

KINGSLEY SZAMET & LY
ERIC B. KINGSLEY, Esq. (SBN 185123)
eric@kingsleylawyers.com
LIANE KATZENSTEIN LY, Esq., (SBN 259230)
liane@kingsleylawyers.com
JESSICA BULAON, Esq. (SBN 340749)
jessi@kingsleylawyers.com
16133 Ventura Blvd., Suite 1200
Encino, CA 91436
Telephone: (818) 990-8300
Fax: (818) 990-2903

Attorneys for Plaintiff and the proposed class

(Additional counsel for Plaintiff on following page)

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES**

EMMANUEL WRIGHT, individually and on
behalf of all others similarly situated,

PLAINTIFF,

v.

HOME BOX OFFICE, INC.; PLANE MEETS
PAPER PRODUCTIONS, LLC; and DOES 1
thru 50, inclusive,

DEFENDANTS.

CASE NO. 21STCV19636

[Case Assigned for All Purposes to Hon.
Maren E. Nelson in Dept. 17]

**NOTICE OF MOTION AND MOTION
FOR FINAL APPROVAL OF
ATTORNEYS' FEES AND COSTS;
MEMORANDUM OF POINTS AND
AUTHORITIES IN SUPPORT THEREOF**

*[Filed concurrently with Declarations of
Liane Katzenstein Ly, Frank H. Kim,
Emmanuel Wright and Jonathan Paul,
Proposed Order, and Proposed Judgment]*

Date: June 14, 2024

Time: 9:00 AM

Dept.: 17

Complaint Filed: May 24, 2021

Trial Date: None Set

1 FRANK H. KIM, State Bar No. 264609
fkim@kim-legal.com

2 **KIM LEGAL, APC**
3 3435 Wilshire Blvd, Suite 2700
4 Los Angeles, CA 90010
Telephone: (323) 482-3300
Facsimile: (866) 652-7819

5 Attorneys for Plaintiff and the proposed class
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

1 **TO ALL PARTIES AND TO THEIR ATTORNEYS OF RECORD:**

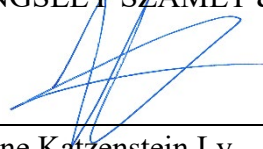
2 PLEASE TAKE NOTICE that on June 14, 2024 at 9:00 AM in Department 17 of the above-
3 entitled court, Plaintiff Emmanuel Wright (“Plaintiff”) will, and hereby does, move the Court for
4 an Order granting final approval of Class Counsel’s Attorneys’ Fees and Costs pursuant to the
5 Parties’ Class Action and PAGA Settlement Agreement. Plaintiff also respectfully requests that
6 the Court award an enhancement of \$5,000.00.

7 Good cause exists for the granting of this Motion because the work of Plaintiff and Class
8 Counsel resulted in an excellent settlement that created a common fund that compensates Class
9 Members. Class Counsel seek compensation from the common fund.

10 The Motion will be based on this Notice of Motion; the accompanying Memorandum of
11 Points and Authorities; the Declarations of Liane Katzenstein Ly; Frank H. Kim; Plaintiff
12 Emmanuel Wright; and Jonathan Paul of Xpand Legal; all other papers and records on file in this
13 action; and on such oral and documentary evidence as may be presented at the hearing on this
14 Motion.

15 DATED: May 22, 2024

KINGSLEY SZAMET & LY

16
17 By: 

18 Liane Katzenstein Ly
19 Attorneys for Plaintiff EMMANUEL WRIGHT and
20 the proposed class
21
22
23
24
25
26
27
28

TABLE OF CONTENTS

I.	INTRODUCTION	1
II.	STATUS OF THE SETTLEMENT	1
III.	THE COURT SHOULD GRANT PLAINTIFF’S APPLICATION FOR AN AWARD OF ATTORNEYS’ FEES	1
A.	Class Counsel are Entitled to a Fee From the Common Fund	1
B.	The Attorneys’ Fees Requested By Class Counsel Are Well Within the Range of Fees in Comparable Cases	3
C.	The Contingency Fee of 1/3 Requested By Class Counsel Is Reasonable Based on the Risks of Litigation and the Diligent Efforts of Counsel that Led to an Outstanding Settlement for the Class	3
IV.	CLASS COUNSEL’S FEE REQUEST IS REASONABLE UNDER A LODESTAR CROSSCHECK	4
A.	Requested Multiplier	5
B.	The Number of Hours Claimed is Reasonable	5
C.	The Hourly Rates Requested Are Reasonable	6
D.	The Fees Requested Are Reasonable	7
V.	THE COURT SHOULD APPROVE THE REQUEST FOR REIMBURSEMENT OF COSTS	8
VI.	THE NAMED PLAINTIFF’S ENHANCEMENT SHOULD BE APPROVED	9
VII.	PROOF OF SUBMISSION TO THE LABOR AND WORKFORCE DEVELOPMENT AGENCY	10
VIII.	CONCLUSION	10

TABLE OF AUTHORITIES

Federal Cases

<i>City of Detroit v. Grinnell Corporation</i> , (2d Cir. 1974) 495 F.2d 448.....	4
<i>Hensley v. Eckerhart</i> , (1983) 461 U.S. 424.....	6
<i>Mangold v. Cal. Pub. Utils. Comm’n</i> , 67 F.3d 1470 (9th Cir. 1995)	8
<i>Missouri v. Jenkins by Agvei</i> , (1989) 491 U.S. 274.....	6
<i>Van Vracken v. Atlantic Richfield Co.</i> , (N.D.Cal.1995) 901 F.Supp. 294	8

State Cases

<i>Beasley v. Wells Fargo Bank</i> , (1991) 235 Cal.App.3d 1407	5
<i>Bihun v. AT&T Info. Sys., Inc.</i> , (1993) 13 Cal.App.4th 976	7
<i>Chavez v. Netflix, Inc.</i> , (2008) 162 Cal.App.4th 43, fn 11	3
<i>Ciani v. San Diego Trust & Sav. Bank</i> , (1994) 25 Cal.App.4th 563	2
<i>City of Oakland v. Oakland Raiders</i> , (1988) 203 Cal.App.3d 78 (2.34).....	8
<i>Coal. for L.A. County Planning v. Bd. of Supervisors</i> , (1977) 76 Cal.App.3d 241	5, 8
<i>Consumer Privacy Cases</i> , (2009) 175 Cal.App.4th 545	4
<i>Dunk v. Ford Motor Co.</i> , (1996) 48 Cal.App.4th 1794	2
<i>Ketchum v. Moses</i> , (2001) 24 Cal.4th 1122	4, 8
<i>Lakin v. Watkins Associated Industries</i> , (1991) 6 Cal.4 th 644	7

1	<u><i>Laffitte v. Robert Half Intern. Inc.</i></u> ,	
2	(Cal. 2016) 205 Cal.Rptr.3d 555	1, 2
3	<u><i>Lealao v. Beneficial Calif., Inc.</i></u> ,	
4	(2000) 82 Cal. App. 4th 19	2, 7
5	<u><i>Meister v. Regents of Univ. of Cal.</i></u> ,	
6	(1998) 67 Cal.App.4th 437	6
7	<u><i>PLCM Group, Inc. v. Drexler</i></u> ,	
8	(2000) 22 Cal.4th 1084	6
9	<u><i>Radar v. Thrasher</i></u> ,	
10	(1962) 57 Cal.2d 244	5
11	<u><i>Rebney v. Wells Fargo Bank</i></u> ,	
12	(1991) 232 Cal.App.3d 1344	5
13	<u><i>San Bernardino Valley Audubon Soc., Inc. v. County of San Bernardino</i></u> ,	
14	(1984) 155 Cal.App.3d 738	5, 6
15	<u><i>Save El Toro Ass’n v. Days</i></u> ,	
16	(1979) 98 Cal.App.3d 544	2, 3
17	<u><i>Serrano v. Priest III</i></u> ,	
18	(1977) 20 Cal.3d at p. 25	2, 4, 5, 8
19	<u><i>Serrano v. Unruh</i></u> ,	
20	(1982) 32 Cal.3d 621 [“Serrano IV”]	6
21	<u><i>Wershba v. Apple Computer, Inc.</i></u> ,	
22	(2001) 91 Cal.App.4th 224	2, 5, 8
23	<u><i>Woodland Hills Residents Assn., Inc. v. City Council</i></u> ,	
24	(1979) 23 Cal.3d 917	2
25	<u>State Statutes</u>	
26	California Code of Civil Procedure section 382	1
27	<u>State Rules</u>	
28	California Rules of Court, rule 3.769 (b)	1

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. INTRODUCTION**

3 Pursuant to California Rules of Court, rule 3.769 (b) and California Code of Civil
4 Procedure section 382, Plaintiff Emmanuel Wright (“Plaintiff”) moves this Court for approval of
5 an award of attorneys’ fees and reimbursement of expenses to Class Counsel, pursuant to the terms
6 of the preliminary-approved Class Action and PAGA Settlement Agreement (“Agreement” or
7 “Settlement”) between named Plaintiff and Defendant HOME BOX OFFICE, INC.; PLANE
8 MEETS PAPER PRODUCTIONS, LLC (“Defendant”). Class Counsel also respectfully requests
9 that the Court award an enhancement for the named Plaintiff of \$5,000.00.

10 **II. STATUS OF THE SETTLEMENT**

11 In an effort to conserve the Court’s time and resources, Plaintiff will not repeat the
12 Procedural History set forth in the concurrently-filed Motion for Final Approval of Class Action
13 Settlement.

14 The Agreement has been preliminarily-approved by the Court and the Notice of Class
15 Action Settlement disseminated pursuant to the terms of the Agreement. (Declaration of Liane
16 Katzenstein Ly ¶26 (“Ly Decl.”); Declaration of Jonathan Paul ¶4 (“Paul Decl.”).)

17 As discussed in the Motion for Final Approval of Class Action Settlement, Class Counsel
18 worked diligently on behalf of the preliminarily certified Class Members in order to obtain this
19 Settlement.

20 **III. THE COURT SHOULD GRANT PLAINTIFF’S APPLICATION FOR AN AWARD**
21 **OF ATTORNEYS’ FEES**

22 A. Class Counsel are Entitled to a Fee From the Common Fund

23 On August 11, 2016, the California Supreme Court decided *Laffitte v. Robert Half*
24 *International*, which addressed the correct methodology for awarding fees in a class action
25 settlement. (*Laffitte v. Robert Half Intern. Inc.* (Cal. 2016) 205 Cal.Rptr.3d 555, 573.) The *Laffitte*
26 Court approved awarding fees as a percentage of the settlement fund in cases like the present one,
27 where a settlement results in the creation of a common fund on behalf of a class:

28 We join the overwhelming majority of federal and state courts in holding that when

1 class action litigation establishes a monetary fund for the benefit of the class
2 members, and the trial court in its equitable powers awards Class Counsel a fee out
3 of that fund, the court may determine the amount of a reasonable fee by choosing
4 an appropriate percentage of the fund created.

5 (*Id.* at p. 573.) The Court then set out several reasons why the percentage-of-the-fund method is
6 preferred over the alternative lodestar-multiplier approach in California courts:

7 The recognized advantages of the percentage method—including relative ease of
8 calculation, alignment of incentives between counsel and the class, a better
9 approximation of market conditions in a contingency case, and the encouragement
10 it provides counsel to seek an early settlement and avoid unnecessarily prolonging
11 the litigation [citations]—convince us the percentage method is a valuable tool that
12 should not be denied our trial courts.

13 (*Id.* at p. 573.)

14 An award of 1/3 of the common fund is appropriate here under the “substantial benefit”
15 theory. (*Dunk v. Ford Motor Co.* (1996) 48 Cal.App.4th 1794, 1810; *Wershba v. Apple Computer,*
16 *Inc.* (2001) 91 Cal.App.4th 224, 254.) That theory permits a litigant who has sued in a
17 representative capacity to recover fees when the litigant’s efforts have created a substantial, actual,
18 and concrete benefit for members of an ascertainable class and the court’s jurisdiction over the
19 subject matter makes possible an award which spreads the cost proportionately among the
20 members of the benefitted class. (*See Ciani v. San Diego Trust & Sav. Bank* (1994) 25 Cal.App.4th
21 563, 578.)

22 This doctrine rests on the understanding that attorneys should normally be paid by their
23 clients, and that unless attorneys’ fees are paid out of the common fund, those who benefitted from
24 the fund would be unjustly enriched. (*Woodland Hills Residents Assn., Inc. v. City Council* (1979)
25 23 Cal.3d 917, 943; *Save El Toro Ass’n v. Days* (1979) 98 Cal.App.3d 544, 548-49.) To prevent
26 this unfair result, courts exercise their inherent equitable powers to assess attorneys’ fees against
27 the entire fund, thereby spreading the cost of those fees among all those who benefitted. (*Serrano*
28 *III*, 20 Cal.3d at p. 35.) “A court, in the exercise of its equitable discretion, may decree that those
receiving the benefit should contribute to the costs of its production.” (*Save El Toro Assn., supra*,
98 Cal.App.3d at p. 548.) As this approach “better approximates the workings of the marketplace
than the lodestar approach,” there is “a greater judicial willingness to evaluate a fee award as a
percentage of the recovery” in common fund cases. (*Lealao v. Beneficial Calif., Inc.* (2000) 82

1 Cal. App. 4th 19, 31, 48.)

2 As detailed fully in the Agreement and set forth above, the Agreement provides for
3 Defendant to create a Gross Settlement Amount of \$100,000.00. From that fund, Plaintiff requests
4 an award of attorneys' fees in the amount of \$33,333.33, or 1/3 of the Gross Settlement Amount
5 created on behalf of members of the Class. (Ly Decl. ¶124.) This litigation resulted in "a
6 substantial, actual and concrete . . . benefit on the members of an ascertainable class," *Save El*
7 *Toro Assn., supra*, 98 Cal.App.3d at p. 548, namely a non-reversionary settlement fund of
8 \$100,000.00. Because none of the Class Members have paid fees to Class Counsel for their efforts
9 during the litigation, equity requires that they pay a fair and reasonable fee based on what the
10 market would traditionally require, no less than if they had hired private counsel to litigate their
11 cases individually. Class Counsel is therefore entitled to a reasonable contingency fee of 1/3 from
12 the Settlement fund as a whole.

13 B. The Attorneys' Fees Requested By Class Counsel Are Well Within the Range of
14 Fees in Comparable Cases

15 Courts historically award fees in the twenty-to-fifty-percent range, depending on the
16 circumstances of the case. As stated in Newberg:

17 No general rule can be articulated on what is a reasonable percentage of a common
18 fund. Usually 50% of the fund is the upper limit on a reasonable fee award from a
19 common fund in order to assure that the fees do not consume a disproportionate
part of the recovery obtained for the Class, although somewhat larger percentages
are not unprecedented.

20 (Newberg on Class Actions, 3rd Ed., 1992, § 14.03; and see *Chavez v. Netflix, Inc.* (2008) 162
21 Cal.App.4th 43, 66, fn 11 ["Empirical studies show that, regardless whether the percentage method
22 or the lodestar method is used, fee awards in class actions average around one-third of the
23 recovery."] Thus, Class Counsel's requested fee of 33.3% is not only well within the range of
24 reasonableness, but is fair compensation for undertaking this complex, risky, expensive, and time-
25 consuming litigation on a contingent basis.

26 C. The Contingency Fee of 1/3 Requested By Class Counsel Is Reasonable Based on
27 the Risks of Litigation and the Diligent Efforts of Counsel that Led to an
28 Outstanding Settlement for the Class

1 In the present case, Class Counsel asks the Court to award a fee of 1/3 of the common fund,
2 or \$33,333.33, as provided in the Agreement. This amount is reasonable because Class Counsel's
3 diligent litigation efforts and experience led to an outstanding settlement, with an average net
4 recovery of over \$1,539.22 per Class Member (*See* Paul Decl. ¶13), based on cognizable risks
5 which are discussed in detail in Plaintiff's Motion for Final Approval of Class Action Settlement.

6 Additionally, it is recognized that one of the primary factors justifying an attorney fee
7 award in cases such as this are the attendant risks inherent in the litigation. As observed in *City of*
8 *Detroit v. Grinnell Corporation* (2d Cir. 1974) 495 F.2d 448, 470:

9 No one expects a lawyer whose compensation is contingent upon his success to
10 charge, when successful, as little as he would charge a client who had agreed to pay
11 for his services, regardless of success. Nor, particularly in complicated cases
12 producing large recoveries, is it just to make a fee depend solely on the reasonable
13 amount of time expended.

14 Class Counsel extensively addressed the perceived risks in this case in the concurrently
15 filed Motion for Final Approval of Class Action Settlement and will not repeat that analysis here.
16 In addition to the complexity of this case, Class Counsel has borne the entire risk and costs of this
17 litigation during the entire time that it has been pending, all on a pure contingency basis. (Ly Decl.
18 ¶125.) Through the investment of substantial effort and resources, Class Counsel has secured an
19 outstanding Settlement of behalf of the Class Members. (*Id.*) Defendant vigorously contested
20 liability, the amount of claimed damages, and the propriety of class certification. (*Id.*) It is this
21 kind of situation, involving complex issues, that has been recognized as justifying a substantial
22 attorney fee award. (*Id.*)

23 **IV. CLASS COUNSEL'S FEE REQUEST IS REASONABLE UNDER A LODESTAR** 24 **CROSSCHECK**

25 Courts may "cross-check" the results of the common fund method against the lodestar
26 method. (*See, e.g., In re Consumer Privacy Cases* (2009) 175 Cal.App.4th 545, 557.) The lodestar
27 is calculated by multiplying the reasonable hours expended by a reasonable hourly rate. (*Serrano*
28 *v. Priest* (1977) 20 Cal.3d 25, 48-49 ("*Serrano III*").) Those rates reflect "the general local hourly
rate for a fee-bearing case" and do "not include any compensation for contingent risk,
extraordinary skill, or any other factors." (*Ketchum v. Moses* (2001) 24 Cal.4th 1122, 1138.) The

1 court may then enhance the lodestar with a multiplier. (*Wershba, supra*, 91 Cal.App.4th at p. 254;
2 *Rebney v. Wells Fargo Bank* (1991) 232 Cal.App.3d 1344, 1347; *Serrano III, supra*, 20 Cal.3d at
3 p. 49.)

4 A. Requested Multiplier

5 The purpose of using the lodestar/multiplier method is to mirror the legal marketplace.
6 Counsel will not handle cases for straight hourly fees payable only if they win; therefore, an
7 enhancement is often awarded so that the fee received is commensurate with what attorneys could
8 expect to be compensated for services in similar circumstances. (*See San Bernardino Valley*
9 *Audubon Soc., Inc. v. County of San Bernardino* (1984) 155 Cal.App.3d 738, 755 [an award must
10 be large enough “to entice competent counsel to undertake difficult public interest cases”].) No
11 specific findings reflecting the court’s calculations are required. (*Wershba, supra*, 91 Cal.App.4th
12 at p. 254; *Rebney, supra*, 232 Cal.App.3d at p. 1349.) “The record need only show that the attorney
13 fees were awarded according to the ‘lodestar’ or ‘touchstone’ approach.” (*Ibid.*)

14 Here, a lodestar cross-check confirms that the percentage requested is reasonable. Class
15 Counsel’s aggregate lodestar amounts to \$98,959.50 (without future hours)¹, which represents
16 140.3 hours of attorney work on this litigation incurred from its inception through the filing of
17 Plaintiff’s Motion for Final Approval. (Ly Decl. ¶133.) As such, Class Counsel has billed more
18 hours than the fee, and no multiplier is requested. (Ly Decl. ¶134.) Typically, the lodestar is
19 merely the starting point of the calculation of a reasonable fee, and courts often multiply the
20 lodestar by a factor to account for the risk of non-payment, delay in payment, the quality of work,
21 and the novelty and difficulty of the issues involved. (*See Radar v. Thrasher* (1962) 57 Cal.2d
22 244, 253; *Beasley v. Wells Fargo Bank* (1991) 235 Cal.App.3d 1407, 1419; *Coal. for L.A. County*
23 *Planning v. Bd. of Supervisors* (1977) 76 Cal.App.3d 241, 251.)

24 B. The Number of Hours Claimed is Reasonable

25 Plaintiff’s counsel are entitled to be compensated “for all time reasonably expended in
26

27 ¹ Though Class Counsel will certainly continue to spend time working on this matter for tasks
28 such as preparing for and attending the final approval hearing, overseeing the administration
process, and communicating with Class Members, Plaintiff’s Counsel are not requesting
approval of future hours.

1 pursuit of the ultimate result achieved in the same manner that an attorney traditionally is
2 compensated by a fee-paying client for all time reasonably expended on a matter.” (*Hensley v.*
3 *Eckerhart* (1983) 461 U.S. 424, 431 [internal quotations omitted]; *accord Serrano v. Unruh* (1982)
4 32 Cal.3d 621, 633 [“Serrano IV”] [parties should recover for all hours reasonably spent]; *Meister*
5 *v. Regents of Univ. of Cal.* (1998) 67 Cal.App.4th 437, 447-48 [same].)

6 The amount of time spent on this case (over 140.3 hours), which culminated in a very
7 favorable proposed Settlement for the Class Members, is reasonable given the complexity and
8 novelty of the issues involved, the vigorous defense, the length and intensity of the litigation, and
9 the exceptional results obtained. (Ly Decl. ¶135.) Class Counsel litigated this action with great
10 efficiency in light of the amount of work required to achieve the Settlement. (Ly Decl. ¶136.)
11 Class Counsel has submitted a declaration evidencing the reasonable hourly rate for their services
12 and establishing the number of hours spent working on the case. (Ly Decl. ¶¶137-146.)
13 Accordingly, Plaintiff is entitled to full compensation for the hours claimed by Class Counsel.

14 C. The Hourly Rates Requested Are Reasonable

15 Class Counsel is entitled to be compensated at hourly rates that reflect the reasonable
16 market value of their legal services, based on their experience and expertise. (*See Serrano IV,*
17 *supra*, 32 Cal.3d at pp. 640-43, n.31.) “The reasonable hourly rate is that prevailing in the
18 community for similar work.” (*PLCM Group, Inc. v. Drexler* (2000) 22 Cal.4th 1084, 1095.)
19 Payment at full market rates is essential to entice well-qualified counsel to undertake difficult
20 cases, such as this one. (*San Bernardino Valley Audubon Soc’y v. County of San Bernardino* (1984)
21 155 Cal. App. 3d 738, 755.) Additionally, calculation of a lodestar based on current hourly rates
22 is appropriate as a means of compensating for delay in payment. (*Missouri v. Jenkins by Agyei*
23 (1989) 491 U.S. 274, 283-84.)

24 The requested hourly rates in this case range from \$450.00 per hour to \$1,100.00. (Ly Decl.
25 ¶137.) Class Counsel’s hourly rates are fully supported by their experience and reputation in
26 handling complex employment litigation, including wage and hour class actions. (Ly Decl. ¶138;
27 ¶¶139-146.)

28 Mr. Kingsley is a 28-year attorney with expertise in wage and hour class action lawsuits.

(Ly Decl. ¶139.) He has litigated several hundred such cases, including at the appellate level at the U.S. Supreme Court, California Supreme Court, the Ninth Circuit, and the California Court of Appeal. (Ly Decl. ¶140.) He is also a prolific speaker at various seminars on employment law and has contributed to legal publications on employment topics. (Ly Decl. ¶141.) Biographical information for the other handling attorneys is included in the concurrently filed Declaration of Liane Katzenstein Ly. (Ly Decl. ¶¶142-145.)

Frank H. Kim is a seasoned attorney with extensive expertise with wage and hour class actions lawsuits.² (See Declaration of Frank H. Kim ¶¶1-9.)

Class Counsel's charged rates are commensurate with the prevailing market rates in Los Angeles County for attorneys of comparable experience and skill handling complex litigation. (Ly Decl. ¶149.) Furthermore, Class Counsel's rates in calculating the lodestar are the same rates charged to non-contingent hourly clients and thus necessarily reflect the current market value of counsel's legal services.³ (Ly Decl. ¶150.) Class Counsel has made all reasonable attempts to avoid duplication of assignments and to assign tasks to timekeepers at the appropriate billing rates. (Ly Decl. ¶151.)

Finally, Class Counsel's rates are in line with the 2023-2024 Laffey Matrix, which is a fee scale that courts often consult in determining the reasonableness of hourly rates. Under the adjusted Laffey Matrix, a reasonable rate for an attorney with 20+ years of experience, such as Mr. Kingsley, is \$1057, a reasonable rate for an attorney with 16 years of experience, such as Ms. Ly, is \$878, and a reasonable rate for an attorney with 4-7 years of experience, such as Ms. Bulaon is \$538. (Ly Decl. ¶152; Ex. 4 [2023-2024 Adjusted Laffey Matrix].)

D. The Fees Requested Are Reasonable

The trial court has substantial discretion in adjusting the lodestar to account for various factors inadequately reflected therein. (See *Lealao, supra*, 82 Cal.App.4th at pp. 40-45.) A lodestar

² Kingsley Szamet & Ly and Kim Legal, APC have entered into a written fee sharing agreement that was also signed by the named Plaintiff. (Ly Decl. ¶147; Ex. 6.)

³ The Court should also note that other California courts approved many of these same rates over 15 years ago. (See, e.g., *Bihun v. AT&T Info. Sys., Inc.* (1993) 13 Cal.App.4th 976, 997, disapproved on other grounds, 6 Cal.4th 644, 664 [\$450 hourly rate was a reasonable fee based on counsel's knowledge, skill, experience and reputation].)

multiplier is recognized as earned compensation: “The adjustment to the lodestar, e.g., to provide a fee enhancement reflecting the risk the attorney will not receive payment if the suit does not succeed, constitutes earned compensation; unlike a windfall, it is neither unexpected nor fortuitous.” (*Ketchum, supra*, 24 Cal.4th at p. 1138.)

In California, courts regularly use a multiplier of 2.0 or greater in statutory fee cases to approximate market fees.⁴ In fact, “[m]ultipliers in the 3-4 range are common in lodestar awards for lengthy and complex class action litigation.” (*Van Vracken v. Atlantic Richfield Co.* (N.D.Cal.1995) 901 F.Supp. 294, 298; *see also, Wershba, supra*, 91 Cal.App.4th at p. 255 [“Multipliers can range from 2 to 4 or even higher.”].) Here, Class Counsel is not requesting a multiplier. (Ly Decl. ¶156.)

The court may augment the lodestar upon consideration of various factors, including, but not limited to: (1) the novelty and difficulty of the questions involved, (2) the skill displayed in presenting them, (3) the extent to which the nature of the litigation precluded other employment by the attorneys, and (4) the contingent nature of the fee award, both from the point view of eventual victory on the merits and of establishing eligibility for an award. (*See Serrano III, supra*, 20 Cal.3d at pp. 41, 49.)

While Class Counsel believes they have met the requirements for a multiplier, none is being requested.

V. THE COURT SHOULD APPROVE THE REQUEST FOR REIMBURSEMENT OF COSTS

In addition to their request for fees, Class Counsel further request reimbursement of the reasonable out-of-pocket expenses advanced and/or incurred by them in connection with this litigation, in the amount of \$20,878.01. (Ly Decl. ¶158.) To date, Kingsley Szamet & Ly has incurred \$15,441.68 in costs, and Kim Legal, APC has incurred \$4,836.33 in costs. (Ly Decl. ¶159.) Class Counsel anticipates incurring an additional \$600.00 in costs to file, serve, and copy

⁴ See, for example, *Mangold v. Cal. Pub. Utils. Comm’n*, 67 F.3d 1470, 1478-79 (9th Cir. 1995) (2.0); *City of Oakland v. Oakland Raiders* (1988) 203 Cal.App.3d 78, 82-85 (2.34); *Coal. for L.A. County Planning v. Bd. of Supervisors* (1977) 76 Cal.App.3d 241, 251 (slightly above 2.0); *Crommie v. State of Cal. Public Utilities Comm’n* (N.D. Cal. 1994) 840 F.Supp.719, 726 (2.0 multiplier in employment case).

1 this motion; to prepare for and attend the hearing; and for future copy charges, however, pursuant
2 to the Agreement, Class Counsel shall not seek an amount in excess of \$22,000.00 for litigation
3 costs. (Ly Decl. ¶160; Ex. 1, ¶3.2.2.) As such, Class Counsel is requesting a cost reimbursement
4 of \$20,878.01. (Ly Decl. ¶161.)

5 All of the requested costs are reasonable in amount and were necessarily incurred by Class
6 Counsel in prosecuting this litigation. (Ly Decl. ¶162; Ex. 5 [Cost Report].)

7 Expenses in this matter to date include costs for filing fees, research, mediation,
8 employment of a database expert to synthesize the tens of thousands of lines of payroll and
9 timekeeping data produced by Defendant to assist with preparation of Plaintiff's damage model,
10 and additional costs for the prosecution of this case evidenced in the costs spreadsheet attached to
11 the Declaration of Liane Katzenstein Ly. All of these costs have been incurred in the course of
12 this litigation, and all costs advanced have already been paid by Class Counsel. (Ly Decl. ¶163.)

13 Accordingly, the requested reimbursement of the reasonable out-of-pocket expenses
14 advanced and/or incurred is appropriate and justified as part of the overall settlement and the Court
15 should approve the request for reimbursement in the amount of \$20,878.01.

16 **VI. THE NAMED PLAINTIFF'S ENHANCEMENT SHOULD BE APPROVED**

17 Finally, Plaintiff's Counsel request an enhancement of \$5,000.00 to the named Plaintiff
18 Emmanuel Wright for his work on behalf of the Class. (Ly Decl. ¶164.) As set forth in detail in
19 Plaintiff's Motion for Final Approval of Class Settlement and Emmanuel Wright's declaration,
20 Plaintiff Wright invested significant time and effort in this case. (Ly Decl. ¶165; Wright Decl. ¶¶4-
21 8.)

22 Plaintiff was also at risk of for paying Defendant's legal fees and costs in the event that
23 Defendant prevailed at trial. (Ly Decl. ¶169.)

24 The Class has benefited from Mr. Wrights' action in stepping forward on their behalf to
25 bring this lawsuit. (Ly Decl. ¶170.) The average settlement payment is \$1,539.22 for a Class
26 Member with a high of \$2,907.41. (Paul Decl. ¶13.)

27 Further, The Class Notice disclosed the enhancement award. (*See* Agreement Ex. 1 [class
28 notice], p. 3.) (Ly Decl. ¶171.) As of today, no Class Member has objected to the proposed

enhancement. (Ly Decl. ¶172.)

Under the circumstances, a representative payment of \$5,000.00 is justified and the Court should award this payment to Emmanuel Wright from the Gross Settlement Amount as provided in the Agreement. (Ly Decl. ¶173.)

VII. PROOF OF SUBMISSION TO THE LABOR AND WORKFORCE DEVELOPMENT AGENCY

As indicated on the Proof of Service, Plaintiff's Motion for Approval of Attorneys' Fees and Costs ("Motion") was uploaded to the Labor and Workforce Development Agency's ("LWDA") website on the date this Motion was filed as required by statute. Proof of submission of Plaintiff's Motion, all related documents, and copy of the email from the LWDA confirming receipt is attached to the Declaration of Liane Katzenstein Ly as Exhibit "7". (Ly Decl. ¶174.)

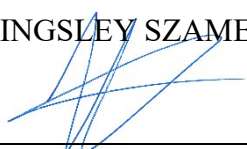
VIII. CONCLUSION

Class Counsel respectfully requests that the Court award a fee equal to 1/3 of the gross settlement amount, or \$33,333.33 and reimbursement of costs of \$22,000.00. Class Counsel also respectfully requests that the Court award an enhancement for the named Plaintiff of \$5,000.00. For the above reasons, all of these requests are appropriate and justified as part of the overall Settlement, and the Court should approve them as reasonable and fair.

DATED: May 22, 2024

KINGSLEY SZAMET & LY

By:


Liane Katzenstein Ly
Attorneys for Plaintiff Emmanuel Wright and the
proposed class

(PROOF OF SERVICE)
[CCP 1013(a)(3)]
STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California. I am over the age of 18 years and not a party to the within action. My business address is 16133 Ventura Boulevard, Suite 1200, Encino, California 91436.

On May 22, 2024, I served all interested parties in this action the following documents described as: **NOTICE OF MOTION AND MOTION FOR FINAL APPROVAL OF ATTORNEYS' FEES AND COSTS; MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT THEREOF** by placing a true copy thereof enclosed in a sealed envelope addressed as follows:

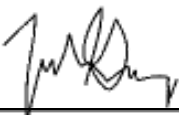
Maria C. Rodriguez mcrodriguez@mwe.com Chris Braham cbraham@mwe.com Ariel Beverly abeverly@mwe.com Yvonne Rivera yrivera@mwe.com Cindy Liu cliu@mwe.com McDermott Will & Emery LLP 2049 Century Park East, Suite 3200 Los Angeles, CA 90067-3206 Attorneys for Defendants	Frank H. Kim fkim@kim-legal.com KIMLEGAL, APC 3435 Wilshire Blvd, Suite 2700 Los Angeles, CA 90010
--	--

[XX] BY ELECTRONIC SERVICE: I caused a true and correct copy thereof to be electronically filed using the Labor and Workforce Development Agency Electronic Filing ("EF") System (<https://dir.tfaforms.net/315>) and service was completed by electronic means by transmittal of the documents referenced herein on the EF System.

[XX] (BY ELECTRONIC MAIL THROUGH CASE ANYWHERE): On interested Parties set forth on the service list.

[XX] (STATE) I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on May 22, 2024, at Los Angeles, California.



Taylor Gregg