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

LES ARRIOLA, ARMANDO ZUNIGA
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,

vs.

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

Defendant.

ARMANDO ZUNIGA, individually, and on
behalf of other aggrieved employees pursuant
to the California Private Attorneys General
Act;

Plaintiff,

vs.

MULTI MECHANICAL, INC., a California
Corporation; and DOES 1 through 100,
inclusive,

Defendant.

Case No.: RIC2003696
(Consolidated with Case No. CVRI2104327)

Honorable Harold Hopp
Department 1

CLASS ACTION

**PLAINTIFFS' NOTICE OF MOTION AND
MOTION FOR FINAL APPROVAL OF
CLASS ACTION SETTLEMENT;
MEMORANDUM OF POINTS AND
AUTHORITIES**

[Declaration of Proposed Class Counsel
(Edwin Aiwazian); Declarations of Class
Representative (Les Arriola); Declaration of
Proposed Settlement Administrator (Jarrod
Salinas); and [Proposed] Order filed
concurrently herewith]

Date: July 24, 2022
Time: 8:30 a.m.
Department: 1

Arriola Action Filed: September 16, 2020
Zuniga Action Filed: September 22, 2021
Arriola FAC Filed: April 5, 2021
Arriola SAC Filed: December 16, 2022
Trial Date: None Set

1 **PLEASE TAKE NOTICE** that on July 24, 2023 at 8:30 a.m., in Department 1 of the
2 above-entitled Court, located at 4050 Main Street, Riverside California 92501, Plaintiffs Les
3 Arriola (“Plaintiff Arriola”) and Armando Zuniga (“Plaintiff Zuniga”) (together, “Plaintiffs”)
4 will and hereby does move for an order granting final approval of:

5 1. The First Amended Class Action and PAGA Settlement And Release of Claims,
6 “Settlement,” “Agreement,” or “Settlement Agreement”) on the grounds that the Settlement is
7 fair, adequate, and reasonable because:

- 8 • A Net Settlement Amount of approximately **\$519,323.94** will be distributed to the
9 Class Members who did not timely opt out of the Settlement (“Participating Class
10 Member”);
- 11 • **No Objections** were submitted to the settlement administrator, Phoenix Class Action
12 Administration Solutions (“Settlement Administrator”);
- 13 • **No Requests for Exclusion** were submitted to the Settlement Administrator;

14 2. Payment in the amount of **\$350,000.00** to Lawyers *for* Justice, PC (“Class
15 Counsel”), representing thirty-five percent (35%) of the Settlement Fund, for attorneys’ fees,
16 which is reasonable and justified on a percentage-basis and also based on a lodestar cross-check
17 with a multiplier of 1.19;

18 3. Payment in the amount of **\$13,176.06** to Class Counsel for reimbursement of
19 litigation costs and expenses;

20 4. Payment in the amount of **\$10,000.00** to the Settlement Administrator, Phoenix
21 Class Action Administration Solutions (“Phoenix”), for Settlement Administration Costs;

22 5. Payment in the amount of **\$7,500.00** to Plaintiff Arriola, as Enhancement Award,
23 for his 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 **\$100,000.00**, of which seventy-
26 five percent (75%), or \$75,000.00, will be paid to the California Labor and Workforce
27 Development Agency and twenty-five percent (25%), or \$25,000.00, will be part of the Net
28 Settlement Amount for distribution to the Participating Class Members.

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

4 This motion is based upon the following Memorandum of Points and Authorities; the
5 Declaration of Class Counsel (Edwin Aiwasian), Class Representative (Les Arriola), and
6 Settlement Administrator (Jarrod Salinas of Phoenix) in support thereof; the pleadings and other
7 records on file with the Court in this matter; and such evidence and oral argument as may be
8 presented at the hearing on this Motion.

9 Dated: June 29, 2023

LAWYERS for JUSTICE, PC

10
11 By:



12 Brian J. St. John
13 Attorneys for Plaintiffs and the Class
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MEMORANDUM OF POINTS AND AUTHORITIES

I. SUMMARY OF MOTION

Plaintiff Les Arriola (“Plaintiff Arriola”) and Plaintiff Armando Zuniga (“Plaintiff Zuniga”) (together, “Plaintiffs”) seek final approval of: (1) the Settlement Fund of \$1,000,000.00; (2) attorneys’ fees in the amount of \$350,000.00, which is thirty-five percent (35%) of the Settlement Fund, and reimbursement of litigation costs and expenses in the amount of \$13,176.06 (together, “Attorneys’ Fees and Costs”) to Lawyers for Justice, PC (“Class Counsel”); (3) Settlement Administration Costs in the amount of \$10,000.00 to Phoenix Class Action Administration Solutions (“Phoenix” or “Settlement Administrator”); (4) Enhancement Award in the amount of \$7,500.00 to Plaintiff Arriola; and (5) allocation of \$100,000.00 for penalties under the Private Attorneys General Act of 2004, California Labor Code § 2698, *et seq.* (“PAGA Amount”).

Plaintiffs seek relief on behalf of the following Class:

All non-exempt employees of Defendant employed in California at any time from September 16, 2016 through May 9, 2022 (“Class” or “Class Members”).¹

This matter involved ongoing investigations, informal discovery, review and analysis of a large volume of documents and data prior to and during mediation conducted by Lynn S. Frank, Esq., and extensive settlement negotiations. This matter has required 443.80 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 Settlement Fund, 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

Plaintiff Arriola moves for final approval of the Enhancement Award in the amount of \$7,500.00, to compensate Plaintiff Arriola for the time and effort that he expended spearheading this lawsuit on behalf of the Class, Aggrieved Employees, and the State of California. Plaintiffs

¹ First Amended Class Action and PAGA Settlement Agreement (“Settlement Agreement”), § 7 & Exh. A. “Class Period” is defined as the period of time from September 16, 2016 through May 9, 2022. See *id.*, § 10.

² Applying a modest multiplier of 1.19, the total enhanced lodestar fees are \$351,201.13, and Class Counsel seeks an attorneys’ fees award of \$350,000.00 (equal to 35% of the Settlement Fund).

1 move for final approval of the payment to the Settlement Administrator in the amount of
2 \$10,000.00 for Settlement Administration Costs. Plaintiffs also move for final approval of the
3 allocation of \$100,000.00 for the PAGA Amount, of which 75% (i.e., \$75,000.00) will be
4 distributed to the Labor and Workforce Development Agency (“LWDA”) and 25% (i.e.,
5 \$25,000.00) will be distributed to all non-exempt employees of Defendant employed in
6 California at any time during the PAGA Period (“Aggrieved Employees”).³

7 The requests for Attorneys’ Fees and Costs, Enhancement Award, Settlement
8 Administration Costs, and allocation for the PAGA Amount were fully disclosed in the Notice
9 of Class Action Settlement (“Class Notice”) that was mailed to the Class Members. Most
10 importantly, as of the date of this Motion, *not a single Class Member has objected to or*
11 *requested exclusion from any aspect of the Settlement, including the requested Attorneys’ Fees*
12 *and Costs, Enhancement Award, Settlement Administration Costs, or allocation for PAGA*
13 *Amount.*

14 The Settlement is fair, adequate, and reasonable, and is the product of arm’s-length,
15 good-faith negotiations by experienced counsel presided over by a highly-regarded mediator
16 who is experienced in mediating wage-and-hour class action lawsuits. Accordingly, the Court
17 should grant final approval of the Settlement, and award Attorneys’ Fees and Costs,
18 Enhancement Award, Settlement Administration Costs, and PAGA Amount in the amounts as
19 fully disclosed to the Class and as requested herein.

20 In order to efficiently present the Court with adequate information to determine whether
21 to grant final approval of the Settlement and award Attorneys’ Fees and Costs, Enhancement
22 Award, Settlement Administration Costs, and PAGA Amount, Plaintiffs also move for an order
23 permitting the filing of this single consolidated memorandum, although it exceeds the page limit
24 established by California Rules of Court, Rule 3.1113(d), instead of filing several separate
25 motions.

26 ///

27
28 ³ Settlement Agreement, § 3. “PAGA Period” is defined as the period of time from October 28, 2019 through May 9, 2022. See *id.*, § 30.

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

2 Defendant Multi Mechanical, Inc., (“Defendant”) is a Heating, Ventilation and Air-
3 Conditioning (HVAC) installation business mainly serving its clients in Southern California.
4 Plaintiffs Les Arriola and Armando Zuniga are former employees of Defendant.

5 On September 16, 2020, Plaintiff Arriola filed a Class Action Complaint for Damages
6 (“*Arriola* Complaint”) against Defendant in the Riverside County Superior Court (“Court”),
7 thereby commencing the action entitled *Les Arriola v. Multi Mechanical Inc.*, Case No.
8 RIC2003696 (“*Arriola* Action”).

9 On January 8, 2021, Plaintiff Arriola provided written notice by certified mail to
10 Defendant and by online submission to the LWDA of the specific provisions of the California
11 Labor Code that were violated.

12 On December 2, 2020, Defendant filed an Answer to the *Arriola* Complaint.

13 On April 5, 2021, Plaintiff Arriola filed a First Amended Class Action Complaint for
14 Damages & Enforcement Under the Private Attorneys General Act, California Labor Code §
15 2698, Et Seq., adding a cause of action for civil penalties under PAGA (“*Arriola* First Amended
16 Complaint”).

17 On May 26, 2021, Defendant filed an Answer to the *Arriola* First Amended Complaint.

18 On July 16, 2021, Plaintiff Zuniga provided written notice by certified mail to Defendant
19 and by online submission to the LWDA of the specific provisions of the California Labor Code
20 that were violated (“*Zuniga* LWDA Letter”) (the *Arriola* LWDA Letter and *Zuniga* LWDA
21 Letter are collectively referred to as the “LWDA Letters”).

22 On September 22, 2021, Plaintiff Zuniga filed a Complaint for Enforcement Under the
23 Private Attorneys General Act, California Labor Code § 2698, Et Seq. (“*Zuniga* PAGA
24 Complaint”), asserting a single cause of action for PAGA civil penalties against Defendant in
25 the case entitled *Armando Zuniga v. Multi Mechanical, Inc.*, Case No. CVRI2104327 (“*Zuniga*
26 Action”).

27 On December 1, 2021, Defendant filed an Answer to the *Zuniga* PAGA Complaint.
28

1 On December 30, 2021, the Court ordered the *Arriola* Action and *Zuniga* Action
2 (together, the “Actions”) to be consolidated, with the *Arriola* Action designated as the lead case.

3 On December 16, 2022, Plaintiffs filed a First Amended Class Action Complaint for
4 Damages & Enforcement Under the Private Attorneys General Act, California Labor Code §
5 2698, Et Seq., consolidating the claims and parties from the *Arriola* First Amended Complaint
6 and *Zuniga* PAGA Complaint.

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

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

21 The Parties have actively litigated the Action since the *Arriola* Action was commenced
22 on September 16, 2020. On March 10, 2022, the Parties participated in a formal, full-day
23 mediation conducted by Lynn S. Frank, Esq., a well-regarded mediator experienced in mediating
24 complex labor and employment matters. With the aid of the mediator’s evaluation, the Parties
25 ultimately reached the Settlement described herein to resolve the Actions in their entirety.

26 On September 20, 2022, Plaintiffs filed a Motion for Preliminary Approval of Class
27 Action Settlement and supporting documents. On November 29, 2022, the Court issued an
28 Order in which the Court raised certain points of inquiry. On January 19, 2023, Plaintiffs filed

supplemental papers in support of the Motion for Preliminary Approval. On November 29, 2022, the Court issued an Order in which the Court raised additional points of inquiry. On March 15, 2023, Plaintiffs filed supplemental papers in support of the Motion for Preliminary Approval. On March 22, 2023, the Court entered an Order Granting Plaintiffs' Motion for Preliminary Approval of Class Action Settlement ("Preliminary Approval Order"), thereby preliminarily approving the terms of the Settlement, the Class Notice, and the proposed administration procedures and associated deadlines.

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

III. SUMMARY OF THE SETTLEMENT TERMS AND PLAN OF DISTRIBUTION

Under the terms of the Settlement Agreement, Defendant has agreed to pay a Settlement Fund of \$1,000,000.00.⁴ Subject to approval by the Court, the Net Settlement Amount will be calculated by deducting the following amounts from the Settlement Fund: (1) Attorneys' Fees and Costs, consisting of attorneys' fees in the amount of \$350,000.00 and reimbursement of litigation costs and expenses in the amount of \$13,176.06, to Class Counsel; (2) Enhancement Award in the amount of \$7,500.00 to Plaintiff Arriola; (3) Settlement Administration Costs in the amount of \$10,000.00 to Phoenix; and (4) PAGA Amount in the amount of \$100,000.00.⁵ The Net Settlement Amount, which is estimated to be \$519,323.94, will be distributed in accordance with the Settlement Agreement, and there is no reversion to Defendant.⁶

The Settlement Administrator will calculate each Participating Class Member's share of the Net Settlement Amount ("Individual Settlement Payment"), by dividing the number of weeks he or she worked for Defendant during the Class Period ("Workweeks") by the total

⁴ Settlement Agreement, § 40.

⁵ *Id.*, §§ 4, 23, 38, 56, 58.a-d.

⁶ This amount is higher than the amount stated in Paragraph 12 of the accompanying Declaration of Jarrod Salinas Regarding Notice and Settlement Administration ("Phoenix Declaration" or "Phoenix Decl.") because the Settlement Administrator's calculation assumes that Class Counsel will obtain litigation costs and expenses in the maximum amount of \$15,000.00, which is allocated under the Settlement. However, Class Counsel seeks the amount of only \$13,176.06 for reimbursement of litigation costs and expenses, and the difference of \$1,823.94 will remain part of the Net Settlement Amount.

number of Workweeks all Participating Class Members worked during the Class Period, and multiply the resulting figure by the Net Settlement Amount.⁷

The Settlement Administrator will calculate each Aggrieved Employee's share of the 25% portion of the PAGA Amount ("Individual PAGA Payment"), by dividing the number of Workweeks he or she worked for Defendant during the PAGA Period by the total number of Workweeks all Aggrieved Employees worked during the PAGA Period, and multiply the resulting figure by the 25% portion of the PAGA Amount.⁸

Class Members had sixty (60) calendar days after the initial mailing of the Class Notice to Class Members to dispute the number of Workweeks credited to each of them, opt out of the Settlement, and/or object to the Settlement ("Response Deadline").⁹ The Response Deadline was June 19, 2023.¹⁰ The Settlement Administrator has received zero (0) written requests for exclusion from the Settlement and/or Exclusion Form ("Requests for Exclusion") and has received zero (0) Objection Forms or written objections to the Settlement ("Objections") from Class Members.¹¹

Individual Settlement Payments will be allocated as twenty percent (20%) wages, to be reported on IRS Form W-2; and eighty percent (80%) interest, penalties, and non-wage damages to be reported on IRS Form 1099 (if applicable).¹² Individual Settlement Payments will be paid out to Participating Class Members subject to reduction for the employee's and employer's share of taxes, withholdings, and contribution with respect to the wages portion of the Individual Settlement Payments.¹³ Individual PAGA Payments will be allocated as one hundred percent (100%) penalties to be reported on IRS Form 1099.¹⁴

Any and all Individual Settlement Payment checks issued to Participating Class Members and Individual PAGA Payments issued to Aggrieved Employees will remain valid for

⁷ Settlement Agreement, § 55.e.i.

⁸ *Id.*, § 55.e.ii.

⁹ *Id.*, §§ 37, 62, 63, & 64.

¹⁰ Phoenix Decl., ¶¶ 8-10, Exh. A.

¹¹ *Id.*, ¶¶ 8 & 9.

¹² Settlement Agreement, § 60.a.

¹³ *Ibid.*

¹⁴ *Ibid.*

180 calendar days from the date of mailing.¹⁵ Thereafter, Individual Settlement Payment and Individual PAGA Payment checks that are not negotiated within the 180-day period will be void, and the funds associated with such voided checks will be transmitted to California Rural Legal Assistance, Inc., a non-profit organization providing civil legal services to California's rural indigent population including projects and work on behalf of workers who suffer wage and hour violations.¹⁶

IV. THE SETTLEMENT ADMINISTRATION PROCESS

The Court-appointed Settlement Administrator, Phoenix, has taken all necessary steps to effectuate the notice and settlement administration process, as set forth in the Court's March 22, 2023 Preliminary Approval Order.

On April 8, 2023, Phoenix received a mailing list from Defendant's counsel that contained the names, last known addresses, Social Security numbers, and number of Workweeks or dates of employment as non-exempt employees in California from September 16, 2016 through May 9, 2022 for individuals identified as Class Members ("Class List").¹⁷ The Class List contained information for 499 individuals identified as Class Members.¹⁸ Phoenix processed the names and addresses through the National Change of Address Database ("NCOA") and updated the Class List with any updated addresses located.¹⁹

On April 19, 2023, Phoenix mailed the Class Notice via first class mail to 499 individuals identified as Class Members in the Class List.²⁰

As of the date of this Motion, seventy-five (75) Class Notices were returned as undeliverable without forwarding addresses and zero (0) Class Notices were returned as undeliverable with forwarding addresses.²¹ Phoenix performed a skip-trace search on the seventy-five (75) Class Notices that were returned to Phoenix without forwarding addresses, located an updated address for sixty (60) Class Members, and promptly re-mailed the Class

¹⁵ Settlement Agreement, § 65.f.

¹⁶ Ibid.

¹⁷ Phoenix Decl., ¶ 3.

¹⁸ Ibid.

¹⁹ *Id.*, ¶ 4.

²⁰ *Id.*, ¶ 5.

²¹ *Id.*, ¶ 6.

1 Notice to the updated addresses.²² Ultimately, fifteen (15) Class Notices remain undeliverable
2 because an updated address was not located through skip-tracing.²³

3 As of the date of this Motion, the Settlement Administrator has not received any
4 Objections and zero (0) Requests for Exclusion from Class Members.²⁴

5 To date, there are 499 Class Members who did not submit a timely and valid Request for
6 Exclusion, and are therefore, deemed to be Participating Class Members.²⁵ Pursuant to the terms
7 of the Settlement, the Net Settlement Amount of approximately \$519,323.94 will be distributed
8 to Participating Class Members and the 25% share of the PAGA Amount of \$25,000.00 will be
9 distributed to Aggrieved Employees in accordance with the terms of the Settlement.²⁶ The
10 highest Individual Settlement Payment is currently estimated to be at least \$5,309.63 and the
11 average Individual Settlement Payment is currently estimated to be at least \$1,037.07.²⁷ The
12 highest Individual PAGA Payment is currently estimated to be at least \$318.01 and the average
13 Individual PAGA Payment is currently estimated to be at least \$119.62.²⁸

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

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

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

24 ²² Phoenix Decl., ¶ 6.

25 ²³ *Id.*, ¶ 7.

26 ²⁴ *Id.*, ¶¶ 8 & 9.

27 ²⁵ *Id.*, ¶¶ 11 & 14.

28 ²⁶ *Id.*, ¶ 12; see also, n.6, *supra*.

²⁷ *Id.*, ¶ 13. The actual average and highest Individual Settlement Payments 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 \$15,000.00 (the difference between the amount sought and the amount authorized under the Settlement, i.e., \$1,823.94, will be part of the Net Settlement Amount). See n.6, *supra*.

²⁸ *Id.*, ¶ 14.

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 matter since the *Arriola* Action was commenced on
26 September 16, 2020. Counsel for the parties used the pre-mediation time period to investigate
27 the veracity, strength, and scope of the claims, and also to prepare the matter for class
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certification, representative adjudication, and trial.²⁹ The parties conducted extensive informal discovery and investigation into the facts of the case, and also informally exchanged information and data in preparation for mediation.³⁰ 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 documents and data produced by Defendant and obtained through other sources.³¹ The information, documents, and data reviewed and analyzed by Class Counsel included, and were not limited to, Plaintiffs' employment records, a detailed sampling of Class Members' time and pay data, Defendant's Employee Handbook, acknowledgements (including, but not limited to, Employee Handbook Acknowledgement, Receipt and Consent Form, Employee Safety Compliance), and employment practices, procedures, and policies (including, but not limited to, Timekeeping Requirements, Reporting Time Pay, Meal Periods and Rest Breaks, and Expense Reimbursement policies), among other documents and data.³² Class Counsel researched applicable law, developed damages, violation, and penalties valuation models in preparation for the mediation session, 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 documents and data prior to the mediations.³³

After conducting significant informal discovery and investigation into the facts of the case, the parties participated in a formal, full-day mediation conducted by Lynn s. Frank, Esq., a well-regarded mediator experienced in mediating complex labor and employment matters.³⁴ Prior to and during mediation and settlement discussions, the parties exchanged information and data, and discussed various aspects of the case, including and not limited to, the risks and delays of further litigation, the risks and expenses to the parties of proceeding with class certification, representative adjudication, and trial, the law relating to off-the-clock theory, meal and rest periods, representative PAGA claims, on-premises rest breaks, regular rate of pay, business

²⁹ Declaration of Edwin Aiwazian ("Aiwazian Decl."), ¶ 7.

³⁰ Ibid.

³¹ Ibid.

³² Ibid.

³³ Ibid.

³⁴ *Id.*, ¶ 9.

1 expense reimbursement, mileage expenses and wage-and-hour enforcement, the evidence
2 produced and analyzed, and the possibility of appeals, among other things.³⁵ During all
3 settlement discussions, the parties conducted their negotiations at arm's length in an adversarial
4 position.³⁶ Arriving at a settlement that was acceptable to the parties was not easy.³⁷ Defendant
5 and its counsel felt very strongly about Defendant's ability to prevail on the merits and to obtain
6 a denial of class certification, while Plaintiffs and Class Counsel believed that class certification
7 would be obtained and Plaintiffs would prevail at trial.³⁸ After conducting significant informal
8 discovery and investigations, extensive settlement negotiations, and with the aid of the
9 mediator's evaluation, the parties agreed that the matter was well-suited for settlement given the
10 legal issues relating to Plaintiffs' principal claims, as well as the costs and risks to the parties
11 that would attend further litigation.³⁹

12 The Settlement takes into account the strengths and weaknesses of each side's position
13 and the uncertainty of how the case might have concluded at certification, trial, and/or appeals.
14 Class Counsel interviewed, and obtained information from Plaintiffs and other Class Members.⁴⁰
15 Class Counsel also reviewed and analyzed a large volume of documents produced by Defendant
16 and obtained through other sources, and performed significant research into the law concerning
17 certification, off-the-clock theory, meal and rest periods, representative PAGA claims, on-
18 premises rest breaks, regular rate of pay, business expense reimbursement, mileage expenses
19 wage-and-hour enforcement, Plaintiff's claims, and Defendant's defenses, as well as facts
20 discovered.⁴¹ The Settlement was based on this large volume of facts, evidence, and
21 investigation.⁴² Additionally, Class Counsel has extensive experience in handling complex
22 wage-and-hour matters, including significant experience in employment class action litigation.⁴³

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24 _____
25 ³⁵ Aiwazian Decl., ¶ 7.

26 ³⁶ Ibid.

27 ³⁷ Ibid.

28 ³⁸ Ibid.

³⁹ Ibid.

⁴⁰ Ibid.

⁴¹ Ibid.

⁴² *Id.*, ¶¶ 7 & 9.

⁴³ *Id.*, ¶¶ 16-22.

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

3 The Settlement, which provides for a Settlement Fund of \$1,000,000.00, represents a fair,
4 adequate, and reasonable resolution of the case, given the risks inherent in litigating class and
5 representative claims through certification proceedings, trial, and/or appeals.⁴⁴ The Settlement
6 was calculated using information and data uncovered through extensive case investigation,
7 informal discovery, and the exchange of information in the context of mediation.⁴⁵ Had the
8 action not settled, Defendant would have vigorously challenged class certification,
9 manageability of representative adjudication, and liability. Defendant contended that
10 individualized questions of fact predominate over any common issues, and these issues would
11 pose challenges to certification and representative adjudication. Defendant would have likely
12 argued again at trial, if any, that Plaintiffs' claims were not appropriate for class-wide and/or
13 representative adjudication. On the other hand, Defendant also faced the risk of the Court
14 certifying a class and allowing a jury to decide Plaintiff's claims on a class-wide or
15 representative basis. Additionally, preparation for trial would have been expensive for all
16 parties.

17 It is preferable to reach an early resolution of a dispute because such resolutions save
18 time and money that would otherwise go to litigation. If this matter had settled after further
19 litigation, the settlement amount would have taken into account the additional costs incurred,
20 and there might have been less money available for Class Members after all was said and done.
21 This is not just an abstract contention. The risks and expenses of further litigation outweighed
22 any benefit that might have been gained otherwise. These risks of further litigation include a
23 determination that the claims were unsuitable for class treatment and/or representative
24 adjudication, failure to obtain certification, class de-certification after certification of a class,
25 allowing a jury to decide the claims asserted in the case, and the real possibility of no recovery
26 after years of litigation. Additionally, the parties were moving into the phase of the litigation
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28 ⁴⁴ Aiwazian Decl., ¶¶ 9 & 25.

⁴⁵ *Id.*, ¶¶ 7-9.

1 where they would have to conduct a significant amount of formal discovery, including and not
2 limited to, depositions of Defendant's Person Most Knowledgeable designees, expert witnesses,
3 and percipient witnesses, such as managers, supervisors, and other current and former
4 employees throughout the State of California. Discovery disputes would have certainly arisen,
5 which would have cost the parties additional time and money. In contrast, the Settlement
6 provides real and significant benefits for the Class Members here and now, while avoiding the
7 further expenses, risks, and delay of prolonged litigation with only the possibility of recovery.

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

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

15 The Settlement, which provides for a Settlement Fund of \$1,000,000.00, represents a
16 fair, reasonable, and adequate resolution of the case. The Settlement was calculated using
17 information and data uncovered through extensive case investigation, informal discovery, and
18 the exchange of information in the context of mediation. The Settlement takes into account the
19 potential risks and rewards inherent in any case and, in particular, in this matter. Moreover,
20 considering all of the facts in the case, the Settlement Fund represents a considerable recovery.

21 Even after deducting attorneys' fees in the amount of \$350,000.00, litigation costs and
22 expenses in the amount of \$13,176.06, Enhancement Award in the amount of \$7,500.00,
23 Settlement Administration Costs in the amount of \$13,000.00, and PAGA Amount in the amount
24 of \$100,000.00 from the Settlement Fund of \$1,000,000.00, the Net Settlement Amount is
25 currently estimated to be \$519,323.94.⁴⁶ Under the Settlement Agreement, the Settlement Fund
26 will be paid out without any reversion to Defendant, in accordance with the terms of the
27 Settlement. As discussed in Section III, *supra*, each Participating Class Member will be paid a

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⁴⁶ Phoenix Decl., ¶ 12; see n.6, *supra*.

1 *pro rata* share of the Net Settlement Amount, based on the number of Workweeks during the
2 Class Period credited to him or her and each Aggrieved Employee will be paid a *pro rata* share
3 of the 25% share of the PAGA Amount, based on the number of Workweeks during the PAGA
4 Period credited to him or her. To date, there are 499 Participating Class Members, representing
5 100% of the Class Members, and 209 Aggrieved Employees.⁴⁷ The highest Individual
6 Settlement Payment to a Participating Class Member is currently estimated to be at least
7 \$5,309.63 and the average Individual Settlement Payment is currently estimated to be at least
8 \$1,037.07.⁴⁸ The highest Individual PAGA Payment to an Aggrieved Employee is currently
9 estimated to be at least \$318.01 and the average Individual PAGA Payment is currently
10 estimated to be at least \$119.62.⁴⁹ These are significant individual recoveries, particularly in
11 light of the risks of litigation.

12 At the final approval stage, “[a]n allocation formula need only have a reasonable, rational
13 basis [to warrant approval], particularly if recommended by experienced and competent class
14 counsel.” *In re American Bank Note Holographics, Inc., Securities Litigation* (S.D.N.Y. 2001)
15 127 F.Supp.2d 418, 429-30. The *pro rata* allocation here is a fair and reasonable way to
16 distribute the Net Settlement Amount. In light of the above considerations, Class Counsel
17 believes that the Settlement as a whole is fair, reasonable, and adequate, and in the best interest
18 of the Class Members.⁵⁰ Although the recommendations of Class Counsel are not conclusive,
19 the Court can properly take the recommendations into account, particularly if Class Counsel
20 appears to be competent, has experience with this type of litigation, and significant discovery
21 and investigation have been completed, as is the case here. Conte & Newberg, *Newberg on*
22 *Class Actions* (4th Ed., 2002) § 11.47. Accordingly, the Court should grant final approval of
23 the Settlement.

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27 ⁴⁷ Phoenix Decl., ¶¶ 11 & 14.

28 ⁴⁸ *Id.*, ¶ 13; see n.27, *supra*.

⁴⁹ *Id.*, ¶ 14.

⁵⁰ Aiwazian Decl., ¶ 25.

1 **D. The Class Was Represented by Competent Counsel.**

2 Class Counsel has extensive experience in employment class action law and complex
3 wage-and-hour litigation.⁵¹ Lawyers for Justice, PC has been appointed class counsel in
4 numerous complex wage-and-hour cases, and has recovered millions of dollars for individuals
5 in California.⁵² Both parties' counsel were capable of assessing the strengths and weaknesses
6 of the Class Members' claims against Defendant and the benefits of the Settlement under the
7 circumstances of the case and in the context of a private, consensual settlement agreement.

8 **E. There Are No Objections to the Settlement.**

9 The Settlement has been well received by the Class – *not a single Class Member*
10 *objected to or requested exclusion from the Settlement.*⁵³ Specifically, no objections have been
11 made as to the Settlement Fund or requested Attorneys' Fees and Costs, Enhancement Award,
12 Settlement Administration Costs, or the allocation for PAGA Amount. California courts have
13 consistently found that a small number of objectors indicates the class' support for a settlement
14 and strongly favors final approval. *Wershba, supra*, 91 Cal.App.4th at 250-51 (final approval
15 granted despite 20 objectors); *7-Eleven Owners, supra*, 85 Cal.App.4th at 1152-53 (final
16 approval granted despite 9 objectors).

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

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

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

24 Trial courts have "wide latitude" in assessing the value of attorneys' fees and their
25 decisions will "not be disturbed on appeal absent a manifest abuse of discretion." *Lealao v.*
26 *Beneficial Cal., Inc.* (2000) 82 Cal.App.4th 19, 41; *Ketchum v. Moses* (2001) 24 Cal.4th 1122,

27 _____
28 ⁵¹ Aiwazian Decl., ¶¶ 19-22.

⁵² Ibid.

⁵³ Phoenix Decl., ¶ 11.

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.

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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. Graulity* (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, 34.⁵⁴ 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 the settlement. *See*, R. Pearle, *California Attorney Fee Awards* (CEB, 1993) § 7A, p. 5-7 (permitting attorneys' fees and costs to be paid out of the settlement or directly on behalf of the other parties enjoying the benefit of the settlement). Both state and federal courts have embraced this doctrine. *See Serrano, supra*, 20 Cal.3d at 35; *Crampton v. Takegoshi* (1993) 17 Cal.App.4th 308, 317; *Vincent, supra*, 557 F.2d at 769.

⁵⁴ 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 propriety of calculating and awarding attorneys' fees as a percentage of a monetary
2 settlement that has, by litigation, been preserved or recovered for the benefit of others, has been
3 confirmed by the California Supreme Court. *Laffitte, supra*, 1 Cal.5th 480 at 486 & 506. The
4 California Supreme Court has taken the position that "[t]rial courts have discretion to conduct a
5 lodestar cross-check on a percentage fee," "they also retain the discretion to forgo a lodestar
6 cross-check and use other means to evaluate the reasonableness of a requested percentage fee[.]"
7 and "[t]he percentage [...] method survives in California." *Id.* (internal quotes omitted).

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

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

23 Under the terms of the Settlement Agreement, Defendant will pay a Settlement Fund of
24 \$1,000,000.00 on a non-reversionary basis. The requested attorneys' fees are thirty-five percent
25 (35%) of the total value of the monetary settlement. In light of Class Counsel's successful
26 prosecution and resolution of the case, the requested attorneys' fees are appropriate and
27 reasonable.

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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 case; 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 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, Plaintiffs has agreed to a contingency fee of at least thirty-five percent (35%) of the recovery.⁵⁵

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

⁵⁵ Aiwazian Decl., ¶ 10.

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

6 Class Counsel has obtained a substantial recovery on behalf of Plaintiffs, the Class,
7 Aggrieved Employees, and the State of California and the results achieved justify an attorneys'
8 fees award that is the equivalent of the standard market fee and that is consistent with the
9 contingency-fee agreement entered into by and between Plaintiffs and Class Counsel. Thus, the
10 requested attorneys' fees are appropriate.

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

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

23 Each and every one of these factors favors the attorneys' fees sought here; however,
24 some of the most relevant factors to this Court's fee determination will be addressed herein.
25 The award of attorneys' fees in the amount of \$350,000.00 (which is 35% of the Settlement
26 Fund) is commensurate with the time, effort, and expense dedicated to the case, the contingent
27 nature of Class Counsel's fee and the risks taken in commencing the case, the skill and
28

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, Aggrieved Employees, and the State of California. Moreover, as demonstrated in the supporting declaration, Class Counsel has extensive experience in the handling of class actions and complex litigation matters.⁵⁶

As outlined in the Declaration of Edwin Aiwasian, Class Counsel has fully and actively participated in litigation of this case.⁵⁷ Prior to commencing the lawsuit, Class Counsel had conducted a significant amount of investigation into the factual and legal issues, Defendant's business, and its operations and employment policies, practices, and procedures.⁵⁸ During the litigation of the action, Class Counsel interviewed Plaintiffs and other Class Members; reviewed and analyzed a large volume of documents and data produced by Defendant and obtained through other sources; and prepared damages, violations, and penalties valuation calculations.⁵⁹ Class Counsel also met and conferred with Defendant's counsel over the issues relating to pleadings, case management, discovery, and production of 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.⁶⁰

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 Class Counsel has spent performing tasks on behalf of Plaintiffs, the Class, Aggrieved Employees, and the State of California.⁶¹ The Task and Time Chart is thorough and comprehensive, and was

⁵⁶ Aiwasian Decl., ¶¶ 19-22.

⁵⁷ *Id.*, Exh. A.

⁵⁸ *Id.*, ¶ 7 & Exh. A.

⁵⁹ *Id.*, ¶ 7.

⁶⁰ *Ibid.*

⁶¹ *Id.*, Exh. A.

prepared so that the Court can peruse it without having to set forth each and every task in the body of this Motion. The Court is respectfully referred to the chart, which sets forth the history of the work performed by Class Counsel, commencing with the pre-filing analysis and research, and continuing up to settlement and final approval. Class Counsel has spent **443.80** hours performing tasks and to obtain a significant recovery on behalf of Plaintiffs, the Class, Aggrieved Employees, and the State of California.⁶² These hours were required to bring this matter to its successful conclusion. In light of the value of time expended and the carrying of costs involved in litigating this case, the requested attorneys' fees are fair, adequate, and reasonable.

2. The Skill Required to Perform Legal Services Properly.

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

Class Counsel undertook significant investigation, analysis, and research prior to filing this case, during the litigation, and prior to mediation. Class Counsel took steps to prepare the matter for class certification and representative adjudication and had every intention of taking the case to trial on a class-wide basis if Defendant did not offer an appropriate class-wide settlement. Despite all of the obstacles that had to be overcome, as demonstrated in the Declaration of Edwin Aiwazian, 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.⁶³

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

The Settlement represents an excellent resolution of the action, given the risks inherent in litigating the case through certification proceedings, trial, and/or appeals. Had the case not

⁶² Aiwazian Decl., ¶¶ 13-14.

⁶³ *Id.*, ¶¶ 19-22.

settled, Defendant would have vigorously challenged certifiability, manageability of representative adjudication, and liability. Defendant, however, faced risks if the Court certified a class and allowed a jury to decide the claims. Additionally, preparing the case for trial would have been expensive for the parties.

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

As a result of this litigation and extensive settlement negotiations, Defendant agreed to pay a Settlement Fund of \$1,000,000.00 to settle the matter. After deducting the attorneys' fees (\$350,000.00), litigation costs and expenses (\$13,176.06), Enhancement Award (\$7,500.00), Settlement Administration Costs (\$13,000.00), and PAGA Amount (\$100,000.00) from the Settlement Fund, it is currently estimated that the Net Settlement Amount is approximately \$519,323.94.⁶⁴ The Net Settlement Amount will be fully distributed in accordance with the terms of the Settlement. The highest Individual Settlement Payment to a Participating Class Member is currently estimated to be at least \$5,309.63 and the average Individual Settlement Payment is currently estimated to be at least \$1,037.07.⁶⁵ The highest Individual PAGA Payment to an Aggrieved Employee is currently estimated to be at least \$318.01 and the average Individual PAGA Payment is currently estimated to be at least \$119.62.⁶⁶ The Settlement offers significant monetary relief to the Participating Class Members and Aggrieved Employees.

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⁶⁴ Phoenix Decl., ¶ 12; see n.6, *supra*.

⁶⁵ *Id.*, ¶ 13; see n.27, *supra*.

⁶⁶ *Id.*, ¶ 14.

1 **4. Whether the Fee Is Fixed or Contingent.**

2 Plaintiffs entered into a contingency fee agreement with Class Counsel, and the
3 representation of the Class provided by Class Counsel has been wholly contingent. Class
4 Counsel took on the case without knowing whether any recovery would be obtained. Class
5 Counsel has invested 443.80 hours of time to obtain relief on behalf of Plaintiffs, the Class,
6 Aggrieved Employees, and the State of California.⁶⁷ Class Counsel has also incurred litigation
7 costs and expenses in the amount of \$13,176.06.⁶⁸

8 Class Counsel has borne all of the risks and costs of litigation and will not receive any
9 compensation until recovery is obtained.⁶⁹ Class Counsel is well-experienced in wage-and-hour
10 class action and complex litigation and used that experience to obtain a great result.⁷⁰ The skill
11 and determination that Class Counsel has shown, along with the results obtained, justify the
12 requested Attorneys' Fees and Costs. Considering the amounts requested, the work performed,
13 and the risks incurred, the requested fees and costs are reasonable and should be awarded.

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

16 A contingent fee must be higher than a fee for the same legal services paid as they
17 are performed. The contingent fee compensates the lawyer not only for the legal
18 services he renders but for the loan of those services. A lawyer who both bears the
19 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.

20 *Cates v. Chiang* (2013) 213 Cal.App.4th 791, 823 (internal quotes and citations omitted). Class
21 Counsel litigated the case on a contingent basis with all of the concomitant risk factors inherent
22 in such an uncertain undertaking. Had Class Counsel not been successful, the time that Class
23 Counsel has devoted to litigating the case would have been for naught, and would not have
24 produced any fee or any reimbursement of costs or expenses.

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27 ⁶⁷ Aiwazian Decl., ¶¶ 13-14, Exh. A.

28 ⁶⁸ See Part VII, *infra*.

⁶⁹ Aiwazian Decl., ¶ 23.

⁷⁰ See *id.*, ¶¶ 19-22.

1 **5. *The Amount Involved and the Results Achieved.***

2 The results achieved, in light of the difficulties inherent in similar cases and the specific
3 difficulties faced in this matter, are considerable. The Settlement has yielded a positive response
4 from the Class Members—no Class Members objected to or requested exclusion from the
5 Settlement.⁷¹

6 The court in *Camden* noted that, “a key element of the common fund case is that fees are
7 [...] taken from the fund [...] and a common fund is itself the measure of success ... [and]
8 represents the benchmark on which a reasonable fee will be awarded.” *Camden*, 946 F. 2d 768,
9 fn. 28 (citing *Court Awarded Attorney Fees, Report of the Third Circuit Task Force* (October 8,
10 1985) 108 F.R.D. 237 and Newberg, *Attorney Fee Awards* § 2.07 (1986)).

11 Here, the results achieved and obtained on behalf of Plaintiffs, the Class, Aggrieved
12 Employees, and the State of California are reasonable in light of the risks inherent in further
13 litigating this matter. Class Counsel’s efforts have resulted in a settlement that provides for a
14 Settlement Fund of \$1,000,000.00.⁷² The Settlement Fund will be paid out, in accordance with
15 the terms of the Settlement Agreement. The highest Individual Settlement Payment to a
16 Participating Class Member is currently estimated to be at least \$5,309.63 and the average
17 Individual Settlement Payment is currently estimated to be at least \$1,037.07.⁷³ The highest
18 Individual PAGA Payment to an Aggrieved Employee is currently estimated to be at least
19 \$318.01 and the average Individual PAGA Payment is currently estimated to be at least
20 \$119.62.⁷⁴

21 **6. *The Reputation and Ability of the Attorneys.***

22 Lawyers for Justice, PC is a recognized class action law firm that employed its attorneys’
23 knowledge, skills, and experience in bringing this case to a successful conclusion. Class
24 Counsel has years of complex and class action litigation experience, has recovered millions of
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⁷¹ Phoenix Decl., ¶¶ 8 & 9.

28 ⁷² Aiwasian Decl., ¶¶ 6-9.

⁷³ Phoenix Decl., ¶ 13; see n.27, *supra*.

⁷⁴ *Id.*, ¶ 14.

dollars on behalf of thousands of individuals in California, and has successfully handled numerous significant wage-and-hour class action and complex cases.⁷⁵

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 case was highly contested and required a significant amount of time and labor. Defendant made it clear very early on that it disputed all of the allegations of the case 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 Defendant but also from the Class

⁷⁵ Aiwazian Decl., ¶¶ 19-22.

Members. The handling of the case 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 case moved toward certification and trial, including taking and defending depositions of Defendant's Person Most Knowledgeable designees, percipient witnesses, and experts, propounding discovery requests and conducting additional document production, and engaging in extensive motion practice. As Class Counsel geared up for these battles, Class Counsel undertook intense preparation in an attempt to resolve the entire matter through mediation.

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

As discussed above in Part VI.C.1, *infra*, attached to the Declaration of Edwin Aiwasian is a task and time chart that sets forth in detail the numerous tasks that Class Counsel performed on behalf of Plaintiffs, the Class, Aggrieved Employees, and the State of California, and the time required for completing those tasks.⁷⁶ The chart demonstrates that Class Counsel has spent a total of 443.80 hours litigating the case and finalizing the Settlement.⁷⁷ In light of the facts and circumstances of the case, as well as the results that Class Counsel has achieved on behalf of Plaintiffs, the Class Members, Aggrieved Employees, and the State of California, 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.

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⁷⁶ See Aiwasian Decl., Exh. A.

⁷⁷ Aiwasian Decl., ¶¶ 13-14, Exh. A.

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 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 this case, prior to its 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 \$1,000,000.00.

As set forth in the Declaration of Edwin Aiwazian, the professional backgrounds and experience of Class Counsel support reasonable hourly rates of compensation between \$425 and \$850 per hour for services provided by Class Counsel.⁷⁸ Lawyers for Justice, PC has been awarded attorneys' fees, compensating the firm at the blended rate of at least \$665 for legal service performed, by courts of this state.⁷⁹ While the circumstances of every case is unique, the

⁷⁸ Aiwazian Decl., ¶¶ 14-15.

⁷⁹ 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 Corp.* (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.

fact remains that the work performed and efforts undertaken by Class Counsel on behalf of the Class Members, Aggrieved Employees, and the State of California justify the requested attorneys' fees.

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

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

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

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

- The time and labor required
- The skill requisite to perform the legal services properly
- The preclusion of other employment by the attorney due to the acceptance of the case

2020582) was granted on May 15, 2018, and the award of attorney's fees involved an hourly rate of \$780.77; 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. *Aiwazian Decl.*, ¶ 16.

- The contingent nature of the fee
- The amount involved and results obtained
- The experience, reputation, and ability of the attorney
- Awards in similar cases

Ketchum at 1134.

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

As discussed above, this was a highly-contested matter which required an extensive amount of time and labor. Defendant raised defenses and denied liability, and the case involved gathering 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 this matter, prior to its 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 settlement of \$1,000,000.00. Also, Class Counsel's efforts throughout the case demonstrate dedication to the interests of the Class Members.

Class Counsel's application for attorneys' fees in light of the facts and circumstances surrounding the matter is well within the range of reasonableness. While handling this matter, Class Counsel devoted the hours in legal time summarized above and detailed in the Task and Time Chart, which is attached as EXHIBIT A to the Declaration of Edwin Aiwazian.⁸⁰ As indicated in the chart and Declaration of Edwin Aiwazian, Class Counsel has worked 443.80 hours in the pursuit of this matter, and the base lodestar value for the services performed by Class Counsel is \$289,170.00. Applying a modest multiplier of 1.19, the total enhanced lodestar fees are \$351,201.13.⁸¹ Class Counsel seeks an attorneys' fee award of \$350,000.00 (equal to 35% of the Settlement Fund based on the Settlement Agreement). Far greater multipliers have been awarded in similar cases, and the total amount of fees sought by Class Counsel is also reasonable compared to fees awarded in similar cases. Courts routinely enhance lodestar amounts based on multipliers that "range from **2 to 4 or even higher.**" *Wershba, supra*, 91 Cal.App.4th at 255 (emphasis added); see also, e.g., *Chavez v. Netflix, Inc.* (2008) 162 Cal.App.4th 43, 66 (approving **multiplier of 2.5**); *Vizcaino*, 290 F.3d at 1051 (approving **multiplier of 3.65**); *Wal-Mart Stores, Inc. v. Visa U.S.A., Inc.* (2d Cir. 2005) 396 F.3d 96, 123 (approving **multiplier of 3.5**); *Craft v. County of San Bernardino* (C.D. Cal. 2006) 624 F.Supp.2d 1113, 1125 (awarding **multiplier of 5.2** and referring to other cases with cross-check **multipliers ranging from 4.5 to 19.6**).

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⁸⁰ Aiwazian Decl., Exh. B.

⁸¹ Aiwazian Decl., ¶¶ 13-14; see n.2, *supra*.

Therefore, application of a modest multiplier of 1.19 is warranted, and the lodestar as a cross-check to the percentage figure sought herein, strongly supports the reasonableness of the requested attorneys' fees award. Plaintiffs respectfully request that the Court grant final approval of, and award, attorneys' fees in the amount of \$350,000.00 to Class Counsel.

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

The Settlement provides for reimbursement of litigation costs and expenses of up to \$15,000.00. As set forth in the Declaration of Edwin Aiwazian, Class Counsel has incurred a total of \$13,176.06 in litigation costs and expenses incurred in this matter.⁸² This amount was reasonable and necessary in the prosecution of the case and to obtain the Settlement, and is less than the maximum amount allocated under the Settlement Agreement.⁸³ The cost savings of \$1,823.94 will be part of the Net Settlement Amount, which will be distributed to the Participating Class Members in accordance with the Settlement.⁸⁴ Accordingly, Plaintiffs request that the Court award litigation costs and expenses in the amount of \$13,176.06 to Class Counsel.

VIII. THE SETTLEMENT 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 \$10,000.00.⁸⁵ The costs incurred and to be incurred include, but are not limited to, expenses for formatting, 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 Workweeks disputes (if any); handling inquiries from Class Members regarding

⁸² Aiwazian Decl., ¶ 24.

⁸³ Ibid.

⁸⁴ Ibid.

⁸⁵ Phoenix Decl., ¶ 14.

the Settlement; calculating Individual Settlement Payments and Individual PAGA Payments and preparing the associated tax forms; and transmitting payments, among other things.⁸⁶

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 \$10,000.00.

IX. THE REQUESTED ENHANCEMENT AWARD IS FAIR AND REASONABLE, AND SHOULD BE APPROVED.

The Settlement provides for an Enhancement Award in the amount of \$7,500.00 to Plaintiff Arriola to compensate Plaintiff Arriola for the time and effort that he expended on behalf of the Class, Aggrieved Employees, and the State of California. The requested Enhancement Award 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 Enhancement Award is fair and appropriate because Plaintiff Arriola has been, and continues to be, actively engaged in the litigation of his case, constantly checking in on the status of court proceedings in his lawsuit and 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.⁸⁷ Plaintiff Arriola was available whenever Class Counsel needed him and actively tried to obtain, and gave, information that would benefit the Class.⁸⁸ Plaintiff Arriola spent numerous hours speaking with Class Counsel about his claims, describing his work experiences with Defendant, and gathering and reviewing documents.⁸⁹ These services merit the requested Enhancement Award to Plaintiff Arriola, who

⁸⁶ Phoenix Decl., ¶ 3.

⁸⁷ Aiwasian Decl., ¶ 24; Supplemental Declaration of Les Arriola (“Arriola Decl.”), ¶¶ 3-5.

⁸⁸ Aiwasian Decl., ¶ 24; Arriola Decl., ¶¶ 3-5.

⁸⁹ Aiwasian Decl., ¶ 24; Arriola Decl., ¶¶ 2-6.

has not received any compensation for his efforts on behalf of the Class Members, Aggrieved Employees, and the State of California to date.⁹⁰

The requested Enhancement Award was fully disclosed in the Class Notice that was mailed to the Class Members. No objections were made with regards to the requested Enhancement Award. Accordingly, it is appropriate and just for Plaintiff Arriola to receive \$7,500.00 as a reasonable Enhancement Award, in addition to his individual settlement payments, for his services on behalf of the Class, the State of California, and Aggrieved Employees.

X. CONCLUSION

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

Dated: June 29, 2023

LAWYERS for JUSTICE, PC

By: _____



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

⁹⁰ Arriola Decl., ¶ 10.