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SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES - SPRING STREET COURTHOUSE

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

Plaintiff,

vs.

AMERICAN PAPER AND PLASTICS, INC.,
a California corporation; and DOES 1 through
100, inclusive,

Defendants

Case No.: 21STCV07182

Honorable Elihu M. Berle
Department SSC6

CLASS ACTION

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

[Declaration of Class Counsel
(Edwin Aiwazian); Declaration of Class
Representative (Francisco Chavez);
Declaration of Settlement Administrator
(Yami Burns); and [Proposed] Final
Approval Order and Judgment filed
concurrently herewith]

Date: July 26, 2023
Time: 9:00 a.m.
Department: SSC6

Complaint Filed: February 24, 2021
FAC Filed: August 9, 2021
SAC Filed: January 25, 2023
Trial Date: None Set

1 **PLEASE TAKE NOTICE** that on July 26, 2023 at 9:00 a.m., in Department SSC6 of
2 the above-entitled Court, located at 312 N Spring Street, Los Angeles, CA 90012, Plaintiff
3 Francisco Chavez (“Plaintiff”) will and hereby does move for an order granting final approval of:

4 1. The amended Joint Stipulation of Class and PAGA Representative Action
5 Settlement (“Settlement,” “Agreement,” or “Settlement Agreement”) on the grounds that the
6 Settlement is fair, adequate, and reasonable because:

- 7 • A Net Settlement Amount of approximately **\$704,974.71** will be fully distributed to
8 the Class Members who did not timely opt out of the Settlement (“Participating Class
9 Member”);
- 10 • As of this date, **no Notices of Objection** have been submitted to the settlement
11 administrator, Phoenix Settlement Administration Solutions (“Settlement
12 Administrator”);
- 13 • As of this date, **no Requests for Exclusion** were submitted to the Settlement
14 Administrator;

15 2. Payment in the amount of **\$560,000.00** to Lawyers for Justice, PC (“Class
16 Counsel”), representing thirty-five percent (35%) of the Gross Settlement Amount, 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 1.57;

19 3. Payment in the amount of **\$20,525.29** to Class Counsel for reimbursement of
20 litigation costs and expenses;

21 4. Payment in the amount of **\$7,000.00** to the Settlement Administrator, Phoenix
22 Settlement Administration Solutions (“Phoenix”), for Settlement Administration Costs; and

23 5. Payment in the amount of **\$7,500.00** to Plaintiff Francisco Chavez, as Incentive
24 Award, for his time and effort in representing the Class.

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 \$300,000.00, of which seventy-five
27 percent (75%), or **\$225,000.00**, will be paid to the California Labor and Workforce Development
28 Agency and twenty-five percent (25%), or **\$75,000.00**, will be distributed to all non-exempt

1 employees who worked in California for Defendant from February 24, 2020 through May 2, 2022
2 (“PAGA Employees”) .

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

6 This motion is based upon the following Memorandum of Points and Authorities; the
7 Declaration of Class Counsel (Edwin Aiwasian), Class Representative (Francisco Chavez), and
8 Settlement Administrator (Yami Burns of Phoenix) in support thereof; the pleadings and other
9 records on file with the Court in this matter; and such evidence and oral argument as may be
10 presented at the hearing on this Motion.

11 Dated: May 25, 2023

LAWYERS for JUSTICE, PC

12
13 By:



14 Brian J. St. John
15 Attorneys for Plaintiff and the Class
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MEMORANDUM OF POINTS AND AUTHORITIES

I. SUMMARY OF MOTION

Plaintiff Francisco Chavez (“Plaintiff”) seeks final approval of: (1) the Gross Settlement Amount of \$1,600,000.00; (2) attorneys’ fees in the amount of \$560,000.00 (“Attorneys’ Fees”), which is thirty-five percent (35%) of the Gross Settlement Amount, and reimbursement of litigation costs and expenses in the amount of \$20,525.29 (“Litigation Costs”) to Lawyers for Justice, PC (“Class Counsel”); (3) Settlement Administration Costs in the amount of \$7,000.00 to Phoenix Settlement Administration Solutions (“Phoenix ” or “Settlement Administrator”); (4) Incentive Award in the amount of \$7,500.00 to Plaintiff Francisco Chavez; and allocation of \$300,000.00 for penalties under the Private Attorneys General Act of 2004, California Labor Code § 2698, *et seq.* (“PAGA Settlement Amount”).

Plaintiff seeks relief on behalf of the following Class:

All individuals who are currently employed or were formerly employed by Defendant (or who worked at the same physical location of American Paper and Plastics, Inc. for its successor Imperial Bag & Paper Co. LLC, d/b/a Imperial Dade) in California as hourly non-exempt employees, from February 24, 2017 to May 2, 2022. (“Class” or “Class Members”)¹

This matter involved ongoing investigations, extensive informal discovery, review and analysis of a large volume of information, documents, and data in the course of litigation and in connection with mediation conducted by Paul Grossman, Esq., and extensive settlement negotiations. This matter has required 477.60 hours of attorney time by Class Counsel. As will be demonstrated herein, the request for attorneys’ fees, which represents thirty-five percent (35%) of the Gross Settlement Amount, is fully supported by the use of the 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.²

Plaintiff moves for final approval of the Incentive Award in the amount of \$7,500.00, to compensate Plaintiff for the time and effort that he expended spearheading this lawsuit on behalf

¹ Settlement Agreement, § II.3. “Class Period” is defined as the period of time from February 24, 2017 through May 2, 2022. *See id.*, § II.7.

² Applying a modest multiplier of 1.57, the total enhanced lodestar fees are \$562,374.00, and Class Counsel seek an attorneys’ fees award of \$560,000.00 (equal to 35% of the Gross Settlement Amount).

1 of the Class, PAGA Employees, and the State of California. Plaintiff also moves for final
2 approval of the payment to the Settlement Administrator in the amount of \$7,000.00 for
3 Settlement Administration Costs.

4 The requests for Attorneys' Fees, Litigation Costs, Incentive Award, Settlement
5 Administration Costs, and allocation for the PAGA Settlement Amount were fully disclosed in
6 the Notice of Class and Representative Action Settlement ("Notice") that was mailed to the Class
7 Members. Most importantly, as of the date of this Motion, *not a single Class Member has*
8 *objected to any aspect of the Settlement, including the requested Attorneys' Fees and Expenses,*
9 *Service Awards, Administration Expenses, or allocation for PAGA Settlement Amount.*

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

16 In order to efficiently present the Court with adequate information to determine whether
17 to grant final approval of the Settlement and award Attorneys' Fees, Litigation Costs, Incentive
18 Award, Settlement Administration Costs, and allocation for PAGA Settlement Amount, Plaintiff
19 also moves for an order permitting the filing of this single consolidated memorandum, although
20 it exceeds the page limit established by California Rules of Court, Rule 3.1113(d), instead of
21 filing several separate motions.

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

23 Defendant is a source and supply company for businesses in the food service industry
24 across the United States. Plaintiff Francisco Chavez is a former employee of Defendant.

25 On February 24, 2021, Plaintiff filed a Class Action Complaint for Damages in the Los
26 Angeles County Superior Court ("Court"), thereby commencing the above-captioned lawsuit
27 ("Action").

28 ///

On August 9, 2021, Plaintiff filed the First Amended Complaint dismissing his claims for failure to pay timely wages under Labor Code § 204 and failure to keep requisite payroll records under Labor Code § 1174(d).

On September 9, 2021, Defendant filed an Answer to Plaintiff's First Amended Class Action Complaint.

On January 25, 2023 Plaintiff filed his Second Amended Class Action Complaint for Damages and Enforcement Under the Private Attorneys General Act, California Labor Code § 2698, Et Seq. ("Second Amended Complaint" or "Operative Complaint").

Plaintiff's core allegation is that Defendant has violated the California Labor Code by engaging in a uniform practice and procedure, with respect to Plaintiff and the Class Members, of, inter alia, failing to pay all overtime and minimum wages, failing to provide compliant meal and rest periods and associated premium pay, failing to timely pay wages during employment and upon termination of employment, failing to provide compliant wage statements, failing to maintain requisite payroll records, and failing to reimburse necessary business expenses, and thereby engaged in unfair business practices in violation of California Business and Professions Code section 17200, et seq. and conduct that gives rise to penalties pursuant to PAGA. Plaintiff contends that he, and the Class Members, are entitled to, inter alia, unpaid wages, penalties (including and not limited to, penalties pursuant to PAGA), and attorneys' fees.

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

The Parties have actively litigated the Action since it was commenced on February 24, 2021. On February 1, 2022, the Parties participated in a formal, full-day mediation conducted by Paul Grossman, Esq., a well-regarded mediator experienced in mediating complex labor and employment matters. With the aid of the mediator's evaluation, the Parties ultimately reached the Settlement described herein to resolve the Action in its entirety.

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On November 15, 2022, Plaintiff filed a Motion for Preliminary Approval of Class Action Settlement (“Motion for Preliminary Approval”) and supporting documents. On January 9, 2023, a hearing was held on Plaintiff’s Motion for Preliminary Approval wherein this Court continued the hearing on the Motion for Preliminary Approval and requested the Parties to further brief and amend the proposed settlement agreement addressing concerns outlined by the Court. On February 9, 2023, Plaintiff filed supplemental papers in support of the Motion for Preliminary Approval. On March 30, 2023, the Court entered an Order Granting Plaintiff’s Motion for Preliminary Approval of Class Action Settlement (“Preliminary Approval Order”), thereby preliminarily approving the terms of the Settlement, the Notice, and the proposed administration procedures and associated deadlines.

Plaintiff now moves for final approval of the Settlement, Attorneys’ Fees, Incentive Award, Litigation Costs, Settlement Administration Costs, and allocation for PAGA Settlement 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 Amount of \$1,600,000.00 on a non-reversionary basis.³ Subject to approval by the Court, the Net Settlement Amount will be calculated by deducting the following amounts from the Gross Settlement Amount: (1) Attorneys’ Fees, consisting of attorneys’ fees in the amount of \$560,000.00 and reimbursement of litigation costs and expenses in the amount of \$20,525.29, to Class Counsel; (2) Incentive Award in the amount of \$7,500.00 to Plaintiff Francisco Chavez; (3) Settlement Administration Costs in the amount of \$7,000.00 to Phoenix; and (4) the amount of \$300,000.00 allocated to penalties under the Private Attorneys General Act (“PAGA”), of which 75% (i.e., \$225,000.00) will be distributed to the Labor and Workforce Development Agency (“LWDA”) and 25% (i.e., \$75,000.00) will be distributed on a *pro rata* basis to all non-exempt who worked in California for Defendant from February 24, 2020, through May 2, 2022 (“PAGA Employees”).⁴ The Net Settlement Amount, which is estimated to be \$704,974.71, will

³ Settlement Agreement; § II.17.

⁴ *Id.*, §§ II.27 & IV.C.1-5; “PAGA Period” is defined as the period from February 24, 2020, through May 2, 2022 . *See id.*, § II.28

be distributed in accordance with the Settlement Agreement, and there is no reversion to Defendant.⁵

The Settlement Administrator will calculate each Participating Class Member's share of the Net Settlement Amount ("Individual Settlement Payment"), as follows:

- a. The Settlement Administrator will calculate each Participating Class Member's number of Workweeks and the total aggregate number of Workweeks of all Participating Class Members.⁶
- b. The Settlement Administrator will divide the Net Settlement Amount by the total number of Workweeks worked by all Participating Class Members and multiply the result by each Participating Class Member's individual Workweeks to determine his or her Individual Settlement Payment.⁷

The Settlement Administrator will calculate each PAGA Employee's *pro rata* share of the 25% share of the PAGA Settlement Amount ("Individual PAGA Payment"), in accordance with the Settlement Agreement and as follows:

- c. The Settlement Administrator will calculate each PAGA Employees number of Workweeks during the PAGA Period and the total number of Workweeks of all PAGA Employees during the PAGA Period.⁸
- d. The Settlement Administrator will divide the 25% share of the PAGA Settlement Amount by the total number of Workweeks worked by all PAGA Employees during the PAGA Period and multiply the result by each PAGA Employee's individual Workweeks during the PAGA Period to determine his or her Individual PAGA Payment.⁹

Class Members have forty-five (45) calendar days after the initial mailing of the Notice to Class Members to dispute the number of Workweeks credited to each of them, opt out of the Class Settlement, and/or object to the Class Settlement ("Response Deadline").¹⁰ The Response Deadline is June 26, 2023.¹¹ As of this date, the Settlement Administrator has received zero (0)

⁵ This amount is higher than the amount stated in Paragraph 13 of the accompanying Declaration of Yami Burns Regarding Notice and Settlement Administration ("Phoenix Declaration" or "Phoenix Decl.") because the Settlement Administrator's calculation assumes that Class Counsel will obtain litigation costs and expenses in the maximum amount of \$30,000.00, which is allocated under the Settlement. However, Class Counsel seeks the amount of only \$20,525.29 for reimbursement of litigation costs and expenses, and the difference of \$9,474.71 will remain part of the Net Settlement Amount.

⁶ Settlement Agreement, § II.44.

⁷ *Id.*, § V.H.5.a.

⁸ *Id.*, § II.44.

⁹ *Id.*, § V.H.5.b.

¹⁰ *Id.*, §§ 28, 54, 56, & 57.

¹¹ Phoenix Decl., ¶¶ 8-10, Exh. A.

written requests for exclusion from the Class Settlement (“Requests for Exclusion”) and zero (0) objection to the Class Settlement (“Notices of Objection”) from Class Members.¹²

Individual Settlement Payments will be allocated as follows: twenty percent (20%) as wages (the “wage portion”), which will be reported on an IRS Form W-2; and the remaining eighty percent (80%) as penalties, interest, and other non-wage damages, which will be reported on an IRS Form 1099.¹³ Participating Class Members will be issued payment of their Individual Settlement Payment subject to reduction for the employee’s share of taxes and withholdings with respect to the wage portion of each Individual Settlement Payment.¹⁴ Defendant will pay the employer’s share of payroll taxes and contributions with respect to the wage portion of Individual Settlement Payments in addition to the Gross Settlement Amount.¹⁵ The Individual PAGA Payments to PAGA Employees will be allocated as one hundred percent (100%) penalties, and will not be subject taxes or withholdings.¹⁶

The Individual Settlement Payment checks issued to Participating Class Members and Individual PAGA Payment checks issued to PAGA Employees will be negotiable for one hundred eighty (180) calendar days from the date of issuance.¹⁷ Individual settlement checks that are not negotiated within the 180-day period will be cancelled.¹⁸ The funds from associated with such cancelled checks will be transmitted by the Settlement Administrator within (10) calendar days after the expiration of the 180-day period, and sent to the Controller of the State of California to be held pursuant to the Unclaimed Property Law, California Civil Code Section 1500, et seq., in the name of the Participating Class Member and/or PAGA Employee whose check is cancelled and in the respective amount of the cancelled check.¹⁹

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¹² Phoenix Decl., ¶¶ 8 & 9.

¹³ Settlement Agreement, § IV.D.1.

¹⁴ *Id.*, § V.H.6.

¹⁵ *Id.*, § II.17.

¹⁶ *Id.*, § IV.D.1.

¹⁷ *Id.*, § V.H.7.

¹⁸ *Ibid.*

¹⁹ *Ibid.*

IV. THE SETTLEMENT ADMINISTRATION PROCESS

The Court-appointed Settlement Administrator, Phoenix, has taken all necessary steps to effectuate the notice and settlement administration process, as set forth in the Court’s March 30 2022 Preliminary Approval Order.

On April 18, 2023, Phoenix received a mailing list from Defendant’s counsel that contained 1) full name; (2) last known mailing address; (3) Social Security number; (3) Workweeks; and (5) dates of employment worked for Defendant during the Class Period (collectively, “Class List”).²⁰

The Class List contained information for five hundred twenty-six (526) individuals identified as Class Members.²¹ Phoenix processed the names and addresses through the National Change of Address Database (“NCOA”) and updated the Class List with any updated addresses located.²²

On April 5, 2023, Phoenix mailed the Notice via first class mail to 526 individuals identified as Class Members in the Class List.²³

As of the date of this Motion, no Notices were returned as undeliverable with forwarding addresses.²⁴ Twenty-two (22) Notices were returned as undeliverable without forwarding addresses.²⁵ Phoenix performed a skip-trace search on the twenty-two (22) Notices that were returned to Phoenix without forwarding addresses, located an updated address for eighteen (18) Class Members, and promptly re-mailed the Notice to the updated addresses.²⁶ Ultimately, four (4) Notice remains undeliverable because an updated address was not located through skip-tracing.²⁷

As of the date of this Motion, the Settlement Administrator has received zero (0) Notices of Objection and zero (0) Requests for Exclusion from Class Members.²⁸

²⁰ Phoenix Decl., ¶ 3.

²¹ Ibid.

²² *Id.*, ¶ 4.

²³ *Id.*, ¶ 5.

²⁴ *Id.*, ¶ 6.

²⁵ Ibid.

²⁶ Ibid.

²⁷ *Id.*, ¶ 7.

²⁸ *Id.*, ¶¶ 8 & 9.

To date, there are 526 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 Amount of approximately \$704,974.71 will be distributed to Participating Class Members in accordance with the terms of the Settlement.³⁰ The highest Individual Settlement Payment is currently estimated to be at least \$4,928.51 and the average Individual Settlement Payment is currently estimated to be at least \$1,322.24.³¹ The highest Individual PAGA Payment is currently estimated to be at least \$589.03, and the average Individual PAGA Payment is currently estimated to be at least \$235.11.³²

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

²⁹ Phoenix Decl., ¶ 11.

³⁰ *Id.*, ¶ 13; see n.5, *supra*.

³¹ *Id.*, ¶ 14. The actual average and highest Individual Settlement Shares will be larger than the amounts stated in the Phoenix Declaration because the Net Settlement Amount is larger due to Class Counsel's request for reimbursement of litigation costs and expenses in an amount that is less than \$30,000.00 (the difference between the amount sought and the amount authorized under the Settlement, i.e., \$9,474.71, will be part of the Net Settlement Amount). See n.5, *supra*.

³² *Id.*, ¶ 15.

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 case were to be successfully litigated, that is no bar to a class settlement because the public interest may indeed be served by a voluntary settlement in which each side gives ground in the interest of avoiding prolonged litigation. *Id.*

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

The parties actively litigated the case since it was commenced on February 24, 2021. Counsel for the parties used the pre-mediation time period to investigate the veracity, strength, and scope of the claims, and also to prepare the matter for class certification and trial.³³ The parties conducted extensive informal discovery and investigation into the facts of the case, and also informally exchanged information, documents, and data in preparation for mediation.³⁴ Class Counsel also had the opportunity to interview and obtain information from Plaintiff and Class Members, including and not limited to the names of potential witnesses, and reviewed and analyzed a large volume of documents and data obtained from Defendant, Plaintiff, and other sources.³⁵ The information, documents, and data reviewed and analyzed by Class Counsel

³³ Declaration of Edwin Aiwasian (“Aiwasian Decl.”), ¶ 6.

³⁴ *Ibid.*

³⁵ *Ibid.*

1 included, and were not limited to, employment records of Plaintiff, a detailed sampling of Class
2 Members' time and pay data, Employee Handbook, company policy acknowledgements, internal
3 memoranda, job descriptions, operations and employment practices, policies, procedures, and
4 documents (including but not limited to Overtime, Timekeeping Procedures & Other Records,
5 Meal and Rest Period Policy, Dress Code, Mobile Device Usage Policy, and Meal Period
6 Waiver), among other information and documents.³⁶ Class Counsel researched applicable law,
7 developed damages, penalties, and valuation models in preparation for mediation, and met and
8 conferred with Defendant's counsel on numerous occasions, e.g., to discuss issues relating to the
9 case management, informal discovery, and production of documents and data in the course of
10 litigation and in connection to mediation and settlement negotiations.³⁷

11 After conducting significant informal discovery and investigation into the facts of the
12 case, the parties participated in a formal, full-day mediation conducted by Paul Grossman, Esq.,
13 a well-regarded mediator experienced in mediating complex labor and employment matters.³⁸ In
14 the course of litigation and in connection with mediation and settlement discussions, the parties
15 exchanged information and data, and discussed various aspects of the case, including and not
16 limited to, the risks and delays of further litigation, the risks and expenses to the parties of
17 proceeding with class certification and trial, the law relating to class certification, off-the-clock
18 theory, meal and rest periods, waivers, Federal preemption and exemption, PAGA representative
19 actions, wage-and-hour enforcement, the evidence produced and analyzed, and the possibility of
20 appeals, among other things.³⁹ During all settlement discussions, the parties conducted their
21 negotiations at arm's length in an adversarial position.⁴⁰ Arriving at a settlement that was
22 acceptable to the parties was not easy.⁴¹ Defendant and its counsel felt very strongly about
23 Defendant's ability to prevail on the merits and to obtain a denial of class certification, while
24 Plaintiff and Class Counsel believed that class certification would be obtained and Plaintiff

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26 ³⁶ Aiwasian Decl., ¶ 6.

27 ³⁷ Ibid.

28 ³⁸ *Id.*, ¶ 8.

³⁹ Ibid.

⁴⁰ Ibid.

⁴¹ Ibid.

would prevail at trial.⁴² After conducting significant informal discovery and investigations, extensive settlement negotiations, and with the aid of the mediator's evaluation, the parties agreed that the matter 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 case might have concluded at certification, trial, and/or appeals. Class Counsel interviewed, and obtained information from Plaintiff and other Class Members.⁴⁴ Class Counsel also reviewed and analyzed a large volume of documents obtained from Defendant, Plaintiff, and other sources, and performed significant research into the applicable law, which is constantly evolving as it relates to class certification, off-the-clock theory, meal and rest periods, waivers, Federal preemption and exemption, PAGA representative actions, wage-and-hour enforcement, Plaintiff's claims and damages, 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 matters, including significant experience in employment class and representative action litigation.⁴⁷

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

The Settlement, which provides for a Gross Settlement Amount of \$1,600,000.00, represents a fair, adequate, and reasonable resolution of the case, given the risks inherent in litigating class claims through certification proceedings, trial, and/or appeals.⁴⁸ The Settlement was calculated using information and data uncovered through extensive case investigation, extensive informal discovery, and the exchange of information in the context of mediation and

⁴² Aiwazian Decl., ¶ 8.

⁴³ Ibid.

⁴⁴ *Id.*, ¶ 6.

⁴⁵ Ibid.

⁴⁶ *Id.*, ¶¶ 6 & 8.

⁴⁷ *Id.*, ¶¶ 16-19.

⁴⁸ *Id.*, ¶¶ 8 & 22.

1 settlement negotiations.⁴⁹ Had the action not settled, Defendant would have vigorously
2 challenged class certification, manageability of representative adjudication, and liability.
3 Defendant contended that individualized questions of fact predominate over any common issues,
4 and these issues would pose challenges to certification. Defendant would have likely argued
5 again at trial, if any, that Plaintiff's claims were not appropriate for class-wide. On the other
6 hand, Defendant also faced the risk of the Court certifying a class and allowing a jury to decide
7 Plaintiff's claims on a class-wide basis. Additionally, preparation for trial would have been
8 expensive for all parties.

9 It is preferable to reach an early resolution of a dispute because such resolutions save
10 time and money that would otherwise go to litigation. If this matter had settled after further
11 litigation, the settlement amount would have taken into account the additional costs incurred, and
12 there might have been less money available for Class Members after all was said and done. This
13 is not just an abstract contention. The risks and expenses of further litigation outweighed any
14 benefit that might have been gained otherwise. These risks of further litigation include a
15 determination that the claims were unsuitable for class treatment, failure to obtain certification,
16 class de-certification after certification of a class, allowing a jury to decide the claims asserted in
17 the case, and the real possibility of no recovery after years of litigation. Additionally, the parties
18 were moving into the phase of the litigation where they would have to conduct a significant
19 amount of discovery, including and not limited to, depositions of Defendant's Person Most
20 Knowledgeable designees, expert witnesses, and percipient witnesses, such as managers,
21 supervisors, and other current and former employees throughout the State of California.
22 Additional discovery would have certainly arisen, which would have cost the parties additional
23 time and money. In contrast, the Settlement provides real and significant benefits for the Class
24 here and now, while avoiding the further expenses, risks, and delay of prolonged litigation with
25 only the possibility of recovery.

26 It would be grossly inefficient for such a large class of current and former employees to
27 bring individual actions to recover from Defendant for the alleged violations of wage-and-hour
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⁴⁹ Aiwazian Decl., ¶¶ 5-8.

laws. Moreover, the potential individual recovery that could be obtained by a Class Member would not be significant enough to provide him or her with the incentive to sue. By granting final approval of the Settlement, the Court can approve a resolution that provides a certain and substantial recovery for Class Members.

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

The Settlement, which provides for a Gross Settlement Amount of \$1,600,000.00, represents a fair, reasonable, and adequate resolution of the case. The Settlement was calculated using information and data uncovered through extensive case investigation, extensive informal discovery, and the exchange of information in the context of mediation and settlement negotiations. The Settlement takes into account the potential risks and rewards inherent in any case and, in particular, in this matter. Moreover, considering all of the facts in the case, the Gross Settlement Amount represents a considerable recovery.

Even after deducting attorneys' fees in the amount of \$560,000.00, litigation costs and expenses in the amount of \$20,525.29, Incentive Award in the amount of \$7,500.00, and Settlement Administration Costs in the amount of \$7,000.00, from the Gross Settlement Amount of \$1,600,000.00, the Net Settlement Amount is currently estimated to be \$704,974.71.⁵⁰ Under the Settlement Agreement, the Gross Settlement Amount will be fully paid out without any reversion to Defendant, in accordance with the terms of the Settlement. As discussed in Section III, *supra*, each Participating Class Member will be paid a *pro rata* share of the Net Settlement Amount, based on the number of Workweeks during the Class Period credited to him or her. To date, there are 526 Participating Class Members, representing 100% of the Class Members.⁵¹ The highest Individual Settlement Payment to a Participating Class Member is currently estimated to be at least \$4,928.51 and the average Individual Settlement Payment is currently estimated to be at least \$1,322.24.⁵² The highest Individual PAGA Payment is currently estimated to be at least \$589.03, and the average Individual PAGA Payment is currently

⁵⁰ Phoenix Decl., ¶ 13; see n.5, *supra*.

⁵¹ *Id.*, ¶ 11.

⁵² *Id.*, ¶ 14; see n.31, *supra*.

1 estimated to be at least \$235.11.⁵³ These are significant individual recoveries, particularly in light
2 of the risks of litigation.

3 At the final approval stage, “[a]n allocation formula need only have a reasonable, rational
4 basis [to warrant approval], particularly if recommended by experienced and competent class
5 counsel.” *In re American Bank Note Holographics, Inc., Securities Litigation* (S.D.N.Y. 2001)
6 127 F.Supp.2d 418, 429-30. The *pro rata* allocation here is a fair and reasonable way to
7 distribute the Net Settlement Amount. In light of the above considerations, Class Counsel
8 believes that the Settlement as a whole is fair, reasonable, and adequate, and in the best interest
9 of the Class Members.⁵⁴ Although the recommendations of Class Counsel are not conclusive, the
10 Court can properly take the recommendations into account, particularly if Class Counsel appears
11 to be competent, has experience with this type of litigation, and significant discovery and
12 investigation have been completed, as is the case here. Conte & Newberg, *Newberg on Class*
13 *Actions* (4th Ed., 2002) § 11.47. Accordingly, the Court should grant final approval of the
14 Settlement.

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

16 Class Counsel has extensive experience in employment class and representative action
17 law and complex wage-and-hour litigation.⁵⁵ Lawyers for Justice, PC has been appointed class
18 counsel in numerous complex wage-and-hour cases, and has recovered millions of dollars for
19 individuals in California.⁵⁶ Both parties’ counsel were capable of assessing the strengths and
20 weaknesses of the Class Members’ claims against Defendant and the benefits of the Settlement
21 under the circumstances of the case and in the context of a private, consensual settlement
22 agreement.

23 **E. There are no Objections to the Settlement.**

24 The Settlement has been well received by the Class – *not a single Class Member objected*
25 *to the Settlement.*⁵⁷ Specifically, no objections have been made as to the Gross Settlement

26 ⁵³ Phoenix Decl., ¶ 15.

27 ⁵⁴ Aiwazian Decl., ¶ 22.

28 ⁵⁵ *Id.*, ¶¶ 16-19.

⁵⁶ *Ibid.*

⁵⁷ Phoenix Decl., ¶ 12.

Amount or requested Attorneys' Fees, Litigation Costs, Incentive Award, Settlement Administration Costs, or the allocation for PAGA Settlement Amount. California courts have consistently found that a small number of objectors indicates the class' support for a settlement and strongly favors final approval. *Wershba, supra*, 91 Cal.App.4th at 250-51 (final approval granted despite 20 objectors); *7-Eleven Owners, supra*, 85 Cal.App.4th at 1152-53 (final approval granted despite 9 objectors).

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

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

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

Trial courts have "wide latitude" in assessing the value of attorneys' fees and their decisions will "not be disturbed on appeal absent a manifest abuse of discretion." *Lealao v. Beneficial Cal., Inc.* (2000) 82 Cal.App.4th 19, 41; *Ketchum v. Moses* (2001) 24 Cal.4th 1122, 1132 (The "experienced trial judge is the best judge of the value of professional services rendered in his court[.]"); *Cellphone Termination Fee Cases* (2009) 180 Cal.App.4th 1110, 1118. Where the amount of a settlement is a "certain easily calculable sum of money," California courts may calculate attorneys' fees as a reasonable percentage of the settlement. Weil and Brown, *California Practice Guide, Civil Procedure Before Trial*, Chapter 14, § 14:145; *see also Laffitte v. Robert Half Int'l Inc.* (2016) 1 Cal.5th 480, 503; *Dunk, supra*, 48 Cal.App.4th at 1808. The percentage-of-the-benefit approach is preferred in class and representative actions because "it better approximates the workings of the marketplace than the lodestar approach." *Lealao, supra*, 82 Cal.App.4th at 49.

California law provides that an attorneys' fees award should be equivalent to fees paid in the legal marketplace for the result achieved and risk incurred. *Id.* at 47-50; *Laffitte v. Robert Half Int'l, Inc.* (2016) 1 Cal.5th 480, 503. In *Lealao*, the court held that when an action leads to

a recovery that can be “monetized” with a reasonable degree of certainty, the trial court should “ensure that the fee awarded is within the range of fees freely negotiated in the legal marketplace in comparable litigation.” *Lealao, supra*, 82 Cal.App.4th at 50. Fee awards that are too small will “chill the private enforcement essential to the vindication of many legal rights and obstruct the representative actions that often relieve the courts of the need to separately adjudicate numerous claims.” *Lealao, supra*, 82 Cal.App.4th at 53.

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

Historically, courts have awarded fees as high as fifty percent (50%) of the settlement, 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. Gaulty* (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 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

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.

1 similar alleged wrongs would not be economically feasible to pursue individually, such as here.
2 See A. Conte, *Attorney Fee Awards* (2d Ed., 1993) 104, at 6.

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

10 Under the terms of the Settlement Agreement, Defendant will pay a Gross Settlement
11 Amount of \$1,600,000.00 on a non-reversionary basis. The requested attorneys’ fees are thirty-
12 five percent (35%) of the total value of the monetary settlement. In light of Class Counsel’s
13 successful prosecution and resolution of the case, the requested attorneys’ fees are appropriate
14 and reasonable.

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

22 The percentage method is consistent with, and is intended to mirror, the practice in the
23 private marketplace where contingent-fee attorneys typically negotiate percentage-fee
24 arrangements with their clients. A named plaintiff’s agreement to pay a contingent fee is
25 powerful evidence of a reasonable fee. One of the best ways to demonstrate the value of
26 counsel’s work to the class is to review the consideration agreed to be paid by the named
27 plaintiff. If the named plaintiff has employed counsel on a contingency-fee basis, it would
28 indeed be inequitable for the members of the class, who will enjoy the benefits of the settlement

without incurring the risks of bringing the claim, to pay less than the named plaintiff. In this case, Plaintiff has agreed to a contingency fee of at least thirty-five percent (35%) of the recovery.⁵⁹

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

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

Class Counsel has obtained a substantial recovery on behalf of Plaintiff and the Class, 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

⁵⁹ Aiwazian Decl., ¶ 10.

the legal services properly; (4) the preclusion of other employment by the attorney due to the acceptance of the case; (5) the customary fee; (6) whether the fee is fixed or contingent; (7) time limitation imposed by the client or the circumstances; (8) the amount involved and results obtained; (9) the experience, reputation and ability of the attorney; (10) the undesirability of the case; (11) the nature and length of the professional relationship with the client; and (12) awards in similar cases. *Camden I Condominium Association, Inc. v. Dunkel* (11th Cir. 1991) 946 F.2d 768, 772.

Each and every one of these factors favors the attorneys' fees sought here; however, some of the most relevant factors to this Court's fee determination will be addressed herein. The award of attorneys' fees in the amount of \$560,000.00 (which is 35% of the Gross Settlement Amount) is commensurate with the time, effort, and expense dedicated to the case, the contingent nature of Class Counsel's fee and the risks taken in commencing the case, the skill and determination required, the results that Class Counsel 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, PAGA Employees, and the State of California. Moreover, as demonstrated in the supporting declaration, Class Counsel has extensive experience in the handling of class actions and complex litigation matters.⁶⁰

As outlined in the Declaration of Edwin Aiwasian, Class Counsel has fully and actively participated in litigation of this case.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 information, documents, and data obtained from Defendant,

⁶⁰ Aiwasian Decl., ¶¶ 16-19.

⁶¹ *Id.*, Exh. A.

⁶² *Id.*, ¶ 6 & Exh. A.

1 Plaintiff, and other sources; and prepared liability, damages, and penalties valuation
2 calculations.⁶³ Class Counsel also met and conferred with Defendant's counsel over the issues
3 relating to pleadings, case management, informal discovery, and production of documents and
4 data, among other things; engaged in extensive settlement negotiations with Defendant's
5 counsel; and prepared for and attended court proceedings, mediation, and settlement
6 negotiations. Other work performed by Class Counsel included, and was not limited to, case
7 strategy and analysis; drafting, reviewing, and revising pleadings, the mediation brief, and
8 settlement approval motion papers; preparing and appearing for court proceedings, among other
9 tasks.⁶⁴

10 Class Counsel has dedicated staffing and monetary resources necessary to prosecute this
11 matter diligently and with maximum efficiency and has fully and actively participated in the
12 litigation process. The Task and Time Chart, which is attached as EXHIBIT A to the
13 accompanying Declaration of Edwin Aiwarzian, sets forth in detail the hours that Class Counsel
14 has spent performing tasks on behalf of Plaintiff and the Class.⁶⁵ The Task and Time Chart is
15 thorough and comprehensive, and was prepared so that the Court can peruse it without having to
16 set forth each and every task in the body of this Motion. The Court is respectfully referred to the
17 chart, which sets forth the history of the work performed by Class Counsel, commencing with
18 the pre-filing analysis and research, and continuing up to settlement and final approval. Class
19 Counsel has spent 477.60 hours performing tasks and to obtain a significant recovery on behalf
20 of Plaintiff and the Class.⁶⁶ These hours were required to bring this matter to its successful
21 conclusion. In light of the value of time expended and the carrying of costs involved in litigating
22 this case, the requested attorneys' fees are fair, adequate, and reasonable.

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

24 The skill required to properly litigate the case is evident not only in the results achieved,
25 but in the steps necessary to reach the same. Defendant retained well-respected counsel to
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27 ⁶³ Aiwarzian Decl., ¶ 6.

⁶⁴ Ibid.

⁶⁵ *Id.*, Exh. A.

⁶⁶ Ibid.

1 represent its defenses. More specifically, Defendant and its counsel felt very strongly about
2 Defendant's ability to obtain a denial of certification and to prevail on the merits. Plaintiff and
3 Class Counsel believed that they would have obtained class certification and prevailed at trial.

4 Class Counsel undertook significant investigation, analysis, and research prior to filing
5 this case, during the litigation, and prior to mediation. Class Counsel took steps to prepare the
6 matter for class certification and had every intention of taking the case to trial on a class-wide
7 basis if Defendant did not offer an appropriate class-wide settlement. Despite all of the obstacles
8 that had to be overcome, as demonstrated in the Declaration of Edwin Aiwarzian, Class Counsel
9 used its extensive experience in the handling of class actions and complex wage-and-hour
10 litigation matters in order to obtain the Settlement with maximum efficiency.⁶⁷

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

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

18 The Settlement at this stage is preferred over continued litigation because such
19 resolutions save time and money that would otherwise go to litigation. The risks and expenses of
20 further litigation outweighed any benefit that might have been gained otherwise. The Settlement
21 provides an immediate recovery, as opposed to an uncertain result in the future after prolonged
22 litigation involving expert discovery, trial preparation, class certification proceedings, and
23 appellate review of those proceedings. The Settlement offers present relief and/or recovery to
24 Participating Class Members while avoiding the further expense, risk, and delay in obtaining
25 possible recovery at an unknown time in the future.

26 As a result of this litigation and extensive settlement negotiations, Defendant agreed to
27 pay a Gross Settlement Amount of \$1,600,000.00 to settle the matter. After deducting the
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⁶⁷ Aiwarzian Decl., ¶¶ 16-19.

attorneys' fees (\$560,000.00), litigation costs and expenses (\$20,525.29), Incentive Award (\$7,500.00), Settlement Administration Costs (\$7,000.00), and the PAGA Settlement Amount (\$300,000.00) from the Gross Settlement Amount, it is currently estimated that the Net Settlement Amount is approximately \$704,974.71.⁶⁸ The Net Settlement Amount will be fully distributed in accordance with the terms of the Settlement. The highest Individual Settlement Payment to a Participating Class Member is currently estimated to be at least \$4,928.51 and the average Individual Settlement Payment is currently estimated to be at least \$1,322.24.⁶⁹ The highest Individual PAGA Payment is currently estimated to be at least \$589.03, and the average Individual PAGA Payment is currently estimated to be at least \$235.11.⁷⁰ The Settlement offers significant monetary relief to the Participating Class Members, the State of California, and PAGA 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 477.60 hours of time to obtain relief on behalf of Plaintiff and the Class.⁷¹ Class Counsel has also incurred litigation costs and expenses in the amount of \$20,525.29.⁷²

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. Considering the amounts requested, the work performed, and the risks incurred, the requested fees and costs are reasonable and should be awarded.

⁶⁸ Phoenix Decl., ¶ 13; see n.5, *supra*.

⁶⁹ *Id.*, ¶ 14; see n.31, *supra*.

⁷⁰ Phoenix Decl., ¶ 15.

⁷¹ Aiwasian Decl., ¶ 12, Exh. A.

⁷² See Part VII, *infra*.

⁷³ Aiwasian Decl., ¶ 20.

⁷⁴ See *id.*, ¶¶ 16-19.

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 case 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 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)).

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 Amount of \$1,600,000.00.⁷⁶ The Gross Settlement Amount will be fully paid out, in accordance with the terms of the Settlement Agreement. The highest Individual Settlement Payment to a Participating Class Member is currently estimated to be at least \$4,928.51 and the average Individual Settlement Payment is

⁷⁵ Phoenix Decl., ¶¶ 8 & 9.

⁷⁶ Aiwazian Decl., ¶¶ 5-8.

currently estimated to be at least \$1,322.24.⁷⁷ The highest Individual PAGA Payment is currently estimated to be at least \$589.03, and the average Individual PAGA Payment is currently estimated to be at least \$235.11.⁷⁸

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 this case 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 of the fee as a percentage" of the settlement amount and "does not impose an absolute maximum or minimum on the potential fee award." *Laffitte, supra*, 1 Cal.5th at 505.

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

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⁷⁷ Phoenix Decl., ¶ 14; see n.31, *supra*.

⁷⁸ *Id.*, ¶ 15.

⁷⁹ Aiwazian Decl., ¶¶ 16-19.

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

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

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

19 Class Counsel had to bring together a large volume of data and documents that were
20 produced by Defendant and obtained from Plaintiff and Class Members and through other
21 sources. Class Counsel conducted extensive review and analysis of these documents,
22 information, and data to strategize the action and to prepare for and attend mediation and engage
23 in settlement discussions.

24 As discussed above in Part VII.C.1, *infra*, attached to the Declaration of Edwin Aiwazian
25 is a task and time chart that sets forth in detail the numerous tasks that Class Counsel performed
26 on behalf of Plaintiff and the Class, and the time required for completing those tasks.⁸⁰ The chart
27 demonstrates that Class Counsel has spent a total of 477.60 hours litigating the case and

28 ⁸⁰ See Aiwazian Decl., Exh. A.

1 finalizing the Settlement.⁸¹ In light of the facts and circumstances of the case, as well as the
2 results that Class Counsel has achieved on behalf of Plaintiff and the Class Members, Class
3 Counsel has spent a reasonable number of hours on this matter. In addition, Class Counsel will
4 continue to perform work on this matter through the date of final approval and in connection
5 with the implementation of the Settlement.

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

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

15 Class Counsel has been actively involved in this case, prior to its commencement and all
16 the way up to the present, and Class Counsel’s dedication to providing representation in this
17 matter has precluded other employment. Here, Class Counsel bore the risk that, despite all of its
18 efforts and skills employed, there may be no recovery. Ultimately, Class Counsel was successful
19 in reaching a settlement of \$1,600,000.00.

20 As set forth in the Declaration of Edwin Aiwarzian, the professional backgrounds and
21 experience of Class Counsel support a reasonable blended hourly rate of compensation of at least
22 \$750 per hour for services provided by Class Counsel.⁸² Lawyers for Justice, PC has been
23 awarded attorneys’ fees, compensating Lawyers for Justice, PC at the blended rate of at least
24 \$750 for legal service performed, by courts of this state.⁸³ While the circumstances of every case

25 ⁸¹ Aiwarzian Decl., ¶ 12.

26 ⁸² *Id.*, ¶ 13.

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

is unique, the fact remains that the work performed and efforts undertaken by Class Counsel on behalf of the Class Members, PAGA Employees, and the State of California 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 here.

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.

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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 Corp.* (Sonoma County Superior Court Case No. SCV258764) was granted on February 6, 2019, and the award of attorneys' fees involved an 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 an 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 an 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 an 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. Defendants raised defenses and denied liability, and the cases involved gathering and analyzing documents and data not only from Defendants 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 this matter, prior to its commencement and Class Counsel's work has continued all the way up to the present. Class Counsel's dedication to the representation of the Class Members has precluded other employment.

Most importantly, all services were performed by Class Counsel on a contingent basis. Both California and federal courts recognize that attorneys should be compensated for taking on such contingent risks and provided with financial incentives to enforce important rights and protections like those at issue in the matter at hand. See, e.g., *Vizcaino*, 290 F.3d at 1051; *Ketchum*, 24 Cal. 4th at 1132-33. Here, Class Counsel bore the risk that, despite all of their efforts and the skill employed, there may be no recovery. Therefore, at a minimum, Class Counsel are entitled to a risk multiplier. The results obtained by way of Class Counsel's efforts are significant here. Class Counsel were successful in achieving substantial results in the form of a settlement of \$1,600,000.00. Also, Class Counsel's efforts throughout the matter demonstrate dedication to the interests of the Class Members.

Class Counsel's application for attorneys' fees in light of the facts and circumstances surrounding the matter is well within the range of reasonableness. While handling this matter, Class Counsel devoted the hours in legal time summarized above and detailed in the task and time charts, which are either attached as exhibits to, or contained therein, the Declaration of Edwin Aiwazian.⁸⁴ As the charts indicate, the law firms have collectively worked 647.0 hours in the pursuit of this matter. The attorney task and time charts present the entire picture. Applying a reasonable rate of \$750 per hour to 477.60 hours of work performed by Lawyers for Justice, PC would place a base lodestar value of \$358,200. Applying a modest multiplier of 1.57, the total enhanced lodestar fees are \$562,374.00.⁸⁵ Class Counsel seek an attorneys' fee award of \$560,000.00 (equal to 35% of the Gross Settlement Amount based on the Settlement Agreement). Far greater multipliers have been awarded in similar cases, and the total amount of fees sought by Class Counsel is also reasonable compared to fees awarded in similar cases. Courts routinely enhance lodestar amounts based on multipliers that "range from 2 to 4 or even

⁸⁴ Aiwazian Decl., Exh. A.

⁸⁵ Aiwazian Decl., ¶ 12; see n.2, *supra*.

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 1.57 is warranted, and the lodestar as a cross-check to the percentage figure sought herein, strongly supports the reasonableness of the requested attorneys’ fees award. Plaintiffs respectfully request that the Court grant final approval of, and award, attorneys’ fees in the amount of \$560,000.00 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 \$30,000.00. As set forth in the Declaration of Edwin Aiwazian, Class Counsel seeks reimbursement of \$20,525.29, in litigation costs and expenses incurred in this matter.⁸⁶ This amount was reasonable and necessary in the prosecution of the case and to obtain the Settlement, and is less than the maximum amount allocated under the Settlement Agreement.⁸⁷ The cost savings of \$9,474.71 will be part of the Net Settlement Amount, 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 \$20,525.29 to Class Counsel.

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

As set forth in the accompanying Phoenix Declaration, the total costs incurred and to be incurred by Phoenix for the notice and settlement administration process are \$7,000.00.⁸⁹ The costs incurred and to be incurred include, but are not limited to, expenses for formatting,

⁸⁶ Aiwazian Decl., ¶ 20 & Exh. B.

⁸⁷ *Ibid.*

⁸⁸ *Ibid.*

⁸⁹ Phoenix Decl., ¶ 16.

printing, translating, and mailing the Notice to the Class Members; performing skip-trace searches on Notices returned as undeliverable; re-mailing the Notices to any updated addresses located by skip-trace search; receiving, reviewing, and processing Requests for Exclusion, Notices of Objection, and Workweeks disputes (if any); handling inquiries from Class Members regarding the Settlement; calculating Individual Settlement Payments and Individual PAGA Payments and preparing the associated tax forms; and transmitting payments, among other things.⁹⁰

Accordingly, the Court should grant final approval of payment to Phoenix, a necessary third-party for handling of the notice and settlement process, in the amount of \$7,000.00.

IX. THE REQUESTED INCENTIVE AWARD IS FAIR AND REASONABLE, AND SHOULD BE APPROVED.

The Settlement provides for an Incentive Award in the amount of \$7,500.00 to Plaintiff Francisco Chavez to compensate Plaintiff for the time and effort that he expended on behalf of the Class, PAGA Employees, and the State of California. The requested Incentive Award is both common and reasonable and should be awarded.

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

The requested Incentive Award is fair and appropriate because Plaintiff spent a substantial amount of time and effort producing relevant documents and past employment records, as well as providing the facts and evidence necessary to attempt to prove the allegations.⁹¹ Plaintiff was available whenever Class Counsel needed him and actively tried to

⁹⁰ Phoenix Decl., ¶ 2.

⁹¹ Aiwasian Decl., ¶ 21; Declaration of Francisco Chavez (“Chavez Decl.”), ¶¶ 3-5.

1 obtain, and gave, information that would facilitate the pursuit of class and PAGA claims.⁹²
2 Plaintiff spent numerous hours speaking with Class Counsel about his claims, describing his
3 work experiences with Defendant, and gathering and reviewing documents.⁹³ These services
4 merit the requested Incentive Award to Plaintiff, who has not received any compensation for his
5 efforts on behalf of the Class Members to date.⁹⁴

6 The requested Incentive Award was fully disclosed in the Notice that was mailed to the
7 Class Members. No objections were made with regards to the requested Incentive Award.
8 Accordingly, it is appropriate and just for Plaintiff Francisco Chavez to receive \$7,500.00 as a
9 reasonable Incentive Award for his services on behalf of the Class, PAGA Employees, and the
10 State of California, in addition to his individual settlement payment.

11 **X. CONCLUSION**

12 For the foregoing reasons, Plaintiff respectfully requests that the Court grant final
13 approval of the Settlement, and award Attorneys' Fees, Litigation Costs, Incentive Award,
14 Settlement Administration Costs, and allocation for the PAGA Settlement Amount in their
15 entirety, as sought herein; and permit the filing of a memorandum that exceeds the page limit.

16 Dated: May 25, 2023

LAWYERS for JUSTICE, PC

17
18 By: _____


19 Brian J. St. John
20 Attorneys for Plaintiff and the Class
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23
24
25
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27 _____
⁹² Aiwasian Decl., ¶ 21; Chavez Decl., ¶¶ 3-5.

28 ⁹³ Aiwasian Decl., ¶ 21; Chavez Decl., ¶¶ 2-6.

⁹⁴ Chavez Decl., ¶ 9.