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individually, and on behalf of all other similarly situated employees

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

FILIBERTO RUIZ, as an individual, and on
behalf of other similarly situated employees,

Plaintiff,

vs.

MUSTANG EXTREME
ENVIRONMENTAL SERVICES, LLC, a
California corporation, and DOES 1-50,
inclusive, Defendant.

Case No.: 30-2021-01207211-CU-OE-CXC

Assigned for all purposes to:
Hon. Randall J. Sherman
Dept. CX-105

**MEMORANDUM OF POINTS AND
AUTHORITIES IN SUPPORT OF
MOTION FOR FINAL APPROVAL OF
CLASS ACTION SETTLEMENT**

Date: March 7, 2025
Time: 10:00 a.m.
Place: Department CX-105

1 **I. Introduction.**

2 The Court has preliminarily approved the proposed Settlement reached by the parties in
3 this Action, and approved the parties’ proposed notice program. Notice has been disseminated
4 consistent with the instruction of the Court and the terms of the Settlement Agreement. By this
5 motion, Plaintiff Filibert Ruiz (collectively referred to herein as “Plaintiff”) respectfully requests
6 that the Court conduct a final review of the Settlement, and approve the Settlement as fair,
7 reasonable and adequate.

8 The Settlement is the product of extensive arms-length negotiations between the parties
9 and their experienced and informed counsel, and is fair, reasonable, and adequate given the
10 claims, the alleged liability, and the parties’ respective litigation risks.

11 Pursuant to the terms of the Settlement Agreement, Defendants Mustang Extreme
12 Environmental Services, LLC. (“Defendant”), (collectively with Plaintiff, the “Parties”) shall pay
13 \$180,000.00 to establish a non-reversionary Maximum Settlement Amount claims to a class of
14 108 Participating Class Members current and former nonexempt; attorneys’ fees not to exceed
15 33.33 percent of the Maximum Settlement Amount; litigation costs not to exceed \$30,000; the
16 cost of the claims administrator to administer the settlement \$6,250.00; a payment to the named
17 plaintiff Filiberto Ruiz in the amount of \$5,000.00; and payment of penalties to the California
18 Labor Commissioner under the Private Attorneys General Act of \$15,000.00.

19 The notice process was simple and effective, and the adequacy of the Settlement is
20 reflected in the very positive reaction from the Class Members as no Class Member objected to
21 this Settlement. The deadline to opt-out is December 24, 2024. (Declaration of Nick Castro of
22 ILYM Group, Inc. (“Castro Decl.”), ¶¶ 11-12)

23 For the foregoing reasons and the others detailed below, the Settlement meets the
24 standards for final approval, and it should therefore be approved. Notice was also provided to the
25 California Labor and Workforce Development Agency of this March 7, 2025 hearing and the
26 proposed settlement agreement to be finally approved. (Jackson Decl. ¶ 37, Ex. B.)
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II. FACTS AND PROCEDURE

A. Defendants Employed California Non-Exempt Employees

Defendant is a company that owns and operates a installation company where Plaintiff worked. Plaintiff was employed by Defendant as a non-exempt Employee at the Defendants. [Jackson Decl. ¶ 3.] This Stipulation is limited to Defendants' employees in the State of California, during the Class Period. [Id.]

B. Class Counsel's Investigation, Discovery and Settlement Negotiations

Plaintiff's counsel has investigated and researched the claims in controversy, the defenses, the potential of success and recovery if successful at trial, and the developing body of law. (Jackson Decl. ¶¶ 3-39.) Plaintiff's counsel's investigation entailed the exchange of documents, analysis, damages analysis based upon the data. (*Id.*) The investigation involved an evaluation of payroll records, payroll data and working schedules of the Plaintiff and the Class Members. (*Id.*)

Following Defendant's production of payroll records and payroll data for the Plaintiff and Class Members, Class Counsel expended considerable resources in creating a damages analysis detailing each potential Labor Code violation along with calculating the damages and interest in connection to each Labor Code violation. (Jackson Decl. ¶¶ 4-28.) These same violations were presumed to exist for all other Class Members.

Overall Class Counsel performed an extensive investigation into the claims at issue, which included: (1) determining Plaintiff's suitability as putative class representatives through interviews questioning Defendant's purported Labor Code violations; (2) evaluating plaintiff's potential claims; (3) researching wage and hour class actions similar to claims brought, the nature of the positions, and type of industry the employer is involved in; (4) examined the Plaintiff's and Class Members' payroll records and a representative sampling of Defendant's payroll records; (5) examined Plaintiff's and Class Members' timesheet records; (6) examined the Defendant's payroll records to ascertain the number of employees in the Settlement Class Period; (7) conducted a detailed damages analysis for purposes of generating a maximum

number for the amount of wages Defendant's could be liable for; (8) conducted a detailed damages analysis for purposes of generating a maximum number for the amount of interest owed the Class Members which Defendant could be liable for; (9) conducted a detailed damages analysis for purposes of generating a maximum number for the amount of penalties that could be accessed against the Defendants; and (10) researching settlements in similar cases. (Jackson Decl. ¶¶ 3-39.) The extensive document and data exchanges allowed Plaintiff's Counsel to appreciate the strengths and weaknesses of the claims against Defendant and the benefits of the proposed Settlement. (*Id.*).

C. Preliminary Settlement Approval

On September 20, 2024, the Court conditionally granted certification and preliminary approval of the settlement.

D. Proper Notice to Class Members

After this Court conditionally granted certification and preliminary approval of the Settlement Class Notice was sent pursuant to the terms of the Settlement. (Castro Decl. ¶ 7, Ex. A) No Class members submitted objections. (Castro Decl. ¶ 12)

III. THE SETTLEMENT

The following summarizes the Settlement's key terms.

A. Settlement Class

The Class is comprised of:

All current and former non-exempt employees who are or were employed by Defendant in California at any time during June 22, 2017 through October 10, 2023.

B. Benefits to the Class

1. The Settlement Fund

Pursuant to the terms of the Settlement, Defendants will pay \$180,000.00 to the Claims Administrator to be used for: (a) providing cash payments in the amount of no less than \$71,730.33 (added \$13,224.33 as difference in costs estimates) minus any applicable taxes; (b) payment of attorneys' fees not to exceed \$59,994.00; (c) litigation costs requested \$16,775.67 (estimated \$30,000); (d) a class representative enhancement payment to the Named Plaintiff

1 Filiberto Ruiz not to exceed \$5,000.00; (e) all settlement administration fees and costs, including
2 those of the Claims Administrator projected to be no more than \$6,500.00; and (f) payment of all
3 penalties under the California Private Attorneys General Act of 2004 (“PAGA”) in the amount of
4 \$15,000.00 (“PAGA Payment”). (Castro Decl. ¶ 13.)

5 The average estimated Individual Settlement Share is \$541.72. (Castro Decl. ¶ 13.)

6 **2. Payments to Class Members**

7 Pursuant to the Settlement Agreement, the Claims Administrator shall make Individual
8 Settlement Payments to Participating Class Members within ten court days after Defendants
9 provides Settlement Administrator with the Settlement Amount. (Jackson Decl. ¶ 2, Ex. A, pp.
10 15-16 Section 3.06.f.)

11 Individual Settlement Payments will be calculated and apportioned from the Net
12 Settlement Amount based on the number of eligible workweeks worked during the relevant time
13 period. (Castro Decl. ¶ 13.)

14 **3. The Claim Process**

15 On September 27, 2024, Defendants’ counsel provided the Claims Administrator with the
16 names, most recent mailing addresses, Social Security numbers, and pertinent information for the
17 Class Period for the Class Members. (Castro Decl. ¶ 5.) This list provided information for 108
18 Class Members. (*Id.*). 108 Class Members were verified and mailed approved Notice Packets via
19 First-Class U.S. Mail. (Castro Decl. ¶¶ 5-7, Ex. A.)

20 On October 25, 2024 the Claims Administrator sent by first class mail the Notice Packets
21 to the Class Members whose names were provided by Defendants, a Notice Packet. (Castro Decl.
22 ¶ 7, Ex. A.) If a Class Member’s Notice Packet was returned by the USPS as undeliverable and
23 without a forwarding address, ILYM performed an address search (i.e., skip trace) on all of these
24 addresses. (Castro Dec. ¶¶ 8-10.) To date, no request for exclusion or objections were received.
25 (Castro Decl. ¶¶ 11-12.)

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1 **4. Distribution of Funds**

2 In accordance with the Stipulation of Settlement, within 10 court days of the funding of
3 the settlement, the Net Settlement Fund shall be divided among the Class Members. (Jackson
4 Decl. ¶ 2, Ex. A, pp. 15-16 Section 3.06 (f),) The average estimated Individual Settlement Share
5 is \$541.72. (Castro Decl. ¶ 17.)

6 **5. Opt-out and Objection Procedures**

7 The deadline for Class Members to postmark Challenges, Objections or Exclusion
8 Requests is December 24, 2024. (Castro Decl. ¶¶ 11-13.)

9 The Class Notice instructed Class Members who wished to object to the proposed
10 Settlement to either send a written objection to the claims administrator or appear at the Final
11 Approval Hearing. (Castro Decl. ¶ 7, Ex. A.) The claims administrator had received no
12 objections to the settlement terms. (Castro Dec. ¶¶ 10-13.)

13 **IV. FINAL SETTLEMENT APPROVAL IS APPROPRIATE**

14 The law favors settlement, particularly in class actions and other complex cases in which
15 substantial resources can be conserved by avoiding time, cost and rigors of formal litigation.
16 (*Potter v. Pacific Coast Lumber Company*, (1951) 37 Cal. 2d. 592, 602-603; 4 NEWBERG
17 section 11.41. When faced with a motion for final approval of a class action settlement under
18 Code of Civil Procedure section 382, a court inquires whether the settlement is fair, adequate,
19 and reasonable.” See e.g., *Munoz v. BCI Coca-Cola Bottling Co. of Los Angeles*, (2010) 186 Cal.
20 App. 4th 399, 407-408; *Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal. App. 4th 116, 129-30;
21 *Dunk v. Ford Motor Company* (1996) 48 Cal. App. 4th 1794, 1801.)

22 **A. This Court Preliminarily Found This Settlement to Be Fair, Reasonable And**
23 **Adequate And Nothing Has Changed to Disturb That.**

24 Before granting preliminary approval of a class action settlement, courts must determine
25 that the proposed settlement is fair, reasonable, and adequate — and not a product of fraud,
26 overreaching, or collusion. Cal. R. Ct. 3.769 (g); Cal. Civ. Pro. Code § 382; *Dunk v. Ford Motor*
27 *Co.*, supra, 48 Cal.App.4th at 1801. Courts must presume that a settlement is fair, reasonable,
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1 and adequate, and thus appropriate for preliminary approval when the following three factors are
2 satisfied: (1) the parties reached settlement after arms-length negotiations; (2) counsel conducted
3 sufficient investigation and discovery to allow themselves and the court to act intelligently; and
4 (3) counsel is experienced in similar litigation *Id.* at 1802. See also *7-Eleven Owners for Fair*
5 *Franchising v. Southland Corp.*, (2000) 85 Cal. App. 4th 1135, 1146. Further, as discussed
6 below, although not determinative, courts consider the percentage of objectors in determining
7 whether a presumption of fairness exists. *Id.* The parties conducted sufficient amount of
8 discovery and participated in a private mediation and numerous conferences of counsel that
9 ultimately led to an arms-length settlement that provides for substantial recovery. Moreover,
10 there are no objectors. (Castro Decl. ¶¶ 10-13.)

11 **1. The Settlement Resulted from Non-Collusive, Arms-Length Negotiations**

12 There certainly is no collusion between the parties. The involvement of a neutral third-
13 party mediator is a factor that favors approval and evidences the presumptive fairness of the
14 arms-length negotiations. (Jackson Decl. ¶ 6.) Indeed, courts should give considerable weight to
15 the competency and integrity of counsel and the involvement of a neutral mediator in assuring
16 themselves that a settlement agreement represents an arms-length transaction entered without
17 self-dealing or other potential misconduct. *Kullar v. Foot Locker, supra*, 168 Cal. App. 4th at
18 129. Here, after extensive discussions, exchange of information and review of records, on May
19 18, 2023, the parties conducted a full-day mediation session with a well-respected and highly
20 knowledgeable mediator Paul Grossman, Esq. (Jackson Decl. ¶ 6.)

21 **B. The Settlement is Supported by Substantial Investigative and Discovery Efforts**

22 As discussed in the preliminary approval papers, supporting declaration and herein, Class
23 Counsel analyzed a significant amount of information that Defendants produced in response to
24 formal and informal discovery requests in preparation for mediation. (Jackson Decl. ¶¶ 3-39.)
25 The parties have conducted significant investigation of the facts and law during the prosecution
26 of the Action, including formal discovery efforts. (*Id.*) Class Counsel's research enabled them to
27 pinpoint the relevant issues and claims and to assess potential liability and damages. (*Id.*) These
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1 efforts resulted in the parties having a clear view of the strengths and weaknesses of their
2 respective cases and achieving a resolution on favorable terms, as was evidenced during
3 mediation and subsequent negotiations leading to Settlement. (*Id.*)

4 **C. Class Counsel is Experienced in Similar Litigation**

5 The endorsement of qualified and well-informed counsel of the settlement as fair is
6 entitled to significant weight. *See Dunk, supra*, 48 Cal.App.4th at 1802. As discussed in the
7 preliminary approval papers and set forth in the Declaration of Class Counsel, Class Counsel has
8 represented, mediated and settled dozens of other employee class actions or representative
9 actions in wage and hour litigation and have knowledge of the strengths and weaknesses of the
10 claims against Defendants and the benefits of the proposed settlement under the circumstances of
11 the case. (Jackson Decl. ¶¶ 30-31, 36.) Class Counsel contends that the Settlement is fair,
12 adequate, reasonable, and in the best interests of the Class as a whole. (*Id.*)

13 **D. Class Members' Positive Reaction to the Settlement Favors Final Approval**

14 Finally, courts look at the reaction of class members to determine if a settlement that
15 directly affects their interests should be approved as fair, adequate, and reasonable. As already
16 discussed herein, there are no objectors. (Castro Decl. ¶¶ 10-13.) Further, a court may
17 appropriately infer that a class action settlement is fair, adequate, and reasonable even when class
18 members object to it. Indeed, a court may approve a class action settlement as fair, adequate,
19 and reasonable even over the objections of a significant percentage of class members. *See Boyd*
20 *v. Betchel Corp.*, (D.C. Cal 1976) 485 F. Supp. 610, 624. *Reed v. General Motors* (5th Cir. 1983)
21 703 F.2d 170, 174; *In re Wash. Pub. Power Supply System Sec. Litig.* (D. Ariz. 1989) 720 F.
22 Supp. 1379, 1394.

23 **V. CLASS REPRESENTATIVE ENHANCEMENT IS REASONABLE**

24 The settlement provides for an enhancement award to be paid to the Class
25 Representatives. The purpose is to provide an additional incentive payment, taking into
26 consideration the risks, time and effort in coming forward to fulfill all the duties associated with
27 being a class representative. Awarding incentive awards to compensate named plaintiffs in class
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actions has been specifically recognized. See, e.g. *Clark v. American Residential Services, LLC*, (2009) 175 Cal App 4th 785, 804 (incentive awards to named plaintiff appropriate for participation in class action); *Bell v Farmers Ins. Exchange*, (2004) 115 Cal App 4th 715, 726 (upholding “service payments” to named plaintiffs for their efforts in bringing class case). As stated by the Court of Appeal in the *Cellphone Termination Fee Cases*: incentive awards are “intended to compensate class representatives for work done on behalf of the class, to make up for financial or reputational risk undertaken in bringing the action, and, sometimes, to recognize their willingness to act as a private attorney general.” *Cellphone Termination Fee Cases*, (2010) 186 Cal. App. 4th 1380, 1394 (approving an incentive award of \$10,000). The class representative enhancement payment is intended to compensate named Plaintiff Victor Erazo as the class representative for their willingness to accept the responsibility of representing the interests of all class members. The purpose is to provide an incentive payment, taking into consideration the risks, time and effort expended by them in coming forward to provide invaluable information and litigate this matter on behalf of all Class Members. Plaintiff also risked potential judgment against them if this case had been unsuccessful. In class action losses, class representatives are deemed the losing party that is liable for the prevailing party’s costs. *Earley v. Superior Court*, (2000) 79 Cal.App.4th 1420, 1433-1434. Finally, Plaintiff also risked this lawsuit having a negative impact on future employment opportunities, as prospective employers may be less inclined to hire an employee who has served as a class representative. See, e.g. *Staton v. Boeing*, 327 F.3d 938, 977 (9th Cir. 2003) As such, Plaintiff respectfully requests that this Court approve the Class Representative enhancement payment in the amount of \$5,000 for Named Plaintiff Filiberto Ruiz.

VI. CLASS COUNSEL’S REQUEST FOR ATTORNEYS FEE AWARD AND COSTS ARE REASONABLE

1. Attorneys’ Fees Are Justified

a. Lodestar Analysis

“Courts recognize two methods of calculating attorney fees in civil class action; the

lodestar/multiplier method and the percentage of recovery method.” (*Wershba v. Apple Computer, Inc.* 91 Cal. App. 4th 224, 254 (2001).) “[T]he 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.” (*Id.*) “The lodestar multiplier can range from 2 to 4 or even higher.” (*Id.* at 255.)

In calculating attorney’s fees under the Labor Code, the court should follow the lodestar approach adopted by the California Supreme Court in *Ketchum v. Moses* (2001) 24 Cal. 4th 1122, 1134. See also *Chavez v. City of Los Angeles* (2010) 47 Cal. 4th 970, 985. The “lodestar” method is clearly defined in recent case law. It involves a five-step process. *In Re: Vitamin Cases* (2003) 110 Cal. App. 4th 1041, 1052. To determine the “lodestar number” – steps one through three of the process – the court multiplies the number of hours reasonably worked by a reasonable hourly rate. (*Id.*) Step four requires the Court to determine what, if any, multiplier should be applied to the lodestar number. Step five determines the amount of the attorney fee award by applying the multiplier to the lodestar number. (*Id.*)

For the Court’s ease of reference, the following chart summarizes the attorney’s fees Class Counsel seeks:

Item Description	Amount
Attorney Hours (Armond M. Jackson (13 Year Attorney: Rate: \$725; Andrea-Fernandez-Jackson (10 Year Attorney: Rate: \$515; Anthony S. Filer Rate (2.5 Year Attorney: Rate: \$250; Yesenia Villalba (5 Year Paralegal: Rate: \$125)	\$61,223.50 (102.5 Hours)
TOTAL LODESTAR	\$61,223.50
PRELIMINARY APPROVED AMOUNT WITHOUT CLASS MEMBER OBJECTION	\$61,223.50 (no multiplier)

1 **b. The Number of Hours Expended by Plaintiff’s Counsel Was Reasonable.**

2 “The starting point of every fee award...must be a calculation of the attorney’s services
3 in terms of the time he has expended on the case.” *Press v. Lucky Stores, Inc.*, (1983) 34 Cal. 3d
4 311, 322. Reasonable hours include, in addition to time spent during litigation, time spent before
5 the action is filed, including time reasonably spent interviewing the client, investigating the facts
6 and the law, and preparing the initial pleadings, as well as time spent in exhausting
7 administrative remedies. *New York Gaslight Club, Inc. v. Carey* (1980) 447 U.S. 54, 62.

8 The evidence submitted by Class Counsel in support of this motion reflect that Class
9 Counsel reasonably expended the following number of hours in the prosecution of this case.
10 (Jackson Decl. ¶¶ 3-38, Exs. B-D,) Jackson APC filed this class action claim in June 22, 2021,
11 approximately 3 and a half years prior to this hearing. A reasonable amount of work was
12 performed pre-litigation, including conducting an extensive intake process requiring the
13 compiling documents and information related to Plaintiffs’ pay stubs, wage payments and
14 thousands of time records contained and the database of produced payroll records. (Jackson
15 Decl. ¶¶ 3-38, Exs. B-D) Discovery was conducted by Class Counsel regarding both the
16 circumstances of the Plaintiffs’ employment, hours worked during their employment, meal
17 breaks, wage statements, and rest periods taken during their employment and Defendants’
18 policies in general regarding the employment of individuals with respect to payment of wages,
19 working conditions, meal breaks and rest periods. (Jackson Decl. ¶¶ 3-38, Exs. B-D)

20 The time expended during the discovery phase was also reasonably incurred. (*Id.*) Class
21 Counsel spent a significant amount of time in the discovery phase evaluating excel spreadsheets
22 and voluminous documents concerning Defendants’ duties under the Labor Code, legal analysis,
23 discovery, litigation planning, certification analysis and investigation of claims. (*Id.*) Thereafter,
24 numerous hours were spent by Class Counsel in performing detailed calculations, analyzing
25 expert data, researching certification issues, engaging in formal and informal discovery to
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determine class members entitlement to wages for missed meal breaks, rest periods, alleged wage claims, pay upon determination and interest owed. (*Id.*)

The time expended to achieve preliminarily and final approval was also reasonably incurred. (*Id.*) Class Counsel conducted extensive legal research on the procedures and issues involved in achieving class certification preliminary approval and final approval. (*Id.*) Class Counsel ensured that the claims notice procedures were being implemented according to the Court's instructions and the Settlement Agreement. (*Id.*) Plaintiff's counsels prepared for court hearings, discovery motions and class certification. (*Id.*) These hours were reasonably spent to achieve preliminary approval and final approval of this Class Action Settlement. (*Id.*)

As set forth in the declarations submitted herewith, the total number of hours spent on this matter by Class Counsel is reasonable in light of the work required to achieve the result. (*Id.*) Thus, the Court shall conclude that all of the time spent on this case was reasonable and necessary to achieve this result and Class Counsel is entitled to compensation for all the attorney hours worked in this case. (*Id.*)

c. The Hourly Rate Charged for the Services of Plaintiff's Counsel is Reasonable.

When determining a reasonable hourly rate for the attorney's services, courts consider the following factors: (i) the prevailing rate charged by attorneys of similar skill and experience for comparable legal services in the community, (ii) the nature of the work performed, and (iii) the attorney's customary billing rates. *Serrano v. Unruh* (1982) 32 Cal.3d 631, 643; *See also Bihun v. AT&T Information Systems, Inc.* (1993) 13 Cal.App.4th 976, 997 *disapproved on other grounds Lakin v. Watkins Associated Industries* (1993) 6 Cal.4th 644, 664. The hourly rate is determined at the time of the prevailing party's fee application rather than rates charged at the time the litigation began. (*Gates v. Deukmejian* (9th Cir. 1992) 987 F.2d 1392, 1406.)

The Jackson Declaration lays the proper foundation for why the hourly rates charged for each attorney working on this case is reasonable and customary for those rates charged by attorneys with similar experience. (Jackson Decl. ¶¶ 30-31. 34, 36-38, Exs. C-D) Mr. Jackson's

1 hourly rate on this matter was \$725. (Jackson Decl. ¶¶ 30-31. 34, 36-38, Exs. C-D) Mr. Jackson
2 is a senior attorney who has been litigating for approximately 13 years. (*Id.*) Mr. Jackson has
3 handled over a hundred of employment matters on behalf of the plaintiff in his career. (Jackson
4 Decl. ¶¶ 30-31) Mr. Jackson has argued before the Ninth Circuit and responsible for a published
5 opinion. (*Id.*) Based on his and experience, and based on his own research for purposes of
6 keeping his law firm competitive and profitable, he has knowledge of the hourly rates other
7 plaintiff's attorneys with similar experience charge in employment cases. (*Id.*) Based on this
8 foundation, Mr. Jackson believes that his regular hourly rate of \$725 per hour (Laffey Matrix
9 \$829 for 11-19 year attorneys) is reasonable and similar to what attorneys with his tenure,
10 experience and expertise. . (Jackson Decl. ¶ 39, Ex. E) The other attorneys and staff whom
11 worked on this matter are comprised of Andrea Fernandez- Jackson whom is a 10-year
12 California licensed attorney whom has also argued before the Ninth Circuit with a billable rate of
13 \$515 per hour (Laffey Matrix \$733 for 9–10-year attorneys) which should be considered
14 reasonable. Another attorney at my office Anthony Filer Jr. also worked on this matter whom is a
15 1.5-year California licensed attorney with a billable rate of \$250 per hour (Laffey Matrix \$413
16 for 1-3 year attorneys) which should be considered reasonable. (*Id.*) Yesenia Villalba whom is a
17 paralegal with over five years of legal experience with a billable rate of \$145 per hour (Laffey
18 Matrix \$225 for Paralegals) which should be considered reasonable. (*Id.*) This evidence
19 therefore supports the reasonableness of the fees charged in this case. “Our Supreme Court has
20 explained that the reasonable hourly rate used for the lodestar calculation ‘is that prevailing in
21 the community *for similar work*.’” *Syers Properties III, Inc. v. Rankin*, 226 Cal.App.4th 691,
22 702, (2014). Reasonable hourly rates are determined by the formula “‘reasonable market value’”
23 and reached by evaluating the “‘comparable salaries earned by private attorneys with similar
24 experience and expertise in equivalent litigation’” and the “‘hourly amount to which attorneys of
25 like skill in the area would typically be entitled.’” (*Serrano v. Unruh*, 32 Cal. 3d 621, 640, fn. 31
26 (1982).)

As explained in the declaration of Armond Jackson, the current billing rates for attorneys and staff on this case are below the prevailing billing "market" rates established by the Laffey Matrix. (Jackson Decl. ¶¶ 30-31, 34, 36-39, Exs. C-E)

d. Laffey Matrix Rates

The Laffey Matrix is one well-established objective source setting rates for attorneys based upon years of experience for attorneys practicing in the District of Columbia. See <https://www.justice.gov/usao-dc/file/796471/download> (citing *Laffey v. Northwest Airlines, Inc.*, 572 F.Supp. 354 (D.D.C. 1983), *aff'd in part, rev'd in part* on other grounds. 746 F.2d 4 (D.C.Cir. 1984). Thus, the rate for Armond M. Jackson as a thirteen-year attorney is \$948.00. All other attorney rates are also consistent with the Laffey Matrix. (Jackson Decl. ¶¶ 36-39, Exs. C-E)

The product of multiplying the number of hours expended by counsel on this case and each respective attorney's hourly rate yields the following sums:

1. The Quality of Plaintiff's Representation Was Strong.

The quality of Plaintiff's representation was strong and effective exemplified through the fact there were no objections.

2. Plaintiff's Counsel Obtained an Outstanding Result in Court.

As discussed above, counsel achieved a favorable result for the Class Members as there were no objectors.

3. Plaintiff's Counsel Assumed a Delayed Contingent Risk That Could Have Netted (and might still net) A Zero Recovery and a Loss of Valuable Firm Operating Capital.

The case of *Ketchum v. Moses* (2001) 24 Cal.4th 1122, 1132-33 explains the economic rationale for fee enhancement in contingency cases:

“A contingent fee must be higher than the fee for the same legal services as they are performed. The contingent fee compensates the lawyer not only for the legal services he renders but for the loan of those services. The implicit interest rate on such a loan is higher because the risk of default (the loss of the case, which cancels the debt of the client to the lawyer) is much higher than that of conventional loans.’ (Posner, *Economic Analysis of Law* (4th ed. 1992) pp. 534,

567.) ‘A lawyer who both bears the risk of not being paid and provides legal services is not receiving the fair market value of his work if he is paid only for the second of these functions. If he is paid no more, competent counsel will be reluctant to accept fee award cases.’”

(Emphasis added.)

The California Supreme Court has held that applying a multiplier in the lodestar analysis is by no means a windfall:

“Under our precedents, the unadorned lodestar reflects the general local hourly rate for a *fee-bearing case*; it does *not* include any compensation for contingent risk, extraordinary skill, or any other factors a trial court may consider under *Serrano III*. The adjustment to the lodestar figure, e.g., to provide a fee enhancement reflecting the risk that the attorney will not receive payment if the suit does not succeed, constitutes earned compensation; unlike a windfall, it is neither unexpected nor fortuitous. Rather, it is intended to approximate market-level compensation for such services, which typically includes a premium for the risk of nonpayment or delay in payment of attorney fees.”

(*Ketchum, supra*, 24 Cal.4th at p. 1138, italics in original.)

The increased multiplier in this case is warranted under several factors.

As explained in the Jackson Declaration more fully, plaintiff’s counsel assumed the risk that they would recover zero when they accepted this case. For example, Mr. Jackson considered numerous factors when deciding whether to accept this matter: the merits of the case, the credibility and demeanor of the client, the chances of success, the amount of time his firm will invest in the matter compared to what he considers to be the reasonable chances of a recovery on the other end that will fully compensate plaintiff’s counsel for the amount of time invested, the amount of costs his firm will need to invest over the course of the litigation compared to the chances of success, and how long the case will proceed before either a judgment or settlement occurs. Given the risks of certification and trial, the attorneys still risk a zero recovery. The contingency risk is enormous.

Plaintiff’s counsel advanced 100% of the costs on this matter which was over sixteen thousand dollars. (Jackson Decl. ¶¶ 35, 38 Ex. C). This means that money used to pay costs was tied up until a recovery on the other end. Additionally, because that money is tied up until the matter is resolved, it is not usable to the firm for overhead, operating capital, or on other matters

1 my firm is prosecuting on a contingency basis. This presented an opportunity lost, and must
2 factor into the lodestar analysis. (*See Harman v. City and County of San Francisco* (2007) 158
3 Cal.App.4th 407, 417-18—the preclusion of other employment by the attorney due to the
4 acceptance of the case a factor to be considered.)

5 The firm advanced thousands of dollars in costs and hundreds of thousands of dollars in
6 attorney’s time with the prospect that it would recover nothing. Most important, the law with
7 respect to the lodestar method is designed to incentivize attorneys to take on cases like this has
8 proper representation. The fact that plaintiff’s counsel achieved what they set out to achieve
9 should not overshadow the risk they took to get there.

10 **4. There Are No Objectors**

11 “From the class members’ perspective, review of the reasonableness of the fee award is a
12 safeguard against the possibility of collusion.” *In Re Cellphone Termination Cases*, 180 Cal.App.
13 4th 1110, 1119 (2009). Here, there is no evidence of collusion. (Jackson Decl. ¶¶ 3-39) The
14 material terms of the settlement agreement were reached before negotiating a fee for class
15 counsel. (*Id.*) Class Counsel did not seek a larger award in exchange for a smaller class
16 recovery. (*Id.*) Also, the substantive settlement was not linked to the fee award in a way that
17 might have prejudice the members of the class. (*Id.*) Class Counsel has provided documentation
18 and evidence supporting this fee request. (Jackson Decl. 3-39, Exs. C-E) The Class Members
19 were all notified of the amount of fees requested and their rights to object. (Castro Decl. ¶7, Ex.
20 A) In light of the due process notice afforded to all Class Members, no objections were filed.
21 (Castro Decl. ¶¶ 10-12) The fact that no objection has been made to this class action settlement
22 further demonstrates the reasonableness of this attorney fee request justifying final approval of
23 this class action.

24 **e. Percentage of the Recovery Analysis**

25 Alternatively, “in cases which the value of the class recovery can be monetized with a
26 reasonable degree of certainty and it is not otherwise inappropriate, a trial court has discretion to
27 adjust the basic lodestar through the application of a positive or negative multiplier where
28

1 necessary to ensure that the fee awarded is within the range of fees freely negotiated in the legal
2 marketplace in comparable litigation.” (*Lealao v. Beneficial California, Inc.*, 82 Cal. App. 4th,
3 19, 50 (2000).) “Courts use the percentage of recovery method in common fund cases on the
4 theory that the class would be unjustly enriched if it did not compensate the counsel responsible
5 for generating the valuable fund bestowed upon the class.” *In re General Motors Corp. Pick-Up*
6 *Truck Fuel Products Litigation*, 55 F. 3d 768 (1995). Courts have “evaluate[d] the lodestar as a
7 percentage of the recovery and adjust[ed] it accordingly if it can be determined that the lodestar
8 is significantly different from the range of percentage fees freely negotiated in comparable
9 litigation.” (*Id.*) Under these circumstances where it will take over 3 years to bring this matter to
10 conclusion for \$180,000.00, the percentage of the fee analysis would support a percentage of the
11 fee of at least 33.33 percent equating to \$59,994. This attorney fee request for \$59,994 shall be
12 deemed reasonable as it is within the percentage of the fee analysis supported by authority.

13 **f. Cross-Check Analysis**

14 “[A] proposed percentage fee can (and, for the reasons hereafter explained, should) be
15 compared against the fee that lead counsel would have been awarded on a lodestar basis. If the
16 multiplier implied by that comparison is reasonable, then the percentage-based fee request is
17 reasonable as well, if the implied multiplier is unreasonably high, then so is the proposed
18 percentage fee award.” (*In re HLP Technologies, Inc. Securities Litigation*, 366 F.Supp. 2d 912,
19 915 (2005) citing *In re General Motors Corp. Pick-Up Truck Fuel Products Litigation*, 55 F. 3d
20 768 820-21 (1995). Here, there is no lodestar multiplier. (See *In Re Consumer Privacy Cases*
21 (2009) 175 Cal.App.4th 545, 558, fn. 13 [“Empirical studies show that, regardless whether the
22 percentage method or the lodestar method is used, fee awards in class actions average around
23 one-third of the recovery.”].) Under these circumstances, in light of the factors analyzed above
24 identifying the risks of contingency litigation, thus the attorney fee of \$59,994.00 shall be
25 deemed reasonable.
26
27
28

1 **VII. CLASS COUNSEL’S REQUEST FOR COSTS IS REASONABLE**

2 The Settlement provides for reasonable actual costs of up to \$30,000.00. Class Counsel
3 incurred litigation costs in bringing this matter to a resolution before trial. Here, the actual costs
4 expended are less than the maximum allotted under the settlement agreement. To date the total
5 amount of costs incurred by Class Counsel in this litigation is \$16,775.67. (Jackson Decl. ¶ 38,
6 Ex. C.)

7 **VIII. CONCLUSION**

8 For the foregoing reasons, Plaintiff respectfully requests that the Court enter an Order
9 granting final approval of the Settlement.

10
11 Dated: February 11, 2025

Respectfully Submitted,
JACKSON APC

12
13 By: s/ Armond M. Jackson
Armond M. Jackson
14 Attorney for Plaintiff

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