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Attorneys for Plaintiffs MELODY DANIEL-
COLLIER and JUDITH A DAVIS,
individually and on behalf of all others similarly situated

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN FRANCISCO**

MELODY DANIEL-
COLLIER and JUDITH A DAVIS,
individually and on behalf of all others
similarly situated,

Plaintiff,

v.

GEO REENTRY SERVICES LLC, a Florida
limited liability company; THE GEO GROUP,
INC., dba GEO CALIFORNIA, INC., a
Florida corporation, and DOES 1-50,
inclusive,

Defendants.

Case No. CGC-21-595010
Assigned for All Purposes to:
Hon. Ethan P. Shulman, Dept. 304

**NOTICE OF MOTION AND MOTION FOR
FINAL APPROVAL OF CLASS ACTION
SETTLEMENT AND PAGA CLAIMS;
ATTORNEYS' FEES, COSTS,
ENHANCEMENT AWARDS AND
ADMINISTRATION COSTS;
MEMORANDUM OF POINTS AND
AUTHORITIES**

**[Declaration of James Hawkins In Support of
Motion for Preliminary Approval of PAGA and
Class Action Settlement; [Proposed] Final
Approval Order/Judgment filed concurrently
herewith]**

Date: January 5, 2024
Time: 10:00 a.m.
Dept.: 304

1 **TO THE HONORABLE COURT, ALL PARTIES, AND THEIR ATTORNEYS**
2 **OF RECORD: PLEASE TAKE NOTICE** that on January 5, 2024 at 10:00 a.m., or as soon
3 thereafter as counsel may be heard, in Department 304 of the above-captioned court, located at
4 400 McAllister St., San Francisco, CA 94102-4514, the Honorable Ethan P. Shulman presiding,
5 Plaintiffs MELODY DANIEL-COLLIER and JUDITH A DAVIS will, and hereby does, move
6 this Court for Final Approval of the Class Action and PAGA Settlement Agreement,
7 (“Settlement Agreement”), awarding attorneys’ fees, costs, incentive award to the Class
8 Representatives, settlement administration costs, and entering final approval and judgment.

9 This Motion is made pursuant to Rule 3.769 of the California Rules of Court and Labor
10 Code section 2699(l). This Motion is based on this Notice of Motion and Motion, the attached
11 Memorandum of Points and Authorities, the accompanying Declarations of James R. Hawkins,
12 Nathalie Hernandez of ILYM Group, Inc., the declarations of Plaintiffs Daniel-Collier and Davis,
13 attached to as Exhibit C and D to the “Hawkins” Declaration, the Settlement Agreement, argument
14 of counsel, all papers and pleadings filed in the action, and upon any further information or
15 evidence requested by the Court at the time of hearing on this Motion.

16
17
18 Dated: December 12, 2023

Respectfully submitted,

19 By: _____

James R. Hawkins
Gregory Mauro
Michael Calvo

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21 **JAMES HAWKINS, APLC**
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MELODY DANIEL-COLLIER and JUDITH A DAVIS are the named Plaintiffs (“Plaintiffs”) in this action brought against Defendants GEO REENTRY SERVICES LLC, and THE GEO GROUP, INC., dba GEO CALIFORNIA, INC. (“Defendants”, and collectively with Plaintiffs, the “Parties”) for wage and hour violations. The complaint was amended on July 26, 2022 to consolidate the PAGA claims and a claim for Reimbursement under Labor Code section 2802 (the “Action”). Following a thorough investigation and evaluation of their respective claims and defenses, the Parties participated in a joint mediation session with Mr. Jeff Krivis, an experienced mediator of wage and hour actions. With Mr. Krivis’ guidance, the Parties were able to negotiate a gross settlement of the Action for \$400,000.00.

The Court preliminarily approved the proposed settlement on or about July 25, 2023. After notice to 586 Settlement Class Members, the Class overwhelmingly supports the Settlement, as there is a 99.6% participation rate, with zero objections and only two (2) requests for exclusion from the Settlement. The *highest* Individual Settlement Amount to a Participating Class Member is currently estimated to be approximately \$727.48, and the *average* Individual Settlement Amount is currently estimated to be approximately \$309.60. (Administrator Decl. of Nathalie Hernandez -hereinafter “Hernandez”, ¶¶ 12-14).

Plaintiff now respectfully request that this Court grant final approval of the settlement agreement and amendment thereto attached to the Hawkins Declaration as **Exhibit A**, which seeks to resolve claims against Defendants in exchange for a non-reversionary Gross Settlement Amount of (“GSA”) of \$400,000. (James Hawkins “Hawkins” Decl. ¶ 2). Plaintiff also moves for final approval of attorneys’ fees in the amount of \$133,333.33. As will be demonstrated herein, Class Counsel’s attorney fee request is supported using the percentage fee method and the lodestar method. Second, Plaintiff moves for final approval of payment of the litigation costs in the amount of \$18,242.49, all of which was incurred in litigating this matter. Third, Plaintiff moves for final approval of the incentive award to Plaintiffs in the sum of \$7,500.00 each, to compensate the Class Representatives for their services as the Class Representatives and providing a general release of

1 claims against Defendant – a release significantly greater than the Class Members provided – and
2 for the risks absorbed and time spent litigating the case. Plaintiffs played a vital role in
3 representing Class Members in this case and spearheading the lawsuit to seek monetary relief on
4 behalf of all Class Members. Fourth, Plaintiffs move for final approval of the payment of
5 \$12,000.00 in administrative costs to ILYM Group, Inc. Fifth, Plaintiff moves for final approval of
6 the \$40,000.00 PAGA payment with twenty-five percent (25%) share of the PAGA Penalties to be
7 a part of the Net Settlement Sum that will be distributed to Class Members in the PAGA Group in
8 the amount of \$10,000.00; and \$30,000 payment to the Labor and Work Development Agency
9 (“LWDA”) for its share of the PAGA Payment. (Hawkins Decl. ¶ 18).

10 This preliminarily approved settlement covers class members and aggrieved employees
11 defined as all current and former non-exempt employees employed by Defendants in California at
12 any time during the Class Period of December 21, 2020 to March 28, 2023¹ (Settlement
13 Agreement ¶ I, E and J).

14 This litigation involved the review and analysis of documents, policies, and practices,
15 as well as a full day of mediation. Most importantly, the Settlement and all its terms received
16 overwhelming support from Class Members, as there were no objections and only two (2) requests
17 for exclusion. Therefore, Plaintiff respectfully request the Court grant final approval of the
18 Settlement, attorneys’ fees, litigation costs, incentive awards, settlement administrator costs, and
19 payment to the LWDA in the amounts preliminarily approved by the Court and as fully disclosed
20 to Class Members. (Hawkins Decl. ¶¶ 10-14).

21 **II. FACTS AND PROCEDURE**

22 **A. Brief Overview of the Litigation**

23 On September 1, 2021 Plaintiffs MELODY DANIEL-COLLIER filed a putative class
24 action complaint entitled MELODY DANIEL-COLLIER v. GEO REENTRY SERVICES LLC et
25 al, San Francisco County Superior Court No. CGC-21-595010 seeking damages for Defendants’
26 alleged failure to: (1) failure to pay wages including minimum and overtime wages, (2) failure to

27 ¹ The Class and PAGA Period are due to a prior wage and hour class settlement in San Diego
28 County, entitled *Raymond Ramirez v. The GEO Group, Inc., et. al.*, Case Number 37-2018-
00039882-CU-OE-CTL

1 provide meal periods, (3) failure to provide rest periods, (4) failure to timely pay wages upon
2 termination pursuant to Labor Code § 203, (5) failure to provide accurate itemized wage
3 statements; and (6) Violation of Business and Professions Code section 17200, et seq. (Hawkins
4 Decl. ¶¶ 3-8)

5 On or about September 1, 2021, Plaintiff MELODY DANIEL-COLLIER provided notice
6 to the LWDA of her intent to file a PAGA action. On or about November 10, 2021 Plaintiff
7 MELODY DANIEL-COLLIER filed A Private Attorneys General Act ("PAGA") representative
8 action complaint entitled MELODY DANIEL-COLLIER v. GEO REENTRY SERVICES LLC, et
9 al., San Francisco County Superior Court No. CGC-21-596387 seeking damages for Defendants'
10 alleged failure to: (a) failure to pay wages including overtime, (b) failure to provide meal periods
11 and failure to pay an additional hour's of pay or accurately pay an additional hour's of pay in lieu
12 of providing a meal period; (c) failure to provide rest breaks for every four hours or major fraction
13 thereof worked and failure to pay an additional hour's of pay or accurately pay an additional
14 hour's of pay in lieu of providing a rest period; (d) failing to pay all wages earned and owed upon
15 separation from Defendants' employ, (e) failing to provide accurate itemized wage statements.
16 (Hawkins Decl. ¶¶ 3-8)

17 Pursuant to Court order, on July 26, 2022, Plaintiffs MELODY DANIEL-COLLIER
18 and JUDITH A. DAVIS filed a first amended consolidated class action complaint entitled
19 MELODY DANIEL-COLLIER and JUDITH A. DAVIS v. GEO REENTRY SERVICES LLC et
20 al, San Francisco County Superior Court No. CGC-21-595010 seeking damages for Defendants'
21 alleged failure to: (1) failure to pay wages including minimum and overtime wages, (2) failure to
22 provide meal periods, (3) failure to provide rest periods, (4) failure to timely pay wages upon
23 termination pursuant to Labor Code § 203, (5) failure to provide accurate itemized wage
24 statements; (6) failure to reimburse business expenses, (7) Violation of Business and Professions
25 Code section 17200, et seq.; and (8) Private Attorney General Act of 2004 ("PAGA"). (Hawkins
26 Decl. ¶¶ 3-8).²

27 ² Plaintiffs submitted an amended notice to the LWDA with a proposed amended
28 complaint which proposed amended complaint will be filed via stipulation prior to the hearing on
Plaintiffs' motion for preliminary approval.

1 **B. The Parties Settled After Mediation and Expert Analysis**

2 On October 21, 2022, the Parties engaged in private mediation with a well-respected wage and
3 hour class action mediator, Jeff Krivis. As a result of settlement efforts, the Parties agreed to settle this
4 matter for the Total Gross Settlement Amount of \$400,000.00, the terms of which are fully memorialized
5 in the Settlement Agreement and amendment thereto. (Hawkins Decl. ¶¶ 8-17, Ex. A.)

6 **C. The Settlement Provides Reasonable Compensation to Class Members**

7 As a result of the mediation, the parties agreed to settle this matter for a Gross Settlement Amount
8 (“GSA”) of \$400,000.00 (Hawkins Decl., Ex. A-(Settlement Agreement ¶ III. A). Based on their own
9 respective independent investigations and evaluations, and after taking into account the sharply disputed
10 factual and legal issues involved in this matter, the risks attending further prosecution of the case, and the
11 monetary benefits received under the Settlement despite the questionable nature of the claims, Plaintiff’s
12 counsel is of the opinion that Settlement for the consideration and on the terms set forth in the Settlement
13 Agreement is fair, reasonable and adequate and is in the best interests of the Class Members. (Hawkins
14 Decl. ¶ 17).

15 Even without the presumption of fairness and reasonableness, the settlement clearly is
16 within the range of reasonableness as thoroughly discussed in detail in the motion for preliminary
17 approval, and as considered by the Court in granting preliminary approval. (Hawkins Decl. ¶¶ 19-
18 32)

19 Accounting for the risks of continued litigation and impediments to discovery, Plaintiffs
20 determined that a settlement amounting to \$400,000.00 was fair and reasonable, and accounts for an
21 approximate 12-21% of total possible recovery and courts have routinely approved settlements that
22 provided a similar discounted range of the maximum potential recovery. (Id.). *See, e.g., In re Warfarin*
23 *Sodium Antitrust Litig.*, 212 F.R.D. 231, 256-58 (D. Del. 2002) (recognizing that a reasonable settlement
24 amount can be 1.6% to 14% of the total estimated damages); *In Re Armored Car Antitrust Litig.*, 472 F.
25 Supp. 1357, 1373 (N.D. Ga. 1979) (settlements with a value of 1% to 8% of the estimated total damages
26 were approved); *In Re Four Seasons Secs. Laws Litig.*, 58 F.R.D. 19, 37 (W.D. Okla.1972) (approving 8%
27 of damages); *Balderas v. Massage Envy Franchising, LLP*, 2014 WL 3610945, at *5 (N.D. Cal. July 21,
28 2014) (finding that settlement which amounted to 8% of maximum recovery “[fell] within the range of

possible initial approval based on the strength of plaintiff's case and the risk and expense of continued litigation."); *In re Omnivision Techs., Inc.*, 559 F. Supp. 2d 1036, 1042 (N.D. Cal. 2008) (approving settlement of 6% to 8% of estimated damages).³ (Id.)

III. THE PROPOSED SETTLEMENT AND THE CLASS MEMBERS' RESPONSE

A. Terms of the Settlement

The Settlement is GSA is \$400,000. This amount includes the settlement administration Costs of \$12,000.00; the incentive payment of up to \$7,500 to each Plaintiff; Court-approved attorneys' fees up to \$133,333.33.00, litigation costs to Class Counsel in the amount of \$18,242.49; and penalties paid pursuant to PAGA of \$40,000.00 with 75% paid to the LWDA and 25% paid to the aggrieved employees. As a result, the Net Settlement Amount provides for the *highest* Individual Settlement Amount to a Participating Class Member to be approximately \$727.48 and the *average* Individual Settlement Amount to be approximately \$309.60.

The Settlement is a common fund settlement with no reversion to Defendant. Thus, each of the participating Settlement Class Members will be paid his or her pro-rata share of the NSA.

B. Released Claims

Subject to approval by this Court, and in exchange for the consideration recited in the Settlement Agreement, the release is narrowly tailored to release the claims litigated in the complaints in exchange for the Gross Settlement Amount. Plaintiffs and Settlement Class Members will agree to release the Released Parties during the Class Period as outlined in the Settlement Agreement, ((Hawkins Decl., Ex

³ See also *In re Uber FCRA Litig.*, No. 14-cv-05200-EMC, 2017 U.S. Dist. LEXIS 101552, at *23- 24 (N.D. Cal. June 29, 2017) (granting preliminary approval to class action settlement where gross settlement fund, prior to deducting attorneys' fees and services awards, was valued at 7.5% or less of total possible verdict); *Viceral v. Mistras Grp., Inc.*, No. 15-cv-02198-EMC, 2016 U.S. Dist. LEXIS 140759, at *21 (N.D. Cal. Oct. 11, 2016) (granting preliminary approval to class action settlement representing "8.1% of the full verdict value" with net settlement amount representing approximately 5.3% of full verdict value); *Stovall-Gusman v. W.W. Granger, Inc.*, No. 13-cv-02540-HSG, 2015 WL 3776765, at *4 (N.D. Cal. June 17, 2015) (granting final approval to settlement with net recovery to Plaintiffs valued at 7.3% of potential maximum recovery); *Cruz v. Sky Chefs, Inc.*, No. 12-cv-02705-DMR, 2014 WL 7247065, at *5 (N.D. Cal. Dec. 19, 2014) (granting final approval where gross settlement amount represented 8.6% of the maximum potential recovery from the class claims and estimated amount distributable to class after accounting for attorneys' fees and other deductions represented approximately 6.1% of maximum potential recovery); *In re LDK Solar Sec. Litig.*, No. 07-cv-05182-WHA, 2010 WL 3001384, at *2 (N.D. Cal. July 29, 2010) (granting final approving where "[t]he proposed settlement amount is [. . .] only about five percent of the estimated damages before fee and costs—even before any reduction thereof for attorney's fees and costs.").

1 A, Settlement Agreement ¶ I- HH and II) and the released claims are tailored to the claims negotiated and
2 plead in the operative First Amended Complaint.

3 **C. The Timing of the Release Is Appropriate**

4 The Agreement, and all obligations therein by all parties, become effective and are
5 triggered on the date a signed order granting final approval is filed with the Court, assuming no
6 objections to the Agreement have been lodged by Class Members and upon funding of the Gross
7 Settlement Amount. (Hawkins Decl., Ex A, ¶ I- AA). This puts all parties, including Class
8 Members, in the same position that they would have been had Plaintiff prevailed at trial. At final
9 approval, and as part of the final approval order, judgment is entered consistent with the terms of
10 the Agreement. See Cal. Rules of Court, 3.769(h). Just as in the case of judgment after trial,
11 judgment by consent or stipulation has res judicata affects, preventing litigation of claims covered
12 by the settlement. See *Johnson v. Am. Airlines, Inc.*, 157 Cal.App.3d 427, 431 (1984); *Villacres v.*
13 *ABM Indus. Inc.*, 189 Cal.App.4th 562, 583 (2010). The Court retains jurisdiction to enforce the
14 judgment to ensure compliance. See Cal. Rules of Court, 3.769(h); (Hawkins Decl., Ex. A ¶
15 10.3).

16 **D. The Class Members Support the Settlement – Zero (0) Objections and**
17 **Two (2) Opt-Outs.**

18 On or about July 25, 2023, the Court granted Preliminary Approval of the Settlement,
19 conditionally certified the Class for settlement purposes, appointed ILYM Group, Inc. to act as the
20 administrator, approved the Notice Packet to be sent to the Class, and directed that the Notice be
21 mailed to the Class via U.S. First Class Mail. On September 26, 2023, ILYM mailed the Notices to
22 586 Class Members. (Hernandez Decl. ¶7). As a result of the mailing, there is a 99.6% participation
23 rate and 584 Class Members will be mailed a settlement check. (*Id.* ¶ 13).

24 For any portion of the NSA or PAGA Payment allocated to Participating Class Members
25 and/or Aggrieved Employees that were not claimed by cashing their respective settlement checks
26 before the deadline to do so, the Settlement Administrator will then disburse send uncashed funds
27 to the State of California State Controller's Office, in the Class Member's name to be held as
28 unclaimed property for the Class Member. (Settlement at ¶ III., I-9).

1 IV. THE SETTLEMENT IS FAIR, REASONABLE, AND ADEQUATE

2 A. The Settlement Satisfies the Standard for Final Approval

3 California Rule of Court, Rule 3.769, requires court approval for class action settlements.
4 Cal. R. Ct. 3.769(g). California courts favor settlement. *Stambaugh v. Superior Court* (1976) 62 Cal.
5 App. 3d 231, 236, *Potter v. Pacific Coast Lumber Co. of Cal.* (1951) 37 Cal. 2d 592, 602 (“[T]he
6 law wisely favors settlements”). Accordingly, the Court must give “[due] regard to what is otherwise
7 a private consensual agreement between the parties.” *Wershba v. Apple Computer, Inc.* (2001)
8 91 Cal. App. 4th 224, 245.

9 In deciding whether to approve a class settlement, a court evaluates whether the proposed
10 settlement is “fair, adequate, and reasonable.” *Dunk v. Ford Motor Co.* (1996) 48 Cal. App. 4th 1794,
11 1801 (citing *Officers for Justice v. Civil Serv. Comm’n of City & Cnty. Of S.F.* (9th Cir. 1982) 688
12 F.2d 615, 625). A court enjoys broad discretion to make its fairness determination. *Dunk*, 48 Cal.
13 App. 4th at 1801. However, “a presumption of fairness exists where: (1) the settlement is reached
14 through arms-length bargaining; (2) investigation and discovery are sufficient to allow counsel and
15 the court to act intelligently; (3) counsel is experienced in similar litigation; and (4) the percentage
16 of objectors is small.” *Id.* at 1802; accord *Wershba*, 91 Cal. App. 4th at 245. In addition, a court
17 should consider additional relevant factors, including the strength of the plaintiffs’ case compared
18 to the settlement amount; the risk, expenses, complexity, and likely duration of further litigation;
19 and the fair treatment of class members in relation to each other. *Dunk*, 48 Cal. App. 4th at 1802.

20 At the time of preliminary approval, the Court was provided with sufficient information to
21 satisfy three of the four *Dunk* factors, leaving the fourth factor, the number of objectors, unknown
22 until after the Class had an opportunity to respond to the Settlement as explained in the Notice.
23 Subject only to the Class’s reaction to the Settlement, the Court preliminarily presumed the
24 Settlement was fair, adequate, and reasonable. Following dissemination of the Notice, and adequate
25 time provided to the Class to object to the Settlement, no class member submitted objections and
26 there were two (2) opt outs of the settlement, **resulting in a 99.6% participation rate from the Class.**
27 (Hernandez Decl. ¶ 13). Thus, the proposed Settlement is entitled to the presumption that it is fair
28 and in all other respects proper and should be finally approved. Indeed, the Class Members have

1 overwhelmingly approved the terms of the settlement and the Court should grant final approval
2 consistent with the Court’s preliminary approval order.

3 **V. THE COURT SHOULD APPROVE THE REQUESTED FEES AND COSTS**

4 **A. The Requested Fee Award is Fair and Reasonable, Calculated as a Percentage**
5 **of a Common Fund**

6 Class Counsel applies for an award of attorneys’ fees in the sum of \$133,333.00 of the GSA,
7 and litigation costs of \$18,242.49. (Hawkins Decl. ¶¶ 33-39). When a settlement results in a common
8 fund for the benefit of a class, class counsel may be awarded fees as a percentage of the common
9 fund. *See Wershba, supra*, 91 Cal.App.4th at 254 (recognizing the “percentage of recovery”
10 method). The California Supreme Court confirmed in *Laffitte v. Robert Half Int’l, Inc.* that “[t]he
11 percentage of fund method survives in California class action cases.” 1 Cal.5th 480, 506 (2016), in
12 stating:

13 The recognized advantages of the percentage method—including relative ease of
14 calculation, alignment of incentives between counsel and the class, a better
15 approximation of market conditions in a contingency case, and the encouragement it
16 provides counsel to seek an early settlement and avoid unnecessarily prolonging the
17 litigation—convince us the percentage method is a valuable tool that should not be
18 denied our trial courts.

19 *Id.* at 503 (internal citation omitted); *see also e.g., Serrano v. Priest*, 20 Cal.3d 25, 34 (1977)
20 (“when a number of persons are entitled in common to a specific fund, and an action brought by a
21 plaintiff or plaintiffs for the benefit of all results in the creation or preservation of that fund, such
22 plaintiff or plaintiffs may be awarded attorney’s fees out of the fund.”); *Serrano v. Unruh*, 32 Cal.3d
23 621, 627 (1982) (in awarding a fee from the common fund obtained for the benefit of all parties, the
24 trial court acts within its equitable power to prevent the other parties’ unjust enrichment.); *Rawlings*
25 *v. Prudential-Bache Properties, Inc.*, 9 F.3d 513, 516 (6th Cir. 1993) (the percentage of the fund
26 method for calculating attorney’s fees more accurately reflects the results achieved for the putative
27 class than the lodestar method and “establishes reasonable expectations on the part of plaintiffs’
28 attorneys as to their expected recovery; and it encourages early settlement, which avoids protracted
litigation.”); *In re Rite Aid Corp. Securities Litigation*, 396 F.3d 294, 300 (3d Cir. 2005) (“The
percentage-of-recovery method is generally favored in common fund cases because it allows

1 court⁴ to award fees from the fund ‘in a manner that rewards counsel for success and penalizes it for
2 failure.’”).

3 The purpose of the common fund/percentage approach is to “spread litigation costs
4 proportionally among all the beneficiaries so that the active beneficiary does not bear the entire
5 burden alone.” *Vincent, supra*, 557 F.2d at 769. In *Quinn v. State of California* (1995) 15 Cal.3d
6 162, 167, the Court stated: “[O]ne who expends attorneys’ fees in winning a suit which creates a
7 fund from which others derive benefits may require those passive beneficiaries to bear a fair share
8 of the litigation costs.” Similarly, in *City and County of San Francisco v. Sweet* (1995) 12 Cal.4th
9 105, 110, the California Supreme Court recognized that the common fund doctrine has been applied
10 “consistently in California when an action brought by one party creates a fund in which other persons
11 are entitled to share.” The reasons for applying the common fund doctrine include: “...fairness to
12 the successful litigant, who might otherwise receive no benefit because his recovery might be
13 consumed by the expenses; correlative prevention of an unfair advantage to the others who are
14 entitled to share in the fund and who should bear their share of the burden of its recovery;
15 encouragement of the attorney for the successful litigant, who will be more willing to undertake and
16 diligently prosecute proper litigation for the protection or recovery of the fund if he is assured that
17 he will be properly and directly compensated should his efforts be successful.” *Id.* Because there is
18 a defined and clearly traceable benefit to the Class, the Court can base an award of attorneys’ fees
19 using a ‘common fund’ approach to compensate Class Counsel.

20 **1. The Requested Attorneys’ Fee is Within the Range of Fees Approved in**
21 **Comparable Common Fund Cases**

22 Assessing an appropriate fee based on a percentage of the fund involves considering “all of
23 the circumstances of the case.” Appellate cases addressing fees arise almost exclusively where
24 awards were challenged by Defendant or objectors – the only parties with standing to appeal.
25 *Wershba*, 91 Cal.App.4th at 236.

26

⁴ *Laffitte* also held trial courts have discretion to assess reasonableness of fee awards with
27 tools such as the lodestar cross-check, although they need not do so. *Laffitte*, 1 Cal.5th at 506 (“We
28 hold further that trial courts have discretion to conduct a lodestar cross-check on a percentage fee .
... they also retain the discretion to forgo a lodestar cross-check and use other means to evaluate the
reasonableness of a requested percentage fee”).

1 The requested fee falls in the mid-range of percentage class fee awards, which generally
2 range from 20% to 50% of a common fund, and it constitutes fair compensation for undertaking
3 complex, risky, expensive, and time-consuming litigation on a contingent basis and compensates
4 Class Counsel for their efforts, as well as the result achieved for the benefit of the Class. Numerous
5 courts in California routinely approve fee requests equal to or greater than 35% of the common fund.
6 *See Martin v. Ameripride Servs.*, 2011 U.S. Dist. LEXIS 61796, *22-23 (S.D. Cal. 2011) (collecting
7 cases); *Birch v. Office Depot, Inc.*, USDC Southern District, Case No. 06cv1690 DMS (WMC)
8 (awarding 40% fee on a \$16 million wage and hour class action settlement); *Rippee v. Boston Mkt.*
9 *Corp.*, USDC Southern District, Case No. 05cv1359 BTM (JMA) (awarding a 40% fee on a \$3.75
10 million wage and hour class action settlement).

11 In short, Class Counsels' fee request of \$133,333.00 (1/3 of the common fund) is in line
12 with awards in similar cases in California and demonstrates that Class Counsels' fee request is
13 consistent with market rates and is reasonable.

14 **2. A Lodestar Cross-Check Confirms the Reasonableness of the Requested Fee**

15 Class Counsels' fee request is reasonable when calculated using the lodestar method.
16 Under the lodestar method, a base fee amount is calculated from a compilation of time
17 reasonably spent on the case and the reasonable hourly compensation of the attorney. *Serrano*, 20
18 Cal. 3d at 48. The court then may enhance this lodestar figure by a "multiplier" to account for a
19 range of factors, such as the novelty and difficulty of the case, its contingent nature, and the degree
20 of success achieved. *Id.* at 49; *see also Ketchum v. Moses*, 24 Cal.4th 1122, 1132-36 (2001); *Thayer*
21 *v. Wells Fargo Bank*, 92 Cal.App.4th 819, 834 (2001), ["[t]here is no...rule limiting the factors that
22 may justify an exercise of judicial discretion to [adjust the] lodestar"].

23 As of the date of filing, Class Counsel worked approximately 213.30 documented hours on
24 this case. Thus, the total lodestar for Class Counsel is approximately \$163,155. All of the work and
25 tasks performed by Class Counsel were reasonable and necessary to the prosecution of this case.
26 (Hawkins Decl. ¶¶ 33-39). Given the lodestar, Class Counsel does not request a multiplier. (*Id.*).

27 **3. Class Counsel's Hourly Rates are Reasonable**

28 Class Counsels' hourly rates are between \$200 and \$950 and are in line with rates

1 typically approved in wage and hour class action litigation and which rates have been approved by
2 Courts in California in the Los Angeles, Sacramento, San Francisco, Alameda, Orange and San
3 Diego County Superior Courts. (Id.); *Children's Hosp. and Med. Ctr. v. Bonta*, 97 Cal.App.4th 740,
4 746 (2002) (noting rates were reasonable where they were "within the range of reasonable rates
5 charged by and judicially awarded comparable attorneys for comparable work").

6 A reasonable hourly rate is the prevailing rate charged by attorneys of similar skill and
7 experience in the relevant community. *PLCM Group, Inc v. Drexler* (2000) 22 Cal. 4th 1084, 1095.
8 When determining a reasonable hourly rate, courts may consider factors such as skill and
9 experience, the nature of the work performed, the relevant area of expertise and the attorney's
10 customary billing rates. *Flannery v. California Highway Patrol* (1998) 61 Cal. App. 4th 629, 632.
11 Class Counsels' skill and experience support their hourly rates. Their practices are limited
12 exclusively to litigation, focusing on the representation of employees in wage and hour and
13 consumer class action matters. (Hawkins Decl. ¶ 36). As prominent attorneys in the field of wage
14 and hour class action litigation, Class Counsel continually monitors the prevailing market rates
15 charged by both defense and plaintiff law firms and set the billing rates of their attorneys and
16 paralegals to be consistent with the prevailing market rates in the private sector for attorneys and
17 staff of comparable skill, qualifications and experience. Other wage and hour attorneys working as
18 class counsel before California courts charge comparable if not higher rates. Therefore, as they are
19 in line with those of the relevant community, Class Counsels' hourly rates are reasonable. (Id).

20 **4. Class Counsel's Total Hours are Reasonable**

21 In determining a lodestar fee, reasonable hours include, in addition to time spent during
22 litigation, the time spent before the action was filed, including time spent interviewing clients,
23 investigating the facts and the law, and preparing the initial pleadings. *See New York Gaslight Club,*
24 *Inc. v. Carey* (1980) 447 U.S. 54, 62. The fee award should include fees incurred to establish and
25 defend the attorneys' fee claim. *Serrano v. Priest* (1982) 32 Cal.3d 621, 639.

26 Class Counsel expended a total of approximately 213.3 hours on this case. The work
27 performed to achieve a settlement that will provide valuable consideration to the Class, is
28 summarized by Class Counsel in the declaration submitted herewith. (Hawkins Decl. ¶¶ 33-39);

1 *Syers Props. III, Inc. v. Rankin*, 226 Cal.App.4th 691, 699 (2014) (“Because time records are not
2 required under California law ... , there is no required level of detail that counsel must achieve.”)
3 (internal quotations omitted). All tasks and work performed were reasonable and necessary to the
4 prosecution of this case. The work performed was justified in light of the result achieved and zero
5 Class Members objected to the allocated attorneys’ fees and costs.

6 **5. Costs of Litigation are Reasonable**

7 Class Counsel seeks reimbursement of the litigation costs and expenses of \$18,242.49.
8 These costs were reasonable and necessary to prosecute this case and the results achieved and are
9 fair, and reasonable. (Hawkins Decl. ¶ 39, Ex. B).

10 **VI. THE CLASS REPRESENTATIVE ENHANCEMENT AWARDS ARE**
11 **REASONABLE**

12 Class Counsel seeks approval of a \$7,500 enhancement award to each of the named
13 Plaintiffs/Class Representatives. The requested enhancement award are reasonable in light of the
14 general releases of all claims Plaintiffs agreed to, greater than the release given by Class Members,
15 the benefits Plaintiffs conferred upon the entire Class resulting in payments to all Class Members,
16 the time spent assisting counsel with the investigation and prosecution of these claims, commitment
17 to the litigation process, and consenting to the proposed Settlement. Furthermore, in pursuing this
18 action on behalf of the Class, Plaintiffs risked a judgment for attorneys’ fees and costs in the event
19 this matter had been lost. (Hawkins Decl. ¶¶ 40, 41; See also declarations of Plaintiffs filed
20 concurrently herewith attached as **Exhibit C and D** to the Hawkins Declaration.)

21 Courts routinely approve service payments, or incentive awards, to compensate named
22 plaintiffs for the services they provide and the risks they incur during class litigation. *See In re*
23 *Cellphone Fee Termination Cases* (2010) 186 Cal. App. 4th 1380, 1393; *see also Bell v. Farmers*
24 *Ins. Exch.* (2004) 115 Cal. App. 4th 715, 725-26 (upholding service payments to class
25 representatives); Manual § 21.62 n.971 (noting that service payments are warranted). Based on the
26 foregoing, the \$7,500.00 incentive award to each Plaintiff continues to be fair, appropriate, and
27 justified as part of the overall settlement.

1 **VI. THE SETTLEMENT ADMINISTRATION COSTS ARE REASONABLE**

2 The Parties agreed to hire ILYM Group, Inc. as the administrator, and the Court approved
3 this choice. The Administrator was responsible for formatting, printing and mailing the Notice. It
4 was also responsible for updating addresses and re-mailing Notices returned as undeliverable,
5 responding to Class Member inquiries, answering questions from Counsel for the Parties, and
6 providing a declaration to document its duties and responsibilities under the settlement. Plaintiff
7 now request that the Court approve the \$12,000.00 fee to ILYM Group, Inc. for services rendered
8 and to be rendered. (Hernandez Decl. ¶ 15). Following the grant of final approval, the
9 Administrator's duties will continue in order to calculate and mail the Individual Settlement
10 Payment checks to Class Members, perform tax reporting obligations, disburse other payments as
11 ordered by the Court, and perform such other duties as set forth in the Settlement Agreement. The
12 fee of \$17,000.00 for services rendered and to be rendered is fair and reasonable and should be
13 granted.

14 **VII. THE SETTLEMENT PENALTIES UNDER PAGA ARE REASONABLE**

15 The payment of \$40,000.00 with 75% (\$30,000.00) to the LWDA for its share of the
16 applicable penalties claimed under the California Labor Code's Private Attorney general Act of
17 2004, as amended ("PAGA"), and 25% (\$10,000) to the aggrieved employees is reasonable under
18 the circumstances. The Parties negotiated a good faith amount to the LWDA. The sum to be paid to
19 the LWDA was not the result of self-interest at the expense of other Class Members. The LWDA
20 was provided notice of the Settlement concurrently with the filing of the preliminary approval
21 motion and the instant motion. Plaintiffs did not receive a response or objection to the Settlement
22 from the LWDA. Thus, Plaintiff request the Court finally approve the sum of \$40,000 for payment
23 to the LWDA and aggrieved employees.

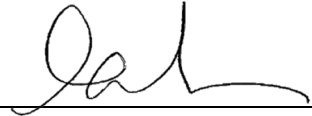
24 **VIII. CONCLUSION**

25 Based on the foregoing, Class Counsel respectfully requests the Court grant final approval
26 of the Class Action Settlement, award (1) Class Counsels' fees in the sum of \$133,333.00 and
27 litigation costs of \$18,242.49; (2) award the named Plaintiffs an Enhancement Award payment in
28 the sum of \$7,500 each; (3) award \$12,000.00 to ILYM Group, Inc. for settlement administration

1 services, and (4) approve the PAGA Payment of \$40,000 with a payment to the LWDA in the
2 amount of \$30,000.00 and payment to Aggrieved Employees in the amount of \$10,000.00.

3
4 Dated: December 12, 2023

JAMES HAWKINS APLC

5
6 By: 

JAMES R. HAWKINS, ESQ.
GREGORY MAURO, ESQ.
MICHAEL CALVO, ESQ.

8 Attorneys for Plaintiffs MELODY DANIEL-
9 COLLIER and JUDITH A. DAVIS,
10 individually and on behalf of all others
11 similarly situated.
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1 **PROOF OF SERVICE, COUNTY OF ORANGE**

2 I am a resident of the State of California, County of Orange. I am over the age of
3 eighteen years and not a party to the within action. My business address is 9880
4 Research Drive., Suite 200, Irvine, California 92618.

5 On December 12, 2023, I served on the interested parties in this action the following
6 document(s) entitled:

7 **NOTICE OF MOTION AND MOTION FOR FINAL APPROVAL OF CLASS ACTION**
8 **SETTLEMENT AND PAGA CLAIMS; ATTORNEY'S FEES, COSTS, ENHANCEMENT**
9 **AWARDS, AND ADMINISTRATION COSTS; MEMORANDUM OF POINTS AND**
10 **AUTHORITIES**

11 **DECLARATON OF JAMES HAWKINS IN SUPPORT OF MOTION FOR FINAL**
12 **APPROVAL OF CLASS ACTION SETTLEMENT; MEMORANDUM OF POINTS AND**
13 **AUTHORITIES**

14 **DECLARATION OF NATHALIE HERNANDEZ OF ILYM GROUP, INC., IN SUPPORT**
15 **OF MOTION FOR FINAL APPROVAL OF CLASS ACTION AND PAGA**
16 **SETTLEMENT**

17 **[PROPOSED] ORDER GRANTING PLAINTIFF'S MOTION FOR FINAL APPROVAL**
18 **OF CLASS ACTION AND PAGA SETTLEMENT, ATTORNEY'S FEES, COSTS,**
19 **INCENTIVE AWARDS, ADMINISTRATION COSTS, AND ENTERING JUDGEMENT**

20 [XX] BY ELECTRONIC SERVICE: Via electronic filing service provider- electronically
21 transmitting the documents listed above to File&Serve Xpress, an electronic filing service
22 provider, at www.fileandservexpress.com pursuant to the Court's Order Authorizing
23 Electronic Service. The transmission(s) was reported as complete and without error to the
24 addresses as stated on the service list below.

25 **SERVICE LIST**

26 (see attached)

27 [XX] **STATE:** I declare under penalty of perjury, under the laws of the State of
28 California, that the above is true and correct.

Executed on December 12, 2023, at Irvine, California



Eddie Magana

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