

1 **ROBERT J. WASSERMANN (SBN: 258538)**

2 rwassermann@mayallaw.com

3 **JOHN P. BRISCOE (SBN: 273690)**

4 jbriscoe@mayallaw.com

5 **MAYALL HURLEY P.C.**

6 **112 S. Church St.**

7 **Lodi, California 95242**

8 **Telephone: (209) 477-3833**

9 **Facsimile: (209) 473-4818**

10 **Website: www.mayallaw.com**

11 **Attorneys for Plaintiff Jessica Collard**

12 **and the Class**

13 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

14 **COUNTY OF HUMBOLDT**

15 **JESSICA COLLARD,**

16 **Plaintiff,**

17 **v.**

18 **MURPHY'S MARKETS, INC., a**
19 **corporation; and DOES 1-100, inclusive,**

20 **Defendants.**

21 **Case No.: CV2101368**

22 **MEMORANDUM OF POINTS AND**
23 **AUTHORITIES IN SUPPORT OF**
24 **MOTION FOR FEES AND COSTS OF**
25 **CLASS COUNSEL, CLASS**
26 **REPRESENTATIVE ENHANCEMENT**
27 **AWARD TO CLASS**
28 **REPRESENTATIVE, AND COSTS OF**
ADMINISTRATION

Date: December 11, 2023

Time: 10:30 a.m.

Dept.: 4

TABLE OF CONTENTS

I.	INTRODUCTION	1
II.	FACTUAL AND PROCEDURAL BACKGROUND	2
A.	Factual and Procedural History.	2
B.	Investigation, Discovery, and Negotiations.....	2
C.	The Court Granted Preliminary Approval of the Settlement.....	3
D.	The Distribution of the Notice Has Resulted in a Positive Reaction By the Class.	4
III.	THE REQUESTED ATTORNEY’S FEES AND COSTS SHOULD BE APPROVED	4
A.	The Court Should Apply the Common Fund Methodology to Award Class Counsel’s Fees Under the Settlement.	4
B.	An Award of Attorneys’ Fees to Class Counsel of One-Third of the Maximum Settlement Amount is Reasonable and Should Be Approved.	7
1.	The Requested Fee is Supported by Awards in Similar Cases.....	7
2.	The Overwhelmingly Positive Reaction of the Class Supports Approval.	9
3.	An Award of One-Third Settlement Amount Is Fair and Reasonable in Light of the Substantial Monetary Benefits Obtained for the Class and the Risks Faced by Class Counsel.	9
a.	The fee request is justified by the positive results achieved.	9
b.	The risks associated with this litigation justify the fee request.	10
c.	Class Counsel’s skill and the quality of their work justifies the fee request.	10
d.	The contingent nature of the fee and financial burden carried by class counsel justifies the fee request.	11
4.	The Requested Fee Award Fairly Spreads the Litigation Costs Among the Settlement Beneficiaries.	12
5.	The Lodestar Cross-Check Further Confirms the Reasonableness of the Requested Fee Award.	13
C.	Class Counsel’s Out-of-Pocket Expenses Are Reasonable and Compensable From the Common Fund.	16
D.	The Class Representative Enhancement Award to Plaintiff is Reasonable.....	16

IV. CONCLUSION	19
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TABLE OF AUTHORITIES

Cases

<i>7-Eleven Owners for Fair Franchising v. Southland Corp.</i> (2000) 85 Cal.App.4th 1135.....	9
<i>Asare v. Change Grp. of N.Y., Inc.</i> (S.D.N.Y. Nov. 18, 2013) No. 12 Civ. 3371(CM), 2013 WL 6144764	17
<i>Barrett v. The St. John Cos.</i> (L.A. Cnty. Super. Ct. July 9, 2009) No. BC354278.....	8
<i>Bell v. Farmers Ins. Exch.</i> (2004) 115 Cal. App. 4th 715	17
<i>Big Lots Overtime Cases</i> , (San Bernardino Cnty. Super. Ct., JCC Proceeding No. 4283, Feb. 4, 2004).....	8
<i>Birch v. Office Depot, Inc.</i> Case No. 06cv1690 DMS, at *13 (S.D. Cal. Sept. 28, 2007)	8
<i>Boeing Co. v. Van Gemert</i> (1980) 444 U.S. 472	5
<i>Bond v. Ferguson Enterprises, Inc.</i> , No. 1:09-cv-1662 OWW MJS, 2011 WL 2648879 (E.D. Cal. June 30, 2011)	18
<i>Boyd</i> , 2014 WL 6473804.....	8, 15
<i>Case, et al. v. Toyohara Am. Inc.</i> (L.A. Cnty. Super. Ct. May 31, 2006) No. BC328111	1, 8, 15
<i>Castellanos v. Pepsi Bottling Group, Inc.</i> , No. RG07332684 (Alameda Cnty. Super. Ct., March 11, 2010).....	18
<i>Chanel, Inc. v. Doan</i> , 2007 U.S. Dist. LEXIS 22691, *17-18 (N.D. Cal. Mar. 13, 2007).....	15
<i>Chavez v. Netflix, Inc.</i> (2008) 162 Cal. App. 4th 43.....	7, 13
<i>Cicero v. DirecTV, Inc.</i> (C.D. Cal. 2010) 2010 U.S. Dist. Lexis 86920	7, 8
<i>Clark v. Am. Residential Servs. LLC</i> (2009) 175 Cal. App. 4th 785	17
<i>Contreras v. Bank of Am., N.A.</i> (S.F. Cnty. Super. Ct. Sept. 3, 2010) No. CGC-07-467749	8, 15
<i>Crandall v. UHaul Int'l, Inc.</i> (L.A. Cnty. Super. Ct. Aug. 17, 2001) No. BC178775	8
<i>Davis v. The Money Store, Inc.</i> (Sacramento Cnty. Super. Ct. Decl. 26, 2000) No. 99AS01716.....	8
<i>Earley v. Super. Ct.</i> (2000) 79 Cal. App. 4th 1420	12, 16
<i>Elliot v. Rolling Frito-Lay Sales, LP</i> (C.D. Cal. June 12, 2014) 2014 WL 2761316.....	14
<i>Escalera v. La Tapatia Mexican Restaurant, Inc.</i> , San Joaquin County Superior Court, July 12, 2019, Case No. STK-VJ-UOE-2017-5296	8

1	<i>Fischel v. Equitable Life Assurance Soc’y of U.S.</i> (9th Cir. 2002) 307 F.3d 997	11
2	<i>Garner v. State Farm Mut. Auto. Ins. Co.</i> , No. CV 08 1365 CW (EMC), 2010 WL 1687832, at *17	
3	n.8 (N.D. Cal. Apr. 22, 2010).....	18
4	<i>Garnes v. Barnhardt</i> , 2006 U.S. Dist. LEXIS 5938, *18-19 (N.D. Cal. Jan. 31, 2006)	15
5	<i>Grady and Duran v. People 2.0 dba The Hire Source, et al.</i> , San Joaquin County Superior Court	
6	Case No. STK-CV-UOE-2017-13867	8
7	<i>Harris v. Marhoefer</i> (9th Cir. 2004) 24 F.3d 16	16
8	<i>Hensley v. Eckerhart</i> (1983) 461 U.S. 424.....	14
9	<i>Hopkins v. Stryker Sales Corp.</i> , No. 11-CV-02786-LHK, 2013 WL 496358, at *6 (N.D. Cal. Feb.	
10	6, 2013).....	15
11	<i>In re Activision Securities Litigation</i> (N.D. Cal. 1989) 723 F.Supp. 1373	5
12	<i>In re Bluetooth v. Headset Prods. Liab. Litig.</i> (9th Cir. 2011) 654 F.3d 935	14
13	<i>In re Cellphone Fee Termination Cases</i> (2010) 186 Cal. App. 4th 1380	17
14	<i>In re Heritage Bond Litig.</i> (C.D. Cal. 2005) 2005 WL 1594403 at * 21	9
15	<i>In re Wash. Pub. Power Supply Sys. Sec. Litig.</i> (9th Cir. 1994) 19 F.3d 1291	12, 15
16	<i>Ketchum v. Moses</i> (2001) 24 Cal.4th 1122.....	11
17	<i>Knight v. Red Door Salons, Inc.</i> , No. 08-01520 SC, 2009 WL 248367, at *6 (N.D. Cal. 2009).....	7
18	<i>Laffitte v. Robert Half Int’l., Inc.</i> (2016) 1 Cal. 5 th , 480.....	5, 6, 13, 15
19	<i>Langer v. Dodaiton</i> , 2015 U.S. Dist. LEXIS 64805, *36-37 (C.D. Cal. May 18, 2015)	15
20	<i>Lealao v. Beneficial California, Inc.</i> (2000) 82 Cal.App.4th 19	6, 9, 13, 14
21	<i>LeBlanc-Sternberg v. Fletcher</i> , 143 F.3d 748, 764 (2nd Cir. 1998)	15
22	<i>Louie v. Kaiser Found. Health Plan, Inc.</i> , No. 08cv0795 IEG RBB, 2008 U.S. Dist. LEXIS 78314,	
23	at *18 (S.D. Cal. Oct. 6, 2008)	18
24	<i>Marroquin v. Bed Bath & Beyond</i> (Alameda Cnty. Super. Ct. June 22, 2004) No. RG04145918	8
25	<i>McCown v. City of Fontana</i> , 565 F.3d 1097, 1102 (9th Cir. 2009)	9
26	<i>Melendres v. City of Los Angeles</i> (1975) 45 Cal.App.3d 267	12
27	<i>Mettler, Bender, and Rojas v. Les Schwab Tire Centers of California, Inc.</i> , San Joaquin County	
28	Superior Court Case No. STK-CV-UOE-2018-476.....	8

1	<i>Missouri v. Jenkins</i> , 491 U.S. 274, 283-84 (1989).....	15
2	<i>Munoz v. BCI Coca-Cola Bottling Co. of L.A.</i> (2010) 186 Cal. App. 4th 399.....	17
3	<i>Nw. Energetic Servs., LLC v. Cal. Franchise Tax Bd.</i> (2008) 159 Cal. App. 4th 841	12
4	<i>Press v. Lucky Stores, Inc.</i> (1983) 34 Cal.3d 311.....	14
5	<i>Quezada v. Con-Way Freight, Inc.</i> , No. 09-cv-3670, at ¶ 9 (N.D. Cal. Jan. 15, 2015).....	8
6	<i>Rider v. County of San Diego</i> (1992) 11 Cal. App. 4th 1410.....	16
7	<i>Rieve v. Coventry Healthcare Inc.</i> (C.D. Cal. Aug. 8, 2014) No. 11-cv-1032-DOC, at ¶ 7	8
8	<i>Sav-on Drug Stores, Inc. v. Super. Ct.</i> (2004) 34 Cal. 4th 319	18
9	<i>Serrano v. Priest</i> (1977) 20 Cal. 3d 25.....	9, 12, 16
10	<i>Shaw v. Toshiba Am. Info. Sys., Inc.</i> , 91 F. Supp. 2d 942, 972 (E.D. Tex. 2000).....	7
11	<i>Singer v. Becton Dickinson and Co.</i> , No. 08-CV-821-IEG (BLM) 2010 WL 2196104, at *8 (S.D.	
12	Cal. Jun. 1, 2010).....	8
13	<i>Six (6) Mexican Workers v. Arizona Citrus Growers</i> (9th Cir. 1990) 904 F.2d 1301.....	12
14	<i>Staton v. Boeing Co.</i> (9th Cir. 2003)	14
15	<i>Stuart v. Radioshack Corp.</i> , No. C-07-4499 EMC, 2010 WL 3155645 at *5-*7 (N.D. Cal. Aug. 9,	
16	2010).....	8
17	<i>Tokar v. GEICO</i> (San Diego Cnty. Super. Ct. July 9, 2004) No. GIC 810166.....	8
18	<i>Van Vranken v. Atlantic Richfield Co.</i> (N.D. Cal. 1995) 901 F. Supp. 294	15, 17
19	<i>Vandervort v. Balboa Capital Corp</i> (C.D. Cal. 2014) 8 F.Supp.3d 1200	7, 15
20	<i>Vasquez v. Coast Valley Roofing, Inc.</i> (E.D. Cal. 2010) 266 F.R.D. 482	8, 18
21	<i>Viveros v. Donahoe</i> , 2013 U.S. Dist. LEXIS 46867, *15-22 (C.D. Cal. Mar. 27, 2013).....	15
22	<i>Vizcaino v. Microsoft Corp.</i> (9th Cir. 2002) 290 F.3d 1043	5, 9, 15
23	<i>Wershba</i> , 91 Cal. App. 4th at 255	15
24	<i>West v. Circle K Stores, Inc.</i> , No. CIV. S-04-0438 WBS GGH, 2006 U.S. Dist. LEXIS 76558, at	
25	*28 (E.D. Cal. Oct. 19, 2006).....	18
26	<i>Wren v. RGIS Inventory Specialists</i> No. C-06-05778, JCS, 2011 WL 1230826, at *29 (N.D. Cal.	
27	Apr. 1, 2011).....	8

1 Statutes

2	Lab. Code, § 218.5	4
3	Lab. Code, § 226(e)(1)	4
4	Lab. Code, § 233(e)	4
5	Lab. Code, § 1194	4
6	Lab. Code, § 2698 et seq.	2

7 Treatises

8	Newberg on Class Actions § 14.6 (4th ed. 2007)	7
9	Newberg on Class Actions, 4th Ed. 2002, § 14:6	6

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I. INTRODUCTION

Plaintiff Jessica Collard (“Collard” or “Plaintiff”) hereby moves the Court for an award of attorneys’ fees in the amount \$133,333 (i.e., one-third of the \$400,000 Maximum Settlement Amount), \$16,687.45 in litigation costs, a Class Representative Enhancement Award of \$7,500, and the costs of the Settlement Administrator in the amount of \$9,000.¹ As set forth below, the amounts sought are consistent with recent awards in similar wage and hour class action settlements and fall well within the range of reasonableness under the facts and circumstances of this case. Further, and perhaps most importantly, *only four of the 601 Class Members have opted out of the Settlement, and none have objected to the requested awards since receiving the Court-Approved Class Notice*. This motion (referred to herein as the “Fee Motion”) is not opposed by Defendant Murphy’s Markets, Inc. (“Defendant” or “MMI”).

The attorneys’ fee award should be approved under the common fund methodology because it serves to spread the attorneys’ fees equally among all the beneficiaries of the fund, mimics the marketplace had the Class Members each individually retained Class Counsel on a contingency basis, and encourages competent counsel to take on complex contingency cases such as this, and to seek an early settlement and avoid unnecessarily prolonging litigation. The sought fee is appropriate here because Class Counsel have (1) obtained a significant monetary relief worth more than \$193,000 to the Class (even after subtracting the costs of administration and the fees and costs of Class Counsel); (2) worked diligently and efficiently despite considerable risks faced in prosecuting this litigation; and (3) carried the financial burden of representing Plaintiff and the Class on a contingency basis. The requested reimbursement of \$16,687.45 in litigation costs is also reasonable and appropriate.

A Class Representative Enhancement Award to Collard in the amount of \$7,500 is also appropriate, given the considerable relief that is being afforded to the Class, and given Collard’s indispensable role in securing that relief.

¹ Capitalized terms herein shall have the same meaning as in the Settlement Agreement, a copy of which is attached hereto as **Exhibit 1** to the Declaration of John P. Briscoe (“Briscoe Decl.”) filed concurrently herewith.

1 Finally, the Settlement Administrator, Phoenix Settlement Administrators, should be paid its
2 fee of \$9,000 (already approved preliminarily by the Court) in connection with its administration of
3 the Settlement, and conducting exemplary work in this matter.

4 Accordingly, Plaintiff respectfully requests that the Court grant the Fee Motion and approve
5 the requested fees, costs, and payments set forth herein.

6 **II. FACTUAL AND PROCEDURAL BACKGROUND**

7 **A. Factual and Procedural History.**

8 On August 31, 2021, Class Counsel sent written notice to Defendant and the California Labor
9 and Workforce Development Agency (“LWDA”), alleging that, during Plaintiff’s prior employment
10 with Defendant, she was not paid overtime at the correct rate of pay, was not paid sick leave at the
11 correct rate, was not timely paid all wages, was not paid all wages due upon termination, and was not
12 furnished with accurate wage statements. (Briscoe Decl., ¶ 2, Exhibit 2.) The crux of the case,
13 essentially, is that nonexempt employees of MMI earned and were paid nondiscretionary bonuses, but
14 the value thereof was not incorporated into the regular rate of pay for purposes of overtime, paid sick
15 days, and premiums for denied rest and meal periods. The LWDA did not provide written notice that it
16 intended to investigate the alleged violations. (*Id.*, ¶ 2.)

17 On September 23, 2021, Class Counsel filed this action in Humboldt County Superior Court as
18 against Defendant, on behalf of herself and all other California employees similarly situated. Plaintiff
19 also brought individual discrimination claims (which have already been resolved by way of a separate,
20 confidential settlement agreement). On November 8, 2021, Collard filed a First Amended Complaint to
21 add a cause of action under the Private Attorneys General Act (“PAGA”, Lab. Code, § 2698 et seq.)
22 On or around January 18, 2022, Defendant filed an Answer to the First Amended Complaint, in which
23 it denied the claims, causes of action and substantive allegations of the First Amended Complaint, and
24 asserted various affirmative defenses.

25 **B. Investigation, Discovery, and Negotiations.**

26 Prior to filing this action, counsel for Collard conducted an extensive and exhaustive analysis of
27 the claims to be asserted in this action, including closely scrutinizing Collard’s wage-and-hour records.
28 Plaintiff served an initial round of written discovery, but the Parties soon agreed to attend private

1 mediation. Defendant produced voluminous and critical wage-and-hour data and also documents so that
2 Plaintiff and Class Counsel could conduct a thorough analysis of the size and composition of the Class,
3 as well as the maximum potential liability exposure in this case. Due to the size and complexity of the
4 data and documents provided, Class Counsel retained an economic expert—Melissa Daniels of
5 EconOne—to analyze the data and documents and, extrapolating therefrom, prepare a report as to the
6 potential, classwide exposure for penalties and unpaid wages. Based on this analysis, and chiefly due to
7 anticipated exposure for rest and meal period violations, it was estimated that Defendant faced exposure
8 for unpaid wages and statutory penalties in excess of \$1.3 million. (Briscoe Decl., ¶ 8.) On September
9 15, 2022, the Parties attended mediation before Daniel Ben-Zvi, Esq., an experienced and renowned
10 mediator of employment class actions. (Briscoe Decl., ¶ 9.) Pursuant to said mediation, it was agreed
11 that the Parties would resolve all claims alleged in the First Amended Complaint, *in addition to claims*
12 *for failure to provide rest/meal periods or pay premiums*, for the Maximum Settlement Amount of
13 \$400,000. Following intensive meeting and conferring over the particular terms of the Settlement, *over*
14 *an approximate eleven-month period*, the Settlement was executed by all parties on May 5, 2023.

15 **C. The Court Granted Preliminary Approval of the Settlement.**

16 This Court granted preliminary approval of the Settlement Agreement on July 31, 2023.
17 Having reviewed the settlement negotiations, the substantive terms of the Settlement Agreement, and
18 the papers submitted in conjunction with Plaintiffs’ Motion for Preliminary Approval, the Court
19 found: (1) that the Settlement Agreement appeared to be within the range of reasonableness of
20 settlement which could ultimately be given final approval by this Court; (2) that it appeared to the
21 Court that the settlement amount is fair and reasonable to Settlement Class Members when balanced
22 against the probable outcome of further litigation, liability and damages issues; (3) that it further
23 appeared that significant investigation and research has been conducted and that counsel for the
24 parties at this time are able to reasonably evaluate substantial costs, delay and risks that would be
25 presented by the further prosecution of the litigation; and (4) that it further appeared that the proposed
26 Settlement has been reached as the result of intensive, serious and non-collusive, arms-length
27 negotiations.
28

1 Thus, the Court (1) preliminarily and conditionally certified the Class as requested; (2)
2 appointed Phoenix Settlement Administrators as the Claims Administrator, (3) appointed Mayall
3 Hurley P.C. as Class Counsel; (4) approved, and directed the mailing of, the submitted Notice of
4 Pendency (“Class Notice”) in accordance with the terms of the Class Action Settlement and Release
5 (“Settlement Agreement”); and (5) preliminarily approved the requested awards of attorney’s fees
6 and costs to Class Counsel, as well as the requested Class Representative Incentive Payment to
7 Collard. (Order Granting Preliminary Approval of Class Action Settlement [“Order Granting
8 Preliminary Approval”].) Finally, the Court scheduled the Final Approval Hearing to determine
9 fairness, reasonableness and adequacy of the Settlement as well as the Fee Motion.

10 **D. The Distribution of the Notice Has Resulted in a Positive Reaction By the Class.**

11 On August 21, 2023, Class Notices were mailed to all 601 Class Members via First Class
12 mail, in English and Spanish. (Declaration of Kevin Lee Regarding Settlement Notice
13 Administration [“Admin. Decl.”], ¶ 5, Exhibit A.) In accordance with the Court’s instructions, the
14 Class Notice informed Class Members about the terms of the Settlement, including the fact that
15 Plaintiff would request: (1) an award of attorney’s fees of \$133,333 to be paid from the Maximum
16 Settlement Amount, (2) reimbursement of up to \$20,000 in litigation costs, (3) fees and costs of
17 the Settlement Administrator in the amount of \$9,000, and (4) a Class Representative Incentive
18 Payment to Plaintiff in the amount of \$7,500. (*Id.*, Exhibit A.) Following the notice period, *only*
19 *four of 601 Class Members (or 99.33 percent) have opted out of the Settlement, and not one has*
20 *objected to its terms (or disputed the stated number of their weeks worked, for purposes of*
21 *calculating settlement shares).* (*Id.*, ¶¶ 8-10.) The positive reaction by the Class is a clear
22 indication of its approval of the Settlement and the terms thereof. Not least because of this
23 approval, Class Counsel moves this Court for the relief requested herein.

24 **III. THE REQUESTED ATTORNEY’S FEES AND COSTS SHOULD BE APPROVED**

25 **A. The Court Should Apply the Common Fund Methodology to Award Class Counsel’s**
26 **Fees Under the Settlement.**

27 Attorneys’ fees are expressly authorized by the provisions of the Labor Code under which this
28 action was brought. (See Lab. Code, §§ 218.5, 226(e)(1), 233(e), 1194.) Furthermore, “[A] litigant or

1 a lawyer who recovers a common fund for the benefit of persons other than himself or his client is
2 entitled to reasonable attorneys' fees from the fund as a whole." (*Boeing Co. v. Van Gemert* (1980)
3 444 U.S. 472, 478.) Recently, the California Supreme Court clarified its stance on common fund
4 cases, ruling –

5 "We join the overwhelming majority of federal and state courts in holding that
6 when class action litigation established a monetary fund for the benefit of the
7 class members, and the trial court in its equitable powers awards class counsel a
fee out of that fund, the court may determine the amount of a reasonable fee by
choosing an appropriate percentage of the fund created."

8 (*Laffitte v. Robert Half Int'l., Inc.* (2016) 1 Cal. 5th, 480, 503.) Explaining its ruling, the Court further
9 held that "[t]he recognized advantages of the percentage method – including relative ease of
10 calculation, alignment of incentives between counsel and the class, a better approximation of market
11 conditions in a contingency case, and the encouragement it provides counsel to seek an early
12 settlement and avoid unnecessarily prolonging litigation – convince us the percentage method is a
13 valuable tool that should not be denied by our trial courts." (*Id.*, internal citations omitted; see also
14 *Vizcaino v. Microsoft Corp.* (9th Cir. 2002) 290 F.3d 1043, 1047.) The Court specifically stated that
15 trial courts "retain the discretion to forgo a lodestar cross-check.." (*Laffitte* at p. 506.) Indeed, several
16 courts have expressed frustration with the alternative "lodestar" approach for deciding fees, which
17 usually involves wading through voluminous and often indecipherable time records. (See, e.g., *In re*
18 *Activision Securities Litigation* (N.D. Cal. 1989) 723 F.Supp. 1373, 1375.) The percentage approach
19 is preferable to the lodestar because it: (1) provides predictability to class counsel and class members;
20 (2) encourages efficient resolution of the litigation by providing an incentive for early, yet reasonable
21 settlement; and (3) reduces the demands on judicial records. (*Id.* at pp. 1378-79.) In fact:

22 A task force commissioned by the Third Circuit concluded that the lodestar approach (1)
23 increases the workload of an already overtaxed judicial system, (2) is insufficiently
24 objective and produces results that are far from homogenous, (3) creates a sense of
25 mathematical precision that is unwarranted in terms of the realities of the practice of law,
26 (4) is subject to manipulation by judges who prefer to calibrate fees in terms of percentages
27 of the settlement fund or the amounts recovered by the Claimants or of an overall dollar
28 amount, (5) encourages lawyers to spend excessive hours, and engage in duplicative and
unjustified work, (6) creates a disincentive for the early settlement of cases, (7) deprives
trial courts of flexibility to reward or deter lawyers so that desirable objectives, such as
early settlement, will be fostered, (8) works to the particular disadvantage of the public
interest bar, and (9) results in confusion and lack of predictability. Due to these perceived

1 deficiencies, the Report of the Third Circuit Task Force concluded that the lodestar
2 technique is a cumbersome, enervating, and often surrealistic process of preparing and
3 evaluating fee petitions that now plagues the Bench and Bar and recommended a return to
the percentage of the recovery fee formula in cases involving a settlement fund.

4 (*Lealao v. Beneficial California, Inc.* (2000) 82 Cal.App.4th 19, 28, citations and quotation marks
5 omitted.) In *Lealao*, the Court of Appeal considered counsel's efficiency and skill in bringing the case
6 to early resolution: "[T]he promptness of settlement cannot be used to justify the refusal to apply a
7 multiplier to reflect the size of the class recovery without exacerbating the disincentive to settle
8 promptly inherent in the lodestar methodology. Considering that our Supreme Court has placed an
9 extraordinarily high value on settlement . . . *it would seem counsel should be rewarded, not punished,*
10 *for helping to achieve that goal....*" (*Lealao* at p. 52, citations omitted, emphasis added.) Newberg
11 notes that achievement of a substantial recovery with modest hours expended should not be penalized,
12 but should be rewarded for considerations of time saved by superior services performed. (Newberg on
13 Class Actions, 4th Ed. 2002, § 14:6.) Moreover, courts should not only consider the size of the class
14 or the amount of the recovery as a whole; it should also examine the size of the individual settlement
15 amount of each class member as an indication of counsel's contribution to the case. (*Lealao* at p. 53.)

16 Based on this rationale, the California Supreme Court in *Laffite* affirmed a fee award
17 representing one-third of the fund and rejected the objections of putative class members to this award.
18 (*Laffite*, 1 Cal.5th at p. 506.) Further, this was based on a lodestar amount that required a multiplier
19 of 2.13. (*Id.* at p. 487). As the Court held, only when the multiplier is "extraordinarily high or low
20 [should] the trial court [] consider whether the percentage method should be adjusted so as to bring the
21 imputed multiplier within a justifiable range." (*Id.* at p. 505.) Moreover, in the *Laffite* intermediate
22 court decision, the Court of Appeal observed that "33 1/3 percent of the common fund is consistent
23 with, and in the range of, awards in other class action lawsuits." (*Laffite v. Robert Half Int'l., Inc.*
24 (2014) 231 Cal.App.4th 860, 871.)

25 Pursuant to the numerous cases cited above and below, including this Court's own rulings,
26 Plaintiff respectfully requests that the Court apply *Laffite* and award one-third of the common
27 fund. As discussed below, Plaintiff and her counsel assumed all of the risks in working on this
28 case on a contingency basis. Moreover, in prosecuting this action diligently and efficiently, Class

Counsel has created an ascertainable fund from which reasonable attorneys' fees can be easily calculated and awarded. The Settlement creates a Maximum Settlement Amount of \$400,000 that will substantially benefit the Class.

B. An Award of Attorneys' Fees to Class Counsel of One-Third of the Maximum Settlement Amount is Reasonable and Should Be Approved.

Plaintiff seeks an attorneys' fee award of one-third of the Maximum Settlement Amount, or \$133,333. This requested fee award should be approved because: (1) it is consistent with recent Federal and California court awards in similar wage and hour class settlements; (2) the Class has responded positively to the requested award; (3) it is reasonable in light of the substantial monetary *and non-monetary benefits*² conferred on the Class; and (4) it achieves the dual purposes of a common fund award by spreading the litigation costs among those who benefited from the settlement while rewarding and encouraging competent counsel to handle complex, contingency, class action cases like this. The Court should confirm its preliminary approval of this fee award.

1. The Requested Fee is Supported by Awards in Similar Cases.

A review of California cases "reveals that courts usually award attorneys' fees in the 30-40% range in wage and hour class actions that result in recovery of a common fund under \$10 million." (*Cicero v. DirecTV, Inc.* (C.D. Cal. 2010) 2010 U.S. Dist. Lexis 86920 at *17.) These smaller class actions frequently involve fee awards in the range of one-third because they do not implicate megafunds where a smaller percentage recovery is more appropriate. (See *Vandervort v. Balboa Capital Corp* (C.D. Cal. 2014) 8 F.Supp.3d 1200, 1209-10.³)

² As additional consideration for the Released Claims, Defendant reviewed and audited its policies, practices, and procedures associated with the Labor Code violations alleged in this case so as to ensure compliance. Settlement Agreement, § 51.

³ "Empirical studies show that, regardless whether the percentage method or the lodestar method is used, fee awards in class actions average around one-third of the recovery." *Chavez*, 162 Cal.App.4th 43, 66 n.11 (quoting *Shaw v. Toshiba Am. Info. Sys., Inc.*, 91 F. Supp. 2d 942, 972 (E.D. Tex. 2000); see also *Knight v. Red Door Salons, Inc.*, No. 08-01520 SC, 2009 WL 248367, at *6 (N.D. Cal. 2009) ("fee awards in class actions average around one-third of the recovery") (quoting Newberg on Class Actions § 14.6 (4th ed. 2007)).

1 In smaller wage-hour class actions like this one, federal courts seated in California routinely
2 award attorneys' fees of percentages equal to or greater than that sought by Plaintiff in this action.⁴
3 The same is true of California State courts, including this one.⁵ When viewed in the light of the
4 foregoing authorities, the reasonableness of Plaintiffs' requested fee award of one-third is reaffirmed.

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8 ⁴ See, e.g., *Wren v. RGIS Inventory Specialists* No. C-06-05778, JCS, 2011 WL 1230826, at *29 (N.D. Cal. Apr. 1, 2011)
9 (approving fee award that constituted 42% of the common fund in wage and hour class and collective action); *Boyd*,
10 2014 WL 6473804, at *8-*12 (awarding one-third of settlement in wage and hour case on behalf of real estate review
11 appraisers); *Birch v. Office Depot, Inc.* Case No. 06cv1690 DMS, at *13 (S.D. Cal. Sept. 28, 2007) (awarding a 40% fee
12 on a \$16,000,000 wage and hour class action settlement); *Stuart v. Radioshack Corp.*, No. C-07-4499 EMC, 2010 WL
13 3155645 at *5-*7 (N.D. Cal. Aug. 9, 2010) (awarding one-third of \$4.5 million settlement fund as fees in class case
14 alleging failure to reimburse employees for expenses); *Quezada v. Con-Way Freight, Inc.*, No. 09-cv-3670, at ¶ 9 (N.D.
15 Cal. Jan. 15, 2015) (awarding one-third of \$2 million settlement fund as fees in class case alleging failure to pay wages
16 for all hours worked); *Singer v. Becton Dickinson and Co.*, No. 08-CV-821-IEG (BLM) 2010 WL 2196104, at *8 (S.D.
17 Cal. Jun. 1, 2010) (approving fee award of 1/3 of the common fund; award was similar to awards in three other cited
18 wage and hour class action cases where fees ranged from 30% to 40%); *Vasquez v. Coast Valley Roofing, Inc.* (E.D. Cal.
19 2010) 266 F.R.D. 482, 491-92 (citing five recent wage and hour class actions where federal district courts approved
20 attorney fee awards ranging from 30% to 33%); *Cicero*, 2010 WL 2991486, at *6 (noting that fees of one-third are
21 common in wage and hour settlements below \$10 million, citing cases); *Rieve v. Coventry Healthcare Inc.* (C.D. Cal.
22 Aug. 8, 2014) No. 11-cv-1032-DOC, at ¶ 7 (awarding one-third of \$3 million settlement fund as attorneys' fees in wage
23 & hour class settlement).

24 ⁵ See, e.g., *Contreras v. Bank of Am., N.A.* (S.F. Cnty. Super. Ct. Sept. 3, 2010) No. CGC-07-467749 (fee award of one-
25 third of \$16,650,000 fund in wage and hour settlement); *Barrett v. The St. John Cos.* (L.A. Cnty. Super. Ct. July 9, 2009)
26 No. BC354278 (33½% award of \$1.1 million settlement in wage and hour class action); *Case, et al. v. Toyohara Am.*
27 *Inc.* (L.A. Cnty. Super. Ct. May 31, 2006) No. BC328111 (same); *Marroquin v. Bed Bath & Beyond* (Alameda Cnty.
28 Super. Ct. June 22, 2004) No. RG04145918 (same); *Crandall v. UHaul Int'l, Inc.* (L.A. Cnty. Super. Ct. Aug. 17, 2001)
No. BC178775 (40% award in wage and hour class action); *Tokar v. GEICO* (San Diego Cnty. Super. Ct. July 9, 2004)
No. GIC 810166 (approving award of attorney's fees of 33-1/3% of recovery); *Davis v. The Money Store, Inc.*
(Sacramento Cnty. Super. Ct. Decl. 26, 2000) No. 99AS01716 (33-1/3% of \$6,000,000 settlement); *Big Lots Overtime*
Cases, (San Bernardino Cnty. Super. Ct., JCC Proceeding No. 4283, Feb. 4, 2004) (33% fee recovery); See, e.g.,
Contreras v. Bank of Am., N.A. (S.F. Cnty. Super. Ct. Sept. 3, 2010) No. CGC-07-467749 (fee award of one-third of
\$16,650,000 fund in wage and hour settlement); *Barrett v. The St. John Cos.* (L.A. Cnty. Super. Ct. July 9, 2009) No.
BC354278 (33½% award of \$1.1 million settlement in wage and hour class action); *Case, et al. v. Toyohara Am. Inc.*
(L.A. Cnty. Super. Ct. May 31, 2006) No. BC328111 (same); *Marroquin v. Bed Bath & Beyond* (Alameda Cnty. Super.
Ct. June 22, 2004) No. RG04145918 (same); *Crandall v. UHaul Int'l, Inc.* (L.A. Cnty. Super. Ct. Aug. 17, 2001) No.
BC178775 (40% award in wage and hour class action); *Tokar v. GEICO* (San Diego Cnty. Super. Ct. July 9, 2004) No.
GIC 810166 (approving award of attorney's fees of 33-1/3% of recovery); *Davis v. The Money Store, Inc.* (Sacramento
Cnty. Super. Ct. Decl. 26, 2000) No. 99AS01716 (33-1/3% of \$6,000,000 settlement); *Big Lots Overtime Cases*, (San
Bernardino Cnty. Super. Ct., JCC Proceeding No. 4283, Feb. 4, 2004) (33% fee recovery); *Mettler, Bender, and Rojas v.*
Les Schwab Tire Centers of California, Inc., San Joaquin County Superior Court Case No. STK-CV-UOE-2018-476,
Order Granting Plaintiffs' Motion for Approval of Class Action Settlement, July 23, 2019 (approving fee request of one-
third of the common fund); *Escalera v. La Tapatia Mexican Restaurant, Inc.*, San Joaquin County Superior Court, July
12, 2019, Case No. STK-VJ-UOE-2017-5296, Order on Motion for Final Approval of Class Action Settlement and
Motion for Attorneys' Fees, Costs, and Class Representative Payment, (approving fee request of one-third of the
common fund); *Grady and Duran v. People 2.0 dba The Hire Source, et al.*, San Joaquin County Superior Court Case
No. STK-CV-UOE-2017-13867, Order Granting Plaintiff's Motion for Final Approval of Class Action Settlement, May
29, 2019, (approving fee request of one-third of the common fund).

1 **2. The Overwhelmingly Positive Reaction of the Class Supports Approval.**

2 It is well settled that positive reactions by class members favor settlement approval. (7-Eleven
3 *Owners for Fair Franchising v. Southland Corp.* (2000) 85 Cal.App.4th 1135, 1152-53.) Thus, the
4 absence of disapproval constitutes strong evidence in support of the reasonableness of the requested
5 fee and cost award. (See *In re Heritage Bond Litig.* (C.D. Cal. 2005) 2005 WL 1594403 at * 21 [“The
6 absence of objections or disapproval by class members to Class Counsel’s fee request further support
7 finding the fee request reasonable”].) Here, after having received notice of the terms of the Settlement
8 Agreement, ***not one of the 601 Class Members has objected to the requested attorneys’ fees and***
9 ***costs award.*** (Admin. Dec. ¶ 9.) Even if opting out from the Settlement could be construed as
10 disapproval of the sought fee award, more than 99 percent of the Class Members have decided to
11 participate in the Settlement. This reaction indicates the Class’s acceptance of the proposed fee award
12 and further underscores its reasonableness.

13 **3. An Award of One-Third Settlement Amount Is Fair and Reasonable in Light of the**
14 **Substantial Monetary Benefits Obtained for the Class and the Risks Faced by Class**
15 **Counsel.**

16 In addition to these equity and market considerations, courts also look to the following factors
17 to assess the reasonableness of a common fund award: (1) the results achieved, particularly whether
18 counsel obtained benefits for the Class above and beyond the cash settlement fund, such as causing the
19 employer to make changes to its policies; (2) the riskiness of prosecuting the litigation; (3) the skill
20 and high quality of work by counsel; and (4) the financial burden carried by Class Counsel in
21 prosecuting the case on a contingency basis. (*Serrano v. Priest* (1977) 20 Cal. 3d 25, 49; *Lealao v.*
22 *Beneficial California, Inc.*, 82 Cal. App. 4th 19, 26; see also *Vizcaino*, 290 F.3d at 1048-50 [internal
23 quotation and citation omitted].) As discussed below, all of these factors justify Plaintiff’s fee request.

24 **a. The fee request is justified by the positive results achieved.**

25 The ultimate reasonableness of the fee “is determined primarily by reference to the level of
26 success achieved by the plaintiff.” *McCown v. City of Fontana*, 565 F.3d 1097, 1102 (9th Cir. 2009).
27 Here, Class Counsel achieved an excellent result and obtained significant monetary relief for the
28 Class, which justifies the requested fee award. Participating Class Members (i.e., Class Members who

1 did not opt-out) will receive a share of the Net Settlement Amount (more than \$32,000, even after
2 subtracting the Class Representative Enhancement Award, fees and costs of class counsel, and costs of
3 administration). *The average payment to each Participating Class Member will be approximately*
4 *\$261.21, with the largest payment being approximately \$994.25.* (Admin Dec. ¶ 15.)

5 This recovery represents substantial monetary relief for the Settlement Class given the
6 complexity of the issues, the risk and uncertainty inherent in class action litigation, and the myriad
7 factual and legal defenses advanced by Defendants. (Briscoe Decl., ¶¶ 11-13.) Under these
8 circumstances, a fee award of one-third of the Maximum Settlement Amount, or \$133,333, is
9 reasonable and appropriate.

10 **b. The risks associated with this litigation justify the fee request.**

11 Class counsel has taken considerable risk in litigating this case—not just because it was done
12 on a wholly contingency basis (as discussed below) but also because complex, representative wage-
13 and-hour litigation is an ever-emerging area under the law. As set forth in greater detail in Collard’s
14 Motion for Final Approval, recovery is far from guaranteed and could only occur after *additional*
15 years of costly litigation that is rife with risk. Defendants asserted and would have continued to assert,
16 through certification, trial and the appellate process, numerous factual and legal defenses. Collard
17 faced the all-too-acute risk that she would not obtain a maximum damage/penalty award on all (or any
18 of) her claims. Absent settlement, Class Counsel anticipates a vigorous and lengthy challenge to both
19 class certification and the merits of the Class Action. While Class Counsel remains confident that
20 certification and ultimate victory would be attained, continued litigation is guaranteed to be costly,
21 time consuming and uncertain. Appellate proceedings would only further delay and jeopardize
22 recovery by Class Members. As such, these litigation risks further justify the sought fees award.
23 (Briscoe Decl., ¶¶ 15-18.)

24 **c. Class Counsel’s skill and the quality of their work justifies the fee request.**

25 Class counsel has demonstrated substantial skill, diligence, and high quality of work in
26 litigating the case, achieving the proposed Settlement, and creating a Maximum Settlement Amount of
27 \$400,000. The Settlement, and the substantial monetary benefits it conveyed upon the Settlement
28 Class, was obtained efficiently and effectively without wasted effort or years of needless, costly

1 litigation. As a result of the skill and tremendous effort of Class Counsel, Collard was well-positioned
2 to reach a favorable settlement for the Class, which itself required significant expertise and protracted,
3 at times contentious, negotiations to achieve. (See, generally, Briscoe Decl.)

4 **d. The contingent nature of the fee and financial burden carried by class counsel**
5 **justifies the fee request.**

6 A law firm that prosecutes class action cases does not get paid in every case. Sometimes, it
7 gets nothing or is awarded fees equal to only a small percentage of the amount it actually had worked.
8 Where plaintiffs' counsel does succeed, therefore, it is appropriate to compensate the firm for the risks
9 the firm regularly undertakes. As the California Supreme Court has explained:

10 “[A] contingent fee must be higher than a fee for the same legal services paid as
11 they are performed. The contingent fee compensates the lawyer not only for the
12 legal services he renders but for the loan of those services. The implicit interest rate
13 on such a loan is higher because the risk of default (the loss of the case, which
14 cancels the debt of the client to the lawyer) is much higher than that of conventional
15 loans. A lawyer who both bears the risk of not being paid and provides legal
16 services is not receiving the fair market value of his work if he is paid only for the
17 second of these functions. If he is paid no more, competent counsel will be
18 reluctant to accept fee award cases.”

19 (*Ketchum v. Moses* (2001) 24 Cal.4th 1122, 1132-33, internal citation and quotation omitted.)

20 Accordingly, courts have recognized that “[i]t is an established practice in the private legal market to
21 reward attorneys for taking the risk of non-payment by paying them a premium over their normal
22 hourly rates for winning contingency cases.” (*Fischel v. Equitable Life Assurance Soc’y of U.S.* (9th
23 Cir. 2002) 307 F.3d 997, 1008.)

24 In this case, Class Counsel have worked diligently on this case since 2021, and in effect have
25 loaned their legal services to the entire Class since that time. Class Counsel have prosecuted this case
26 on a wholly contingent basis, and have done so at great risk of never receiving any compensation due
27 to the risky nature of class action litigation in general, and also due to the numerous factual and legal
28 defenses of Defendant. Class Counsel took a tremendous risk by taking on this case and persevered to
attain the Settlement on behalf of the Class. To date Class Counsel has spent \$16,687.45 in costs and
expended *approximately 190 hours of time*, with significant work remaining to be done, without

1 receiving any compensation at all. Meanwhile, all of this entailed passing on other lucrative cases.
2 (Briscoe Decl., ¶¶ 21-29.)

3 **4. The Requested Fee Award Fairly Spreads the Litigation Costs Among the Settlement**
4 **Beneficiaries.**

5 The percentage-of-the-fund approach is an appropriate method for reviewing attorneys' fees
6 here because it allows Collard and Class Counsel to create "a fund from which others will benefit
7 [and] to require those other beneficiaries to bear their fair share of the litigation costs." (*Nw. Energetic*
8 *Servs., LLC v. Cal. Franchise Tax Bd.* (2008) 159 Cal. App. 4th 841, 87 [citing *Serrano, supra*, 20
9 Cal. 3d at p. 35.]) This approach ensures that the class members, who have accepted the benefits from
10 a common fund recovery, also accept their fair *pro rata* responsibility to contribute towards the
11 attorneys' fees and costs that created the fund in the first place. (*Earley v. Super. Ct.* (2000) 79 Cal.
12 App. 4th 1420, 1436.) In other words, "[t]hose who benefit from the creation of the fund should share
13 the wealth with the lawyers whose skill and effort helped create it." (*In re Wash. Pub. Power Supply*
14 *Sys. Sec. Litig.* (9th Cir. 1994) 19 F.3d 1291, 1300.)

15 Based on the above principles, the attorneys' fees to be awarded are to be calculated based on a
16 percentage of the entire settlement fund. (*Boeing Co. v. Van Gemert* (1980) 444 U.S. 472, 478 ; *Six*
17 *(6) Mexican Workers v. Arizona Citrus Growers* (9th Cir. 1990) 904 F.2d 1301, 1311.) Accordingly,
18 the percentage-of-the-fund approach is appropriate here and supports Class Counsel's request for an
19 award of a percentage of the common fund (i.e., one-third of the \$400,000 Maximum Settlement
20 Amount).

21 In addition to spreading the litigation costs among all the beneficiaries, awards of common
22 fund fees are essential to furthering the important societal goal of attracting competent counsel to
23 handle these often-complex contingency cases, "who will be more willing to undertake and diligently
24 prosecute proper litigation for the protection or recovery of the fund if [attorneys are] assured that
25 [they] will be promptly and directly compensated should [their] efforts be successful." (*Melendres v.*
26 *City of Los Angeles* (1975) 45 Cal.App.3d 267, 273.) "Given the unique reliance of our legal system
27 on private litigants to enforce substantive provisions of law through class and derivative actions,
28 attorneys providing the essential enforcement services must be provided incentives roughly

1 comparable to those negotiated in the private bargaining that takes place in the legal marketplace, as it
2 will otherwise be economic for defendants to increase injurious behavior.” (*Lealao, supra*, 82 Cal.
3 App. 4th at 47.) Without such incentives, meritorious class actions such as this would not be brought
4 and thus the private enforcement of important statutory rights would be undermined.

5 California courts further recognize “the amount of attorney fees typically negotiated in
6 comparable litigation should be considered in the assessment of a reasonable fee in representative
7 actions in which a fee agreement is impossible.” (*Lealao, supra*, 82 Cal.App.4th at p. 47.) By doing
8 so, courts can ensure that the awarded fee approximates the legal marketplace by being comparable to
9 what clients and counsel would have likely negotiated at the outset of the matter. Notably, the typical
10 contingency fee contract ranges from 20 to 40 percent of the total recovery—leaving Collard’s
11 requested attorneys’ fee roughly in the middle of the spectrum. (*Chavez v. Netflix, Inc.* (2008) 162
12 Cal. App. 4th 43, 64-65.)

13 Here, Collard’s requested fee award constitutes a fair charge in light of the substantial relief,
14 monetary and otherwise, obtained for the Class. Because each Class Member will receive a share of
15 the Maximum Settlement Amount, equity requires that they also contribute to the attorneys’ fees that
16 netted them this positive result. Moreover, the requested fee—one-third of the common fund—is
17 equal to or less than 1) typical fees awarded in small wage and hour class actions like this one, 2) most
18 contingency fee retainer agreements, and 3) the fee that Class Counsel would have expected if they
19 had negotiated individual retainer agreements with each Class Member. (See *Chavez, supra*, 162 Cal.
20 App. 4th at 64-65; see also Briscoe Decl., ¶ 24.) Thus, the requested award ensures that Class Counsel
21 receive an appropriate fee award for the actual benefit conferred to the Class, particularly where it
22 would be impossible *ex ante* to enter a fair fee arrangement with all the members of the Class.

23 **5. The Lodestar Cross-Check Further Confirms the Reasonableness of the Requested** 24 **Fee Award.**

25 The California Supreme Court has held that trial courts have discretion to award fees as a
26 percentage of the common fund, with or without conducting a lodestar cross-check. (*Laffitte, supra*,
27 1 Cal. 5th at p. 506 [“We further hold that trial courts have discretion to forgo a lodestar cross-check
28 and use other means to evaluate the reasonableness of a requested percentage fee”].) Although not

1 required, courts asked to approve fee awards on a common fund percentage basis may perform a
2 “lodestar cross-check” as a means of determining whether the requested percentage is reasonable in
3 relation to the amount and value of the time expended by counsel. (*See Lealao, supra*, 82
4 Cal.App.4th at pp. 47-50.) The goal under either the percentage or lodestar approach being the award
5 of a reasonable fee to compensate counsel for their efforts. ⁶ (*Laffitte* at p. 504.)

6 This cross-check starts with the basic lodestar calculation but may then “evaluate the lodestar
7 as a percentage of the recovery and adjust it accordingly if it can be determined that the lodestar is
8 significantly different from the range of percentage fees freely negotiated in comparable litigation.”
9 (*Lealao, supra*, 82 Cal.App.4th at p. 50.) Under the first step of the cross-check, the “lodestar” figure
10 is calculated by multiplying “the number of hours [the prevailing party] reasonably expended on the
11 litigation [] by a reasonable hourly rate.” (*See Hensley v. Eckerhart* (1983) 461 U.S. 424, 433 ;
12 *Press v. Lucky Stores, Inc.* (1983) 34 Cal.3d 311, 322.)

13 ***Class Counsel, to date, have expended approximately 190 hours to bring this settlement to***
14 ***the brink of finalization.*** These hours reflect time reasonably spent litigating this case, which Class
15 Counsel sought to efficiently manage, staff, assign, and divide the work amongst themselves to avoid
16 duplication of effort. (Briscoe Decl., ¶ 26, Exhibit 4.) Class Counsel will also spend significant
17 additional time responding to Class Member inquiries, attending the Final Approval Hearing,
18 overseeing the administration of the Settlement, reporting to the Court, and attending a Final
19 Compliance Hearing. (*Id.* at ¶ 25.) Class Counsel’s customary hourly rate in plaintiff’s employment
20 class action cases is, for both Messrs. Briscoe and Wasserman (with thirteen and fifteen years’
21 experience practicing law, respectively) is \$878, and is commensurate with the rates of practitioners
22 with similar experience in plaintiffs’ wage-and-hour class actions within the California legal market,
23

24 ⁶ The common fund method is a better fit for this situation due to the creation of the Maximum Settlement Amount to
25 benefit the Class and its encouragement of better incentives regarding attorney billing practices that actually serve a
26 plaintiff class. Courts have also acknowledged the merits of awarding attorneys’ fees under the common fund approach
27 “[b]ecause the benefit to the class is easily quantified in common-fund settlements” and it avoids the “often more time-
28 consuming task of calculating the lodestar.” (*In re Bluetooth v. Headset Prods. Liab. Litig.* (9th Cir. 2011) 654 F.3d 935,
942; *Staton v. Boeing Co.* (9th Cir. 2003); see also *Elliot v. Rolling Frito-Lay Sales, LP* (C.D. Cal. June 12, 2014) 2014
WL 2761316 at *9 (“There are significant benefits to the percentage approach, including consistency with contingency
fee calculations in the private market, aligning the lawyers’ interests with achieving the highest award for the class
members, and reducing the burden on the courts that a complex lodestar calculation requires”).)

1 and have also been approved by numerous federal and state courts across the state.^{7, 8} (*Id.* at ¶ 22.)
2 Applying the appropriate hourly rates to the number of hours worked yields a lodestar of
3 **\$164,668.90.** (*Id.* at ¶ 23.) This reasonable lodestar is supported by detailed and contemporaneous
4 billing records maintained by Class Counsel. Summaries of these billing records are attached to and
5 described in Class Counsels' declarations for the Court's review. (*Id.* at ¶¶ 21-29; Exhibit 4.)

6 Under the second step of the analysis, the reasonableness of the requested fee award is
7 confirmed by the application of a modest multiplier. In wage and hour actions, California and Ninth
8 Circuit courts both approve reasonable multipliers on the class counsel's lodestar, which range from 2
9 to 4 times, to reward counsel for accepting the contingent risk of the litigation or obtaining excellent
10 results. (*See, e.g., Laffitte v. Robert Half International, Inc.*, 1 Cal. 5th at 506 (approving one-third fee
11 award with multiplier between 2.03 and 2.13); *see also Wershba*, 91 Cal. App. 4th at 255 (noting that
12 multipliers can range from 2 to 4 or higher) ; *Contreras v. Bank of Am., N.A.* (S.F. Cnty. Super. Ct.
13 Sept. 3, 2010) No. CGC-07-467749 (approving one-third of common fund fee award, which was 2.73
14 multiplier of lodestar); *Van Vranken v. Atlantic Richfield Co.*, 901 F.Supp. 294, 298 (N.D. Cal. 1995)
15 ("Multipliers in the 3-4 range are common in lodestar awards for lengthy and complex class action
16 litigation").⁹) **Yet, no multiplier in this case is necessary, as the lodestar exceeds the sought**
17 **award, and substantially.**

20 ⁷These rates are based upon the 2018-2019 Adjusted Laffey Matrix for the District of Columbia, a matrix that has been
21 used by California district courts in determining reasonable hourly rates. *Chanel, Inc. v. Doan*, 2007 U.S. Dist. LEXIS
22 22691, *17-18 (N.D. Cal. Mar. 13, 2007); *Garnes v. Barnhardt*, 2006 U.S. Dist. LEXIS 5938, *18-19 (N.D. Cal. Jan. 31,
2006); *Viveros v. Donahoe*, 2013 U.S. Dist. LEXIS 46867, *15-22 (C.D. Cal. Mar. 27, 2013); *Langer v. Dodaiton*, 2015
U.S. Dist. LEXIS 64805, *36-37 (C.D. Cal. May 18, 2015).

23 ⁸ Calculating the lodestar using Class's Counsel's current rates is appropriate given the deferred nature of counsel's
24 compensation. *See LeBlanc-Sternberg v. Fletcher*, 143 F.3d 748, 764 (2nd Cir. 1998) ("[C]urrent rates, rather than
25 historical rates, should be applied in order to compensate for the delay in payment . . .") (citing *Missouri v. Jenkins*, 491
U.S. 274, 283-84 (1989)); *In re Washington Pub. Power Supply Sys. Sec. Litig.*, 19 F.3d 1291, 1305 (9th Cir. 1994)).

26 ⁹ See also, *Vizcaino*, 290 F.3d at 1051 & n.6 (affirming lodestar multiplier of 3.65 in light of complexity and
27 risk of case and surveying 34 class common fund settlements to find that 83% of multipliers were in the 1 to 4
28 range); *Vandervort*, 8 F.Supp.3d at 1210 (awarding one-third of fund, which was 2.52 multiplier of lodestar);
Boyd, 2014 WL 6473804, at *11 (awarding one-third of fund, which was 2.58 multiplier of lodestar); *Hopkins*
v. Stryker Sales Corp., No. 11-CV-02786-LHK, 2013 WL 496358, at *6 (N.D. Cal. Feb. 6, 2013) (approving
fee award that represented a multiplier of 2.76 as falling within the "majority" range for risk multipliers);
Buckingham, et. al. v. Bank of America, United States District Court, Northern District, Case No. 3:15-cv-
06344-RS, Docket No. 103 (approving lodestar multiplier of 5.31).

1 **C. Class Counsel's Out-of-Pocket Expenses Are Reasonable and Compensable From the**
2 **Common Fund.**

3 The Settlement allows Class Counsel to request reimbursement for the out-of-pocket expenses
4 they incurred during this litigation in the reasonable amount of no more than \$20,000. Reimbursement
5 for these expenses is appropriate for the same reason attorneys' fees should be paid out of the fund: all
6 beneficiaries should bear their fair share of the costs of the litigation, and these are the normal costs of
7 litigation that counsel traditionally bill their paying clients. (See *Serrano*, *supra*, 20 Cal. 3d at 35
8 (common fund doctrine permits class counsel to recover attorneys' fees and costs from the fund as a
9 whole); *Rider v. County of San Diego* (1992) 11 Cal. App. 4th 1410, 1423, n.6 [costs are recoverable
10 from the common fund "[o]f necessity, and for precisely the same reasons discussed above with
11 respect to the recovery of attorney fees"]; *Earley*, *supra*, 79 Cal. App. 4th at 1436; see also *Harris v.*
12 *Marhoefer* (9th Cir. 2004) 24 F.3d 16, 19.)

13 To date, Class Counsel have incurred \$16,687.45 in actual out-of-pocket expenses. (Briscoe
14 Decl., ¶ 31, Exhibit 4.) The costs to be reimbursed are routinely reimbursed litigation costs that are
15 typically charged to fee-paying clients, including filing fees, copying, postage, computerized legal
16 research charges, etc. (*Id.*; see also *Harris*, *supra*, 24 F.3d at 19 (holding that attorneys may recover
17 reasonable expenses that would typically be billed to paying clients in non-contingency cases).)
18 Substantial costs were also expended in retaining an economic expert to review and synthesize
19 exceedingly voluminous payroll records, and in securing the services of an excellent mediator with the
20 knowledge and skills to mediate a 601-person employment class and representative action. (*Id.*)
21 Furthermore, Class Counsel expects to incur additional costs before this case is closed following a
22 Final Compliance Hearing. (Briscoe Decl., ¶ 31.) These costs were (and will be) necessarily incurred,
23 are reasonable in relation to the size and scope of the case, and Class Counsel should be reimbursed
24 for them.

25 **D. The Class Representative Enhancement Award to Plaintiff is Reasonable.**

26 The Court should also approve the \$7,500 Class Representative Enhancement Award to
27 Collard because it is just, fair, and reasonable. Courts regularly approve incentive awards for class
28 representatives to "be compensated for the expense or risk they have incurred in conferring a benefit

1 on other members of the class.” (*In re Cellphone Fee Termination Cases* (2010) 186 Cal. App. 4th
2 1380, 1394 [quoting *Clark v. Am. Residential Servs. LLC* (2009) 175 Cal. App. 4th 785, 806]; *see also*
3 *Bell v. Farmers Ins. Exch.* (2004) 115 Cal. App. 4th 715, 725-26 [upholding Class Representative
4 Enhancement Awards to class representatives]; *Munoz v. BCI Coca-Cola Bottling Co. of L.A.* (2010)
5 186 Cal. App. 4th 399, 412 [upholding incentive awards to plaintiffs].)

6 In deciding whether to approve an incentive award, a court should consider: “(1) the risk to the
7 class representative in commencing suit, both financial and otherwise; (2) the notoriety and personal
8 difficulty encountered by the class representative; (3) the amount of time and effort spent by the class
9 representative; (4) the duration of the litigation and; (5) the personal benefit (or lack thereof) enjoyed
10 by the class representative as a result of the litigation.” (*In re Cellphone Fee Termination Cases*,
11 *supra*, 186 Cal.App.4th at 1394-95 [internal quotation marks omitted]; *see also Van Vranken v.*
12 *Atlantic Richfield Co.* (N.D. Cal. 1995) 901 F. Supp. 294, 299 [applying similar factors to determine
13 reasonableness of Class Representative Enhancement Awards].)

14 All of the aforementioned factors support the Class Representative Enhancement Awards
15 requested here. The Class Representative Enhancement Award sought by Collard is (a) in line with
16 the Ninth Circuit benchmark, (b), only 1.875 percent of the \$400,000 Maximum Settlement Amount,
17 and (c) fair, reasonable and appropriate under the circumstances of this case. Here, Collard took on
18 substantial risk in bringing this class action and exposed herself to notoriety and personal difficulties
19 from serving as the named plaintiff. First, Collard bore the significant financial risk of Defendant’s
20 costs in the event she lost at trial. This financial risk, in a complex employment class action involving
21 601 current and former employees, could *easily* total tens, if not hundreds of thousands of dollars.
22 Those risks also included, but were not limited to, damage to her professional reputation. It is well-
23 established that plaintiffs in the employment context “face[] the risk that new employers would learn
24 that they were class representatives in a lawsuit against their former employer and take adverse action
25 against them. Moreover, each time they change jobs, they will risk retaliation in the hiring process.”
26 (*Asare v. Change Grp. of N.Y., Inc.* (S.D.N.Y. Nov. 18, 2013) No. 12 Civ. 3371(CM), 2013 WL
27 6144764, at *15.) This danger is heightened in this case, if only for the simple reason that Collard
28 lives and works in a relatively small community where word travels fast. Furthermore, Collard, who

1 worked diligently with Class Counsel throughout this entire litigation, including taking numerous
2 calls, exchanging endless emails, and meeting with Class Counsel to discuss the case, and attending a
3 lengthy mediation, should be rewarded for taking the initiative to pursue these claims on behalf of her
4 coworkers, and for her role in reaching a substantial settlement providing for valuable relief to the
5 Class. Collard's commitment is further underscored by the fact that, had the Settlement not been
6 reached, her participation may well have been required for several more years. Additionally, Collard
7 receives no special treatment under the terms of the Settlement and is entitled to only to her
8 proportional share of the Net Settlement Amount. Moreover, by actively pursuing this action, Plaintiff
9 has furthered the twin California public policy goals of enforcing the Labor Code and making
10 appropriate use of the class action device. (*See Sav-on Drug Stores, Inc. v. Super. Ct.* (2004) 34 Cal.
11 4th 319, 340.) In light of the foregoing, Plaintiff should be rewarded for taking the initiative to pursue
12 these claims on behalf of her coworkers, and for her role in reaching a substantial settlement providing
13 for valuable relief to the Class, and for the risks assumed in doing so.

14 The reasonableness of the requested Class Representative Enhancement Award is further
15 confirmed by the fact that it constitutes just 1.875 percent of the Maximum Settlement Amount.
16 Critically, ***not one Class Member has objected to the requested Class Representative Enhancement***
17 ***Award after receiving notice of the same, and Defendants do not oppose it either.*** (Admin. Decl., ¶
18 9.) The requested Class Representative Enhancement Award is also consistent with awards approved
19 by courts in other similar wage and hour cases.¹⁰

20 Plaintiff's requested Class Representative Enhancement Award is warranted in light of the
21 commendable result obtained, the considerable time spent prosecuting this case, and their exposure to

23 ¹⁰ See e.g. *Bond v. Ferguson Enterprises, Inc.*, No. 1:09-cv-1662 OWW MJS, 2011 WL 2648879 (E.D. Cal. June 30,
24 2011) (approving \$11,250 service award each to two class representatives in a meal break class action); *Vasquez v. Coast*
25 *Valley Roofing, Inc.*, 266 F.R.D. 482, 493 (E.D. Cal. 2010) (***approving service awards of \$10,000 each from a \$300,000***
26 ***settlement in a wage and hour class action***); *Castellanos v. Pepsi Bottling Group, Inc.*, No. RG07332684 (Alameda
27 Cnty. Super. Ct., March 11, 2010) (approving incentive award of \$12,500 in a wage and hour class action); *West v.*
28 *Circle K Stores, Inc.*, No. CIV. S-04-0438 WBS GGH, 2006 U.S. Dist. LEXIS 76558, at *28 (E.D. Cal. Oct. 19, 2006)
("the court finds plaintiffs' enhancement payments of \$15,000 each to be reasonable."); *Louie v. Kaiser Found. Health*
Plan, Inc., No. 08cv0795 IEG RBB, 2008 U.S. Dist. LEXIS 78314, at *18 (S.D. Cal. Oct. 6, 2008) (approving "\$25,000
incentive award for each Class Representative" in wage an hour settlement); *Garner v. State Farm Mut. Auto. Ins. Co.*,
No. CV 08 1365 CW (EMC), 2010 WL 1687832, at *17 n.8 (N.D. Cal. Apr. 22, 2010) ("Numerous courts in the Ninth
Circuit and elsewhere have approved incentive awards of \$20,000 or more where, as here, the class representative has
demonstrated a strong commitment to the class").

1 personal backlash. Accordingly, all of the aforementioned factors support the approval of the \$7,500
2 Class Representative Enhancement Award.

3 **IV. CONCLUSION**

4 For the foregoing reasons, the Court should grant final approval to the Parties' proposed class
5 action Settlement, award attorneys' fees in the amount of \$133,333, costs of \$16,687.45,
6 administration fees of \$9,000, and a Class Representative Enhancement Award of \$7,500 to Collard
7 for her service as Class Representative in this matter.

8 ///

9 **DATED:** November 9, 2023

MAYALL HURLEY P.C.

10 By 
11 _____
12 ROBERT J. WASSERMAN
13 JOHN P. BRISCOE
14 Attorneys for Plaintiff
15 JESSICA COLLARD and the Class
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PROOF OF SERVICE

I, the undersigned, certify and declare as follows:

I am over the age of eighteen years and not a party to this action. My business address is 112 S. Church Street, Lodi, CA 95240, that is located in the county where the mailing and/or delivery below took place.

On November 9, 2023, I served the following document:

**MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF MOTION FOR FEES
AND COSTS OF CLASS COUNSEL, CLASS REPRESENTATIVE ENHANCEMENT AWARD
TO CLASS REPRESENTATIVE, AND COSTS OF ADMINISTRATION**

addressed to:

Laurie E. Yoon
Murchison & Cumming LLP
Mt. Diablo Plaza
2175 N. California Blvd., Ste. 900
Walnut Creek, CA 94596
Lyoon@murchisonlaw.com
Ken H. Moreno
kmoreno@murchisonlaw.com

☐ **BUSINESS PRACTICE TO ENTRUST DEPOSIT TO OTHERS:** I am readily familiar with the business practice at my place of business for collection and processing of correspondence for mailing with the United States Postal Service. Correspondence so collected and processed is deposited with the United States Postal Service that same day in the ordinary course of business. On the date specified below, at my place of business at Stockton, California a copy of the document described above was placed for deposit in the United States Postal Service in a sealed envelope, with postage fully prepaid addressed to the individuals and/or entities mentioned above; and that envelope was placed for collection and mailing on that date following ordinary business practice.

☐ **BY EXPRESS SERVICE CARRIER:** On the date specified below, I directed to be deposited in a box or other facility regularly maintained by Federal Express or delivered to a courier or driver authorized by said express service carrier to receive documents, a copy of the document mentioned above, in an envelope designed by the said express service carrier, with delivery fees paid or provided for, addressed to the individuals and/or entities mentioned above.

☒ **BY EMAIL:** In accordance with Code of Civil Procedure, Section 1010.6, on the date specified below, I caused a copy of the document(s) described above to be sent to the person(s) at the e-mail address(es) listed above. My business e-mail address is lriley@mayallaw.com. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.

I certify and declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on November 9, 2023, at Lodi, California.


LINDSAY RILEY