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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SANTA CLARA

GUADALUPE ESTRADA and BRIAN
HILLOGLY, on behalf of themselves and all
other similarly situated;

Plaintiffs,

v.

MONTEREY MUSHROOMS, INC., a
California Corporation, and DOES 1 through
50, inclusive,

Defendants.

Case No.: 21CV386229

Consolidated with Case No. 21CV391403

Assigned to the Hon. Charles F. Adams

**PLAINTIFFS' NOTICE OF MOTION AND
MOTION FOR FINAL APPROVAL OF
CLASS ACTION SETTLEMENT**

HEARING INFO

Date: June 5, 2025

Time: 1:30 p.m.

Dept.: 7

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

2 **PLEASE TAKE NOTICE** that on June 5, 2025, at 1:30 p.m. or as soon thereafter as the
3 matter may be heard by the Honorable Charles F. Adams in Department 7 of the Santa Clara
4 County Superior Court in the State of California, located at 191 North First Street San Jose,
5 California 95113, pursuant to Code of Civil Procedure section 382, Plaintiffs Guadalupe Estrada
6 and Brian Gillogly, individually and on behalf of all others similarly situated, will and hereby
7 does move the Court for entry of an Order granting final approval of the parties' Joint Stipulation
8 and Settlement Agreement of Class Action and PAGA Claims (the "Settlement Agreement"
9 and/or the "Settlement"), which was preliminary approved by this Court on April 26, 2024.

10 This Motion, which is supported and unopposed by Defendant Monterey Mushrooms, Inc.
11 ("Defendant"), seeks final approval of a \$2,150,000 Settlement on behalf of the Settlement Class
12 Members and entry of judgment.

13 Specifically, Plaintiffs will and hereby does move the Court to grant final approval of the
14 Settlement Agreement, and enter the Proposed Order and Final Judgment filed concurrently
15 herewith:

16 1. Finally certifying the Settlement Class, as defined in the Settlement Agreement
17 and the Court's Order Granting Preliminary Approval of the Class Action Settlement;

18 2. Finally appointing Plaintiffs Guadalupe Estrada and Brian Gillogly as the Class
19 Representative for purposes of settlement;

20 3. Finally appointing Jake D. Finkel of The Finkel Firm; Mehrdad Bokhour of the
21 Bokhour Law Group, P.C. and Benjamin H. Haber of Wilshire Law Firm as Class Counsel for
22 purposes of settlement;

23 4. Finding that the Notice Packet was properly provided to the Settlement Class in
24 accordance with the Court's Order Granting Preliminary Approval of Class Action Settlement;

25 5. Finally approving the Settlement as fair, adequate, and reasonable, based upon the
26 terms set forth in the Settlement Agreement;

27 6. Binding Participating Class Members to the terms of the Settlement Agreement,
28 including the Release specified therein; and

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1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. INTRODUCTION**

3 This motion seeks final approval of a wage-and-hour class action settlement between
4 Plaintiffs Guadalupe Estrada and Brian Gillogly (“Plaintiffs”) and Defendant Monterey
5 Mushrooms, Inc. (“Defendant”) (collectively, the “Parties”) of \$2,150,000 (the “Gross Settlement
6 Amount”) to be distributed to 3,813 individuals defined as: all individuals who are or were
7 employed by Defendant as non-exempt hourly employees in California during the Class Period,
8 which is from June 8, 2017 to June 24, 2023.

9 Plaintiffs also represent a group of PAGA Members on behalf of the State of California
10 as private attorney general pursuant to the California Labor Code Private Attorneys General Act
11 of 2004 (“PAGA”). (Lab. Code, §§ 2698–2699.5.) The Aggrieved Employees include all
12 individuals who are or were employed by Defendant as non-exempt hourly employees in
13 California during the PAGA Period, which is the period from June 8, 2020 to April 26, 2024.

14 A true and correct copy of the Joint Stipulation and Settlement Agreement of Class Action
15 and PAGA Claims (“Settlement Agreement”) is attached as **Exhibit B** to the concurrently filed
16 Declaration of Mehrdad Bokhour in Support of Plaintiffs’ Motion for Final Approval of Class
17 Action Settlement (“Bokhour Decl.”). The Settlement Agreement, in its entirety, is incorporated
18 herein by reference.

19 On or about April 26, 2024, the Court granted preliminary approval of the Settlement
20 Agreement. On or about January 22, 2025, the Court granted the Parties’ stipulated order
21 modifying the preliminary approval of the Settlement Agreement to allow for additional notice to
22 be provided by publication. Pursuant to the orders, on February 12, 2025, CPT Group, Inc.
23 (“CPT” or the “Settlement Administrator”) mailed the Court-approved Notice of Proposed Class
24 Action Settlement (the “Class Notice”) to 3,141 Settlement Class Members with valid addresses
25 on record with Monterey Mushrooms, Inc. (See Declaration of Veronica Olivares of CPT Group,
26 Inc. in Support of Motion for Final Approval of Class Action Settlement (“Olivares Decl.”).)

27 There were 674 Settlement Class Members for whom Defendant did not have a valid
28 address on file. To reach these individuals, CPT implemented a supplemental notice plan, which

1 included newspaper and radio advertisements. The newspaper advertisements were published in
2 the *San Jose Mercury News* on February 14, 2025, February 22, 2025, and March 6, 2025.

3 A true and correct copy of the Class Notice is attached as Exhibit A to the Olivares Decl.

4 **II. SUMMARY OF ARGUMENT AND ESSENTIAL POINTS**

5 Pursuant to California Rules of Court, Rule 3.769(d) and (e), Plaintiffs respectfully request
6 that this Court grant final approval of the Class and PAGA Representative Action Settlement
7 Agreement (the “Settlement Agreement” and/or the “Settlement”) already on file in this action,
8 which is supported and unopposed by Defendant, and enter the Proposed Order and Final
9 Judgment in this matter.

10 There are several essential reasons why this Settlement should be approved, and judgment
11 entered accordingly. They are as follows:

- 12 • The parties agreed to a \$2,150,000 Settlement Amount tailored to a limited release
13 of the claims alleged on behalf of the Settlement Class Members;
- 14 • The Settlement Class Members were deemed to participate in the Settlement, and
15 were not required to submit a claim form to receive funds;
- 16 • There is no reversion to Defendant; and
- 17 • There are **zero** objections to the Settlement and **three** Requests for Exclusion from
18 the Settlement.

19 Based on the foregoing, Plaintiffs respectfully requests that the Court issue an order
20 **(1)** finally certifying the Class; **(2)** finally appointing Plaintiffs as the Class Representative;
21 **(3)** finally appointing Plaintiffs’ attorneys as class counsel, **(4)** finding that notice of the
22 settlement was properly provided to the Class Members; **(5)** finally approving the Settlement
23 Agreement as fair, adequate, and reasonable; **(6)** finally approving the allocation for attorneys’
24 fees of one-third of the Gross Settlement Amount, plus necessary incurred litigation costs;
25 **(7)** finally approving CPT as the settlement administrator; **(8)** finally approving the allocation of
26 \$50,000.00 from the Gross Settlement Amount for PAGA penalties; **(9)** finally approving a class
27 representative incentive payment to Plaintiffs in an amount of \$12,500 each; **(10)** binding all
28 participating class members to the terms of the Settlement Agreement, including the release

specified therein; and (11) retaining jurisdiction to enforce the terms of the Settlement Agreement.

In accordance with the analysis and law set forth herein, the Settlement should be approved, and judgment entered based on the determination that the Settlement is fair, reasonable, adequate, and in the best interests of the Settlement Class.

III. PERTINENT BACKGROUND AND SETTLEMENT TERMS

Plaintiffs and the Settlement Class Members include all individuals who are or were employed by Defendant as non-exempt hourly employees in California during the Class Period [*i.e.*, June 8, 2017 to June 24, 2023].

Plaintiffs' primary allegations were that Defendant (1) failed to pay all wages for all hours worked, (2) failed to provide compliant meal and rest periods or pay compensation in lieu thereof, (3) failed to provide accurate itemized wage statements, (4) failed to provide timely pay upon separation of employment, and (5) made claims for civil penalties under the PAGA arising from the alleged Labor Code violations. (*Id.*)

The Settlement Class includes 3,813 individuals who performed work in a non-exempt position for Defendant in California at any time during the Class Period. The following is a breakdown reflecting how the funds are allocated under the Settlement Agreement (Declaration of Veronica Olivares Regarding Notice and Settlement Administration (“Olivares Decl.”), ¶ 14):

	Total Amount
<i>Settlement Amount</i>	\$2,150,000.00
Attorneys’ Fees (1/3)	\$716,565.00
Litigation Costs	\$22,252.28
Settlement Administrator Costs	\$26,500.00
PAGA payment to LWDA (75% of \$50k award)	\$37,500.00
PAGA payment to aggrieved employees	\$12,500.00
Class Representative Service Payments	\$25,000.00
<i>Net Settlement Amount</i>	\$1,309,682.72

Settlement Class Members who did not opt out of the Settlement in a timely manner will be deemed to participate in the Settlement and shall become Participating Class Members without having to submit a claim form or take any other action. Each Participating Class Member will receive a pro-rata share of the Net Settlement Amount according to the percentage of weeks

1 he/she worked during the Class Period, such that the amount actually distributed to Participating
2 Class Members will equal 100% of the Net Settlement Amount.

3 Assuming the Court approves all of the amounts in the Settlement, the average payment
4 to each Participating Class Member is estimated to be approximately \$370.39, and the highest
5 payment is estimated to be approximately \$1,450.19. (Olivares Decl. ¶ 15.)

6 Thirty percent (30%) will be allocated as wages subject to withholdings of all applicable
7 local, state, and federal taxes; and seventy percent (70%) will be allocated as interest and as civil
8 penalties (pursuant to, e.g., California Labor Code Sections 203 and 226) from which no taxes
9 will be withheld. The Settlement Agreement provides that Defendant will fund the Settlement
10 Amount within thirty (30) days after the Effective Date. Within fourteen days (14) thereafter, the
11 Settlement Administrator shall issue payments to cover all court-approved payments, including
12 payments to the Participating Class Members.

13 The Court granted preliminary approval of the Settlement on April 26, 2024 and then
14 granted a modification to the preliminary approval of the Settlement on January 22, 2025. Inherent
15 in the Court's granting of preliminary approval is a determination that the Settlement is
16 presumptively fair and provides fair and reasonable benefits to the Settlement Class. Thereafter,
17 the Settlement Administrator, CPT, disseminated the Notice Packet. (Olivares Decl. ¶¶ 3-6.) The
18 results of the notice process are set forth in The Declaration of Olivares in Support of Plaintiffs'
19 Motion for Final Approval of Class Action Settlement and discussed in detail in Section III below.
20 Nevertheless, the reaction to the Settlement was overwhelmingly positive, as no Settlement Class
21 Member objected to the Settlement and only two Settlement Class Members requested exclusion
22 from the Settlement. This represents a 99.9% participation rate by the Settlement Class. (Olivares
23 Decl., ¶ 11.)

24 In light of this overwhelmingly positive reaction to the Settlement and its overall terms, it
25 is clear that the Settlement, which was the product of arm's-length negotiations, is fair and
26 reasonable and the parties therefore respectfully request that the Court grant final approval and
27 enter the proposed judgment as requested. (See *Dunk v. Ford Motor Co.* (1996) 48 Cal.App.4th
28

1794, 1800–1802 [class action settlements should be approved if they are fair and reasonable, and a low percentage of objectors and opt-outs is evidence of an agreement’s fairness].)

3 **IV. THE NOTICE PROCESS**

4 **A. Notice to the Settlement Class Members**

5 Pursuant to the Court’s Preliminary Approval Order and the Settlement Agreement, the
6 Parties directed CPT Group, Inc. (“CPT” or the “Settlement Administrator”) to update Settlement
7 Class Member addresses, mail the Court-approved Class Notice, and process class member
8 responses. (Olivares Decl., ¶¶ 4–5.)

9 On April 29, 2024, CPT received the Court-approved Notice text from Counsel and
10 prepared an eight-page bilingual (English and Spanish) Class Notice for mailing. (Olivares Decl.,
11 ¶ 4; Ex. A.) On May 28, 2024, CPT received the class data file from Defendant, which included
12 a total of 3,815 individuals: 3,537 Settlement Class Members and 2,457 PAGA Employees.
13 Specifically, 1,358 were identified as Settlement Class Members only, 278 as PAGA Employees
14 only, and 2,179 as both. (Olivares Decl., ¶ 5.)

15 To ensure accurate mailing, CPT performed a National Change of Address (NCOA)
16 search prior to dissemination. (Olivares Decl., ¶ 6.) Of the 3,537 Settlement Class Members, 3,141
17 had a valid address on record with Defendant. On February 12, 2025, CPT mailed the Class Notice
18 via U.S. First-Class mail to those 3,141 individuals. (Olivares Decl., ¶ 7.)

19 There were 674 Settlement Class Members with no valid address on record. To reach these
20 individuals, CPT implemented a supplemental notice plan consisting of newspaper and radio
21 advertisements. Newspaper ads were published in the *San Jose Mercury News* on February 14,
22 2025, February 22, 2025, and March 6, 2025. (Olivares Decl., ¶ 6; Ex. B.) A Spanish-language
23 radio advertisement aired on La Buena/KRAY FM 103.5 from February 12, 2025, through
24 February 18, 2025. (Olivares Decl., ¶ 6; Ex. C.)

25 CPT tracked the delivery of the Class Notices and processed returned mail. As of the date
26 of the Olivares Declaration, 239 Notices were returned as undeliverable, 6 of which included
27 forwarding addresses provided by the U.S. Postal Service. For the remaining 233 Notices, CPT
28 conducted skip tracing through Accurant, resulting in 98 Notices being re-mailed. A total of 143

1 Notices remain undeliverable. (Olivares Decl., ¶¶ 8–9.)

2 To date, CPT has received two valid requests for exclusion and no objections to the
3 Settlement. (Olivares Decl., ¶¶ 10–12.) CPT also confirms that no class member has disputed the
4 number of workweeks or pay periods identified in their Notice. (Olivares Decl., ¶ 11.)

5 CPT reports that the final class composition includes 3,813 Settlement Class Members,
6 comprising 1,358 Settlement Class Members only, 279 PAGA Employees only, and 2,178
7 individuals who fall into both categories—representing a 99.95% confirmation rate. (Olivares
8 Decl., ¶ 13.)

9 In accordance with California Rules of Court, rules 3.766(d) and 3.769(f), the Notice
10 informed Settlement Class Members of: (1) the nature of the action; (2) the right to opt out; (3)
11 the procedure and deadline to request exclusion; (4) the binding effect of the Judgment on non-
12 excluded members; (5) the right to appear through counsel; (6) the opportunity to attend the final
13 fairness hearing and object; and (7) the right to participate and receive a payment if eligible.
14 (Olivares Decl., ¶ 4; Ex. A.)

15 **B. There are Zero Objections and Three Requests for Exclusion**

16 California law makes clear that the percentage of objectors and opt-outs is an important
17 factor in the Court’s consideration of a proposed class action settlement. (See *Dunk, supra*, 48
18 Cal.App.4th at 1802.) Indeed, the Ninth Circuit and other federal courts recognize that in the final
19 fairness analysis, the number or percentage of class members who object to the settlement is a
20 significant factor. (See *Mandujano v. Basic Vegetable Prods., Inc.*, (9th Cir. 1976) 541 F.2d 672,
21 677; *In re American Bank Note Holographics, Inc.* (SDNY 2001) 127 F.Supp.2d 418, 425 “[i]t
22 is well settled that the reaction of the class to the settlement is perhaps the most significant factor
23 to be weighed in considering its adequacy.”)

24 In this case, as noted above, there are zero objections to the Settlement and three requests
25 for exclusion from the Settlement, meaning nearly all (99.99%) of the Settlement Class Members
26 elected to participate in the Settlement. (Olivares Decl., ¶¶ 11-131.) Thus, the Settlement Class
27 overwhelmingly viewed this as a fair and reasonable Settlement.

1 **V. EVALUATION OF THE SETTLEMENT**

2 It is axiomatic that California law strongly favors and encourages settlements. (See
3 *Stambaugh v. Super. Ct.* (1976) 62 Cal.App.3d 231, 236.) This presumption in favor of settlement
4 applies with particular force in the context of class actions. (See *Ferguson v. Lieff, Cabraser,*
5 *Heimann & Bernstein* (2003) 30 Cal.4th 1037 (Kennard, J., concurring and dissenting) [“[p]ublic
6 policy favoring settlement is especially weighty for class actions”]; *Bell v. Am. Title Ins. Co.*
7 (1991) 226 Cal.App.3d 1589, 1607-1608 [affirming the trial court’s approval of a class settlement
8 and implicitly endorsing its citation of federal precedent for the notion that there is a “strong
9 public policy in favor of settlement of class actions”]; see also *Franklin v. Kaypro Corp.* (9th Cir.
10 1989) 884 F.2d 1222, 1229, quoting *Van Bronkhorst v. Safeco Corp.* (9th Cir. 1976) 529 F.2d
11 943, 950 [“it hardly seems necessary to point out that there is an overriding public interest in
12 settling and quieting litigation. This is particularly true in class action suits”].)

13 When entertaining a request for final approval of a class action settlement, a court’s
14 fundamental consideration is whether the settlement is fair, adequate and reasonable. (See *Dunk,*
15 *supra*, 48 Cal.App.4th at 1801, fn. 7 [noting that state courts look to federal authority concerning
16 the approval of class settlements]; California Rules of Court, rule 3.769 (g).)

17 Importantly, fairness is presumed when: (1) the settlement is reached through arm’s-
18 length bargaining; (2) investigation and discovery are sufficient to allow counsel and the court to
19 act intelligently; (3) counsel is experienced in similar litigation; (4) the percentage of objectors
20 and opt outs is small, and (5) the range of reasonableness of the settlement fund to a possible
21 recovery in light of all attendant risks of litigation.” (*Dunk* 1802.)

22 All five of these factors are discussed in detail below.

23 **A. The Settlement Was Reached Through Informed Arms-Length Negotiation**

24 Courts presume the absence of fraud or collusion in the negotiation of a settlement unless
25 evidence to the contrary is offered. Thus, there is a presumption here that the negotiations were
26 conducted in good faith. (See, 3 Alba Conte & Newberg, *supra*, at § 11.51.) The proposed
27 Settlement here was the product of arm’s-length negotiation before a highly experienced and
28 reputable California wage and hour class action mediator, Hon. Howard Broadman (Ret.), to

1 reach a settlement. (Bokhour Decl. ¶ 26.)

2 Here, Plaintiffs and Class Counsel have diligently investigated the claims raised in this
3 litigation and, after considering the disputed factual and legal issues involved in this action, the
4 risks attending further prosecution, and the benefits to be received pursuant to the compromise
5 and settlement of the Action as set forth in the Settlement, concluded that the Settlement terms
6 are fair, reasonable, and in the best interest of the Settlement Class. (Bokhour Decl. ¶ 27.)

7 As the Settlement Agreement itself reveals, there is no preferential treatment for any
8 segment of the Settlement Class, as the Settlement is designed to fairly and adequately
9 compensate all Settlement Class Members. Pursuant to California Rules of Court Rule 3.769(b),
10 the parties have disclosed the agreed-upon and proposed Attorneys' Fees, which are well within
11 the range of reasonableness for matters of this nature. (Bokhour Decl. ¶ 28.)

12 **B. Plaintiffs' Investigation Was More Than Sufficient**

13 As set forth at the time of preliminary approval, Class Counsels' extensive investigation
14 into the facts and merits of the wage and hour claims alleged included analyzing substantial
15 amounts of information, correspondence, documents, timekeeping records and payroll data,
16 relevant wage and hour policies and procedures, and evidence relating to the class size and the
17 commonality of the claims. During this process, Plaintiffs and Class Counsel conducted
18 investigations into the potential claims of the similarly situated employees, including interviewing
19 multiple putative class members, as well as researching and investigating Defendant's defenses.
20 Finally, Class Counsel synthesized and analyzed information provided by Defendant regarding
21 the total Settlement Class Members, the number of current and former employees, and the number
22 of employees who worked during various time periods, and prepared comprehensive damages
23 calculations regarding the wage and hour claims at issue.

24 **C. Class Counsel Are Experienced in Similar Litigation and Endorse the**
25 **Settlement**

26 Class Counsel are experienced in this type of litigation, and they have (and hereby do)
27 represent that this Settlement is fair and reasonable. (Bokhour Decl., ¶¶ 3-13; Declaration of
28 Benjamin Haber in Support of Plaintiffs' Motion for Final Approval of Class Action Settlement

1 ["Haber Decl."], ¶¶ 27-35); see *7-Eleven Owners for Fair Franchising v. Southland Corp.* (2000)
2 85 Cal.App.4th 1135, 1152 [Final approval of settlement affirmed where counsel were all
3 experienced litigators with class-action experience and had recommended settlement based on the
4 negotiated terms].)

5 **D. Reasonable Estimate of the Nature and Amount of Recovery**

6 Plaintiffs' Motion for Preliminary Approval of Class Action Settlement contained a
7 comprehensive *Kullar* analysis (which sufficiently provided the Court with "basic information
8 about the nature and magnitude of the claims in question and the basis for concluding that the
9 consideration being paid for the release of those claims represents a reasonable compromise."
10 (*Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th 116, 133.) *Munoz v. BCI Coca-*
11 *Cola Bottling Co. of Los Angeles* (2010) 186 Cal.App.4th 399, later clarified *Kullar* by noting
12 that an explicit statement of the maximum theoretical amount that the class could recover was
13 not part of the "basic information" that counsel was required to produce:

14 Greenwell misunderstands *Kullar*, apparently interpreting it to require
15 the record in all cases to contain evidence in the form of an explicit
16 statement of the maximum amount the Plaintiffs class could recover
17 if it prevailed on all its claims – a number which appears nowhere in
18 the record of the case. But *Kullar* does not, as Greenwell claims,
19 require any such explicit statement of value; it requires a record which
20 allows "an understanding of the amount that is in controversy and the
21 realistic range of outcomes of the litigation.

22 Of course, a settlement is not judged against what might have been recovered had the
23 plaintiff prevailed at trial, nor does the settlement have to provide 100% of the damages sought
24 to be fair and reasonable. (*Wershba v. Apple Computers, Inc.* (2001) 91 Cal.App.4th 246, 250.)
25 ("Compromise is inherent and necessary in the settlement process ... even if the relief afforded
26 by the proposed settlement is substantially narrower than it would be if the suits were to be
27 successfully litigated, this is no bar to a class settlement because the public interest may indeed
28 be served by a voluntary settlement in which each side gives ground in the interest of avoiding
29 litigation.")

30 In light of the uncertainties of protracted litigation, this negotiated Settlement reflects the
31 best practicable recovery for the Settlement Class. While the total Settlement amount is, of course,

1 a compromise figure, the potential risks and opportunities of both parties were effectively
2 weighed and considered by the parties, resulting in a fair and equitable Settlement. Based upon
3 detailed data obtained through discovery and information exchanges and factoring in claim
4 certification probabilities and liability probabilities, Class Counsel formulated detailed damages
5 models to evaluate the claims in preparation for mediation and to reach a realistic and reasonable
6 resolution. (Bokhour Decl. ¶ 29.)

7 Of course, Defendant denies that any damages should be assessed and denies all of the
8 value assessed by Plaintiffs. (*Id.*) Notwithstanding these arguments, the Settlement commits
9 Defendant to pay a Settlement Amount of \$2,150,000 to settle the litigation.

10 **VI. THE REQUESTED ATTORNEYS' FEES ARE FAIR, REASONABLE, AND**
11 **SHOULD BE AWARDED**

12 For their efforts in creating a common fund for the benefit of the Settlement Class, the
13 Settlement Agreement provides that Class Counsel may seek reasonable Attorneys' Fees of
14 \$716,565, which is one-third of the Settlement Amount. These fees are warranted under the law
15 and within the range of fees commonly awarded in similar class action cases.

16 As shown herein, the requested percentage of one-third of the Settlement Amount as
17 payment for Attorneys' Fees should be granted for several reasons, including the following: (1)
18 one-third is the standard benchmark in California for class action settlements (see *e.g.*, *Chavez v.*
19 *Netflix, Inc.* (2008) 162 Cal.App.4th 43, 66 n. 11 ("Empirical studies show that, regardless
20 whether the percentage method or the lodestar method is used fee awards in class actions average
21 around one-third of the recovery"); and (2) that the California Supreme Court recently held that
22 the percentage of the fund method survives in California class action cases (*Laffitte v. Robert Half*
23 *International, Inc.* (2016) 1 Cal.5th 480).

24 Accordingly, Plaintiffs' Attorneys' Fees request should receive final approval.

25 **A. Plaintiffs are Entitled to Recover Reasonable Attorneys' Fees Under the**
26 **Labor Code.**

27 Plaintiffs and the Settlement Class in this action are entitled to recover reasonable
28 Attorneys' Fees and Costs under section 218.5 of the California Labor Code, which provides that,

1 “[i]n any action brought for the nonpayment of wages ... the Court shall award reasonable
2 attorneys’ fees and costs to the prevailing party.”

3 In addition, Plaintiffs and the Settlement Class are entitled to recover reasonable
4 Attorneys’ Fees pursuant to section 1194.2 of the Labor Code, which provides that, “... any
5 employee receiving less than the legal minimum wage ... applicable to the employee is entitled
6 to recover in a civil action the unpaid balance of the full amount of this minimum wage...
7 including ... reasonable attorney’s fees, and costs of suit.”

8 Plaintiffs is further entitled to Attorneys’ Fees and Costs under section 226(e) of the Labor
9 Code (employee who prevails on claim for itemized wage statement violation “is entitled to an
10 award of costs and reasonable attorneys’ fees”); under PAGA (Labor Code § 2699(g), which
11 provides “Any employee who prevails in any action shall be entitled to an award of reasonable
12 attorney’s fees and costs, including any filing fee paid”); and, potentially, section 1021.5 of the
13 California Code of Civil Procedure.

14 **B. Class Counsel’s Request for Fees Is Reasonable and Properly Calculated as a**
15 **Percentage of the Common Fund**

16 Under the “common fund” doctrine, the request for Attorneys’ Fees in the amount of 1/3
17 of the Settlement Amount is reasonable and appropriate, because (1) it is within the approved
18 range for percentages awarded as attorneys’ fees in similar cases; (2) it is supported by the high
19 quality and amount of Class Counsels’ work on this case and the positive results obtained for the
20 Settlement Class; (3) the Settlement Class had sufficient notice of the attorneys’ fee request; and
21 (4) it is supported by the fact that this case was handled on a contingency basis and was undertaken
22 despite numerous risks and expenses.

23 ***1. The Attorneys’ Fees Requested Here Fall Within the Reasonable Range***
24 ***Awarded in Similar Cases Under the Well-established Common Fund***
25 ***Method***

26 The California Supreme Court has approved trial courts’ usage of the common fund
27 method of awarding attorneys’ fees in wage and hour class actions, like this one, and routinely
28 uphold attorneys’ fees requests of 1/3 of the total settlement amount obtained for the class. (See

1 *Laffitte v. Robert Half Int'l Inc.* (2016) 1 Cal. 5th 480, 506; *see also*, 4 Newberg on Class Actions,
2 § 14:6 at 552 (“fee awards in class actions average around one-third of the recovery”).

3 **2. *The High Quality of Work and Excellent Result Obtained Support the***
4 ***Award***

5 In addition to the fact that a class benefit was created with a significant common fund, the
6 fairness of the requested fee award of one-third of that common fund is supported by the high
7 quality of work performed by Class Counsel and the favorable result obtained for the Class
8 Members given the significant challenges faced by Plaintiffs in this action. As the record
9 demonstrates, Class Counsel conducted the litigation on behalf of the class in a competent,
10 professional and efficient manner. In doing so, Class Counsel confronted substantial litigation
11 risks with well-developed arguments, careful factual analysis and creative strategy to overcome
12 legal obstacles, such as those created by challenging factual issues pertaining to each of the
13 substantive claims. The effective legal work performed by Class Counsel, which resulted in a
14 significant benefit for class members, justifies the one-third of the common fund that is requested
15 as reasonable attorneys’ fees.

16 Class Counsel diligently, efficiently, and creatively pursued this case and promptly
17 reached a successful settlement for the benefit of the Class Members. Despite the numerous risks
18 and obstacles afflicting Plaintiffs’ claims as detailed in the Plaintiffs’ Motion for Preliminary
19 Approval of Class Action Settlement, Plaintiffs’ counsel crafted and negotiated a fair and
20 reasonable Settlement Agreement for the benefit of the Class Members.

21 The fact that the settlement was embraced and supported by the Class Members, as
22 evidenced by zero objections and only two opt-outs out of 3,813 Class Members, demonstrates
23 that the Class Members support the Settlement Agreement and results achieved by Class Counsel
24 through the litigation of this matter.

25 Moreover, Class Counsel demonstrated considerable skill in obtaining such a significant
26 settlement despite the numerous challenges in this case, which could have precluded any
27 recovery. Class Counsel demonstrated professional skills that benefited the class. In particular,
28 Class Counsel presented carefully developed legal arguments, evaluated complex factual issues,

1 and implemented an effective strategy in framing the litigation and negotiations. As a result, Class
2 Counsel obtained a settlement that significantly benefits the class.

3 As a result of this litigation, the Class Members stand to receive a significant Net
4 Settlement Amount of \$1,309,682.72.

5 **3. Settlement Class Members Had Sufficient Notice of the Requested Fees**

6 Rule 3.769 of the California Rules of Court requires that the Class Members be notified
7 of any agreement regarding an application for attorneys' fees. Here, the Notice Packet,
8 preliminarily approved by the Court and distributed to the Settlement Class Members, apprised
9 them that Class Counsel will ask for Attorneys' Fees of one-third of the Settlement Amount as
10 reasonable compensation for the work Class Counsel performed and will continue to perform in
11 this lawsuit through final approval. (Olivares Decl.¶ 4; Exh. A.)

12 The Notice Packet also advised the Settlement Class Members of the procedures for
13 objecting to the proposed Settlement and appearing at the settlement hearing, where they could
14 present their objections to any aspect of the Settlement, including the amount of Attorneys' Fees
15 to be awarded to Class Counsel. (*Litwin v. iRenew Bio Energy Solutions, LLC* (2014) 226
16 Cal.App.4th 877, 883 ["[p]rocedural due process requires that affected parties be provided with
17 'the right to be heard at a meaningful time and in a meaningful manner'"].) In accordance with
18 the foregoing, it is respectfully submitted that the instant notice complied with Rule 3.769 and, as
19 a result, the Settlement Class Members' due process rights were fulfilled.

20 **4. The Contingent Nature of Class Counsel's Representation of Plaintiffs**
21 **and the Settlement Class Further Supports the Fee Award at 1/3 of the**
22 **Common Fund**

23 An additional factor militating in favor of the granting of the requested fee award is the
24 fact that this case was both legally and financially risky for Class Counsel. (*See Vizcaino v.*
25 *Microsoft Corp* (9th Cir. 2002) 290 F.3d 1043, 1048-49.) Class Counsel has been representing
26 the Settlement Class in this matter on a strictly contingency basis and as such, incurred the risk
27 of non-recovery after a substantial investment of time, money, and resources and have done so
28 since the inception of this case without any payment or compensation. Specifically, there was the

prospect of enormous cost inherent in this class action litigation, as well as the prospect of a prolonged battle with one of the largest and most well-funded corporations that an experienced large law firm represented; the risk that Defendant could prevail on their arguments that the Settlement Class should not be certified; and the risk that Defendant could prevail on the merits of some or all of the claims.

If Plaintiffs had lost this case, Class Counsel would have recovered nothing and would have lost its out-of-pocket costs.

Finally, the absence of any valid objections to the requested fee award, coupled with the 99.9% Class participation rate, also supports the appropriateness and reasonableness of the requested attorneys' fees. (*In re Heritage Bond Litigation* (C.D. Cal., June 10, 2005, No. 02-ML-1475 DT) 2005 WL 1594403, at *21 ["The absence of objections or disapproval by class members to Class Counsel's fee further supports finding the fee request reasonable."].)

5. *A Lodestar Cross-Check Confirms the Reasonableness of the Fee Award*

Despite recognized limitations of the so-called lodestar method, some California and federal courts acknowledge the utility of a lodestar "cross-check." ¹(*Lealao, supra*, 82 Cal.App. 4th at 46-47.) Under the "lodestar multiplier" method of cross-checking the reasonableness of attorneys' fees in class actions, the court ascertains Class counsel's total "lodestar" amount by multiplying the number of hours reasonably expended by each attorney or legal staff member by their hourly rates, and then enhances or reduces this lodestar figure by a "multiplier" to account for a range of factors, such as the novelty or difficulty of the case, its contingent nature, and the degree of success achieved. *PLCM Group, Inc. v. Drexler* (2000) 22 Cal.4th 1084, 1095-96; *Press v. Lucky Stores, Inc.* (1983) 34 Cal.3d 311, 322; *Lealao, supra*, 82 Cal.App.4th at 43 [court has discretion to use a multiplier to ensure that the "fee awarded is within the range of fees freely negotiated in the legal marketplace in comparable litigation"].)

Historically, California courts have approved multipliers of 1.5 to 4. *See Coalition for*

¹ In practice, the lodestar method is difficult to apply, time-consuming to administer, inconsistent in result, and capable of manipulation. In addition, the lodestar creates inherent incentive to prolong the litigation until sufficient hours have been expended. Herr, David F., *Manual for Complex Litigation*, § 14.121 (1988); *See also In re Activision* (N.D. Cal 1989) 723 F.Supp 1373.

Los Angeles County Planning v. Board of Supervisors (1977) 76 Cal.App.3d 241, 251 (**multiplier of 2+ approved**); *Sternwest Corp v. Ash* (1986) 183 Cal.App.3d 74, 75. The multiplier requested by Class Counsel below is within the range of multipliers found to be appropriate by various federal and state courts in California. In *Sternwest Corp. v. Ash* (1986) 183 Cal.App.3d 74, for instance, the Court of Appeal remanded for a lodestar enhancement of “**two, three, four or otherwise.**” *Id.* At 76; *see also Wershba*, 91 Cal.App.4th at 255 (“**Multipliers can range from 2 to 4 or even higher**”); *City of Oakland v. Oakland Raiders* (1988) 203 Cal.App.3d 78, 83 (**affirming 2.34 multiplier**); *Coalition for Los Angeles County Planning in the Pub. Interest v. Board of Supervisors*, 76 Cal.App.3d 241, 251 (**affirming multiplier of approximately 2**); *Craft v. County of San Bernardino*, 2008 U.S. Dist. LEXIS 27526 (C.D. Cal. Apr. 1, 2008) (**applying 5.2 multiplier**); *See also Steinder v. Am. Broadcasting Co., Inc.* (9th Cir. 2007) 248 Fed. Appx. 780, 783 (**approving multiplier of 6.85** and citing cases with comparable or higher multipliers); *Vizcaino v. Microsoft Corp.* (9th Cir. 2002) 290 F.3d 1043, 1051 (finding no abuse of discretion in **awarding a multiplier of 3.65**). In *Torchia v. WW Grainger, Inc.* (E.D. Cal. 2014) 304 F.R.D. 256, 275-278, a federal magistrate in Fresno approved attorneys’ fees of \$550,000 **constituting a 3.57 multiplier** on class counsel’s total lodestar of \$153,856, in a wage and hour class action where class counsel expended 457.85 hours on the case, engaged in limited formal discovery, and where the case settled for \$2,750,000 within one year from filing the Complaint with 909 class members claiming \$1,305,200 and the remainder, except for the attorneys’ fees and costs, reverting to the company.

As set forth in the declarations of Class Counsel submitted herewith, the actual aggregated lodestar between the attorneys working on this case is approximately \$364,400, resulting in a 2.06 multiplier, which is summarized in the following table and Declarations of Class Counsel:

Attorney/Firm	Experience	Hourly Rate	Hours	Total Lodestar
Mehrdad Bokhour	13 years	\$750	125.5 ²	\$94,125

² Includes an estimated 15 hours of additional work preparing for and attending the hearing (inclusive of finalizing and filing the motion, appearing at the hearing, addressing the Court’s questions/concerns, submitting revised documents, responding to class members who are anxious to receive their check, and so on), as well as 20 hours in anticipated work to be performed after the final approval, working with counsel, administrator, and Class Members (which includes up to 1.5 years of case management relating to ensuring timely payment from Defendant, reviewing the calculations, checks are timely mailed, responding to class members questions about the timing of checks/missing

Jake Finkel	12 years	\$725	85	\$61,625
Wilshire Law Firm	Range of 3 to 16 years	Range of \$575 to \$1,500	261	\$208,650
Total Lodestar				\$364,400

(See Bokhour Decl., ¶ 19, Finkel Decl. ¶ , Haber Decl. ¶¶ 18-20, 29-35.)

The hourly rates above are comparable to those of other attorneys with equal or similar experience, if not somewhat lower (i.e., the Laffrey Matrix at www.laffreymatrix.com indicates that the rate for a 4-year attorney is \$455/hour and a 12-year attorney is \$742/hour). Moreover, the Wolters Kluwer 2017 Real Rate Report (“Real Rate Report”) provides directly applicable information in this regard. The Real Rate Report is based on an enormous and statistically significant compilation of data: 25.8 million billing entries and 23.9 million hours billed by over 112,100 individual timekeepers from 4,620 law firms, totaling \$9.02 billion in fees billed. (See Wolters Kluwer’s ELM Solutions, Inc., 2017 Real Rate Report). The Real Rate Report then compiles and analyzes this data to provide the hourly rates for partners and associates in major metropolitan areas. For the southern California area, which is based on billing entries for 1,125 partners and 1,566 associates, the Real Rate Report states that: (a) the rates for partners in Los Angeles is between \$640 and \$869.75 per hour for the middle and upper quartiles, and (b) the rates for associates in Los Angeles are between \$478.74 and \$638.97 for the median and upper quartiles. And, perhaps most importantly, the information provided in the Real Rate Report is not based on self-reported numbers, surveys, sampling, reviews, or other publications – instead, the Real Rate Report is based on the actual hours and fees billed by law firms. (Bokhour Decl., ¶¶ 24-26; *see also* Haber Decl., ¶ 31 [showing results from the 2022 Real Rate Report].)

Thus, not only are Plaintiffs’ Counsel’s rates reasonable and typical, but the attorneys’ fees requested are in line with Plaintiffs’ Counsel’s lodestar, all confirming that the fee request is fair and reasonable.

Class Counsel is also highly experienced in Class/PAGA litigation, including having been selected as a “Super Lawyers Rising Stars” in employment litigation on numerous occasions and

checks/lost checks and remailings, working with the administrator regarding uncashed checks and remailings, assisting with the Administrator’s declarations regarding payments and uncashed checks, potentially filing an amended judgment, appearing at the final disbursement hearing and/or submitting paperwork related thereto.

1 having achieved one of the largest settlements in California in 2021, 2022, and 2023. (Bokhour
2 Decl. ¶¶ 8-2; Haber Decl. ¶¶ 27-35). Indeed, Class Counsel’s rates are typical of those charged
3 by defense counsel with similar experience doing similar employment litigation in this region.

4 **6. Public Policy Considerations Require the Award of Adequate Fees So**
5 **Competent and Experienced Counsel Will Undertake Such**
6 **Representations**

7 In many complex actions such as this one, able counsel for Plaintiffs can be retained only
8 on a contingent basis. A large segment of the public would be denied a remedy and the ability to
9 retain counsel to pursue low-value individual claims in actions such as the current case if fees
10 awarded by the courts in successful cases did not fairly and adequately compensate counsel for
11 the services provided, the serious risks undertaken, and the delay before any compensation is
12 received.

13 Fair fee awards in successful cases ensure that competent legal services will be available.
14 The complexity and societal importance of this type of litigation call for the most able counsel
15 obtainable for Plaintiffs. To encourage first-rate attorneys to represent Plaintiffs on a contingent
16 basis in this type of important litigation, attorneys’ fees awarded should reflect this goal. In its
17 landmark decision, *Vasquez v. Superior Court* (1971) 4 Cal.3d 800, a unanimous Supreme Court
18 noted:

19 “Thirty years ago commentators, in urging the utility of the class suit to vindicate
20 the rights of stockholders, made this incisive observation: ‘Modern society seems
21 increasingly to expose men to . . . group injuries for which individually they are in
22 a poor position to seek legal redress, either because they do not know enough or
23 because such redress is disproportionately expensive. If each is left to assert his
24 rights alone if and when he can, there will at best be a random and fragmentary
25 enforcement, if there is any at all. This result is not only unfortunate in the particular
26 case, but it will operate seriously to impair the deterrent effect of the sanctions
27 which underlie much contemporary law. The problem of fashioning an effective
28 and inclusive group remedy is thus a major one.’ [Citation.]” (*Vasquez v. Superior
Court, supra*, 4 Cal.3d 800, 807.)

26 The same rationale applies to this litigation. The express judicial policy of California is to
27 favor the maintenance of these types of representative actions. (See, e.g., *Sav-On Drug Stores,*
28 *Inc. v. Superior Court* (2004) 34 Cal.4th 319, 340; *Pearce v. Superior Court* (1983) 149

Cal.App.3d 1058, 1065; *Kraus v. Trinity Management Services, Inc.* (2000) 23 Cal.4th 116, 126.)

One of the purposes for awarding fees in such a situation is:

“[E]ncouragement of the attorney for the successful litigant, who will be more willing to undertake and diligently prosecute proper litigation for the protection of recovery of the fund if he is assured that he will be promptly and directly compensated should his efforts be successful.” (*In re Stauffer’s Estate* (1959) 53 Cal.2d 124, 132.)

Conversely, a reduction in attorneys’ fees due to the size of the settlement in this case would create perverse incentives for class action attorneys, effectively penalizing them for obtaining more favorable results on behalf of the class. Public policy would be best served by encouraging class action attorneys to recover the greatest reasonably possible amount on behalf of the injured class members. The award of attorneys’ fees as requested by Class Counsel would properly reward Class Counsel’s efforts in advancing a ‘clear public policy’ and would encourage additional such efforts. These important public policy considerations support the Court’s approval of the fee requested.

VII. THE REQUESTED COSTS AND SERVICE PAYMENT ARE REASONABLE

A. The Requested Costs Are Reasonable and Merit Approval

Class Counsel’s actual costs through the final approval hearing are estimated to be \$22,252.28, as reflected on the following chart:

Firm	Costs
Bokhour Law Group, P.C.	\$9,114.80
Finkel Firm	\$1,845.09
Wilshire Law Firm	\$11,292.39

(Bokhour Decl. ¶ 22; Haber Decl., ¶ 26.)

These costs include mediation, filing, expert, and process service fees. They are reasonable and uncontested.

B. The Requested Class Representative Service Payment is Reasonable and Merits Approval

A named Plaintiff is an essential ingredient of any class action, and a service payment is appropriate to induce individuals to step forward and assume the burdens and obligations of

1 representing the settlement class. Courts regularly approve service payments to compensate
2 named Plaintiffs for their service to the class and the risks they incurred during the course of
3 the litigation. (*See, e.g., Bell v. Farmers Insurance Exchange* (2004) 115 Cal.App.4th 715, 726
4 (upholding “service payments” to named Plaintiffs for their efforts in bringing class action);
5 *Rodriguez v. West Publishing* (9th Cir. 2009) 563 F.3d 948, 959 (stating that incentive awards
6 are “intended to compensate class representatives for work done on behalf of the class, to make
7 up for financial or reputational risk undertaken in bringing the action, and, sometimes, to
8 recognize their willingness to act as a private attorney general.”).

9 Under the Settlement, Defendant agreed to pay each Class Representative a Service
10 Payment in the amount of \$12,500 in recognition of their contributions as the Class
11 Representative and in exchange for a general release. Plaintiffs came forward and undertook
12 significant risk, including the risk of being blackballed in the industry, losing their jobs, and the
13 risk that they could have been liable for Defendant’s costs if they lost the case. This factor is
14 significant for a relatively low-wage earner, and the potential risk is very real. (*See Whiteway*
15 *v. FedEx Kinkos Office & Print Svcs., Inc.* (N.D. Cal. Dec. 17, 2007) No. C 05-2320 SBA, 2007
16 WL 4531783, at *3 (“the few courts to consider this ‘class representatives’ dilemma’ have not
17 found it inequitable to assess costs upon the lead or named Plaintiffs in a class action.”).)

18 As further detailed in Plaintiffs' Declaration in Support of Preliminary Approval of Class
19 Action Settlement, on file with this Court, Plaintiffs committed a significant number of hours
20 to assist with the investigation, litigation, and settlement processes of this case. Plaintiffs also
21 spent considerable time helping prepare for and aid in the mediation. Finally, Plaintiffs have
22 entered into a general release of all claims against Defendant, whereas the Settlement Class
23 Members only released the claims alleged. The requested Class Representative Service Payment
24 of \$12,500 to each Plaintiff is reasonable, particularly in light of the substantial benefits
25 Plaintiffs generated for the Settlement Class Members, the risks she undertook, and in exchange
26 for executing a general release against Defendant while giving up the right to separately pursue
27 her individual wage and hour claims.

28 The Notice Packet sent to each Settlement Class Member detailed the proposed Class

Representative Service Payment. No Settlement Class Member objected to the proposed payment to Plaintiffs. Thus, Plaintiffs request that the Court approve the service payments because it is both reasonable and appropriate.

VIII. OTHER MATTERS RE: FINAL APPROVAL

A. Settlement Administration Costs

The parties agreed that the Settlement Administrator, CPT Group, Inc., would be compensated for the services performed. The Settlement Administrator's requested fee is \$18,500. (Olivares Decl., ¶ 17.)

B. Uncashed Checks

The Settlement Agreement provides that uncashed checks should be submitted to the State of California Unclaimed Property Fund after 180 days. The Proposed Order submitted herewith redirects the funds to the California State Controller's Office in the name of the Settlement Class Member.

C. Final Report

Defendant has thirty (30) days after the Effective Date to fund the Settlement to the Settlement Administrator, who then has fourteen (14) days thereafter to process the funds and issue checks to the Settlement Class Members. Settlement Class Members will have 180 days to cash their checks. As such, the parties propose submitting a final report in the form of a declaration from the Settlement Administrator (setting forth the money that was actually paid to the Settlement Class Members and potentially the state's unclaimed property department) within 30 days of the check-cashing deadline.

D. Submission to the LWDA

As set forth in the Declaration of Mehrdad Bokhour in Support of Final Approval of Class Action Settlement at ¶ 24, the Settlement was previously submitted to the LWDA in accordance with Labor Code § 2699(1)(2).

IX. CONCLUSION

Plaintiffs respectfully submit that the Settlement is fair, adequate, and reasonable and merits approval. This Motion is unopposed by Defendant. Based on the foregoing, Plaintiffs

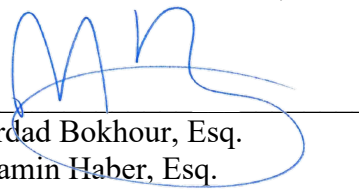
1 request that the Court grant this Motion and finally approve the Settlement.

2
3 Dated: May 13, 2025,

Respectfully submitted,

4
5 **BOKHOUR LAW GROUP, P.C.**
WILSHIRE LAW FIRM, PLC

6
7 By:

8 
Mehrdad Bokhour, Esq.

Benjamin Haber, Esq.

9 *Attorneys for Plaintiffs and the Putative Class*