545, 557-58 (quoting *Apple Computer, Inc. v. Superior Court* (2005) 126 Cal.App.4th 1253, 1270). It is not an abuse of discretion to choose one method over another as long as the method chosen is applied consistently using percentage figures and/or rates that accurately reflect the marketplace. In cases where class members present claims against a settlement amount and the settlement agreement provides that the defendant agrees to paying the attorneys a percentage of the same, use of that percentage method is appropriate. *Lealao*, 82 Cal.App.4th at 32.

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

& 506 (approving fee award of 1/3 of common fund of \$19 million).

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

California and federal courts have long recognized that an appropriate method for determining the award of attorneys' fees is based on a percentage of the total value of benefits made available to class members by the settlement. *Laffitte*, 1 Cal.5th at 503; *Boeing Co. v. Van Gemert* (1980) 444 U.S. 472, 478; *Paul, Johnson, Alston & Hunt v. Grauly* (9th Cir. 1989) 886 F.2d 268, 272; *Vincent v. Hughes Air West, Inc.* (9th Cir. 1977) 557 F.2d 759, 769; *Serrano v. Priest* (1977) 20 Cal.3d 25, 34. The purpose of this equitable doctrine is to spread litigation costs proportionally among all the beneficiaries so that the active beneficiary does not bear the entire burden alone. See *Vincent*, 557 F.2d at 769.

The propriety of calculating and awarding attorneys' fees as a percentage of a monetary settlement that has, by litigation, been preserved or recovered for the benefit of others, has been confirmed by the California Supreme Court. *Laffitte*, 1 Cal.5th 480 at 486 & 506. The California Supreme Court has taken the position that "[t]rial courts have discretion to conduct a lodestar cross-check on a percentage fee," "they also retain the discretion to forgo a lodestar cross-check and use other means to evaluate the reasonableness of a requested percentage fee[.]" and "[t]he percentage [...] method survives in California." *Id.* (internal quotes omitted). In *Lealao*, the Court of Appeal 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*, 82 Cal.App.4th at 51; see also *Boeing*, 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.*, 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. *Wershba*, 91 Cal.App.4th at 247.

When the cases were originally filed, not only was a recovery inescapably contingent, but the prospect of a long, drawn-out battle with a defendant represented by experienced counsel, was

almost a certainty. By taking on this “battle” on a contingency basis, Class Counsel risked substantial economic loss if the results were not successful. This substantial risk is the reason that the courts approve the use of the percentage method when a settlement is obtained by the efforts of class counsel. *See Vizcaino v. Microsoft* (9th Cir. 2002) 290 F.3d 1043, 1048-49 (discussing the risks of engaging in litigation without certainty of compensation).

Under the terms of the Settlement Agreement, Defendant will pay a Maximum Settlement Amount of \$750,000.00 on a non-reversionary basis. The requested attorneys’ fees are thirty-five percent (35%) of the total value of the monetary settlement.

Class Counsel has obtained a substantial recovery on behalf of Plaintiffs, the Class, Aggrieved Employees, 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. In light of Class Counsel’s successful prosecution and resolution of the case, the requested attorneys’ fees are appropriate and reasonable.

C. **The Attorneys’ Fees Requested 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 case; (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 case; (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

attorneys' fees in the amount of \$262,500.00 (which is thirty-five percent (35%) of the Maximum Settlement Amount) is commensurate with the time, effort, and expense dedicated to the cases, the contingent nature of Class Counsel's fee and the risks taken in commencing the cases, the skill and determination required, the results that Class Counsel have achieved, and the value of the settlement that Class Counsel have 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. As outlined in the Declaration of Yasmin Hosseini, Class Counsel has fully and actively participated in the litigation of the actions.⁶¹ Moreover, as demonstrated in the supporting declarations, Class Counsel has extensive experience in the handling of class actions and complex litigation cases.⁶²

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 Charts, which are attached as **EXHIBIT A** to the accompanying Declarations of Yasmin Hosseini, William Marder, and Dennis Hyun, respectively, set forth in detail the hours that Class Counsel has spent performing tasks on behalf of Plaintiffs and the Class.⁶³ 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 have spent 552 hours performing tasks and to obtain a significant recovery on behalf of Plaintiffs, Class Members, Aggrieved Employees, and the State of California.⁶⁴ 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 this case, the requested attorneys' fees are fair, adequate, and reasonable.

2. The Skill Required to Perform Legal Services Properly.

⁶¹ Hosseini Decl., ¶¶ 5-8.

⁶² *Id.*, ¶¶ 13-17.; Marder Decl., ¶¶ 8-14; Hyun Decl., ¶¶ 5-6.

⁶³ *Id.*, Exh. A.; Marder Decl., Exh. A; Hyun Decl. Exh. A

⁶⁴ *Ibid.*

1 The skill required to properly litigate the cases is evident not only in the results achieved,
2 but in the steps necessary to reach those results. Defendant retained well-respected counsel to
3 represent its defenses. Defendant and its counsel felt very strongly about Defendant's ability to
4 obtain a denial of certification and to prevail on the merits. Plaintiffs and Class Counsel believed
5 that they would have obtained class certification and prevailed at trial.

6 Class Counsel undertook significant investigation, analysis, and research prior to filing
7 these cases, during the litigation, and prior to the mediation. Class Counsel took steps to prepare
8 the matter for class certification and representative adjudication and had every intention of taking
9 the case to trial on a class-wide basis if Defendant did not offer an appropriate class-wide
10 settlement. Despite all of the obstacles that had to be overcome, as demonstrated in the
11 Declarations of Yasmin Hosseini, William Marder, and Dennis Hyun, Class Counsel used their
12 extensive experience in the handling of class actions and complex wage-and-hour litigation matters
13 in order to obtain the Settlement with maximum efficiency.⁶⁵

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

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

21 The Settlement at this stage is preferred over continued litigation because such resolutions
22 save time and money that would otherwise go to litigation. The risks and expenses of further
23 litigation outweighed any benefit that might have been gained otherwise. The Settlement
24 Agreement provides an immediate recovery, as opposed to an uncertain result in the future after
25 prolonged litigation involving expert discovery, trial preparation, class certification proceedings,
26 and appellate review of those proceedings. The Settlement offers significant monetary relief to the
27 Class Members, the State of California, and Aggrieved Employees.

28 ⁶⁵ Hosseini Decl., ¶¶ 13-17; Marder Decl. ¶¶ 8-14; Hyun Decl. ¶¶ 5-6

4. Whether the Fee Is Fixed or Contingent.

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). 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 have invested 552 hours of time to obtain relief on behalf of Plaintiffs, Class Members, the State of California, and Aggrieved Employees.⁶⁶ Class Counsel have also incurred litigation costs and expenses in the amount of \$16,925.81, collectively.⁶⁷ Class Counsel have borne all the risks and costs of litigation and will not receive any compensation until recovery is obtained.⁶⁸ Considering, the work performed and the risks incurred, the requested fees and costs are reasonable and should be awarded.

5. The Amount Involved and the Results Achieved.

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)). 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 —no Class Members opted-out or objected to the Class Settlement.⁶⁹

6. The Reputation and Ability of the Attorneys.

⁶⁶ Hosseini Decl., ¶ 11, Exh. A; Marder Decl., Exh. A; Hyun Decl. Exh. A

⁶⁷ *Id.*, ¶ 18, Exh. B.; Marder Dec. Exh. B

⁶⁸ *Id.*, ¶ 18.

⁶⁹ *Id.*, ¶ 3.

Class Counsel are recognized class action law firms that employed their attorneys' knowledge, skills, and experience in bringing this matter to a successful conclusion. Class Counsel have years of complex and class action litigation experience, have recovered millions of dollars on behalf of thousands of individuals in California, and have successfully handled numerous significant wage-and-hour class action and complex cases.⁷⁰

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

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

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

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

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

As discussed above, the case was highly contested and required a significant amount of time and labor. Defendant made it clear very early on that it disputed all of the allegations of the

⁷⁰ *Id.*, ¶¶ 13-17. Marder Decl. ¶¶ 8-14; Hyun Decl. ¶¶ 5-6

cases and disputed that the matter was appropriate for class or representative treatment. Defendant raised affirmative defenses and denied liability, and the pursuit of this case involved gathering and analyzing data not only from Defendant but also from the Class Members. The handling of 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 additional 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 a large volume of information, documents and data that were obtained from Defendant, Plaintiffs, and through other sources. Class Counsel conducted extensive review and analysis of the information, documents and data to strategize the action and to prepare for mediation and engage in settlement discussions.

As discussed above in Part VI.C.1, *infra*, attached to the Declarations of Yasmin Hosseini, William Marder, and Dennis Hyun are task and time charts that set 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.⁷¹ The charts demonstrate that Class Counsel have spent a total of 552 hours litigating the case and finalizing the Settlement.⁷² In light of the facts and circumstances of the cases, as well as the results that Class Counsel has achieved in these cases, Class Counsel have 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.***

⁷¹ Hosseini Decl., Exh. A.; Marder Decl., Exh. A; Hyun Decl. Exh. A

⁷² Ibid.

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

Class Counsel have been actively involved in this matter, prior to their commencement and all the way up to the present, and Class Counsel's dedication to providing representation in these cases has precluded other employment. Here, Class Counsel bore the risk that, despite all of its efforts and skills employed, there may be no recovery. Ultimately, Class Counsel was successful in reaching a settlement of \$750,000.00.

As set forth in the Declarations of Yasmin Hosseini, William Marder, and Dennis Hyun the professional backgrounds and experience of Class Counsel support reasonable rates of compensation at least \$850 per hour for services provided by Lawyers for Justice, PC, \$900 per hour for services provided by Polaris Law Group, and \$900 per hour for services provided by Hyun Legal, APC.⁷³ Lawyers for Justice, PC has been awarded attorneys' fees, compensating the firm at the blended rate of at least \$850 per hour for legal service performed, by courts of this state.⁷⁴ While the circumstances of every case are unique, the fact remains that the work performed and efforts undertaken by Class Counsel on behalf of the Class Members justify the requested attorneys' fees.

Applying the rate of \$850 per hour to 257.60 hours for services provided by Lawyers for Justice, PC, \$900 per hour to 73.30 hours for services provided by Polaris Law Group, and \$900 per hour to 221.10 hours for services provided by Hyun Legal, APC, would place a reasonable value of \$483,920.00 based on lodestar, for the work performed by Class Counsel. However, Class

⁷³ Hoessini Decl. ¶ 12; Marder Decl. ¶ 16; Hyun Decl. ¶ 13.

⁷⁴ *Ibid.*

Counsel only seeks attorneys' fees in the amount of \$262,500.00 which is 35% of the total recovery, as provided for by the Settlement Agreement.

It also bears noting that a court may apply a multiplier in consideration for risk, efficiency, and/or obtaining a substantial result, to enhance the lodestar for purpose of cross-check. See *Ketchum*, 24 Cal.4th at 1133-34 (holding that a risk multiplier may be applied to compensate contingency fee attorneys at a fair market rate). Such an enhancement "mirrors the established practice in the private legal market of rewarding attorneys for taking the risk of nonpayment by paying them a premium over their normal hourly rates for winning contingency cases." *Vizcaino*, 290 F.3d at 1051; *accord Ketchum, supra*, 24 Cal.4th 1122, 1132-34. 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. Courts have also approved fee awards with multipliers of 2 and even higher. See, e.g., *City of Oakland v. Oakland Raiders* (1988) 203 Cal.App.3d 78 (affirming a 2.34 multiplier without remand); *Wershba, supra*, 91 Cal.App.4th at 255 ("Multipliers can range from 2 to 4 or even higher."); *Sutter Health Uninsured Pricing Cases* (2009) 171 Cal.App.4th 495, 512 (applying a 2.52 multiplier on a lodestar cross-check); *Chavez, supra*, 162 Cal.App.4th at 66 (applying a 2.5 multiplier in a consumer class action).

The lodestar method as a cross-check to the percentage figure sought strongly supports the reasonableness of the requested attorneys' fees. Accordingly, Plaintiffs respectfully request that the Court grant final approval of, and award, attorneys' fees in the amount of \$262,500.00 to Class Counsel.

VII. LITIGATION COSTS ARE FAIR AND REASONABLE AND SHOULD BE APPROVED.

The Settlement Agreement provides for litigation costs of up to \$60,000.00. As set forth in the Declarations of Yasmin Hosseini, William Marder, and Dennis Hyun, Class Counsel seek reimbursement of \$16,925.81 in litigation costs and expenses incurred in this case.⁷⁵ This amount

⁷⁵ Hosseini Decl., ¶ 18, Exh. B; Marder Dec. Exh. B.

was reasonable and necessary in the prosecution of the cases and to obtain the Agreement.⁷⁶ The cost savings of \$43,074.19, will be part of the Net Settlement Amount, which will be distributed to Settlement Class Members in accordance with the Agreement.⁷⁷ Accordingly, Plaintiffs request that the Court award litigation costs and expenses in the amount of \$16,925.81 to Class Counsel.

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

As set forth in the accompanying Xpand Declaration, the total costs incurred and to be incurred by Xpand Legal Consulting for the notice and settlement administration process are \$10,000.00. The costs incurred and to be incurred include, but are not limited to, (a) Establishing a settlement Qualified Settlement Fund (“QSF”); (b) Mailing the Notice of Class and PAGA Action Settlement in English and Spanish to Class Members; (c) Securing a post office box to which Class Members can send Requests for Exclusions, Objections and other communications; (d) Establishing a toll-free telephone number which provides Class Members with information about the proposed Settlement; and (e) Establishing and maintaining a settlement administration website, which provides Class Members with information about the proposed settlement, allows Class Members to view and to download settlement documents.⁷⁸

Accordingly, the Court should grant final approval of payment to Xpand, a necessary third-party administrator, for its handling of the notice and settlement process, in the amount of \$10,000.00.

IX. THE REQUESTED CLASS REPRESENTATIVE ENHANCEMENT AWARDS ARE FAIR AND REASONABLE AND SHOULD BE APPROVED.

The Settlement Agreement provides for a Class Representative Enhancement Awards in the amount of \$10,000.00 to each Plaintiff (\$40,000.00 total) to compensate Plaintiffs for the time and effort that they expended on behalf of the Class. The requested Class Representative Enhancement Awards are common and reasonable and should be awarded.

⁷⁶ Ibid.

⁷⁷ Ibid.

⁷⁸ *Id.* ¶ 3.

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

The requested Class Representative Enhancement Awards are fair and appropriate because Plaintiffs spent a substantial amount of time and effort producing relevant documents and past employment records, as well as providing the facts and evidence to support the prosecution of the claims.⁷⁹ Plaintiffs were available whenever Class Counsel needed them and actively tried to obtain, and gave, information to support the pursuit of the cases.⁸⁰

Accordingly, it is appropriate and just for Plaintiffs to each receive \$10,000.00 as a reasonable Class Representative Enhancement Awards in addition to their individual settlement payments.

X. GENERAL RELEASE PAYMENT

The Settlement provides for a General Release Payment in the amount of \$10,000.00 to Plaintiff Mendiola compensate her for her broader individual waiver and release of potential claims involving LGBTQ+ harassment with a California Civil Code Section 1542 waiver.⁸¹ The requested General Release Payment is fair and appropriate because the California Civil Code Section 1542 waiver will cause Plaintiff Mendiola to release Defendant from potential claims that the other Plaintiffs do not have.⁸² Accordingly, it is appropriate for Plaintiff Mendiola to receive \$10,000.00 as a General Release Payment in addition to her Class Representative Enhancement Award and individual settlement payments.

⁷⁹ Hosseini Decl., ¶ 19; Declaration of Brandon Hawkins (“Hawkins Decl.”), ¶¶ 3-5; Declaration of Brian Canady (“Canady Decl.”), ¶¶ 3-5; Declaration of Amanda Olvera (“Olvera Decl.”), ¶¶ 3-5; Declaration of Sabrina Mendiola (“Mendiola Decl.”), ¶¶ 3-5

⁸⁰ Ibid.

⁸¹ Hosseini Decl., ¶ 19

⁸² Ibid.

XI. CONCLUSION

For the foregoing reasons, Plaintiffs respectfully request that the Court grant final approval of the Settlement Agreement, and award Class Counsel Award, Class Representative Enhancement Awards, Settlement Administration Costs, PAGA Payment, and General Release Payment in their entirety, as sought herein; and permit the filing of a memorandum that exceeds the page limit.

Dated: March 19, 2025

LAWYERS for JUSTICE, PC

By: _____

Yasmin Hosseini

Attorneys for Plaintiffs Amanda Olvera and
Sabrina Mendiola and the Class