Nicol E. Hajjar (SBN 303102)
nicol.hajjar@wilshirelawfirm.com
Rachel J. Vinson (SBN 331434)
rachel.vinson@wilshirelawfirm.com
Alan Wilcox (SBN 287476)
alan.wilcox@wilshirelawfirm.com
Bradford Smith (SBN 345879)
bradford.smith@wilshirelawfirm.com
WILSHIRE LAW FIRM, PLC
660 S. Figueroa Street, Sky Lobby
Los Angeles, CA 90017
Telephone: (213) 381-9988
Facsimile: (213) 381-9989

Attorneys for Plaintiffs

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF ORANGE

TERESA ALVAREZ, individually, and on behalf of all others similarly situated; and MIRNA REYES, individually, and on behalf of all others similarly situated,

Plaintiffs,

v.

LIQUID GRAPHICS, INC., a California Corporation; LYNEER STAFFING SOLUTIONS, LLC, a limited liability company; and DOES 1 through 10, inclusive,

Defendants.

Case No. 30-2022-01251702-CU-OE-CXC

CLASS & REPRESENTATIVE ACTION

[*Assigned for all purposes to*: Hon. William Claster, Dept. CX104]

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

FINAL APPROVAL HEARING
Date: September 5, 2025
Time: 9:00 a.m.
Dept.: CX104

Complaint filed: March 22, 2022
FAC filed: December 6, 2023
Trial date: Not set

NOTICE OF MOTION AND MOTION

TO ALL PARTIES AND THEIR COUNSEL OF RECORD:

PLEASE TAKE NOTICE that on September 5, 2025 at 9:00 a.m., in Department CX104 of the Orange County Superior Court, located at 751 W. Santa Ana Blvd., Santa Ana, CA 92701, Plaintiffs Teresa Alvarez and Mirna Reyes (collectively, "Plaintiffs") will, and hereby do, move for an order as follows:

1. Certifying the Class for settlement purposes;
2. Approving the settlement as fair and reasonable and finding that class members were given notice of the settlement, and advised of their rights to participate in the settlement, object to the settlement, or exclude themselves from the settlement, in a reasonable manner;
3. Appointing Plaintiffs Teresa Alvarez and Mirna Reyes as Class Representatives for settlement purposes, and approving Class Representative Service Awards of $5,000.00 each to Plaintiffs Teresa Alvarez and Mirna Reyes ($10,000.00 total);
4. Appointing Plaintiff's Counsel, Nicol E. Hajjar and Rachel J. Vinson of Wilshire Law Firm, PLC as Class Counsel for settlement purposes, and approving payment of $249,975.00 in attorneys' fees, which is 33 1/3% of the Gross Settlement Amount;
5. Approving costs in the amount of $25,000.00 for litigating this action to Class Counsel;
6. Approving payment of administrative expenses to CPT Group, Inc. as the Settlement Administrator in the amount of $17,500.00;
7. Directing that the clerk of the Court to enter the Court's order as a final judgment; and,
8. Without affecting the finality of the final judgment, reserving continuing jurisdiction over the Parties for the purposes of implementing, enforcing and/or administering the Settlement or enforcing the terms of the judgment.

///

///

///

///

///

This Motion will be based on the accompanying Memorandum of Points and Authorities, the Declarations of Nicol E. Hajjar, Tarus Dancy, Teresa Alvarez, and Mirna Reyes, and such oral argument as may be heard by the Court, and all other papers on file in this action.

Dated: August 6, 2025

Respectfully submitted,

WILSHIRE LAW FIRM, PLC

By: ______________________________

Nicol E. Hajjar
Rachel J. Vinson
Alan Wilcox
Bradford Smith

Attorneys for Plaintiffs

TABLE OF CONTENTS

TABLE OF AUTHORITIES

STATE CASES

FEDERAL CASES

TREATISES

OTHER SOURCES

MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

Plaintiffs Teresa Alvarez and Mirna Reyes (collectively, "Plaintiffs") seek final approval of a proposed $763,786.61 non-reversionary, wage and hour class action settlement with Defendants Liquid Graphics, Inc. ("Liquid Graphics") and Lyneer Staffing Solutions, LLC ("Lyneer," and collectively with Liquid Graphics, "Defendants", and together with Plaintiffs, the "Parties"). The Settlement will provide substantial monetary payments to approximately 1,529 class members. And, as set forth more fully below, the proposed Settlement satisfies all the criteria for settlement approval under California law.

The proposed settlement satisfies all the criteria for settlement approval under California law. A presumption of fairness exists as the Settlement was reached through extensive, mediated arm's-length negotiations, sufficient investigation and discovery, which allowed Class Counsel to act intelligently, and Class Counsel is experienced in similar wage and hour litigation. Upon the Court's approval of the settlement, participating class members will receive an ***average estimated individual <u>net</u> settlement payment of approximately $243.69***, with the ***highest individual <u>net</u> settlement payment to be paid of approximately $2,729.19***. (Declaration of Tarus Dancy Regarding Notice and Claims Administration ["Dancy Decl."], ¶ 15.) As of filing this Motion for Final Approval of Class Action Settlement (the "Motion"), there **no objections to the settlement** and **only one valid request for exclusion**[1]. (*Id.* at ¶¶ 9-12.) Thus, the proposed Settlement is fair, reasonable, and adequate and is in the best interests of the Settlement Class Members.

Final approval of the settlement is warranted as it satisfies all the criteria for approval under California law. As demonstrated in the Motion for Preliminary Approval of Class Action Settlement, the proposed Settlement provides excellent benefits to the class, particularly considering the complexities and risks of the case. Accordingly, Plaintiffs request that the Court

[1] CPT Group has received three Requests for Exclusion, of those two class members submitted both Requests for Exclusion and Workweek Dispute Forms. CPT has mailed cure letters to these two Class Members requesting clarification. Once a determination has been made, CPT will update each submitting Class Member accordingly. (Dancy Decl., ¶¶ 9-11.)

grant final approval of the proposed Settlement.

II. SUMMARY OF THE LITIGATION AND SETTLEMENT

A. Plaintiffs' Claims

This is a wage and hour class and Private Attorneys General Act ("PAGA") (Cal. Lab. Code §§ 2699, *et seq*.) representative action. Plaintiffs and the putative class members worked in California as hourly-paid or non-exempt employees for Defendants during the class period. Defendant Liquid Graphics manufactures screen printed apparel from its Orange County, California headquarters. Defendant Lyneer operates a staffing agency recruiting employees on behalf of businesses looking to fill positions, and exists in more than ten California locations and employed Plaintiffs. (Declaration of Nicol E. Hajjar in Support of Plaintiff's Motion for Final Approval of Class Action Settlement ["Hajjar Decl."], ¶ 2.)

Plaintiffs allege that Defendants' payroll, timekeeping, and wage and hour practices resulted in Labor Code violations. Plaintiffs allege that Defendants failed to include all remuneration in the putative class' overtime rate and meal and rest period premiums. Plaintiffs further allege that Defendants failed to provide putative class members with legally compliant meal and rest periods. Based on these allegations, Plaintiffs assert claims against Defendants for failure to pay minimum and straight time wages, failure to pay overtime wages, failure to provide meal periods, failure to authorize and permit rest periods, failure to timely pay all final wages at termination, failure to provide accurate itemized wage statements, unfair business practices, and civil penalties under PAGA. (*Id.* at ¶ 3.)

On March 22, 2022, Plaintiffs filed a putative wage and hour class action complaint against Defendants for: (1) failure to pay minimum and straight time wages; (2) failure to pay overtime wages; (3) failure to provide meal periods; (4) failure to authorize and permit rest periods; (5) failure to timely pay final wages at termination; (6) failure to provide accurate itemized wage statements; (7) failure to indemnify employees for expenditures; and (8) unfair business practices. (*Id.* at ¶ 4.) On February 15, 2022, Plaintiffs sent notice to Defendants and the California Labor & Workforce Development Agency ("LWDA") alleging wage and hour violations pursuant to the PAGA. (*Id.*) On December 8, 2023, Plaintiffs filed a First Amended

Class and Representative Action Complaint adding a ninth cause of action against Defendants for civil penalties under PAGA. (*Id.*)

B. <u>Discovery and Investigation</u>

Following the filing of the initial complaint, the Parties informally exchanged documents and information before mediating this action. Defendants produced a sample of timekeeping and payroll records for the putative class members. Defendants also provided their wage and hour policies and practices during the class period and information regarding the total number of current and former hourly non-exempt employees. (Hajjar Decl., ¶ 5.)

After reviewing documents regarding Defendants' wage and hour policies and practices and analyzing Defendants' timekeeping and payroll records, Class Counsel was able to evaluate the probability of class certification, success on the merits, and Defendants' maximum monetary exposure for all claims. (*Id.* at ¶ 6.) Class Counsel also investigated the applicable law regarding the claims and defenses asserted in the litigation. (*Id.*) Class Counsel reviewed these records and prepared a damage analysis assessing Defendant's potential liability prior to mediation. (*Id.*)

C. <u>Settlement Negotiations and Agreement</u>

On September 29, 2022 and March 16, 2023, the Parties participated in private mediation sessions with experienced class action mediator, Kelly Knight, Esq. (Hajjar Decl., ¶ 7.) The mediation sessions were conducted via Zoom. The settlement negotiations were at arm's length and, although conducted in a professional manner, were adversarial. The Parties went into the mediation sessions willing to explore the potential for a settlement of the dispute, but each side was also prepared to litigate their position through trial and appeal if a settlement had not been reached. (*Id.*) After extensive negotiations and discussions regarding the strengths and weaknesses of Plaintiffs' claims and Defendants' defenses, the Parties reached a settlement, the material terms of which are encompassed within the Settlement Agreement. (*Id.*, **Ex. 1** [Amended Joint Stipulation of Settlement of Class and Representative Action.])

Class Counsel has conducted a thorough investigation into the facts of this case. Based on the foregoing discovery and their own independent investigation and evaluation, Class Counsel is of the opinion that the Settlement is fair, reasonable, and adequate and is in the best interests of the Settlement Class Members in light of all known facts and circumstances, the risk of significant delay, the defenses that could be asserted by Defendants both to certification and on the merits, trial risk, and appellate risk. (*Id.* at ¶ 8.)

D. <u>Preliminary Approval and Overwhelming Support for the Settlement</u>

Plaintiffs filed their Motion for Preliminary Approval of Class Action Settlement ("MPA") on December 26, 2023, however, the Court continued the MPA hearing with instructions for Plaintiffs to file supplemental briefing to address the Court's concerns with the Settlement. (Hajjar Decl., ¶ 9.) On May 7, 2024, Plaintiffs filed their revised Motion for Preliminary Approval of Class Action Settlement ("revised MPA") that addressed the Court's concerns. (*Id.*) However, the Court continued the MPA hearing again with further instructions for Plaintiffs to file supplemental briefing to address additional concerns with the Settlement. (*Id.*) Plaintiffs filed their Supplemental Brief in Support of Motion for Preliminary Approval of Class Action Settlement ("Supplemental MPA Brief") on July 2, 2024. (*Id.*) The Court granted Plaintiffs' MPA on July 15, 2024. (*Id.*)

On March 19, 2025, Plaintiffs and Defendants stipulated to amend the Settlement Agreement due to the workweek count increasing from 40,854 to 42,221 and the Gross Settlement Amount subsequently increasing from $750,000.00 to $763,786.61 and Attorneys' Fees increasing from $249,975.00 to $254,570.08. (*Id.* at ¶ 10.) The Court granted the stipulation to amend the Settlement Agreement on March 19, 2025. The deadline for class members to opt out or object to the Settlement was June 25, 2025. (*Id.*) The reaction of the Class to the settlement has been overwhelmingly positive. Indeed, as of the filing of this Motion, only one Class Member has validly requested exclusion from the settlement and no Class Members have objected to the settlement. (*Id.*)

E. <u>Key Terms of the Proposed Settlement</u>

Under the Settlement Agreement, Defendants will pay $763,786.61 to resolve this litigation. The key terms include:

1. <u>Settlement Class</u>: For purposes of this Settlement Agreement only, the Parties agree to the certification of the classes pursuant to California Code of Civil Procedure § 382

defined as: "all current and former non-exempt hourly employees, whether directly employed by Liquid Graphics, Inc. or assigned by Lyneer Staffing Solutions, LLC to perform work as a temporary worker at Liquid Graphics, Inc., who worked at any Liquid Graphics, Inc.'s California facilities during the Class Period." (Settlement, ¶ I, Y.)

2. Class Period: The Class Period means the period from March 22, 2018 through April 29, 2023. (Settlement, ¶ I, E.)

3. PAGA Allegedly Aggrieved Employee(s): "shall refer to all current and former non-exempt employees, whether directly employed by Liquid Graphics, Inc. or assigned by Lyneer Staffing Solutions, LLC to perform work as a temporary worker at Liquid Graphics, Inc., who worked at any Liquid Graphics, Inc.'s California facilities during the PAGA Period." (Settlement, ¶ I, R.)

4. PAGA Period: the PAGA Period means the period from February 15, 2021 through April 29, 2023. (Settlement ¶ I, T.)

5. Increase in Number of Workweeks: "Defendant represented at mediation that there were approximately 37,140 workweeks during the Class Period. This Amended Stipulation of Settlement serves to increase the number of workweeks to 42,221. In the event that the actual number of workweeks exceeds the estimated number of workweeks by more than 10% (i.e., 46,443), the Class Period released in this action shall end on the day that the 10% threshold is exceeded." (Settlement, ¶ XI, C.)

6. Gross Settlement Amount: This amount is $763,786.61, for all claims, including wages, interest, the Net Settlement Amount, the Class Counsel attorneys' fees award, litigation costs, Administration Costs, payment to the Labor and Workforce Development Agency ("LWDA") for the alleged PAGA penalties, all other penalties, and the Class Representative Service Enhancements. (Settlement, ¶ I, K.)

7. No Reversion: This is a non-reversionary settlement. Settlement checks will be valid for one hundred eighty (180) days from the date of issuance. Pursuant to California Code of Civil Procedure § 384(a), any unpaid cash residue or unclaimed or abandoned class member funds, plus any accrued interest thereon, will be sent to Los Angeles Trial Lawyers Charities at

2708 Wilshire Blvd., Suite 391, Santa Monica, CA 90403. (Settlement, ¶ XI, D(1).) Neither Plaintiffs nor Class Counsel have any interest, financial or otherwise, in the proposed cy pres recipient. (Hajjar Decl., ¶ 42-43.)

8. Release as to All Settlement Class Members: The class release is a full and complete release, including a Civil Code section 1542 release by named plaintiffs only. (Settlement, ¶VII, C.)

9. PAGA Allocation: The settlement includes $50,000.00 allocated to Plaintiffs' claims under PAGA, with 75% ($37,500.00) being paid to the LWDA and 25% ($12,500.00) being paid to the Allegedly Aggrieved Employees[2]. (Settlement, ¶ XVI.) Class Counsel submitted the proposed settlement to the LWDA before filing the Motion for Preliminary Approval. (Hajjar Decl., ¶ 9.)

10. Net Settlement Amount: The "Net Settlement Amount" is the amount that remains and that shall be paid to Settlement Class Members after the following amounts are subtracted (1) attorneys' fees and litigation costs, (2) Administration Costs, (3) service enhancements to Plaintiffs, and (4) the payment to the Labor and Workforce Development Agency. (Settlement, ¶ I, P.)

11. Distribution Formula: Members of the Settlement Class not opting out will receive a lump sum payment on their pro rata share of the Net Settlement Amount as good and valuable consideration for the waiver and release of claims, in an amount determined by the Settlement Administrator in accordance with the provisions as outlined in Section XI of the Settlement Agreement. (Settlement, ¶ XI.)

12. Tax Allocation: Any settlement money paid to Settlement Class Members will be allocated as 20% wages, 40% penalties, and 40% interest. (Settlement, ¶ XV.)

13. Class Representative Service Enhancements: Subject to Court approval, Plaintiffs shall be paid an enhancement award not to exceed $5,000.00 each ($10,000.00 total), which will be paid from the Gross Settlement Amount. (Settlement, ¶ XIV.) This amount is for Plaintiffs'

[2] PAGA Notice was filed February 15, 2022, before the June 19, 2024 PAGA reform cutoff date.

time and effort in bringing and presenting the action.

14. Attorneys' Fees and Costs: The settlement provides that Defendants will not oppose a fee application of up to 33 1/3% ($254,570.08) of the Gross Settlement Amount, plus actual out of pocket litigation costs not to exceed $25,000.00. (Settlement, ¶ XIII.) As of filing this Motion, Class Counsel's costs are $19,284.91. (Hajjar Decl., ¶ 33.)

15. Notice of Proposed Class Action Settlement: The Notice set forth in plain terms, a statement of the case, the terms of the Settlement Agreement, the approximate amount of attorneys' fees, costs, and service awards being sought, and an explanation of how the settlement allocations are calculated. (Dancy Decl., ¶ 4-8, Settlement, Ex. A.) Class Members were notified by first-class mail of the settlement. (Settlement, ¶ IX, A.) CPT Group, Inc., the Settlement Administrator, undertook its best efforts to ensure that the notice was provided to the current addresses of class members, including conducting a national change of address search and re-mailing the notice to updated addresses. (*Id.*)

III. THE SETTLEMENT MERITS FINAL APPROVAL

The law favors the settlement of lawsuits, particularly in class actions and other complex cases. (*See e.g., Neary v. Regents of Univ. of California* (1992) 3 Cal.4th 272, 277-81.) Factors to be considered in evaluating a class action settlement include "the strength of plaintiffs' case, the risk, expense, complexity and likely duration of further litigation, the risk of maintaining class action status through proceedings, the experience and views of counsel, the presence of a government participant, and the reaction of the class members to the proposed settlement." (*Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th 116, 128.) A presumption that a settlement is fair and reasonable exists where, as here, the following four factors are present: "(l) 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." (*Wershba v. Apple Computers, Inc.* (2001) 91 Cal.App.4th 224, 245.)

Whether a class action settlement should be approved is a question committed to the trial court's broad discretion. (*Id.* at pp. 234-35.) In exercising its discretion, the Court should give "[d]ue regard ...to what is otherwise a private consensual agreement between the parties." (*Dunk v. Ford Motor Co.* (1996) 48 Cal.App.4th 1794, 1801.) "The inquiry 'must be limited to the extent necessary to reach a reasoned judgment that the agreement is not the product of fraud or overreaching by, or collusion between, the negotiating parties, and that the settlement, taken as a whole, is fair, reasonable and adequate to all concerned." (*Id*. [internal citations omitted].)

A. <u>The Settlement Reflects a Reasonable Compromise</u>

A settlement is not judged against what the plaintiff might recover had he or she prevailed at trial, nor does the settlement have to provide 100% of the damages sought to be fair and reasonable. (*Wershba, supra,* 91 Cal.App.4th at pp. 246, 250 ["Compromise is inherent and necessary in the settlement process…even if the relief afforded by the proposed settlement is substantially narrower than it would be if the suits were to be successfully litigated, this 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 litigation."].)

The settlement obviates the significant risk that this Court may deny certification of all or some of Plaintiff's claims. (Hajjar Decl., ¶ 11.) While Plaintiffs are confident in the merits of their claims, a legitimate controversy exists as to each cause of action. (*Id.*) Plaintiffs also recognize that proving the amount of wages due to each class member would be an expensive, time-consuming, and uncertain proposition. (*Id.*) Furthermore, even if Plaintiffs obtained certification of all or some of the claims, continued litigation would be expensive, involving a trial and possible appeals, and would substantially delay and reduce any recovery by the class. (*Id.*)

Because of the proposed Settlement, class members will receive timely, guaranteed relief and will avoid the risk of an unfavorable judgment. When considering the risks of litigation, the uncertainties involved in achieving class certification, the burdens of proof necessary to establish liability, the probability of appeal of a favorable judgment, it is clear that the settlement amount of $763,786.61 is within the "ballpark" of reasonableness, and settlement approval is appropriate. ***Indeed, each Settlement Class Member is eligible to receive an average benefit of approximately $243.69, and the highest estimated net payout is expected to be approximately $2,729.19.*** (Dancy Decl., ¶ 15.)

B. <u>The Settlement was Reached After Arms-Length Negotiations Following Informal Discovery</u>

The Settlement was reached over the course of two mediation sessions with experienced employment mediator, Kelly Knight, Esq. (Hajjar Decl., ¶ 7.) The settlement negotiations were at arm's length and, although conducted in a professional manner, were adversarial. (*Id.*) The Parties went into the mediation sessions willing to explore the potential for a settlement of the dispute, but each side was also prepared to litigate their or its position through trial and appeal if a settlement had not been reached. (*Id.*)

Prior to reaching this settlement, Class Counsel conducted informal discovery concerning the claims set forth in the litigation, such as a sample of class member timekeeping and payroll records, Defendants' policies and procedures concerning the payment of wages, the provision of meal and rest breaks, issuance of wage statements, and providing all wages at separation, as well as information regarding the number of putative class members and the mix of current versus former employees, the wage rates in effect, and the amount of meal and rest period premium wages paid to class members. (*Id.* at ¶¶ 5-6.) In conjunction with their extensive factual investigation, Class Counsel investigated the applicable law regarding the claims and defenses asserted in the litigation. (*Id.*) Thus, Plaintiffs and their counsel were able to act intelligently and effectively in negotiating the proposed Settlement. (*Id.*)

C. <u>Plaintiffs' Counsel Has Substantial Class Action Experience</u>

Class Counsel also has considerable experience and has demonstrated competence with litigating wage and hour class actions. (Hajjar Decl., ¶¶ 28-38.) Class Counsel has substantial experience in all facets of litigation in state and federal court, including discovery, law and motion, trial, appeals, arbitration and mediation. Class Counsel has litigated numerous class actions on behalf of plaintiffs and have been lead counsel or otherwise exercised significant case handling responsibilities in numerous cases resulting in millions of dollars in class action settlements. (*Id.*)

Based on Class Counsel's experience as employment and class action attorneys, Class Counsel is eminently qualified to evaluate the strength of Plaintiffs' claims, the strength of Defendants' defenses against certification, the strength of Defendants' defenses on the merits, and the fairness of the Settlement. Their opinion that final approval of the Settlement would be in the best interests of class members in light of the significant risks of litigation is entitled to great weight. (*See Kullar, supra,* 168 Cal.App.4th at p. 129 ["The court undoubtedly should give considerable weight to the competency and integrity of counsel and the involvement of a neutral mediator in assuring itself that a settlement agreement represents an arms' length transaction entered without self-dealing or other potential misconduct"].)

D. <u>There Are No Objections to the Settlement</u>

No class members have objected to the Settlement, and only one class member has validly requested exclusion from the Settlement. (Dancy Decl., ¶¶ 9-12.) The overwhelmingly positive response of the class strongly supports final approval of the Settlement. (*See, e.g., In re Lifelock, Inc. Marketing and Sales Practices Litigation* (D. Ariz. 2010) 2010 WL 3715138, *6 [relatively few objections and requests for exclusion support approval].)

Factors to be considered in evaluating a class action settlement include "the reaction of the class members to the proposed settlement." (*Kullar, supra,* 168 Cal.App.4th at p. 128.) The reaction here has been overwhelmingly positive. Courts have approved class action settlements in lesser circumstances. (*See, e.g., Hughes v. Microsoft Corp.* (W.D.Wash. 2001) 2001 U.S. Dist. LEXIS 5976, 2001 WL 34089697, *8 [court found that the "class members overwhelmingly support[ed] the settlement" where there were over 37,000 notices sent out, 2,745 class members participated in the settlement, "only nine objections were submitted", and there were 86 timely opt-outs and over 20 additional defective or untimely opt-outs, "these indicia of the approval of the class of the terms of the settlement support a finding of fairness under Rule 23"], *citing Hanlon v. Chrysler Corp.* (9th Cir.1998) 150 F.3d 1011, 1027 [despite vigorous objections and appeal by objectors, the "fact that the overwhelming majority of the class willingly approved the offer and stayed in the class presents at least some objective positive commentary as to its fairness," and the court did not abuse its discretion in approving settlement].)

IV. <u>THE COURT SHOULD AWARD PLAINTIFFS THE REQUESTED AMOUNTS OF FEES, COSTS AND ENHANCEMENT PAYMENTS</u>

Under the Settlement, subject to the Court's approval, Defendants have agreed to pay Class

Counsel reasonable attorneys' fees in the amount of $254,570.08, which is 33 1/3% of the Gross Settlement Amount, costs up to $25,000.00 for litigating this action, and enhancement awards of $5,000.00 each to named Plaintiffs Teresa Alvarez and Mirna Reyes ($10,000.00 total). Defendants have also agreed that they would not oppose an application for these payments addressed above, and no class member has objected to these amounts.

In common fund cases like this one, the primary method California courts use for calculating attorneys' fees is the percentage of the common fund method, which may be followed by a lodestar cross-check. In *Laffitte v. Robert Half Int'l Inc.* (2016) 1 Cal.5th 480, the California Supreme Court affirmed an award of 33 1/3% of a $19 million wage and hour class action settlement with a 2.03 to 2.13 multiplier. (*Id.* at p. 506.) In doing so, the California Supreme Court explained:

> As to the incentives a lodestar cross-check might create for class counsel, we emphasize 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***. If the multiplier calculated by means of a lodestar cross-check is extraordinarily high or low, the trial court should consider whether the percentage used should be adjusted so as to bring the imputed multiplier within a justifiable range, but the court is not necessarily required to make such an adjustment. Courts using the percentage method have generally weighed the time counsel spent on the case as an important factor in choosing a reasonable percentage to apply.

(*Id.* at p. 505, emphasis added; *see also Beaver v. Tarsadia Hotels* (S.D. Cal. Sept. 28, 2017) 2017 WL 4310707, at *9 [applying *Laffitte* standard to fee request for 33 1/3% of common fund].)

A. <u>A Fee Award Based on One-Third of the Common Fund is Standard</u>

According to a leading treatise on class actions, "[n]o general rule can be articulated on what is a reasonable percentage of a common fund. Usually 50% of the fund is the upper limit on a reasonable fee award from a common fund in order to assure that the fees do not consume a disproportionate part of the recovery obtained for the class, although somewhat larger percentages are not unprecedented." (*See* Conte & Newberg, *Newberg on Class Actions* (3rd Ed.) § 14.03.) Attorneys' fees at fifty percent of the fund are typically considered the upper limit, with ***thirty to forty percent*** commonly awarded in cases where the settlement is relatively small. (*Id.*; *see also*

Van Vranken v. Atlantic Richfield Company (N.D. Cal. 1995) 901 F. Supp. 294 [stating that most cases where 30-50% was awarded involved "smaller" settlement funds of under $10 million].)

The settled-for 33 1/3% fee award is consistent with the average fee award in class actions. Indeed, the custom and practice in class actions is to award approximately one-third of a fund as a fee award. (*See Chavez v. Netflix, Inc.* (2008) 162 Cal.App.4th 43, 66, n.11 ["Empirical studies show that, regardless whether the percentage method or the lodestar method is used, fee awards in class actions average around one-third of the recovery."].) Thus, Plaintiffs' fee request is in line with the prevailing guidelines established in California case law and academic literature and is consistent with awards in California. Accordingly, the Court should approve the attorneys' fees requested herein.

B. <u>While the Lodestar Method is Not Necessary in Common Fund Cases, Courts May Perform a Cross-Check to Award Fees</u>

Although California supports the common fund doctrine, the lodestar method can be used to cross-check fee awards. "It may be appropriate in some cases, assuming the class benefit can be monetized with a reasonable degree of certainty, to "cross-check" or adjust the lodestar in comparison to a percentage of the common fund to ensure that the fee awarded is reasonable and within the range of fees freely negotiated in the legal marketplace in comparable litigation." (*In re Consumer Privacy Cases* (2009) 175 Cal.App.4th 545, 557.)

Applying the lodestar method requires a two-step process. The first step is to multiply the number of hours reasonably expended by a reasonable hourly rate. The second step is to apply a multiplier to the lodestar to take into account various factors. "The purpose of such adjustment is to fix a fee at the fair market value for the particular action. In effect, the court determines, retrospectively, whether the litigation involved a contingent risk or required extraordinary legal skill justifying augmentation of the unadorned lodestar in order to approximate the fair market rate for such services." (*Id.* at pp. 556-57.) "Under certain circumstances, a lodestar calculation may be enhanced on the basis of a percentage-of-the-benefit analysis." (*Id.* at p. 557.)

Detailed timesheets are not necessary to a lodestar cross-check. "The law is clear … that an award of attorney fees may be based on counsel's declarations, without production of detailed time records." (*Raining Data Corp. v. Barrenechea* (2009) 175 Cal.App.4th 1363, 1375.) As the California Supreme Court explained in *Laffitte*:

> With regard to expenditure of judicial resources, we note that trial courts conducting lodestar cross-checks have generally not been required to closely scrutinize each claimed attorney-hour, but have instead used information on attorney time spent to "focus on the general question of whether the fee award appropriately reflects the degree of time and effort expended by the attorneys." (5 Newberg on Class Actions, *supra*, § 15:86, p. 331; *see, e.g., Goldberger v. Integrated Resources, Inc., supra*, 209 F.3d at p. 50 [2d Cir.; "where used as a mere cross-check, the hours documented by counsel need not be exhaustively scrutinized by the district court"]; *In re Prudential Ins. Co. America Sales Practice Litigation Agent Actions* (3d Cir.1998) 148 F.3d 283, 342 [agreeing with district court that "detailed time summaries were unnecessary where, as here, it was merely using the lodestar calculation to double check its fee award."]; *Barbosa v. Cargill Meat Solutions Corp.* (E.D.Cal.2013) 297 F.R.D. 431, 451 ["Where the lodestar method is used as a cross-check to the percentage method, it can be performed with a less exhaustive cataloguing and review of counsel's hours."].)

(*Laffitte, supra,* 1 Cal.5th at p. 505.)

Class Counsel's lodestar is at least $140,025.00 based on over 202.4 hours of work performed thus far. (Hajjar Decl., ¶¶ 19-20.) Accordingly, the requested fee of $254,570.08 is reasonable and fair as it is based on an approximate multiplier of 1.82. To be sure, trial courts have substantial discretion in adjusting the lodestar to account for various factors. (*See Lealao v. Beneficial California, Inc.* (2000) 82 Cal.App.4th 19, 26, 39-45; *see also Serrano v. Priest* (1977) 20 Cal.3d 25, 49.) In addition, it has been held that "[m]ultipliers can range from 2 to 4 or even higher." (*See Wershba*, *supra,* 91 Cal.App.4th at p. 255; *see also Van Vranken*, *supra,* 901 F. Supp. At p. 298 ["[m]ultipliers in the 3-4 range are common in lodestar awards for lengthy and complex class action litigation."].) Similar multipliers have been found to be reasonable for Class Counsel. (*See, e.g., Moreno v. Pretium Packaging, L.L.C.* (C.D. Cal. Aug. 6, 2021) No. 8:19-cv-02500-SB, 2021 WL 3673845, *3 [finding Wilshire Law Firm, PLC's multiplier of 2.57 reasonable "in light of the contingent nature of recovery, the complexity of the issues, and the result obtained"].)

1. Class Counsel's Rates Have Been Approved by Several Courts

Class Counsel provides a declaration to support their lodestar hourly rates. "Affidavits of the plaintiffs' attorney and other attorneys regarding prevailing fees in the community, and rate determinations in other cases, particularly those setting a rate for the plaintiffs' attorney, are satisfactory evidence of the prevailing market rate." (*United Steelworkers of America v. Phelps Dodge Corp.* (9th Cir. 1990) 896 F.2d 403, 407.) Class Counsel has received final approval of their hourly rates in other wage and hour class action settlements.

2. Applying a Positive Multiplier Is Appropriate

Once this lodestar figure has been determined, the Court may take into account other "enhancement" factors to adjust the lodestar award. While Plaintiffs seek a modest multiplier of 1.82 here, the overall reasonableness of Plaintiffs' request is underscored by the fact that a significantly higher multiplier would be justified under applicable law.

Contingency fees should be higher than fees for the same legal services paid concurrently with the provision of the services. (*Ketchum v. Moses* (2001) 24 Cal.4th 1122, 1132-33.) "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." (*Id.* at p. 1133.) Application of that rule is particularly appropriate where the case is brought to redress important rights of vulnerable persons. (*Id*.) A risk enhancement is "earned compensation; unlike a windfall, it is neither unexpected nor fortuitous. Rather it is intended to approximate market-level compensation for such services which typically pay a premium for the risk of nonpayment or delay in payment of attorney's fees." (*Id*. at p. 1138.)

"Multipliers can range from 2 to 4 or even higher." (*Wershba*, *supra,* 91 Cal.App.4th at p. 255; *see also Sutter Health Uninsured Pricing Cases* (2009) 171 Cal.App.4th 495, 512 [applying a 2.52 multiplier on a cross-check in an antitrust class action]; *Chavez, supra,* 162 Cal.App.4th at p. 60 [applying a 2.5 multiplier on a lodestar cross-check]; *Vizcaino v. Microsoft Corp.* (9th Cir. 2002) 290 F.3d 1043, 1051 n.6 ["most" common fund cases apply a multiplier of 1.0-4.0]; *Been v. O.K. Industries Inc.* (E.D. Okla. 2011) 2011 WL 4478766, *11, *citing* a study "reporting [an] average multiplier of 3.89 in survey of 1,120 class action cases" and finding that a multiplier of 2.43 would be "per se reasonable.") The intermediate court in *Laffitte*, after finding that "2 to 4" is a reasonable range for multipliers on a cross-check, affirmed a 2.13 multiplier. (*Laffitte v. Robert Half Int'l* (2014) 231 Cal.App.4th 860, 881-82.) The intermediate court opinion was affirmed in full by the California Supreme Court in its new decision guiding lower courts on assessing fees.

Factors considered in determining whether a lodestar multiplier is appropriate generally include: (1) the risks presented by the contingent nature of the case; (2) the novelty and difficulty of the questions involved and the skill requisite to perform the legal service properly; (3) the nature of the opposition; (4) the preclusion of other employment by the attorney due to acceptance of the case; and (5) the result obtained and the importance of the lawsuit to the public. (*Serrano, supra,* 20 Cal.3d at pp. 48-49.) All of these factors favor approval of a multiplier along the lines of those approved in the cases above.

The major consideration in determining the necessity of a multiplier is the contingent nature of the award. (*Ketchum, supra,* 24 Cal.4th at pp. 1132-33.) Further, the possibility of no recovery is only one of the uncertainties involved in taking on such a case. Other uncertainties are the amount that will be recovered, uncertainty as to the cost, both in effort and expenses, and uncertainty about how much time will pass before the recovery is obtained. (*Id.* at pp. 1132-1133, 1138.) Here, Class Counsel have been the only counsel to represent Class Members in this matter and have borne the entire risk and costs of litigation purely on a contingency basis. Class Counsel's outlay of time and money in this case has been significant.

The other factors are also present here. Class Counsel are skilled attorneys who have had success in wage and hour class actions. This case required experienced and competent lawyers and expertise in the issues presented herein. Defendants' contentions underscore the risk of prevailing at class certification and trial, and any of these obstacles could have prevented recovery completely. Further, proceeding to trial would have added years to the resolution of this case because of the difficult legal and factual issues raised and the likelihood of appeals. Despite these risks, Class Counsel took this case on a contingency basis. Yet, there are only so many cases that Class Counsel can take at any one time. Consequently, there were other meritorious cases presented to Class Counsel that would have generated substantial fees, but were declined, during the pendency of this action in order to devote the attention necessary to achieve favorable results. (Hajjar Decl., ¶ 25.) Considered against the risks of continued litigation, and the importance of the employment rights and a speedy recovery, the relief provided under the Settlement represents a very strong result for the Class.

C. Costs Are Reasonable

As of the date of filing this Motion, Class Counsel has incurred around $19,284.91 in costs, and Defendants have agreed that they will not oppose any cost award request up to $25,000.00. (Hajjar Decl., ¶ 27.) Accordingly, Class Counsel respectfully requests reimbursement of up to $19,284.91 in costs. The categories of costs are set forth in the accompanying Declaration of Nicol E. Hajjar, and these costs are easily seen to be both reasonable and necessary.

Counsel can recover "out-of-pocket expenses that 'would normally be charged to a fee paying client'" including costs for "service of summons and complaint, service of trial subpoenas, fee for defense expert at deposition, postage, investigator, copying costs, hotel bills, meals, messenger service and employment record reproduction." (*Harris v. Marhoefer* (9th Cir. 1994) 24 F.3d 16, 19.) Such costs are properly recoverable on motions for settlement approval. (*See Nunez v. BAE Sys. San Diego Ship Repair Inc.* (S.D. Cal. 2017) 292 F. Supp. 3d 1018, 1057; *Rutti v. Lojack Corp.* (C.D. Cal. July 31, 2012) No. CV 06–00350 DOC, 2012 WL 3151077, at *12 ["Expenses such as reimbursement for travel, meals, lodging, photocopying, long-distance telephone calls, computer legal research, postage, courier service, mediation, exhibits, documents scanning, and visual equipment are typically recoverable."].)

D. The Enhancement Payments to the Plaintiffs are Reasonable

Named plaintiffs in class action lawsuits "are eligible for reasonable incentive payments to compensate them for the expense or risk they have incurred in conferring a benefit on other members of the class." (*Munoz v. BCI Coca-Cola Bottling Co. of Los Angeles* (2010) 186 Cal.App.4th 399, 412.) Courts routinely grant approval of class action settlement agreements containing enhancements for the class representatives, which are necessary to provide incentive to represent the class, and are appropriate given the benefit the class representatives help to bring about for the class. (*See Rodriguez v. W. Publ'g Corp*. (9th Cir. 2009) 563 F.3d 948, 958-59.) The California Supreme Court has also noted that "retaliation against employees for asserting statutory rights under the Labor Code is widespread," despite anti-retaliation statutes designed to protect employees. (*Gentry v. Super. Ct.* (2007) 42 Cal.4th 443, 460-61.) Plaintiffs should therefore be rewarded for assuming the risk of retaliation for the sake of class members. (*See Frank v. Eastman Kodak Co.* (W.D.N.Y. 2005) 228 F.R.D. 174, 187.)

Under the settlement agreement, subject to the Court's approval, Defendants agreed to pay Class Representative Service Payments in the amount of $5,000.00 each to Plaintiffs Teresa Alvarez and Mirna Reyes. This amount is also in exchange for Plaintiffs' general releases of all claims against Defendants. Plaintiffs have submitted a declaration demonstrating their devotion to this case, including their efforts assisting counsel in the case, communicating with counsel frequently for litigation, preparing for mediation, and reviewing case-related documents. (*See, generally,* Declarations of Plaintiffs submitted in support of Motion for Final Approval.)

When compared with the amounts awarded in typical class action cases, the amount requested here is particularly reasonable. Indeed, a **2006** study examining the average incentive award given to class action plaintiffs from **1993 to 2002** found that the "average award per class representative was $15,992 and the median award per class representative was $4,357." (Theodore Eisenberg & Jeffrey P. Miller, "Incentive Awards to Class Action Plaintiffs: An Empirical Study", 53 UCLA L. Rev. 1303, 1308 (2006).) Courts routinely approve a $10,000 enhancement award for plaintiffs represented by Class Counsel. (*See, e.g., Moreno, supra,* 2021 WL 3673845 at *3 ["The Court concludes a $10,000 incentive award is appropriate."]; *Suarez, supra,* 2024 WL 150721 at p. *4 ["The court approves awards of $10,000 for each class representative."].)

"Since without a named plaintiff there can be no class action, such compensation as may be necessary to induce him to participate in the suit." (*Clark v. Am. Residential Services LLC* (2009) 175 Cal.App.4th 785, 804.) "[T]he rationale for making enhancement or incentive awards to named plaintiffs is that they should be compensated for the expense or risk they have incurred in conferring a benefit on other members of the class." (*Id.* at p. 806.) "An incentive award is appropriate 'if it is necessary to induce an individual to participate in the suit."' (*Cellphone Term. Fee Cases* (2010) 186 Cal.App.4th 1380, 1394, *quoting Clark*, 175 Cal.App.4th at p. 804.) The "criteria courts may consider in determining whether to make an incentive award include: (1) the risk to the class representative in commencing suit, both financial and otherwise; (2) the notoriety and personal difficulties encountered by the class representative; (3) the amount of time and effort spent by the class representative; (4) the duration of the litigation; and (5) the personal benefit (or lack thereof) enjoyed by the class representative as a result of the litigation." (*Id.* at pp. 1394-95.) Plaintiffs' declaration describes how each of the five *Cellphone Termination* factors are present here.

E. Administration Expenses Should be Approved

CPT Group, Inc., the Settlement Administrator, estimates that it will incur a total of $17,500.00 in costs associated with the administration of this Settlement. (Dancy Decl., ¶ 18.) These expenses are reasonable, based upon the size of the class, claim and exclusion tracking, and Class Member payment processing.

V. CONCLUSION

For the foregoing reasons, Plaintiff respectfully requests that the Court grant final approval of the proposed settlement.

Dated: August 6, 2025

Respectfully submitted,

WILSHIRE LAW FIRM, PLC

Nicol E. Hajjar
Rachel J. Vinson
Alan Wilcox
Bradford Smith

Attorneys for Plaintiffs