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

DOMINIQUE DAVIS, individually, and on
behalf of other members of the general public
similarly situated;

Plaintiff,

v.

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

Defendants.

Lead Case No.: 21STCV04439
Consolidated Case No.: 21STCV33269

Honorable William F. Highberger
Department SSC10

CLASS ACTION

**PLAINTIFF'S NOTICE OF MOTION
AND MOTION FOR FINAL APPROVAL
OF JOINT STIPULATION OF CLASS
ACTION AND PAGA SETTLEMENT,
ATTORNEYS' FEES AND COSTS, AND
ENHANCEMENT PAYMENT;
MEMORANDUM OF POINTS AND
AUTHORITIES IN SUPPORT THEREOF**

[Declaration of Class Counsel
(Edwin Aiwazian); Declaration of Class
Representative (Dominique Davis);
Declaration of Settlement Administrator
(Yami Burns); and [Proposed] Final
Approval Order and Judgment filed
concurrently herewith]

Date: August 30, 2023
Time: 11:00 a.m.
Department: SSC10

Complaint Filed: February 4, 2021
Trial Date: None Set

1 **PLEASE TAKE NOTICE** that on August 30, 2023 at 11:00 a.m., in Department SSC10
2 of the above-entitled Court, located at 312 N Spring Street, Los Angeles, CA 90012, Plaintiff
3 Dominique Davis (“Plaintiff”) will and hereby does move for an order granting final approval of:

4 1. The Joint Stipulation of Class Action and PAGA Settlement and Amendment No.
5 1 to Joint Stipulation of Class Action and PAGA Settlement (together, “Settlement,”
6 “Agreement,” or “Settlement Agreement”) on the grounds that the Settlement is fair, adequate,
7 and reasonable because:

- 8 • A Net Settlement Amount of approximately **\$1,424,787.70** will be fully distributed to
9 the Class Members who did not timely opt out of the Settlement (“Settlement Class
10 Member”);
- 11 • **No Notices of Objection** have been submitted to the Settlement Administrator,
12 Phoenix Class Action Administration Solutions. (“Settlement Administrator”);
- 13 • **Six (6) Requests for Exclusion** were submitted to the Settlement Administrator;

14 2. Payment in the amount of **\$969,573.57** to Lawyers *for* Justice, PC (“Class
15 Counsel”), representing thirty-three percent (33%) of the escalated Total Settlement Amount, for
16 attorneys’ fees, which is reasonable and justified on a percentage-basis and also based on a
17 lodestar cross-check;

18 3. Payment in the amount of **\$20,240.47** to Class Counsel for reimbursement of
19 litigation costs and expenses;

20 4. Payment in the amount of **\$11,000.00** to the Settlement Administrator, Phoenix
21 Class Action Administration Solutions (“Phoenix”), for Settlement Administration Costs; and

22 5. Payment in the amount of **\$12,500.00** to Plaintiff Dominique Davis, as
23 Enhancement Payment, for her time and effort in representing the Class.

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 \$500,000.00, of which seventy-five
26 percent (75%), or **\$375,000.00**, will be paid to the California Labor and Workforce Development
27 Agency and twenty-five percent (25%), or **\$125,000.00**, will be distributed to all current and
28 former hourly-paid or non-exempt employees who worked for Defendant within the State of

1 California at any time during the period from July 6, 2020 through March 15, 2022 (“PAGA
2 Employees”).

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

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

11 Dated: August 8, 2023

LAWYERS for JUSTICE, PC

12
13 By:



14 Brian J. St. John
15 Attorneys for Plaintiff and the Class
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MEMORANDUM OF POINTS AND AUTHORITIES

I. SUMMARY OF MOTION

Plaintiff Dominique Davis (“Plaintiff”) seeks final approval of: (1) the Total Settlement Amount of \$2,938,101.74¹; (2) attorneys’ fees in the amount of \$969,573.57, which is thirty-three percent (33%) of the escalated Total Settlement Amount, and reimbursement of litigation costs and expenses in the amount of \$20,240.47 (together, “Attorneys’ Fees and Costs”) to Lawyers for Justice, PC (“Class Counsel”); (3) Settlement Administration Costs in the amount of \$11,000.00 to Phoenix Class Action Administration Solutions (“Phoenix ” or “Settlement Administrator”); (4) Enhancement Payment in the amount of \$12,500.00 to Plaintiff Dominique Davis; and allocation of \$500,000.00 for penalties under the Private Attorneys General Act of 2004, California Labor Code § 2698, *et seq.* (“PAGA Amount”).

Plaintiff seeks relief on behalf of the following Class:

All current and former hourly-paid or non-exempt employees who worked for Defendant within the State of California at any time during the period from February 4, 2017 through March 15, 2022. (“Class” or “Class Members”)²

This matter involved ongoing investigations, extensive informal discovery, review and analysis of over 100,000 pages of information, documents, and data in the course of litigation and in connection with mediation conducted by Paul Grossman, Esq., and extensive settlement negotiations. This matter has required 605.20 hours of attorney time by Class Counsel. As will be demonstrated herein, the request for attorneys’ fees, which represents thirty-three percent (33%) of the Total 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.³

///

¹ Pursuant to the escalator clause in Paragraph 39 of the Joint Stipulation of Class Action and PAGA Settlement (together with and Amendment No. 1 to Joint Stipulation of Class Action and PAGA Settlement, “Settlement Agreement”), the Total Settlement Amount has increased from \$2,900,000.00 to \$2,938,101.74. See Declaration of Yami Burns Regarding Notice and Settlement Administration (“Phoenix Declaration” or “Phoenix Decl.”), ¶¶ 12 & 13.

² Settlement Agreement, ¶ 9.d. “Class Period” is defined as the period of time from February 4, 2017 through March 15, 2022. *See id.*, ¶ 9.f.

³ Applying a modest multiplier of 2.07, the total enhanced lodestar fees are \$970,892.10, and Class Counsel seeks an attorneys’ fees award of \$969,573.57 (equal to 33% of the escalated Total Settlement Amount).

1 Plaintiff moves for final approval of the Enhancement Payment in the amount of
2 \$12,500.00, to compensate Plaintiff for the time and effort that she expended spearheading this
3 lawsuit on behalf of the Class, PAGA Employees, and the State of California. Plaintiff also
4 moves for final approval of the payment to the Settlement Administrator in the amount of
5 \$11,000.00 for Settlement Administration Costs.

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

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

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

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

25 Defendant is an organization that provides quality property management services to the
26 affordable housing market, conventional housing, and commercial development. Plaintiff
27 Dominique Davis is a former employee of Defendant.

28 ///

1 On February 4, 2021, Plaintiff filed a Class Action Complaint for Damages in the Los
2 Angeles County Superior Court (“Court”), thereby commencing the above-captioned lawsuit (the
3 “Class Action”).

4 On July 6, 2021, Plaintiff submitted notice to the California Labor & Workforce
5 Development Agency (“LWDA”) and Defendant of her intent to pursue civil penalties under the
6 Private Attorneys General Act, Cal. Labor Code § 2698, Et Seq. (“PAGA Letter”).

7 On September 9, 2021, Plaintiff filed a complaint against Defendant in Los Angeles
8 Superior Court, alleging violations of California Labor Code §2698, et seq., (California Labor
9 Code Private Attorneys General Act of 2004), Case No. 21STCV33269 (the “PAGA Action”)
10 (together with the Class Action, the “Actions”).

11 On May 20, 2022, by way of Court order, the Class Action and PAGA Action were
12 consolidated, with the Class Action designated the lead action.

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

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

27 The Parties have actively litigated the Actions since the Class Action was commenced on
28 February 4, 2021. On December 15, 2021, the Parties participated in a formal, full-day

mediation conducted by Paul Grossman, Esq., a well-regarded mediator experienced in mediating complex labor and employment matters. With the aid of the mediator's evaluation, the Parties ultimately reached the Settlement described herein to resolve the Actions in their entirety. .

On February 17, 2023, Plaintiff filed a Motion for Preliminary Approval of Class Action Settlement ("Motion for Preliminary Approval") and supporting documents. On March 15, 2023, a hearing was held on Plaintiff's Motion for Preliminary Approval wherein the Court continued the hearing on the Motion for Preliminary Approval and raised certain points of inquiry regarding the Settlement. On March 29, 2023, Plaintiff filed a supplemental declaration in support of the Motion for Preliminary Approval. On April 12, 2023, Plaintiff filed a further supplemental declaration in support of the Motion for Preliminary Approval. On April 13, 2023, the Court entered an Order Granting Plaintiff's 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.

Plaintiff now moves for final approval of the Settlement, Attorneys' Fees and Costs, Enhancement Payment, 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 Total Settlement Amount of \$2,938,101.74 on a non-reversionary basis.⁴ Subject to approval by the Court, the Net Settlement Amount will be calculated by deducting the following amounts from the Total Settlement Amount: (1) Attorneys' Fees and Costs, consisting of attorneys' fees in the amount of \$969,573.57 and reimbursement of litigation costs and expenses in the amount of \$20,240.47, to Class Counsel; (2) Enhancement Payment in the amount of \$12,500.00 to Plaintiff Dominique Davis; (3) Settlement Administration Costs in the amount of \$11,000.00 to Phoenix; and (4) the amount of \$500,000.00 allocated to penalties under the Private Attorneys General Act ("PAGA"), of which 75% (i.e., \$375,000.00) will be distributed to the Labor and

⁴ Settlement Agreement; ¶ 9.nn; see n.1 *supra*.

1 Workforce Development Agency (“LWDA”) and 25% (i.e., \$125,000.00) will be distributed on
2 a *pro rata* basis to all current and former hourly-paid or non-exempt employees who worked for
3 Defendant within the State of California at any time during the period from July 6, 2020 through
4 March 15, 2022 (“PAGA Employees”).⁵ The Net Settlement Amount, which is estimated to be
5 \$1,424,787.70, will be distributed in accordance with the Settlement Agreement, and there is no
6 reversion to Defendant.⁶

7 The Settlement Administrator will calculate each Settlement Class Member’s (i.e., Class
8 Members who did not timely opt out of the Class Settlement) share of the Net Settlement
9 Amount (“Individual Settlement Share”), as follows:

- 10 a. The Settlement Administrator will calculate each Settlement Class Member’s number
11 of weeks worked for Defendant as an hourly-paid or non-exempt employee in
12 California during the Class Period (“Workweeks”) and the total number of
13 Workweeks of all Settlement Class Member.⁷
14 b. The Settlement Administrator will divide the final Net Settlement Amount by the
15 Workweeks of all Settlement Class Members to yield the “Final Workweek Value,”
16 and multiply each Settlement Class Member’s individual Workweeks by the Final
17 Workweek Value to yield his or her Individual Settlement Share.⁸

18 The Settlement Administrator will calculate each PAGA Employee’s *pro rata* share of
19 the 25% share of the PAGA Amount (“Individual PAGA Payment”), in accordance with the
20 Settlement Agreement and as follows:

- 21 a. The Settlement Administrator will calculate each PAGA Employee’s number of
22 Workweeks during the PAGA Period (“PAGA Workweeks”) and the total number of
23 Workweeks of all PAGA Employees.⁹
24 b. The Settlement Administrator will divide the PAGA Employee Amount, i.e., 25% of
25 the PAGA Amount, by the total number of PAGA Workweeks of all PAGA
26 Employees to yield the “PAGA Workweek Value,” and multiply each PAGA
27 Employee’s individual PAGA Workweeks by the PAGA Workweek Value to yield
28 his or her Individual PAGA Payment.¹⁰

⁵ Settlement Agreement, ¶¶ 9.v, 9.y & 13-16. “PAGA Period” is defined as the period from July 6, 2020 to March 15, 2022. *See id.*, ¶ 9.aa.

⁶ This amount is higher than the amount stated in Paragraph 13 of the accompanying Declaration of Yami Burns 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 \$40,000.00, which is allocated under the Settlement. However, Class Counsel seeks the amount of only \$20,240.47 for reimbursement of litigation costs and expenses, and the difference of \$19,759.53 will remain part of the Net Settlement Amount.

⁷ Settlement Agreement, ¶ 9.oo.

⁸ *Id.*, ¶ 17.b.

⁹ *Id.*, ¶ 9.cc.

¹⁰ *Id.*, ¶ 18.b.

1 Class Members had sixty (60) calendar days after the initial mailing of the Class Notice
2 to Class Members to dispute the number of Workweeks and/or PAGA Workweeks credited to
3 each of them, opt out of the Class Settlement, and/or object to the Class Settlement (“Response
4 Deadline”).¹¹ The Response Deadline was July 6, 2023.¹² As of this date, the Settlement
5 Administrator has received six (6) written requests for exclusion from the Class Settlement
6 (“Requests for Exclusion”) and zero (0) written objections to the Class Settlement (“Notices of
7 Objection”) from Class Members.¹³

8 Each Settlement Class Member’s Individual Settlement Share will be allocated as
9 follows: twenty percent (20%) as wages (the “wage portion”), which will be reported on an IRS
10 Form W-2; and the remaining eighty percent (80%) as penalties, interest, and other non-wage
11 damages, which will be reported on an IRS Form 1099.¹⁴ Each Individual PAGA Payment will
12 be allocated as one hundred percent (100%) penalties and will be reported on an IRS Form-1099
13 (if applicable) by the Settlement Administrator. Settlement Class Members will be issued
14 payment of their Individual Settlement Share subject to reduction for the employee’s share of
15 taxes and withholdings with respect to the wage portion of each Individual Settlement Share (the
16 net payment is referred to as an “Individual Settlement Payment”).¹⁵ Defendant will pay the
17 employer’s share of payroll taxes and contributions with respect to the wage portion of
18 Individual Settlement Shares (“Employer Taxes”) in addition to the Total Settlement Amount.¹⁶

19 The Individual Settlement Payment checks issued to Settlement Class Members and
20 Individual PAGA Payment checks issued to PAGA Employees will be negotiable for one
21 hundred eighty (180) calendar days from the date of issuance.¹⁷ Individual settlement checks
22 that are not negotiated within the 180-day period will be cancelled.¹⁸ The funds associated with
23 such cancelled checks will be transmitted to the State Controller’s Office Unclaimed Property
24

25 ¹¹ Settlement Agreement, ¶¶ 9.jj.

26 ¹² Phoenix Decl., ¶¶ 8-10 & Exh. A.

27 ¹³ *Id.*, ¶¶ 8 & 9.

28 ¹⁴ Settlement Agreement, ¶ 28.

¹⁵ *Ibid.*

¹⁶ *Ibid.*

¹⁷ *Id.*, ¶ 23.

¹⁸ *Ibid.*

1 Division in the names of the Settlement Class Members and/or PAGA Employees whose checks
2 are cancelled.¹⁹

3 **IV. THE SETTLEMENT ADMINISTRATION PROCESS**

4 The Court-appointed Settlement Administrator, Phoenix, has taken all necessary steps to
5 effectuate the notice and settlement administration process, as set forth in the Court's April 13
6 2023 Preliminary Approval Order.

7 On May 5, 2023, Phoenix received a mailing list from Defendant's counsel that contained
8 each Class Member's (1) full name; (2) last-known mailing address; (3) last known telephone
9 number; (4) Social Security number, and start and end dates of employment as hourly-paid or
10 non-exempt employee for Defendant for each Class Member (collectively, "Class List").²⁰

11 The Class List contained information for seven hundred twelve (712) individuals
12 identified as Class Members.²¹ Phoenix processed the names and addresses through the National
13 Change of Address Database ("NCOA") and updated the Class List with any updated addresses
14 located.²²

15 On May 22, 2023, Phoenix mailed the Class Notice via first class mail to 712 individuals
16 identified as Class Members in the Class List.²³

17 No Class Notices were returned as undeliverable with forwarding addresses.²⁴ Fifty-one
18 (51) Class Notices were returned as undeliverable without forwarding addresses.²⁵ Phoenix
19 performed a skip-trace search on the fifty-one (51) Class Notices that were returned to Phoenix
20 without forwarding addresses, located an updated address for forty-three (43) Class Members,
21 and promptly re-mailed the Class Notice to the updated addresses.²⁶ Ultimately, eight (8) Class
22 Notices remains undeliverable because an updated address was not located through skip-
23 tracing.²⁷

24 ¹⁹ Settlement Agreement, ¶ 23.

25 ²⁰ Phoenix Decl., ¶ 3.

26 ²¹ Ibid.

27 ²² *Id.*, ¶ 4.

28 ²³ *Id.*, ¶ 5.

²⁴ *Id.*, ¶ 6.

²⁵ Ibid.

²⁶ Ibid.

²⁷ *Id.*, ¶ 7.

the Settlement Administrator has received zero (0) Notices of Objection and six (6) Requests for Exclusion from Class Members.²⁸

To date, there are seven hundred six (706) Class Members who did not submit a timely and valid Request for Exclusion, and are therefore, deemed to be Settlement Class Members.²⁹ Pursuant to the terms of the Settlement, the Net Settlement Amount of approximately \$1,424,787.70 will be distributed to Settlement Class Members in accordance with the terms of the Settlement.³⁰ The highest Individual Settlement Share is currently estimated to be at least \$4,825.84 and the average Individual Settlement Share is currently estimated to be at least \$1,990.12.³¹ The highest Individual PAGA Payment is currently estimated to be at least \$511.31, and the average Individual PAGA Payment is currently estimated to be at least \$337.84.³²

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.

Dunk v. Ford Motor Co. (1996) 48 Cal.App.4th 1794, 1801. "The list of factors is not exclusive and the court is free to engage in a balancing and weighing of the factors depending on the circumstances of each case." *Wershba v. Apple Computer, Inc.* (2001) 91 Cal.App.4th 224, 245.

²⁸ Phoenix Decl., ¶¶ 8 & 9.

²⁹ *Id.*, ¶ 11.

³⁰ *Id.*, ¶ 13; see n.6, *supra*.

³¹ *Id.*, ¶ 14. The actual average and highest Individual Settlement Share 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 \$40,000.00 (the difference between the amount sought and the amount authorized under the Settlement, i.e., \$19,759.53, will be part of the Net Settlement Amount). See n.6, *supra*.

³² *Id.*, ¶ 15.

1 “Due regard should be given to what is otherwise a private consensual agreement between the
2 parties.” *Dunk, supra*, 48 Cal.App.4th at 1801.

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

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

22 The parties actively litigated the case since the Class Action was commenced on
23 February 4, 2021. Counsel for the parties used the pre-mediation time period to investigate the
24 veracity, strength, and scope of the claims, and also to prepare the matter for class certification
25 and trial.³³ The parties conducted extensive informal discovery and investigation into the facts of
26 the case, and also informally exchanged information, documents, and data in preparation for
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28 ³³ Declaration of Edwin Aiwasian (“Aiwasian Decl.”), ¶ 6.

mediation.³⁴ Class Counsel also had the opportunity to interview and obtain 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 obtained from Defendant, Plaintiff, and other sources.³⁵ The information, documents, and data reviewed and analyzed by Class Counsel included, and were not limited to, employment records of Plaintiff, Class Members' time and pay data, Barker Management Employee Handbook, company policy acknowledgements, internal memoranda, job descriptions, new hire orientation checklists, operations and employment practices, forms, procedures, and policies (including but not limited to, Meal & Rest Periods & Acknowledgement Form, Attendance and Punctuality policy, Attire and Grooming policy, Agreement for Employee Use of Apartment Unit, and "Off" the Clock Work & Hours of Work and Overtime policy), among other information, data, and documents.³⁶ Class Counsel researched applicable law, developed damages, penalties, and valuation models in preparation for mediation, and met and conferred with Defendant's counsel on numerous occasions, e.g., to discuss issues relating to the case management, informal discovery, and production of documents and data in the course of litigation and in connection to mediation and settlement negotiations.³⁷

After conducting significant informal discovery and investigation into the facts of the case, the parties participated in a formal, full-day mediation conducted by Paul Grossman, Esq., a well-regarded mediator experienced in mediating complex labor and employment matters.³⁸ In the course of litigation and in connection with 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 and trial, the law relating to class certification, off-the-clock theory, meal and rest periods, non-discretionary bonus/shift differential/incentive pay, regular rate of pay, wage-and-hour enforcement, business expense reimbursement, PAGA representative

³⁴ Aiwazian Decl., ¶ 6.

³⁵ Ibid.

³⁶ Ibid.

³⁷ Ibid.

³⁸ *Id.*, ¶ 8.

claims, the evidence produced and analyzed, and the possibility of appeals, among other things.³⁹ During all settlement discussions, the parties conducted their negotiations at arm's length in an adversarial position.⁴⁰ Arriving at a settlement that was acceptable to the parties was not easy.⁴¹ Defendant and its counsel felt very strongly about Defendant's ability to prevail on the merits and to obtain a denial of class certification, while Plaintiff and Class Counsel believed that class certification would be obtained and Plaintiff would prevail at trial.⁴² After conducting significant informal discovery and investigations, extensive settlement negotiations, and with the aid of the mediator's evaluation, the parties agreed that the matter was well-suited for settlement given the legal issues relating to Plaintiff's principal claims, as well as the costs and risks to the parties that would attend further litigation.⁴³

The Settlement takes into account the strengths and weaknesses of each side's position and the uncertainty of how the case might have concluded at certification, trial, and/or appeals. Class Counsel interviewed, and obtained information from Plaintiff and other Class Members.⁴⁴ Class Counsel also reviewed and analyzed a large volume of documents obtained from Defendant, Plaintiff, and other sources, and performed significant research into the applicable law, which is constantly evolving as it relates to class certification, off-the-clock theory, meal and rest periods, non-discretionary bonus/shift differential/incentive pay, regular rate of pay, wage-and-hour enforcement, business expense reimbursement PAGA representative actions, wage-and-hour enforcement, Plaintiff's claims and damages, 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 and representative action litigation.⁴⁷

³⁹ Aiwazian Decl., ¶ 8.

⁴⁰ Ibid.

⁴¹ Ibid.

⁴² Ibid.

⁴³ Ibid.

⁴⁴ *Id.*, ¶ 6.

⁴⁵ Ibid.

⁴⁶ *Id.*, ¶¶ 6 & 8.

⁴⁷ *Id.*, ¶¶ 16-19.

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

3 The Settlement, which provides for a Total Settlement Amount of \$2,938,101.74,
4 represents a fair, adequate, and reasonable resolution of the case, given the risks inherent in
5 litigating class claims through certification proceedings, trial, and/or appeals.⁴⁸ The Settlement
6 was calculated using information and data uncovered through extensive case investigation,
7 extensive informal discovery, and the exchange of information in the context of mediation and
8 settlement negotiations.⁴⁹ Had the action not settled, Defendant would have vigorously
9 challenged class certification, manageability of representative adjudication, and liability.
10 Defendant contended that individualized questions of fact predominate over any common issues,
11 and these issues would pose challenges to certification. Defendant would have likely argued
12 again at trial, if any, that Plaintiff's claims were not appropriate for class-wide. On the other
13 hand, Defendant also faced the risk of the Court certifying a class and allowing a jury to decide
14 Plaintiff's claims on a class-wide basis. Additionally, preparation for trial would have been
15 expensive for all parties.

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

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28 ⁴⁸ Aiwazian Decl., ¶¶ 8 & 22.

⁴⁹ *Id.*, ¶¶ 5-8.

1 Knowledgeable designees, expert witnesses, and percipient witnesses, such as managers,
2 supervisors, and other current and former employees throughout the State of California. Formal
3 discovery would have certainly arisen, which would have cost the parties additional time and
4 money. In contrast, the Settlement provides real and significant benefits for the Class here and
5 now, while avoiding the further expenses, risks, and delay of prolonged litigation with only the
6 possibility of recovery.

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

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

14 The Settlement, which provides for a Total Settlement Amount of \$2,938,101.74⁵⁰,
15 represents a fair, reasonable, and adequate resolution of the case. The Settlement was calculated
16 using information and data uncovered through extensive case investigation, extensive informal
17 discovery, and the exchange of information in the context of mediation and settlement
18 negotiations. The Settlement takes into account the potential risks and rewards inherent in any
19 case and, in particular, in this matter. Moreover, considering all of the facts in the case, the Total
20 Settlement Amount represents a considerable recovery.

21 Even after deducting attorneys' fees in the amount of \$969,573.57, litigation costs and
22 expenses in the amount of \$20,240.47, Enhancement Payment in the amount of \$12,500.00,
23 Settlement Administration Costs in the amount of \$11,000.00, and PAGA Amount in the amount
24 of \$500,000.00 from the Total Settlement Amount of \$2,938,101.74, the Net Settlement Amount
25 is currently estimated to be \$1,424,787.70.⁵¹ Under the Settlement Agreement, the Total
26 Settlement Amount will be fully paid out without any reversion to Defendant, in accordance with
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28 ⁵⁰ See n.1, *supra*.

⁵¹ Phoenix Decl., ¶ 13; see n.6, *supra*.

the terms of the Settlement. As discussed in Section III, *supra*, each Settlement Class Member will be paid a *pro rata* share of the Net Settlement Amount, based on the number of Workweeks during the Class Period credited to him or her and each PAGA Employee will be paid a *pro rata* share of the twenty-five percent share of the PAGA Amount, based on the number of PAGA Workweeks during the PAGA Period credited to him or her. To date, there are 706 Settlement Class Members, representing 99.16% of the Class Members.⁵² The highest Individual Settlement Share to a Settlement Class Member is currently estimated to be at least \$4,825.84 and the average Individual Settlement Share is currently estimated to be at least \$1,990.12.⁵³ The highest Individual PAGA Payment is currently estimated to be at least \$511.31, and the average Individual PAGA Payment is currently estimated to be at least \$337.84.⁵⁴ These are significant individual recoveries, particularly in light of the risks of litigation.

At the final approval stage, “[a]n allocation formula need only have a reasonable, rational basis [to warrant approval], particularly if recommended by experienced and competent class counsel.” *In re American Bank Note Holographics, Inc., Securities Litigation* (S.D.N.Y. 2001) 127 F.Supp.2d 418, 429-30. The *pro rata* allocation here is a fair and reasonable way to distribute the Net Settlement Amount. In light of the above considerations, Class Counsel believes that the Settlement as a whole is fair, reasonable, and adequate, and in the best interest of the Class Members.⁵⁵ Although the recommendations of Class Counsel are not conclusive, the Court can properly take the recommendations into account, particularly if Class Counsel appears to be competent, has experience with this type of litigation, and significant discovery and investigation have been completed, as is the case here. Conte & Newberg, *Newberg on Class Actions* (4th Ed., 2002) § 11.47. Accordingly, the Court should grant final approval of the Settlement.

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⁵² Phoenix Decl., ¶ 11.

⁵³ *Id.*, ¶ 13; see n.31, *supra*.

⁵⁴ *Id.*, ¶ 14.

⁵⁵ Aiwasian Decl., ¶ 22.

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

2 Class Counsel has extensive experience in employment class and representative action
3 law and complex wage-and-hour litigation.⁵⁶ Lawyers *for* Justice, PC has been appointed class
4 counsel in numerous complex wage-and-hour cases, and has recovered millions of dollars for
5 individuals in California.⁵⁷ Both parties' counsel were capable of assessing the strengths and
6 weaknesses of the Class Members' claims against Defendant and the benefits of the Settlement
7 under the circumstances of the case and in the context of a private, consensual settlement
8 agreement.

9 **E. There are no Objections to the Settlement.**

10 The Settlement has been well received by the Class – *not a single Class Member objected*
11 *to the Settlement*.⁵⁸ Specifically, no objections have been made as to the Total Settlement
12 Amount or requested Attorneys' Fees and Costs, Enhancement Payment, Settlement
13 Administration Costs, or the allocation for PAGA Amount. California courts have consistently
14 found that a small number of objectors indicates the class' support for a settlement and strongly
15 favors final approval. *Wershba, supra*, 91 Cal.App.4th at 250-51 (final approval granted despite
16 20 objectors); *7-Eleven Owners, supra*, 85 Cal.App.4th at 1152-53 (final approval granted
17 despite 9 objectors).

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

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

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

25 Trial courts have "wide latitude" in assessing the value of attorneys' fees and their
26 decisions will "'not be disturbed on appeal absent a manifest abuse of discretion.'" *Lealao v.*

27 ⁵⁶ Aiwasian Decl., ¶¶ 16-19.

28 ⁵⁷ *Ibid.*

⁵⁸ Phoenix Decl., ¶ 9.

1 *Beneficial Cal., Inc.* (2000) 82 Cal.App.4th 19, 41; *Ketchum v. Moses* (2001) 24 Cal.4th 1122,
2 1132 (The “experienced trial judge is the best judge of the value of professional services
3 rendered in her court[.]”); *Cellphone Termination Fee Cases* (2009) 180 Cal.App.4th 1110,
4 1118. Where the amount of a settlement is a “certain easily calculable sum of money,”
5 California courts may calculate attorneys’ fees as a reasonable percentage of the settlement.
6 Weil and Brown, *California Practice Guide, Civil Procedure Before Trial*, Chapter 14, § 14:145;
7 *see also Laffitte v. Robert Half Int’l Inc.* (2016) 1 Cal.5th 480, 503; *Dunk, supra*, 48 Cal.App.4th
8 at 1808. The percentage-of-the-benefit approach is preferred in class and representative actions
9 because “it better approximates the workings of the marketplace than the lodestar approach.”
10 *Lealao, supra*, 82 Cal.App.4th at 49.

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

20 “The ultimate goal . . . is the award of a ‘reasonable’ fee to compensate counsel for their
21 efforts, irrespective of the method of calculation.” *Consumer Privacy Cases* (2009) 175
22 Cal.App.4th 545, 557-58 (quoting *Apple Computer, Inc. v. Superior Court, supra*, 126
23 Cal.App.4th at 1270). It is not an abuse of discretion to choose one method over another as long
24 as the method chosen is applied consistently using percentage figures and/or rates that accurately
25 reflect the marketplace. In cases where class members present claims against a settlement
26 amount and the settlement agreement provides that the defendant agrees to paying the attorneys a
27 percentage of the same, use of that percentage method is appropriate. *Lealao, supra*, 82
28 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, 34.⁵⁹ 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.

⁵⁹ 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 a
11 reasonable fee award, courts award fees to serve as an economic incentive for lawyers to pursue
12 such litigation in order to achieve increased access to the judicial system for meritorious claims
13 and to enhance deterrents to wrongdoing. This is especially true in situations where multiple
14 similar alleged wrongs would not be economically feasible to pursue individually, such as here.
15 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 a defendant 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 Total Settlement
24 Amount of \$2,938,101.74 on a non-reversionary basis. The requested attorneys' fees are thirty-
25 three percent (33%) of the total value of the monetary settlement. In light of Class Counsel's
26 successful prosecution and resolution of the case, the requested attorneys' fees are appropriate
27 and reasonable.

28 ///

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, Plaintiff has agreed to a contingency fee of at least thirty-three percent (33%) of the recovery.⁶⁰

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 her client is entitled to a reasonable attorneys' fee from the fund as a whole”).

⁶⁰ 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 Plaintiff and the Class,
7 and the results achieved justify an attorneys' fees award that is the equivalent of the standard
8 market fee and that is consistent with the contingency-fee agreement entered into by and between
9 Plaintiff and Class Counsel. Thus, the requested attorneys' fees are appropriate.

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

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

22 Each and every one of these factors favors the attorneys' fees sought here; however,
23 some of the most relevant factors to this Court's fee determination will be addressed herein. The
24 award of attorneys' fees in the amount of \$969,573.57 (which is 35% of the Total Settlement
25 Amount) is commensurate with the time, effort, and expense dedicated to the case, the
26 contingent nature of Class Counsel's fee and the risks taken in commencing the case, the skill
27 and determination required, the results that Class Counsel has achieved, and the value of the
28 settlement that Class Counsel has obtained for the Class Members.

1 **1. *Time & Labor.***

2 Class Counsel used its experience and skills, and dedicated the full extent of resources, to
3 litigate and bring this matter to a successful conclusion on behalf of the Class, PAGA
4 Employees, and the State of California. Moreover, as demonstrated in the supporting
5 declaration, Class Counsel has extensive experience in the handling of class actions and complex
6 litigation matters.⁶¹

7 As outlined in the Declaration of Edwin Aiwarzian, Class Counsel has fully and actively
8 participated in litigation of this case.⁶² Prior to commencing the lawsuit, Class Counsel had
9 conducted a significant amount of investigation into the factual and legal issues, Defendant's
10 business, and its operations and employment policies, practices, and procedures.⁶³ During the
11 litigation of the action, Class Counsel interviewed Plaintiff and other Class Members; reviewed
12 and analyzed a large volume of information, documents, and data obtained from Defendant,
13 Plaintiff, and other sources; and prepared liability, damages, and penalties valuation
14 calculations.⁶⁴ Class Counsel also met and conferred with Defendant's counsel over the issues
15 relating to pleadings, case management, informal discovery, and production of documents and
16 data, among other things; engaged in extensive settlement negotiations with Defendant's
17 counsel; and prepared for and attended court proceedings, mediation, and settlement
18 negotiations. Other work performed by Class Counsel included, and was not limited to, case
19 strategy and analysis; drafting, reviewing, and revising pleadings, the mediation brief, and
20 settlement approval motion papers; preparing and appearing for court proceedings, among other
21 tasks.⁶⁵

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

26 ⁶¹ Aiwarzian Decl., ¶¶ 16-19.

27 ⁶² *Id.*, Exh. A.

28 ⁶³ *Id.*, ¶ 6 & Exh. A.

⁶⁴ *Id.*, ¶ 6.

⁶⁵ *Ibid.*

has spent performing tasks on behalf of Plaintiff and the Class.⁶⁶ The Task and Time Chart is thorough and comprehensive, and was prepared so that the Court can peruse it without having to set forth each and every task in the body of this Motion. The Court is respectfully referred to the chart, which sets forth the history of the work performed by Class Counsel, commencing with the pre-filing analysis and research, and continuing up to settlement and final approval. Class Counsel has spent 605.20 hours performing tasks and to obtain a significant recovery on behalf of Plaintiff and the Class.⁶⁷ 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. 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 this case, during the litigation, and prior to mediation. Class Counsel took steps to prepare the matter for class certification 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 Aiwarzian, 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.⁶⁸

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 settled, Defendant would have vigorously challenged certifiability, manageability of

⁶⁶ Aiwarzian Decl., Exh. A.

⁶⁷ Ibid.

⁶⁸ *Id.*, ¶¶ 16-19.

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 Settlement Class Members 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 Total Settlement Amount of \$2,938,101.74⁶⁹ to settle the matter. After deducting the attorneys' fees (\$969,573.57), litigation costs and expenses (\$20,240.47), Enhancement Payment (\$12,500.00), Settlement Administration Costs (\$11,000.00), and the PAGA Amount (\$500,000.00) from the Total Settlement Amount, it is currently estimated that the Net Settlement Amount is approximately \$1,424,787.70.⁷⁰ The Net Settlement Amount will be fully distributed in accordance with the terms of the Settlement. The highest Individual Settlement Share to a Settlement Class Member is currently estimated to be at least \$4,825.84 and the average Individual Settlement Share is currently estimated to be at least \$1,990.12.⁷¹ The highest Individual PAGA Payment is currently estimated to be at least \$511.31, and the average Individual PAGA Payment is currently estimated to be at least \$337.84.⁷² The Settlement offers significant monetary relief to the Settlement Class Members, the State of California, and PAGA Employees.

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⁶⁹ See n.1, *supra*.

⁷⁰ Phoenix Decl., ¶ 13; see n.6, *supra*.

⁷¹ *Id.*, ¶ 14; see n.31, *supra*.

⁷² *Id.*, ¶ 15.

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

2 Plaintiff 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 605.20 hours of time to obtain relief on behalf of Plaintiff and the Class.⁷³
6 Class Counsel has also incurred litigation costs and expenses in the amount of \$20,240.47.⁷⁴

7 Class Counsel has borne all of the risks and costs of litigation and will not receive any
8 compensation until recovery is obtained.⁷⁵ Class Counsel is well-experienced in wage-and-hour
9 class action and complex litigation and used that experience to obtain a great result.⁷⁶ The skill
10 and determination that Class Counsel has shown, along with the results obtained, justify the
11 requested attorneys' fees. Considering the amounts requested, the work performed, and the risks
12 incurred, the requested fees and costs are reasonable and should be awarded.

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

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

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

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⁷³ Aiwasian Decl., ¶ 12, Exh. A.

⁷⁴ See Part VII, *infra*.

⁷⁵ Aiwasian Decl., ¶ 20.

⁷⁶ See *id.*, ¶¶ 16-19.

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 the Settlement.⁷⁷

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

10 Here, the results achieved and obtained on behalf of Plaintiff and the Class are reasonable
11 in light of the risks inherent in further litigating this matter. Class Counsel’s efforts have
12 resulted in a settlement that provides for a Total Settlement Amount of \$2,938,101.74.⁷⁸ The
13 Total Settlement Amount will be fully paid out, in accordance with the terms of the Settlement
14 Agreement. The highest Individual Settlement Share to a Settlement Class Member is currently
15 estimated to be at least \$4,825.84 and the average Individual Settlement Share is currently
16 estimated to be at least \$1,990.12.⁷⁹ The highest Individual PAGA Payment is currently
17 estimated to be at least \$511.31, and the average Individual PAGA Payment is currently
18 estimated to be at least \$337.84.⁸⁰

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

20 Lawyers for Justice, PC is a recognized class action law firm that employed its attorneys’
21 knowledge, skills, and experience in bringing this case to a successful conclusion. Class Counsel
22 has years of complex and class action litigation experience, has recovered millions of dollars on
23 behalf of thousands of individuals in California, and has successfully handled numerous
24 significant wage-and-hour class action and complex cases.⁸¹

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27 ⁷⁷ Phoenix Decl., ¶ 9.

⁷⁸ Aiwasian Decl., ¶¶ 5-8; see n.1, *supra*.

⁷⁹ Phoenix Decl., ¶ 14; see n.31, *supra*.

⁸⁰ *Id.*, ¶ 15.

⁸¹ 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 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 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 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 and representative 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 Plaintiff and Class Members and through other sources. Class Counsel conducted extensive review and analysis of these documents, information, and data to strategize the action and to prepare for and attend mediation and engage in settlement discussions.

As discussed above in Part VII.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.⁸² The chart demonstrates that Class Counsel has spent a total of 605.20 hours litigating the case and finalizing the Settlement.⁸³ In light of the facts and circumstances of the case, as well as the results that Class Counsel has achieved on behalf of Plaintiff and the Class Members, 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

⁸² See Aiwazian Decl., Exh. A.

⁸³ Aiwazian Decl., ¶ 12.

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

4 Class Counsel has been actively involved in this case, prior to its commencement and all
5 the way up to the present, and Class Counsel's dedication to providing representation in this
6 matter has precluded other employment. Here, Class Counsel bore the risk that, despite all of its
7 efforts and skills employed, there may be no recovery. Ultimately, Class Counsel was successful
8 in reaching a settlement of \$2,938,101.74.

9 As set forth in the Declaration of Edwin Aiwarzian, the professional backgrounds and
10 experience of Class Counsel support a reasonable blended hourly rate of compensation of at least
11 \$775 per hour for services provided by Class Counsel.⁸⁴ Lawyers for Justice, PC has been
12 awarded attorneys' fees, compensating Lawyers for Justice, PC at the blended rate of at least
13 \$775 for legal service performed, by courts of this state.⁸⁵ While the circumstances of every case
14 are unique, the fact remains that the work performed and efforts undertaken by Class Counsel on
15 behalf of the Class Members, PAGA Employees, and the State of California justify the requested
16 attorneys' fees.

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21 ⁸⁴ Aiwarzian Decl., ¶ 13.

22 ⁸⁵ For example, final approval of the class and representative action settlement in *David Dugan v. TEC Equipment,*
23 *Inc., et al.* (Los Angeles Superior Court Case No. 19STCV01591) was granted on July 8, 2021, and the award of
24 attorneys' fees involved an hourly rate of \$936.47; final approval of the class and representative action settlement in
25 *Larry Greenwood, et al. v. Scan Health Plan* (Los Angeles Superior Court Case No. BC715157) was granted on
26 April 20, 2021, and the award of attorneys' fees involved an hourly rate of \$919.57; final approval of the class and
27 representative action settlement in *Seth Swan v. Pace Supply Corp.* (Sonoma County Superior Court Case No.
28 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 Total Settlement Amount cases based on
4 time reasonably expended on the action, courts have generally awarded these fees based on the
5 actual time expended (the lodestar) in conjunction with a multiplier of between 2 and 4. *Kerr v.*
6 *Screen Extras Guild, Inc.* (9th Cir. 1975) 526 F.2d 67. Such a multiplier is warranted in this case.

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

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

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

26 *Ketchum* at 1134.

27 Adjustment of the base lodestar figure to compute an award of attorneys’ fees for a claim
28 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 \$2,938,101.74. 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.⁸⁶ As the chart indicates, Class Counsel has worked 605.20 hours in the pursuit of this matter. The attorney task and time chart presents the entire picture. Applying a reasonable blended rate of \$775 per hour to 605.20 hours of work performed by Lawyers for Justice, PC would place a base lodestar value of \$469,030.00 on Class Counsel’s services, and applying a modest multiplier of 2.07, the total enhanced lodestar fees are \$970,892.10.⁸⁷ Class Counsel seeks an attorneys’ fee award of \$969,573.57 (equal to 33% of the escalated Total Settlement Amount 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**).

Therefore, application of a modest multiplier of 2.07 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. Plaintiff respectfully requests that the Court grant final approval of, and award, attorneys’ fees in the amount of \$969,573.57 to Class Counsel.

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⁸⁶ Aiwazian Decl., Exh. B.

⁸⁷ *Id.*, ¶ 11; *see n.Error! Bookmark not defined., supra*.

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 \$40,000.00. As set forth in the Declaration of Edwin Aiwazian, Class Counsel seeks reimbursement of \$20,240.47, in litigation costs and expenses incurred in this matter.⁸⁸ 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.⁸⁹ The cost savings of \$19,759.53 will be part of the Net Settlement Amount, which will be distributed to the Settlement Class Members in accordance with the Settlement.⁹⁰ Accordingly, Plaintiff requests that the Court award litigation costs and expenses in the amount of \$20,240.47 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 \$11,000.00.⁹¹ The costs incurred and to be incurred include, but are not limited to, expenses for formatting, printing, translating, 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, Notices of Objection, and Workweeks disputes (if any); handling inquiries from Class Members regarding the Settlement; calculating Individual Settlement Shares and Individual PAGA Payments and preparing the associated tax forms; and transmitting payments, among other things.⁹²

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 \$11,000.00.

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⁸⁸ Aiwazian Decl., ¶ 20 & Exh. B.

⁸⁹ Ibid.

⁹⁰ Ibid.

⁹¹ Phoenix Decl., ¶ 20.

⁹² *Id.*, ¶ 3.

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

The Settlement provides for an Enhancement Payment in the amount of \$12,500.00 to Plaintiff Dominique Davis to compensate Plaintiff for the time and effort that she expended on behalf of the Class, PAGA Employees, and the State of California. The requested Enhancement 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 Enhancement 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.⁹³ Plaintiff was available whenever Class Counsel needed her and actively tried to obtain, and gave, information that would facilitate the pursuit of class and PAGA claims.⁹⁴ Plaintiff spent numerous hours speaking with Class Counsel about her claims, describing her work experiences with Defendant, and gathering and reviewing documents.⁹⁵ These services merit the requested Enhancement Payment to Plaintiff, who has not received any compensation for her efforts on behalf of the Class Members to date.⁹⁶

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

⁹³ Aiwasian Decl., ¶ 21; Declaration of Dominique Davis (“Davis Decl.”), ¶¶ 3-5.

⁹⁴ Aiwasian Decl., ¶ 21; Davis Decl., ¶¶ 3-5.

⁹⁵ Aiwasian Decl., ¶ 21; Davis Decl., ¶¶ 2-6.

⁹⁶ Davis Decl., ¶ 9.

\$12,500.00 as a reasonable Enhancement Payment for her services on behalf of the Class, PAGA 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 Attorneys' Fees and Costs, Enhancement Payment, 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: August 8, 2023

LAWYERS for JUSTICE, PC

By:



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