

Benjamin H. Haber (SBN 315664)  
[benjamin.haber@wilshirelawfirm.com](mailto:benjamin.haber@wilshirelawfirm.com)  
Daniel J. Kramer (SBN 314625)  
[daniel.kramer@wilshirelawfirm.com](mailto:daniel.kramer@wilshirelawfirm.com)  
Chase M. Stern (SBN 290540)  
[chase.stern@wilshirelawfirm.com](mailto:chase.stern@wilshirelawfirm.com)  
Alan Wilcox (SBN 287476)  
[alan.wilcox@wilshirelawfirm.com](mailto:alan.wilcox@wilshirelawfirm.com)  
**WILSHIRE LAW FIRM, PLC**  
660 S. Figueroa St., Sky Lobby  
Los Angeles, California 90017  
Telephone (213) 381-9988  
Facsimile: (213) 381-9989

*Attorneys for Plaintiffs*

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

RAUL MORALES REYES and MARIANO  
GUTIERREZ GAMA, individually, and on  
behalf of all others similarly situated,

*Plaintiffs,*

v.

GIUMARRA VINEYARDS CORPORATION,  
a California corporation; and DOES 1 through  
10, inclusive,

*Defendants.*

Case No. BCV-21-102139

**CLASS & REPRESENTATIVE ACTION**

*[Assigned for all purposes to: Hon. Gregory  
Pulskamp, Dept. J]*

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

**FINAL APPROVAL HEARING**

Date: November 20, 2025

Time: 8:30 am

Dept: J

Complaint filed: September 10, 2021

FAC filed: March 25, 2024

Trial date: Not set

**NOTICE OF MOTION AND MOTION**

**TO ALL PARTIES AND THEIR COUNSEL OF RECORD:**

**PLEASE TAKE NOTICE** that on November 20, 2025, at 8:30 a.m., in Department J of the Kern County Superior Court, located at 1215 Truxtun Avenue, Bakersfield, CA 93301, Plaintiffs Raul Morales Reyes and Mariano Gutierrez Gama (“Plaintiffs”) will, and hereby do, move for an order as follows:

1. Certifying the Class for settlement purposes;
2. Approving the settlement as fair and reasonable and finding that class members were given notice of the settlement, and advised of their rights to participate in the settlement, object to the settlement, or exclude themselves from the settlement, in a reasonable manner;
3. Appointing Plaintiffs Raul Morales Reyes and Mariano Gutierrez Gama as Class Representatives for settlement purposes, and approving a Class Representatives Service Award of \$5,000.00 to Plaintiff Raul Morales Reyes and \$1,000.00 to Plaintiff Mariano Gutierrez Gama;
4. Appointing Plaintiffs’ Counsel, Benjamin Haber, Daniel Kramer, Chase Stern, and Alan Wilcox of Wilshire Law Firm, PLC as Class Counsel for settlement purposes, and approving payment of \$416,666.67 in attorneys’ fees, which is 33 1/3% of the Gross Settlement Amount;
5. Approving costs in the amount of \$18,305.67 for litigating this action to Class Counsel;
6. Approving payment of administrative expenses to CPT Group, Inc. as the Settlement Administrator in the amount of \$32,000.00;
7. Directing that the clerk of the Court to enter the Court’s order as a final judgment; and,
8. Without affecting the finality of the final judgment, reserving continuing jurisdiction over the Parties for the purposes of implementing, enforcing and/or administering the Settlement or enforcing the terms of the judgment.

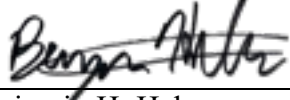
This Motion will be based on the accompanying Memorandum of Points and Authorities, the Declarations of Benjamin Haber, Tarus Dancy, Raul Morales Reyes, and Mariano Gutierrez Gama, and such oral argument as may be heard by the Court, and all other papers on file in this

1 action.

2 Dated: October 28, 2025

Respectfully submitted,

3 **WILSHIRE LAW FIRM, PLC**

4  
5 By: 

Benjamin H. Haber

Daniel Kramer

Chase Stern

Alan Wilcox

6  
7  
8 Attorney for Plaintiffs  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**TABLE OF CONTENTS**

|                                                                                                                            |         |
|----------------------------------------------------------------------------------------------------------------------------|---------|
| NOTICE OF MOTION AND MOTION.....                                                                                           | i       |
| TABLE OF CONTENTS .....                                                                                                    | iii, iv |
| TABLE OF AUTHORITIES.....                                                                                                  | v, vi   |
| MEMORANDUM OF POINTS AND AUTHORITIES.....                                                                                  | 1       |
| I. INTRODUCTION.....                                                                                                       | 1       |
| II. SUMMARY OF THE LITIGATION AND SETTLEMENT.....                                                                          | 1       |
| A. Plaintiffs’ Claims.....                                                                                                 | 1       |
| B. Discovery and Investigation.....                                                                                        | 3       |
| C. Settlement Negotiations and Agreement .....                                                                             | 3       |
| D. Preliminary Approval and Overwhelming Support for the Settlement.....                                                   | 4       |
| E. Key Terms of the Proposed Settlement.....                                                                               | 4       |
| III. THE SETTLEMENT MERITS FINAL APPROVAL .....                                                                            | 9       |
| A. The Settlement Reflects a Reasonable Compromise .....                                                                   | 10      |
| B. The Settlement was Reached After Arms-Length Negotiations Following Formal<br>and Informal Discovery .....              | 10      |
| C. Plaintiffs’ Counsel Has Substantial Class Action Experience .....                                                       | 11      |
| D. There Are No Objections to the Settlement .....                                                                         | 12      |
| IV. THE COURT SHOULD AWARD PLAINTIFFS THE REQUESTED AMOUNTS OF<br>FEES, COSTS AND ENHANCEMENT PAYMENTS.....                | 12      |
| A. A Fee Award Based on One-Third of the Common Fund is Standard .....                                                     | 13      |
| B. While the Lodestar Method is Not Necessary in Common Fund Cases, Courts May<br>Perform a Cross-Check to Award Fees..... | 14      |
| 1. Class Counsel’s Rates Have Been Approved by Several Courts.....                                                         | 15      |
| 2. Applying a Positive Multiplier Is Appropriate.....                                                                      | 16      |
| C. Costs Are Reasonable. ....                                                                                              | 18      |
| D. The Enhancement Payments to the Plaintiffs are Reasonable. ....                                                         | 18      |
| E. Administration Expenses Should be Approved. ....                                                                        | 20      |

|                     |    |
|---------------------|----|
| V. CONCLUSION ..... | 20 |
|---------------------|----|

**TABLE OF AUTHORITIES**

**STATE CASES**

*Cellphone Term. Fee Cases* (2010)

186 Cal. App. 4th 1380 .....19

*Chavez v. Netflix, Inc.* (2008)

162 Cal.App.4th 43 .....14, 16

*Clark v. Am. Residential Services LLC* (2009)

175 Cal. App. 4th 785 .....19

*Dunk v. Ford Motor Co.* (1996)

48 Cal.App.4th 1794 .....9

*Gentry v. Super. Ct.* (2007)

42 Cal.4th 443.....18

*In re Consumer Privacy Cases* (2009)

175 Cal.App.4th 545 .....14

*Ketchum v. Moses* (2001)

24 Cal.4th 1122.....16, 17

*Kullar v. Foot Locker Retail, Inc.* (2008)

168 Cal.App.4th 116 .....9, 12

*Laffitte v. Robert Half Int’l Inc.* (2016)

1 Cal.5th 480.....13

*Lealao v. Beneficial California, Inc.* (2000)

82 Cal.App.4th 19 .....15

*Munoz v. BCI Coca-Cola Bottling Co. of Los Angeles* (2010)

186 Cal.App.4th 399, 412 .....18

*Neary v. Regents of Univ. of California* (1992)

3 Cal.4th 272.....9

*Raining Data Corp. v. Barrenechea* (2009)

175 Cal.App.4th 1363 .....14

|    |                                                                            |           |
|----|----------------------------------------------------------------------------|-----------|
| 1  | <i>United Steelworkers of America v. Phelps Dodge Corp.</i> (1990)         |           |
| 2  | 896 F.2d 403 .....                                                         | 15        |
| 3  | <i>Wershba v. Apple Computers, Inc.</i> (2001)                             |           |
| 4  | 91 Cal.App.4th 224 .....                                                   | 9, 10, 15 |
| 5  | <b><u>FEDERAL CASES</u></b>                                                |           |
| 6  | <i>Barbosa v. Cargill Meat Solutions Corp.</i>                             |           |
| 7  | (E.D.Cal.2013) 297 F.R.D. 431.....                                         | 15        |
| 8  | <i>Beaver v. Tarsadia Hotels</i>                                           |           |
| 9  | (S.D. Cal. Sept. 28, 2017) 2017 WL 4310707.....                            | 13        |
| 10 | <i>Frank v. Eastman Kodak Co.</i>                                          |           |
| 11 | (W.D.N.Y. 2005) 228 F.R.D. 174 .....                                       | 19        |
| 12 | <i>Hanlon v. Chrysler Corp.</i>                                            |           |
| 13 | (9th Cir.1998) 150 F.3d 1011.....                                          | 12        |
| 14 | <i>Harris v. Marhoefer</i>                                                 |           |
| 15 | (9th Cir. 1994) 24 F.3d 16.....                                            | 18        |
| 16 | <i>Hughes v. Microsoft Corp.</i>                                           |           |
| 17 | (W.D.Wash. 2001) 2001 U.S. Dist. LEXIS 5976, 2001 WL 34089697 .....        | 12        |
| 18 | <i>In re Lifelock, Inc. Marketing and Sales Practices Litigation</i>       |           |
| 19 | (D. Ariz. 2010) 2010 WL 3715138 .....                                      | 12        |
| 20 | <i>Moreno v. Pretium Packaging, L.L.C.</i>                                 |           |
| 21 | (C.D. Cal. Aug. 6, 2021) No. 8:19-cv-02500-SB, 2021 WL 3673845.....        | 15        |
| 22 | <i>Nunez v. BAE Sys. San Diego Ship Repair Inc.</i>                        |           |
| 23 | (S.D. Cal. 2017) 292 F. Supp. 3d 1018 .....                                | 18        |
| 24 | <i>Prudential Ins. Co. America Sales Practice Litigation Agent Actions</i> |           |
| 25 | (3d Cir.1998) 148 F.3d 283.....                                            | 15        |
| 26 | <i>Rodriguez v. W. Publ'g Corp.</i>                                        |           |
| 27 | (9th Cir. 2009) 563 F.3d 948.....                                          | 18        |
| 28 | ///                                                                        |           |

|   |                                                                                          |        |
|---|------------------------------------------------------------------------------------------|--------|
| 1 | <i>Rutti v. Lojack Corp.</i>                                                             |        |
| 2 | (C.D. Cal. July 31, 2012) No. CV 06–00350 DOC, 2012 WL 3151077.....                      | 18     |
| 3 | <i>Van Vranken v. Atlantic Richfield Company</i>                                         |        |
| 4 | (N.D. Cal. 1995) 901 F. Supp. 294.....                                                   | 13, 15 |
| 5 | <b><u>TREATISES</u></b>                                                                  |        |
| 6 | Conte & Newberg, <i>Newberg on Class Actions</i> (3rd Ed.) § 14.03.) .....               | 13     |
| 7 | <b><u>OTHER AUTHORITIES</u></b>                                                          |        |
| 8 | Theodore Eisenberg & Jeffrey P. Miller, “Incentive Awards to Class Action Plaintiffs: An |        |
| 9 | Empirical Study”, 53 UCLA L. Rev. 1303 (2006) .....                                      | 19     |

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. INTRODUCTION**

3 Plaintiffs Raul Morales Reyes and Mariano Gutierrez Gama (“Plaintiffs”) seek final  
4 approval of a proposed \$1,250,000.00 non-reversionary, wage and hour class action settlement  
5 with Defendant Giumarra Vineyards Corporation (“Defendant”, and together with Plaintiffs, the  
6 “Parties”). The Settlement will provide substantial monetary payments to approximately 4,719  
7 class members. And, as set forth more fully below, the proposed Settlement satisfies all the  
8 criteria for settlement approval under California law.

9 The proposed settlement satisfies all the criteria for settlement approval under California  
10 law. A presumption of fairness exists as the Settlement was reached through extensive,  
11 mediated arm’s-length negotiations, sufficient investigation and discovery, which allowed Class  
12 Counsel to act intelligently, and Class Counsel is experienced in similar wage and hour  
13 litigation. Upon the Court’s approval of the settlement, participating class members will receive  
14 an average estimated individual net settlement payment of approximately \$144.63. (Declaration  
15 of Tarus Dancy of CPT Group, Inc., in support of Motion for Final Approval of Class Action  
16 Settlement [“Dancy Decl.”], ¶ 15.) As of filing this Motion for Final Approval of Class Action  
17 Settlement (the “Motion”), there **no objections to the settlement** and only **one request for**  
18 **exclusion**. (*Id.* at ¶¶ 11-12.) Thus, the proposed Settlement is fair, reasonable, and adequate  
19 and is in the best interests of the Settlement Class Members.

20 Final approval of the settlement is warranted as it satisfies all the criteria for approval  
21 under California law. As demonstrated in the Motion for Preliminary Approval of Class Action  
22 Settlement, the proposed Settlement provides excellent benefits to the class, particularly  
23 considering the complexities and risks of the case. Accordingly, Plaintiffs request that the Court  
24 grant final approval of the proposed Settlement.

25 **II. SUMMARY OF THE LITIGATION AND SETTLEMENT**

26 **A. Plaintiffs’ Claims**

27 This is a wage and hour class and Private Attorneys General Act (“PAGA”) (Lab. Code  
28 §§ 2699, *et seq.*) representative action. Plaintiffs and putative class members worked in

California as hourly-paid or non-exempt employees for Defendant Giumarra Vineyards Corporation during the class period. Defendant is headquartered in Edison, California and is a family-owned and operated grower, packer, and shipper of premium California Table Grapes, with vineyards stretching from the Southern end of the San Joaquin Valley to Ducor in Tulare County. (Declaration of Benjamin Haber in Support of Plaintiffs’ Motion for Final Approval of Class Action Settlement [“Haber Decl.”], ¶ 2.)

Plaintiffs allege that Defendant’s payroll, timekeeping, and wage and hour practices resulted in Labor Code violations. Plaintiffs allege that Defendant failed to pay for all hours worked. Plaintiffs further allege that Defendant failed to provide employees with legally compliant meal and rest periods, and Defendant failed to reimburse business expenses. Based on these allegations, Plaintiffs asserts related claims for failure to provide accurate wage statements, failure to pay all final wages at termination, unfair business practices, and civil penalties under PAGA. (*Id.* at ¶ 3.)

On September 10, 2021, Plaintiff Reyes filed a putative wage-and-hour class action complaint against Defendant for: (1) failure to pay minimum and straight time wages (Labor Code §§ 204, 1194, 1194.2, and 1197); (2) failure to pay overtime wages (Labor Code §§ 1194 and 1198); (3) failure to provide meal periods (Labor Code §§ 226.7 and 512); (4) failure to authorize and permit rest periods (Labor Code §§ 226.7 and 512); (5) failure to timely pay final wages at termination (Labor Code §§ 201-203); (6) failure to provide accurate itemized wage statements (Labor Code § 226); (7) failure to indemnify employees for expenditures (Labor Code § 2802); and (8) unfair business practices (Business and Professions Code 17200 et seq.). On March 25, 2024, Plaintiff Reyes filed joint stipulation for leave to file a First Amended Complaint against Defendant adding Plaintiff Mariano Gutierrez Gama and adding claims for Unlawful Deductions (Labor Code § 221), Paid Sick Leave and Paid COVID Supplemental Sick Leave Violations (Labor Code §§ 246, 248.2, and 248.6), and civil penalties under Private Attorneys General Act “PAGA” (Labor Code §§ 2698, *et seq.*) Plaintiff sent a notice to Defendant and the California Labor & Workforce Development Agency (“LWDA”) alleging similar wage and hour violations pursuant to the PAGA on September 10, 2021. (*Id.* at ¶ 4.)

1           **B. Discovery and Investigation**

2           Following the filing of the Complaint, the Parties exchanged documents and information  
3 before mediating this action. (Haber Decl., ¶ 5.) Defendant produced a sample of time and pay  
4 records for class members. Defendant also provided documents of its wage and hour policies and  
5 practices during the class period, and information regarding the total number of current and former  
6 employees in its informal discovery responses. (*Id.*) Class Counsel also became aware of a prior  
7 wage- and-hour lawsuit that Defendant litigated for more than 13 years, which resulted in  
8 excessively delayed payment to the class members, which initially included 13,499 individuals.  
9 (*Id.*)

10          After reviewing documents regarding Defendant’s wage and hour policies and practices,  
11 analyzing Defendant’s timekeeping and payroll records, and interviewing Class Members, Class  
12 Counsel was able to evaluate the probability of class certification, success on the merits,  
13 Defendant’s maximum monetary exposure for all claims, and Defendant’s ability to fund a class  
14 settlement. Class Counsel also investigated the applicable law regarding the claims and defenses  
15 asserted in the litigation. (*Id.* at ¶ 6.) Class Counsel reviewed these records and prepared a damage  
16 analysis prior to mediation. (*Id.*)

17           **C. Settlement Negotiations and Agreement**

18          On January 12, 2023, the parties participated in private mediation with experienced class  
19 action mediator Hon. Howard Broadman (Ret.). (Haber Decl., ¶ 7.) The mediation was  
20 conducted via Zoom. The settlement negotiations were at arm’s length and, although conducted  
21 in a professional manner, were adversarial. The Parties went into the mediation willing to  
22 explore the potential for a settlement of the dispute, but each side was also prepared to litigate  
23 their position through trial and appeal if a settlement had not been reached. The Parties did not  
24 immediately resolve the action at mediation, but instead considered a mediator’s proposal that  
25 was ultimately accepted by all Parties. After extensive negotiations and discussions regarding  
26 the strengths and weaknesses of Plaintiffs’ claims and Defendant’s defenses, the Parties reached  
27 a settlement the material terms of which are encompassed within the Settlement Agreement.  
28 (*Id.*, **Ex. 1** [the Joint Stipulation of Class Action and PAGA Action Settlement].)

1 Class Counsel has conducted a thorough investigation into the facts of this case. Based  
2 on the foregoing discovery and their own independent investigation and evaluation, Class  
3 Counsel is of the opinion that the Settlement is fair, reasonable, and adequate and is in the best  
4 interests of the Settlement Class Members in light of all known facts and circumstances, the risk  
5 of significant delay, the defenses that could be asserted by Defendant both to certification and  
6 on the merits, trial risk, and appellate risk. (*Id.* at ¶ 8.)

7 **D. Preliminary Approval and Overwhelming Support for the Settlement**

8 Plaintiffs filed their Motion for Preliminary Approval of Class Action Settlement on  
9 December 5, 2024. (Haber Decl., ¶ 9.) On January 10, 2025, the Court granted Plaintiffs’  
10 Amended Motion for Preliminary Approval. (*Id.*) The class notices were ultimately mailed out  
11 to the Class Members and July 30, 2025 and the reaction from the Class to the settlement so far  
12 has been overwhelmingly positive. Indeed, as of the filing of this Motion, no Class Member  
13 has opted out of the settlement and only one Class Member (i.e., less than 0.1% of the entire  
14 Class) has objected to the settlement. (*Id.*)

15 **E. Key Terms of the Proposed Settlement**

16 Under the Settlement Agreement, Defendants will pay \$1,250,000.00 to resolve this  
17 litigation. The key terms include:

18 1. Class: “means all persons currently or formerly directly employed as non-exempt  
19 employees in California by Defendant at any time during the Class Period (defined below) who  
20 do not timely and validly exclude themselves from the Class in compliance with the exclusion  
21 procedures set forth in this Settlement. The “Class” shall not include any persons assigned to  
22 Defendant by a third-party staffing agency or labor contractor during the Class Period to the  
23 extent such persons did not also work as a direct hire for Defendant during the Class Period.”  
24 (Settlement, ¶ I.C.)

25 2. Class Period: “means the period of time from September 10, 2017 to January 9,  
26 2025.” (Settlement, ¶ I.G.)

27 3. Participating Class Member(s): “Class Member who does not timely exclude  
28 himself or herself from the Settlement and will therefore receive his or her share of the

Settlement proceeds automatically without the need to return a claim form. Each Participating Class Member will be paid his/her Individual Class Payment.” (Settlement, ¶ I.Y.)

4. Aggrieved Employees: “means all persons currently or formerly directly employed as non-exempt employees in California by Defendant at any time during the PAGA Period (defined below). “Aggrieved Employees” shall not include any persons assigned to Defendant by a third- party staffing agency or labor contractor during the PAGA Period to the extent such persons did not also work as a direct hire for Defendant during the PAGA Period.” (Settlement, ¶ I.B.)

5. PAGA Period: “means the period from September 10, 2020 to January 9, 2025.” (Settlement, ¶ I.X.)

6. Gross Settlement Amount: “means One Million Two Hundred and Fifty Thousand dollars (\$1,250,000), subject to a (voluntary) pro rata increase pursuant to Section III(D)(5), to be paid by Defendant pursuant to the terms of this Settlement. All payments to the Class and Aggrieved Employees, including all wages, damages, interest, penalties, and all administration costs, attorney’s fees and costs, Enhancement Awards, and LWDA Payment pursuant to Section III(D)(7) below, and all applicable employee-side payroll taxes shall be paid out of the Gross Settlement Amount. The employer’s share of payroll taxes arising from the payments made under this settlement shall be paid by Defendant separate from and in addition to the Gross Settlement Amount. No part of the Gross Settlement amount shall revert to Defendant.” (Settlement, ¶ I.P.)

7. Uncashed Checks: “If a check is returned to the Settlement Administrator as undeliverable, the Settlement Administrator shall promptly attempt to obtain a valid mailing address by performing a skip trace or a mass search on appropriate databases based on set criteria and, if another address is identified, shall mail the check in the newly identified address. If the Settlement Administrator is unable to obtain a valid mailing address through this process, the Settlement Administrator will also transfer the amount represented by the check to the California Farmworker Foundation. (Settlement, ¶ III.D.7.e.)

8. Releases by Class Members: “Upon the Effective Date, Participating Class

Members and Aggrieved Employees release Released Parties of all Released Claims, as defined below, during the Class Period and PAGA Period, as applicable. Such release shall be subsequently invalidated if, after the Effective Date, Defendant fails to fund the Gross Settlement Amount per the schedule set forth herein. Nonetheless, Released Parties shall have the right to enforce the release set forth herein as to Participating Class Members and Aggrieved Employees, as applicable, without regard to their receipt of an Individual Class Payment and/or Individual PAGA Payment and prior to fully funding the Gross Settlement Amount, so long as Defendant has complied with the procedures set forth herein as of the time it seeks to enforce the release. Any claims released under this Settlement by a Participating Class Member or Aggrieved Employee as of the Effective Date shall be deemed tolled for statute of limitations purposes between the Effective Date and Defendant's deadline to fully fund the Settlement, such that if a Class Member's release is subsequently invalidated after the Effective Date due to Defendant's failure to fully fund the Agreement, the Class Member's time to bring an action shall be extended between the Effective Date and the date the release is invalidated (i.e., the date of Defendant's failure, if any, to fund the Settlement as scheduled herein).

The released claims shall include, but are not limited to all claims alleged by Plaintiff in the operative complaint(s), or which could have been alleged by Plaintiff in the operative complaint(s) by reason of or in connection with any matter or fact set forth or referred to in operative complaint(s), including any and all claims, debts, liabilities, demands, actions, or causes of action arising from or relating to the Released Claims during the Class Period or PAGA Period, as defined herein. Without limiting the foregoing, the Released Claims shall include claims for unpaid wages, including but not limited to failure to pay minimum wages, straight time compensation, overtime compensation, and interest; failure to timely pay regular and final wages; failure to provide compliant meal, rest, and/or recovery periods; failure to pay premiums at all or at the correct rate for any violation of meal, rest, and recovery period obligations; claims arising from invalid meal period waivers and on-duty meal period waivers; payment for all hours worked; wage statements and paystubs, including wage statements and paystubs furnished or available in physical, electronic, or other forms; failure to keep accurate

records; making unlawful deductions; failing to reimburse business expenses; unfair business practices; any and all related penalties, including recordkeeping penalties, wage statement penalties, minimum wage penalties, and waiting time penalties; and statutory penalties and/or civil penalties associated with any of the foregoing. Such released claims shall include, but are not limited to those claims arising under California Labor Code sections 201-204, 204b, 205.5, 206, 210, 218, 218.5, 218.6, 221, 222, 222.5, 223, 224, 225, 225.5, 226, 226.2, 226.3, 226.7, 233, 234, 246, 246.5, 247, 247.5, 248, 248.1, 248.2, 248.3, 248.5, 248.6, 248.7, 400-410, 510, 512, 558, 558.1, 1174, 1174.5, 1182.12, 1194, 1194.2, 1197, 1197.1, 1198, 1199, 2800, 2802, 2698 et seq., and 2699 et seq., and/or those arising under the applicable Industrial Welfare Commission Wage Order(s) (including but not limited to subsections 3, 4, 5, 7, 8, 9, 11, 12, 13, 18, and 20 of the applicable Wage Order(s) [including the provisions of the California Code of Regulations codifying the applicable Wage Order(s)], which may include but are not limited to Wage Orders 8-2001 and 14- 2001); 8 C.C.R. §3395; California Business and Professions Code section 17200 et seq. (including, without limitation, California Business and Professions Code §§17200 through 17208); the California Civil Code sections 3287, 3289, and 3294; California Code of Civil Procedure section 1021.5; and any related claims under the claims under the Fair Labor Standards Act (“FLSA”) (29 U.S.C. §§ 201, et seq.) (“Released Claims”).” (Settlement, ¶ V.A.)

9. PAGA Allocation: The settlement includes \$50,000.00 allocated to Plaintiffs’ claims under PAGA, with 75% of which (\$37,500.00) being paid to the LWDA and 25% (\$12,500.00) being paid to the Aggrieved Employees. (Settlement ¶ III.D.7.e.) Class Counsel submitted the proposed settlement to the LWDA before filing the Motion for Preliminary Approval. (Haber Decl., ¶ 11.)

10. Net Settlement Amount: “means the Gross Settlement Amount less the Court-approved settlement administration costs, attorney’s fees and costs, Enhancement Awards, Individual PAGA Payments, and LWDA Payment, The remainder is to be paid to Participating Class Members as Individual Class Payments.” (Settlement, ¶ I.U.)

11. Distribution Formula: “To calculate the amount each Class Member will receive,

the Net Settlement Amount will be divided by the total number of Qualifying Workweeks by all Class Members during the Class Period and then allocated on a pro rata basis (i.e., according to the Qualifying Workweeks worked by each of the individual Class Members during the Class Period). An estimate of each Class Member's Individual Class Payment will be included in his or her Class Notice. After final approval by the Court, the Net Settlement Amount will be distributed to Participating Class Members on a pro rata basis based on the individual Qualifying Workweeks worked during the Class Period by each Participating Class Member." (Settlement, ¶ III.D.7.f.) As to PAGA: "The Administrator will calculate each Individual PAGA Payment by (a) dividing the amount of Aggrieved Employees' 25% share of PAGA Penalties (\$12,500.00) by the total number of PAGA Pay Periods worked by all Aggrieved Employees during the PAGA Period and (b) multiplying the result by each Aggrieved Employee's PAGA Pay Periods." (Settlement ¶ III.D.7.e.)

12. Tax Allocation: "5% allocated to wages, 85% allocated to penalties and interest, and 10% reimbursements. The amounts paid as wages shall be subject to all tax withholdings customarily made from an employee's wages and all other authorized and required withholdings and shall be reported by W-2 forms. The employer-side taxes (including employer's portion of FICA, FUTA, SUTA, and all other applicable payroll taxes) will be paid by Defendant separate from and in addition to the Gross Settlement Amount. The amounts paid as penalties, interest, and reimbursements shall be subject to all authorized and required withholdings other than the tax withholdings customarily made from employees' wages and shall be reported by IRS 1099 forms. Defendant shall not make as part of this Settlement, nor be required to make, any deductions, nor pay any monthly contributions for any insurance, retirement, 401(k) or profit-sharing plans, or any benefit plans related to monies paid as a result of this Settlement." (Settlement, ¶ III.D.7.f.)

13. Enhancement Award(s): "means an amount of up to Five Thousand Dollars (\$5,000) for Plaintiff Raul Morales Reyes, and One Thousand Dollars (\$1,000) for Plaintiff Mariano Gutierrez Gama, subject to Court approval. (Settlement, ¶ I.M.)

14. Attorneys' Fees and Costs: "A Class Counsel Fees Payment of not more than one-

1 third of the Gross Settlement Amount, which is currently estimated to be \$416,666.67 and a  
2 Class Counsel Litigation Expenses Payment of not more than \$30,000.00. (Settlement, ¶  
3 III.D.7.b.)

4 15. Notice of Proposed Class Action Settlement: The Notice set forth in plain terms,  
5 a statement of the case, the terms of the Settlement Agreement, the approximate amount of  
6 attorneys' fees, costs, and service awards being sought, and an explanation of how the settlement  
7 allocations are calculated. (Dancy Decl., ¶ 4, Settlement, Ex. A.) Class Members were notified  
8 by first-class mail of the settlement. (*Id.*; at ¶¶ 4-9; *see also* Settlement, ¶ III.C.) CPT Group,  
9 Inc., the Settlement Administrator, undertook its best efforts to ensure that the notice was  
10 provided to the current addresses of class members, including conducting a national change of  
11 address search and re-mailing the notice to updated addresses. (*Id.*)

### 12 **III. THE SETTLEMENT MERITS FINAL APPROVAL**

13 The law favors the settlement of lawsuits, particularly in class actions and other complex  
14 cases. (*See e.g., Neary v. Regents of Univ. of California* (1992) 3 Cal.4th 272, 277-81.) Factors  
15 to be considered in evaluating a class action settlement include "the strength of plaintiffs' case, the  
16 risk, expense, complexity and likely duration of further litigation, the risk of maintaining class  
17 action status through proceedings, the experience and views of counsel, the presence of a  
18 government participant, and the reaction of the class members to the proposed settlement." (*Kullar*  
19 *v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th 116, 128.) A presumption that a settlement is  
20 fair and reasonable exists where, as here, the following four factors are present: "(1) the settlement  
21 is reached through arm's length bargaining; (2) investigation and discovery are sufficient to allow  
22 counsel and the court to act intelligently; (3) counsel is experienced in similar litigation; and (4)  
23 the percentage of objectors is small." (*Wershba v. Apple Computers, Inc.* (2001) 91 Cal.App.4th  
24 224, 245.)

25 Whether a class action settlement should be approved is a question committed to the trial  
26 court's broad discretion. (*Id.* at pp. 234-35.) In exercising its discretion, the Court should give  
27 "[d]ue regard ...to what is otherwise a private consensual agreement between the parties." (*Dunk*  
28 *v. Ford Motor Co.* (1996) 48 Cal.App.4th 1794, 1801.) "The inquiry 'must be limited to the extent

1 necessary to reach a reasoned judgment that the agreement is not the product of fraud or  
2 overreaching by, or collusion between, the negotiating parties, and that the settlement, taken as a  
3 whole, is fair, reasonable and adequate to all concerned.” (*Id.* [internal citations omitted].)

4 **A. The Settlement Reflects a Reasonable Compromise**

5 A settlement is not judged against what the plaintiffs might recover had he or she prevailed  
6 at trial, nor does the settlement have to provide 100% of the damages sought to be fair and  
7 reasonable. (*Wershba, supra*, 91 Cal.App.4th at pp. 246, 250 [“Compromise is inherent and  
8 necessary in the settlement process...even if the relief afforded by the proposed settlement is  
9 substantially narrower than it would be if the suits were to be successfully litigated, this is no bar  
10 to a class settlement because the public interest may indeed be served by a voluntary settlement in  
11 which each side gives ground in the interest of avoiding litigation.”].)

12 The settlement obviates the significant risk that this Court may deny certification of all or  
13 some of Plaintiffs’ claims. (Haber Decl., ¶ 10.) While Plaintiffs are confident in the merits of  
14 their claims, a legitimate controversy exists as to each cause of action. (*Id.*) Plaintiffs also  
15 recognize that proving the amount of wages due to each class member would be an expensive,  
16 time-consuming, and uncertain proposition. (*Id.*) Furthermore, even if Plaintiffs obtained  
17 certification of all or some of the claims, continued litigation would be expensive, involving a trial  
18 and possible appeals, and would substantially delay and reduce any recovery by the class. (*Id.*)

19 Because of the proposed Settlement, class members will receive timely, guaranteed relief  
20 and will avoid the risk of an unfavorable judgment. When considering the risks of litigation, the  
21 uncertainties involved in achieving class certification, the burdens of proof necessary to establish  
22 liability, the probability of appeal of a favorable judgment, it is clear that the settlement amount of  
23 \$1,250,000.00 is within the “ballpark” of reasonableness, and settlement approval is appropriate.  
24 Indeed, each Settlement Class Member is eligible to receive an average benefit of approximately  
25 \$144.63. (Dancy Decl., ¶ 15.)

26 **B. The Settlement was Reached After Arms-Length Negotiations Following**  
27 **Formal and Informal Discovery**

28 The Settlement was reached over the course of a full-day mediation with experienced

1 employment mediator, Howard Broadman (Ret.). (Haber Decl., ¶ 7.) The settlement negotiations  
2 were at arm's length and, although conducted in a professional manner, were adversarial. (*Id.*)  
3 The Parties went into the mediation willing to explore the potential for a settlement of the dispute,  
4 but each side was also prepared to litigate their or its position through trial and appeal if a  
5 settlement had not been reached. The Parties did not immediately resolve the action at mediation,  
6 but instead considered a mediator's proposal that was accepted by all Parties. (*Id.*)

7 Prior to reaching this settlement, Class Counsel conducted informal discovery concerning  
8 the claims set forth in the litigation, such as a sample of class member timekeeping and payroll  
9 records, Defendant's policies and procedures concerning the payment of wages, the provision of  
10 meal and rest breaks, issuance of wage statements, and providing all wages at separation, as well  
11 as information regarding the number of putative class members and the mix of current versus  
12 former employees, the wage rates in effect, and the amount of meal and rest period premium wages  
13 paid to class members. (*Id.* at ¶¶ 5-6.) In conjunction with their extensive factual investigation,  
14 Class Counsel investigated the applicable law regarding the claims and defenses asserted in the  
15 litigation. (*Id.*) Thus, Plaintiffs and their counsel were able to act intelligently and effectively in  
16 negotiating the proposed Settlement. (*Id.*)

17 **C. Plaintiffs' Counsel Has Substantial Class Action Experience**

18 Class Counsel also has considerable experience and has demonstrated competence with  
19 litigating wage and hour class actions. (Haber Decl., ¶¶ 17-39.) Class Counsel has substantial  
20 experience in all facets of litigation in state and federal court, including discovery, law and motion,  
21 trial, appeals, arbitration and mediation. Class Counsel has litigated numerous class actions on  
22 behalf of plaintiffs and have been lead counsel or otherwise exercised significant case handling  
23 responsibilities in numerous cases resulting in millions of dollars in class action settlements. (*Id.*)

24 Based on Class Counsel's experience as employment and class action attorneys, Class  
25 Counsel is eminently qualified to evaluate the strength of Plaintiffs' claims, the strength of  
26 Defendant's defenses against certification, the strength of Defendant's defenses on the merits, and  
27 the fairness of the Settlement. Their opinion that final approval of the Settlement would be in the  
28 best interests of class members in light of the significant risks of litigation is entitled to great

weight. (*See Kullar, supra*, 168 Cal.App.4th at p. 129 [“The court undoubtedly should give considerable weight to the competency and integrity of counsel and the involvement of a neutral mediator in assuring itself that a settlement agreement represents an arms’ length transaction entered without self-dealing or other potential misconduct”].)

**D. There Are No Objections to the Settlement**

To date, no class member has objected to the Settlement, and one class member has requested exclusion from the Settlement. (Dancy Decl., ¶¶ 11-12.) The overwhelmingly positive response of the class strongly supports final approval of the Settlement. (*See, e.g., In re Lifelock, Inc. Marketing and Sales Practices Litigation* (D. Ariz. 2010) 2010 WL 3715138, \*6 [relatively few objections and requests for exclusion support approval].)

Factors to be considered in evaluating a class action settlement include “the reaction of the class members to the proposed settlement.” (*Kullar, supra*, 168 Cal.App.4th at p. 128.) The reaction here has been overwhelmingly positive. Courts have approved class action settlements in lesser circumstances. (*See, e.g., Hughes v. Microsoft Corp.* (W.D.Wash. 2001) 2001 U.S. Dist. LEXIS 5976, 2001 WL 34089697, \*8 [court found that the “class members overwhelmingly support[ed] the settlement” where there were over 37,000 notices sent out, 2,745 class members participated in the settlement, “only nine objections were submitted”, and there were 86 timely opt-outs and over 20 additional defective or untimely opt-outs, “these indicia of the approval of the class of the terms of the settlement support a finding of fairness under Rule 23”], *citing Hanlon v. Chrysler Corp.* (9th Cir.1998) 150 F.3d 1011, 1027 [despite vigorous objections and appeal by objectors, the “fact that the overwhelming majority of the class willingly approved the offer and stayed in the class presents at least some objective positive commentary as to its fairness,” and the court did not abuse its discretion in approving settlement].)

**IV. THE COURT SHOULD AWARD PLAINTIFFS THE REQUESTED AMOUNTS OF FEES, COSTS AND ENHANCEMENT PAYMENTS.**

Under the Settlement, subject to the Court’s approval, Defendant has agreed to pay Class Counsel reasonable attorneys’ fees in the amount of \$416,666.67, which is 33 1/3% of the Gross Settlement Amount, costs up to \$18,305.67 for litigating this action, and enhancement awards of

1 \$5,000.00 to named Plaintiff Raul Morales Reyes and \$1,000.00 to named Plaintiff Mariano  
2 Gutierrez Gama. Defendant has also agreed that it would not oppose an application for these  
3 payments addressed above, and no class member has objected to these amounts.

4 In common fund cases like this one, the primary method California courts use for  
5 calculating attorneys' fees is the percentage of the common fund method, which may be followed  
6 by a lodestar cross-check. In *Laffitte v. Robert Half Int'l Inc.* (2016) 1 Cal.5th 480, the California  
7 Supreme Court affirmed an award of 33 1/3% of a \$19 million wage and hour class action  
8 settlement with a 2.03 to 2.13 multiplier. (*Id.* at p. 506.) In doing so, the California Supreme Court  
9 explained:

10 As to the incentives a lodestar cross-check might create for class counsel, we  
11 emphasize the lodestar calculation, when used in this manner, ***does not override***  
12 ***the trial court's primary determination of the fee as a percentage of the common***  
13 ***fund*** and thus ***does not impose an absolute maximum or minimum on the***  
14 ***potential fee award***. If the multiplier calculated by means of a lodestar cross-  
15 check is extraordinarily high or low, the trial court should consider whether the  
16 percentage used should be adjusted so as to bring the imputed multiplier within a  
17 justifiable range, but the court is not necessarily required to make such an  
18 adjustment. Courts using the percentage method have generally weighed the time  
19 counsel spent on the case as an important factor in choosing a reasonable  
20 percentage to apply.

21 (*Id.* at p. 505, emphasis added; *see also Beaver v. Tarsadia Hotels* (S.D. Cal. Sept. 28, 2017) 2017  
22 WL 4310707, at \*9 [applying *Laffitte* standard to fee request for 33 1/3% of common fund].)

23 **A. A Fee Award Based on One-Third of the Common Fund is Standard**

24 According to a leading treatise on class actions, "[n]o general rule can be articulated on  
25 what is a reasonable percentage of a common fund. Usually 50% of the fund is the upper limit on  
26 a reasonable fee award from a common fund in order to assure that the fees do not consume a  
27 disproportionate part of the recovery obtained for the class, although somewhat larger percentages  
28 are not unprecedented." (*See Conte & Newberg, Newberg on Class Actions* (3rd Ed.) § 14.03.)  
Attorneys' fees at fifty percent of the fund are typically considered the upper limit, with ***thirty to***  
***forty percent*** commonly awarded in cases where the settlement is relatively small. (*Id.*; *see also*  
*Van Vranken v. Atlantic Richfield Company* (N.D. Cal. 1995) 901 F. Supp. 294 [stating that most  
cases where 30-50% was awarded involved "smaller" settlement funds of under \$10 million].)

1 The settled-for 33 1/3% fee award is consistent with the average fee award in class actions.  
2 Indeed, the custom and practice in class actions is to award approximately one-third of a fund as a  
3 fee award. (*See Chavez v. Netflix, Inc.* (2008) 162 Cal.App.4th 43, 66, n.11 [“Empirical studies  
4 show that, regardless whether the percentage method or the lodestar method is used, fee awards in  
5 class actions average around one-third of the recovery.”].) Thus, Plaintiffs’ fee request is in line  
6 with the prevailing guidelines established in California case law and academic literature and is  
7 consistent with awards in California. Accordingly, the Court should approve the attorneys’ fees.

8 **B. While the Lodestar Method is Not Necessary in Common Fund Cases, Courts**  
9 **May Perform a Cross-Check to Award Fees.**

10 Although California supports the common fund doctrine, the lodestar method can be used  
11 to cross-check fee awards. “It may be appropriate in some cases, assuming the class benefit can  
12 be monetized with a reasonable degree of certainty, to “cross-check” or adjust the lodestar in  
13 comparison to a percentage of the common fund to ensure that the fee awarded is reasonable and  
14 within the range of fees freely negotiated in the legal marketplace in comparable litigation.” (*In*  
15 *re Consumer Privacy Cases* (2009) 175 Cal.App.4th 545, 557.)

16 Applying the lodestar method requires a two-step process. The first step is to multiply the  
17 number of hours reasonably expended by a reasonable hourly rate. The second step is to apply a  
18 multiplier to the lodestar to take into account various factors. “The purpose of such adjustment is  
19 to fix a fee at the fair market value for the particular action. In effect, the court determines,  
20 retrospectively, whether the litigation involved a contingent risk or required extraordinary legal  
21 skill justifying augmentation of the unadorned lodestar in order to approximate the fair market rate  
22 for such services.” (*Id.* at pp. 556-57.) “Under certain circumstances, a lodestar calculation may  
23 be enhanced on the basis of a percentage-of-the-benefit analysis.” (*Id.* at p. 557.)

24 Detailed timesheets are not necessary to a lodestar cross-check. “The law is clear ... that  
25 an award of attorney fees may be based on counsel’s declarations, without production of detailed  
26 time records.” (*Raining Data Corp. v. Barrenechea* (2009) 175 Cal.App.4th 1363, 1375.) As the  
27 California Supreme Court explained in *Laffitte*:

28 With regard to expenditure of judicial resources, we note that trial courts

conducting lodestar cross-checks have generally not been required to closely scrutinize each claimed attorney-hour, but have instead used information on attorney time spent to “focus on the general question of whether the fee award appropriately reflects the degree of time and effort expended by the attorneys.”

(5 Newberg on Class Actions, *supra*, § 15:86, p. 331; *see, e.g., Goldberger v. Integrated Resources, Inc.*, *supra*, 209 F.3d at p. 50 [2d Cir.; “where used as a mere cross-check, the hours documented by counsel need not be exhaustively scrutinized by the district court”]; *In re Prudential Ins. Co. America Sales Practice Litigation Agent Actions* (3d Cir.1998) 148 F.3d 283, 342 [agreeing with district court that “detailed time summaries were unnecessary where, as here, it was merely using the lodestar calculation to double check its fee award.”]; *Barbosa v. Cargill Meat Solutions Corp.* (E.D.Cal.2013) 297 F.R.D. 431, 451 [“Where the lodestar method is used as a cross-check to the percentage method, it can be performed with a less exhaustive cataloguing and review of counsel’s hours.”].)

(*Laffitte, supra*, 1 Cal.5th at p. 505.)

Class Counsel’s lodestar is at least \$170,050 based on over 193 hours of work performed thus far. (Haber Decl., ¶¶ 18-19.) Accordingly, the requested fee of \$416,666.67 is reasonable and fair as it is based on an approximate multiplier of 2.45. To be sure, trial courts have substantial discretion in adjusting the lodestar to account for various factors. (*See Lealao v. Beneficial California, Inc.* (2000) 82 Cal.App.4th 19, 26, 39-45; *see also Serrano v. Priest* (1977) 20 Cal.3d 25, 49.) In addition, it has been held that “[m]ultipliers can range from 2 to 4 or even higher.” (*See Wershba, supra*, 91 Cal.App.4th at p. 255; *see also Van Vranken, supra*, 901 F. Supp. At p. 298 [“[m]ultipliers in the 3-4 range are common in lodestar awards for lengthy and complex class action litigation.”].) Similar multipliers have been found to be reasonable for Class Counsel. (*See, e.g., Moreno v. Pretium Packaging, L.L.C.* (C.D. Cal. Aug. 6, 2021) No. 8:19-cv-02500-SB, 2021 WL 3673845, \*3 [finding Wilshire Law Firm, PLC’s multiplier of 2.57 reasonable “in light of the contingent nature of recovery, the complexity of the issues, and the result obtained”].)

### **1. Class Counsel’s Rates Have Been Approved by Several Courts.**

Class Counsel provides a declaration to support their lodestar hourly rates. “Affidavits of the plaintiffs’ attorney and other attorneys regarding prevailing fees in the community, and rate determinations in other cases, particularly those setting a rate for the plaintiffs’ attorney, are satisfactory evidence of the prevailing market rate.” (*United Steelworkers of America v. Phelps Dodge Corp.* (9th Cir. 1990) 896 F.2d 403, 407.) Class Counsel has received final approval of their hourly rates in other wage and hour class action settlements.

1                   **2.       Applying a Positive Multiplier Is Appropriate.**

2       Once this lodestar figure has been determined, the Court may take into account other  
3       “enhancement” factors to adjust the lodestar award. While Plaintiffs seek a modest multiplier of  
4       2.45 here, the overall reasonableness of Plaintiffs’ request is underscored by the fact that a  
5       significantly higher multiplier would be justified under applicable law.

6               Contingency fees should be higher than fees for the same legal services paid concurrently  
7       with the provision of the services. (*Ketchum v. Moses* (2001) 24 Cal.4th 1122, 1132-33.) “A  
8       lawyer who both bears the risk of not being paid and provides legal services is not receiving the  
9       fair market value of his work if he is paid only for the second of these functions. If he is paid no  
10      more, competent counsel will be reluctant to accept fee award cases.” (*Id.* at p. 1133.) Application  
11     of that rule is particularly appropriate where the case is brought to redress important rights of  
12     vulnerable persons. (*Id.*) A risk enhancement is “earned compensation; unlike a windfall, it is  
13     neither unexpected nor fortuitous. Rather it is intended to approximate market-level compensation  
14     for such services which typically pay a premium for the risk of nonpayment or delay in payment  
15     of attorney’s fees.” (*Id.* at p. 1138.)

16              “Multipliers can range from 2 to 4 or even higher.” (*Wershba, supra*, 91 Cal.App.4th at  
17     p. 255; *see also Sutter Health Uninsured Pricing Cases* (2009) 171 Cal.App.4th 495, 512  
18     [applying a 2.52 multiplier on a cross-check in an antitrust class action]; *Chavez, supra*, 162  
19     Cal.App.4th at p. 60 [applying a 2.5 multiplier on a lodestar cross-check]; *Vizcaino v. Microsoft*  
20     *Corp.* (9th Cir. 2002) 290 F.3d 1043, 1051 n.6 [“most” common fund cases apply a multiplier  
21     of 1.0-4.0]; *Been v. O.K. Industries Inc.* (E.D. Okla. 2011) 2011 WL 4478766, \*11, *citing* a  
22     study “reporting [an] average multiplier of 3.89 in survey of 1,120 class action cases” and  
23     finding that a multiplier of 2.43 would be “per se reasonable.”) The intermediate court in  
24     *Laffitte*, after finding that “2 to 4” is a reasonable range for multipliers on a cross-check,  
25     affirmed a 2.13 multiplier. (*Laffitte v. Robert Half Int’l* (2014) 231 Cal.App.4th 860, 881-82.)  
26     The intermediate court opinion was affirmed in full by the California Supreme Court in its new  
27     decision guiding lower courts on assessing fees.

28              Factors considered in determining whether a lodestar multiplier is appropriate generally

1 include: (1) the risks presented by the contingent nature of the case; (2) the novelty and difficulty  
2 of the questions involved and the skill requisite to perform the legal service properly; (3) the  
3 nature of the opposition; (4) the preclusion of other employment by the attorney due to  
4 acceptance of the case; and (5) the result obtained and the importance of the lawsuit to the  
5 public. (*Serrano, supra*, 20 Cal.3d at pp. 48-49.) All of these factors favor approval of a  
6 multiplier along the lines of those approved in the cases above.

7 The major consideration in determining the necessity of a multiplier is the contingent nature  
8 of the award. (*Ketchum, supra*, 24 Cal.4th at pp. 1132-33.) Further, the possibility of no recovery  
9 is only one of the uncertainties involved in taking on such a case. Other uncertainties are the  
10 amount that will be recovered, uncertainty as to the cost, both in effort and expenses, and  
11 uncertainty about how much time will pass before the recovery is obtained. (*Id.* at pp. 1132-1133,  
12 1138.) Here, Class Counsel have been the only counsel to represent Class Members in this matter  
13 and have borne the entire risk and costs of litigation purely on a contingency basis. Class Counsel's  
14 outlay of time and money in this case has been significant.

15 The other factors are also present here. Class Counsel are skilled attorneys who have  
16 had success in wage and hour class actions. This case required experienced and competent  
17 lawyers and expertise in the issues presented herein. Defendant's contentions underscore the  
18 risk of prevailing at class certification and trial, and any of these obstacles could have prevented  
19 recovery completely. Further, proceeding to trial would have added years to the resolution of  
20 this case because of the difficult legal and factual issues raised and the likelihood of appeals.  
21 Despite these risks, Class Counsel took this case on a contingency basis. Yet, there are only so  
22 many cases that Class Counsel can take at any one time. Consequently, there were other  
23 meritorious cases presented to Class Counsel that would have generated substantial fees, but  
24 were declined, during the pendency of this action in order to devote the attention necessary to  
25 achieve favorable results. (Haber Decl., ¶ 25.) Considered against the risks of continued  
26 litigation, and the importance of the employment rights and a speedy recovery, the relief  
27 provided under the Settlement represents a very strong result for the Class.

28 ///

1           **C. Costs Are Reasonable.**

2           As of the date of filing this Motion, Class Counsel has incurred around \$18,305.67 in costs,  
3 and Defendant has agreed that they will not oppose any cost award request up to \$30,000.00.  
4 (Haber Decl., ¶ 26.) Accordingly, Class Counsel respectfully requests reimbursement of  
5 \$18,305.67 in costs. The categories of costs are set forth in the accompanying Declaration of  
6 Benjamin Haber, and these costs are easily seen to be both reasonable and necessary.

7           Counsel can recover “out-of-pocket expenses that ‘would normally be charged to a fee  
8 paying client’” including costs for “service of summons and complaint, service of trial  
9 subpoenas, fee for defense expert at deposition, postage, investigator, copying costs, hotel bills,  
10 meals, messenger service and employment record reproduction.” (*Harris v. Marhoefer* (9th Cir.  
11 1994) 24 F.3d 16, 19.) Such costs are properly recoverable on motions for settlement approval.  
12 (See *Nunez v. BAE Sys. San Diego Ship Repair Inc.* (S.D. Cal. 2017) 292 F. Supp. 3d 1018,  
13 1057; *Rutti v. Lojack Corp.* (C.D. Cal. July 31, 2012) No. CV 06–00350 DOC, 2012 WL  
14 3151077, at \*12 [“Expenses such as reimbursement for travel, meals, lodging, photocopying,  
15 long-distance telephone calls, computer legal research, postage, courier service, mediation,  
16 exhibits, documents scanning, and visual equipment are typically recoverable.”].)

17           **D. The Enhancement Payments to the Plaintiffs are Reasonable.**

18           Named plaintiffs in class action lawsuits “are eligible for reasonable incentive payments to  
19 compensate them for the expense or risk they have incurred in conferring a benefit on other  
20 members of the class.” (*Munoz v. BCI Coca-Cola Bottling Co. of Los Angeles* (2010) 186  
21 Cal.App.4th 399, 412.) Courts routinely grant approval of class action settlement agreements  
22 containing enhancements for the class representatives, which are necessary to provide incentive to  
23 represent the class, and are appropriate given the benefit the class representatives help to bring  
24 about for the class. (See *Rodriguez v. W. Publ'g Corp.* (9th Cir. 2009) 563 F.3d 948, 958-59.) The  
25 California Supreme Court has also noted that “retaliation against employees for asserting statutory  
26 rights under the Labor Code is widespread,” despite anti-retaliation statutes designed to protect  
27 employees. (*Gentry v. Super. Ct.* (2007) 42 Cal.4th 443, 460-61.) Plaintiff should therefore be  
28 rewarded for assuming the risk of retaliation for the sake of class members. (See *Frank v. Eastman*

*Kodak Co.* (W.D.N.Y. 2005) 228 F.R.D. 174, 187.)

Under the settlement agreement, subject to the Court’s approval, Defendant agreed to pay a Class Representative Service Payment in the amount of \$5,000.00 to Plaintiff Raul Morales Reyes and \$1,000.00 to Plaintiff Mariano Gutierrez Gama. This amount is also in exchange for Plaintiffs’ general releases of all claims against Defendant. Plaintiffs have submitted a declaration demonstrating their devotion to this case, including their efforts assisting counsel in the case, communicating with counsel frequently for litigation, preparing for mediation, and reviewing case-related documents. (*See, generally*, Declaration of Plaintiffs submitted in support of Motion for Preliminary Approval.)

When compared with the amounts awarded in typical class action cases, the amount requested here is particularly reasonable. Indeed, a 2006 study examining the average incentive award given to class action plaintiffs from 1993 to 2002 found that the “average award per class representative was \$15,992 and the median award per class representative was \$4,357.” (Theodore Eisenberg & Jeffrey P. Miller, “Incentive Awards to Class Action Plaintiffs: An Empirical Study”, 53 UCLA L. Rev. 1303, 1308 (2006).) Courts routinely approve a \$10,000 enhancement award for plaintiffs represented by Class Counsel. (*See, e.g., Moreno, supra*, 2021 WL 3673845 at \*3 [“The Court concludes a \$10,000 incentive award is appropriate.”]; *Suarez, supra*, 2024 WL 150721 at p. \*4 [“The court approves awards of \$10,000 for each class representative.”].)

“Since without a named plaintiff there can be no class action, such compensation as may be necessary to induce him to participate in the suit.” (*Clark v. Am. Residential Services LLC* (2009) 175 Cal.App.4th 785, 804.) “[T]he rationale for making enhancement or incentive awards to named plaintiffs is that they should be compensated for the expense or risk they have incurred in conferring a benefit on other members of the class.” (*Id.* at p. 806.) “An incentive award is appropriate ‘if it is necessary to induce an individual to participate in the suit.’” (*Cellphone Term. Fee Cases* (2010) 186 Cal.App.4th 1380, 1394, *quoting Clark*, 175 Cal.App.4th at p. 804.) The “criteria courts may consider in determining whether to make an incentive award include: (1) the risk to the class representative in commencing suit, both financial and otherwise; (2) the notoriety and personal difficulties encountered by the class

1 representative; (3) the amount of time and effort spent by the class representative; (4) the  
2 duration of the litigation; and (5) the personal benefit (or lack thereof) enjoyed by the class  
3 representative as a result of the litigation.” (*Id.* at pp. 1394–95.) Plaintiffs’ declarations  
4 describe how each of the five *Cellphone Termination* factors are present here.

5 **E. Administration Expenses Should be Approved.**

6 CPT Group, Inc., the Settlement Administrator, estimates that it will incur a total of  
7 \$32,000.00 in costs associated with the administration of this Settlement. (Dancy Decl., ¶ 17.)  
8 These expenses are reasonable, based upon the size of the class, claim and exclusion tracking, and  
9 Class Member payment processing.

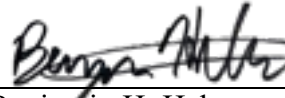
10 **V. CONCLUSION**

11 For the foregoing reasons, Plaintiffs respectfully request that the Court grant final approval  
12 of the proposed settlement.

13  
14 Dated: October 28, 2025

Respectfully submitted,

15 **WILSHIRE LAW FIRM, PLC**

16 

17 Benjamin H. Haber  
18 Daniel Kramer  
19 Chase Stern  
20 Alan Wilcox

21 Attorneys for Plaintiffs  
22  
23  
24  
25  
26  
27  
28

*Morales v. Giumarra Vineyards Corporation., et al.*  
BCV-21-102139

STATE OF CALIFORNIA               )  
COUNTY OF LOS KERN             ) ss

On October 28, 2025, I served the foregoing **PLAINTIFF'S NOTICE OF MOTION AND MOTION FOR FINAL APPROVAL OF CLASS ACTION SETTLEMENT; MEMORANDUM OF POINTS AND AUTHORITIES**, on the interested parties by placing a true copy thereof, enclosed in a sealed envelope by following one of the methods of service as follows:

Ian B. Wieland (SBN 285721)  
[ian@sw2law.com](mailto:ian@sw2law.com)  
 Michael J. Conway (SBN 322030)  
[mikec@sw2law.com](mailto:mikec@sw2law.com)  
 Tristan Matthews  
[tristan@sw2law.com](mailto:tristan@sw2law.com)  
 Stephanie Garcia  
[stephanie@sw2law.com](mailto:stephanie@sw2law.com)  
**SAGASER, WATKINS & WIELAND PC**  
 5260 N. Palm A venue, Suite 400  
 Fresno, California 93 704  
 Telephone: (559) 421-7000  
 Facsimile: (559) 473-1483

Attorneys for Defendant

(X) **BY E-MAIL:** I hereby certify that this document was served from Los Angeles, California, by e-mail delivery on the parties listed herein at their most recent known email address or e-mail of record in this action.

I declare under the penalty of perjury under the laws of the State of California, that the foregoing is true and correct.

Executed on October 28, 2025, at Los Angeles, California.

  
Rebecca Padilla