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Attorneys for Plaintiff THOMAS LONGACRE
on behalf of the general public as private attorney general

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN JOAQUIN

THOMAS LONGACRE, on behalf of the general public as private attorney general,

Plaintiff,

v.

KEHE DISTRIBUTORS, INC., a Delaware Corporation; and DOES 1-50, inclusive

Defendant.

Case No.: STK-CV-UOE-2022-0001211
Assigned For All Purposes To
Judge: HON. Erin Guy Castillo

NOTICE OF MOTION AND MOTION FOR FINAL APPROVAL OF CLASS ACTION AND PAGA SETTLEMENT; MEMORANDUM OF POINTS AND AUTHORITIES

(*Filed concurrently with Declarations of James Hawkins; [Proposed] Final Approval Order and Judgment)*

Date: January 11, 2024
Time: 09:00 a.m.
Dept: 10B

TO THE HONORABLE COURT, ALL PARTIES, AND THEIR ATTORNEYS OF RECORD: PLEASE TAKE NOTICE that on January 11, 2024 at 9:00 a.m., or as soon thereafter as counsel may be heard, in Department 10B of the above-captioned court, located at 180 East Weber Avenue, Stockton, CA 95202, the Honorable Erin Guy Castillo presiding, Plaintiff THOMAS LONGACRE will, and hereby does, move this Court for Final Approval of the Class Action and PAGA Settlement Agreement, ("Settlement Agreement"), awarding attorneys' fees, costs, incentive award to the Class Representative, settlement administration costs, and entering final approval and judgment.

This Motion is made pursuant to Rule 3.769 of the California Rules of Court and Labor Code section 2699(l). This Motion is based on this Notice of Motion and Motion, the attached Memorandum of Points and Authorities, the accompanying Declarations of James R. Hawkins, Madely Nava of Apex Class Action, LLC, the declaration of Plaintiff Longacre, attached as Exhibit C to the "Hawkins" Declaration, the Settlement Agreement, argument of counsel, all papers and pleadings filed in the action, and upon any further information or evidence requested by the Court at the time of hearing on this Motion.

Dated: December 15, 2023

JAMES HAWKINS APLC

By: ______________________

James R. Hawkins, Esq.
Gregory Mauro, Esq.
Michael Calvo, Esq.
Lauren Falk, Esq.
Ava Issary, Esq.

Attorneys for Plaintiff THOMAS LONGACRE,
individually and on behalf of all others similarly situated

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MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

Plaintiff THOMAS LONGACRE ("Plaintiff") seeks final approval of the Parties' Class Action and PAGA Settlement Agreement and Amendment Thereto ("Agreement") which, if approved, would provide valuable monetary relief for approximately 4,553 Class Members who work(ed) for Defendant KEHE DISTRIBUTORS, INC. ("Defendant" or "Kehe") (collectively the "Parties").

The Court prelimarily approved the proposed settlement on or about Augsut 22, 2023. After notice to 4,553 Settlement Class Members, the Class overwhelmingly supports the Settlement, as there is a 100% participation rate, with zero objections and zero (0) requests for exclusion from the Settlement. The *highest* Individual Settlement Amount to a Participating Class Member is currently estimated to be approximately $435.37, and the *average* Individual Settlement Amount is currently estimated to be approximately $88.57. (Administrator Decl. of Madely Nava -hereinafter "Nava", ¶¶ 11-17).

Plaintiff now respectfully request that this Court grant final approval of the settlement agreement and amendment thereto attached to the Hawkins Declaration as **Exhibit A**, which seeks to resolve claims against Defendant in exchange for a non-reversionary Gross Settlement Amount of ("GSA") of $750,000,000. (James Hawkins "Hawkins" Decl. ¶ 2). Plaintiff also moves for final approval of attorneys' fees in the amount of $250,000.00. As will be demonstrated herein, Class Counsel's attorney fee request is supported using the percentage fee method and the lodestar method. Second, Plaintiff moves for final approval of payment of the litigation costs in the amount of $15,760.69, all of which was incurred in litigating this matter. Third, Plaintiff moves for final approval of the incentive award to Plaintiff in the sum of $10,000, to compensate the Class Representative for his service as the Class Representative and providing a general release of claims against Defendant – a release significantly greater than the Class Members provided – and for the risks absorbed and time spent litigating the case. Plaintiff played a vital role in representing Class Members in this case and spearheading the lawsuit to seek monetary relief on behalf of all Class Members. Fourth, Plaintiff moves for final approval of the payment of $35,000.00 in administrative costs to Apex Class Action, LLC. Fifth, Plaintiff moves for final approval of the $36,000.00 PAGA payment with twenty-five percent (25%) share of the PAGA Penalties to be a part of the Net Settlement Sum that will be distributed to Class Members in the PAGA Group in the amount of $9,000.00; and $27,000 payment to the Labor and Work Development Agency ("LWDA") for its share of the PAGA Payment. (Hawkins Decl. ¶ 15).

This preliminarily approved settlement covers class members and aggrieved employees defined as all hourly non-exempt employees employed by Defendant in California during the Class Period. The Class Period of August 26, 2020 up to January 15, 2023. The PAGA period is August 6, 2020 through January 15, 2023. (Settlement Agreement ¶¶ 1.6, 1.13, 1.31).

This litigation involved the review and analysis of documents, policies, and practices, as well as a full day of mediation. Most importantly, the Settlement and all its terms received overwhelming support from Class Members, as there were no objections and zero (0) requests for exclusion. Therefore, Plaintiff respectfully request the Court grant final approval of the Settlement, attorneys' fees, litigation costs, incentive awards, settlement administrator costs, and payment to the LWDA in the amounts preliminarily approved by the Court and as fully disclosed to Class Members. (Hawkins Decl. ¶¶ 4-15). As discussed below, Plaintiff respectfully requests that this Court grant final approval of the Settlement and all its terms.

II. STATEMENT OF RELEVANT FACTS AND PROCEDURE

A. Brief Overview of the Litigation

Plaintiff filed this representative action on February 16, 2022, alleging a cause of action against Defendant under the Private Attorneys General Act ("PAGA"), entitled *Thomas Longacre, et al. vs. Kehe Distributors, Inc.,* in the San Joaquin County Superior Court (No. STK-CV-UOE-2022-121) (the "PAGA Action"). (Hawkins Decl. ¶ 3). Specifically, Plaintiff's Lawsuits sought civil penalties against Defendant for Defendant's alleged failure to: failure to pay wages, the failure to pay overtime compensation, the failure to provide meal periods, the failure to provide rest periods, the failure to maintain or provide accurate itemized statements, failure to pay all wages earned and owed during employment and upon employee's termination of employment, the failure to maintain records, failure to pay statutory sick pay at the correct rate of pay, failing to provide cool down recovery periods, and any other claims whatsoever that were or could have been alleged in this case based on the facts of the complaints, including all related claims for restitution and other equitable relief under Business and Professions Code section 17200, liquidated damages, waiting-time penalties, and penalties under the Labor Code Private Attorneys General Act of 2004. (Id.).

On October 17, 2022, the Parties engaged in a full-day of private mediation with a well-respected wage and hour class action mediator, Gig Kyriacou, Esq. Prior to mediation, Plaintiff requested and Defendant produced extensive documentation, including a time and pay data for a random sample of approximately 20% of the Class Members, Defendant's written policies, Plaintiff's time and pay records and personnel file, documents relating to arbitration agreements with Class Members, applicable collective bargaining agreements, and information relating to the average hourly rate, class size, and workweeks during the Class Periods and PAGA Period. In short, Defendant provided informal discovery sufficient to enable the Plaintiff and Class Counsel to rigorously evaluate the strengths, weaknesses, and risks of the case and perform an analysis of the potential damages arising from the claims made in this case. (Hawkins Decl. ¶ 4). On December 22, 2022, Plaintiff filed a First Amended Class Action Complaint adding Class Claims. (Hawkins Decl. ¶ 4).

Defendant denies any liability or wrongdoing of any kind associated with the claims asserted in the Lawsuits, disputes the damages and penalties claimed by Plaintiff, and further contends that, for any purpose other than settlement, Plaintiff's claims are not appropriate for class or representative treatment. This Settlement is a compromise of disputed claims. Nothing contained in this Settlement, no documents referred to herein, and no action taken to carry out this Settlement, shall be construed or used as an admission by or against Defendant as to the merits or lack thereof of the claims asserted in the Lawsuits. (Hawkins Decl. ¶ 10).

III. THE PROPOSED SETTLEMENT AND THE CLASS MEMBERS' RESPONSE

A. Terms of the Settlement

The Settlement is $750,000. This amount includes the settlement administration Costs of $35,000.00; the incentive payment of up to $10,000 to Plaintiff; Court-approved attorneys' fees up to $250,000.00, litigation costs to Class Counsel in the amount of $15,760.69; and penalties paid pursuant to PAGA of $36,000.00 with 75% paid to the LWDA and 25% paid to the aggrieved employees. As a result, the Net Settlement Amount provides for the *highest* Individual Settlement Amount to a Participating Class Member to be approximately $435.47 and the *average* Individual Settlement Amount to be approximately $88.57.

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

B. The Class Members Support the Settlement – Zero (0) Objections and Zero (0) Opt-Outs.

On or about Augsut22, 2023, the Court granted Preliminary Approval of the Settlement, conditionally certified the Class for settlement purposes, appointed Apex Class Action, LLC to act as the administrator, approved the Notice Packet to be sent to the Class, and directed that the Notice be mailed to the Class via U.S. First Class Mail. On October 6, 2023, Apex mailed the Notices to 4,553 Class Members. (Nava Decl. ¶ 7). As a result of the mailing, there is a 100% participation rate and 4,553 Class Members will be mailed a settlement check. (***Id.*** ¶ 13).

For any portion of the NSA or PAGA Payment allocated to Participating Class Members and/or Aggrieved Employees that were not claimed by cashing their respective settlement checks before the deadline to do so, the Settlement Administrator will then disburse send uncashed funds to the State of California State Controller's Office, in the Class Member's name to be held as unclaimed property for the Class Member. (Settlement at ¶ 4.4.3).

IV. THE SETTLEMENT IS FAIR, REASONABLE, AND ADEQUATE

A. The Settlement Satisfies the Standard for Final Approval

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

In deciding whether to approve a class settlement, a court evaluates whether the proposed settlement is "fair, adequate, and reasonable." *Dunk v. Ford Motor Co.* (1996) 48 Cal. App. 4th 1794, 1801 (citing *Officers for Justice v. Civil Serv. Comm'n of City & Cnty. Of S.F.* (9th Cir. 1982) 688 F.2d 615, 625). A court enjoys broad discretion to make its fairness determination. *Dunk*, 48 Cal. App. 4th at 1801. However, "a presumption of fairness exists where: (1) the settlement is reached through arms-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." *Id.* at 1802; *accord Wershba*, 91 Cal. App. 4th at 245. In addition, a court should consider additional relevant factors, including the strength of the plaintiffs' case compared to the settlement amount; the risk, expenses, complexity, and likely duration of further litigation; and the fair treatment of class members in relation to each other. *Dunk*, 48 Cal. App. 4th at 1802.

At the time of preliminary approval, the Court was provided with sufficient information to satisfy three of the four *Dunk* factors, leaving the fourth factor, the number of objectors, unknown until after the Class had an opportunity to respond to the Settlement as explained in the Notice. Subject only to the Class's reaction to the Settlement, the Court preliminarily presumed the Settlement was fair, adequate, and reasonable. (Hawkins Decl. ¶¶ 10-30).

Following dissemination of the Notice, and adequate time provided to the Class to object to the Settlement, no class member submitted objections and there were zero (0) opt outs of the settlement, ***resulting in a 100% participation rate from the Class***. (Nava Decl. ¶ 13). Thus, the proposed Settlement is entitled to the presumption that it is fair and in all other respects proper and should be finally approved. Indeed, the Class Members have overwhelmingly approved the terms of the settlement and the Court should grant final approval consistent with the Court's preliminary approval order.

V. THE COURT SHOULD APPROVE THE REQUESTED FEES AND COSTS

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

Class Counsel applies for an award of attorneys' fees in the sum of $250,000.00 of the GSA, and litigation costs of $15,760.69. (Hawkins Decl. ¶¶ 31-36). When a settlement results in a common fund for the benefit of a class, class counsel may be awarded fees as a percentage of the common fund. *See Wershba*, *supra*, 91 Cal.App.4th at 254 (recognizing the "percentage of recovery" method). The California Supreme Court confirmed in *Laffitte v. Robert Half Int'l, Inc.* that "[t]he percentage of fund method survives in California class action cases." 1 Cal.5th 480, 506 (2016), in stating:

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

Id. at 503 (internal citation omitted); *see also e.g.*, *Serrano v. Priest*, 20 Cal.3d 25, 34 (1977) ("when a number of persons are entitled in common to a specific fund, and an action brought by a plaintiff or plaintiffs for the benefit of all results in the creation or preservation of that fund, such plaintiff or plaintiffs may be awarded attorney's fees out of the fund."); *Serrano v. Unruh*, 32 Cal.3d 621, 627 (1982) (in awarding a fee from the common fund obtained for the benefit of all parties, the trial court acts within its equitable power to prevent the other parties' unjust enrichment.); *Rawlings v. Prudential-Bache Properties, Inc.*, 9 F.3d 513, 516 (6th Cir. 1993) (the percentage of the fund method for calculating attorney's fees more accurately reflects the results achieved for the putative class than the lodestar method and "establishes reasonable expectations on the part of plaintiffs' attorneys as to their expected recovery; and it encourages early settlement, which avoids protracted litigation."); *In re Rite Aid Corp. Securities Litigation*, 396 F.3d 294, 300 (3d Cir. 2005) ("The percentage-of-recovery method is generally favored in common fund cases because it allows court[1] to award fees from the fund 'in a manner that rewards counsel for success and penalizes it for failure.").

The purpose of the common fund/percentage approach is to "spread litigation costs proportionally among all the beneficiaries so that the active beneficiary does not bear the entire

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

burden alone." *Vincent*, *supra*, 557 F.2d at 769. In *Quinn v. State of California* (1995) 15 Cal.3d 162, 167, the Court stated: "[O]ne who expends attorneys' fees in winning a suit which creates a fund from which others derive benefits may require those passive beneficiaries to bear a fair share of the litigation costs." Similarly, in *City and County of San Francisco v. Sweet* (1995) 12 Cal.4th 105, 110, the California Supreme Court recognized that the common fund doctrine has been applied "consistently in California when an action brought by one party creates a fund in which other persons are entitled to share." The reasons for applying the common fund doctrine include: "…fairness to the successful litigant, who might otherwise receive no benefit because his recovery might be consumed by the expenses; correlative prevention of an unfair advantage to the others who are entitled to share in the fund and who should bear their share of the burden of its recovery; encouragement of the attorney for the successful litigant, who will be more willing to undertake and diligently prosecute proper litigation for the protection or recovery of the fund if he is assured that he will be properly and directly compensated should his efforts be successful." *Id*. Because there is a defined and clearly traceable benefit to the Class, the Court can base an award of attorneys' fees using a 'common fund' approach to compensate Class Counsel.

1. The Requested Attorneys' Fee is Within the Range of Fees Approved in Comparable Common Fund Cases

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

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

In short, Class Counsels' fee request of $250,000.00 (1/3 of the common fund) is in line with awards in similar cases in California and demonstrates that Class Counsels' fee request is consistent with market rates and is reasonable.

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

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

As of the date of filing, Class Counsel worked approximately 217.80 documented hours on this case. Thus, the total lodestar for Class Counsel is approximately $162,715. All of the work and tasks performed by Class Counsel were reasonable and necessary to the prosecution of this case. (Hawkins Decl. ¶¶ 32-37). Given the lodestar, Class Counsel requests a modest multiplier of approximately 1.6. (Id.).

3. Class Counsel's Hourly Rates are Reasonable

Class Counsels' hourly rates are between $200 and $950 and are in line with rates typically approved in wage and hour class action litigation and which rates have been approved by Courts in California in the Los Angeles, Sacramento, San Francisco, Alameda, Orange and San Diego County Superior Courts. (Id.); *Children's Hosp. and Med. Ctr. v. Bonta*, 97 Cal.App.4th 740, 746 (2002) (noting rates were reasonable where they were "within the range of reasonable rates charged by and judicially awarded comparable attorneys for comparable work").

A reasonable hourly rate is the prevailing rate charged by attorneys of similar skill and experience in the relevant community. *PLCM Group, Inc v. Drexler* (2000) 22 Cal. 4th 1084, 1095. When determining a reasonable hourly rate, courts may consider factors such as skill and experience, the nature of the work performed, the relevant area of expertise and the attorney's customary billing rates. *Flannery v. California Highway Patrol* (1998) 61 Cal. App. 4th 629, 632. Class Counsels' skill and experience support their hourly rates. Their practices are limited exclusively to litigation, focusing on the representation of employees in wage and hour and consumer class action matters. (Hawkins Decl. ¶ 34). As prominent attorneys in the field of wage and hour class action litigation, Class Counsel continually monitors the prevailing market rates charged by both defense and plaintiff law firms and set the billing rates of their attorneys and paralegals to be consistent with the prevailing market rates in the private sector for attorneys and staff of comparable skill, qualifications and experience. Other wage and hour attorneys working as class counsel before California courts charge comparable if not higher rates. Therefore, as they are in line with those of the relevant community, Class Counsels' hourly rates are reasonable. (Id).

4. Class Counsel's Total Hours are Reasonable

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

Class Counsel expended a total of approximately 217.80 hours on this case. The work performed to achieve a settlement that will provide valuable consideration to the Class, is summarized by Class Counsel in the declaration submitted herewith. (Hawkins Decl. ¶¶ 31-36); *Syers Props. III, Inc. v. Rankin*, 226 Cal.App.4th 691, 699 (2014) ("Because time records are not required under California law … , there is no required level of detail that counsel must achieve.") (internal quotations omitted). All tasks and work performed were reasonable and necessary to the prosecution of this case. The work performed was justified in light of the result achieved and zero Class Members objected to the allocated attorneys' fees and costs.

5. Costs of Litigation are Reasonable

Class Counsel seeks reimbursement of the litigation costs and expenses of $15,760.69. These costs were reasonable and necessary to prosecute this case and the results achieved and are fair, and reasonable. (Hawkins Decl. ¶ 37, Ex. B).

VI. THE CLASS REPRESENTATIVE ENHANCEMENT AWARD IS REASONABLE

Class Counsel seeks approval of a $10,000 enhancement award to the named Plaintiff/Class Representative. The requested enhancement award is reasonable in light of the general releases of all claims Plaintiff agreed to, greater than the release given by Class Members, the benefits Plaintiff conferred upon the entire Class resulting in payments to all Class Members, the time spent assisting counsel with the investigation and prosecution of these claims, commitment to the litigation process, and consenting to the proposed Settlement. Furthermore, in pursuing this action on behalf of the Class, Plaintiff risked a judgment for attorneys' fees and costs in the event this matter had been lost. (Hawkins Decl. ¶¶ 38-40; See also declarations of Plaintiff Longacre filed concurrently herewith attached as **Exhibit C** to the Hawkins Declaration.)

Courts routinely approve service payments, or incentive awards, to compensate named plaintiffs for the services they provide and the risks they incur during class litigation. *See In re Cellphone Fee Termination Cases* (2010) 186 Cal. App. 4th 1380, 1393; *see also Bell v. Farmers Ins. Exch*. (2004) 115 Cal. App. 4th 715, 725-26 (upholding service payments to class representatives); Manual § 21.62 n.971 (noting that service payments are warranted). Based on the foregoing, the $10,000.00 incentive award to each Plaintiff continues to be fair, appropriate, and justified as part of the overall settlement.

VII. THE SETTLEMENT ADMINISTRATION COSTS ARE REASONABLE

The Parties agreed to hire Apex Class Action. LLC as the administrator, and the Court approved this choice. The Administrator was responsible for formatting, printing and mailing the Notice. It was also responsible for updating addresses and re-mailing Notices returned as undeliverable, responding to Class Member inquiries, answering questions from Counsel for the Parties, and providing a declaration to document its duties and responsibilities under the settlement. Plaintiff now request that the Court approve the $35,000.00 fee to Apex Class Action. LLC for services rendered and to be rendered. (Nava Decl. ¶ 18). Following the grant of final approval, the Administrator's duties will continue in order to calculate and mail the Individual Settlement Payment checks to Class Members, perform tax reporting obligations, disburse other payments as ordered by the Court, and perform such other duties as set forth in the Settlement Agreement. The fee of $35,000.00 for services rendered and to be rendered is fair and reasonable and should be granted.

VIII. THE SETTLEMENT PENALTIES UNDER PAGA ARE REASONABLE

The payment of $36,000.00 with 75% ($27,000.00) to the LWDA for its share of the applicable penalties claimed under the California Labor Code's Private Attorney general Act of 2004, as amended ("PAGA"), and 25% ($9,000) to the aggrieved employees is reasonable under the circumstances. The Parties negotiated a good faith amount to the LWDA. The sum to be paid to the LWDA was not the result of self-interest at the expense of other Class Members. The LWDA was provided notice of the Settlement concurrently with the filing of the preliminary approval motion and the instant motion. Plaintiffs did not receive a response or objection to the Settlement from the LWDA. Thus, Plaintiff request the Court finally approve the sum of $40,000 for payment to the LWDA and aggrieved employees.

IX. CONCLUSION

Based on the foregoing, Class Counsel respectfully requests the Court grant final approval of the Class Action Settlement, award (1) Class Counsels' fees in the sum of $250,000.00 and litigation costs of $15,760.69; (2) award the named Plaintiffs an Enhancement Award payment in the sum of $7,500 each; (3) award $35,000.00 to Apex Class Action, LLC for settlement administration services, and (4) approve the PAGA Payment of $36,000 with a payment to the LWDA in the amount of $27,000.00 and payment to Aggrieved Employees in the amount of $9,000.00.

Dated: December 15, 2023

JAMES HAWKINS APLC

By: ______________________________

JAMES R. HAWKINS, ESQ.
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MICHAEL CALVO, ESQ.
LAUREN FALK, ESQ.
AVA ISSARY, ESQ.

Attorneys for Plaintiff THOMAS LONGACRE, individually and on behalf of all others similarly situated.

PROOF OF SERVICE, COUNTY OF ORANGE

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

On December 18, 2023, I served on the interested parties in this action the following document(s) entitled:

NOTICE OF MOTION AND MOTION FOR FINAL APPROVAL OF CLASS ACTION AND PAGA SETTLEMENT; MEMORANDUM OF POINTS AND AUTHORITIES

DECLARATION OF JAMES HAWKINS IN SUPPORT OF MOTION FOR FINAL APPROVAL OF CLASS ACTION AND PAGA SETTLEMENT; MEMORANDUM OF POINTS AND AUTHORITIES

DECLARATION OF MADELY NAVA OF APEX CLASS ACTION, LLC, IN SUPPORT OF MOTION FOR FINAL APPROVAL OF CLASS ACTION SETTLEMENT

[PROPOSED] ORDER GRANTING PLAINTIFFS' MOTION FOR FINAL APPROVAL OF CLASS ACTION AND PAGA SETTLEMENT, ATTORNEYS' FEES, COSTS, INCENTIVE AWARD AND ADMINSTRATION COSTS, AND ENTERING JUDGMENT

[XX] BY ELECTRONIC SERVICE: Based on a court Order or an agreement by the parties to accept service by e-mail or electronic transmission, I caused the document(s) to be sent from the email address Alma@jameshawkinsaplc.com to the persons at the e-mail addresses listed in the Service List below. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.

SERVICE LIST

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http://www.dir.ca.gov/Private-Attorneys-General-Act

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

Executed on December 18, 2023, at Irvine, California

Alma Chavarin
Alma Chavarin