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SUPERIOR COURT OF CALIFORNIA

COUNTY OF MONTEREY

JUAN RAMON TORRES REYES, on behalf
of himself and all similarly aggrieved
employees,

Plaintiff,

v.

MB LABOR CONTRACTING, INC.;
D'ARRIGO BROS. CO., OF CALIFORNIA;
and DOES 1 through 50, inclusive,

Defendants.

Case No. 22CV000682

**PLAINTIFF'S NOTICE OF MOTION
AND MOTION FOR FINAL APPROVAL
OF CLASS ACTION SETTLEMENT;
AND MEMORANDUM OF POINTS AND
AUTHORITIES IN SUPPORT**

Date: December 13, 2024

Time: 8:30 A.M.

Dept.: 14

Complaint Filed: March 11, 2022

Trial Date: None Set

1 **TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:**

2 **PLEASE TAKE NOTICE** that on December 13, 2024, at 8:30 a.m., or as soon
3 thereafter as the matter may be heard, before the Honorable Carrie M. Panetta, judge
4 presiding, in Department 14 of the above referenced Court, located at 1200 Aguajito Road,
5 Monterey, California 93940, Plaintiff Juan Ramon Torres Reyes (“Plaintiff”) will and hereby
6 does move this Court will and hereby move this Court for an Order:

7 1. Granting final approval to the Joint Stipulation of Class Action and PAGA
8 Settlement (“Agreement” or “Settlement Agreement”) in this action;

9 2. Approving distribution of the settlement funds to Participating Class Members
10 pursuant to the terms of the Settlement Agreement;

11 3. Approving Plaintiff’s request for an award of the Class Representative
12 Enhancement Payment of \$2,500.00 to Plaintiff pursuant to the terms of the Settlement
13 Agreement;

14 4. Approving Plaintiff’s request for an award of attorneys’ fees of one-third of the
15 \$167,283.92 Gross Settlement Amount, and reimbursement of actual litigation costs of
16 \$3,482.36, pursuant to the terms of the Settlement Agreement;

17 5. Approving Plaintiff’s request for payment of the Settlement Administration
18 Costs to CPT Group in the amount of \$13,000.00 pursuant to the terms of the Settlement
19 Agreement;

20 6. Approving Plaintiff’s request for payment to the California Labor and
21 Workforce Development Agency of \$11,250.00, pursuant to the PAGA and the terms of the
22 Settlement Agreement; and

23 7. Entering final judgment as to all members of the Class in this action.

24 This Motion is made pursuant to Rule 3.769 of the California Rules of Court, which
25 provides for court approval of the settlement of a purported class action and allows the Court
26 to grant final certification of a class for settlement purposes. The basis for this unopposed
27 Motion is that the proposed settlement is fair, adequate, and reasonable, and the procedures
28 proposed by the Parties are adequate to ensure the opportunity of Class Members to participate

1 in, opt out of, or object to the settlement. In light of the overwhelmingly positive response, as
2 shown by the lack of objections and disputes to the settlement and 100% of Class Members
3 participating in the settlement, there is no question that the settlement is fair, reasonable, and
4 adequate and thus should be granted final approval.

5 This Motion is based on the Memorandum of Points and Authorities and the supporting
6 Declarations of B. James Fitzpatrick, Laura L. Franklin, Larry W. Lee, Max W. Gavron,
7 Plaintiff Juan Ramon Torres Reyes, and Jennifer Forst of CPT Group, Inc., and upon the oral
8 arguments of counsel (should there be any), and on the complete records and file herein.

9
10 Dated: November 19, 2024

FITZPATRICK & SWANSTON
DIVERSITY LAW GROUP, P.C.

11
12 By: 

13 Max W. Gavron
14 Attorneys for Plaintiff,
15 JUAN RAMON TORRES REYES on
16 behalf of herself and all other similarly
17 situated employees
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1 **I. INTRODUCTION**

2 Plaintiff Juan Ramon Torres Reyes (“Plaintiff”) now seeks the Court’s final approval
3 of the Joint Stipulation of Class Action and PAGA Settlement (“Agreement” or “Settlement
4 Agreement”) with Defendants MB Labor Contracting, Inc. and D’Arrigo Bros. Co. of
5 California (together, “Defendants”) (Plaintiff and Defendants shall be collectively referred to
6 as the “Parties”). The Settlement Agreement provides for a \$167,283.92 **non-reversionary**
7 fund to be created for the benefit of the Class, from which Class Counsel Award of attorneys’
8 fees, litigation costs, Class Representative Enhancement Payment, payment of PAGA
9 penalties to the California Labor and Workforce Development Agency (“LWDA”) and
10 Aggrieved Employees, and costs of settlement administration are to be paid. The entire Net
11 Settlement Amount after these deductions will be paid to all Class Members who did not opt-
12 out of the settlement. Here, no individuals opted out of the settlement or objected to the
13 settlement.

14 The history of this litigation was previously detailed in Plaintiff’s Motion for
15 Preliminary Approval of Class Action Settlement. The Court preliminary approved this
16 settlement on June 28, 2024, directing distribution of Notice of Proposed Class Action
17 Settlement (“Notice Packet”) and scheduling the hearing for final approval of the settlement
18 (the “Preliminary Approval Order”).

19 As directed by the Court, the Settlement Administrator selected by the Parties – CPT
20 Group (“CPT”) – distributed the Notice Packet to 822 Class Members.¹ Declaration of
21 Jennifer Forst (“Admin. Decl.”) ¶ 8. Eighty-Seven (87) Notice Packets were returned. *Id.* ¶ 9.
22 CPT located current mailing addresses for the returned Notice Packets, and successfully
23 remailed four (4) Notice Packets. *Id.* ¶ 10. To date, zero (0) Requests for Exclusion have been
24 submitted to the Settlement Administrator. *Id.* ¶ 13. **No objections or disputes** to the
25 settlement have been submitted by Class Members. *Id.* ¶¶ 11-12. As such, the settlement has a

26 _____
27 ¹ The settlement class is even smaller than originally estimated at preliminary approval. This
28 increases the average *pro rata* recovery higher than addressed at preliminary approval further
supporting Plaintiff’s request that the Court finally approve the settlement. As explained, the
number of workweeks did not exceed the escalation clause, further preserving the value of the
settlement.

1 participation rate of **100%**. *Id.* ¶ 14. In light of this positive response from Class Members, an
2 inference can be made that the Class supports the Court’s Preliminary Approval Order finding
3 that the Settlement Agreement is fair and reasonable. Declaration of Max W. Gavron (“Gavron
4 Decl.”) ¶ 6.

5 In addition to the results of the notice process, for the same reasons as set forth earlier
6 in Plaintiff’s Motion for Preliminary Approval of Class Action Settlement, the following
7 represent the basic points supporting final approval of the settlement:

8 ▪ The settlement provides a total settlement sum of \$167,283.92, which is **non-**
9 **reversionary**;

10 ▪ The settlement is fair given that Participating Class Members will receive (*after*
11 *deductions for fees, costs, etc.*) a substantial amount of money – on average, approximately
12 \$94.33 to each Participating Class Member, with the estimated highest individual settlement
13 payment being \$682.07 and the lowest being \$8.32 (*see* Admin. Decl. ¶ 16);

14 ▪ The average Individual PAGA Payment is estimated to be \$6.41. The highest
15 payment is estimated to be \$32.59 and the lowest estimated payment is \$0.56; (*Id.* ¶ 17);

16 ▪ Class Members did **not** need to submit claim forms to participate in the
17 settlement, but will automatically receive a check for their individual share of the settlement;

18 ▪ The allocation reflects that payment of Individual Settlement Payment amounts
19 will be paid to Participating Class Members on a *pro rata* basis, based on the number of
20 workweeks worked by each respective Participating Class Member during the Class Period, as
21 compared to the total number of workweeks worked by all Participating Class Members
22 during the Class Period.

23 ▪ Plaintiff’s counsel conducted significant investigation in this case, including
24 conducting written discovery, analysis of a sampling of putative class member time and
25 payroll records, and review of Defendant’s document production, including Defendant’s
26 policies regarding meal and rest periods, timekeeping, hours of work, overtime, and payday,
27 and payment of final wages, necessary for Plaintiff to fully evaluate this case;

28 ▪ A highly regarded settlement administrator, CPT Group, was retained to

1 administer the settlement for approximately \$13,000.00 (*see* Admin. Decl. ¶ 18); and

2 ▪ The State of California’s LWDA will also be the beneficiary of this settlement,
3 as it will receive \$11,250.00 pursuant to the PAGA, should this settlement be granted final
4 approval. Timely notice of the PAGA settlement was provided to the LWDA pursuant to Cal.
5 Lab. Code § 2699(1)(2) and no objections or disputes to the settlement by the LWDA were
6 received by Plaintiff’s counsel. Gavron Decl. ¶ 22. Accordingly, the Court should grant Final
7 Approval consistent with the Preliminary Approval Order.

8 **II. CLASS MEMBERS WERE PROVIDED PROPER NOTICE OF THE SETTLEMENT**

9 The notice procedures required by the Preliminary Approval Order have been followed
10 and satisfy all due process rights of Class Members. Specifically, the Preliminary Approval
11 Order contemplated that the Notice of Proposed Class Action Settlement, as approved in the
12 Preliminary Approval Order, be sent to all Class Members by first class mail, as specified in
13 the Settlement Agreement. Further, the Preliminary Approval Order contemplated that CPT
14 Group would serve as the Settlement Administrator.

15 As clearly stated in the Declaration of Jennifer Forst, notice was provided to all Class
16 Members. On August 13, 2024, the Settlement Administrator received the Class Data from
17 Defendants’ counsel that included 822 Class Members. Admin. Decl. ¶ 5. Prior to mailing the
18 Notice Packet, the Settlement Administrator conducted a National Change of Address
19 (NCOA) search to correct and/or update the Class Data in case of any address changes. *Id.* ¶ 7.
20 On August 26, 2024, the Settlement Administrator mailed the Notice Packet, in English and
21 Spanish, to all Settlement Class Members on the mailing list via U.S. first class mail. *Id.* ¶ 8.
22 From the date of mailing, eighty-seven (87) Notices were returned to the Settlement
23 Administrator due to incorrect addresses. *Id.* ¶ 9. CPT conducted a skip trace to determine
24 appropriate addresses for the returned Notices and remailed four (4) Notices. *Id.* ¶ 10. As of
25 the date of this declaration, eighty-three (83) Notice Packets remain undeliverable with no
26 forwarding address and no new correct mailing address through skip trace. *Id.* ¶ 10. Further,
27 the Notice provided Settlement Class Members with Class Counsel’s and the Settlement
28 Administrator’s contact information, where they could further seek information regarding the

1 Settlement, ask questions, review pleadings in the case, and update their address.

2 The provision of sending the notice to class members as described above meets the
3 requirements for the “best notice practicable” in this case as necessary to protect the due
4 process rights of class members. *See, Phillips Petroleum Co. v. Shutts*, 472 U.S. 797, 811-12
5 (1985) (provision of “best notice practicable” with description of the litigation and explanation
6 of opt-out rights satisfies due process); *Eisen v. Carlisle & Jacquelin*, 417 U.S. 156, 174-75
7 (1974) (individual notice must be sent to class members who can be identified through
8 reasonable means); *Mullane v. Central Hanover Bank & Trust Co.*, 339 U.S. 306, 314 (1950)
9 (best practicable notice is that which is “reasonably calculated, under all the circumstances, to
10 apprise interested parties of the pendency of the action and afford them an opportunity to
11 present their objections”).

12 Here, Settlement Class Members were provided with a mailing that explained the
13 Settlement and allowed Settlement Class Members to seek information, ask questions, and
14 exclude themselves and/or object to the Settlement, if so desired. As such, proper notice has
15 been given to the Settlement Class. Thus, the Court may determine the fairness and adequacy
16 of the settlement and enter its Order granting final approval, secure in the knowledge that all
17 absent Settlement Class Members have been given the opportunity to participate fully in the
18 Settlement, exclusion, and the approval process.

19 **III. THE SETTLEMENT TERMS ARE FAIR, ADEQUATE, AND REASONABLE,**
20 **AND THE SETTLEMENT SHOULD BE GIVEN FINAL APPROVAL**

21 **A. Strength of Plaintiff’s Case and Likelihood of Certifying the Class**

22 In order to proceed as a class, there are two requirements which must be met –
23 ascertainability and community of interest. *See Daar v. Yellow Cab Co.*, 67 Cal. 2d 695, 704
24 (1967); *Vasquez v. Superior Court*, 4 Cal. 3d 800, 809 (1971) (there are two basic
25 requirements which must exist to sustain a class action: “[t]he first is existence of an
26 ascertainable class, and the second is a well-defined community of interest in the questions of
27 law and fact involved.”). “The community of interest requirement embodies three factors: (1)
28 predominant common questions of law or fact; (2) class representatives with claims or
defenses typical of the class; and (3) class representatives who can adequately represent the

class.” *Richmond v. Dart Industries*, 29 Cal. 3d 462, 470 (1981).

1. The Class is Ascertainable

Whether a class is “ascertainable” within the meaning of Code of Civil Procedure § 382 “is determined by examining (1) class definition, (2) the size of the class, and (3) the means available for identifying the class members.” *Reyes v. San Diego County Board of Supervisors*, 196 Cal. App. 3d 1263, 1271 (1987). Here, the Settlement Class consists of all current and former non-exempt employees of Defendant MB Labor Contracting, Inc. that were assigned to work for Defendant D’Arrigo Bros. Co., of California in California, at any time from March 11, 2018, to October 24, 2023” (the “Class”). Based on Defendant’s records, there are 822 individuals that comprise the Settlement Class. Admin. Decl. ¶ 5. This is more than the minimum required to certify a class.

Within the context of manageability, the issue is whether there exists sufficient means for identifying class members at the remedial stage. *Reyes*, 196 Cal. App. 3d at pp. 1274-75. Settlement Class Members have already been identified by Defendant and notice was provided to Settlement Class Members, as provided in the Settlement Agreement. Admin. Decl. ¶¶ 5-8.

2. There is a Community of Interest

The “community of interest” requirement embodies three separate factors: (1) predominant common questions of law or fact; (2) class representatives whose claims are typical of the class; and (3) class representatives who can adequately represent the class. *Richmond*, 29 Cal. 3d at p. 470; *Reese v. Wal-Mart Stores, Inc.*, 73 Cal. App. 4th 1225, 1234 (1999).

a. There are Predominant Common Questions of Law and Fact

“The ultimate question in every case of this type [class actions] is whether...the issues which may be jointly tried, when compared with those requiring separate adjudication, are so numerous and substantial that the maintenance of a class action would be advantageous to the judicial process and to the litigants.” *Lockheed Martin Corp. v. Superior Court*, 29 Cal. 4th 1096, 1104-05 (2003).

In the present case, Plaintiff alleges that Defendants, as a matter of their corporate

1 policy, practice, or procedure violated the Labor Code by failing to pay for all hours worked,
2 including minimum and overtime wages, provide off-duty meal and rest breaks, pay premiums
3 for missed or late meal and rest periods, pay sick pay at the regular rate of pay, pay all earned
4 wages when due and upon separation of employment, and provide accurate wage statements
5 and keep accurate records. Plaintiff contends that he was subjected to the same policy and
6 practice as other Class Members and that his claims are typical to those of the Class. Plaintiff
7 alleged that these are all uniform corporate policies, practices, and procedures of Defendants
8 as alleged by Plaintiff, the claims can be jointly tried and thus the predominance requirement
9 is satisfied. Defendants deny all of these claims, denies that liability could be established on a
10 class-wide basis, and contend instead that liability and damages, if any, would need to be
11 conducted on a case-by-case basis.

12 **b. Plaintiff's Claims are Typical of the Class Claims**

13 The purported class representative's claim must be "typical" but not necessarily
14 identical to the claims of other class members; it is sufficient that the representative is
15 similarly situated so that he or she will have the motive to litigate on behalf of the class.
16 *Classen v. Weller*, 145 Cal. App. 3d 27, 45 (1983). Courts look to whether class members have
17 similar injuries, "whether the action is based on conduct which is not unique to the named
18 Plaintiff," and whether other class members were injured by the same conduct. *Hanon v.*
19 *Dataproducts Corp.*, 976 F.2d 497, 508 (9th Cir. 1992). The purpose of the typicality
20 requirement "is to assure that the interest of the named representative aligns with the interests
21 of the class." *Id.* at p. 508.

22 Plaintiff asserts that he was subjected to the same payroll policies and practices as all
23 other Settlement Class Members. *See* Torres Reyes Decl. ¶¶ 2-8. Accordingly, Plaintiff
24 contends that he was subjected to the same policies and practices as other Settlement Class
25 Members and typicality is satisfied.

26 **c. Plaintiff Adequately Represented the Class**

27 The class representative, through qualified counsel, must be capable of "vigorously and
28 tenaciously" protecting the interests of the class members. *Simons v. Horowitz*, 151 Cal. App.

3d 834, 846 (1984). Here, Plaintiff does not have any interests adverse to the Settlement Class, nor have any such issues been raised or presented. Torres Reyes Decl. ¶¶ 11-12. Plaintiff has taken all necessary steps to represent the interests of the Settlement Class, including providing information and documents to counsel, discussing the lawsuit with counsel on several occasions, and reviewing the various pleadings including the Complaint, Settlement Agreement, and declarations submitted in this case. Torres Reyes Decl. ¶¶ 10-13. For such reasons, Plaintiff has adequately represented the Settlement Class Members and will continue to do so.

B. Risks, Expenses, and Complexity of Further Litigation

Plaintiff believes that a class can be certified; however, Plaintiff also believes in the fairness of the settlement that is based on factoring in the uncertainty and risks to Plaintiff involved in not prevailing on one or more of the causes of action or theories alleged in the operative Complaint, the possibility of non-certification, and potential for appeals. These risks on class certification are compounded by the California Supreme Court's holding in *Duran v. U.S. Bank Nat'l Ass'n*, 59 Cal. 4th 1 (2014).

As stated above, Defendant alleges that Plaintiff would not be able to obtain class certification. Based on the foregoing, there were risks that Plaintiff would not have obtained the total amount of damages and penalties alleged on behalf of the class, and a substantial number of complex issues that would have necessitated significant expenditure of time and expenses. Therefore, the risks, expenses, and complexity of further litigation warrant granting of this Motion.

C. The Terms of the Settlement, Negotiation of Settlement, and Reception of the Settlement by Settlement Class Members All Strongly Support the Conclusion that the Settlement is Fair, Adequate, and Reasonable

Without reiterating the Parties' showing that the Settlement Agreement and the negotiation process that led up to it was fair and adequate, as set forth in detail in the Motion for Preliminary Approval of Class Action Settlement, the Parties highlight the following facts. The Settlement Agreement was the product of negotiations between highly able and experienced attorneys on both sides who possessed the relevant data and extensive legal

1 research which they had carefully analyzed. Gavron Decl. ¶ 3. The Parties engaged in arm's
2 length negotiations with an experienced neutral that resulted in the settlement. *Id.*

3 The results after mailing of the Notice support confirmation of the Court's preliminary
4 approval of the settlement with final approval of the settlement, as evidenced by the fact that
5 only none of the Settlement Class Members opted out and none of the Settlement Class
6 Members submitted a written objection or dispute to the settlement. Admin. Decl. ¶ 11. With
7 the 100% rate of participation in the settlement by Settlement Class Members, the Court may
8 appropriately infer that the class action settlement is fair, adequate, and reasonable. *See Class*
9 *Plaintiffs v. City of Seattle*, 955 F.2d 1268, 1291 (9th Cir. 1992).

10 **D. Under Well-Established Legal Principles, the Court Should Grant Final**
11 **Approval of the Settlement**

12 **1. Standard of Review**

13 On a motion for final approval of a class action settlement under California Code of
14 Civil Procedure § 382 and California Rule of Court 3.769, a court's inquiry is whether the
15 settlement is "fair, adequate and reasonable." *Officers for Justice v. Civil Serv. Comm'n*, 688
16 F.2d 615, 625 (9th Cir. 1982), *cert. denied subnom.*, *Byrd v. Civil Serv. Comm'n*, 459 U.S.
17 1217 (1983). A settlement is fair, adequate, and reasonable, and therefore merits final
18 approval, when "the interests of the class are better served by the settlement than by further
19 litigation." *See Manual for Complex Litigation, Fourth* § 21.6 at 309 (Fed. Jud. Ctr., 4th ed.
20 2004) ("MCL"). The law favors settlement, particularly in class actions and other complex
21 cases, where substantial resources can be conserved by avoiding the time, cost, and rigors of
22 formal litigation. *See Alba Conte & Herbert B. Newberg, 4 Newberg on Class Actions* § 11.41
23 (4th ed. 2002); *Class Plaintiffs v. City of Seattle*, 955 F.2d 1268, 1276 (9th Cir. 1992); *Van*
Bronkhorst v. Safeco Corp., 529 F.2d 943, 950 (9th Cir. 1976).

24 Although the court possesses "broad discretion" in determining that a proposed class
25 action settlement is fair, the court's role must be limited to the extent necessary to reach a
26 reasoned judgment that the agreement is not the product of fraud or overreaching by, or
27 collusion between, the negotiating parties, and that the settlement, taken as a whole, is fair,
28 reasonable, and adequate to all concerned. *See Officers for Justice*, 688 F.2d at p. 625.

1 Accordingly, the court should give due regard to what is otherwise a “private consensual
2 agreement” between the parties. *Id.*; see also *Church v. Consolidated Freightways, Inc.*, 1993
3 WL 149840 (N.D. Cal. 1993); *In re Wash. Pub. Power Supply Sys. Sec. Litig.*, 720 F. Supp.
4 1379 (D. Ariz. 1989), *aff’d sub nom.*; *City of Seattle*, 955 F.2d 1268; MCL § 21.6 at 309 (“The
5 judicial role in reviewing a proposed settlement is critical, but limited to approving the
6 proposed settlement, disapproving it, or imposing conditions on it. The judge cannot rewrite
7 the agreement”).

8 A court’s approval of a class action settlement will only be reversed for a clear abuse
9 of discretion. See *Dunk v. Ford Motor Co.*, 48 Cal. App. 4th 1794, 1801 (1996); *Officers for*
10 *Justice*, 688 F.2d at p. 626 (“reverse only upon a strong showing that the district court’s
11 decision was a clear abuse of discretion”); *City of Seattle*, 955 F.2d at p. 1276; *Ackerman v.*
12 *Kassar*, 1993 WL 326453 (9th Cir. 1993); *Linney v. Cellular Alaska P’ship*, 151 F.3d 1234,
13 1238 (9th Cir. 1998).

14 As the court cautioned in *7-Eleven Owners for Fair Franchising v. Southland Corp*⁸⁵
15 Cal. App. 4th 1135, 1146 (2000):

16 It cannot be overemphasized that neither the trial court in approving
17 the settlement nor this Court in reviewing that approval have the
18 right or duty to reach any ultimate conclusions on the issues of fact
19 and law which underlie the merits of the dispute. It is well settled
20 that in the judicial consideration of proposed settlements, ‘the [trial]
judge does not try out or attempt to decide the merits of the
controversy,’ [citation] and the appellate court ‘need not and should
not reach any dispositive conclusions on the admittedly unsettled
legal issue.

21 2. The Settlement is Presumed to Be Fair

22 The court should begin its analysis with the presumption that the settlement is fair and
23 should be approved:

24 [A] presumption of fairness exists where: (1) the settlement is
25 reached through arm’s-length bargaining; (2) investigation and
26 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.

27 *Dunk*, 48 Cal. App. 4th at p. 1802; accord, *Ellis v. Naval Air Rework Facility*, 87 F.R.D. 15,
28 18 (N.D. Cal. 1980); *In re Wash. Pub Power Supply*, 720 F. Supp. at p. 1387.

1 The settlement in the case at bar warrants approval and carries a presumption of
2 fairness. As previously noted in the application for Preliminary Approval, this current
3 settlement was negotiated at arm's length during a full day of mediation. Gavron Decl. ¶ 3.

4 Second, Class Counsel engaged in extensive factual investigation before settling,
5 including the exchange of formal and informal discovery. Specifically, Class Counsel
6 analyzed putative class data, including a sampling of putative class member time and payroll
7 records and reviewed extensive documents regarding Defendants' wage and hour policies. *Id.*
8 ¶ 4.

9 Further, Class Counsel are highly experienced in this type of litigation. As shown in
10 the supporting declarations, Class Counsel have significant experience in class actions and
11 employment wage and hour matters. Gavron Decl. ¶¶ 10-17; Declaration of B. James
12 Fitzpatrick ("Fitzpatrick Decl.") ¶ 12; Declaration of Laura L. Franklin ("Franklin Decl.") ¶¶
13 3-4; Declaration of Larry W. Lee ("Lee Decl.") ¶¶ 13-15.

14 **3. Two-Way Costs and Other Risks Inherent in Continued Litigation** 15 **Favor Final Approval**

16 To assess the fairness, adequacy, and reasonableness of a class action settlement, the
17 court also should weigh the immediacy and certainty of substantial settlement proceeds against
18 the risks inherent in continued litigation. *See also In re General Motors Corp.*, 55 F.3d 768,
19 806 (3d Cir. 1995) ("present value of the damages plaintiffs would likely recover if successful,
20 appropriately discounted for the risk of not prevailing, should be compared with the amount of
21 the proposed settlement") (internal citations omitted); *Girsh v. Jepson*, 521 F.2d 153, 157 (3d
22 Cir. 1975); *Boyd v. Bechtel Corp.*, 485 F. Supp. 610, 616-17 (N.D. Cal. 1979).

23 If Plaintiff pursued this case without settlement and failed to prevail, Plaintiff would
24 have been potentially responsible for Defendant's costs. As such, should individual current or
25 former employees of Defendant bring individual claims on the same causes of action, they
26 would each face the uncertainty of prevailing and the possibility of paying costs to Defendant.
27 Accordingly, such claims likely would not be brought by many of these current and former
28 employees – thus, this lawsuit achieves a true benefit for the Settlement Class that they might

1 not otherwise get or seek as individuals. Here, given that a fair and reasonable settlement has
2 been reached, neither Plaintiff nor any of the Settlement Class Members will be required to
3 pay for Defendant's litigation costs.

4 The risks of this case were weighed by Class Counsel and should be considered a
5 significant factor by the Court in its determination of final approval. Class Counsel obtained a
6 significant settlement for the Settlement Class that resulted in a fair recovery which at the
7 same time provides for finality and no risk of costs by the Settlement Class Members or Class
8 Representative.

9 The Settlement Agreement also affords the Settlement Class prompt, fair relief while
10 avoiding significant legal and factual battles that otherwise may have prevented the Settlement
11 Class from obtaining any recovery at all. While Class Counsel believe that Settlement Class
12 Members' claims are meritorious and can be successfully litigated, they are experienced and
13 fully understand the inherent risks and uncertainty involved with such matters as the resolution
14 of class certification, the outcome of a potential trial, and the outcome of any appeals that
15 would inevitably follow should the Settlement Class prevail at trial. Class Counsel have also
16 assessed the same risks in connection with the current settlement. Because the settlement
17 provides immediate and substantial relief, without the attendant risks and delay of continued
18 litigation – not to mention the threat of litigation fees and costs – Class Counsel believe that
19 the settlement warrants the Court's final approval.

20 **4. The Complexity, Expense, and Likely Duration of Continued** 21 **Litigation Against Defendant Favor Final Approval**

22 Another factor considered by courts in approving a settlement is the complexity,
23 expense, and likely duration of the litigation. *See Officers for Justice*, 688 F.2d at p. 625;
24 *Girsh*, 521 F.2d at p. 157. In applying this factor, the court must weigh the benefits of the
25 settlement against the expense and delay involved in achieving an equivalent or more
26 favorable result at trial. *Young v. Katz*, 447 F.2d 431, 433-34 (5th Cir. 1971).

27 As noted above, continued litigation could have led to appeals on several issues. On the
28 other hand, the settlement that was reached provides to all Settlement Class Members –

1 regardless of their means – fair relief in a prompt and efficient manner. Were the Court to deny
2 final approval, Settlement Class Members would be left without a remedy as a practical matter
3 and courts across the State would have to address the issues presented here in a piecemeal,
4 costly, and time-consuming manner. The settlement in this case is therefore consistent with the
5 “overriding public interest in settling and quieting litigation” that is “particularly true in class
6 action suits.” *See Van Bronkhorst*, 529 F.2d at p. 950 (footnote omitted); *see also Newberg* §
7 11.41. Here, this case could have involved years of further litigation.

8 **5. The Opinion of Experienced Counsel Favors Final Approval**

9 Class Counsel support the settlement as fair, reasonable, and adequate, and in the best
10 interest of the Settlement Class Members as a whole. Fitzpatrick Decl. ¶ 5; Franklin Decl. ¶ 2;
11 Lee Decl. ¶ 2; Gavron Decl. ¶ 2. Similarly, counsel for Defendant is in favor of this settlement.
12 The endorsement of qualified and well-informed counsel of a settlement as fair, reasonable,
13 and adequate is entitled to significant weight by the Court in its final approval determination.
14 *See Officers for Justice*, 688 F.2d at p. 625; *Ellis*, 87 F.R.D. at p. 18; *Boyd*, 485 F. Supp. at p.
15 617; *Linney*, 151 F.3d at p. 1242.

16 **IV. THE PROPOSED PROCEDURE FOR UNCASHED SETTLEMENT CHECKS** **SHOULD BE APPROVED**

17 As referenced in the Motion for Preliminary Approval, to the extent any uncashed
18 settlement funds remain after 180 days of the mailing of the individual settlement payment
19 checks, the Parties have agreed that all such uncashed settlement funds shall be distributed to
20 the *cy pres* recipient State Bar of California’s Justice Gap Fund, in accordance with Code of
21 Civil Procedure § 384. Class Counsel do not have a conflict of interest with the *cy pres*
22 recipient. Fitzpatrick Decl. ¶ 14; Lee Decl. ¶ 6; Gavron Decl. ¶ 9; Franklin Decl. ¶ 7.

23 **V. THE REQUESTED CLASS REPRESENTATIVE ENHANCEMENT** **SHOULD BE APPROVED**

24 The Settlement Agreement authorized Class Representative Juan Ramon Torres Reyes
25 to request a service payment of \$2,500.00. Plaintiff provided significant assistance with the
26 lawsuit, including discussing the case with Class Counsel on multiple occasions, searching for
27 and providing documents and information regarding Defendant’s practices at issue in the case,
28 and reviewing the various files and pleadings submitted in this case. Torres Reyes Decl. ¶ 13.

1 Accordingly, Plaintiff provided invaluable information, evidence, and documents that resulted
2 in this settlement.

3 In addition to the invaluable services that she provided, Plaintiff also took significant
4 risks, both professionally and monetarily, in acting as the Class Representative, seeking
5 benefits on behalf of the Settlement Class. Torres Reyes Decl. ¶ 14. Because the claims
6 alleged by the Class Representative involved the payment of costs to the prevailing party,
7 Plaintiff could have possibly faced paying the costs of Defendant, had he not prevailed in this
8 action. *Id.* Despite this, however, Plaintiff agreed to pursue this case on behalf of the
9 Settlement Class.

10 Also, given that future employers are much less likely to hire individuals who have
11 filed employment-related lawsuits, particularly cases of this nature, the Class Representative
12 also faced significant risk in not being able to find suitable employment and/or face retaliation
13 from prospective employers, all as a result of filing of this case against Defendant. Plaintiff
14 took these risks to the benefit of the Settlement Class. Torres Reyes Decl. ¶ 14. Settlement
15 Class Members did not have to file individual lawsuits and bear the risks of payment of costs
16 if they did not prevail, nor did they have to face the potential for retaliation and not getting
17 future employment had they filed a lawsuit which is a public record. These are significant
18 benefits that weigh in favor of granting the requested enhancement. Moreover, this litigation
19 has resulted in a significantly valuable benefit to the Settlement Class (*i.e.*, an average award
20 to Class Members in the amount of \$94.33, with the highest Individual Settlement Payment to
21 Class Members of \$682.07, and Plaintiff took on substantial risks in helping to get this
22 financial benefit to the Settlement Class. As such, the service payment should be awarded to
23 Plaintiff for his commitment, dedication, and risks taken for this litigation.

24 Finally, Plaintiff provided a general release and waiver of the protections of Civil Code
25 § 1542, which other Settlement Class Members did not have to do. Agreement ¶ 73. This is a
26 more extensive release than that provided by the Settlement Class at large, also supporting the
27 request for the enhancement.

28 Courts have routinely granted approval of settlements containing such enhancements.

1 *See Van Vranken v. Atlantic Richfield Co.*, 901 F. Supp. 294, 299-300 (N.D. Cal. 1995)
2 (incentive award of \$50,000); *In re Dun & Bradstreet Credit Servs. Customer Litig.*, 130
3 F.R.D. 366, 374 (S.D. Ohio 1990) (two incentive awards of \$ 55,000, and three incentive
4 awards of \$35,000); *Brotherton v. Cleveland*, 141 F. Supp. 2d 907, 913-14 (S.D. Ohio 2001)
5 (granting a \$50,000 incentive award); *Enter. Energy Corp. v. Columbia Gas Transmission*
6 *Corp.*, 137 F.R.D. 240, 251-52 (S.D. Ohio 1991) (\$50,000 awarded to each class
7 representative); *Glass v. UBS Fin. Servs.*, No. C-06-4068, 2007 U.S. Dist. LEXIS 8476, at
8 *51-52 (N.D. Cal. Jan. 27, 2007) (awarding \$25,000 incentive award in FLSA overtime wages
9 class action); *Cook v. Niedert*, 142 F.3d 1004, 1016 (7th Cir. 1998) (affirming \$25,000
10 incentive award to class representative in ERISA case).

11 **VI. THE REQUESTED ATTORNEYS' FEES SHOULD BE APPROVED**

12 The amount of the proposed settlement is a direct result of the effort and work of Class
13 Counsel. The settlement before this Court inures to the benefit of Defendants' employees and
14 is the direct result of Class Counsel's efforts. As set forth in the declarations of Class Counsel,
15 a considerable amount of work done by Class Counsel achieved an enormous benefit to the
16 Class.

17 The, settlement amount is the result of a considerable expenditure of time, effort, skill,
18 and money by Class Counsel. Class Counsel obtained data pertaining to the number of
19 putative class members and aggrieved employees, as well as Defendants' policies regarding
20 meal and rest periods, timekeeping, overtime, reimbursement, payment of final wages, among
21 others. The information provided by Defendants allowed Plaintiff to review and analyze the
22 liability and potential exposure. After thoroughly investigating the facts relating to the class
23 and PAGA claims alleged in this lawsuit and engaging in a thorough study of the legal
24 principles applicable to the claims asserted against Defendants and mediation, the Parties were
25 able to reach the current settlement. Class Counsel shouldered the risk that it might recover no
26 fee at all and may even lose the considerable sum it advanced in expenses. Counsel's
27 requested fee, therefore, should be granted in full.

28 Class Counsel seeks a fee award calculated as approximately one-third of the total

1 value of the Gross Settlement Amount as compensation for the successful prosecution and
2 resolution of this action. Under California law, the award of attorneys' fees in common fund
3 wage and hour class action settlements should start with the percentage method. *See Laffitte v.*
4 *Robert Half Int'l*, 1 Cal. 5th 480, 503 (2016) ("We join the overwhelming majority of federal
5 and state courts in holding that when class action litigation establishes a monetary fund for the
6 benefit of the class members, and the trial court in its equitable powers awards class counsel a
7 fee out of that fund, the court may determine the amount of a reasonable fee by choosing an
8 appropriate percentage of the fund created"). Under the percentage of the fund method, the
9 Court's objective remains to "mimic the market" in fixing a reasonable fee. *See Gaskill v.*
10 *Gordon*, 160 F.3d 361, 363 (7th Cir. 1998) (J. Posner) ("When a fee is set by a court rather
11 than by contract, the object is to set it at a level that will approximate what the market will
12 set.... The judge, in other words, is trying to mimic the market in legal services").

13 An award of one-third, of the fund in attorneys' fees mimics the marketplace, as it "is
14 supported by the fact that typical contingency fee agreements provide that class counsel will
15 recover 33% if the case is resolved before trial and 40% if the case is tried." *Fernandez v.*
16 *Victoria Secret Stores LLC*, 2008 WL 8150856, *16 n. 59 (C.D. Cal. July 21, 2008) (citing
17 Brickman, *Effective Hourly Rates of Contingency-Fee Lawyers: Competing Data and Non-*
18 *Competitive Fees*, 81 Wash U. L. Q. 653, 659 n. 11 (Fall 2003)). Indeed, "empirical studies
19 [that] show that...fee awards in class actions average around one-third of the recovery."
20 *Chavez v. Netflix, Inc.*, 162 Cal. App. 4th 43, 66 n. 11 (2008).

21 The California Supreme Court in *Laffitte* affirmed a fee award representing 33 1/3
22 percent of the fund. *Laffitte*, 1 Cal. 5th at 506. The award approved in *Laffitte* was supported
23 by a lodestar cross-check that employed a multiplier of 2.13. *Id.* at 487. The Court in *Laffitte*
24 explained that when cross-checking a percentage fee request against the lodestar method, the
25 court should examine the imputed multiplier in the lodestar calculation and, only when the
26 multiplier is "extraordinarily high or low [should] the trial court [] consider whether the
27 percentage method should be adjusted so as to bring the imputed multiplier within a justifiable
28 range." *Id.* at 505.

Moreover, in the *Laffitte* intermediate court decision, the court observed that “33 1/3 percent of the common fund is consistent with, and in the range of, awards in other class action lawsuits.” *Laffitte v. Robert Half Int’l*, 231 Cal. App. 4th 860, 871 (2014). Here, the fee award representing one-third of the fund clearly falls within that range, and is consistent with other comprehensive surveys of class action settlements and fee awards. *See Fitzpatrick, An Empirical Study of Class Action Settlements and Their Fee Award*, 7 J. Empirical Leg. Stud. 811, 833 (2010) (analyzing 444 cases between 2006-2007 and concluding that “[m]ost fee awards were between 25 percent and 35 percent, with almost no awards more than 35 percent”); Eisenberg & Miller, *Attorney Fees in Class Action Settlements: An Empirical Study: 1993-2008*, 7 J. of Empirical Leg. Stud. 248, 262, fn. 16 (2010) (independent studies of class action litigation nationwide conclude that fees representing one-third of the total recovery is consistent with market rates).

Finally, “the response of the class members to attorneys’ fee notice, though not decisive, is relevant to the...reasonable determination” regarding fees. *Swedish Hospital v. Shalala*, 1 F.3d 1261, 1272 (D.C. Cir. 1993). A positive response rate tends to suggest that the court’s “approximation of the market” for fees is well supported. *Id.* at p. 1269. In this case, the Notice specifically notified Settlement Class Members that Class Counsel would be seeking \$55,761.31 of the settlement fund as attorneys’ fees. To date, no Settlement Class Member has objected to the settlement or the request for attorneys’ fees and there is a 100% participation rate. This strong favorable response also supports the requested fees.

When the primary method employed to determine fees is the percentage method, courts have discretion to use the lodestar method to “cross-check” the amount of fees calculated by way of percentage. The *Laffitte* Court emphasized, however, that “the lodestar calculation, when used in this manner, does not override the trial court’s primary determination of the fee as a percentage of the common fund and thus does not impose an absolute maximum or minimum on the potential fee award.” *Laffitte*, 1 Cal. 5th at 505 (emphasis added); *In re Rite Aid Corp. Secs. Litig.*, 396 F.3d 294, 306-307 (3d Cir. 2005) (“[The lodestar cross-check does not trump the primary reliance on the percentage of common fund method”).

1 Nonetheless, the Supreme Court in *Laffitte* stated: “If the multiplier calculated by
2 means of a lodestar cross-check is extraordinarily high or low, the trial court should consider
3 whether the percentage used should be adjusted so as to bring the imputed multiplier within a
4 justifiable range, but the court is not necessarily required to make such an adjustment.” *Id.*
5 (emphasis added). Thus, a lodestar cross-check seeks to uncover astronomical multipliers.
6 Indeed, cross-checks are not required; in many cases, performing a cross-check “undermines”
7 one of the primary reasons for using the percentage method: aligning counsel’s incentives with
8 the benefits delivered to the class and discouraging protracted litigation. *Id.* at 506 (finding
9 trial courts “retain the discretion to forgo a lodestar cross-check”); *Report of the Third Circuit*
10 *Task Force, Court Awarded Attorney Fees*, 108 F.R.D. 237, 258 (1985); *Lealao v. Beneficial*
11 *California, Inc.*, 82 Cal. App. 4th 19, 29-30 (2000) (citing the recommendations of the Third
12 Circuit Task Force with approval and observing that “[t]he criticisms of the lodestar approach
13 set forth in this Report are now echoed by many authorities, who have been most vocal about
14 the manner in which it exacerbates the problem of ‘cheap settlements’ and burdens already
15 overworked trial judge.”).

16 Courts find reasonable multipliers in a lodestar cross-check can “range from 2 to 4 or
17 even higher.” *Wershba v. Apple Computer, Inc.*, 91 Cal. App. 4th 224, 255 (2001); *see also*,
18 *e.g.*, *Sutter Health Uninsured Pricing Cases*, 171 Cal. App. 4th 495, 512 (2009) (applying a
19 2.52 multiplier on a cross-check in an antitrust class action); *Chavez*, 162 Cal. App. 4th at 60
20 (applying a 2.5 multiplier on a lodestar cross-check); *City of Oakland v. Oakland Raiders*, 203
21 Cal. App. 3d 78 (1988) (affirming a 2.34 multiplier without remand). The intermediate court in
22 *Laffitte*, after finding that “2 to 4” is a reasonable range for multipliers on a cross-check,
23 affirmed a 2.13 multiplier. *Laffitte*, 231 Cal. App. 4th at 881-82. The intermediate court
24 opinion was affirmed in full by the California Supreme Court in its decision guiding lower
25 courts on assessing fees.

26 Moreover, the Ninth Circuit has cited with approval a comprehensive study of fees
27 awarded by the percentage method showing that the majority of multipliers awarded are “in
28 the 1.5-3.0” range. *See Vizcaino v. Microsoft Corp.*, 290 F.3d 1043, 1051 (9th Cir. 2002)

(affirming a multiplier of 3.65 in an employment class action case and analyzing the multiplier awarded in over 30 cases). Federal district courts applying California law have likewise routinely approved cross-check multipliers between 2 and 3 in employment cases. *See, e.g., Willner v. Manpower Inc.*, No. 11-CV-02846-JST, 2015 WL 3863625, at *7 (N.D. Cal. June 22, 2015) (affirming a 2.10 multiplier on settlement of California Labor Code violations); *Dyer v. Wells Fargo Bank, N.A.*, 303 F.R.D. 326, 334 (N.D. Cal. 2014) (approving attorneys' fees that resulted in lodestar multiplier of 2.83); *Hopkins v. Stryker Sales Corp.*, No. 11-CV-02786-LHK, 2013 WL 496358, at *5 (N.D. Cal. Feb. 6, 2013) (approving a multiplier of 2.76 in settlement of Labor Code violations). Other courts have found even higher multipliers to be reasonable by comparison to other cases. *See Craft v. County of San Bernardino*, 624 F. Supp. 2d 1113, 1125-26 (C.D. Cal. 2008) (approving a 5.2 multiplier on a cross-check after surveying a large body of cases affirming a higher multiplier).

With respect to Class Counsel's lodestar, Class Counsel and their support staff will have expended approximately 230.6 hours litigating this case, which does not include approximately 5 hours of anticipated time spent after final approval responding to correspondence and phone calls from Settlement Class Members, the Settlement Administrator, and defense counsel. Fitzpatrick Decl. ¶ 6, Ex. A; Lee Decl. ¶ 8, Ex. A; Gavron Decl. ¶ 18, Ex. A. Thus, the total number of hours expected to be invested in this case through resolution is expected to be approximately 235.6. Class Counsel request hourly rates ranging from \$500.00 to \$595.00 per hour, which contemplates a rate commensurate with the jurisdiction in which this action was litigated. Fitzpatrick Decl. ¶ 8; Lee Decl. ¶ 12; Gavron Decl. ¶ 21. The courts are quite liberal in the evidence required to prove an attorney's hours. Detailed time records are not required. An attorney's testimony alone may suffice: "Testimony of an attorney as to the number of hours worked on a particular case is sufficient evidence to support an award of attorney fees, even in the absence of detailed time records." *Martino v. Denevi*, 182 Cal. App. 3d 553, 559 (1986).

Reasonable hours include, in addition to time spent during litigation, the time spent before the action is filed, including time spent interviewing the clients, investigating the facts

1 and the law, and preparing the initial pleadings. *New York Gaslight Club, Inc. v. Carey*, 447
2 U.S. 54, 62 (1980). The fee award should also include fees incurred to establish and defend the
3 attorneys' fee claim. *Serrano v. Unruh*, 32 Cal. 3d 621, 639 (1982). The hours for which Class
4 Counsel seek compensation involve only these types of tasks. Thus, the number of hours for
5 which fees are sought is reasonable.

6 A reasonable hourly rate is the prevailing rate charged by attorneys of similar skill and
7 experience in the relevant community. *PLCM Group, Inc. v. Drexler*, 22 Cal. 4th 1084, 1095
8 (2000). The court may consider other factors when determining a reasonable hourly rate, *e.g.*,
9 the attorney's skill and experience, the nature of the work performed, the relevant area of
10 expertise and the attorney's customary billing rates. *Flannery v. California Highway Patrol*,
11 61 Cal. App. 4th 629, 632-33 (1998).

12 Class Counsel's skill and experience justify the requested rates. As shown in the
13 supporting declarations, Class Counsel have significant experience in the area of employment
14 and wage and hour class actions. Specifically, Class Counsel's practice focuses on
15 representing employees in employment matters, particularly wage and hour cases. Fitzpatrick
16 Decl. ¶ 12; Franklin Decl. ¶¶ 3-4; Lee Decl. ¶¶ 13-15; Gavron Decl. ¶¶ 10-17. As such, based
17 on the hours and applicable rate, Class Counsel's lodestar amount through the finalization of
18 this settlement – without a multiplier – will be approximately \$125,419.00. Fitzpatrick Decl. ¶
19 8; Lee Decl. ¶ 12; Gavron Decl. ¶ 21.

20 Once the court establishes the lodestar amount, it may enhance the lodestar number by
21 applying a multiplier in order to adjust the fees awarded to an amount appropriate to the
22 circumstances of the case. *Serrano v. Priest*, 20 Cal. 3d 25, 48 (1977). The pertinent factors
23 include the difficulty of the questions involved and the skill in presenting them, the contingent
24 nature of the fee award, the extent to which the litigation precluded other employment, and the
25 percentage-of-the-fund the attorney would have received on the fair market. *Id.*, *Lealao*, 82
26 Cal. App. 4th at 49. However, this list is not exhaustive, and the court may consider other
27 factors it deems important in setting the multiplier. *Ketchum v. Moses*, 24 Cal. 4th 1122, 1139
28 (2001).

1 *Lealao* contains several factors justifying an enhancement based on the percentage-of-
2 the-benefit; namely, no objections by class members, commendable conduct by counsel, and
3 significant recoveries by class members, all of which were previously detailed above. *Lealao*,
4 82 Cal. App. 4th at 51-53. As in *Lealao*, the Settlement Class was notified of the settlement
5 and attorneys' fee with no objections. The extreme effort undertaken by counsel, as shown by
6 their hours and the significantly high number of claims being paid out, shows commendable
7 conduct.

8 The multiplier should be enhanced because of the contingent nature of counsel's fee
9 recovery. The risks in taking on a class action case are enormous, not the least of which is time
10 and effort. As this Court very well knows, not only do these cases require substantial work, but
11 there exist significant risks.

12 Finally, based upon Class Counsel's lodestar of \$125,419.00. Plaintiff's request for a
13 negative multiplier of ~0.46 ($\$57,761.31 / \$125,419.00$) is reasonable and fair, particularly
14 based on the factors described above. *Wershba v. Apple Computer, Inc.*, 91 Cal. App. 4th 224
15 (Ct. App. 2001) (noting that courts using the lodestar method to calculate attorney fees awards
16 in class actions typically apply multipliers in the range of 2 to 4); *Boyd v. Bank of Am. Corp.*,
17 2014 U.S. Dist. LEXIS 162880 (C.D. Cal. Nov. 18, 2014) (awarding 33% of the common
18 fund, based on a multiplier of 2.58, in a wage and hour class action settlement); *Vandervort v.*
19 *Balboa Capital Corp.*, 8 F. Supp. 3d 1200, 1210 (C.D. Cal. 2014) (awarding 33% of the
20 common fund, based on a multiplier of 2.52). As such, the requested fee award is fair and
21 reasonable, and should be awarded in its entirety. Class Counsel risked not only a great deal of
22 time, but also a great deal of expense to ensure the successful litigation of this action on behalf
23 of all Settlement Class Members. For these reasons, Class Counsel's request for attorneys'
24 fees in the amount of \$57,761.31 should be approved as fair, reasonable, and adequate.

25 **VII. THE COURT SHOULD APPROVE THE REQUEST FOR**
26 **REIMBURSEMENT OF COSTS**

26 The request for reimbursement of litigation costs, in the amount of \$3,482.36 is fair
27 and reasonable, especially in light of the fact that the Parties agreed that Class Counsel may
28 seek up to \$20,000.00 as reimbursement for litigation costs under the Settlement Agreement.

As set forth in Class Counsel's declaration, the costs were all directly incurred in the prosecution of this action, including but not limited to, filing fees, service of process costs, postage costs, and mediation fees. Gavron Decl. ¶ 21, Ex. B; Fitzpatrick Decl. ¶ 11, Ex. B. As such, the requested costs should be approved as fair and reasonable.

VIII. THE SETTLEMENT ADMINISTRATOR'S FEES AND COSTS SHOULD BE APPROVED

Pursuant to the terms of the Settlement Agreement, the fees and costs of the Settlement Administrator, CPT Group, Inc., are to be paid out of the class settlement funds. As shown on the Declaration of Jennifer Forst the settlement administration fees expended in this matter amount to a total of \$13,000.00, which is the amount that was agreed upon by the Parties and preliminarily approved by the Court. Admin. Decl. ¶ 17, Ex. B. For such reasons, it is requested that the Settlement Administrator's fees be approved.

IX. PLAINTIFF HAS PROVIDED NOTICE TO THE LWDA

On July 7, 2024, Plaintiff uploaded the Order Granting Motion for Preliminary Approval of Class Action Settlement to the LWDA's website. Gavron Decl. ¶ 22; Ex. C. Concurrent with the filing of this Motion, Plaintiff uploaded this motion and proposed order to the LWDA's website. *Id.* ¶ 23.

X. CONCLUSION

For all the foregoing reasons, and on the basis of the authorities cited herein, Plaintiff respectfully submits that the standards for final approval have been met and the terms of the Settlement Agreement are fair, adequate, and reasonable. Accordingly, Plaintiff respectfully requests that the Court grant this Motion and enter an Order in the form proposed and submitted.

Dated: November 19, 2024

FITZPATRICK & SWANSTON
DIVERSITY LAW GROUP, P.C.

By: 
Max W. Gavron
Attorneys for Plaintiff,
JUAN RAMON TORRES REYES on
behalf of herself and all other similarly
situated employees