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

ANDRES CASAS, 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.

MYERS POWER PRODUCTS, INC., an
unknown business entity; and DOES 1 through
100, inclusive,

Defendants.

Case No.: CIVDS1920109

Honorable David Cohn
Department S26

CLASS ACTION

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

[Declaration of Class Counsel
(Edwin Aiwazian); Declaration of Class
Representative (Andres Casas); Declaration
of Settlement Administrator (Desirae
Burton); and [Proposed] Final Approval
Order and Judgment filed concurrently
herewith]

Date: September 14, 2023
Time: 9:00 a.m.
Department: S26

Complaint Filed: July 10, 2019
FAC Filed: December 20, 2019
SAC Filed: May 3, 2023
Trial Date: None Set

1 **PLEASE TAKE NOTICE** that on September 14, 2023, at 9:00 a.m., in Department S26
2 of the above-entitled Court, located at 247 West 3rd Street, San Bernardino, California 92415,
3 Plaintiff Andres Casas (“Plaintiff”) will and hereby does move for an order granting final approval
4 of:

5 1. The Class Action and PAGA Settlement and Release of Claims (“Settlement,”
6 “Agreement,” or “Settlement Agreement”) on the grounds that the Settlement is fair, adequate,
7 and reasonable because:

- 8 • A Net Settlement Fund of approximately **\$2,566,698.88** will be fully distributed to the
9 Class Members who did not submit a timely and valid Request for Exclusion
10 (“Participating Class Member”);
- 11 • **As of this date, No Objections** were submitted to the settlement administrator,
12 Simpluris Inc., (“Settlement Administrator”);
- 13 • **As of this date, No Requests for Exclusion** was submitted to the Settlement
14 Administrator;

15 2. Payment in the amount of **\$1,379,550.41** to Lawyers for Justice, PC (“Class
16 Counsel”), representing one-third (33.33%) of the escalated Gross Settlement Fund, for attorneys’
17 fees, which is reasonable and justified on a percentage-basis and also based on a lodestar cross-
18 check with a multiplier of 1.85;

19 3. Payment in the amount of **\$20,501.93** to Class Counsel for reimbursement of
20 litigation costs and expenses;

21 4. Payment in the amount of **\$11,900.00** to the Settlement Administrator, Simpluris
22 Inc., (“Simpluris”), for Settlement Administration Costs;

23 5. Payment in the amount of **\$10,000.00** to Plaintiff Andres Casas, as Enhancement
24 Award, for his time and effort in representing the Class; and

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

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

This Motion is made pursuant to Rule 3.769 and Rule 3.1113(e) of the California Rules of Court, which require approval by the Court of a class action settlement and permit the Court to extend the page limit for memoranda.

This motion is based upon the following Memorandum of Points and Authorities; the Declaration of Class Counsel (Edwin Aiwazian), Class Representative (Andres Casas), and Settlement Administrator (Desirae Burton of Simpluris, Inc.) 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: August 22, 2023

LAWYERS for JUSTICE, PC

Giovani Pimentel

By: _____

Giovani Pimentel
Attorneys for Plaintiff and the Class

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MEMORANDUM OF POINTS AND AUTHORITIES

I. SUMMARY OF MOTION

Plaintiff Andres Casas (“Plaintiff”) seeks final approval of: (1) the Gross Settlement Fund of \$4,138,651.22¹; (2) attorneys’ fees in the amount of \$1,379,550.41², which is one-third (33.33%) of the escalated Gross Settlement Fund, and reimbursement of litigation costs and expenses in the amount of \$20,501.93 (together, “Attorneys’ Fees and Costs”) to Lawyers for Justice, PC (“Class Counsel”); (3) Settlement Administration Costs in the amount of \$11,900.00 to Simpluris Inc., (“Simpluris” or “Settlement Administrator”); (4) Enhancement Award in the amount of \$10,000.00 to Plaintiff Andres Casas; and (5) allocation of \$150,000.00 for penalties under the Private Attorneys General Act of 2004, California Labor Code § 2698, *et seq.* (“PAGA Amount”).

Plaintiff seeks relief on behalf of the following Class:

All current and former non-exempt, hourly-paid employees employed by Defendant, who are working or who worked in the State of California at any time during the time period from July 10, 2015 through and including March 29, 2023, and expressly excluding therefrom any individual who, as of March 29, 2023, has filed a separate lawsuit of any type as a named plaintiff against Defendant, alleging the same or similar claims being released by this Settlement and/or who has previously released such claims (“Class” or “Class Members”).³

This matter involved ongoing investigations, informal discovery, review and analysis of a large volume of documents and data prior to and during mediation conducted by Lynn Frank, Esq., and settlement negotiations. This matter has required 994.70 hours of attorney time by Class Counsel. As will be demonstrated herein, the request for attorneys’ fees, which represents one-third (33.33%) of the escalated Gross Settlement Fund, is fully supported by the use of the

¹ Pursuant to the escalator clause in Section 22 of the Class Action and PAGA Settlement and Release of Claims (“Settlement Agreement”), the Gross Settlement Fund has increased from the original \$4,100,000.00 to \$4,138,651.22 (a 0.94% increase). See Declaration of Desirae Burton Regarding Notice and Settlement Administration (“Simpluris Declaration” or “Simpluris Decl.”) ¶ 17. The Settlement Administrator’s declaration confirms that the total number of Workweeks during Class Period was sixty-nine thousand eight hundred thirty-four (69,834), which exceeds the threshold by 10.94%. As such, it was determined that the Escalator Clause in the Settlement Agreement was triggered, and the Gross Settlement Fund has increased from \$4,100,000.00 to \$4,138,651.22.

² Although ¶ 17 of the Settlement Agreement provides for a request up to 35% of the Gross Settlement Fund, Class Counsel only seeks one-third of the escalated Gross Settlement Fund, i.e., \$1,379,550.41.

³ Class Action and PAGA Settlement and Release of Claims, ¶ 3. “Class Period” is defined as the timed period from July 10, 2015 through and including the date of preliminary approval by the Court of this Settlement Agreement. See *id.*, ¶ 3.

percentage-fee method. Courts have historically awarded fees of up to fifty percent (50%) of the recovery. The requested attorneys' fees are also supported under the lodestar cross-check method.⁴

Plaintiff moves for final approval of the Enhancement Award in the amount of \$10,000.00, to compensate Plaintiff for the time and effort that he expended spearheading this lawsuit on behalf of the Class, Aggrieved Employees, and the State of California. Plaintiff also moves for final approval of the payment to the Settlement Administrator in the amount of \$11,900.00 for Settlement Administration Costs. Plaintiff also moves for final approval of the allocation of \$150,000.00 for the PAGA Amount, of which \$112,500.00 will be paid to the California Labor Workforce and Development Agency ("LWDA") for its portion of the PAGA Amount ("LWDA Payment"), and \$37,500.00 will be distributed to all current and former non-exempt, hourly-paid employees employed by Defendant, who are working or who worked in the State of California at any time during the time period from July 10, 2018 through and including the date of March 29, 2023 ("Aggrieved Employees") ("Aggrieved Employees Payment").

The requests for Attorneys' Fees and Costs, Enhancement Award, Settlement Administration Costs, and allocation for the PAGA Amount were fully disclosed in the Notice of Class Action Settlement ("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, Enhancement Award, Settlement Administration Costs, or allocation for PAGA Amount.*

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

⁴ Applying a modest multiplier of 1.85, the total enhanced lodestar fees are \$1,380,146.25, and Class Counsel seeks an attorneys' fees award of \$350,000.00 (equal to 35% of the Settlement Fund).

1 In order to efficiently present the Court with adequate information to determine whether to
2 grant final approval of the Settlement and award Attorneys' Fees and Costs, Enhancement Award,
3 Settlement Administration Costs, and PAGA Amount, Plaintiff also moves for an order permitting
4 the filing of this single consolidated memorandum, although it exceeds the page limit established
5 by California Rules of Court, Rule 3.1113(d), instead of filing several separate motions.

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

7 Defendant Myers Power Products ("Defendant") is in the business of designing and
8 manufacturing electrical distribution products, medium voltage switchgear, powerhouses, and
9 other power and emergency lighting products. Plaintiff Andres Casas is a former employee of
10 Defendant.

11 On July 10, 2019, Plaintiff filed a Class Action Complaint for Damages in the San
12 Bernardino County Superior Court ("Court"), thereby commencing the above-captioned lawsuit
13 (the "Action").

14 On December 20, 2019, Plaintiff filed a First Amended Class Action Complaint for
15 Damages ("First Amended Complaint").

16 On January 23, 2020, Defendant filed a Demurrer and Motion to Strike Portions of
17 Plaintiff's First Amended Complaint.

18 On February 27, 2020, Plaintiff filed an Opposition to Defendant's Demurrer and Motion
19 to Strike Portions of Plaintiff's First Amended Complaint.

20 On March 4, 2020, Defendant filed a Reply to Plaintiff's Opposition to Defendant's
21 Demurrer and Plaintiff's Opposition to Defendant's Motion to Strike Portions of Plaintiff's First
22 Amended Complaint.

23 On March 11, 2020, the Court filed a Ruling on Demurrers and Motion to Strike, which
24 overruled Defendant's Demurrer and granted in part and denied in part Defendant's Motion to
25 Strike.

26 On September 2, 2020, Defendant filed an Answer to Plaintiff's First Amended Complaint.

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1 On December 28, 2021, Plaintiff provided written notice to the LWDA giving notice of his
2 intent to pursue civil penalties under the California Private Attorneys General Act, California
3 Labor Code § 2698, Et. Seq. (“PAGA”), on behalf of himself and the State of California.

4 On May 3, 2023, Plaintiff filed a Second Amended Class Action Complaint for Damages
5 & Enforcement Under the Private Attorneys General Act, California Labor Code § 2698, Et Seq.
6 (“Operative Complaint”).

7 Plaintiff’s core allegation is that Defendant has violated the California Labor Code by
8 engaging in a uniform practice and procedure, with respect to Plaintiff, Class Members, and
9 Aggrieved Employees of, *inter alia*, failing to pay minimum and overtime wages, failing to provide
10 compliant meal and rest periods and associated premium pay, failing to timely pay wages and
11 associated waiting time penalties, failing to maintain accurate payroll records, failing to provide
12 compliant wage statements, and failing to reimburse necessary business-related expenses, and
13 thereby engaged in unfair business practices under the California Business and Professions Code
14 and conduct that gives rise to civil penalties recoverable under PAGA. Plaintiff contends that he,
15 Class Members, and the Aggrieved Employees, are entitled to, *inter alia*, unpaid wages, penalties
16 (including and not limited to, penalties pursuant to PAGA), and attorneys’ fees.

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

20 The parties have actively litigated the matter since the Action commenced on July 10, 2019.
21 The Parties conducted significant informal discovery, and exchanged a large volume of
22 information, documents, and data throughout the course of the litigation and in connection with
23 mediation and settlement negotiations. On September 21, 2021, the Parties participated in a
24 formal, full-day mediation conducted by Lynn Frank Esq., a well-regarded mediator experienced
25 in mediating complex labor and employment matters. With the aid of the mediator’s evaluation,
26 the Parties ultimately reached the Settlement described herein to resolve the Action in its entirety.

27 On February 1, 2023, Plaintiff filed a Motion for Preliminary Approval of Class Action
28 Settlement and supporting documents. On March 1, 2023, a hearing was held on Plaintiff’s Motion

for Preliminary Approval, during which the Court raised certain points of inquiry. On March 9, 2023, Plaintiff filed a Supplemental Declaration of Alexandra Rose in Support of the Motion for Preliminary Approval. On March 29, 2023, a hearing was held on Plaintiff's Motion for Preliminary Approval, and 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 Notice, and the proposed administration procedures and associated deadlines.

Plaintiff now moves for final approval of the Settlement, Attorneys' Fees and Costs, Enhancement Award, Settlement Administration Costs, and allocation for PAGA Amount.

III. SUMMARY OF THE SETTLEMENT TERMS AND PLAN OF DISTRIBUTION

Under the terms of the Settlement Agreement, Defendant has agreed to pay a Gross Settlement Fund of \$4,138,651.22 by making a one-time deposit of the escalated Gross Settlement Fund within ten (10) business days of the Effective Date.⁵ Subject to approval by the Court, the Net Settlement Fund will be calculated by deducting the following amounts from the Gross Settlement Fund: (1) Attorneys' Fees and Costs, consisting of attorneys' fees in the amount of \$1,379,550.41 and reimbursement of litigation costs and expenses in the amount of \$20,501.93, to Class Counsel; (2) Enhancement Award in the amount of \$10,000.00 to Plaintiff Andres Casas; (3) Settlement Administration Costs in the amount of \$11,900.00 to Simpluris; and (4) PAGA Amount in the amount of \$150,000.00.⁶ The Net Settlement Fund, which is estimated to be **\$2,566,698.88⁷**, will be distributed in accordance with the Settlement Agreement and there is no reversion to Defendant.

The Settlement Administrator will calculate each Class Member's final *pro rata* share of the Net Settlement Fund ("Individual Settlement Share"), by multiplying the Net Settlement Fund

⁵ Settlement Agreement, ¶ 29; see also, n.1, *supra*.

⁶ *Id.*, ¶¶ 16,17, 18 & 20.

⁷ This amount is higher than the amount stated in Paragraph 18 of the Simpluris Declaration because the Settlement Administrator's calculation assumes that Class Counsel will obtain litigation costs and expenses in the maximum amount of \$50,000.00 and Attorneys' Fees equal to 35% of the escalated Gross Settlement Fund, which is allocated under the Settlement. However, Class Counsel seeks the amount of only \$20,501.93 for reimbursement of litigation costs and expenses and only one-third of the escalated Gross Settlement Amount for Attorneys' Fees, and the difference of \$29,498.07 in litigation costs and expenses and \$68,977.51 in Attorneys' Fees will remain part of the Net Settlement Fund.

by a fraction, the numerator of which is the Participating Class Member's individual number of Workweeks, and the denominator of which is the total number of Workweeks of all Class Members.⁸

The Settlement Administrator will calculate each Aggrieved Employee's *pro rata* share of the Aggrieved Employees Payment ("Individual PAGA Payment), by multiplying the Aggrieved Employees Payment by a fraction, the numerator of which is the Aggrieved Employee's total number of Pay Periods, and the denominator of which is the total number of Pay Periods of all Aggrieved Employees.⁹

Class Members had forty-five (45) calendar days after the initial mailing of the Notice to Class Members to opt out of the Class Settlement, object to the Class Settlement, and/or dispute the number of Workweeks to which they were credited ("Response Deadline").¹⁰ The Response Deadline is September 11, 2023.¹¹ ***As of the date of this Motion, the Settlement Administrator has received only no written request for exclusion from the Class Settlement ("Requests for Exclusion") and no written objections to the Class Settlement ("Objection") from Class Members.***¹²

Each Individual Settlement Share will be allocated as follows: twenty percent (20%) as wages ("Wages Portion"), which will be reported on IRS Form W-2; twenty percent (20%) civil or statutory penalties, thirty percent (30%) statutory and other non-wage damages, and thirty percent (30%) interest (collectively, "Non-Wage Portions"), to be reported on IRS Form 1099 (if applicable).¹³ Participating Class Members will be issued payment of their Individual Settlement Share subject to reduction for required employee-side payroll taxes, contributions, and withholding with respect to the Wages Portion (the net payment is referred to as "Individual Settlement Payment").¹⁴ The Parties agree that the Individual PAGA Payment distributed to each Aggrieved Employee will be allocated as one hundred percent (100%) penalties, and will be reported on an

⁸ Settlement Agreement, ¶ 26.

⁹ *Id.*, ¶ 27.

¹⁰ *Id.*, ¶ 28.

¹¹ Simpliciter Decl., ¶ 11.

¹² *Id.*, ¶¶ 12 and 13.

¹³ Settlement Agreement, ¶ 31.a.

¹⁴ *Id.*, ¶ 31.b.

1 IRS Form 1099, if necessary.¹⁵ Defendant’s employer-side payroll taxes which may be owed as a
2 result of the allocated wages portion of the Individual Settlement Shares (“Employer Taxes”) will
3 be paid separately and in addition to the Gross Settlement Fund.¹⁶

4 Individual Settlement Payment and Individual PAGA Payment checks will remain valid
5 and negotiable for one hundred and eighty (180) days after the date of issuance.¹⁷ The funds
6 associated with such cancelled checks shall be transmitted by the Settlement Administrator
7 pursuant to governing law to the California State Controller’s Office Unclaimed Property
8 Division.¹⁸ Participating Class Members whose Individual Settlement Payment checks are
9 uncashed shall, nevertheless, be bound to the Class Settlement, and Aggrieved Employees whose
10 Individual PAGA Payment checks are uncashed shall, nevertheless, be bound by the PAGA
11 Settlement.¹⁹

12 **IV. THE SETTLEMENT ADMINISTRATION PROCESS**

13 The Court-appointed Settlement Administrator, Simpluris Inc., has taken all necessary
14 steps to effectuate the notice and settlement administration process, as set forth in the Court’s
15 March 29, 2023, Preliminary Approval Order.

16 On June 13, 2023, Simpluris received data filed from Defense Counsel that contained full
17 names, last known mailing addresses, Social Security Numbers, and number of Workweeks, and
18 number of Pay Periods (“Class List”).²⁰ The Class List contained information for four hundred
19 eighty-six (486) individuals identified as Class Members, of which and three hundred and twenty-
20 nine (329) individuals identified as Aggrieved Employees.²¹ Simpluris processed the names and
21 addresses through the National Change of Address Database (“NCOA”) and updated the Class List
22 with any updated addresses located.²²

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25 ¹⁵ Settlement Agreement, ¶ 31.a.

26 ¹⁶ *Id.*, ¶ 12.

27 ¹⁷ *Id.*, ¶ 33.c.

28 ¹⁸ *Ibid.*

¹⁹ *Ibid.*

²⁰ Simpluris Decl., ¶ 6.

²¹ *Ibid.*

²² *Id.*, ¶ 7.

On July 28, 2023, Simpluris mailed the Notice via U.S. first class mail to all four hundred eighty-six (486) Class Members on the Class List.²³

As of the date of this Motion, three (3) Notices were returned as undeliverable with forwarding addresses.²⁴ Seventeen (17) Notices were returned as undeliverable without forwarding addresses.²⁵ Simpluris performed a skip-trace search on the seventeen (17) Notices that were returned to Simpluris without forwarding addresses, located an updated address for seventeen (17) Class Members, and promptly re-mailed the Notice to the updated addresses.²⁶

As of the date of this Motion, the Settlement Administrator has not received any Objections.²⁷ As of the date of this Motion, the Settlement Administrator has not received Request for Exclusion from Class Member.²⁸

To date, there are four hundred eighty-six (486) Class Members who did not submit a timely and valid Request for Exclusion, and are therefore, deemed to be Participating Class Members.²⁹ Pursuant to the terms of the Settlement, the Net Settlement Fund of approximately \$2,566,698.88 will be distributed to Participating Class Members in accordance with the terms of the Settlement.³⁰ The highest Individual Settlement Share is currently estimated to be \$11,981.67 and the average Individual Settlement Share is currently estimated to be \$5,078.65.³¹ The highest Individual PAGA Payment is currently estimated to be \$184.58 and the average Individual PAGA Payment is currently estimated to be \$113.64.³²

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²³ Simpluris Decl., ¶ 8.

²⁴ *Id.*, ¶ 9.

²⁵ *Ibid.*

²⁶ *Ibid.*

²⁷ *Id.*, ¶ 13.

²⁸ *Id.*, ¶ 12.

²⁹ *Id.*, ¶ 16.

³⁰ *Id.*, ¶ 18; see also, n.1 and n.7, *supra*.

³¹ *Id.*, ¶ 19. The actual average and highest Individual Settlement Shares will be larger than the amounts stated in the Simpluris Inc. Declaration because the Net Settlement Fund is larger due to Class Counsel's request for reimbursement of litigation costs and expenses in an amount that is less than \$50,000.00 and only one-third of the escalated Gross Settlement Amount for Attorneys' Fees (the difference between the amount sought and the amount authorized under the Settlement, i.e., \$29,498.07 in litigation costs and expenses and \$68,977.51 in Attorneys' Fees, will be part of the Net Settlement Fund). See n.7, *supra*.

³² *Id.*, ¶ 21.

V. **THE COURT SHOULD GRANT FINAL APPROVAL OF THE CLASS ACTION SETTLEMENT.**

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

the strength of plaintiffs' case, the risk, expense, complexity and likely duration of further litigation, the risk of maintaining class action status through trial, the amount offered in settlement, the extent of discovery completed and the stage of the proceedings, the experience and views of counsel, the presence of a governmental participant, and the reaction of the class members to the proposed settlement.

Dunk v. Ford Motor Co. (1996) 48 Cal.App.4th 1794, 1801. "The list of factors is not exclusive and the court is free to engage in a balancing and weighing of the factors depending on the circumstances of each case." *Wershba v. Apple Computer, Inc.* (2001) 91 Cal.App.4th 224, 245. "Due regard should be given to what is otherwise a private consensual agreement between the parties." *Dunk, supra*, 48 Cal.App.4th at 1801.

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

1 because the public interest may indeed be served by a voluntary settlement in which each side
2 gives ground in the interest of avoiding prolonged litigation. *Id.*

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

5 The parties actively litigated the cases since the Action commenced on July 10, 2019. Both
6 sides used the pre-mediation time period to investigate the veracity, strength, and scope of the
7 claims, and were preparing the action for class certification and for trial, prior to reaching the
8 Settlement.³³

9 The parties conducted significant informal discovery and investigation into the facts of the
10 case, and also informally exchanged a large volume of information, documents, and data
11 throughout the course of the litigation and in connection with mediation and settlement
12 negotiations.³⁴ The volume of data and documents that Class Counsel reviewed and analyzed
13 included but was not limited to: Plaintiff's employment records, Class Members' time and pay
14 data, job descriptions, checklists, internal memorandum, agreements (including, but not limited to,
15 Defendant's Confidentiality Agreement), and forms (including, but not limited to, Defendant's
16 Acknowledgement and Receipt of Factory Rules & Regulations), among other information and
17 documents.³⁵ Class Counsel researched applicable law, developed damages/valuation models in
18 preparation for mediation and settlement negotiations, and met and conferred with Defendant's
19 counsel on numerous occasions, e.g., to discuss issues relating to the pleadings, motion practice,
20 and production of information, documents, and data in the course of litigation and in connection
21 with mediation and settlement negotiations.³⁶ Class Counsel interviewed and obtained information
22 from Plaintiff.³⁷ Class Counsel also drafted, reviewed, and revised the pleadings, the mediation
23 briefs and related materials (in anticipation of the scheduled October 2020 mediation, which was
24 ultimately canceled at the last minute because Defendant changed counsel, and the September
25 2021 mediation which went forward), and settlement documents; drafted opposition papers in

26 ³³ Declaration of Edwin Aiwazian ("Aiwazian Decl."), ¶ 6.

27 ³⁴ *Ibid.*

28 ³⁵ *Ibid.*

³⁶ *Ibid.*

³⁷ *Ibid.*

connection with motion practice (e.g., Defendant’s demurrer and motion to strike portions of first amended complaint), and prepared for and attended court proceedings; and prepared for and participated in mediation and settlement negotiations, among other tasks.³⁸

After conducting significant informal discovery and investigation into the facts of the case, the parties participated in a formal, full-day mediation conducted by Lynn Frank, Esq., a well-regarded mediator experienced in mediating complex labor and employment matters.³⁹ In the course of mediation and settlement negotiations, the parties exchanged class information, documents, and data, and discussed various aspects of the case, including and not limited to, the risks and delays of further litigation, the risks and expenses to the parties of proceeding with class certification, representative adjudication, and trial, the law relating to certification, off-the-clock theory, meal and rest periods, representative PAGA claims, and wage-and-hour enforcement, the evidence produced and analyzed, and the possibility of appeals, among other things.⁴⁰ During all settlement discussions, the parties conducted their negotiations at arm’s length in an adversarial position.⁴¹ Arriving at a settlement that was acceptable to the parties was not easy.⁴² Defendant and its counsel felt very strongly about Defendant’s ability to prevail on the merits and to obtain a denial of class certification. After conducting significant informal discovery and investigations, settlement negotiations, and with the aid of the mediator’s evaluation, the Parties agreed that the case was well-suited for settlement given the legal issues relating to Plaintiff’s principal claims, as well as the costs and risks to the parties that would attend further litigation.⁴³

The Settlement takes into account the strengths and weaknesses of each side’s position and the uncertainty of how the cases might have concluded at certification, trial, and/or appeals. Class Counsel had the opportunity to interview, and obtain information from Plaintiff and other Class Members.⁴⁴ Class Counsel also reviewed and analyzed a large volume of information, documents, and data obtained from Defendant, Plaintiff, and other sources, and performed significant research

³⁸ Aiwazian Decl., ¶ 6.

³⁹ *Id.*, ¶ 8.

⁴⁰ *Ibid.*

⁴¹ *Ibid.*

⁴² *Ibid.*

⁴³ *Ibid.*

⁴⁴ *Id.*, ¶ 6.

into the applicable law, which is constantly evolving as it relates to certification, off-the-clock theory, meal and rest periods, representative PAGA claims, wage-and-hour enforcement, Plaintiff's claims, and Defendant's defenses, as well as facts discovered.⁴⁵ The Settlement was based on this large volume of facts, evidence, and investigation.⁴⁶ Additionally, Class Counsel has extensive experience in handling complex wage-and-hour actions, including significant experience in employment class action litigation.⁴⁷

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

The Settlement, which provides for a Gross Settlement Fund of \$4,138,651.22, represents a fair, adequate, and reasonable resolution of the case, given the risks inherent in litigating class and representative claims through certification proceedings, trial, and/or appeals.⁴⁸ The Settlement was calculated using information and data uncovered through extensive case investigation, informal discovery, and the exchange of information in the context of mediation.⁴⁹ Had the action not settled, Defendant would have vigorously challenged class certification, manageability of representative adjudication, and liability. Defendant contended that individualized questions of fact predominate over any common issues, and these issues would pose challenges to certification and representative adjudication. Defendant would have likely argued again at trial, if any, that Plaintiff's claims were not appropriate for class-wide and/or representative adjudication. On the other hand, Defendant also faced the risk of the Court certifying a class and allowing a jury to decide Plaintiff's claims on a class-wide or representative basis. Additionally, preparation for trial would have been expensive for all parties.

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

⁴⁵ Aiwazian Decl., ¶ 6.

⁴⁶ *Id.*, ¶¶ 6 & 8.

⁴⁷ *Id.*, ¶¶ 15-18.

⁴⁸ *Id.*, ¶¶ 8 & 21.

⁴⁹ *Id.*, ¶¶ 5-8.

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

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

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

21 The Settlement, which provides for a Gross Settlement Fund of \$4,138,651.22, represents
22 a fair, reasonable, and adequate resolution of the case. The Settlement was calculated using
23 information and data uncovered through extensive case investigation, informal discovery, and the
24 exchange of information in the context of preparing for mediation and conducting ongoing
25 settlement negotiations. The Settlement takes into account the potential risks and rewards inherent
26 in any case and, in particular, in this matter. Moreover, considering all of the facts in the case, the
27 Gross Settlement Fund represents a considerable recovery.

28 Even after deducting attorneys' fees in the amount of \$1,379,550.41, litigation costs and

1 expenses in the amount of \$20,501.93, Enhancement Award in the amount of \$10,000.00,
2 Settlement Administration Costs in the amount of \$11,900.00, and PAGA Amount in the amount
3 of \$150,000.00 from the Gross Settlement Fund of \$4,138,651.22, the Net Settlement Fund is
4 currently estimated to be \$2,566,698.88.⁵⁰ Under the Settlement Agreement, the Gross Settlement
5 Fund, will be fully paid out, in accordance with the terms of the Settlement. As discussed in Section
6 III, *supra*, each Participating Class Member will be paid a *pro rata* share of the Net Settlement
7 Fund, based on the number of Workweeks credited to him or her. To date, there are four hundred
8 eighty-six (486) Participating Class Members, representing 100% of the Class Members.⁵¹ The
9 highest Individual Settlement Share to a Participating Class Member is currently estimated to be
10 \$11,981.67 and the average Individual Settlement Share is currently estimated to be \$5.078.65.⁵²
11 The highest Individual PAGA Payment to Aggrieved Employees is currently estimated to be
12 \$184.58 and the average Individual PAGA Payment is currently estimated to be \$113.64.⁵³ These
13 are significant individual recoveries, particularly in light of the risks of litigation.

14 At the final approval stage, “[a]n allocation formula need only have a reasonable, rational
15 basis [to warrant approval], particularly if recommended by experienced and competent class
16 counsel.” *In re American Bank Note Holographics, Inc., Securities Litigation* (S.D.N.Y. 2001)
17 127 F.Supp.2d 418, 429-30. The *pro rata* allocation here is a fair and reasonable way to distribute
18 the Net Settlement Fund. In light of the above considerations, Class Counsel believes that the
19 Settlement as a whole is fair, reasonable, and adequate, and in the best interest of the Class
20 Members, the State of California, and Aggrieved Employees.⁵⁴ Although the recommendations of
21 Class Counsel are not conclusive, the Court can properly take the recommendations into account,
22 particularly if Class Counsel appears to be competent, has experience with this type of litigation,
23 and significant discovery and investigation have been completed, as is the case here. Conte &
24 Newberg, *Newberg on Class Actions* (4th Ed., 2002) § 11.47. Accordingly, the Court should grant
25 final approval of the Settlement.

26 ⁵⁰ Simpluris Decl., ¶ 18; see also, n.1 & n.7, *supra*.

27 ⁵¹ *Id.*, ¶ 16.

28 ⁵² *Id.*, ¶ 19; see n.31, *supra*.

⁵³ *Id.*, ¶ 21.

⁵⁴ Aiwasian Decl., ¶ 21.

1 ///

2 **D. The Class Was Represented by Competent Counsel.**

3 Class Counsel has extensive experience in employment class action law and complex
4 wage-and-hour litigation.⁵⁵ Lawyers for Justice, PC has been appointed class counsel in numerous
5 complex wage-and-hour cases, and has recovered millions of dollars for individuals in
6 California.⁵⁶ Both parties' counsel were capable of assessing the strengths and weaknesses of the
7 Class Members' claims against Defendant and the benefits of the Settlement under the
8 circumstances of the case and in the context of a private, consensual settlement agreement.

9 **E. There Are No Objections to the Class Settlement.**

10 The Settlement has been well received by the Class – *not a single Class Member objected*
11 *to the Class Settlement.*⁵⁷ Specifically, no objections have been made as to the Gross Settlement
12 Fund or requested Attorneys' Fees and Costs, Enhancement Award, Settlement Administration
13 Costs, or the allocation for PAGA Amount. California courts have consistently found that a small
14 number of objectors indicates the class' support for a settlement and strongly favors final approval.
15 *Wershba, supra*, 91 Cal.App.4th at 250-51 (final approval granted despite 20 objectors); *7-Eleven*
16 *Owners, supra*, 85 Cal.App.4th at 1152-53 (final approval granted despite 9 objectors).

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

21 **VI. THE ATTORNEYS' FEES AWARD REQUESTED BY CLASS COUNSEL IS FAIR**
22 **AND REASONABLE AND SHOULD BE APPROVED.**

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

24 Trial courts have "wide latitude" in assessing the value of attorneys' fees and their
25 decisions will "not be disturbed on appeal absent a manifest abuse of discretion." *Lealao v.*
26 *Beneficial Cal., Inc.* (2000) 82 Cal.App.4th 19, 41; *Ketchum v. Moses* (2001) 24 Cal.4th 1122,

27 ⁵⁵ Aiwasian Decl., ¶¶ 15-18.

28 ⁵⁶ Ibid.

⁵⁷ Simpluris Decl., ¶ 13.

1 1132 (The “experienced trial judge is the best judge of the value of professional services rendered
2 in his court[.]”); *Cellphone Termination Fee Cases* (2009) 180 Cal.App.4th 1110, 1118. Where
3 the amount of a settlement is a “certain easily calculable sum of money,” California courts may
4 calculate attorneys’ fees as a reasonable percentage of the settlement. Weil and Brown, California
5 Practice Guide, *Civil Procedure Before Trial*, Chapter 14, § 14:145; *see also Laffitte v. Robert*
6 *Half Int’l Inc.* (2016) 1 Cal.5th 480, 503; *Dunk, supra*, 48 Cal.App.4th at 1808. The percentage-
7 of-the-benefit approach is preferred in class and representative actions because “it better
8 approximates the workings of the marketplace than the lodestar approach.” *Lealao, supra*, 82
9 Cal.App.4th at 49.

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

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

27 Historically, courts have awarded fees as high as fifty percent (50%) of the settlement,
28 depending on the circumstances of the case. Conte & Newberg, *Newberg on Class Actions* (4th

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

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

California and federal courts have long recognized that an appropriate method for determining the award of attorneys' fees is based on a percentage of the total value of benefits made available to class members by the settlement. *Laffitte*, 1 Cal.5th at 503; *Boeing Co. v. Van Gemert* (1980) 444 U.S. 472, 478; *Paul, Johnson, Alston & Hunt v. Graulity* (9th Cir. 1989) 886 F.2d 268, 272; *Vincent v. Hughes Air West, Inc.* (9th Cir. 1977) 557 F.2d 759, 769; *Serrano v. Priest* (1977) 20 Cal.3d 25, 34.⁵⁸ The purpose of this equitable doctrine is to spread litigation costs proportionally among all the beneficiaries so that the active beneficiary does not bear the entire burden alone. *See Vincent, supra*, 557 F.2d at 769.

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

The propriety of calculating and awarding attorneys' fees as a percentage of a monetary settlement that has, by litigation, been preserved or recovered for the benefit of others, has been

⁵⁸ 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.

confirmed by the California Supreme Court. *Laffitte, supra*, 1 Cal.5th 480 at 486 & 506. The California Supreme Court has taken the position that “[t]rial courts have discretion to conduct a lodestar cross-check on a percentage fee,” “they also retain the discretion to forgo a lodestar cross-check and use other means to evaluate the reasonableness of a requested percentage fee[,]” and “[t]he percentage [...] method survives in California.” *Id.* (internal quotes omitted).

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

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

Under the terms of the Settlement Agreement, Defendant will pay a Gross Settlement Fund of \$4,138,651.22. The requested attorneys’ fees are one-third (33.33%) of the total value of the monetary settlement. In light of Class Counsel’s successful prosecution and resolution of the cases, the requested attorneys’ fees are appropriate and reasonable.

Compensating class counsel in class litigation on a percentage basis makes good sense because: (1) it is consistent with the private marketplace where contingent fee attorneys are customarily compensated on such a basis; (2) it aligns the interests of class counsel and absent class members in achieving the maximum possible resolution of the cases; and (3) it encourages

1 the most efficient and expeditious resolution of the litigation by providing an incentive for early,
2 yet reasonable, settlement. The requested attorneys' fees in this matter satisfy all of those factors
3 and should be approved on a percentage basis.

4 The percentage method is consistent with, and is intended to mirror, the practice in the
5 private marketplace where contingent-fee attorneys typically negotiate percentage-fee
6 arrangements with their clients. A named plaintiff's agreement to pay a contingent fee is powerful
7 evidence of a reasonable fee. One of the best ways to demonstrate the value of counsel's work to
8 the class is to review the consideration agreed to be paid by the named plaintiff. If the named
9 plaintiff has employed counsel on a contingency-fee basis, it would indeed be inequitable for the
10 members of the class, who will enjoy the benefits of the settlement without incurring the risks of
11 bringing the claim, to pay less than the named plaintiff. In this case, Plaintiff has agreed to a
12 contingency fee of at least thirty-nine percent (39%) of the recovery.⁵⁹

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

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

28 ⁵⁹ Aiwasian Decl., ¶ 9.

Class Counsel has obtained a substantial recovery on behalf of Plaintiff, the Class, Aggrieved Employees, 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.

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 cases; (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 cases; (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 \$1,379,550.41 (which is one-third of the escalated Gross Settlement Fund) 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 cases, the skill and determination required, the results that Class Counsel has achieved, and the value of the settlement that Class Counsel has 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 actions.⁶⁰

As outlined in the Declaration of Edwin Aiwarzian, Class Counsel has fully and actively participated in litigation of the Action.⁶¹ Prior to commencing the lawsuit, Class Counsel had conducted a significant amount of investigation into the factual and legal issues, Defendant's business, and its operations and employment policies, practices, and procedures.⁶² During the litigation of the action, Class Counsel interviewed Plaintiff and other Class Members; reviewed and analyzed a large volume of documents and data produced by Defendant and obtained through other sources; and prepared damages/valuation calculations.⁶³ Class Counsel also met and conferred with Defendant's counsel over the issues relating to pleadings, motion practice, and production of information, documents, and data, among other things; drafting, reviewing, and revising the pleadings, the mediation briefs, and settlement documents; drafting opposition papers in connection with motion practice (e.g., Defendant's demurrer and motion to strike portions of first amended complaint), and preparing for and attended court proceedings; and preparing for and participating in mediation and settlement negotiations, among other tasks.⁶⁴

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 Chart, which is attached as EXHIBIT A to the accompanying Declaration of Edwin Aiwarzian, sets forth in detail the hours that Class Counsel has spent performing tasks on behalf of Plaintiff and the Class.⁶⁵ 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 sets 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. Class Counsel has spent 994.70 hours performing tasks and to obtain a significant recovery on behalf of Plaintiff

⁶⁰ Aiwarzian Decl., ¶¶ 15-18.

⁶¹ *Id.*, Exh. A.

⁶² *Id.*, ¶ 6 & Exh. A.

⁶³ *Id.*, ¶ 6.

⁶⁴ *Ibid.*

⁶⁵ *Id.*, Exh. A.

1 and the Class.⁶⁶ These hours were required to bring this matter to its successful conclusion. In light
2 of the value of time expended and the carrying of costs involved in litigating the case, the requested
3 attorneys' fees are fair, adequate, and reasonable.

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

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

11 Class Counsel undertook significant investigation, analysis, and research prior to filing the
12 case, during the litigation, and prior to mediation. Class Counsel took steps to prepare the matter
13 for class certification and representative adjudication and had every intention of taking the case to
14 trial on a class-wide basis if Defendant did not offer an appropriate class-wide settlement. Despite
15 all of the obstacles that had to be overcome, as demonstrated in the Declaration of Edwin Aiwasian,
16 Class Counsel used its extensive experience in the handling of class actions and complex wage-
17 and-hour litigation actions in order to obtain the Settlement with maximum efficiency.⁶⁷

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

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

25 The Settlement at this stage is preferred over continued litigation because such resolutions
26 save time and money that would otherwise go to litigation. The risks and expenses of further
27

28 ⁶⁶ Aiwasian Decl., ¶ 11.

⁶⁷ *Id.*, ¶¶ 15-18.

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

As a result of this litigation and of settlement negotiations, Defendant agreed to pay a Gross Settlement Fund of \$4,138,651.22 to settle the matter. After deducting the attorneys' fees (\$1,379,550.41), litigation costs and expenses (\$20,501.93), Enhancement Award (\$10,000.00), Settlement Administration Costs (\$11,900.00), and PAGA Amount (\$150,000.00) from the Gross Settlement Fund, it is currently estimated that the Net Settlement Fund is approximately \$2,566,698.88.⁶⁸ The Net Settlement Fund will be fully distributed in accordance with the terms of the Settlement. The highest Individual Settlement Share to a Participating Class Member is currently estimated to be \$11,981.67 and the average Individual Settlement Share is currently estimated to be \$5,078.65.⁶⁹ The highest Individual PAGA Payment is currently estimated to be \$184.58 and the average Individual PAGA Payment is currently estimated to be \$113.64.⁷⁰ The Settlement offers significant monetary relief to the Participating Class Members, the State of California, and Aggrieved Employees.

4. Whether the Fee Is Fixed or Contingent.

Plaintiff entered into a contingency fee agreement with Class Counsel, and the representation of the Class provided by Class Counsel has been wholly contingent. Class Counsel took on the case without knowing whether any recovery would be obtained. Class Counsel has invested 994.70 hours of time to obtain relief on behalf of Plaintiff, Class Members, the State of California, and Aggrieved Employees.⁷¹ Class Counsel has also incurred litigation costs and expenses in the amount of \$20,501.93.⁷²

⁶⁸ Simpluris Decl., ¶ 18; see also, n.1, *supra*.

⁶⁹ *Id.*, ¶ 19; see also, n.31, *supra*.

⁷⁰ *Id.*, ¶ 21.

⁷¹ Aiwasian Decl., ¶ 11, Exh. A

⁷² See Part VII, *infra*.

Class Counsel has borne all of the risks and costs of litigation and will not receive any compensation until recovery is obtained.⁷³ Class Counsel is well-experienced in wage-and-hour class action and complex litigation and used that experience to obtain a great result.⁷⁴ The skill and determination that Class Counsel has 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.

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

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

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

5. The Amount Involved and the Results Achieved.

The results achieved, in light of the difficulties inherent in similar cases and the specific difficulties faced in this matter, are considerable. The Settlement has yielded a positive response from the Class Members—no Class Members objected to the Class Settlement.⁷⁵

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

⁷³ Aiwasian Decl., ¶ 19.

⁷⁴ *Id.*, ¶¶ 15-18.

⁷⁵ Simpluris Decl., ¶ 13.

Here, the results achieved and obtained on behalf of Plaintiff and the Class are reasonable in light of the risks inherent in further litigating this matter. Class Counsel's efforts have resulted in a settlement that provides for a Gross Settlement Fund of \$4,138,651.22.⁷⁶ The Gross Settlement Fund will be fully paid out, in accordance with the terms of the Settlement Agreement. The highest Individual Settlement Share to a Participating Class Member is currently estimated to be \$11,981.67 and the average Individual Settlement Share is currently estimated to be \$5,078.65.⁷⁷ The highest Individual PAGA Payment is currently estimated to be \$184.58 and the average Individual PAGA Payment is currently estimated to be \$113.64.⁷⁸

6. The Reputation and Ability of the Attorneys.

Lawyers for Justice, PC is a recognized class action law firm that employed its attorneys' knowledge, skills, and experience in bringing these cases to a successful conclusion. Class Counsel has years of complex and class action litigation experience, has recovered millions of dollars on behalf of thousands of individuals in California, and has successfully handled numerous significant wage-and-hour class action and complex cases.⁷⁹

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

⁷⁶ Aiwasian Decl., ¶¶ 5-8.

⁷⁷ Simpluris Decl., ¶ 19; see n.31, *supra*.

⁷⁸ *Id.*, ¶ 21.

⁷⁹ Aiwasian Decl., ¶¶ 15-18.

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.

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 cases 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 cases involved a great amount of effort, and also required and involved the exercise of a high level of skill, which Class Counsel has as a result of its extensive experience in employment class actions and complex wage-and-hour litigation. Long and difficult battles would have followed as the cases 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 a large volume of data and documents that were produced by Defendant and obtained from Plaintiff and Class Members 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 VI.C.1, *infra*, attached to the Declaration 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.⁸⁰ The chart demonstrates that Class Counsel has spent a total of 994.70 hours litigating the case and finalizing the Settlement.⁸¹ In light of the facts and circumstances of the case, as well as the results that Class Counsel has achieved in these case, Class Counsel has spent a reasonable number of hours on this matter. 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 these 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 its efforts and skills employed, there may be no recovery. Ultimately, Class Counsel was successful in reaching a settlement of \$4,138,651.22.

As set forth in the Declaration of Edwin Aiwasian, the professional backgrounds and experience of Class Counsel support a reasonable hourly rate of compensation of at least \$750 per hour for services provided by Class Counsel.⁸² Lawyers for Justice, PC has been awarded attorneys' fees, compensating the firm at the rate of at least \$750 for legal service performed, by courts of this state.⁸³ While the circumstances of every case is unique, the fact remains that the

⁸⁰ See Aiwasian Decl., Exh. A.

⁸¹ Aiwasian Decl., ¶ 11.

⁸² *Id.*, ¶ 12.

⁸³ For example, final approval of the class action settlement in *David Dugan v. TEC Equipment, Inc., et al.* (Los Angeles Superior Court Case No. 19STCV01591) was granted on July 8, 2021, and the award of attorneys' fees

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

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

involved an hourly rate of \$936.47; final approval of the class and representative action settlement in *Larry Greenwood, et al. v. Scan Health Plan* (Los Angeles Superior Court Case No. BC715157) was granted on April 20, 2021, and the award of attorneys' fees involved an hourly rate of \$919.57; final approval of the class action settlement in *Thereasa Carrozzella v. Basalite Concrete Products, LLC* (Sacramento County Superior Court Case No. 34-2017-00220214-CU-OE-GDS) was granted on February 21, 2020, and the award of attorneys' fees involved an hourly rate of \$766.05; final approval of the class and representative action settlement in *Alice Rutledge, et al. v. Healthport Technologies, LLC* (Alameda County Superior Court Case No. RG16835813) was granted on June 11, 2019, and the award of attorneys' fees involved an hourly rate of \$764.82; final approval of the class and representative action settlement in *Seth Swan v. Pace Supply* (Sonoma County Superior Court Case No. SCV258764) was granted on February 6, 2019, and the award of attorneys' fees involved a higher hourly rate of \$855.96; final approval of the class and representative action settlement in *Stanley Bland, et al. v. Telecare Corporation* (Alameda County Superior Court Case No. RG16811450) was granted on November 21, 2018, and the award of attorneys' fees involved a higher hourly rate of \$831.38; final approval of the class and representative action settlement in *Maryjo Ungerbuhler Anderson v. Boyett Petroleum* (Stanislaus County Superior Court Case No. 2020582) was granted on May 15, 2018, and the award of attorney's fees involved a higher hourly rate of \$780.77; and final approval of the class and representative action settlement in *Demetrius Camarillo v. Blue Diamond Growers* (Sacramento County Superior Court Case No. 34-2015-00175871) was granted on June 30, 2017, and the award of attorneys' fees involved a higher hourly rate of \$845.64. Aiwazian Decl., ¶ 12.

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

- The time and labor required
- The skill requisite to perform the legal services properly
- The preclusion of other employment by the attorney due to the acceptance of the case
- The contingent nature of the fee
- The amount involved and results obtained
- The experience, reputation, and ability of the attorney
- Awards in similar cases

Ketchum at 1134.

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

As discussed above, this was a highly-contested matter which required an extensive amount of time and labor. Defendant raised defenses and denied liability, and the case involved gathering and analyzing documents and data not only from Defendant but also from the Class Members. The handling of this matter involved a great amount of effort, and required the exercise of high-level of skill, which Class Counsel have as a result of extensive experience in employment class actions and wage-and-hour litigation. Class Counsel have been actively involved in the prosecution of

1 this matter, prior to its commencement and Class Counsel's work has continued all the way up to
2 the present. Class Counsel's dedication to the representation of the Class Members has precluded
3 other employment.

4 Most importantly, all services were performed by Class Counsel on a contingent basis.
5 Both California and federal courts recognize that attorneys should be compensated for taking on
6 such contingent risks and provided with financial incentives to enforce important rights and
7 protections like those at issue in the matter at hand. See, e.g., *Vizcaino*, 290 F.3d at 1051; *Ketchum*,
8 24 Cal. 4th at 1132-33. Here, Class Counsel bore the risk that, despite all of their efforts and the
9 skill employed, there may be no recovery. Therefore, at a minimum, Class Counsel are entitled to
10 a risk multiplier. The results obtained by way of Class Counsel's efforts are significant here. Class
11 Counsel were successful in achieving substantial results in the form of a settlement of
12 \$4,138,651.22. Also, Class Counsel's efforts throughout the case demonstrate dedication to the
13 interests of the Class Members.

14 Class Counsel's application for attorneys' fees in light of the facts and circumstances
15 surrounding the matter is well within the range of reasonableness. While handling this matter,
16 Class Counsel devoted the hours in legal time summarized above and detailed in the task and time
17 charts, which are attached as exhibits to the Declaration of Edwin Aiwarzian.⁸⁴ As the charts
18 indicate, the law firms have collectively worked 994.70 hours in the pursuit of this matter. The
19 attorney task and time charts present the entire picture. Applying a reasonable rate of \$750 per
20 hour to 994.70 hours of work performed by Lawyers for Justice, PC would place a base lodestar
21 value of \$746,025.00 on Lawyers for Justice, PC's services, and applying a modest multiplier of
22 1.85, the total enhanced lodestar fees are \$1,380,146.25.⁸⁵ Class Counsel seek an attorneys' fee
23 award of \$1,379,550.41 (equal to one-third of the escalated Gross Settlement Fund based on the
24 Settlement Agreement). Far greater multipliers have been awarded in similar cases, and the total
25 amount of fees sought by Class Counsel is also reasonable compared to fees awarded in similar
26 cases. Courts routinely enhance lodestar amounts based on multipliers that "range from 2 to 4 or
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28 ⁸⁴ Aiwarzian Decl., Exh. B.

⁸⁵ Aiwarzian Decl., ¶ 11; see n.4, *supra*.

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 1.85 is warranted, and the lodestar as a cross-check to the percentage figure sought herein, strongly supports the reasonableness of the requested attorneys’ fees award. Plaintiff respectfully requests that the Court grant final approval of, and award, attorneys’ fees in the amount of \$1,379,550.41 to Class Counsel.

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

The Settlement provides for reimbursement of litigation costs and expenses of up to \$50,000.00. As set forth in the Declaration of Edwin Aiwasian, Class Counsel has incurred a total of \$20,501.93 in litigation costs and expenses.⁸⁶ This amount was reasonable and necessary in the prosecution of the case and to obtain the Settlement.⁸⁷ The cost savings of \$29,498.07 will be part of the Net Settlement Fund, which will be distributed to the Participating Class Members in accordance with the Settlement.⁸⁸ Accordingly, Plaintiff requests that the Court award litigation costs and expenses in the amount of \$20,501.93 to Class Counsel.

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

As set forth in the accompanying Simpluris Inc. Declaration, the total costs incurred and to be incurred by Simpluris for the notice and settlement administration process are \$11,900.00.⁸⁹ The costs incurred and to be incurred include, but are not limited to, receiving the Class List to be produced by Defendant and updating it prior to the Notice being mailed, printing and mailing the

⁸⁶ Aiwasian Decl., ¶ 19.

⁸⁷ *Ibid.*

⁸⁸ *Ibid.*

⁸⁹ Simpluris Decl., ¶ 22.

1 Notice, performing necessary additional skip traces on Notices and/or checks returned as
2 undeliverable, calculating Class Members' estimated and final shares of the Net Settlement Fund,
3 calculating Aggrieved Employees' shares of the Aggrieved Employees Payment, preparing and
4 mailing settlement checks, establishing a settlement website, responding to Class Member
5 inquiries as appropriate, preparing any appropriate tax forms in connection with the settlement
6 payments and remitting those forms and any required payments to the appropriate governmental
7 agencies, and generally performing all normal and customary duties associated with the
8 administration of such settlements.⁹⁰

9 Accordingly, the Court should grant final approval of payment to Simpluris, a necessary
10 third-party for handling of the notice and settlement process, in the amount of \$11,900.00.

11 **IX. THE REQUESTED ENHANCEMENT AWARD IS FAIR AND REASONABLE,**
12 **AND SHOULD BE APPROVED.**

13 The Settlement provides for an Enhancement Award in the amount of \$10,000.00 to
14 Plaintiff Andres Casas to compensate Plaintiff for the time and effort that he expended on behalf
15 of the Class. The requested Enhancement Award is both common and reasonable and should be
16 awarded.

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

24 The requested Enhancement Award is fair and appropriate because Plaintiff spent a
25 substantial amount of time and effort producing relevant documents and past employment records,
26 as well as providing the facts and evidence necessary to attempt to prove the allegations.⁹¹ Plaintiff
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28 ⁹⁰ Simpluris Decl., ¶ 3.

⁹¹ Aiwasian Decl., ¶ 20; Declaration of Andres Casas ("Casas Decl."), ¶¶ 3-5.

1 was available whenever Class Counsel needed him and actively tried to obtain, and gave,
2 information to support the pursuit of class and PAGA claims.⁹²

3 Accordingly, it is appropriate and just for Plaintiff Andres Casas to receive \$10,000.00 as
4 a reasonable Enhancement Award, for his services on behalf of the Class, Aggrieved Employees,
5 and the State of California, in addition to his individual settlement payments.

6 **X. CONCLUSION**

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

11
12 Dated: August 22, 2023

LAWYERS for JUSTICE, PC

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14 By: *Giovani Pimentel*
15 Giovanni Pimentel
16 Attorneys for Plaintiff and the Class
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28 ⁹² Aiwazian Decl., ¶ 20; Casas Decl., ¶¶ 3-5.