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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SAN DIEGO

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

Plaintiff,

vs.

JIF-PAK MANUFACTURING, LLC, a
California corporation; and DOES 1 through
100, inclusive,

Defendants.

Case No.: 37-2020-00005233-CU-OE-
CTL

Honorable Kenneth J. Medel
Department C-66

CLASS ACTION

**PLAINTIFF'S NOTICE OF MOTION
AND MOTION FOR ATTORNEYS'
FEES, COSTS, AND ENHANCEMENT
PAYMENT; MEMORANDUM OF
POINTS AND AUTHORITIES IN
SUPPORT THEREOF**

[Declaration of Class Counsel
(Edwin Aiwazian); Declaration of Class
Representative (Roel Galicia); Notice of
Motion and Motion for Final Approval of
Class Action Settlement; Declaration of
Settlement Administrator (Desirae Burton);
[Proposed] Order Granting Final Approval of
Class Action Settlement and Judgment; and
[Proposed] Order Awarding Attorneys' Fees
and Costs, and Enhancement Payment filed
concurrently herewith]

Date: November 17, 2023
Time: 9:30 a.m.
Department: C-66

Complaint Filed: January 29, 2020
FAC Filed: February 14, 2023
Trial Date: None Set

PLEASE TAKE NOTICE that on November 17, 2023 at 9:30 a.m. or as soon thereafter as the matter may be heard before the Honorable Kenneth J. Medel in Department C-66 of the Superior Court of California for the County of San Diego, located at 330 West Broadway, San Diego, California 92101, Plaintiff Roel Galicia (“Plaintiff” or “Class Representative”) will, and hereby does, move for an order awarding the following pursuant to the Joint Stipulation of Class Action and PAGA Settlement and Release (“Settlement,” “Agreement,” or “Settlement Agreement”):

- Payment in the amount of **\$875,000.00** to Lawyers *for* Justice, PC (“Class Counsel”), representing thirty-five percent (35%) of the Gross Settlement Amount, for attorneys’ fees, which is reasonable and justified on a percentage-basis and also based on a lodestar cross-check with a multiplier of 1.59;
 - Payment in the amount of **\$19,977.11** to Class Counsel for reimbursement of litigation costs and expenses;
- Payment in the amount of **\$7,500.00** to Plaintiff Roel Galicia, as an Enhancement Payment, for his time and effort in representing the Class.

This Motion is made pursuant to Rule 3.769 of the California Rules of Court, which requires approval by the Court of a class action settlement.

This motion is based upon the following Memorandum of Points and Authorities; the concurrently-filed the Declarations of Class Counsel (Edwin Aiwarzian) and Class Representative (Roel Galicia) in support thereof; as well as the concurrently-filed Notice of Motion and Motion for Final Approval of Class Action Settlement and the Declaration of Settlement Administrator (Desirae Burton of Simpluris) in support thereof; the pleadings and other records on file with the Court in this matter; and such evidence and oral argument as may be presented at the hearing on this Motion.

Dated: October 25, 2023

LAWYERS *for* JUSTICE, PC

By: _____



Yasmin Hossieni
Attorneys for Plaintiff and the Class

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MEMORANDUM OF POINTS AND AUTHORITIES

I. SUMMARY OF MOTION

Plaintiff Roel Galicia (“Plaintiff” or “Class Representative”) seeks an award of attorneys’ fees in the amount of \$875,000.00, which is thirty-five percent (35%) of the Gross Settlement Amount, and reimbursement of litigation costs and expenses in the amount of \$19,977.11 (together, “Attorneys’ Fees and Costs”) to Lawyers for Justice, PC (“Class Counsel”) and an Enhancement Payment in the amount of \$7,5000.00 to Plaintiff, as provided by the Joint Stipulation of Class Action and PAGA Settlement and Release (“Settlement,” “Agreement,” or “Settlement Agreement”)¹ entered into by and between Plaintiff and Defendant Jif-Pak Manufacturing, LLC (“Defendant”) (collectively with Plaintiff, the “Parties”).

The litigation involved formal and informal discovery and ongoing investigation into the facts of the case, including and not limited to, the exchange, review, and analysis of thousands of pages of information, documents, and data prior to mediation conducted by Jeffrey Krivis, Esq., and extensive settlement negotiations. This matter has required 551.70 hours of attorney time by Class Counsel. As will be demonstrated herein, the request for an award of attorneys’ fees, which represents 35% of the Gross Settlement Amount of \$2,500,000.00, is fully supported by the use of the percentage-fee method. Courts have historically awarded fees of up to 50% of the recovery. The requested attorneys’ fees are also supported under the lodestar cross-check method.²

Plaintiff also moves for payment in the amount of \$7,500.00 as an Enhancement Payment, to compensate Plaintiff for the time and efforts that he expended spearheading this lawsuit on behalf of the Class and the State of California.

The requests for Attorneys’ Fees and Costs and Enhancement Payment were fully disclosed in the Notice of Class Action Settlement (“Class Notice”) that was mailed to the Class Members. Most importantly, as of the date of this Motion, *not a single Class Member has objected to any aspect of the Settlement, including the requested Attorneys’ Fees and Costs and Enhancement*

¹ In the interest of judicial efficient, and in support of final approval of the Settlement, Settlement Administration Costs, and the amount for the PAGA Penalties, Plaintiff respectfully refers the Court to Plaintiff’s Motion for Final Approval of Class Action Settlement, and papers in support thereof, filed concurrently herewith, on October 25, 2023

² Applying a modest multiplier of 1.59, the total enhanced lodestar fees are \$877,203.00, and Class Counsel seeks an attorneys’ fees award of \$825,000.00 (equal to 35% of the Gross Settlement Amount).

1 *Payment*. Accordingly, the Court should award Attorneys’ Fees and Costs and Enhancement
2 *Payment* in the amounts as fully disclosed to the Class and as requested herein.

3 **II. PROCEDURAL HISTORY AND FACTUAL BACKGROUND**

4 Defendant Jif-Pak Manufacturing, LLC (“Defendant”), is a California corporation which
5 produces netting and casing for meat production and processing. Plaintiff Roel Galicia is a former
6 employee of Defendant.

7 On January 29, 2020, Plaintiff filed a Class Action Complaint for Damages in the San Diego
8 County Superior Court (“Court”), thereby commencing the above-captioned lawsuit (“Action”).

9 On March 10, 2020, Defendant filed an Answer to Plaintiff’s Class Action Complaint for
10 Damages.

11 On February 14, 2023, Plaintiff filed a First Amended Class Action Complaint for Damages
12 and Enforcement Under the Private Attorneys General Act, Cal. Labor Code § 2698 Et Seq.
13 (“Operative Complaint”).

14 Plaintiff’s core allegation is that Defendant has violated the California Labor Code by
15 engaging in a uniform practice and procedure, with respect to Plaintiff and the Class Members, of,
16 *inter alia*, claims under the California Labor Code, California Industrial Welfare Commission
17 Wage Orders, regulations, and/or other provisions of law, for failure to pay overtime wages,
18 failure to pay minimum wages, failure to provide compliant meal periods and associated premium
19 pay, failure to provide compliant rest periods and associated premium pay, failure to provide
20 compliant wage statements, failure to timely pay wages upon termination of employment,
21 failure to timely pay wages during employment, failure to maintain requisite payroll records,
22 failure to reimburse necessary business-related expenses, unfair or unlawful business practices
23 pursuant California Business and Professions Code § 17200, *et seq.*, and civil penalties pursuant
24 to California Labor Code § 2698, *et seq.* Plaintiff contends that he, and the Class Members, are
25 entitled to, *inter alia*, unpaid wages, penalties (including and not limited to, penalties pursuant to
26 PAGA), and attorneys’ fees.

27 Defendant has denied, and continues to deny, any liability and wrongdoing of any kind
28 associated with any of the allegations in the Action, and further denies that the Action is

appropriate for class treatment or representative adjudication for any purpose other than for settlement purposes only.

The Parties have actively litigated this matter since the Action was commenced on January 29, 2020. The Parties have conducted formal and informal discovery and investigation into the claims. On January 10, 2022, the parties participated in a formal, full-day mediation conducted by Jeffrey Krivis, Esq., a well-regarded mediator experienced in mediating complex labor and employment matters. With the aid of the mediator and his evaluations, the parties ultimately reached the Settlement described herein to resolve the Action in its entirety.

On January 19, 2023, Plaintiff filed a Motion for Preliminary Approval of Class Action Settlement and supporting documents. On July 11, 2023, the Court entered an Order Granting Plaintiff's Motion for Preliminary Approval of Class Action Settlement ("Preliminary Approval Order"), thereby preliminarily approving the terms of the Settlement, the Class Notice, and the proposed administration procedures and associated deadlines.

Plaintiff now moves for approval of the requested Attorneys' Fees and Costs and Enhancement Payment, and for final approval of the Settlement, Settlement Administration Costs, and the amount for the PAGA Penalties, as set forth in the concurrently filed Motion for Final Approval of Class Action Settlement.

III. SUMMARY OF THE SETTLEMENT TERMS AND NOTICE ADMINISTRATION

Under the terms of the Settlement Agreement, Defendant will pay a Gross Settlement Amount of \$2,500,000.00.³ Subject to approval by the Court, the Net Settlement Amount will be calculated by deducting the following amounts from the Gross Settlement Amount: (1) Attorneys' Fees and Costs, consisting of attorneys' fees in an amount of \$875,000.00 (i.e., up to 35% of the Gross Settlement Amount) and reimbursement of costs and expenses of \$19,977.11 to Class Counsel; (2) settlement administration costs of \$11,000.00 to the Settlement Administrator, Simpluris ("Settlement Administration Costs"); (3) payment to the LWDA of its 75% share of the PAGA Penalties (i.e., \$93,750.00 out of \$125,000.00) ("LWDA Payment"); and (4) Enhancement Payment in the amount of \$7,500.00 to Plaintiff Roel Galicia ("Enhancement

³ Joint Stipulation of Class Action and PAGA Settlement and Release ("Settlement Agreement"), ¶ 7.r.

Payment”).⁴ The Net Settlement Amount, which is estimated to be \$1,492,772.89, will be distributed in accordance with the Settlement Agreement to Settlement Class Members.⁵

On August 23, 2023, Simpluris mailed the Class Notice via first class mail to nine hundred twenty-four (924) individuals identified as Class Members in the Class Data and List.⁶ The deadline for Class Members to opt out of the Settlement and/or object to the Settlement was October 7, 2023.⁷ The Settlement Administrator has not received any Notices of Objection or Requests for Exclusion.⁸

As of the date of this Motion, there are nine hundred twenty-four (924) Class Members who did not submit a timely and valid Request for Exclusion, and are therefore, deemed to be Settlement Class Members.⁹ The highest Individual Settlement Share is currently estimated to be at least \$8,777.65 and the average Individual Settlement Share is currently estimated to be at least \$1,604.71.¹⁰

IV. THE ATTORNEYS’ FEES AWARD REQUESTED BY CLASS COUNSEL IS FAIR AND REASONABLE AND SHOULD BE APPROVED.

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

Trial courts have “wide latitude” in assessing the value of attorneys’ fees and their decisions will “not be disturbed on appeal absent a manifest abuse of discretion.” *Lealao v. Beneficial Cal., Inc.* (2000) 82 Cal.App.4th 19, 41; *Ketchum v. Moses* (2001) 24 Cal.4th 1122, 1132 (The “experienced trial judge is the best judge of the value of professional services rendered in his court[.]”); *Cellphone Termination Fee Cases* (2009) 180 Cal.App.4th 1110, 1118. Where the amount of a settlement is a “certain easily calculable sum of money,” California courts may calculate attorneys’ fees as a reasonable percentage of the settlement. Weil and Brown, *California*

⁴ Settlement Agreement, ¶¶ 11, 12, 13, & 14; see also n.1, supra.

⁵ This amount is higher than the amount stated in Paragraph 12 of the accompanying Declaration of Desirae Burton Regarding Notice and Settlement Administration (“Simpluris Declaration” or “Simpluris Decl.”) because the Settlement Administrator’s calculation assumes that Class Counsel will obtain litigation costs and expenses in the maximum amount of \$30,000.00, which is allocated under the Settlement. However, Class Counsel seeks the amount of only \$19,977.11 for reimbursement of litigation costs and expenses, and the difference of \$10,022.89 will remain part of the Net Settlement Amount.

⁶ Simpluris Decl., ¶ 8.

⁷ *Id.*, ¶ 11.

⁸ *Id.*, ¶¶ 12 & 13.

⁹ *Id.*, ¶ 15.

¹⁰ *Id.*, ¶ 17.

1 Practice Guide, Civil Procedure Before Trial, Chapter 14, § 14:145; see also *Laffitte v. Robert Half*
2 *Int'l Inc.* (2016) 1 Cal.5th 480, 503; *Dunk, supra*, 48 Cal.App.4th at 1808. The percentage-of-the-
3 benefit approach is preferred in class and representative actions because “it better approximates
4 the workings of the marketplace than the lodestar approach.” *Lealao, supra*, 82 Cal.App.4th at 49.

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

14 “The ultimate goal . . . is the award of a ‘reasonable’ fee to compensate counsel for their
15 efforts, irrespective of the method of calculation.” *Consumer Privacy Cases* (2009) 175
16 Cal.App.4th 545, 557-58 (quoting *Apple Computer, Inc. v. Superior Court, supra*, 126 Cal.App.4th
17 at 1270). It is not an abuse of discretion to choose one method over another as long as the method
18 chosen is applied consistently using percentage figures and/or rates that accurately reflect the
19 marketplace. In cases where class members present claims against a settlement amount and the
20 settlement agreement provides that the defendant agrees to paying the attorneys a percentage of the
21 same, use of that percentage method is appropriate. *Lealao, supra*, 82 Cal.App.4th at 32.

22 Historically, courts have awarded fees as high as fifty percent (50%) of the settlement,
23 depending on the circumstances of the case. Conte & Newberg, *Newberg on Class Actions* (4th
24 Ed., 2002) § 14.03; see also *In re Ampicillin Antitrust Litig.* (D.D.C. 1981) 526 F.Supp. 494
25 (awarding attorneys’ fees in the amount of 45% of the settlement amount of \$7.3 million); *Beech*
26 *Cinema, Inc. v. Twentieth-Century Fox Film Corp.* (S.D.N.Y. 1979) 480 F.Supp. 1195 (awarding
27 approximately 53% of the settlement amount as attorneys’ fees). California courts routinely
28 approve class action attorneys’ fees awards “averag[ing] around one-third of the recovery.”

1 *Chavez v. Netflix, Inc.* (2008) 162 Cal.App.4th 43, 66 n.11 (lower court found 20 to 40 percent
2 range of contingency fee in marketplace was appropriate in class actions); *see also Laffitte*, 1
3 Cal.5th at 488 & 506 (approving fee award of 1/3 of common fund of \$19 million).

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

5 California and federal courts have long recognized that an appropriate method for
6 determining the award of attorneys' fees is based on a percentage of the total value of benefits
7 made available to class members by the settlement. *Laffitte*, 1 Cal.5th at 503; *Boeing Co. v. Van*
8 *Gemert* (1980) 444 U.S. 472, 478; *Paul, Johnson, Alston & Hunt v. Gaulty* (9th Cir. 1989) 886
9 F.2d 268, 272; *Vincent v. Hughes Air West, Inc.* (9th Cir. 1977) 557 F.2d 759, 769; *Serrano v.*
10 *Priest* (1977) 20 Cal.3d 25, 34.¹¹ The purpose of this equitable doctrine is to spread litigation costs
11 proportionally among all the beneficiaries so that the active beneficiary does not bear the entire
12 burden alone. *See Vincent, supra*, 557 F.2d at 769.

13 When a litigant's efforts result in a settlement from which others may derive benefits, the
14 litigant may require the passive beneficiaries to compensate those whose efforts brought about the
15 settlement. *See*, R. Pearle, *California Attorney Fee Awards* (CEB, 1993) § 7A, p. 5-7 (permitting
16 attorneys' fees and costs to be paid out of the settlement or directly on behalf of the other parties
17 enjoying the benefit of the settlement). Both state and federal courts have embraced this doctrine.
18 *See Serrano, supra*, 20 Cal.3d at 35; *Crampton v. Takegoshi* (1993) 17 Cal.App.4th 308, 317;
19 *Vincent, supra*, 557 F.2d at 769.

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

27 Courts have consistently recognized that class and representative action litigation is

28 ¹¹ The California Supreme Court has urged trial courts to consider class action federal authority. *Green v. Obledo*
(1981) 29 Cal.3d 126, 146; *Vasquez v. Superior Court* (1971) 4 Cal.3d 800, 821.

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

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

15 Under the terms of the Settlement Agreement, Defendant will pay the Gross Settlement
16 Amount of \$2,500,000.00. The requested attorneys’ fees are thirty-five percent (35%) of the total
17 value of the monetary settlement (equal to \$875,000.00). In light of Class Counsel’s successful
18 prosecution and resolution of the case, the requested attorneys’ fees are appropriate and reasonable.

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

26 The percentage method is consistent with, and is intended to mirror, the practice in the
27 private marketplace where contingent-fee attorneys typically negotiate percentage-fee
28 arrangements with their clients. A named plaintiff’s agreement to pay a contingent fee is powerful

evidence of a reasonable fee. One of the best ways to demonstrate the value of counsel's work to the class is to review the consideration agreed to be paid by the named plaintiff. If the named plaintiff has employed counsel on a contingency-fee basis, it would indeed be inequitable for the members of the class, who will enjoy the benefits of the settlement without incurring the risks of bringing the claim, to pay less than the named plaintiff. In this case, Plaintiff has agreed to a contingency fee of at least thirty-five percent (35%) of the recovery.¹²

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

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

Class Counsel have obtained a substantial recovery on behalf of Plaintiff, the Class, and the State of California, and the results achieved justify an attorneys’ fees award that is the equivalent of the standard market fee and that is consistent with the contingency-fee agreement entered into by and between Plaintiff and Class Counsel. Thus, the requested attorneys’ fees are appropriate.

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¹² Aiwazian Decl., ¶ 9.

C. **The Attorneys' Fees Award Requested by Class Counsel Is Reasonable Based on the Factors Considered in Determination of Fee Awards.**

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

Each and every one of these factors favors the attorneys' fees sought here; however, some of the most relevant factors to this Court's fee determination will be addressed herein. The award of attorneys' fees in the amount of \$875,000.00 (which is 35% of the Gross Settlement Amount) is commensurate with the time, effort, and expense dedicated to the case, the contingent nature of Class Counsel's fee and the risks taken in commencing the case, the skill and determination required, the results that Class Counsel have achieved, and the value of the settlement that Class Counsel have obtained for the Class Members.

1. Time & Labor.

Class Counsel used its experience and skills, and dedicated the full extent of resources, to litigate and bring this matter to a successful conclusion on behalf of the Class. Moreover, as demonstrated in the supporting declaration, Class Counsel has extensive experience in the handling of class actions and complex litigation matters.¹³

As outlined in the Declaration of Edwin Aiwazian, Class Counsel has fully and actively participated in litigation of this case.¹⁴ Prior to commencing the lawsuit, Class Counsel had conducted a significant amount of investigation into the factual and legal issues, Defendant's

¹³ Aiwazian Decl., ¶¶ 16-19.

¹⁴ *Id.*, Exh. A.

business, and its operations and employment policies, practices, and procedures.¹⁵ During the litigation of the action, Class Counsel had the opportunity to interview Plaintiff and other Class Members; propounded formal written discovery requests and reviewed Defendant's responses thereto; reviewed and analyzed thousands of pages of documents and data produced by Defendant and obtained through other sources; and prepared damages and penalties valuation calculations.¹⁶ Class Counsel researched applicable law, developed liability, damages, and penalties valuation models in connection with mediation and settlement negotiations, and met and conferred with Defendant's counsel on numerous occasions, e.g., to discuss issues relating to the pleadings and the production of information, documents, and data in the course of litigation, mediation, and settlement negotiations. Class Counsel also drafted pleadings and the mediation brief, prepared for and attended court proceedings, mediation, and settlement negotiations, among other tasks.¹⁷

Class Counsel has dedicated staffing and monetary resources necessary to prosecute this matter diligently and with maximum efficiency and has fully and actively participated in the litigation process. The Task and Time Charts, which is attached as Exhibit A to the accompanying declaration of Edwin Aiwasian, set forth in detail the hours that Class Counsel has spent performing tasks on behalf of Plaintiff, the Class, and the State of California.¹⁸ The Task and Time Chart is thorough and comprehensive, and was prepared so that the Court can peruse it without having to set forth each and every task in the body of this Motion. The Court is respectfully referred to the chart, which set forth the history of the work performed by Class Counsel, commencing with the pre-filing analysis and research, and continuing up to settlement and final approval. Attorneys at Lawyers for Justice, PC have spent **551.70** hours performing tasks and to obtain a significant recovery in the case.¹⁹ These hours were required to bring this matter to its successful conclusion. In light of the value of time expended and the carrying of costs involved in litigating this case, the requested attorneys' fees are fair, adequate, and reasonable.

¹⁵ Aiwasian Decl., ¶ 6 & Exh. A.

¹⁶ *Id.*, ¶ 6.

¹⁷ *Ibid.*

¹⁸ *Id.*, Exh. A.

¹⁹ *Id.*, ¶ 11.

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

2 The skill required to properly litigate the case is evident not only in the results achieved,
3 but in the steps necessary to reach those results. Defendant retained well-respected counsel to
4 represent its defenses. More specifically, Defendant and its counsel felt very strongly about
5 Defendant's ability to avoid class certification and representative adjudication, and prevail at trial.
6 Plaintiff and Class Counsel believed that they would have obtained class certification and prevailed
7 at trial.

8 Class Counsel undertook significant investigation, analysis, and research prior to filing this
9 case, during the litigation, and prior to mediation. Class Counsel took steps to prepare the matter
10 for class certification and representative adjudication and had every intention of taking the case to
11 trial on a class-wide basis if Defendant did not offer an appropriate class-wide settlement. Despite
12 all of the obstacles that had to be overcome, as demonstrated in the Declarations of Edwin
13 Aiwazian, Class Counsel used their extensive experience in the handling of class actions and
14 complex wage-and-hour litigation matters in order to obtain the Settlement with maximum
15 efficiency.²⁰

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

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

23 The Settlement at this stage is preferred over continued litigation because such resolutions
24 save time and money that would otherwise go to litigation. The risks and expenses of further
25 litigation outweighed any benefit that might have been gained otherwise. The Settlement provides
26 an immediate recovery, as opposed to an uncertain result in the future after prolonged litigation
27 involving expert discovery, trial preparation, class certification proceedings, and appellate review
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²⁰ Aiwazian Decl., ¶¶ 16-19.

of those proceedings. The Settlement offers present relief and/or recovery to Settlement Class Members and the State of California while avoiding the further expense, risk, and delay in obtaining possible recovery at an unknown time in the future.

As a result of this litigation and extensive settlement negotiations, Defendant agreed to pay the Gross Settlement Amount of \$2,500,000.00 to settle the case. After deducting the attorneys' fees (\$875,000.00), litigation costs and expenses (\$19,977.11), Enhancement Payment (\$7,500.00), Settlement Administration Costs (\$11,000.00), and LWDA Payment (\$93,750.00) from the Gross Settlement Amount, it is currently estimated that the Net Settlement Amount is approximately \$1,492,772.89.²¹ The Net Settlement Amount will be fully distributed in accordance with the terms of the Settlement. The Settlement offers significant monetary relief to the Settlement Class Members, and the State of California.

4. *Whether the Fee Is Fixed or Contingent.*

Plaintiff entered into a contingency fee agreement with Class Counsel, and the representation of the Class provided by Class Counsel has been wholly contingent. Class Counsel took on the case without knowing whether any recovery would be obtained. Class Counsel have collectively invested 551.70 hours of time to obtain relief on behalf of Plaintiff, the Class, and the State of California.²² Class Counsel have also collectively incurred litigation costs and expenses in the amount of \$19,977.11.²³

Class Counsel have borne all of the risks and costs of litigation and will not receive any compensation until recovery is obtained.²⁴ Class Counsel are well-experienced in wage-and-hour class action and complex litigation and used that experience to obtain a great result.²⁵ The skill and determination that Class Counsel have shown, along with the results obtained, justify the requested Attorneys' Fees and Costs. Considering the amounts requested, the work performed, and the risks incurred, the requested fees and costs are reasonable and should be awarded.

²¹ Simpluris Decl., ¶ 16; see n.6, *supra*.

²² Aiwasian Decl., ¶ 11, Exh. A.

²³ See Part VII, *infra*.

²⁴ Aiwasian Decl., ¶ 19.

²⁵ See *id.*, ¶¶ 16-19.

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

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

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

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

13 The results achieved, in light of the difficulties inherent in similar cases and the specific
14 difficulties faced in this matter, are considerable. The Settlement has yielded a positive response
15 from the Class Members—no Class Members objected to or opted out of the Settlement.²⁶

16 The court in *Camden* noted that, “a key element of the common fund case is that fees are
17 [...] taken from the fund [...] and a common fund is itself the measure of success ... [and]
18 represents the benchmark on which a reasonable fee will be awarded.” *Camden*, 946 F. 2d 768,
19 fn. 28 (citing *Court Awarded Attorney Fees, Report of the Third Circuit Task Force* (October 8,
20 1985) 108 F.R.D. 237 and Newberg, *Attorney Fee Awards* § 2.07 (1986)).

21 Here, the results achieved and obtained on behalf of Plaintiff and the Class are reasonable
22 in light of the risks inherent in further litigating this case. Class Counsel’s efforts have resulted in
23 a settlement that provides for a Gross Settlement Amount of \$2,500,000.00.²⁷ The Gross
24 Settlement Amount will be fully paid out, in accordance with the terms of the Settlement
25 Agreement. The highest Individual Settlement Share to a Settlement Class Member is currently
26
27

28 ²⁶ Simpluris Decl., ¶¶ 12 & 13.

²⁷ Aiwasian Decl., ¶¶ 5-8.

estimated to be \$8,777.65 and the average Individual Settlement Share is currently estimated to be \$1,604.71.²⁸

6. The Reputation and Ability of the Attorneys.

Lawyers for Justice, PC is a recognized class action law firm that employed its attorneys' knowledge, skills, and experience in bringing this case to a successful conclusion. Class Counsel have years of complex and class action litigation experience, have recovered millions of dollars on behalf of thousands of individuals in California, and have successfully handled numerous significant wage-and-hour class action and complex cases.²⁹

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

While the percentage-of-the-benefit approach is endorsed as the better approximation of the workings of the marketplace than the lodestar approach, courts may also use the lodestar method to "cross-check" the results of the other. See *Laffitte, supra*, 1 Cal.5th at 505 (explaining that "[a] lodestar cross-check is simply a quantitative method for bringing a measure of the time spent by counsel into the trial court's reasonableness determination"); see also, e.g., *Vizcaino*, 290 F.3d at 1050 ("[W]hile the primary basis of the fee award remains the percentage method, the lodestar may provide a useful perspective on the reasonableness of a given percentage award."). Importantly, "the lodestar calculation . . . does not override the trial court's primary determination of the fee as a percentage" of the settlement amount and "does not impose an absolute maximum or minimum on the potential fee award." *Laffitte, supra*, 1 Cal.5th at 505.

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

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²⁸ Aiwasian Decl., ¶ 17; see n.6, *supra*.

²⁹ *Id.*, ¶¶ 16-19.

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

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

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

Class Counsel had to bring together thousands of pages of information, data, and documents that were obtained from Defendant, Plaintiff, and through other sources. Class Counsel conducted extensive review and analysis of these documents and data to strategize the action and to prepare for and attend mediation and engage in settlement discussions.

As discussed above in Part IV.C.1, *infra*, attached to the Declarations of Edwin Aiwazian is a task and time chart that sets forth in detail the numerous tasks that Class Counsel performed on behalf of Plaintiff and the Class, and the time required for completing those tasks.³⁰ The chart demonstrate that Class Counsel has spent a total of 551.70 hours litigating the case and finalizing the Settlement.³¹ In light of the facts and circumstances of the case, as well as the results that Class Counsel have achieved on behalf of Plaintiff and the Class Members, Class Counsel have spent a

³⁰ See Aiwazian Decl., Exh. A.

³¹ Aiwazian Decl., ¶ 11.

reasonable number of hours on this case. In addition, Class Counsel will continue to perform work on this matter through the date of final approval and in connection with the implementation of the Settlement.

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

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

Class Counsel has been actively involved in this case, prior to its commencement and all the way up to the present, and Class Counsel's dedication to providing representation in this matter has precluded other employment. Here, Class Counsel bore the risk that, despite all of their efforts and skills employed, there may be no recovery. Ultimately, Class Counsel was successful in reaching a settlement of \$2,500,000.00.

As set forth in the Declarations of Edwin Aiwarzian, the professional backgrounds and experience of Lawyers for Justice, PC support a reasonable hourly rate of compensation of at least \$1,000 per hour for services provided by Lawyers for Justice, PC.³² While the circumstances of every case is unique, the fact remains that the work performed and efforts undertaken by Class Counsel on behalf of the Class Members justify the requested attorneys' fees.

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

Even when courts have opted to award fees in settlement fund cases based on time reasonably expended on the action, courts have generally awarded these fees based on the actual time expended (the lodestar) in conjunction with a multiplier of between 2 and 4. *Kerr v. Screen*

³² Aiwarzian Decl., ¶ 12.

1 *Extras Guild, Inc.* (9th Cir. 1975) 526 F.2d 67. Such a multiplier is warranted in this case.

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

11 In determining whether or not to enhance the lodestar, California courts take into account
12 multiple factors, many of which were specifically addressed above in §§ IV.B-C, *infra*. See, *Cates*
13 at 822-823. Multiple factors warrant enhancement in this case, including the following: The time
14 and labor required; the skill requisite to perform the legal services properly; the preclusion of other
15 employment by the attorney due to the acceptance of the case; the contingent nature of the fee; the
16 amount involved and results obtained; the experience, reputation, and ability of the attorney;
17 awards in similar cases. *Ketchum* at 1134.

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

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

Most importantly, all services were performed by Class Counsel on a contingent basis. Both California and federal courts recognize that attorneys should be compensated for taking on such contingent risks and provided with financial incentives to enforce important rights and protections like those at issue in the matter at hand. See, e.g., *Vizcaino*, 290 F.3d at 1051; *Ketchum*, 24 Cal. 4th at 1132-33. Here, Class Counsel bore the risk that, despite all of its efforts and the skill employed, there may be no recovery. Therefore, at a minimum, Class Counsel is entitled to a risk multiplier. The results obtained by way of Class Counsel's efforts are significant here. Class Counsel was successful in achieving substantial results in the form of a settlement of \$2,500,000.00. Also, Class Counsel's efforts throughout the case demonstrate dedication to the interests of the Class Members.

Class Counsel's application for attorneys' fees in light of the facts and circumstances surrounding the matter is well within the range of reasonableness. While handling this matter, Class Counsel devoted the hours in legal time summarized above and detailed in the Task and Time Chart, which is attached as EXHIBIT A to the Declaration of Edwin Aiwarzian.³³ As the chart indicates, Class Counsel has worked 551.70 hours in the pursuit of this matter. The attorney task and time chart presents the entire picture. Applying a reasonable blended rate of \$1,000 per hour to 551.70 hours of work performed by Lawyers for Justice, PC would place a base lodestar value of \$551,700.00 on Class Counsel's services, and applying a modest multiplier of 1.59, the total

³³ Aiwarzian Decl., Exh. B.

enhanced lodestar fees are \$877,203.00.³⁴ Class Counsel seeks an attorneys’ fee award of \$875,000.00 (equal to 35% of the Gross Settlement Amount based on the Settlement Agreement). Far greater multipliers have been awarded in similar cases, and the total amount of fees sought by Class Counsel is also reasonable compared to fees awarded in similar cases. Courts routinely enhance lodestar amounts based on multipliers that “range from 2 to 4 or even higher.” *Wershba, supra*, 91 Cal.App.4th at 255 (emphasis added); *see also, e.g., Chavez v. Netflix, Inc.* (2008) 162 Cal.App.4th 43, 66 (approving multiplier of 2.5); *Vizcaino*, 290 F.3d at 1051 (approving multiplier of 3.65); *Wal-Mart Stores, Inc. v. Visa U.S.A., Inc.* (2d Cir. 2005) 396 F.3d 96, 123 (approving multiplier of 3.5); *Craft v. County of San Bernardino* (C.D. Cal. 2006) 624 F.Supp.2d 1113, 1125 (awarding multiplier of 5.2 and referring to other cases with cross-check multipliers ranging from 4.5 to 19.6).

Therefore, application of a modest multiplier of 1.59 is warranted, and the lodestar as a cross-check to the percentage figure sought herein, strongly supports the reasonableness of the requested attorneys’ fees award. Plaintiffs respectfully request that the Court grant final approval of, and award, attorneys’ fees in the amount of \$875,000.00 to Class Counsel.

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

The Settlement provides for reimbursement of litigation costs and expenses of up to \$30,000.00. As set forth in the Declarations of Edwin Aiwasian, Class Counsel seeks reimbursement of \$19,977.11 in litigation costs and expenses incurred in this case.³⁵ This amount was reasonable and necessary in the prosecution of the case and to obtain the Settlement, and is less than the gross amount allocated under the Settlement Agreement.³⁶ The cost savings of \$10,022.89 will be part of the Net Settlement Amount, which will be distributed to the Settlement Class Members in accordance with the Settlement.³⁷ Accordingly, Plaintiff requests that the Court award litigation costs and expenses in the amount of \$19,977.11 to Class Counsel, Lawyers for Justice, PC.

³⁴ Aiwasian Decl., ¶ 11; *see n.Error! Bookmark not defined., supra*.

³⁵ *Id.*, ¶ 19.

³⁶ *Ibid.*

³⁷ *Ibid.*

**VI. THE REQUESTED ENHANCEMENT PAYMENT IS FAIR AND REASONABLE,
AND SHOULD BE APPROVED.**

The Settlement provides for an Enhancement Payment in the amount of \$7,500.00 to Plaintiff Roel Galicia to compensate Plaintiff for the time and effort that was expended in this matter. The requested Enhancement Payment is both common and reasonable and should be awarded.

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

The requested Enhancement Payment is fair and appropriate because Plaintiff spent a substantial amount of time and effort producing relevant documents and past employment records, as well as providing the facts and evidence necessary to attempt to prove the allegations.³⁸ Plaintiff was available whenever Class Counsel needed him and actively tried to obtain, and gave, information that would facilitate the pursuit of class and PAGA claims.³⁹ Plaintiff spent numerous hours speaking with Class Counsel about his claims, describing his work experiences with Defendant, and gathering and reviewing documents.⁴⁰ These services merit the requested Enhancement Payment to Plaintiff, who has not received any compensation for his efforts in this matter to date.⁴¹

The requested Enhancement Payment was fully disclosed in the Class Notice that was mailed to the Class Members. No objections were made with regards to the requested Enhancement Payment. Accordingly, it is appropriate and just for Plaintiff Roel Galicia to receive \$7,500.00 as a reasonable Enhancement Payment, for his services in this case, in addition to his individual

³⁸ Aiwazian Decl., ¶ 20; Declaration of Roel Galicia (“Galicia Decl.”), ¶¶ 3-5.

³⁹ Aiwazian Decl., ¶ 20; Galicia Decl., ¶¶ 3-5.

⁴⁰ Aiwazian Decl., ¶ 20; Galicia Decl., ¶¶ 2-6.

⁴¹ Galicia Decl., ¶ 9.

1 settlement payment.

2 **VII. CONCLUSION**

3 For the foregoing reasons, Plaintiff respectfully requests that the Court award Attorneys'
4 Fees and Costs and the Enhancement Payment in their entirety, as sought herein.

5
6 Dated: October 25, 2023

LAWYERS for JUSTICE, PC

7
8 By:



9 Yasmin Hosseini
10 Attorneys for Plaintiff and the Class
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