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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF ORANGE – CIVIL COMPLEX CENTER**

NORBERTO CEJA, individually, and on
behalf of other members of the general public
similarly situated and on behalf of other
aggrieved employees pursuant to the
California Private Attorneys General Act,

Plaintiff,

vs.

WARE DISPOSAL, INC., a California
corporation; and DOES 1 through 100,
inclusive,

Defendants.

Case No. 30-2021-01224571-CU-OE-CXC
[consolidated with 30-2021-01228821-CU-
OE-CXC]

Honorable William D. Claster
Department CX101

CLASS ACTION

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

[Declaration of Class Counsel
(Yasmin Hosseini); Declaration of Class
Representative (Norberto Ceja); Declaration
of Settlement Administrator (Lisa Pavlik);
and [Proposed] Final Approval Order and
Judgment filed concurrently herein]

Date: December 6, 2024
Time: 9:00 a.m.
Department: CX101

Complaint Filed: October 1, 2021
FAC Filed: November 20, 2023
Trial Date: None Set

1 **PLEASE TAKE NOTICE** that on December 6, 2024 at 9:00 a.m., in Department CX101
2 of the above-entitled Court, located at 751 West Santa Ana Boulevard, Santa Ana, California
3 92701, Plaintiff Norberto Ceja (“Plaintiff” or “Class Representative”) will and hereby does move
4 for an order granting final approval of:

5 1. The Settlement Agreement and Stipulation to Resolve Class Action and PAGA
6 Claims, Amendment No. 1 to Settlement Agreement and Stipulation to Resolve Class Action and
7 PAGA Claims, and Amendment No. 2 to Settlement Agreement and Stipulation to Resolve Class
8 Action and PAGA Claims (collectively, “Settlement,” “Agreement,” or “Settlement Agreement”),
9 on the grounds that the Settlement is fair, adequate, and reasonable because:

- 10 • A Net Settlement Amount of approximately **\$954,553.03** will be fully distributed to all
11 Class Members who have not submitted a valid and timely Opt-Out Request
12 (“Participating Class Members”);
13 • **No objections** were submitted to the settlement administrator, Simpluris, Inc.
14 (“Simpluris” or “Settlement Administrator”);
15 • **No Opt-Out Requests** were submitted to the Settlement Administrator;

16 2. Payment in the amount of **\$612,500.00** to Lawyers *for* Justice, PC (“Class
17 Counsel”), representing thirty-five percent (35%) of the Gross Settlement Amount, for attorneys’
18 fees, which is reasonable and justified on a percentage-basis, and also based on a lodestar cross-
19 check with a multiplier of 1.92;

20 3. Payment in the amount of **\$15,946.97** to Class Counsel for reimbursement of
21 litigation costs and expenses;

22 4. Payment in the amount of **\$9,500.00** to the Settlement Administrator for Settlement
23 Administration Costs;

24 5. Payment in the amount of **\$7,500.00** to Plaintiff Norberto Ceja as an Enhancement
25 Award, for his time and effort in representing the Class; and

26 6. Allocation of the penalties under the Private Attorneys General Act of 2004,
27 California Labor Code section 2698, *et seq.*, in the amount of \$150,000.00 (“PAGA Amount”), of
28 which seventy-five percent (75%), or **\$112,500.00**, will be paid to the California Labor and

1 Workforce Development Agency (“LWDA”) (“LWDA Payment”) and twenty-five percent (25%),
2 or **\$37,500.00**, will be distributed to Aggrieved Employees (“PAGA Payment”).

3 This Motion is made pursuant to Rule 3.769 and Rule 3.1113(e) of the California Rules of
4 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 Declarations of Class Counsel (Yasmin Hosseini), Class Representative (Norberto Ceja), and
8 Settlement Administrator (Lisa Pavlik of Simpluris, Inc.) in support thereof; the pleadings and
9 other 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
12 Dated: November 12, 2024

LAWYERS for JUSTICE, PC

13
14 By:



15 Selena Matavosian
16 *Attorneys for Plaintiff and the Class*
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TABLE OF CONTENTS

I.	SUMMARY OF MOTION.....	1
II.	PROCEDURAL HISTORY AND FACTUAL BACKGROUND.....	3
III.	SUMMARY OF THE SETTLEMENT TERMS AND PLAN OF DISTRIBUTION.	6
IV.	THE SETTLEMENT ADMINISTRATION PROCESS.....	8
V.	THE COURT SHOULD GRANT FINAL APPROVAL OF THE CLASS ACTION AND PAGA SETTLEMENT.....	9
A.	The Settlement Resulted from Arm’s-Length Negotiations Based Upon Extensive Investigation and Informal Discovery.	10
B.	The Risks Inherent in Continued Litigation Favor Final Approval of the Settlement.	13
C.	The Settlement Is Fair, Reasonable, and Adequate.....	14
D.	The Class Was Represented by Competent Counsel.	16
E.	There Are No Objections to the Class Settlement.....	16
VI.	THE ATTORNEYS’ FEES REQUESTED IS FAIR AND REASONABLE AND SHOULD BE APPROVED.....	17
A.	Legal Standard for Attorneys’ Fees in a Class Action Settlement.	17
B.	A Fee Award of a Percentage of the Entire Fund Is Appropriate.....	18
C.	The Attorneys’ Fees Requested Is Reasonable Based on the Factors Considered in Determination of Fee Awards.	21
	1. Time & Labor.	22
	2. The Skill Required to Perform Legal Services Properly.	23
	3. The Value of the Settlement for the Class Members.	23
	4. Whether the Fee Is Fixed or Contingent.	24
	5. The Amount Involved and the Results Achieved.	25
	6. The Reputation and Ability of the Attorneys.	26

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2
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D. The Lodestar Methodology Also Justifies Approval of the Requested Fees, Because Class Counsel Has Performed Work That Is of Significant Value Based On Reasonable Hours and Prevailing Hourly Rates of Compensation.
..... 26

1. The Number of Hours Spent on the Litigation was Reasonable. 27

2. The Fees Requested Represent a Reasonable Hourly Rate of Compensation in Light of Class Counsel’s Efforts and Experience.
28

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

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

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

IX. THE REQUESTED ENHANCEMENT AWARD IS FAIR AND REASONABLE AND SHOULD BE APPROVED. 33

X. CONCLUSION 34

TABLE OF AUTHORITIES

Cases

<i>7-Eleven Owners for Fair Franchising v. Southland Corp.</i> (2000) 85 Cal.App.4th 1135	10, 16
<i>Beech Cinema, Inc. v. Twentieth-Century Fox Film Corp.</i> (S.D.N.Y. 1979) 480 F.Supp. 1195 .	18
<i>Boeing Co. v. Van Gemert</i> (1980) 444 U.S. 472.....	18, 20
<i>Cates v. Chiang</i> (2013) 213 Cal.App.4th 791.....	25
<i>Cellphone Termination Fee Cases</i> (2009) 180 Cal.App.4th 1110.....	17
<i>Chavez v. Netflix, Inc.</i> (2008) 162 Cal.App.4th 43	9, 10, 18, 31
<i>Consumer Privacy Cases</i> (2009) 175 Cal.App.4th 545	17
<i>County of San Bernardino</i> (C.D. Cal. 2006) 624 F.Supp.2d 1113	31
<i>Crampton v. Takegoshi</i> (1993) 17 Cal.App.4th 308.....	19
<i>Dunk v. Ford Motor Co.</i> (1996) 48 Cal.App.4th 1794	10, 16, 17
<i>Graham v. DaimlerChrysler Corp.</i> (2004) 34 Cal.4th 553.....	29
<i>Green v. Obledo</i> (1981) 29 Cal.3d 126.....	18
<i>In re American Bank Note Holographics, Inc., Securities Litigation</i> (S.D.N.Y. 2001) 127	
F.Supp.2d 418	15
<i>In re Ampicillin Antitrust Litigation</i> (D. D.C. 1981) 526 F.Supp. 494.....	18
<i>Ketchum v. Moses</i> (2001) 24 Cal.4th 1122	17, 27, 28, 29, 30, 31
<i>Laffitte v. Robert Half Int’l, Inc.</i> (2016) 1 Cal.5th 480.....	17, 19, 26
<i>Lealao v. Beneficial Cal., Inc.</i> (2000) 82 Cal.App.4th 19	17, 20
<i>Paul, Johnson, Alston & Hunt v. Gaulty</i> (1989) 886 F.2d 268	18
<i>Serrano v. Priest</i> (1977) 20 Cal.3d 25	18
<i>Vasquez v. Superior Court</i> (1971) 4 Cal.3d 800.....	18
<i>Vincent v. Hughes Air West, Inc.</i> (9th Cir. 1977) 557 F.2d 759	18, 19
<i>Vizcaino v. Microsoft</i> (9th Cir. 2002) 290 F.3d 1043	19
<i>Vo v. Las Virgenes Municipal Water Dist.</i> (2000) 79 Cal.App.4th 440	27
<i>Wal-Mart Stores, Inc. v. Visa U.S.A., Inc.</i> (2d Cir. 2005) 396 F.3d 96	31
<i>Wershba v. Apple Computer, Inc.</i> (2001) 91 Cal.App.4th 224.....	10, 16, 21, 30, 31

1	<i>Winslow v. Harold G. Ferguson Corp.</i> (1944) 25 Cal.2d 274.....	20
2	Statutes	
3	Cal. Lab. Code § 2698.....	1
4	Other Authorities	
5	A. Conte, <i>Attorney Fee Awards</i> (2d Ed., 1993).....	19
6	<u>California Practice Guide</u> , <i>Civil Procedure Before Trial</i> , Chapter 14.....	17
7	Conte & Newberg, <i>Newberg on Class Actions</i> (4th Ed., 2002) § 11.47.....	16, 26
8	Conte & Newberg, <i>Newberg on Class Actions</i> (4th Ed., 2002) § 14.03.....	18
9	<i>Court Awarded Attorney Fees, Report of the Third Circuit Task Force</i> (October 8, 1985) 108	
10	F.R.D. 237.....	26
11	R. Pearle, <i>California Attorney Fee Awards</i> (CEB, 1993) § 7A.....	18
12		
13		
14		
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MEMORANDUM OF POINTS AND AUTHORITIES

I. SUMMARY OF MOTION

Plaintiff Norberto Ceja (“Plaintiff” or “Class Representative”) seeks final approval of: (1) the Gross Settlement Amount of \$1,750,000.00¹; (2) attorneys’ fees in the amount of \$612,500.00 which is thirty five percent (35%) of the Gross Settlement Amount, and reimbursement of litigation costs and expenses in the amount of \$15,946.97 to Lawyers for Justice, PC (“Class Counsel”) (together, “Attorneys’ Fees and Costs”);² (3) Settlement Administration Costs in the amount of \$9,500.00 to Simpluris, Inc. (“Simpluris” or “Settlement Administrator”); (4) Enhancement Award in the amount of \$7,500.00 to Plaintiff Norberto Ceja; and (5) allocation of \$150,000.00 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:

Anyone who was employed by Defendant in the State of California, as a non-exempt or hourly-paid employee at any time during the Class Period (“Class” or “Class Members”).³

This matter involved ongoing investigations, informal discovery, review and analysis of a large volume of documents and data prior to and during the mediation conducted by the Lynn Frank, Esq., and settlement negotiations thereafter. This matter has required 379.10 hours of attorney time by Class Counsel. As will be demonstrated herein, the request for attorneys’ fees, which represents thirty five percent (35%) of the Gross Settlement Amount, is fully supported by the use of the percentage-fee method. Courts have historically awarded fees of up to fifty percent (50%) of the recovery. The requested attorneys’ fees are also supported under the lodestar cross-check method.⁴

Plaintiff moves for final approval of the Enhancement Award in the amount of \$7,500.00 to Plaintiff Norberto Ceja, to compensate Plaintiff for the time and effort that he expended

¹ Settlement Agreement and Stipulation to Resolve Class Action and PAGA Claims (“Original Agreement”), ¶ 19.

² *Id.*, ¶ 4.

³ *Id.*, ¶ 7. “Class Period” means the period from October 1, 2017 through October 31, 2023. Amendment No. 1 to Settlement Agreement and Stipulation to Resolve Class Action and PAGA Claims (“Amendment No. 1” or “Amendment No. 1 to Settlement Agreement”), ¶ B.

⁴ Applying a reasonable rate of \$850 to 379.10 hours of work performed by Lawyers for Justice, PC and a modest multiplier of 1.92, the total enhanced lodestar fees are \$618,691.20, and Class Counsel seeks an attorneys’ fees award of \$612,500.00.

1 spearheading the lawsuits on behalf of the Class, Aggrieved Employees, and the State of
2 California. Plaintiff also moves for final approval of the payment to the Settlement Administrator
3 in the amount of \$9,500.00 for Settlement Administration Costs. Plaintiff also moves for final
4 approval of the allocation of \$150,000.00 for the PAGA Amount, of which seventy-five percent
5 (75%), i.e., \$112,500.00, will be paid to the California Labor Workforce and Development Agency
6 (“LWDA”) for its portion of the PAGA Amount (“LWDA Payment”), and twenty-five percent
7 (25%), i.e., \$37,500.00, will be distributed to anyone who was employed by Defendant in the State
8 of California, as a non-exempt or hourly-paid employee at any time during the PAGA Period
9 (“Aggrieved Employees”).⁵

10 The requests for Attorneys’ Fees and Costs, Enhancement Award, Settlement
11 Administration Costs, and the allocation for PAGA Amount were fully disclosed in the Notice of
12 Class Action Settlement (“Class Notice”), Request for Exclusion Form, and Workweek Dispute
13 Form (collectively, “Notice Packet”) that was mailed to the Class Members. Most importantly, as
14 of the date of this Motion, *not a single Class Member has objected to any aspect of the Class*
15 *Settlement, including the requested Attorneys’ Fees and Costs, Enhancement Award, Settlement*
16 *Administration Costs or the allocation for PAGA Amount.*

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

23 In order to efficiently present the Court with adequate information to determine whether to
24 grant final approval of the Settlement and award Attorneys’ Fees and Costs, Enhancement Award,
25 Settlement Administration Costs, and the allocation for PAGA Amount, Plaintiff also moves for
26 an order permitting the filing of this single consolidated memorandum, although it exceeds the
27

28 ⁵ Original Agreement, ¶ 3. “PAGA Period” means the period from February 28, 2020, through October 31, 2023. *See* Amendment No. 1, ¶ E.

page limit established by California Rules of Court, Rule 3.1113(d), instead of filing several separate motions.

II. PROCEDURAL HISTORY AND FACTUAL BACKGROUND

Defendant provides refuse and recycling services to businesses and residences throughout Southern California. Plaintiff Norberto Ceja is a former employee of Defendant.

On August 24, 2021, Plaintiff provided written notice by online submission to the LWDA and by certified mail to Defendants Ware Disposal, Inc. and Judith Helaine Ware of the specific provisions of the California Labor Code that were alleged to be violated ("PAGA Notice I").

On October 1, 2021, Plaintiff filed a Class Action Complaint for Damages ("Class Complaint") in the Orange County Superior Court ("Court"), Case No. 30-2021-01224571-CU-OE-CXC, thereby commencing the above-captioned lawsuit ("Class Action").

On October 28, 2021, Plaintiff filed a Complaint for Enforcement Under the Private Attorneys General Act, California Labor Code § 2698, Et Seq. ("PAGA Complaint") in the Orange County Superior Court, thereby commencing a Private Attorneys General Act ("PAGA") representative action entitled *Norberto Ceja v. Ware Disposal, Inc., et al.*, Case No. 30-2021-01228821-CU-OE-CXC ("PAGA Action") (the PAGA Action and Class Action are together referred to as the "Actions").

On December 7, 2021, Defendant filed an Answer to the Class Complaint.

On December 22, 2021, Defendants Ware Disposal, Inc. and Judith Helaine Ware filed an Answer to the PAGA Complaint.

On May 12, 2023, Plaintiff provided a follow-up written notice by online submission to the LWDA and by certified mail to Defendants Ware Disposal, Inc. and Judith Helaine Ware of additional provisions of the California Labor Code that were alleged to be violated ("PAGA Notice II") (together, the PAGA Notice I and PAGA Notice II are referred to as "PAGA Notices").

On November 7, 2023, the Court granted the Parties' Stipulation to Consolidate the Class Action (Case No. 30-2021-01224571-CU-OE-CXC) and the PAGA Action (Case No. 30-2021-01228821-CU-OE-CXC), and deemed the Class Action as the lead case.

///

1 On November 20, 2023, Plaintiff filed a First Amended Class Action Complaint for
2 Damages and Enforcement Under the Private Attorneys General Act, California Labor Code §
3 2698, Et Seq. (“First Amended Complaint” or “Operative Complaint”) in the Class Action, thereby
4 adding a representative claim for civil penalties under PAGA, and fleshing out additional
5 allegations consistent with the allegations set forth in Plaintiff’s PAGA Notice II.

6 On December 6, 2023, Defendant filed an Answer to the First Amended Complaint.

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

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

22 The Parties have actively litigated the Actions since the Class Action was commenced on
23 October 1, 2021. On April 25, 2023, the Parties participated in a formal, full-day mediation
24 conducted by Lynn S. Frank, Esq. (the “Mediator”), a well-regarded mediator experienced in
25 mediating complex labor and employment matters. With the aid of the Mediator’s evaluation, the
26 Parties ultimately reached the Settlement described herein to resolve the Actions in their entirety.

27 On February 13, 2024, Plaintiff filed a Motion for Preliminary Approval of Class Action
28 Settlement and supporting documents (“Motion for Preliminary Approval”). On March 14, 2024,

1 the Court issued a Tentative Ruling, which became the order of the Court on March 15, 2024, in
2 which it raised multiple points of inquiry with regard to the Motion for Preliminary Approval
3 (“March 15, 2024 Order”). On May 2, 2024, the Parties filed a Joint Stipulation to Continue
4 Deadline to File Supplemental Papers in Support of Plaintiff’s Motion for Preliminary Approval
5 of Class Action Settlement, thereby seeking additional time to file supplemental papers addressing
6 the issues raised in the March 15, 2024 Order (“May 2, 2024 Stipulation”). On May 3, 2024, the
7 Court granted the May 2, 2024 Stipulation, thereby continuing the deadline to file the supplemental
8 papers from May 6, 2024 to May 13, 2024. On May 14, 2024, Plaintiff filed a Supplemental Brief
9 in Support of Plaintiff’s Motion for Preliminary Approval of Class Action Settlement,
10 Supplemental Declaration of Selena Matavosian in Support of Plaintiff’s Motion for Preliminary
11 Approval of Class Action Settlement, Declaration of Noell Rice in Support of Plaintiff’s Motion
12 for Preliminary Approval of Class Action Settlement, and Declaration of Jay Ware in Support of
13 Plaintiff’s Motion for Preliminary Approval of Class Action Settlement, thereby addressing the
14 issues raised in the March 15, 2024 Order. On May 15, 2024, Plaintiff filed a Further Supplemental
15 Declaration of Selena Matavosian in Support of Plaintiff’s Motion for Preliminary Approval of
16 Class Action Settlement. On May 16, 2024, the Court issued a Tentative Ruling, thereby raising
17 two (2) additional issues with regard to the Motion for Preliminary Approval (“May 16, 2024
18 Tentative Ruling”). On May 17, 2024, the Court held a hearing on the Motion for Preliminary
19 Approval, wherein the Parties presented their arguments regarding the May 16, 2024 Tentative
20 Ruling (“May 17, 2024 Hearing”). On May 17, 2024, the Court issued an Order, thereby
21 confirming the May 16, 2024 Tentative Ruling and ordering the Parties to submit supplemental
22 papers. On June 4, 2024, Plaintiff filed a Further Supplemental Declaration of Selena Matavosian
23 in Support of the Motion for Preliminary Approval of Class Action Settlement. On June 13, 2024,
24 the Court issued a tentative ruling, which became the order of the Court on June 14, 2024, thereby
25 granting preliminary approval of the Settlement and ordering the Parties to submit a revised
26 proposed order. On July 2, 2024, the Court entered an Order Granting Preliminary Approval of
27 Class Action Settlement (“Preliminary Approval Order”), thereby preliminarily approving the
28

terms of the Settlement, the Notice Packet, and the proposed administration procedures and associated deadlines.

Plaintiff now moves for final approval of Attorneys' Fees and Costs, Enhancement Award, Settlement Administration Costs, and the 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 Gross Settlement Amount of \$1,750,000.00, and Defendant's share of the payroll taxes associated with the wage portion of the Individual Settlement Payments ("Employer Payroll Taxes").⁶ Subject to approval by the Court, the Net Settlement Amount will be calculated by deducting the following amounts from the Gross Settlement Amount: (1) Attorneys' Fees and Costs, consisting of attorneys' fees in the amount of \$612,500.00 and reimbursement of litigation costs and expenses in the amount of \$15,946.97, to Class Counsel; (2) Enhancement Award in the amount of \$7,500.00 to Plaintiff Norberto Ceja; (3) Settlement Administration Costs in the amount of \$9,500.00 to Simpluris; and (4) PAGA Amount in the amount of \$150,000.00.⁷ The Net Settlement Amount, which is estimated to be \$954,553.03, will be distributed in accordance with the Settlement Agreement.⁸

The Settlement Administrator will determine each Participating Class Member's *pro rata* share of the Net Settlement Amount ("Individual Settlement Share"), according to the following methodology: Each Participating Class Member's share of the Net Settlement Amount will be calculated by dividing the Participating Class Member's Workweeks by the total number of Workweeks for all Class Members and multiplying this figure by the Net Settlement Amount.⁹

The Settlement Administrator will determine each Aggrieved Employee's *pro rata* share of the PAGA Payment ("Individual PAGA Payment"), according to the following methodology: Each Aggrieved Employees' share of the PAGA Payment will be calculated by dividing the

⁶ Original Agreement, ¶¶ 15 & 19.

⁷ Original Agreement, ¶¶ 4, 16, & 29, and Amendment No. 1, ¶ F.

⁸ This amount is higher than the amount stated in Paragraph 16 of the accompanying Declaration of Lisa Pavlik Regarding Notice and Settlement Administration ("Simpluris Declaration" or Simpluris Decl.") because the Settlement Administrator's calculation assumes that Class Counsel will obtain litigation costs and expenses in the maximum amount of \$20,000.00, which is allocated under the Settlement. However, Class Counsel seeks the amount of only \$15,946.97 for reimbursement of litigation costs and expenses, and the total difference of \$4,053.03 will remain part of the Net Settlement Amount.

⁹ Original Agreement, ¶¶ 22 & 61.e.

Aggrieved Employee's PAGA Pay Periods by the total number of PAGA Pay Periods for all Aggrieved Employees and multiplying this figure by the PAGA Payment.¹⁰

Class Members had sixty (60) days from the date the Notice Packet is mailed to Class Members ("Notice Period") to submit an Opt-Out Request, objection to the Class Settlement and/or Workweeks Dispute.¹¹ The Notice Period was September 30, 2024.¹² *As of the date of this Motion, the Settlement Administrator has not received any written objections to the Class Settlement or written requests to opt out of the Class Settlement ("Opt-Out Request") from Class Members.*¹³

Each Participating Class Member's Individual Settlement Share will be allocated as follows: twenty percent (20%) as wages, which will be reported on an IRS Form W-2; and the remaining eighty percent (80%) as interests on the unpaid wages and statutory penalties which will be reported on an IRS Form 1099.¹⁴ The Settlement Administrator will calculate, withhold from the Individual Settlement Payment, and remit to applicable governmental agencies sufficient amounts as may be owed by Participating Class Members for employee's and employer's share of state and federal payroll taxes, withholdings, and contributions.¹⁵ Defendant will pay the Employer Payroll Taxes separately from the Gross Settlement Amount.¹⁶ The Individual PAGA Payment will be considered 100% civil penalties, and will be reported as such to each Aggrieved Employee on an IRS Form 1099, if applicable.¹⁷

Individual Settlement Payments and the Individual PAGA Payments will become void and no longer available if not cashed within one hundred eighty (180) calendar days after mailing.¹⁸ The funds from voided checks will be transferred to the State of California Office of the Controller

¹⁰ Original Agreement, ¶¶ 20 & 61.f.

¹¹ Amendment No. 1, ¶ D.

¹² Simpluris Decl., ¶¶ 11.

¹³ *Id.*, ¶¶ 12 & 13.

¹⁴ Original Agreement, ¶ 63.a.

¹⁵ *Id.*, ¶ 63.b.

¹⁶ *Id.*, ¶ 15.

¹⁷ *Id.*, ¶ 63.a.

¹⁸ Amendment No. 2 to Settlement Agreement and Stipulation to Resolve Class Action and PAGA Claims ("Amendment No. 2" or "Amendment No. 2 to Settlement Agreement"). ¶ C.

Unclaimed Property Division in the name of the Participating Class Member and/or Aggrieved Employee who did not cash, deposit, or otherwise negotiate his/her/their checks.¹⁹

IV. THE SETTLEMENT ADMINISTRATION PROCESS

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

On July 17, 2024, Defendant's Counsel provided Simpluris a list containing each Class Member's full name, Social Security Number, last-known address, and the number of Workweeks credited to each Class Member during the Class Period and the number of PAGA Pay Periods credited to each Aggrieved Employee during the PAGA Period (collectively, "Class List").²⁰ The Class List contained data for four hundred and eighty-seven (487) individuals.²¹ The mailing addresses contained in the Class List were processed and updated utilizing the National Change of Address Database ("NCOA") maintained by the U.S. Postal Service.²² In the event that any individual had filed a U.S. Postal Service change of address request, the address listed with the NCOA would be utilized in connection with the mailing of the Notice Packet.²³ Simpluris was able to locate thirty (30) updated addresses using NCOA prior to the mailing of the Notice Packet.²⁴

On August 1, 2024, the Notice Packet was mailed to four hundred and eighty-seven (487) individuals identified as Class Members.²⁵ Of the four hundred and eighty-seven (487) Class Members, four hundred and fourteen (414) were identified as Aggrieved Employees.²⁶ The Notice Packet was mailed via First Class in both English and Spanish.²⁷

A total of twenty-eight (28) Notice Packets were returned to Simpluris.²⁸ If a Class Member's Notice Packet was returned by the USPS as undeliverable and without a forwarding address, Simpluris performed an advanced address search (i.e., skip trace) on all of these addresses

¹⁹ Amendment No. 2, ¶ C.

²⁰ Simpluris Decl., ¶ 5.

²¹ Ibid.

²² *Id.*, ¶ 7.

²³ Ibid.

²⁴ Ibid.

²⁵ *Id.*, ¶ 8.

²⁶ Ibid.

²⁷ Ibid.

²⁸ *Id.*, ¶ 9.

1 by using Accurint, a reputable research tool owned by Lexis-Nexis.²⁹ Through the advanced
2 address searches and utilizing the USPS forwarding address database, Simpluris was able to locate
3 twenty-three (23) updated addresses and Simpluris promptly mailed a Notice Packet to those
4 updated addresses.³⁰ There are five (5) mailed Notice Packets that remain undeliverable.³¹

5 As of the date of this Motion, the Settlement Administrator has not received any objections,
6 Opt-Out Requests, or Workweeks Disputes.³²

7 To date, there are four hundred and eighty-seven (487) Participating Class Members who
8 will be paid their portion of the Net Settlement Amount.³³ Of the four hundred and eighty-seven
9 (487) Participating Class Members, four hundred and fourteen (414) were identified as Aggrieved
10 Employees who will also be paid out of the twenty-five percent (25%) portion of the PAGA
11 Amount (“PAGA Payment”).³⁴ Pursuant to the terms of the Settlement, the Net Settlement Amount
12 of approximately \$954,553.03 will be distributed to Participating Class Members in accordance
13 with the terms of the Settlement.³⁵ The highest Individual Settlement Payment is currently
14 estimated to be \$5,613.92 and the average Individual Settlement Payment is currently estimated to
15 be \$1,951.75.³⁶ The highest Individual PAGA Payment is currently estimated to be \$209.36 and
16 the average Individual PAGA Payment is currently estimated to be \$90.58.³⁷

17 **V. THE COURT SHOULD GRANT FINAL APPROVAL OF THE CLASS ACTION**
18 **AND PAGA SETTLEMENT.**

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

22
23 _____
24 ²⁹ Simpluris Decl., ¶ 9.

25 ³⁰ Ibid.

26 ³¹ Ibid.

27 ³² *Id.*, ¶ 12-14.

28 ³³ *Id.*, ¶ 15.

³⁴ Ibid.

³⁵ Original Agreement, ¶ 27. See also, n.8, *supra*.

³⁶ *Id.*, ¶ 17. The actual average and highest Individual Settlement Payment to a Participating Class Member will be larger than the amounts stated in the Simpluris 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 \$20,000 (the difference between the amount sought and the amount authorized under the Settlement, \$4,053.03, will be part of the Net Settlement Amount). See n.8, *supra*.

³⁷ *Id.*, ¶ 19.

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

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

A. The Settlement Resulted from Arm's-Length Negotiations Based Upon Extensive Investigation and Informal Discovery.

The Parties actively litigated the case since the Class Action commenced on October 1, 2021. Class Counsel conducted significant investigation and informal discovery into the facts of

1 the cases, to assess the veracity, strength, and scope of the claims, and was preparing the matter
2 for class certification and trial prior to reaching the Settlement.³⁸

3 The Parties conducted significant informal discovery and investigation into the facts of the
4 cases, and also exchanged a large volume of information, documents and data through the course
5 of the litigation and in connection with the mediation and settlement negotiations.³⁹ The volume
6 of data and documents that Class Counsel reviewed and analyzed included and was not limited to:
7 Plaintiff's employment records, a detailed sampling of Plaintiff's and other Class Member's time
8 data and pay records (i.e., 30%), Defendant's Employee Handbook, collective bargaining
9 agreements applicable to some of the Class, internal memoranda, new hire orientation checklists,
10 job descriptions, company policy acknowledgements (including but not limited to Final Pay Check
11 Acknowledgement and Employee Handbook Confirmation of Receipt), forms (including but not
12 limited to Request for Tool/Boot Allowance and Business Expense Report Summary), procedures
13 (including but not limited to Dispute Resolution Agreement, Confidentiality Agreement, and
14 Employee Arbitration Agreement), and policies (including but not limited to Anti-Fraternization
15 Policy, Employee Acknowledgement Cell Phone Usage Policy, Safety Program, Traffic Violation
16 Policy, and Injury, Illness Prevention Policy), among other information and documents.⁴⁰ Class
17 Counsel had the opportunity to interview and obtain information from Plaintiff and percipient
18 witnesses, and reviewed and analyzed a large volume of information, data, and documents
19 obtained from Plaintiff, Defendant, and other sources.⁴¹ Class Counsel developed liability,
20 damages, and penalties valuation models in the course of litigation and in connection with
21 mediation and settlement negotiations, and settlement.⁴² Other work performed by Class Counsel
22 included, and was not limited to, case strategy and analysis; researching, drafting, reviewing,
23 and/or revising the pleadings, motion-related papers, the mediation brief, and settlement
24
25
26

27 ³⁸ Declaration of Yasmin Hosseini ("Hosseini Decl."), ¶ 6.

28 ³⁹ Ibid.

⁴⁰ Ibid.

⁴¹ Ibid.

⁴² Ibid.

documents; and preparing for and attending court proceedings, mediation, and settlement negotiations, among other tasks.⁴³

After conducting informal discovery and investigation into the facts of the cases, the Parties participated in a formal, full-day mediation conducted by Lynn Frank, Esq., a well-regarded mediator experienced in mediating complex labor and employment matters.⁴⁴ In the course of mediation and settlement negotiations, the Parties exchanged information, documents, and data, and discussed all aspects of the cases, including and not limited to, the risks and delays of further litigation, the risks to the Parties of proceeding with class certification and trial, the law relating to class certification, manageability, off-the-clock theory, regular rate of pay, meal and rest periods, representative PAGA claims, wage-and-hour law and enforcement, as well as the evidence produced and analyzed, and the possibility of appeals, among other things.⁴⁵ During all settlement discussions, the Parties conducted their negotiations at arm's length in an adversarial position.⁴⁶ Arriving at a settlement that was acceptable to the Parties was not easy.⁴⁷ Defendant contended that individualized questions of fact predominate over any common issues, and these issues would pose challenges to class certification and representative adjudication.⁴⁸ Defendant and its counsel felt strongly about Defendant's ability to avoid class certification and prevail on the merits, while Plaintiff and Class Counsel believed that they would be able to obtain class certification and prevail at trial.⁴⁹ After conducting significant informal discovery and investigations, settlement negotiations, and with the aid of the mediator's evaluation, the Parties agreed that the cases were 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.⁵⁰

The Settlement takes into account the strengths and weaknesses of each side's position and the uncertainty of how the cases might have concluded at certification, trial, and/or appeals. Class Counsel analyzed a large volume of information, documents, and data obtained from Defendant,

⁴³ Hosseini Decl., ¶ 6.

⁴⁴ *Id.*, ¶ 8.

⁴⁵ *Ibid.*

⁴⁶ *Ibid.*

⁴⁷ *Ibid.*

⁴⁸ *Ibid.*

⁴⁹ *Ibid.*

⁵⁰ *Ibid.*

Plaintiff, and other sources, and performed research regarding applicable law, which is evolving as it relates to class certification, manageability, off-the-clock theory, regular rate of pay, meal and rest periods, representative PAGA claims and penalties, wage-and-hour law and enforcement, Plaintiff's claims and allegations, and Defendant's defenses thereto, as well as facts discovered.⁵¹ The Settlement was based on this large volume of facts, evidence, and investigation.⁵² Additionally, Class Counsel have extensive experience in handling complex wage-and-hour actions, including significant experience in employment class action litigation.⁵³

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

The Settlement, which provides for a Gross Settlement Amount of \$1,750,000.00, represents a fair, adequate, and reasonable resolution of the cases, given the risks inherent in litigating class and representative claims through certification proceedings, trial, and/or appeals.⁵⁴ The Settlement was calculated using information and data uncovered through extensive case investigation, informal discovery, and the exchange of information in the context of mediation and ongoing settlement negotiations.⁵⁵ Had the action not settled, Defendant would have vigorously challenged class certification, manageability of representative adjudication, and liability. Defendant contended that individualized questions of fact predominated over any common issues, and these issues would pose challenges to certification and representative adjudication. Defendant would have likely argued again at trial, if any, that Plaintiff's claims were not appropriate for class-wide and/or representative adjudication. On the other hand, Defendant also faced the risk of the Court certifying a class and allowing a jury to decide Plaintiff's claims on a class-wide or representative basis. Additionally, preparation for trial would have been expensive for all parties.

It is preferable to reach an early resolution of a dispute because such resolutions save time and money that would otherwise go to litigation. If this matter had settled after further litigation, the settlement amount would have taken into account the additional costs incurred, and there might

⁵¹ Hosseini Decl., ¶ 7.

⁵² *Id.*, ¶¶ 6-8.

⁵³ *Id.*, ¶¶ 13-19.

⁵⁴ *Id.*, ¶¶ 8 & 21.

⁵⁵ *Id.*, ¶¶ 8-11.

1 have been less money available for Class Members, Aggrieved Employees, and the State of
2 California after all was said and done. This is not just an abstract contention. The risks and
3 expenses of further litigation outweighed any benefit that might have been gained otherwise. These
4 risks of further litigation include a determination that the claims were unsuitable for class treatment
5 and/or representative adjudication, failure to obtain certification, class de-certification after
6 certification of a class, allowing a jury to decide the claims asserted in the case, and the real
7 possibility of no recovery after years of litigation. Additionally, the Parties were moving into the
8 phase of the litigation where they would have to conduct a significant amount of additional
9 discovery, including and not limited to, depositions of Defendants' Person Most Knowledgeable
10 designees, expert witnesses, and percipient witnesses, such as managers, supervisors, and other
11 current and former employees throughout the State of California. Additional discovery would have
12 certainly arisen, which would have cost the Parties additional time and money. In contrast, the
13 Settlement provides real and significant benefits for the Class Members, the Aggrieved
14 Employees, and the State of California here and now, while avoiding the further expenses, risks,
15 and delay of prolonged litigation with only the possibility of recovery.

16 It would be grossly inefficient for such a large class of current and former employees to
17 bring individual actions to recover from Defendant for the alleged violations of wage-and-hour
18 laws. Moreover, the potential individual recovery that could be obtained by a Class Member would
19 not be significant enough to provide him or her with the incentive to sue. By granting final approval
20 of the Settlement, the Court can approve a resolution that provides a certain and substantial
21 recovery for Class Members, the State of California, and Aggrieved Employees.

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

23 The Settlement, which provides for a Gross Settlement Amount of \$1,750,000.00,
24 represents a fair, reasonable, and adequate resolution of the cases. The Settlement was calculated
25 using information and data uncovered through extensive case investigation, informal discovery,
26 and the exchange of information in the context of preparing for mediation and conducting ongoing
27 settlement negotiations. The Settlement takes into account the potential risks and rewards inherent
28

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

3 Even after deducting attorneys' fees in the amount of \$612,500.00, litigation costs in the
4 amount of \$15,946.97, Enhancement Award in the amount of \$7,500.00, Settlement
5 Administration Costs in the amount of \$9,500.00, and the allocation of PAGA Amount of
6 \$150,000.00 from the Gross Settlement Amount of \$1,750,000.00, the Net Settlement Amount is
7 currently estimated to be \$954,553.03.⁵⁶ Under the Settlement Agreement, the Gross Settlement
8 Amount will be fully paid out, in accordance with the terms of the Settlement. As discussed in
9 Section III, *supra*, each Participating Class Member will be paid a *pro rata* share of the Net
10 Settlement Amount, based on the number of Workweeks credited to him or her, and each
11 Aggrieved Employee will be paid a *pro rata* share of the PAGA Payment, based on the number of
12 PAGA Pay Periods during the PAGA Period credited to him or her.⁵⁷ To date, there are four
13 hundred and eighty-seven (487) Participating Class Members, representing one hundred percent
14 (100%) of the Class Members.⁵⁸ The highest Individual Settlement Payment is currently estimated
15 to be \$5,613.92 and the average Individual Settlement Payment is currently estimated to be
16 \$1,951.75.⁵⁹ The highest Individual PAGA Payment is currently estimated to be \$209.36 and the
17 average Individual PAGA Payment is currently estimated to be \$90.58.⁶⁰ These are significant
18 individual recoveries, particularly in light of the risks of litigation.

19 At the final approval stage, "[a]n allocation formula need only have a reasonable, rational
20 basis [to warrant approval], particularly if recommended by experienced and competent class
21 counsel." *In re American Bank Note Holographics, Inc., Securities Litigation* (S.D.N.Y. 2001)
22 127 F.Supp.2d 418, 429-30. The *pro rata* allocation here is a fair and reasonable way to distribute
23 the Net Settlement Amount. In light of the above considerations, Class Counsel believes that the
24 Settlement as a whole is fair, reasonable, and adequate, and in the best interest of the Class
25 Members, the State of California, and Aggrieved Employees.⁶¹ Although the recommendations of

26 ⁵⁶ Simpluris Decl., ¶ 16; see also, n.8, *supra*.

27 ⁵⁷ Settlement Agreement, ¶¶ 61.e & 61.f.

28 ⁵⁸ Simpluris Decl., ¶ 15.

⁵⁹ *Id.*, ¶ 17.

⁶⁰ *Id.*, ¶ 19.

⁶¹ Hosseini Decl., ¶ 22.

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.

D. The Class Was Represented by Competent Counsel.

Class Counsel has extensive experience in employment class action law and complex wage-and-hour litigation.⁶² Lawyers for Justice, PC has been appointed class counsel in numerous complex wage-and-hour cases, and has recovered millions of dollars for individuals in California.⁶³ Both parties' counsel were capable of assessing the strengths and weaknesses of the Class Members' claims against Defendant and the benefits of the Settlement under the circumstances of the case and in the context of a private, consensual settlement agreement.

E. There Are No Objections to the Class Settlement.

The Settlement has been well received by the Class – *not a single Class Member objected to the Class Settlement.*⁶⁴ Specifically, no objections have been made as to the Gross Settlement Amount or requested Attorneys' Fees and Costs, Enhancement Award, Settlement Administration Costs, or the allocation for PAGA Amount. California courts have consistently found that a small number of objectors indicates the class' support for a settlement and strongly favors final approval. *Wershba, supra*, 91 Cal.App.4th at 250-51 (final approval granted despite 20 objectors); *7-Eleven Owners, supra*, 85 Cal.App.4th at 1152-53 (final approval granted despite 9 objectors).

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

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⁶² Hosseini Decl., ¶¶ 13-19.

⁶³ Ibid.

⁶⁴ Simpluris Decl., ¶ 13.

VI. THE ATTORNEYS' FEES REQUESTED IS FAIR AND REASONABLE AND SHOULD BE APPROVED.

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

Trial courts have “wide latitude” in assessing the value of attorneys’ fees and their decisions will “‘not be disturbed on appeal absent a manifest abuse of discretion.’” *Lealao v. Beneficial Cal., Inc.* (2000) 82 Cal.App.4th 19, 41; *Ketchum v. Moses* (2001) 24 Cal.4th 1122, 1132 (The “experienced trial judge is the best judge of the value of professional services rendered in his court[.]”); *Cellphone Termination Fee Cases* (2009) 180 Cal.App.4th 1110, 1118. Where the amount of a settlement is a “certain easily calculable sum of money,” California courts may calculate attorneys’ fees as a reasonable percentage of the settlement. Weil and Brown, *California Practice Guide, Civil Procedure Before Trial*, Chapter 14, § 14:145; *see also Laffitte v. Robert Half Int’l Inc.* (2016) 1 Cal.5th 480, 503; *Dunk, supra*, 48 Cal.App.4th at 1808. The percentage-of-the-benefit approach is preferred in class and representative actions because “it better approximates the workings of the marketplace than the lodestar approach.” *Lealao, supra*, 82 Cal.App.4th at 49.

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

“The ultimate goal . . . is the award of a ‘reasonable’ fee to compensate counsel for their efforts, irrespective of the method of calculation.” *Consumer Privacy Cases* (2009) 175 Cal.App.4th 545, 557-58 (quoting *Apple Computer, Inc. v. Superior Court, supra*, 126 Cal.App.4th at 1270). It is not an abuse of discretion to choose one method over another as long as the method

chosen is applied consistently using percentage figures and/or rates that accurately reflect the marketplace. In cases where class members present claims against a settlement amount and the settlement agreement provides that the defendant agrees to paying the attorneys a percentage of the same, use of that percentage method is appropriate. *Lealao, supra*, 82 Cal.App.4th at 32.

Historically, courts have awarded fees as high as fifty percent (50%) of the settlement, depending on the circumstances of the case. Conte & Newberg, *Newberg on Class Actions* (4th Ed., 2002) § 14.03; *see also In re Ampicillin Antitrust Litig.* (D.D.C. 1981) 526 F.Supp. 494 (awarding attorneys' fees in the amount of 45% of the settlement amount of \$7.3 million); *Beech Cinema, Inc. v. Twentieth-Century Fox Film Corp.* (S.D.N.Y. 1979) 480 F.Supp. 1195 (awarding approximately 53% of the settlement amount as attorneys' fees). California courts routinely approve class action attorneys' fees awards "averag[ing] around one-third of the recovery." *Chavez v. Netflix, Inc.* (2008) 162 Cal.App.4th 43, 66 n.11 (lower court found 20 to 40 percent range of contingency fee in marketplace was appropriate in class actions); *see also Laffitte*, 1 Cal.5th at 488 & 506 (approving fee award of 1/3 of common fund of \$19 million).

B. A Fee Award of a Percentage of the Entire Fund Is Appropriate.

California and federal courts have long recognized that an appropriate method for determining the award of attorneys' fees is based on a percentage of the total value of benefits made available to class members by the settlement. *Laffitte*, 1 Cal.5th at 503; *Boeing Co. v. Van Gemert* (1980) 444 U.S. 472, 478; *Paul, Johnson, Alston & Hunt v. Gaulty* (9th Cir. 1989) 886 F.2d 268, 272; *Vincent v. Hughes Air West, Inc.* (9th Cir. 1977) 557 F.2d 759, 769; *Serrano v. Priest* (1977) 20 Cal.3d 25, 34.⁶⁵ 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

⁶⁵ 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.

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.

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

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

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

Under the terms of the Settlement Agreement, Defendant will pay a Gross Settlement Amount of \$1,750,000.00. The requested attorneys' fees are thirty five percent (35%) of the total

1 value of the monetary settlement. In light of Class Counsel's successful prosecution and resolution
2 of the cases, the requested attorneys' fees are appropriate and reasonable.

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

10 The percentage method is consistent with, and is intended to mirror, the practice in the
11 private marketplace where contingent-fee attorneys typically negotiate percentage-fee
12 arrangements with their clients. Named plaintiffs' agreement to pay a contingent fee is powerful
13 evidence of a reasonable fee. One of the best ways to demonstrate the value of counsel's work to
14 the class is to review the consideration agreed to be paid by the named plaintiffs. If the named
15 plaintiffs have employed counsel on a contingency-fee basis, it would indeed be inequitable for
16 the members of the class, who will enjoy the benefits of the settlement without incurring the risks
17 of bringing the claim, to pay less than the named plaintiffs.

18 Furthermore, a percentage-fee award is not dependent on a determination of the actual
19 amount claimed by those entitled—it is the creation of the settlement that is the crucial fact. In
20 *Winslow v. Harold G. Ferguson Corp.*, the California Supreme Court expressly held that “it is
21 equitable that [the attorney's] compensation and expenses should come from the entire fund saved
22 for all classes concerned before it is distributed.” *Winslow v. Harold G. Ferguson Corp.* (1944)
23 25 Cal.2d 274, 284. Likewise, *Lealao* expressly held that a percentage-based fee “may be
24 calculated on the basis of the total fund made available rather than the actual payments made to
25 the class.” *Lealao, supra*, 82 Cal.App.4th at 51; *see also Boeing, supra*, 444 U.S. at 478 (“a litigant
26 or a lawyer who recovers” a settlement “for the benefit of persons other than himself or his client
27 is entitled to a reasonable attorneys' fee from the fund as a whole”).

28 ///

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

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

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

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

22 Each and every one of these factors favors the attorneys' fees sought here; however, some
23 of the most relevant factors to this Court's fee determination will be addressed herein. The
24 Attorneys' Fees in the amount of \$612,500.00 (which is 35% of the Gross Settlement Amount) is
25 commensurate with the time, effort, and expense dedicated to the cases, the contingent nature of
26 Class Counsel's fee and the risks taken in commencing the cases, the skill and determination
27 required, the results that Class Counsel have achieved, and the value of the settlement that Class
28 Counsel have 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. Moreover, as
4 demonstrated in the supporting declarations, Class Counsel have extensive experience in the
5 handling of class actions and complex litigation cases.⁶⁶

6 As outlined in the Declaration of Yasmin Hosseini, Class Counsel has fully and actively
7 participated in litigation of the cases.⁶⁷ Prior to commencing the lawsuits, Class Counsel had
8 conducted a significant amount of investigation into the factual and legal issues, Defendant's
9 business, and its operations and employment policies, practices, and procedures.⁶⁸ During the
10 litigation of the Actions, Class Counsel had the opportunity to interview Plaintiff and other Class
11 Members; reviewed and analyzed a large volume of pages of information, documents and data
12 obtained from Defendant, Plaintiff, and other sources; and prepared liability, damages, penalties,
13 and valuation calculations.⁶⁹ Class Counsel also met and conferred with Defendant's counsel over
14 the issues relating to pleadings, discovery, and the production of information, documents and data,
15 among other things; engaged in settlement negotiations with Defendant's counsel; and prepared
16 for and attended court proceedings, mediation, and settlement negotiations.⁷⁰

17 Class Counsel has dedicated staffing and monetary resources necessary to prosecute this
18 matter diligently and with maximum efficiency and has fully and actively participated in the
19 litigation process. The Task and Time Chart, which is attached as "**EXHIBIT A**" to the
20 accompanying Declaration of Yasmin Hosseini, sets forth in detail the hours that Lawyers *for*
21 Justice, PC has spent performing tasks on behalf of Plaintiff and the Class.⁷¹ The Task and Time
22 Chart is thorough and comprehensive, and was prepared so that the Court can peruse it without
23 having to set forth each and every task in the body of this Motion. The Court is respectfully
24 referred to the chart, which sets forth the history of the work performed by Class Counsel,
25 commencing with the pre-filing analysis and research, and continuing up to settlement and final

26 ⁶⁶ Hosseini Decl., ¶¶ 13-19.

27 ⁶⁷ *Id.*, Exh. A.

28 ⁶⁸ *Id.*, ¶ 5.

⁶⁹ *Id.*, ¶ 6.

⁷⁰ *Ibid.*

⁷¹ *Id.*, Exh. A.

1 approval. Class Counsel has spent 379.10 hours performing tasks and to obtain a significant
2 recovery on behalf of Plaintiffs, the Class, the Aggrieved Employees, and the State of California.⁷²
3 These hours were required to bring this matter to its successful conclusion. In light of the value of
4 time expended and the carrying of costs involved in litigating these cases, the requested attorneys'
5 fees are fair, adequate, and reasonable.

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

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

12 Class Counsel undertook significant investigation, analysis, and research prior to filing this
13 case, during the litigation, and prior to mediation. Class Counsel took steps to prepare the matter
14 for class certification and representative adjudication and had every intention of taking the case to
15 trial on a class-wide basis if Defendant did not offer an appropriate class-wide settlement. Despite
16 all of the obstacles that had to be overcome, as demonstrated in the Declaration of Yasmin
17 Hosseini, Class Counsel used its extensive experience in the handling of class actions and complex
18 wage-and-hour litigation matters in order to obtain the Settlement with maximum efficiency.⁷³

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

20 The Settlement represents an excellent resolution of the Actions, given the risks inherent
21 in litigating the cases through certification proceedings, trial, and/or appeals. Had the case not
22 settled, Defendant would have vigorously challenged certifiability, manageability of
23 representative adjudication, and liability. Defendant, however, faced risks if the Court certified a
24 class and allowed a jury to decide the claims. Additionally, preparing the cases for trial would have
25 been expensive for the Parties.

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28 ⁷² Hosseini Decl., ¶¶ 11-12.

⁷³ *Id.*, ¶¶ 13-19.

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

As a result of this litigation and settlement negotiations, Defendant agreed to pay a Gross Settlement Amount of \$1,750,000.00 to settle the matter. After deducting the attorneys' fees (\$612,500.00), litigation costs (\$15,946.97), Enhancement Award (\$7,500.00), Settlement Administration Costs (\$9,500.00), and the PAGA Amount (\$150,000.00) from the Gross Settlement Amount, it is currently estimated that the Net Settlement Amount is approximately \$954,553.03.⁷⁴ The Net Settlement Amount will be fully distributed in accordance with the terms of the Settlement. The highest Individual Settlement Payment is currently estimated to be \$5,613.92 and the average Individual Settlement Payment is currently estimated to be \$1,951.75.⁷⁵ The highest Individual PAGA Payment is currently estimated to be \$209.36 and the average Individual PAGA Payment is currently estimated to be \$90.58.⁷⁶ The Settlement offers significant monetary relief to the Participating Class Members, the State of California, and Aggrieved Employees.

4. Whether the Fee Is Fixed or Contingent.

Plaintiff entered into a contingency fee agreement with Class Counsel, and the representation of the Class provided by Class Counsel has been wholly contingent. Class Counsel took on the cases without knowing whether any recovery would be obtained. Class Counsel has invested 379.10 hours of time to obtain relief on behalf of Plaintiff, Class Members, the State of

⁷⁴ Simpluris Decl., ¶ 16; see also, n.8, *supra*.

⁷⁵ *Id.*, ¶ 17; see also, n.36, *supra*.

⁷⁶ Simpluris Decl., ¶ 19.

1 California, and Aggrieved Employees.⁷⁷ Class Counsel has also incurred litigation costs and
2 expenses in the amount of \$15,946.97.⁷⁸

3 Class Counsel has borne all of the risks and costs of litigation and will not receive any
4 compensation until recovery is obtained.⁷⁹ Class Counsel is well-experienced in wage-and-hour
5 class action and complex litigation and used that experience to obtain a great result.⁸⁰ The skill
6 and determination that Class Counsel has shown, along with the results obtained, justify the
7 requested Attorneys' Fees and Costs. Considering the amounts requested, the work performed, and
8 the risks incurred, the requested fees and costs are reasonable and should be awarded.

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

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

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

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

21 The results achieved, in light of the difficulties inherent in similar cases and the specific
22 difficulties faced in this matter, are considerable. The Settlement has yielded a positive response
23 from the Class Members—no Class Members objected to the Class Settlement.⁸¹

24 The court in *Camden* noted that, “a key element of the common fund case is that fees are
25 [...] taken from the fund [...] and a common fund is itself the measure of success ... [and]

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27 ⁷⁷ Hosseini Decl., ¶¶ 11 and Exh. A.

⁷⁸ *Id.*, ¶ 21.

⁷⁹ *Id.*, ¶ 20.

⁸⁰ *Id.*, ¶¶ 13-19.

⁸¹ *Simpluris Decl.*, ¶ 13.

represents the benchmark on which a reasonable fee will be awarded.” *Camden*, 946 F. 2d 768, fn. 28 (citing *Court Awarded Attorney Fees, Report of the Third Circuit Task Force* (October 8, 1985) 108 F.R.D. 237 and Newberg, *Attorney Fee Awards* § 2.07 (1986)).

Here, the results achieved and obtained on behalf of Plaintiff and the Class are reasonable in light of the risks inherent in further litigating this matter. Class Counsel’s efforts have resulted in a settlement that provides for a Gross Settlement Amount of \$1,750,000.00.⁸² The Gross Settlement Amount will be fully paid out, in accordance with the terms of the Settlement Agreement. The highest Individual Settlement Payment is currently estimated to be \$5,613.92 and the average Individual Settlement Payment is currently estimated to be \$1,951.75.⁸³ The highest Individual PAGA Payment is currently estimated to be \$209.36 and the average Individual PAGA Payment is currently estimated to be \$90.58.⁸⁴

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

Lawyers for Justice, PC is a recognized class action law firm that employed its attorneys’ knowledge, skills, and experience in bringing these cases to a successful conclusion. Class Counsel has years of complex and class action litigation experience, have recovered millions of dollars on behalf of thousands of individuals in California, and have successfully handled numerous significant wage-and-hour class action and complex cases.⁸⁵

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

⁸² Hosseini Decl., ¶ 9.

⁸³ Simpluris Decl., ¶ 17; see n.36, *supra*.

⁸⁴ *Id.*, ¶ 19.

⁸⁵ Hosseini Decl., ¶¶ 13-19.

1 F.3d at 1050 (“[W]hile the primary basis of the fee award remains the percentage method, the
2 lodestar may provide a useful perspective on the reasonableness of a given percentage award.”).
3 Importantly, “the lodestar calculation . . . does not override the trial court’s primary determination
4 of the fee as a percentage” of the settlement amount and “does not impose an absolute maximum
5 or minimum on the potential fee award.” *Laffitte, supra*, 1 Cal.5th at 505.

6 The lodestar is calculated based on reasonable hours at reasonable prevailing hourly rates
7 for the attorneys. *Ketchum, supra*, 24 Cal.4th at 1131-32. Under California law, counsel is entitled
8 to compensation for every hour reasonably spent on the matter. *Id.* at 1133.

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

10 The reasonableness of hours is assessed by “the entire course of the litigation, including
11 pretrial matters, settlement negotiations, discovery, litigation tactics, and the trial itself[.]” *Vo v.*
12 *Las Virgenes Municipal Water Dist.* (2000) 79 Cal.App.4th 440, 447.

13 As discussed above, the matter was highly contested and required a significant amount of
14 time and labor. Defendant made it clear very early on that it disputed all of the allegations of the
15 case and disputed that the matter was appropriate for class or representative treatment. Defendant
16 raised affirmative defenses and denied liability, and the pursuit of these cases involved gathering
17 and analyzing data not only from Defendant but also from the Class Members. The handling of
18 the cases involved a great amount of effort, and also required and involved the exercise of a high
19 level of skill, which Class Counsel have as a result of their extensive experience in employment
20 class actions and complex wage-and-hour litigation. Long and difficult battles would have
21 followed as the cases moved toward certification and trial, including taking and defending
22 depositions of Defendant’s Person Most Knowledgeable designees, percipient witnesses, and
23 experts, propounding additional discovery requests and conducting additional document
24 production, and engaging in extensive motion practice. As Class Counsel geared up for these
25 battles, Class Counsel undertook intense preparation in an attempt to resolve the entire matter
26 through mediation.

27 Class Counsel had to bring together a large volume of information, documents and data
28 that were obtained from Defendant, Plaintiff, and through other sources. Class Counsel conducted

1 extensive review and analysis of the information, documents, and data to strategize the action and
2 to prepare for mediation and engage in settlement discussions.

3 As discussed above in Part VI.C.1, *infra*, attached to the Declaration of Yasmin Hosseini
4 is a task and time chart that sets forth in detail the numerous tasks that Class Counsel performed
5 on behalf of Plaintiff and the Class, and the time required for completing those tasks.⁸⁶ The chart
6 demonstrates that Class Counsel has spent a total of 379.10 hours litigating the cases and finalizing
7 the Settlement.⁸⁷ In light of the facts and circumstances of the cases, as well as the results that
8 Class Counsel has achieved in these cases, Class Counsel has spent a reasonable number of hours
9 on this matter. In addition, Class Counsel will continue to perform work on this matter through the
10 date of final approval and in connection with the implementation of the Settlement.

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

13 Both California and federal courts recognize that attorneys should be compensated for
14 providing representation on a contingency basis and for taking on the risks associated with said
15 representation, as well as being provided with financial incentives to enforce important rights and
16 protections like those at issue in this action. See *Ketchum, supra*, 24 Cal.4th at 1132-33. In
17 awarding attorneys' fees, the aim is to mirror "the established practice in the private legal market
18 of rewarding attorneys for taking the risk of nonpayment by paying them a premium over their
19 normal hourly rates for winning contingency cases." See *id.*

20 Class Counsel has been actively involved in this matter, prior to its commencement and all
21 the way up to the present, and Class Counsel's dedication to providing representation in these
22 cases has precluded other employment. Here, Class Counsel bore the risk that, despite all of its
23 efforts and skills employed, there may be no recovery. Ultimately, Class Counsel was successful
24 in reaching a settlement of \$1,750,000.00.

25 As set forth in the Declaration of Yasmin Hosseini, the professional backgrounds and
26 experience of Class Counsel support reasonable rates of compensation at least \$850 per hour for
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28 ⁸⁶ Hosseini Decl., Exh. A.

⁸⁷ *Id.*, ¶¶ 11 & 12, Exh. A.

services provided by Class Counsel.⁸⁸ Lawyers for Justice, PC has been awarded attorneys' fees, compensating the firm at the blended rate of at least \$850 per hour for legal service performed, by courts of this state.⁸⁹ While the circumstances of every case are unique, the fact remains that the work performed and efforts undertaken by Class Counsel on behalf of the Class Members justify the requested attorneys' fees.

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

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

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

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

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

⁸⁸ Hosseini Decl., ¶ 12.

⁸⁹ *Ibid.*

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

Ketchum at 1134.

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

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

Most importantly, all services were performed by Class Counsel on a contingent basis. Both California and federal courts recognize that attorneys should be compensated for taking on such contingent risks and provided with financial incentives to enforce important rights and

1 protections like those at issue in the matter at hand. See, e.g., *Vizcaino*, 290 F.3d at 1051; *Ketchum*,
2 24 Cal. 4th at 1132-33. Here, Class Counsel bore the risk that, despite all of its efforts and the skill
3 employed, there may be no recovery. Therefore, at a minimum, Class Counsel is entitled to a risk
4 multiplier. The results obtained by way of Class Counsel's efforts are significant here. Class
5 Counsel was successful in achieving substantial results in the form of a settlement of
6 \$1,750,000.00. Also, Class Counsel's efforts throughout the matter demonstrate dedication to the
7 interests of the Class Members.

8 Class Counsel's application for attorneys' fees in light of the facts and circumstances
9 surrounding the matter is well within the range of reasonableness. While handling this matter,
10 Class Counsel devoted the hours in legal time summarized above and detailed in the Task and
11 Time Chart, which is attached as EXHIBIT A to the Declaration of Yasmin Hosseini.⁹⁰ As
12 indicated in the chart and the Declaration of Joanna Ghosh, Class Counsel has worked 379.10
13 hours in the pursuit of this matter. The Declaration of Yasmin Hosseini sets forth the entire picture,
14 and the work performed by Class Counsel would place a base lodestar value of \$322,235.00 on
15 Lawyers for Justice, PC's services.⁹¹ Applying a modest multiplier of 1.92, the total enhanced
16 lodestar fees are \$618,691.20. Class Counsel seeks an attorneys' fee award of \$612,500.00 (thirty-
17 five percent of the Gross Settlement Amount). Far greater multipliers have been awarded in similar
18 cases, and the total amount of fees sought by Class Counsel is also reasonable compared to fees
19 awarded in similar cases. Courts routinely enhance lodestar amounts based on multipliers that
20 "range from **2 to 4 or even higher.**" *Wershba, supra*, 91 Cal.App.4th at 255 (emphasis added);
21 *see also, e.g., Chavez v. Netflix, Inc.* (2008) 162 Cal.App.4th 43, 66 (approving **multiplier of 2.5**);
22 *Vizcaino*, 290 F.3d at 1051 (approving **multiplier of 3.65**); *Wal-Mart Stores, Inc. v. Visa U.S.A.,*
23 *Inc.* (2d Cir. 2005) 396 F.3d 96, 123 (approving **multiplier of 3.5**); *Craft v. County of San*
24 *Bernardino* (C.D. Cal. 2006) 624 F.Supp.2d 1113, 1125 (awarding **multiplier of 5.2** and referring
25 to other cases with cross-check **multipliers ranging from 4.5 to 19.6**).

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27 _____
28 ⁹⁰ Hosseini Decl., Exh. A.

⁹¹ *Id.*, ¶ 12.

The nature of the work performed, skill exercised, and the outcome in “this matter—which involves an outstanding monetary recovery involving a *Gross Settlement Amount of \$1,750,000.00* (with a Net Settlement Amount of *at least \$954,553.03 to be paid to Participating Class Members* with an average payment of approximately \$1,951.75 per Participating Class Member, a *payment of \$37,500.00 to Aggrieved Employees* with an average payment of \$90.58 per Aggrieved Employee, and *payment of \$112,500.00 to the State of California*)—support the percentage fee sought and the application of a lodestar multiplier.⁹²

Therefore, application of a modest multiplier of 1.92 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 \$612,500.00 to Class Counsel.

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

The Settlement provides for reimbursement of litigation costs and expenses of up to \$20,000.00. As set forth in the Declaration of Yasmin Hosseini, Class Counsel seeks reimbursement of \$15,946.97 in litigation costs and expenses incurred in these cases.⁹³ This amount was reasonable and necessary in the prosecution of the cases and to obtain the Settlement, and is less than the maximum amount allocated under the Settlement Agreement.⁹⁴ The cost savings of \$4,053.03 will be part of the Net Settlement Amount, which will be distributed to Participating Class Members in accordance with the Settlement.⁹⁵ Accordingly, Plaintiff requests that the Court award litigation costs and expenses in the amount of \$15,946.97 to Class Counsel.

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

As set forth in the accompanying Simpluris Declaration, the total costs incurred and to be incurred by Simpluris for the notice and settlement administration process are \$9,500.00.⁹⁶ The

⁹² Simpluris Decl., ¶¶ 17 & 19. See n.8 & 36, *supra*.

⁹³ *Id.*, ¶ 20.

⁹⁴ Hosseini Decl., ¶ 19.

⁹⁵ *Ibid.*

⁹⁶ Simpluris Decl., ¶ 20.

costs incurred and to be incurred include, but are not limited to, (a) establishing and maintaining a related settlement fund account; (b) establishing and maintaining a calendar of administrative deadlines and responsibilities; (c) processing and mailing payments to the Plaintiff, Class Counsel, Class Members, and Aggrieved Employees; (d) translating, printing, and mailing the Notice in English and Spanish to Class Members and Aggrieved Employees; (e) receiving and validating Opt-Out Requests, objections to the Class Settlement and/or Workweeks Disputes submitted by Class Members and/or Aggrieved Employees; (f) calculating Defendant's Employer Payroll Taxes and providing appropriate forms and calculations to Defendant; (g) mailing Individual Settlement Payment checks to Participating Class Members and Individual PAGA Payment checks to Aggrieved Employees, (h) providing Class Counsel and Defendant's Counsel with weekly reports; and (i) other tasks as the Parties mutually agree or the Court orders Simpluris to perform.⁹⁷

Accordingly, the Court should grant final approval of payment to Simpluris, a necessary third-party administrator, for its handling of the notice and settlement process, in the amount of \$9,500.00.

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

The Settlement provides for an Enhancement Award in the amount of \$7,500.00 to Plaintiff Norberto Ceja to compensate Plaintiff for the time and effort that he expended on behalf of the Class. The requested Enhancement Award is both common and reasonable and should be awarded.

In determining whether to make service payments, courts consider the following factors: (1) the risk to the class representative in commencing suit, both financial and otherwise; (2) the notoriety and personal difficulties encountered by the class representatives; (3) the amount of time and efforts spent by the class representatives; (4) the duration of the litigation; and (5) the personal benefit (or lack thereof) enjoyed by the class representatives as a result of the litigation. *Vranken v. Atlantic Richfield Co.* (N.D. Cal. 1995) 901 F.Supp. 294, 299 (approving \$50,000 participation award to a single class representative).

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⁹⁷ Simpluris Decl., ¶ 3.

1 The requested Enhancement Award is fair and appropriate because Plaintiff spent a
2 substantial amount of time and effort producing relevant documents and past employment records,
3 as well as providing the facts and evidence to support the prosecution of the claims.⁹⁸ Plaintiff was
4 available whenever Class Counsel needed him and actively tried to obtain, and gave, information
5 to support the pursuit of the cases.⁹⁹

6 Accordingly, it is appropriate and just for Plaintiff Norberto Ceja to receive \$7,500.00, as
7 a reasonable Enhancement Award, for his services on behalf of the Class, Aggrieved Employees,
8 and the State of California, in addition to his individual settlement payment.

9 **X. CONCLUSION**

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

14 Dated: November 12, 2024

LAWYERS for JUSTICE, PC

15
16 By:



17 Selena Matavosian
18 *Attorneys for Plaintiff and the Class*
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28 ⁹⁸ Hosseini Decl., ¶ 21; Declaration of Norberto Ceja ("Ceja Decl."), ¶¶ 3-5.

⁹⁹ Hosseini Decl., ¶ 21; Ceja Decl., ¶¶ 3-5.