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

MAYRA CORTEZ, 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;

Plaintiff,

v.

BARKSDALE, INC., an unknown business
entity; and DOES 1 through 100, inclusive,

Defendants.

Case No.: 21STCV29193

Honorable Carolyn B. Kuhl
Department 12

CLASS ACTION

**PLAINTIFF'S NOTICE OF MOTION
AND MOTION FOR FINAL APPROVAL
OF CLASS ACTION SETTLEMENT,
CLASS COUNSEL FEES PAYMENT,
CLASS COUNSEL LITIGATION
EXPENSES PAYMENT, AND CLASS
REPRESENTATIVE SERVICE
PAYMENT; MEMORANDUM OF
POINTS AND AUTHORITIES IN
SUPPORT THEREOF**

[Declaration of Class Counsel
(Edwin Aiwazian); Declaration of Class
Representative (Mayra Cortez); Declaration
of Administrator (Jarrod Salinas); and
[Proposed] Final Approval Order and
Judgment filed concurrently herewith]

Date: May 25, 2023
Time: 10:30 a.m.
Department: 12

Complaint Filed: August 9, 2021
FAC Filed: December 23, 2022
Trial Date: None Set

**PLAINTIFF'S NOTICE OF MOTION AND MOTION FOR FINAL APPROVAL OF CLASS ACTION
SETTLEMENT, CLASS COUNSEL FEES PAYMENT, CLASS COUNSEL LITIGATION EXPENSES
PAYMENT, AND CLASS REPRESENTATIVE SERVICE PAYMENT;
MEMORANDUM OF POINTS AND AUTHORITIES**

1 **PLEASE TAKE NOTICE** that on May 25, 2023 at 10:30 a.m., in Department SSC-12
2 of the above-entitled Court, located at 312 N. Spring Street, Los Angeles, California 90012,
3 Plaintiff Mayra Cortez (“Plaintiff” or “Class Representative”) will, and hereby does, move for an
4 order granting final approval of:

5 1. The Class Action and PAGA Settlement Agreement (“Settlement,” “Agreement,”
6 or “Settlement Agreement”) on the grounds that the Settlement is fair, adequate, and reasonable
7 because:

- 8 • A Net Settlement Amount of approximately **\$547,883.18** will be fully distributed to
9 the Class Members who did not validly and timely opt out of the Class Settlement
10 (“Participating Class Members”);
- 11 • **No Objections** were submitted to the settlement administrator, Phoenix Class Action
12 Administration Solutions (“Administrator”);
- 13 • **No Requests for Exclusion** were submitted to the Administrator;

14 2. Payment in the amount of **\$420,000.00** to Lawyers for Justice, PC (“Class
15 Counsel”), representing thirty-five percent (35%) of the Gross Settlement Amount, for attorneys’
16 fees, which is reasonable and justified on a percentage-basis and also based on a lodestar cross-
17 check with a multiplier of 1.20;

18 3. Payment in the amount of **\$15,116.82** to Class Counsel for reimbursement of
19 litigation costs and expenses;

20 4. Payment in the amount of **\$7,000.00** to the Administrator, Phoenix Class Action
21 Administration Solutions (“Phoenix”), for Administration Costs;

22 5. Payment in the amount of **\$10,000.00** to Plaintiff Mayra Cortez, as a Class
23 Representative Service Payment, for her time and effort in representing the Class; and

24 6. Allocation of the penalties under the Private Attorneys General Act of 2004,
25 California Labor Code section 2698, *et seq.*, in the amount of \$200,000.00, of which seventy-five
26 percent (75%), or **\$150,000.00**, will be paid to the California Labor and Workforce Development
27 Agency (“LWDA PAGA Payment”) and twenty-five percent (25%), or **\$50,000.00**, will be
28

distributed to Aggrieved Employees.

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 (Edwin Aiwazian), Class Representative (Mayra Cortez), and Administrator (Jarrod Salinas of Phoenix) 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: May 3, 2023

LAWYERS for JUSTICE, PC

By: _____


Yasmin Hosseini
Attorneys for Plaintiff and the Class

TABLE OF CONTENTS

I.	SUMMARY OF MOTION.....	1
II.	PROCEDURAL HISTORY AND FACTUAL BACKGROUND.....	3
III.	SUMMARY OF THE SETTLEMENT TERMS AND PLAN OF DISTRIBUTION.	5
IV.	THE SETTLEMENT ADMINISTRATION PROCESS.....	7
V.	THE COURT SHOULD GRANT FINAL APPROVAL OF THE CLASS ACTION SETTLEMENT	8
A.	The Settlement Resulted from Arm’s-Length Negotiations Based Upon Extensive Investigation and Discovery.....	9
B.	The Risks Inherent in Continued Litigation Favor Final Approval of the Settlement.	12
C.	The Settlement Is Fair, Reasonable, and Adequate.....	13
D.	The Class Was Represented by Competent Counsel.....	15
E.	There Are No Objections to the Class Settlement.....	15
VI.	THE CLASS COUNSEL FEES PAYMENT REQUESTED BY CLASS COUNSEL IS FAIR AND REASONABLE AND SHOULD BE APPROVED.....	16
A.	Legal Standard for Attorneys’ Fees in a Class Action Settlement.	16
B.	A Fee Award of a Percentage of the Entire Fund Is Appropriate.....	17
C.	The Attorneys’ Fees Award Requested by Class Counsel Is Reasonable Based on the Factors Considered in Determination of Fee Awards.	20
	1. Time & Labor.	21
	2. The Skill Required to Perform Legal Services Properly.	22
	3. The Value of the Settlement for the Class Members.	23
	4. Whether the Fee Is Fixed or Contingent.	24
	5. The Amount Involved and the Results Achieved.	25
	6. The Reputation and Ability of the Attorneys.	25

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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.
..... 26

1. The Number of Hours Spent on the Litigation was Reasonable. 26

3. The Risks Involved, Skill Required, Complexity of the Matter, and Results Obtained Warrant Upward Enhancement of the Lodestar. 29

VII. LITIGATION COSTS TO BE REIMBURSED TO CLASS COUNSEL ARE FAIR AND REASONABLE, AND SHOULD BE APPROVED 32

VIII. THE ADMINISTRATION COSTS ARE FAIR AND REASONABLE AND SHOULD BE APPROVED 32

IX. THE REQUESTED CLASS REPRESENTATIVE SERVICE PAYMENT IS FAIR AND REASONABLE, AND SHOULD BE APPROVED 33

X. CONCLUSION 34

TABLE OF AUTHORITIES

Cases

<i>7-Eleven Owners for Fair Franchising v. Southland Corp.</i> (2000) 85 Cal.App.4th 1135	9, 15
<i>Beech Cinema, Inc. v. Twentieth-Century Fox Film Corp.</i> (S.D.N.Y. 1979) 480 F.Supp. 1195 .	17
<i>Boeing Co. v. Van Gemert</i> (1980) 444 U.S. 472.....	17, 20
<i>Cates v. Chiang</i> (2013) 213 Cal.App.4th 791.....	24
<i>Cellphone Termination Fee Cases</i> (2009) 180 Cal.App.4th 1110.....	16
<i>Chavez v. Netflix, Inc.</i> (2008) 162 Cal.App.4th 43	8, 9, 17, 31
<i>Consumer Privacy Cases</i> (2009) 175 Cal.App.4th 545.....	16
<i>County of San Bernardino</i> (C.D. Cal. 2006) 624 F.Supp.2d 1113	31
<i>Crampton v. Takegoshi</i> (1993) 17 Cal.App.4th 308.....	18
<i>Dunk v. Ford Motor Co.</i> (1996) 48 Cal.App.4th 1794	9, 15, 16
<i>Graham v. DaimlerChrysler Corp.</i> (2004) 34 Cal.4th 553.....	29
<i>Green v. Obledo</i> (1981) 29 Cal.3d 126.....	17
<i>In re American Bank Note Holographics, Inc., Securities Litigation</i> (S.D.N.Y. 2001) 127	
F.Supp.2d 418	14
<i>In re Ampicillin Antitrust Litigation</i> (D. D.C. 1981) 526 F.Supp. 494.....	17
<i>Ketchum v. Moses</i> (2001) 24 Cal.4th 1122	16, 26, 27, 29, 30
<i>Laffitte v. Robert Half Int’l, Inc.</i> (2016) 1 Cal.5th 480.....	16, 18, 26
<i>Lealao v. Beneficial Cal., Inc.</i> (2000) 82 Cal.App.4th 19	16, 19, 20
<i>Paul, Johnson, Alston & Hunt v. Grauly</i> (1989) 886 F.2d 268	17
<i>Serrano v. Priest</i> (1977) 20 Cal.3d 25	17
<i>Vasquez v. Superior Court</i> (1971) 4 Cal.3d 800.....	17
<i>Vincent v. Hughes Air West, Inc.</i> (9th Cir. 1977) 557 F.2d 759	17, 18
<i>Vizcaino v. Microsoft</i> (9th Cir. 2002) 290 F.3d 1043	18
<i>Vo v. Las Virgenes Municipal Water Dist.</i> (2000) 79 Cal.App.4th 440	26
<i>Wal-Mart Stores, Inc. v. Visa U.S.A., Inc.</i> (2d Cir. 2005) 396 F.3d 96	31

1	<i>Wershba v. Apple Computer, Inc.</i> (2001) 91 Cal.App.4th 224.....	9, 15, 20, 30, 31
2	<i>Winslow v. Harold G. Ferguson Corp.</i> (1944) 25 Cal.2d 274.....	19
3	Statutes	
4	Cal. Lab. Code § 2698.....	1
5	Other Authorities	
6	A. Conte, <i>Attorney Fee Awards</i> (2d Ed., 1993).....	18
7	<u>California Practice Guide</u> , <i>Civil Procedure Before Trial</i> , Chapter 14.....	16
8	Conte & Newberg, <i>Newberg on Class Actions</i> (4th Ed., 2002) § 11.47	15, 25
9	Conte & Newberg, <i>Newberg on Class Actions</i> (4th Ed., 2002) § 14.03.....	17
10	<i>Court Awarded Attorney Fees, Report of the Third Circuit Task Force</i> (October 8, 1985) 108	
11	F.R.D. 237	25
12	R. Pearle, <i>California Attorney Fee Awards</i> (CEB, 1993) § 7A.....	18

MEMORANDUM OF POINTS AND AUTHORITIES

I. SUMMARY OF MOTION

Plaintiff Mayra Cortez (“Plaintiff”) seeks final approval of: (1) the Gross Settlement Amount of \$1,200,000.00; (2) attorneys’ fees in the amount of \$420,000.00, which is thirty-five percent (35%) of the Gross Settlement Amount, and reimbursement of litigation costs and expenses in the amount of \$15,116.82 (together, “Class Counsel Fees Payment and Class Counsel Litigation Expenses Payment”) to Lawyers for Justice, PC (“Class Counsel”); (3) Administration Costs in the amount of \$7,000.00 to Phoenix Class Action Administration Solutions (“Phoenix” or “Administrator”); (4) Class Representative Service Payment in the amount of \$10,000.00 to Plaintiff Mayra Cortez; and (5) allocation of \$200,000.00 for penalties under the Private Attorneys General Act of 2004, California Labor Code § 2698, *et seq.* (“PAGA Penalties”).

Plaintiff seeks relief on behalf of the following Class:

All current and former hourly-paid or non-exempt employees who worked for Defendant in the State of California at any time during the period from August 9, 2017 through May 31, 2022 (“Class” or “Class Members”).¹

This matter involved ongoing investigations, informal discovery, review and analysis of a large volume of information, documents, and data prior to and during mediation conducted by Mark S. Rudy, Esq., and extensive settlement negotiations. This matter has required 485.50 hours of attorney time by Class Counsel. As will be demonstrated herein, the request for attorneys’ fees, which represents thirty-five percent (35%) of the Gross Settlement Amount, is fully supported by the use of the percentage-fee method. Courts have historically awarded fees of up to fifty percent (50%) of the recovery. The requested attorneys’ fees are also supported under the lodestar cross-check method.²

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¹ Class Action and PAGA Settlement Agreement (“Settlement Agreement”), § 1.4. “Class Period” is defined as the period from August 9, 2017 to May 31, 2022. *See id.* at § 1.10.

² Applying a modest multiplier of 1.20, the total enhanced lodestar fees are \$422,385.00, and Class Counsel seeks an attorneys’ fees award of \$420,000.00 (equal to thirty-five percent of the Gross Settlement Amount).

1 Plaintiff moves for final approval of the Class Representative Service Payment in the
2 amount of \$10,000.00 to compensate Plaintiff for the time and effort that she expended
3 spearheading the lawsuits on behalf of the Class, Aggrieved Employees, and the State of
4 California. Plaintiff also moves for final approval of the payment to the Administrator in the
5 amount of \$7,000.00 for Administration Costs. Plaintiff also moves for final approval of the
6 allocation of \$200,000.00 for the PAGA Penalties, of which \$150,000.00 will be paid to the
7 California Labor Workforce and Development Agency (“LWDA”) for its portion of the PAGA
8 Penalties (“LWDA PAGA Payment”), and \$50,000.00 will be distributed to all current and
9 former hourly-paid or non-exempt employees who worked for Defendant in the State of
10 California at any time during the period from July 20, 2020 through May 31, 2022 (“Aggrieved
11 Employees”) for their portion of the PAGA Penalties.

12 The requests for Class Counsel Fees Payment and Class Counsel Litigation Expenses
13 Payment, Class Representative Service Payment, Administration Costs, and allocation for the
14 PAGA Penalties were fully disclosed in the Court Approved Notice of Class Action Settlement
15 and Hearing Date for Final Court Approval (“Class Notice”) that was mailed to the Class
16 Members. Most importantly, as of the date of this Motion, *not a single Class Member has*
17 *objected to any aspect of the Settlement, including the requested Class Counsel Fees Payment*
18 *and Class Counsel Litigation Expenses Payment, Class Representative Service Payment,*
19 *Administration Costs, or allocation for PAGA Penalties.*

20 The Settlement is fair, adequate, and reasonable, and is the product of arm’s-length,
21 good-faith negotiations by experienced counsel presided over by a highly-regarded mediator who
22 is experienced in mediating wage-and-hour class action lawsuits. Accordingly, the Court should
23 grant final approval of the Settlement, and award the Class Counsel Fees Payment and Class
24 Counsel Litigation Expenses Payment, Class Representative Service Payment, Administration
25 Costs, and PAGA Penalties in the amounts as fully disclosed to the Class as requested herein.

26 In order to efficiently present the Court with adequate information to determine whether
27 to grant final approval of the Settlement and award the Class Counsel Fees Payment and Class
28 Counsel Litigation Expenses Payment, Class Representative Service Payment, Administration

Costs, and PAGA Penalties, Plaintiff also moves for an order permitting the filing of this single consolidated memorandum, although it exceeds the page limit established by California Rules of Court, Rule 3.1113(d), instead of filing several separate motions.

II. PROCEDURAL HISTORY AND FACTUAL BACKGROUND

Defendant Barksdale, Inc. (“Defendant”) is a company that manufactures engineered industrial products for commercial vehicles. Plaintiff Mayra Cortez is a current employee of Defendant.

On July 20, 2021, Plaintiff provided written notice to the LWDA and Defendant giving notice of her intent to pursue civil penalties under the California Private Attorney General Act, California Labor Code §§ 2698, Et. Seq. (“PAGA”), on behalf of herself, the Aggrieved Employees, and the State of California (“PAGA Notice”).

On August 9, 2021, Plaintiff filed a Class Action Complaint for Damages (“Class Action Complaint”) in the Los Angeles County Superior Court, thereby commencing the above-captioned action (“Class Action”).

On September 23, 2021, Plaintiff filed a Complaint for Enforcement Under the Private Attorneys General Act, California Labor Code § 2698, Et. Seq. (“PAGA Complaint”) against Defendant in the Los Angeles County Superior Court, Case No. 21STCV35127 entitled *Mayra Cortez v. Barksdale, Inc.* (“PAGA Action”).

The Class Action and PAGA Action are together referred to as the “Litigation.”

On December 7, 2021, Defendant filed an Answer to Plaintiff’s PAGA Complaint.

On December 23, 2022, Plaintiff filed a First Amended Consolidated Class Action Complaint for Damages and Enforcement Under the Private Attorneys General Act, California Labor Code § 2698, *Et Seq.* (“Operative Complaint”) in the Class Action, which consolidated the Class Action Complaint and PAGA Complaint.

On January 19, 2023, Defendant filed an Answer to the Operative Complaint.

Plaintiff’s core allegation is that Defendant has violated the California Labor Code by engaging in a uniform practice and procedure, with respect to Plaintiff, Class Members, and Aggrieved Employees, of, *inter alia*, failing to pay all overtime and minimum wages, failing to

1 provide compliant meal and rest periods and associated premium pay, failing to timely pay
2 wages during employment and upon termination of employment, failing to provide compliant
3 wage statements, failing to maintain requisite payroll records, and failing to reimburse necessary
4 business expenses, and thereby engaged in unfair business practices in violation of California
5 Business and Professions Code section 17200, *et seq.*, which conduct gives rise to civil penalties
6 pursuant to PAGA. Plaintiff contends that she, Class Members, and Aggrieved Employees are
7 entitled to, *inter alia*, unpaid wages, penalties (including, but not limited to, penalties pursuant to
8 PAGA), and attorneys' fees.

9 Defendant has denied, and continues to deny, any liability and wrongdoing of any kind
10 associated with any of the allegations in the Litigation, and further denies that the cases are
11 appropriate for class or representative treatment for any purpose other than for settlement
12 purposes only.

13 The parties have actively litigated the matter since the Class Action commenced August
14 9, 2021. The parties conducted informal discovery, and exchanged a large volume of
15 information, documents, and data throughout the course of the litigation and in connection with
16 mediation and settlement negotiations. On May 17, 2022, the parties participated in a formal,
17 full-day mediation conducted by Mark S. Rudy, Esq., a well-regarded mediator experienced in
18 mediating complex labor and employment matters. After conducting informal discovery and
19 investigation into the facts of the cases and with the aid of the mediator's evaluation, the parties
20 ultimately reached the Settlement described herein to resolve the cases in their entirety.

21 On September 30, 2022, Plaintiff filed a Motion for Preliminary Approval of Class
22 Action Settlement and supporting documents. On December 15, 2022, the Court entered an
23 Order Granting Preliminary Approval of Class Action Settlement ("Preliminary Approval
24 Order"), thereby preliminarily approving the terms of the Settlement, the Class Notice, and the
25 proposed administration procedures and associated deadlines.

26 Plaintiff now moves for final approval of the Settlement, Class Counsel Fees Payment
27 and Class Counsel Litigation Expenses Payment, Class Representative Service Payment,
28 Administration Costs, and allocation for PAGA Penalties.

III. SUMMARY OF THE SETTLEMENT TERMS AND PLAN OF DISTRIBUTION

Under the terms of the Settlement Agreement, Defendant has agreed to pay a Gross Settlement Amount of \$1,200,000.00 on a non-reversionary basis.³ Subject to approval by the Court, the Net Settlement Amount will be calculated by deducting the following amounts from the Gross Settlement Amount: (1) Class Counsel Fees Payment and Class Counsel Litigation Expenses Payment, consisting of attorneys' fees in the amount of \$420,000.00 and reimbursement of litigation costs and expenses in the amount of \$15,116.82, to Class Counsel; (2) Class Representative Service Payment in the amount of \$10,000.00 to Plaintiff Mayra Cortez; (3) Administration Costs in the amount of \$7,000.00 to Phoenix; and (4) PAGA Penalties in the amount of \$200,000.00.⁴ The Net Settlement Amount, which is estimated to be \$547,883.18, will be distributed in accordance with the Settlement Agreement, and there is no reversion to Defendant.⁵

The Administrator will calculate each Participating Class Member's *pro rata* share of the Net Settlement Amount ("Individual Settlement Share"), by first dividing the Net Settlement Amount by the total number of weeks worked for Defendant as an hourly-paid or non-exempt employee within California during the Class Period ("Workweeks") of all Participating Class Members ("Final Workweek Value").⁶ Each Participating Class Member's individual Workweeks will then be multiplied by the Final Workweek Value to arrive at his or her Individual Settlement Share.⁷

The Administrator will calculate each Aggrieved Employee's *pro rata* share of the twenty-five percent (25%) of the PAGA Penalties ("Individual PAGA Payment"), by first dividing twenty-five percent (25%) of the PAGA Penalties (i.e., \$50,000.00) by the total number

³ Settlement Agreement, § 1.20.

⁴ *Id.*, §§ 3.2.1, 3.2.2, 3.2.3, and 3.2.4.

⁵ This amount is higher than the amount stated in Paragraph 14 of the accompanying Declaration of Jarrod Salinas on Behalf of Phoenix Class Action Administration Solutions ("Phoenix Declaration" or "Phoenix Decl.") because the Administrator's calculation assumes that Class Counsel will obtain litigation costs and expenses in the maximum amount of \$30,000.00, which is allocated under the Settlement. However, Class Counsel seeks the amount of only \$15,116.82 for reimbursement of litigation costs and expenses, and the difference of \$14,883.18 will remain part of the Net Settlement Amount.

⁶ Settlement Agreement, §§ 1.2.3, 1.27, 1.45, and 3.2.5.b.

⁷ *Id.*, § 3.2.5.b.

1 of weeks worked for Defendant as an hourly-paid or non-exempt employee within California
2 during the PAGA Period (“PAGA Pay Periods”) by all Aggrieved Employees (“PAGA Pay
3 Period Value”).⁸ Each Aggrieved Employee’s individual PAGA Pay Periods will then be
4 multiplied by the PAGA Pay Period Value to arrive at his or her Individual PAGA Payment.⁹

5 Class Members had sixty (60) calendar days after the initial mailing of the Class Notice
6 to Class Members to submit a dispute regarding Workweeks and/or PAGA Pay Periods, opt out
7 of the Class Settlement, and/or object to the Class Settlement (“Response Deadline”).¹⁰ The
8 Response Deadline was March 13, 2023.¹¹ ***As of the date of this Motion, the Administrator has***
9 ***not received any written requests for exclusion from the Class Settlement (“Requests for***
10 ***Exclusion”) and no objections to the Class Settlement (“Objections”) from Class Members.***¹²

11 Individual Settlement Shares will be allocated as twenty percent (20%) wages, to be
12 reported on IRS Form W-2; and eighty percent (80%) penalties, interest, and non-wage damages,
13 to be reported on IRS Form 1099 (if applicable).¹³ Each Individual PAGA Payment will be
14 allocated as one hundred percent (100%) penalties and will be reported on an IRS Form-1099 (if
15 applicable) by the Administrator.¹⁴ Individual Settlement Shares will be paid out to Participating
16 Class Members subject to reduction for the employee’s share of taxes, withholdings, and
17 contribution with respect to the wages portion of the Individual Settlement Shares, and the net
18 payment is referred to as “Individual Settlement Payment”.¹⁵

19 The Individual Settlement Payment checks issued to Participating Class Members and
20 Individual PAGA Payment checks issued to Aggrieved Employees will remain valid for one
21 hundred eighty (180) calendar days from the date of mailing.¹⁶ Any settlement checks remaining
22 uncashed after one hundred eighty (180) calendar days will be canceled and the funds associated
23 with such canceled checks will be distributed to Legal Aid Foundation of Los Angeles, a

24 ⁸ Settlement Agreement, §§ 1.2.1, 1.30, 1.34, 3.2.4, and 3.2.6.

25 ⁹ *Id.*, § 3.2.6.

26 ¹⁰ *Id.*, §§ 1.44, 7.5.1, 7.6, and 7.7.2.

27 ¹¹ Phoenix Decl., ¶¶ 9, 10, 11, and Exh. A.

28 ¹² *Id.*, ¶¶ 9 and 10.

¹³ Settlement Agreement, § 3.2.7.

¹⁴ *Ibid.*

¹⁵ *Id.*, § 1.22 and 3.2.7.

¹⁶ *Id.*, § 4.4.1.

nonprofit organization or foundation consistent with Code of Civil Procedure Section 384, subd. (b).¹⁷ The Parties have represented that they do not have any financial interest in Legal Aid Foundation of Los Angeles or otherwise have a relationship with Legal Aid Foundation of Los Angeles that could create a conflict of interest.¹⁸

IV. THE SETTLEMENT ADMINISTRATION PROCESS

The Court-appointed Administrator, Phoenix, has taken all necessary steps to effectuate the notice and settlement administration process, as set forth in the Court’s December 15, 2022 Preliminary Approval Order.

On December 19, 2022, Phoenix received the Court-approved text for the Class Notice.¹⁹

On January 4, 2023, Phoenix received a mailing list from Defendant’s counsel that contained the following information for each Class Member and Aggrieved Employee: (1) full name; (2) last known mailing address; (3) Social Security Number; and (4) hire and termination dates reflecting the number of Workweeks and PAGA Pay Periods (“Class Data”).²⁰ The Class Data contained information for two hundred and fifty (250) individuals identified as Class Members and one hundred ninety-six (196) individuals identified as Aggrieved Employees.²¹ Phoenix processed the names and addresses through the National Change of Address Database (“NCOA”) and updated the Class Data with any updated addresses located.²²

On January 12, 2023, Phoenix mailed the Class Notice via First Class mail in English and Spanish to two hundred and fifty (250) individuals identified as Class Members and one hundred ninety-six (196) individuals identified as Aggrieved Employees in the Class Data.²³

After the January 23, 2023 Class Notice mailing, the Court approved five (5) additional Class Members that were inadvertently excluded from the Class Data to be added to the Class.²⁴ The final Class Data included two hundred and fifty-five (255) individuals identified as Class

¹⁷ Settlement Agreement, § 4.4.3.

¹⁸ Ibid.

¹⁹ Phoenix Decl., ¶ 3.

²⁰ *Id.*, ¶ 4.

²¹ Ibid.

²² *Id.*, ¶ 4.

²³ *Id.*, ¶ 6.

²⁴ *Id.*, ¶ 7.

Member and one hundred ninety-six (196) individuals identified as Aggrieved Employees.²⁵

As of the date of this Motion, zero (0) Class Notices were returned as undeliverable with or without forwarding addresses.²⁶

As of the date of this Motion, the Administrator has not received any Objections or Requests for Exclusion from Class Members.²⁷

To date, there are two hundred and fifty-five (255) Class Members who did not submit a timely and valid Request for Exclusion, and are therefore, deemed to be Participating Class Members.²⁸ Pursuant to the terms of the Settlement, the Net Settlement Amount of approximately \$547,883.18 will be distributed to Participating Class Members in accordance with the terms of the Settlement.²⁹ The highest Individual Settlement Share is currently estimated to be \$3,748.43 and the average Individual Settlement Share is currently estimated to be \$2,089.94.³⁰ The highest Individual PAGA Payment is currently estimated to be \$344.54 and the average Individual PAGA Payment is currently estimated to be \$255.10.³¹

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

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

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

²⁵ Phoenix Decl., ¶ 7.

²⁶ *Id.*, ¶ 8.

²⁷ *Id.*, ¶¶ 9 and 10.

²⁸ *Id.*, ¶ 12.

²⁹ *Id.*, ¶ 14; see also, n.5, *supra*.

³⁰ *Id.*, ¶ 15. The actual average and highest Individual Settlement Shares will be larger than the amounts stated in the Phoenix Declaration because the Net Settlement Amount is larger due to Class Counsel's request for reimbursement of litigation costs and expenses in an amount that is less than \$30,000.00 (the difference between the amount sought and the amount authorized under the Settlement, i.e., \$14,883.18, will be part of the Net Settlement Amount). See n.5, *supra*.

³¹ *Id.*, ¶ 16.

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

6 The proponent of the settlement has the burden to show that it is fair and reasonable.
7 *Wershba, supra*, 91 Cal.App.4th at 245. At the final approval stage, a presumption of fairness
8 exists where, as here: “(1) the settlement is reached through arm’s-length bargaining; (2)
9 investigation and discovery are sufficient to allow counsel and the court to act intelligently; (3)
10 counsel is experienced in similar litigation; and (4) the percentage of objectors is small.” *Dunk,*
11 *supra*, 48 Cal.App.4th at 1802. In reviewing a class settlement, the court need not reach any
12 ultimate conclusions on the issues of fact and law that underlie the merits of the dispute.
13 *7-Eleven Owners for Fair Franchising v. Southland Corp.* (2000) 85 Cal.App.4th 1135, 1146.
14 The inquiry is not whether the settlement agreement is the best one that class members could
15 have possibly obtained, but whether the settlement, taken as a whole, is “fair, adequate, and
16 reasonable.” *Chavez v. Netflix, Inc.* (2008) 162 Cal.App.4th 43, 55. A settlement need not
17 obtain 100 percent of the damages sought in order to be fair, reasonable, and ultimately,
18 meaningful. *Wershba, supra*, 91 Cal.App.4th at 251. Even if the proposed settlement affords
19 relief that is substantially narrower than it would be if the case were to be successfully litigated,
20 that is no bar to a class settlement because the public interest may indeed be served by a
21 voluntary settlement in which each side gives ground in the interest of avoiding prolonged
22 litigation. *Id.*

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

25 The parties actively litigated the cases since the Class Action was commenced on August
26 9, 2021. Both sides used the pre-mediation time period to investigate the veracity, strength, and
27 scope of the claims, and Class Counsel was actively preparing the case for class certification and
28

trial, prior to reaching the Settlement.³² The parties conducted informal discovery and investigation into the facts of the cases, and also informally exchanged a large volume of information, documents, and data throughout the course of litigation and in connection with mediation and settlement negotiations.³³ Class Counsel also interviewed and obtained information from Plaintiff and Class Members, including and not limited to the names of potential witnesses, and reviewed and analyzed a large volume of information, documents, and data obtained from Plaintiff, Defendant, and other sources.³⁴ The information, documents, and data reviewed and analyzed by Class Counsel included, and were not limited to: employment records of Plaintiff and other Class Members, a detailed sampling of Class Members' time and pay data, new hire checklists and materials, company policy acknowledgments, internal memoranda (e.g., regarding Holiday Gift Cards, Employee Request for Excuse from Emergency Overtime, and Safety Shoes/Boots Voucher), job descriptions, Defendant's Employee Handbooks and operations and employment practices, policies, and procedures documents (including but not limited to, training materials, meal period waivers and related agreements and acknowledgments, Agreement Wage Schedule with Labor Grades, Job Classifications and Straight Time Hourly Rate Ranges, and Standard Operating Procedures (including, and not limited to, regarding Non-Exempt Hourly and Union Employee Time Clock Policy, Bargaining Employees Attendance Policy, Protective Eye Wear Policy, and Employees Dress Code Policy)), collective bargaining agreements, MOU/document re: settlement between Union and Defendant, and exemplar signed release agreements, among other information and documents.³⁵ Class Counsel interviewed Plaintiff and other Class Members to gather facts and to identify potential witnesses.³⁶ Class Counsel researched applicable law, developed liability, damages, and penalties valuation models in connection with mediation and settlement negotiations, and met and conferred with Defendant's counsel on numerous occasions, e.g., to discuss issues relating to the pleadings, case management, informal discovery and production of information, documents,

³² Declaration of Edwin Aiwazian ("Aiwazian Decl."), ¶ 6.

³³ *Id.*, ¶ 6.

³⁴ *Ibid.*

³⁵ *Ibid.*

³⁶ Aiwazian Decl., ¶ 6.

1 and data in the course of litigation and in connection with mediation and settlement
2 negotiations.³⁷

3 After conducting informal discovery and investigation into the facts of the cases, the
4 parties participated in a formal, full-day mediation conducted by Mark S. Rudy, Esq., a well-
5 regarded mediator experienced in mediating complex labor and employment matters.³⁸ In the
6 course of mediation and settlement negotiations, the parties exchanged information, documents,
7 and data, and discussed various aspects of the cases, including and not limited to, the risks and
8 delays of further litigation, the risks and expenses to the parties of proceeding with class
9 certification, representative adjudication, and trial, the law relating to off-the-clock theory, meal
10 and rest periods, representative PAGA claims, wage-and-hour enforcement, collective bargaining
11 agreements, pre-emption, and exemptions, the evidence produced and analyzed, and the
12 possibility of appeals, among other things.³⁹ During all settlement discussions, the parties
13 conducted their negotiations at arm's length in an adversarial position.⁴⁰ Arriving at a settlement
14 that was acceptable to the parties was not easy.⁴¹ Defendant and its counsel felt very strongly
15 about Defendant's ability to prevail on the merits and to obtain a denial of class certification,
16 while Plaintiff and Class Counsel believed that class certification would be obtained and Plaintiff
17 would prevail at trial.⁴² With the aid of the mediator's evaluation, the parties agreed that the
18 cases were well-suited for settlement given the legal issues relating to Plaintiff's principal
19 claims, as well as the costs and risks to the parties that would attend further litigation.⁴³

20 The Settlement takes into account the strengths and weaknesses of each side's position
21 and the uncertainty of how the cases might have concluded at certification, trial, and/or appeals.
22 Class Counsel interviewed, and obtained information from Plaintiff and other Class Members.⁴⁴
23 Class Counsel also reviewed and analyzed a large volume of documents produced by Defendant
24

25 ³⁷ Ibid.

26 ³⁸ *Id.*, ¶ 8.

27 ³⁹ Ibid.

28 ⁴⁰ Ibid.

⁴¹ Ibid.

⁴² Ibid.

⁴³ Aiwazian Decl., ¶ 8.

⁴⁴ *Id.*, ¶ 6.

and obtained through other sources, and performed significant research into the law concerning class certification, off-the-clock theory, meal and rest periods, representative PAGA claims, wage-and-hour enforcement, collective bargaining agreements, pre-emption, and exemptions, Plaintiff's claims, and Defendant's defenses, as well as facts discovered.⁴⁵ The Settlement was based on this large volume of facts, evidence, and investigation.⁴⁶ Additionally, Class Counsel has extensive experience in handling complex wage-and-hour matters, including significant experience in employment class action litigation.⁴⁷

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

The Settlement, which provides for a Gross Settlement Amount of \$1,200,000.00, represents a fair, adequate, and reasonable resolution of the matter, given the risks inherent in litigating class and representative claims through certification proceedings, trial, and/or appeals.⁴⁸ The Settlement was calculated using information and data uncovered through extensive case investigation, informal discovery, and the exchange of information in the context of mediation.⁴⁹ Had the cases not settled, Defendant would have vigorously challenged class certification, manageability of representative adjudication, and liability. Defendant contended that individualized questions of fact predominate over any common issues, and these issues would pose challenges to certification and representative adjudication. Defendant would have likely argued again at trial, if any, that Plaintiff's claims were not appropriate for class-wide and/or representative adjudication. On the other hand, Defendant also faced the risk of the Court certifying a class and allowing a jury to decide Plaintiff's claims on a class-wide or representative basis. Additionally, preparation for trial would have been expensive for all parties.

It is preferable to reach an early resolution of a dispute because such resolutions save time and money that would otherwise go to litigation. If this matter had settled after further

⁴⁵ Aiwazian Decl., ¶ 7.

⁴⁶ *Id.*, ¶¶ 6 and 7.

⁴⁷ *Id.*, ¶¶ 16-19.

⁴⁸ *Id.*, ¶¶ 8 and 22.

⁴⁹ *Id.*, ¶¶ 5-8.

litigation, the settlement amount would have taken into account the additional costs incurred, and there might have been less money available for Class Members and Aggrieved Employees 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 matter, 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 significant amount of 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. Discovery would have certainly arisen, which would have cost the parties additional time and money. In contrast, the Settlement 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, the Court can approve a resolution that provides a certain and substantial recovery for Class Members, the State of California, and Aggrieved Employees.

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

The Settlement, which provides for a Gross Settlement Amount of One Million Two Hundred Thousand Dollars (\$1,200,000.00), represents a fair, reasonable, and adequate resolution of the cases. The Settlement was calculated using information and data uncovered through extensive case investigation, informal discovery, and the exchange of information in the context of mediation. The Settlement takes into account the potential risks and rewards inherent

1 in any case and, in particular, in this matter. Moreover, considering all of the facts in the cases,
2 the Gross Settlement Amount represents a considerable recovery.

3 Even after deducting attorneys' fees in the amount of \$420,000.00, litigation costs and
4 expenses in the amount of \$15,116.82, Class Representative Service Payment of \$10,000.00,
5 Administration Costs in the amount of \$7,000.00, and PAGA Penalties in the amount of
6 \$200,000.00 from the Gross Settlement Amount of \$1,200,000.00, the Net Settlement Amount is
7 currently estimated to be \$547,883.18.⁵⁰ Under the Settlement Agreement, the Gross Settlement
8 Amount will be fully paid out without any reversion to Defendant, in accordance with the terms
9 of the Settlement. As discussed in Section III, *supra*, each Participating Class Member will be
10 paid a *pro rata* share of the Net Settlement Amount, based on the number of Workweeks
11 credited to him or her. To date, there are two hundred fifty-five (255) Participating Class
12 Members, representing 100% of the Class Members.⁵¹ The highest Individual Settlement Share
13 to a Participating Class Member is currently estimated to be \$3,748.43 and the average
14 Individual Settlement Share is currently estimated to be \$2,089.94.⁵² The highest Individual
15 PAGA Payment to an Aggrieved Employee is currently estimated to be \$344.54 and the average
16 Individual PAGA Payment to an Aggrieved Employee is currently estimated to be \$255.10.⁵³
17 These are significant individual recoveries, particularly in light of the risks of litigation.

18 At the final approval stage, "[a]n allocation formula need only have a reasonable, rational
19 basis [to warrant approval], particularly if recommended by experienced and competent class
20 counsel." *In re American Bank Note Holographics, Inc., Securities Litigation* (S.D.N.Y. 2001)
21 127 F.Supp.2d 418, 429-30. The *pro rata* allocation here is a fair and reasonable way to
22 distribute the Net Settlement Amount. In light of the above considerations, Class Counsel
23 believes that the Settlement as a whole is fair, reasonable, and adequate, and in the best interest
24 of the Class Members, the Aggrieved Employees, and the State of California.⁵⁴ Although the
25 recommendations of Class Counsel are not conclusive, the Court can properly take the

26 ⁵⁰ Phoenix Decl., ¶ 14; see n.5, *supra*.

27 ⁵¹ *Id.*, ¶ 12.

⁵² *Id.*, ¶ 15; see n.30, *supra*.

⁵³ *Id.*, ¶ 16.

28 ⁵⁴ Aiwasian Decl., ¶ 22.

recommendations into account, particularly if Class Counsel appears to be competent, has experience with this type of litigation, and 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.

D. The Class Was Represented by Competent Counsel.

Class Counsel has extensive experience in employment class action law and complex wage-and-hour litigation.⁵⁵ 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.⁵⁶ Both parties' counsel were capable of assessing the strengths and weaknesses of the Class Members' claims against Defendant and the benefits of the Settlement under the circumstances of the cases and in the context of a private, consensual settlement agreement.

E. There Are No Objections to the Class Settlement.

The Settlement has been well received by the Class – *not a single Class Member objected to the Class Settlement.*⁵⁷ Specifically, no objections have been made as to the Gross Settlement Amount or requested Class Counsel Fees Payment and Class Counsel Litigation Expenses Payment, Class Representative Service Payment, Administration Costs, or the allocation for PAGA Penalties. California courts have consistently found that a small number of objectors indicates the class' support for a settlement and strongly favors final approval. *Wershba, supra*, 91 Cal.App.4th at 250-51 (final approval granted despite 20 objectors); 7-*Eleven Owners, supra*, 85 Cal.App.4th at 1152-53 (final approval granted despite 9 objectors).

Here, the lack of any objections speaks volumes about the fairness, reasonableness, and adequacy of this Settlement. Accordingly, the Settlement as a whole is presumed to be fair, reasonable, and adequate, and the Court should grant final approval of the Settlement in its entirety. *Dunk, supra*, 48 Cal.App.4th at 1802.

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⁵⁵ Aiwazian Decl., ¶¶ 16-19.

⁵⁶ Ibid.

⁵⁷ Phoenix Decl., ¶ 10.

VI. THE CLASS COUNSEL FEES PAYMENT REQUESTED BY CLASS COUNSEL 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, supra*, 48 Cal.App.4th at 1808. The percentage-of-the-benefit approach is preferred in class and representative actions because “it better approximates the workings of the marketplace than the lodestar approach.” *Lealao, supra*, 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, supra*, 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, supra*, 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, supra*, 126 Cal.App.4th at 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, supra*, 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.* (2008) 162 Cal.App.4th 43, 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. Gaulty* (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, 34.⁵⁸ 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, supra*, 557 F.2d at 769.

When a litigant's efforts result in a settlement from which others may derive benefits, the litigant may require the passive beneficiaries to compensate those whose efforts brought about

⁵⁸ The California Supreme Court has urged trial courts to consider class action federal authority. *Green v. Obledo* (1981) 29 Cal.3d 126, 146; *Vasquez v. Superior Court* (1971) 4 Cal.3d 800, 821.

1 the settlement. See, R. Pearle, *California Attorney Fee Awards* (CEB, 1993) § 7A, p. 5-7
2 (permitting attorneys' fees and costs to be paid out of the settlement or directly on behalf of the
3 other parties enjoying the benefit of the settlement). Both state and federal courts have embraced
4 this doctrine. See *Serrano, supra*, 20 Cal.3d at 35; *Crampton v. Takegoshi* (1993) 17
5 Cal.App.4th 308, 317; *Vincent, supra*, 557 F.2d at 769.

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

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

21 When the cases were originally filed, not only were they inescapably contingent, but the
22 prospect of a long, drawn-out battle with a defendant represented by experienced counsel, was
23 almost a certainty. By taking on this "battle" on a contingency basis, Class Counsel risked
24 substantial economic loss if the results were not successful. This substantial risk is the reason
25 that the courts approve the use of the percentage method when a settlement is obtained by the
26 efforts of class counsel. See *Vizcaino v. Microsoft* (9th Cir. 2002) 290 F.3d 1043, 1048-49
27 (discussing the risks of engaging in litigation without certainty of compensation).

28 Under the terms of the Settlement Agreement, Defendant will pay a Gross Settlement

Amount of \$1,200,000.00 on a non-reversionary basis. The requested attorneys' fees are thirty-five percent (35%) of the total value of the monetary settlement. In light of Class Counsel's successful prosecution and resolution of the cases, the requested attorneys' fees are appropriate and reasonable.

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

The percentage method is consistent with, and is intended to mirror, the practice in the private marketplace where contingent-fee attorneys typically negotiate percentage-fee arrangements with their clients. A named plaintiff's agreement to pay a contingent fee is powerful evidence of a reasonable fee. One of the best ways to demonstrate the value of counsel's work to the class is to review the consideration agreed to be paid by the named plaintiff. If the named plaintiff has employed counsel on a contingency-fee basis, it would indeed be inequitable for the members of the class, who will enjoy the benefits of the settlement without incurring the risks of bringing the claim, to pay less than the named plaintiff. In this case, Plaintiff has agreed to a contingency fee of at least thirty-five percent (35%) of the recovery.⁵⁹

Furthermore, a percentage-fee award is not dependent on a determination of the actual amount claimed by those entitled—it is the creation of the settlement that is the crucial fact. In *Winslow v. Harold G. Ferguson Corp.*, the California Supreme Court expressly held that “it is equitable that [the attorney's] compensation and expenses should come from the entire fund saved for all classes concerned before it is distributed.” *Winslow v. Harold G. Ferguson Corp.* (1944) 25 Cal.2d 274, 284. Likewise, *Lealao* expressly held that a percentage-based fee “may be

⁵⁹ Aiwazian Decl., ¶ 10.

1 calculated on the basis of the total fund made available rather than the actual payments made to
2 the class.” *Lealao, supra*, 82 Cal.App.4th at 51; *see also Boeing, supra*, 444 U.S. at 478 (“a
3 litigant or a lawyer who recovers” a settlement “for the benefit of persons other than himself or
4 his client is entitled to a reasonable attorneys’ fee from the fund as a whole”).

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

10 Class Counsel has obtained a substantial recovery on behalf of Plaintiff, the Class,
11 Aggrieved Employees, and the State of California, and the results achieved justify an attorneys’
12 fees award that is the equivalent of the standard market fee and that is consistent with the
13 contingency-fee agreement entered into by and between Plaintiff and Class Counsel. Thus, the
14 requested attorneys’ fees are appropriate.

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

17 In *Camden I Condominium Association, Inc. v. Dunkel*, the court identified twelve factors
18 to be considered in determining whether fee awards are reasonable: (1) the time and labor
19 required; (2) the novelty and difficulty of the questions involved; (3) the skill required to perform
20 the legal services properly; (4) the preclusion of other employment by the attorney due to the
21 acceptance of the case; (5) the customary fee; (6) whether the fee is fixed or contingent; (7) time
22 limitation imposed by the client or the circumstances; (8) the amount involved and results
23 obtained; (9) the experience, reputation and ability of the attorney; (10) the undesirability of the
24 case; (11) the nature and length of the professional relationship with the client; and (12) awards
25 in similar cases. *Camden I Condominium Association, Inc. v. Dunkel* (11th Cir. 1991) 946 F.2d
26 768, 772.

27 Each and every one of these factors favors the attorneys’ fees sought here; however,
28 some of the most relevant factors to this Court’s fee determination will be addressed herein. The

award of attorneys' fees in the amount of \$420,000.00 (which is 35% of the Gross 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 has achieved, and the value of the settlement that Class Counsel has obtained for the Class Members.

1. Time & Labor.

Class Counsel used its experience and skills, and dedicated the full extent of resources, to litigate and bring this matter to a successful conclusion on behalf of the Class. Moreover, as demonstrated in the supporting declaration, Class Counsel has extensive experience in the handling of class actions and complex litigation matters.⁶⁰

As outlined in the Declaration of Edwin Aiwasian, Class Counsel has fully and actively participated in litigation of the cases.⁶¹ Prior to commencing the lawsuits, Class Counsel had conducted a significant amount of investigation into the factual and legal issues, Defendant's business, and its operations and employment policies, practices, and procedures.⁶² During the litigation of the actions, Class Counsel interviewed Plaintiff and other Class Members; reviewed and analyzed a large volume of pages of documents and data produced by Defendant and obtained through other sources; and prepared damages/valuation calculations.⁶³ Class Counsel also met and conferred with Defendant's counsel over the issues relating to pleadings, case management, informal discovery, and production of information, documents, and data, among other things; engaged in extensive settlement negotiations with Defendant's counsel; and prepared for and attended court proceedings, mediation, and settlement negotiations.⁶⁴

Class Counsel has dedicated staffing and monetary resources necessary to prosecute this matter diligently and with maximum efficiency and has fully and actively participated in the litigation process. The Task and Time Chart, which is attached as EXHIBIT A to the accompanying Declaration of Edwin Aiwasian, sets forth in detail the hours that Lawyers for

⁶⁰ Aiwasian Decl., ¶¶ 16-19.

⁶¹ *Id.*, Exh. A.

⁶² *Id.*, ¶ 5 & Exh. A.

⁶³ *Id.*, ¶ 6.

⁶⁴ *Id.*

Justice, PC has spent performing tasks on behalf of Plaintiff and the Class.⁶⁵ 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 Lawyers *for* Justice, PC, commencing with the pre-filing analysis and research, and continuing up to settlement and final approval. Attorneys at Lawyers *for* Justice, PC have spent 485.50 hours performing tasks and to obtain a significant recovery on behalf of Plaintiff and the Class.⁶⁶ 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 the cases, the requested attorneys' fees are fair, adequate, and reasonable.

2. ***The Skill Required to Perform Legal Services Properly.***

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

Class Counsel undertook significant investigation, analysis, and research prior to filing the cases, during the litigation, and prior to mediation. Class Counsel took steps to prepare the matter for class certification and representative adjudication and had every intention of taking the matter to trial on a class-wide basis if Defendant did not offer an appropriate class-wide settlement. Despite all of the obstacles that had to be overcome, as demonstrated in the Declaration of Edwin Aiwasian, Class Counsel used its extensive experience in the handling of class actions and complex wage-and-hour litigation matters in order to obtain the Settlement with maximum efficiency.⁶⁷

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⁶⁵ *Id.*, Exh. A.

⁶⁶ *Id.*, ¶ 12.

⁶⁷ Aiwasian Decl., ¶¶ 16-19.

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

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

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

16 As a result of this litigation and extensive settlement negotiations, Defendant agreed to
17 pay a Gross Settlement Amount of \$1,200,000.00 to settle the matter. After deducting the
18 attorneys' fees (\$420,000.00), litigation costs and expenses (\$15,116.82), Class Representative
19 Service Payment (\$10,000.00), Administration Costs (\$7,000.0), and PAGA Penalties
20 (\$200,000.00) from the Gross Settlement Amount, it is currently estimated that the Net
21 Settlement Amount is approximately \$547,883.18.⁶⁸ The Net Settlement Amount will be fully
22 distributed in accordance with the terms of the Settlement. The highest Individual Settlement
23 Share to a Participating Class Member is currently estimated to be \$3,748.43 and the average
24 Individual Settlement Share is currently estimated to be \$2,089.94.⁶⁹ The highest Individual
25 PAGA Payment to an Aggrieved Employee is currently estimated to be \$344.54 and the average
26 Individual PAGA Payment to an Aggrieved Employee is currently estimated to be \$255.10.⁷⁰

27 ⁶⁸ Phoenix Decl., ¶ 14; see n.5, *supra*.

28 ⁶⁹ *Id.*, ¶ 15; see n.30, *supra*.

⁷⁰ *Id.*, ¶ 16.

The Settlement offers significant monetary relief to the Participating Class Members, the State of California, and Aggrieved Employees.

4. Whether the Fee Is Fixed or Contingent.

Plaintiff entered into a contingency fee agreement with Class Counsel, and the representation of the Class provided by Class Counsel has been wholly contingent. Class Counsel took on the cases without knowing whether any recovery would be obtained. Class Counsel has invested 485.50 hours of time to obtain relief on behalf of Plaintiff and the Class.⁷¹ Class Counsel has also incurred litigation costs and expenses in the amount of \$15,116.82.⁷²

Class Counsel has borne all of the risks and costs of litigation and will not receive any compensation until recovery is obtained.⁷³ Class Counsel is well-experienced in wage-and-hour class action and complex litigation and used that experience to obtain a great result.⁷⁴ The skill and determination that Class Counsel has shown, along with the results obtained, justify the requested Class Counsel Fees Payment and Class Counsel Litigation Expenses Payment. Considering the amounts requested, the work performed, and the risks incurred, the requested fees and costs are reasonable and should be awarded.

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

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

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

⁷¹ Aiwazian Decl., ¶ 12, Exh. A.

⁷² See Part VII, *infra*.

⁷³ Aiwazian Decl., ¶ 20.

⁷⁴ See *id.*, ¶¶ 16-19.

produced any fee or any reimbursement of costs or expenses.

5. The Amount Involved and the Results Achieved.

The results achieved, in light of the difficulties inherent in similar cases and the specific difficulties faced in this matter, are considerable. The Settlement has yielded a positive response from the Class Members—no Class Members objected to or opted out of the Class Settlement.⁷⁵

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

Here, the results achieved and obtained on behalf of Plaintiff and the Class are reasonable in light of the risks inherent in further litigating this matter. Class Counsel’s efforts have resulted in a settlement that provides for a Gross Settlement Amount of \$1,200,000.00.⁷⁶ The Gross Settlement Amount will be fully paid out, in accordance with the terms of the Settlement Agreement. The highest Individual Settlement Share to a Participating Class Member is currently estimated to be \$3,748.43 and the average Individual Settlement Share is currently estimated to be \$2,089.94.⁷⁷ The highest Individual PAGA Payment to an Aggrieved Employee is currently estimated to be \$344.54 and the average Individual PAGA Payment to an Aggrieved Employee is currently estimated to be \$255.10.⁷⁸

6. The Reputation and Ability of the Attorneys.

Lawyers for Justice, PC is a recognized class action law firm that employed its attorneys’ knowledge, skills, and experience in bringing the cases to a successful conclusion. Class Counsel has years of complex and class action litigation experience, has recovered millions of dollars on behalf of thousands of individuals in California, and has successfully handled numerous significant wage-and-hour class action and complex cases.⁷⁹

⁷⁵ Phoenix Decl., ¶¶ 9 and 10.

⁷⁶ Aiwasian Decl., ¶¶ 5-8.

⁷⁷ Phoenix Decl., ¶ 15; see n.30, *supra*.

⁷⁸ *Id.*, ¶ 16.

⁷⁹ Aiwasian Decl., ¶¶ 16-19.

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, supra*, 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, supra*, 1 Cal.5th at 505.

The lodestar is calculated based on reasonable hours at reasonable prevailing hourly rates for the attorneys. *Ketchum, supra*, 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 cases were 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 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 matter involved gathering and analyzing data not only from Plaintiff and 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 discovery requests and conducting 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, data, and documents that were produced by Defendant and obtained from Plaintiff and Class Members and through other sources. Class Counsel conducted extensive review and analysis of these documents and data to strategize the actions and to prepare for and attend mediation and engage in settlement discussions.

As discussed above in Part VI.C.1, *infra*, attached to the Declaration of Edwin Aiwazian is a task and time chart that sets forth in detail the numerous tasks that Class Counsel performed on behalf of Plaintiff and the Class, and the time required for completing those tasks.⁸⁰ The chart demonstrates that Lawyers for Justice, PC has spent a total of 485.50 hours litigating the cases and finalizing the Settlement.⁸¹ In light of the facts and circumstances of the matter, as well as the results that Class Counsel has achieved in the cases, Class Counsel has spent a reasonable number of hours on this matter. In addition, Class Counsel will continue to perform work on this matter through the date of final approval and in connection with the implementation of the Settlement.

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

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

⁸⁰ See Aiwazian Decl., Exh. A.

⁸¹ Aiwazian Decl., ¶ 12.

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 has been actively involved in the cases, prior to their commencement and all the way up to the present, and Class Counsel's dedication to providing representation in this matter 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 \$1,200,000.00.

As set forth in the Declaration of Edwin Aiwarzian, the professional backgrounds and experience of Lawyers for Justice, PC support a reasonable blended hourly rate of compensation of at least \$725 per hour for services provided by Class Counsel.⁸² Lawyers for Justice, PC has been awarded attorneys' fees, compensating the firm at the rate of at least \$725 for legal service performed, by courts of this state.⁸³ While the circumstances of every case is 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.

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⁸² Aiwarzian Decl., ¶ 13.

⁸³ For example, final approval of the class and representative action settlement in *David Dugan v. TEC Equipment, Inc., et al.* (Los Angeles Superior Court Case No. 19STCV01591) was granted on July 8, 2021, and the award of attorneys' fees involved an hourly rate of \$936.47; final approval of the class and representative action settlement in *Larry Greenwood, et al. v. Scan Health Plan* (Los Angeles Superior Court Case No. BC715157) was granted on April 20, 2021, and the award of attorneys' fees involved an hourly rate of \$919.57; final approval of the class action settlement in *Thereasa Carrozzella v. Basalite Concrete Products, LLC* (Sacramento County Superior Court Case No. 34-2017-00220214-CU-OE-GDS) was granted on February 21, 2020, and the award of attorneys' fees involved an hourly rate of \$766.05; final approval of the class and representative action settlement in *Alice Rutledge, et al. v. Healthport Technologies, LLC* (Alameda County Superior Court Case No. RG16835813) was granted on June 11, 2019, and the award of attorneys' fees involved an hourly rate of \$764.82; final approval of the class and representative action settlement in *Seth Swan v. Pace Supply* (Sonoma County Superior Court Case No. SCV258764) was granted on February 6, 2019, and the award of attorneys' fees involved an hourly rate of \$855.96; final approval of the class and representative action settlement in *Stanley Bland, et al. v. Telecare Corporation* (Alameda County Superior Court Case No. RG16811450) was granted on November 21, 2018, and the award of attorneys' fees involved an hourly rate of \$831.38; final approval of the class and representative action settlement in *Maryjo Ungerbuhler Anderson v. Boyett Petroleum* (Stanislaus County Superior Court Case No. 2020582) was granted on May 15, 2018, and the award of attorney's fees involved an hourly rate of \$780.77; and final approval of the class and representative action settlement in *Demetrius Camarillo v. Blue Diamond Growers* (Sacramento County Superior Court Case No. 34-2015-00175871) was granted on June 30, 2017, and the award of attorneys' fees involved an hourly rate of \$845.64. Aiwarzian Decl., ¶ 13.

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

3 Even when courts have opted to award fees in settlement fund cases based on time
4 reasonably expended on the action, courts have generally awarded these fees based on the actual
5 time expended (the lodestar) in conjunction with a multiplier of between 2 and 4. *Kerr v. Screen*
6 *Extras Guild, Inc.* (9th Cir. 1975) 526 F.2d 67. Such a multiplier is warranted in this matter.

7 Courts frequently apply multipliers to enhance the lodestar to reflect the risks involved,
8 the complexity of the litigation, and the other relevant facts. *Vizcaino*, 290 F.3d at 1051;
9 *Graham v. DaimlerChrysler Corp.* (2004) 34 Cal.4th 553, 579 (“One of the most common fee
10 enhancers [...] is for contingency risk.”). Such an enhancement “mirrors the established practice
11 in the private legal market of rewarding attorneys for taking the risk of nonpayment by paying
12 them a premium over their normal hourly rates for winning contingency cases.” *Vizcaino*, 290
13 F.3d at 1051; *accord Ketchum*, 24 Cal.4th at 1132-33. A risk multiplier also serves to bring the
14 financial incentives for enforcing important rights “into line with incentives [attorneys] have to
15 undertake claims for which they are paid on a fee-for-services basis.” *Ketchum*, 24 Cal. 4th at
16 1132.

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

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

27 *Ketchum*, 24 Cal. 4th at 1134.

28 Adjustment of the base lodestar figure to compute an award of attorneys’ fees for a claim

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

As discussed above, this was a highly-contested matter which required an extensive amount of time and labor. Defendant raised defenses and denied liability, and the cases involved gathering and analyzing documents and data not only from Defendant but also from the Class Members. The handling of this matter involved a great amount of effort, and required the exercise of high-level of skill, which Class Counsel has as a result of extensive experience in employment class actions and wage-and-hour litigation. Class Counsel has been actively involved in the prosecution of the cases, prior to their commencement and Class Counsel’s work has continued all the way up to the present. Class Counsel’s dedication to the representation of the Class Members has precluded other employment.

Most importantly, all services were performed by Class Counsel on a contingent basis. Both California and federal courts recognize that attorneys should be compensated for taking on such contingent risks and provided with financial incentives to enforce important rights and protections like those at issue in the matter at hand. See, e.g., *Vizcaino*, 290 F.3d at 1051; *Ketchum*, 24 Cal. 4th at 1132-33. Here, Class Counsel bore the risk that, despite all of its efforts and the skill employed, there may be no recovery. Therefore, at a minimum, Class Counsel is entitled to a risk multiplier. The results obtained by way of Class Counsel’s efforts are significant here. Class Counsel was successful in achieving substantial results in the form of a

1 settlement of \$1,200,000.00. Also, Class Counsel's efforts throughout the matter demonstrate
2 dedication to the interests of the Class Members.

3 Class Counsel's application for attorneys' fees in light of the facts and circumstances
4 surrounding the matter is well within the range of reasonableness. While handling this matter,
5 Class Counsel devoted the hours in legal time summarized above and detailed in the Task and
6 Time Chart, which is attached as EXHIBIT A to the Declaration of Edwin Aiwazian.⁸⁴ As the
7 chart indicates, Class Counsel has worked 485.50 hours in the pursuit of this matter. The
8 attorney task and time chart presents the entire picture. Applying a reasonable rate of \$725 per
9 hour to 485.50 hours of work performed by Lawyers for Justice, PC would place a base lodestar
10 value of \$351,987.50 on Class Counsel's services, and applying a modest multiplier of 1.20, the
11 total enhanced lodestar fees are \$422,385.00.⁸⁵ Class Counsel seeks an attorneys' fee award of
12 \$420,000.00 (equal to 35% of the Gross Settlement Amount). Far greater multipliers have been
13 awarded in similar cases, and the total amount of fees sought by Class Counsel is also reasonable
14 compared to fees awarded in similar cases. Courts routinely enhance lodestar amounts based on
15 multipliers that "range from 2 to 4 or even higher." *Wershba, supra*, 91 Cal.App.4th at 255
16 (emphasis added); *see also, e.g., Chavez v. Netflix, Inc.* (2008) 162 Cal.App.4th 43, 66
17 (approving multiplier of 2.5); *Vizcaino*, 290 F.3d at 1051 (approving multiplier of 3.65); *Wal-*
18 *Mart Stores, Inc. v. Visa U.S.A., Inc.* (2d Cir. 2005) 396 F.3d 96, 123 (approving multiplier of
19 3.5); *Craft v. County of San Bernardino* (C.D. Cal. 2006) 624 F.Supp.2d 1113, 1125 (awarding
20 multiplier of 5.2 and referring to other cases with cross-check multipliers ranging from 4.5 to
21 19.6).

22 Therefore, application of a modest multiplier of 1.20 is warranted, and the lodestar as a
23 cross-check to the percentage figure sought herein, strongly supports the reasonableness of the
24 requested attorneys' fees award. Plaintiff respectfully requests that the Court grant final
25 approval of, and award, attorneys' fees in the amount of **\$420,000.00** to Class Counsel.

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27 _____
28 ⁸⁴ Aiwazian Decl., Exh. A.

⁸⁵ *Id.*, ¶ 12; *see n.2, supra*.

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

The Settlement provides for reimbursement of litigation costs and expenses of up to \$30,000.00. As set forth in the Declaration of Edwin Aiwazian, Class Counsel seeks reimbursement of \$15,116.82 in litigation costs and expenses incurred in this matter.⁸⁶ This amount was reasonable and necessary in the prosecution of the cases and to obtain the Settlement.⁸⁷ The cost savings of \$14,883.18 will be part of the Net Settlement Amount, which will be distributed to the Participating Class Members in accordance with the Settlement.⁸⁸ Accordingly, Plaintiff requests that the Court award litigation costs and expenses in the amount of \$15,116.82 to Class Counsel.

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

As set forth in the accompanying Phoenix Declaration, the total costs incurred and to be incurred by Phoenix for the notice and settlement administration process are \$7,000.00.⁸⁹ The costs incurred and to be incurred include, but are not limited to, expenses for preparing, translating into Spanish, printing, and mailing the Class Notice to the Class Members; performing skip-trace searches on Class Notices returned as undeliverable; re-mailing the Class Notices to any updated addresses located by skip-trace search; receiving, reviewing, and processing Requests for Exclusion, Objections, and disputes of Workweeks and/or PAGA Pay Periods (if any); handling inquiries from Class Members regarding the Settlement; calculating Individual Settlement Shares, Individual Settlement Payments, and Individual PAGA Payments and preparing the associated tax forms; and transmitting payments, among other things.⁹⁰

Accordingly, the Court should grant final approval of payment to Phoenix, a necessary third-party for handling of the notice and settlement process, in the amount of \$7,000.00.

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⁸⁶ Aiwazian Decl., ¶ 20.

⁸⁷ Ibid.

⁸⁸ Ibid.

⁸⁹ Phoenix Decl., ¶ 18 and Exh. B.

⁹⁰ Phoenix Decl., ¶ 2.

**IX. THE REQUESTED CLASS REPRESENTATIVE SERVICE PAYMENT IS FAIR
AND REASONABLE, AND SHOULD BE APPROVED**

The Settlement provides for a Class Representative Service Payment in the amount of \$10,000.00 to Plaintiff Mayra Cortez to compensate Plaintiff for the time and effort that she expended on behalf of the Class. The requested Class Representative Service Payment is both common and reasonable and should be awarded.

In determining whether to make service payments, 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 representatives; (3) the amount of time and efforts spent by the class representatives; (4) the duration of the litigation; and (5) the personal benefit (or lack thereof) enjoyed by the class representatives 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 Service Payment is fair and appropriate because Plaintiff spent a substantial amount of time and effort producing relevant documents and past employment records, as well as providing the facts and evidence necessary to attempt to prove the allegations.⁹¹ Plaintiff was available whenever Class Counsel needed her and actively tried to obtain, and gave, information to support the pursuit of class and PAGA claims.⁹² Plaintiff spent numerous hours speaking with Class Counsel about her claims, describing her work experiences with Defendant, and gathering and reviewing documents.⁹³ These services merit the requested Class Representative Service Payment to Plaintiff, who has not received any compensation for her efforts on behalf of the Class Members to date.⁹⁴

The requested Class Representative Service Payment was fully disclosed in the Class Notice that was mailed to the Class Members. No objections were made with regards to the requested Class Representative Service Payment. Accordingly, it is appropriate and just for

⁹¹ Aiwazian Decl., ¶ 21; Declaration of Mayra Cortez (“Cortez Decl.”), ¶¶ 3-5.

⁹² Aiwazian Decl., ¶ 21; Cortez Decl., ¶¶ 3-4.

⁹³ Aiwazian Decl., ¶ 21; Cortez Decl., ¶¶ 2-4.

⁹⁴ Cortez Decl., ¶ 8.

Plaintiff Mayra Cortez to receive \$10,000.00 as a reasonable Class Representative Service Payment, for her services on behalf of the Class, Aggrieved Employees, and the State of California, in addition to her individual settlement payment.

X. CONCLUSION

For the foregoing reasons, Plaintiff respectfully requests that the Court grant final approval of the Settlement, and award the Class Counsel Fees Payment and Class Counsel Litigation Expenses Payment, Class Representative Service Payment, Administration Costs, and allocation for the PAGA Penalties, in their entirety, as sought herein; and permit the filing of a memorandum that exceeds the page limit.

Dated: May 3, 2023

LAWYERS for JUSTICE, PC

By: _____



Yasmin Hosseini
Attorneys for Plaintiff and the Class