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7 on behalf of himself, the State of California, and others similarly
8 situated and aggrieved

9
10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
11 **COUNTY OF ORANGE**

12 VINCE BURKLUND on behalf of himself,
13 the State of California, and others similarly
situated and aggrieved,

14 Plaintiff,

15
16 v.

17 GARDEN GROVE UNIFIED SCHOOL
DISTRICT, a California public school
18 district; and DOES 1-100, inclusive,

19 Defendants.
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21
22
23
24

Case No.: 30-2022-01260573-CU-OE-CXC

Assigned for All Purposes to:
Hon. Melissa R. McCormick
Dept. CX-105

AMENDED MEMORANDUM OF POINTS
AND AUTHORITIES IN SUPPORT OF
MOTION FOR FINAL APPROVAL OF
CLASS ACTION, COLLECTIVE ACTION,
AND PAGA SETTLEMENT, AND REQUEST
FOR ATTORNEY'S FEES AND COSTS

Date: September 3, 2026
Time: 2:00 p.m.
Dept.: CX-105

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1 **I. INTRODUCTION**

2 Plaintiff and Class Representative Vince Burklund seeks final approval of a non-
3 reversionary class action settlement resolving wage and hour claims on behalf of 4,862
4 individuals employed by Defendant Garden Grove Unified School District (“GGUSD” or
5 “Defendant”) in California during the period of May 5, 2019 through August 16, 2023. The
6 \$854,574.61 escalated total gross settlement provides about \$493,015.17 in cash payments to
7 the Class, plus additional amounts payable under PAGA. The remaining balance will cover a
8 modest service award to the Plaintiff, settlement administration costs, civil penalties to the state,
9 and reasonable attorney’s fees and costs. The parties and their counsel finalized the settlement
10 after extensive and difficult arms-length negotiations overseen by an experienced and highly-
11 regarded mediator. The Court conditionally certified the Class and preliminarily approved the
12 settlement on July 24, 2025. Since then, the Court-approved notice form was mailed to the
13 Class Members on September 29, 2025, and they have reacted very favorably to the settlement.
14 As of the date of this motion, there are no objections and only twenty-one class members have
15 opted out.

16 Further, Class Counsel secured an excellent settlement with GGUSD after some
17 four years of investigation, litigation, and settlement negotiation and administration, all
18 without any compensation for services rendered or costs expended. The class notice duly
19 informs the class members that Class Counsel would request attorney’s fees not to exceed
20 1/3 of the initial Gross Settlement Amount, or \$260,000.00, along with reimbursement of
21 no more than \$29,000 for actual costs incurred litigating this matter. As of the filing of
22 this motion, *not one Class Member objected* to the proposed fee award. Consistent with
23 the Settlement and notice, Plaintiff now respectfully requests the Court award Class
24 Counsel's fees in the amount of \$260,000.00 and costs in the amount of \$18,556.44, as
25 described in the Declaration of Jamie K. Serb (“Serb Decl.”) filed herewith. The requested
26 attorney’s fees are well within the range of reasonableness, especially considering the
27 complex and risky nature of this litigation, the contingent risk assumed, and the three-plus

1 year delay in payment and, when subjected to a lodestar crosscheck, result in fee award
2 with a very modest 1.07 enhancement to the base lodestar.

3 Accordingly, Plaintiff respectfully requests the Court grant this motion, give full and
4 final approval to the settlement, grant Class Counsel's request for attorney's fees and costs, and
5 enter judgment accordingly.

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

7 Defendant GGUSD operates 68 schools in Garden Grove, California and six surrounding
8 cities - Anaheim, Cypress, Fountain Valley, Santa Ana, Stanton, and Westminster. With nearly
9 40,000 students. Defendant is the third largest school district in Orange County. Plaintiff Vince
10 Burkland has been employed by GGUSD as a maintenance worker since 2015, although he has been
11 out on workers compensation/disability leave since 2021. [Declaration of Jamie Serb ("Serb Decl."),
12 ¶ 16.]

13 Plaintiff alleges GGUSD failed to pay the class at least the applicable minimum wage for all
14 hours worked. First, he claims that she and class members were not paid for all hours worked
15 because GGUSD paid employees based on their schedule rather than actual hours worked. In this
16 regard, non-exempt employees did not punch in/out or track their time in any way, nor did they
17 clock in/out for meal periods. Instead, GGUSD simply paid the class members for 8 hours for each
18 day they worked and, in fact, Defendant actually tracked days absent and backed out 8 hours of pay,
19 rather than keeping accurate time records and paying employees accordingly. Importantly, per
20 Plaintiff, he and other class members regularly worked "off the clock" after the scheduled end of a
21 shift for up to 30 extra minutes, as supervisors required them to continue working until all
22 outstanding work was complete. None of this post-shift work was tracked or paid for, resulting in
23 the alleged underpayment of minimum wages. Plaintiff also alleged GGUSD employees typically
24 did not punch out for the meal periods as required under the Labor Code and Wage Order but
25 GGUSD nevertheless "auto deducted" 30 minutes of time regardless of whether the meal break
26 actually was taken or lasted a full 30 minutes. Plaintiff also contends meal periods essentially were
27 "on duty," as per GGUSD policy he and other class members had to remain with their vehicles and

1 equipment at all times and accordingly were not fully relieved of all duties while on a meal period.
2 [Serb Decl., ¶ 17.]

3 Based on these allegations, on May 5, 2022, Plaintiff filed a class action complaint, followed
4 by an amended complaint that alleged claims for (1) unpaid minimum wages, (2) liquidated
5 damages, and (3) Unfair Competition. Plaintiff's complaint also alleged a collective action claim
6 under the Fair Labor Standards Act, 29 U.S.C. sections 201, *et seq.*, based on Defendant's alleged
7 violations of the FLSA for failure to pay all minimum wages. On June 7, 2022, Defendant removed
8 the class action to the United States District Court for the Central District of California based on
9 federal question jurisdiction. After exhausting his administrative remedies, on May 17, 2022,
10 Plaintiff commenced this action by filing a separate complaint under PAGA seeking civil penalties
11 for Defendant's alleged minimum wage violations. [Serb Decl., ¶ 18.]

12 GGUSD has at all times denied Plaintiff's allegations in both matters and maintained its
13 payroll policies and procedures comply with California and federal law, that it accurately tracked
14 hours worked and paid the class members all wages due, and that its compensation policies properly
15 compensate the class members for all hours worked. Defendant also strongly contends the case
16 cannot be maintained as any kind of class or representative action, arguing determining the number
17 of potential off the clock hours worked by each class member, and the reasons any such work was
18 performed, would result individualized issues predominating and that a trial on a representative basis
19 would be unmanageable. [Serb Decl., ¶ 19.]

20 After Plaintiff filed his complaints, the Parties engaged in substantial meet and confer
21 discussions regarding discovery, potential law and motion, and other case management issues, and
22 ultimately agreed to attempt early mediation, and further agreed to explore settlement on a class
23 action basis. Thereafter, the Parties engaged in additional informal discovery to facilitate an
24 exchange of information necessary to engage in a meaningful mediation. The Parties then engaged
25 Tripper Ortman, Esq., a highly respected mediator with extensive wage and hour class action
26 experience and, in May 2023 participated in a mediation with Mr. Ortman and reached agreement
27 on all major issues to resolve the matter. [Serb Decl., ¶¶ 20-21.] The Court granted preliminary
28 approval on July 24, 2025.

1 At mediation the Parties initially agreed on a settlement class that would include “all
2 **Classified** non-exempt employees” of Defendant. Defendant initially calculated the actual
3 workweeks and PAGA Pay Periods for the settlement class and found that there were 3,960 Class
4 Members who collectively worked a total of 596,137 Workweeks, and 3,628 Aggrieved Employees
5 who had a total of 72,796 PAGA Pay Periods. Ultimately, an issue arose as to whether the settlement
6 would also include Defendant’s occasional, seasonal, temporary, or short-term part-time employees
7 (“Short Term Employees”), as whether these employees are "Classified" depends on what job duties
8 were completed for each shift. To avoid an individualized inquiry as to each employee, the parties
9 met and conferred as to the class definitions and agreed to include all 902 Short Term Employees
10 as part of the settlement class, and agreed to define the settlement class as “all non-exempt”
11 employees who worked for Defendant from May 5, 2019 until August 16, 2023. For purposes of
12 PAGA, the Parties agreed that the Aggrieved Employees would include “all non-exempt” employees
13 who worked for Defendant from May 17, 2021 until August 16, 2023. [Serb Decl., ¶ 22; Gafa Decl.,
14 ¶¶ 3-5.]

15 Based on the above class/PAGA definitions from the Second Amended Settlement
16 Agreement, the Class increased to 4,862 Members who collectively worked a total of 611,294
17 Workweeks, and the Aggrieved Employees increased to 4,075 Aggrieved Employees with a total of
18 74,593 PAGA Pay Periods. Although there is no escalator clause included in the Settlement
19 Agreement, and so as not to dilute any Class Member or Aggrieved Employee’s previously
20 calculated share, the Parties agreed to include all 4,862 Class Members by increasing the Net
21 Settlement Amount to be distributed to Class Members by \$74,574.61 (89,580 Workweeks x
22 \$0.8324582242378008 Workweek Value), resulting in an escalated GSA of \$854,574.61. [Serb
23 Decl., ¶ 23; Gafa Decl., ¶¶ 6-8.]

24 Accordingly, class notice was sent to all 4,862 Class Members and 4,075 Aggrieved
25 Employees on September 29, 2025, with a 60-day window (to November 28, 2025) for class
26 members to opt out of or object to the proposed settlement. [Declaration of Lluvia Islas (“Islas
27 Decl.”), ¶¶ 5, 8-10.]

28 /////

1 **III. THE PROPOSED SETTLEMENT TERMS**

2 Under the settlement, GGUSD now will pay an escalated amount of \$854,571.61 into a
3 common fund, the Gross Settlement Amount (“GSA”). Attorney’s fees of up to \$260,000 (1/3 of
4 the initial GSA), litigation costs of up to \$29,000 (only \$18,556.44 is requested), settlement
5 administration costs of \$28,000,¹ a service award to Plaintiff of no more than \$5,000, and \$50,000
6 for alleged civil penalties under PAGA, all will be paid from the GSA. The remainder of around
7 \$493,015.17 will be allocated pro rata among the Class Members based on their total weeks worked
8 during the Class Period. No portion of the GSA will revert to GGUSD. [Serb Decl., ¶ 24.]

9 **A. Certification of the Settlement Class**

10 The Court conditionally certified a class defined to include all individuals employed by
11 GGUSD as a non-exempt employee in the State of California during the Class Period from May 5,
12 2019 through August 16, 2023. At preliminary approval it was estimated there were about 3,960
13 class members, however the final class count turned out to be 4,862. The discrepancy turned on the
14 Parties eventual decision to include Defendant’s Short Term Employees in the proposed settlement
15 clasls. Based on the class definitions in the Second Amended Settlement Agreement that was
16 approved by the Court, the Class increased to 4,862 Members who collectively worked a total of
17 611,294 Workweeks, and the PAGA Class increased to 4,075 Aggrieved Employees with a total of
18 74,593 PAGA Pay Periods. The Parties inadvertently failed to include the Short Term Employees
19 and related work weeks in the class count previously provided to the Court due to the confusion
20 over whether the Short Term Employees were included in the settlement class. [Serb Decl., ¶¶ 22-
21 23, 25; Gafa Decl., ¶¶ 3-6.]

22 All Class Members received notice of the settlement, as the Settlement Administrator mailed
23 4,862 Class Notices on September 29, 2025. [Islas Decl, ¶ 5.] Overall, Plaintiff submits there has
24 been no change warranting a different conclusion as to certification of the class for settlement
25 purposes.

26 /////

27 _____
28 ¹ The actual administration costs are \$32,103, and the difference will be funded separately by the Parties.
[Islas Decl. ¶ 16] **MEMORANDUM ISO MOTION FOR FINAL APPROVAL OF CLASS ACTION,
COLLECTIVE ACTION, AND PAGA SETTLEMENT, AND REQUEST FOR ATTORNEY'S FEES AND
COSTS'**

1 **B. The Benefit Conferred on the Settlement Class**

2 As noted, the settlement now obligates GGUSD to pay \$854,574.61 to resolve the claims of
3 the Settlement, inclusive of attorney's fees and costs. A minimum of approximately \$493,015.17
4 from the GSA will be distributed to the Participating Class Members. This is a cash settlement that
5 does not require Participating Class Members to submit a claim form to receive their settlement
6 share. Participating Class Members will receive their settlement checks automatically via First
7 Class U.S. Mail. Eighty percent of each settlement share will be allocated to wages and the
8 remaining twenty percent will be allocated to liquidated damages and interest, which allocation is
9 consistent with GGUSD's potential liability. GGUSD will pay any and all applicable employer-side
10 payroll taxes separately and in addition to the GSA. Subject to the Court's approval, any amounts
11 not claimed (because a class member does not cash a settlement check) will be forwarded to the
12 State Controller's Unclaimed Property Fund. [Serb Decl., ¶ 26.]

13 Each participating Class Member will receive a share of the Net Settlement Amount based
14 on his or her total weeks worked for GGUSD during the Class Period while employed in a non-
15 exempt position. Thus, each individual Settlement Payment will be calculated using criteria
16 typically used in determining appropriate amounts of unpaid wages under applicable law. These
17 methods will ensure each Class Member receives a portion of the settlement funds relative to the
18 value of their potential claims. The proposed allocation provides a reasonable way to compensate
19 Class Members based on the amount of time they worked for GGUSD and the potential hours
20 worked lost due to off the clock work. [Serb Decl., ¶ 27.]

21 The average class settlement award will be approximately \$101.82, and the awards
22 potentially will range from about \$0.81 to over \$181. There are approximately 4,862 Aggrieved
23 Employees eligible to receive a share of the PAGA civil penalties, the average PAGA award will be
24 about \$2.57, and PAGA awards will range from \$0.17 to \$4.52. Plaintiff's individual class
25 settlement award will be about \$116.74, and his PAGA award will be about \$1.51. [Islas Decl.,
26 ¶¶ 13-14.]

27 **C. Settlement Administration**

28 Phoenix Settlement Administrators, as the Court-approved Settlement Administrator,
AMENDED MEMORANDUM ISO MOTION FOR FINAL APPROVAL OF CLASS ACTION,
COLLECTIVE ACTION, AND PAGA SETTLEMENT, AND REQUEST FOR ATTORNEY'S FEES AND
COSTS'

1 mailed the Notice Packets to the Class members after making all reasonable effort to ascertain
2 the best mailing address, including running each address through the National Change of
3 Address database and "skip-tracing" any Notice Packets returned as undeliverable. [Islas Decl.,
4 ¶¶ 3-6.] The Class Notice, previously approved by the Court, duly informed Class Members of
5 the settlement terms, including the estimated relief each Class Member will receive, the
6 amounts to be requested for attorney's fees and the class representative enhancement awards,
7 and the right to opt out of or object to the settlement. [Islas Decl., ¶ 5, Exh. A.] Phoenix mailed
8 4,862 Notice Packets on September 29, 2025, and the Notice Packets were mailed in English,
9 Spanish, and Vietnamese. [Islas Decl., ¶ 5.] As of the filing of this motion, 11 Notice Packets
10 were deemed undeliverable, for a 99.8% success rate. [Islas Decl., ¶ 7.] The response window
11 for opting out, objecting to the settlement, or submitting a dispute, expired on November 28,
12 2025. [Islas Decl., ¶¶ 8-10.] As of the filing of this motion, Phoenix has received twenty-one
13 (21) requests for exclusion (for a 99.57% participation rate), zero objections to the settlement,
14 and no disputes have been submitted regarding the information used to calculate class member
15 settlement shares. [Islas Decl., ¶¶ 8-10.]

16 **D. Release of Claims**

17 All Participating Class Members will release GGUSD from all claims alleged in the
18 operative complaint, or that could have been brought based on the factual allegations in the operative
19 complaint, including FLSA and PAGA claims, during the Class Period. The class and PAGA
20 releases are limited to the claims that were actually pleaded or could have been pleaded based on
21 the alleged facts in the operative complaint. [Serb Decl., ¶ 28.]

22 **E. PAGA Claims and Notice to the LWDA**

23 The Parties ultimately allocated \$50,000 of the GSA to payment of civil penalties under
24 PAGA, which amount Plaintiff submits is fair, reasonable, and adequate, and consistent with
25 PAGA's underlying purposes. Per Labor Code section 2699(l)(2), Plaintiff gave notice of the
26 settlement and the continued final approval hearing to the LWDA via its online portal and as
27 reflected on the accompanying proof of service. [Serb Decl., ¶ 29; Exh. 1.]

28 /////

1 **IV. ARGUMENT**

2 **A. Standards For Approval**

3 The law favors settlement, particularly in class actions where substantial resources can
4 be conserved by avoiding the time, cost, and rigors of formal litigation. H. Newberg & A.
5 Conte, 4 Newberg on Class Actions (4th ed. 2002), § 11.41; Class Plaintiffs v. City of Seattle
6 (9th Cir. 1992) 955 F.2d 1268, 1276, cert. denied, 506 U.S. 953; Van Bronkhorst v. Safeco
7 Corp. (9th Cir. 1976) 529 F.2d 943,950; Potter v. Pacific Coast Lumber Co. (1951) 37 Cal.2d
8 592, 602. Nevertheless, to make certain the rights of absent parties are not unjustly
9 compromised, the settlement of a class action requires court approval. Cal. Rule of Court 3.769;
10 Dunk v. Ford Motor Co. (1996) 48 Cal.App.4th 1794, 1801; Wershba v. Apple Computer (2001)
11 91 Cal.App.4th 224, 245. The purpose of that judicial review is to protect against fraud or
12 collusion, and to ensure fairness to absent class members. Dunk, 48 Cal.App.4th at 1800-01;
13 Newberg, at §§ 11.22, *et seq.* Review is accomplished through a two-step process intended to
14 determine whether, under the totality of circumstances, the settlement is fair, reasonable and
15 adequate. Dunk, 48 Cal.App.4th at 1801; Wershba, 91 Cal.App.4th at 245.

16 On a motion for final approval, the trial court is charged with determining whether, in
17 light of the total circumstances of the action and the response of the class members to the
18 proposed settlement, the settlement is fair, reasonable, and adequate. Dunk, 48 Cal.App.4th at
19 1801-02; Wershba, 91 Cal.App.4th at 244-45. The court has broad discretion in making that
20 determination and may consider a number of relevant factors, including: the strength of
21 plaintiff's case; the likelihood of potential recovery; the risk, expense and likely duration of
22 further litigation; the amount offered in settlement; the extent of discovery and stage of the
23 proceedings; the experience and opinion of counsel; and the reaction of class members to the
24 settlement. Id. In light of the strong judicial policy favoring the settlement of class actions,
25 courts generally apply a presumption of fairness to a proposed class action settlement when:
26 (1) the settlement is reached through arm's-length bargaining; (2) investigation and discovery
27 are sufficient to allow counsel and the court to act intelligently; (3) counsel is experienced in
28 similar litigation; and (4) the percentage of objectors is small. Dunk, 48 Cal.App.4th at 1802;

1 Wershba, 91 Cal.App.4th at 245.

2 **B. The Proposed Settlement Merits Final Approval**

3 The proposed settlement of this action warrants final approval under the standards
4 summarized above. The settlement is fair, reasonable and adequate, and represents a
5 favorable resolution of highly disputed claims. Further, the settlement was overwhelmingly
6 approved by the class members as there are no objections and no class member has requested
7 exclusion.

8 **1. The Settlement Is the Product of Arm's-Length, Informed Negotiations**

9 The settlement is not the result of fraud or collusion. Rather, the proposed settlement
10 was reached following arm's-length negotiations presided over by Tripper Ortman, Esq., a
11 highly respected and well-known mediator with extensive experience mediating wage and hour
12 class actions. [Serb Decl., ¶ 21.] Moreover, Plaintiff and his counsel were well-informed about
13 the facts and the law, and counsel at Crosner Legal have years of litigation experience, including
14 litigating wage and hour class actions. Plaintiff's counsel are well-qualified to evaluate the risks and
15 benefits of pursuing further litigation or settling the matter. [Serb Decl., ¶¶ 42-45, 50.] Defendant
16 likewise was represented by highly-qualified and experienced defense counsel. Both sides
17 advocated vigorously for their clients and nothing was "left on the table."

18 **2. The Class Reacted Favorably to the Settlement**

19 The settlement was well-received by the class. As of the filing of this motion, no
20 objections have been filed, and only 21 Class Members requested exclusion, for a 99.6%
21 participation rate. [Islas Decl., ¶¶ 8-9.] As many courts recognize, class member reaction to the
22 settlement is one of the most important factors to consider in determining if final approval should
23 be granted. Mandujano v. Basic Vegetable Prods., Inc., 541 F.2d 832, 837 (9th Cir. 1976); see also
24 In re: American Bank Note Holographics, 127 F.Supp.2d 418, 425 (S.D.N.Y. 2001) ("It is well-
25 settled that the reaction of the class to the settlement is perhaps the most significant factor to be
26 weighed in considering its adequacy") (internal quotation marks omitted).

1 Lastly, per GGUSD, individualized inquiries would be required to determine the reasons behind any
2 alleged off the clock work, any alleged work during meal periods, or if any such time was
3 compensable, and therefore class certification would be inappropriate and any trial would be
4 unmanageable. [Serb Decl., ¶ 34.]

5 As far as potential PAGA liability, the theoretical penalties totaled at least \$7 million should
6 Plaintiff prevail and establish the alleged minimum wage violations at issue for each pay period,
7 and collect the maximum allowable penalty. As with the class claims, Plaintiff discounted the
8 potential PAGA penalties for the multi-layered defenses proffered by Defendant on the merits, such
9 as whether GGUSD's policies accurately tracked and paid for employee hours worked, whether
10 defendant had actual or constructive knowledge of any purported off the clock work, and whether
11 District policies resulted in alleged "on duty" meal periods. [Serb Decl., ¶ 35.]

12 Plaintiff further discounted the PAGA claims since the Court possesses wide discretion to
13 reduce such penalties even, if Plaintiff ultimately prevailed, should the Court find such an award to
14 be unfair, arbitrary, or excessively punitive. Labor Code § 2699(e)(2); Fleming v. Covidien (C.D.
15 Cal. 2011) 2011 U.S. Dist. LEXIS 154590, *8-9 (court reduced the potential penalties by over 82%
16 after a bench trial); Carrington v. Starbucks Corp. (2018) 30 Cal.App.5th 504 (after a bench trial,
17 the trial court awarded penalties of just \$5 per pay period, a 90% reduction, which decision was
18 upheld on appeal); In re Taco Bell Wage and Hour Actions (E.D. Cal. Apr. 8, 2016) 2016 U.S. Dist.
19 Lexis 48557 (PAGA penalties denied after trial).

20 Accordingly, the Parties allocated \$50,000 to PAGA penalties, which amount is reasonable
21 and in line with comparable settlements in other class actions in California. Van Kempen v.
22 Matheson Tri-Gas, Inc. (N.D. Cal. Aug. 25, 2017) 2017 U.S. Dist. LEXIS 137182 (granting final
23 approval of \$5,000 PAGA penalty from \$370,000 settlement, or 1.4 percent of total settlement);
24 Slavkov v. First Water Heater Partners I (N.D. Cal. July 25, 2017) 2017 U.S. Dist. LEXIS 116303
25 (finding a \$7,500 PAGA payment reasonable when measured against the overall settlement of
26 \$345,000 and the possible weaknesses in plaintiffs' case, or 2.2 percent of total settlement). Further,
27 the amount of PAGA penalties should not be evaluated in a vacuum but rather in connection with
28 the total amount be paid to resolve the entire matter, and whether that amount and/or any other relief

1 secured serves PAGA’s purposes such as deterring future Labor Code violations. Haralson v. U.S.
2 Aviation Servs. Corp. (N.D. Cal. 2019) 383 F.Supp.3d 959, 972 (in class/PAGA settlements courts
3 look to the interplay of the two recoveries to determine whether PAGA's purposes have been
4 served). Plaintiff submits the overall settlement, including the amounts allocated to PAGA, has “a
5 substantial deterrent effect . . . [and] encourages compliance with the specific requirements of the
6 Labor Code, which has the effect of protecting workers from unlawful employment practices and
7 working conditions.” Jordan v NCI Grp., Inc. (C.D. Cal. Jan. 5, 2018) 2018 U.S. Dist. LEXIS 25297,
8 at *7-8. Additionally, the LWDA has been informed of the terms of the PAGA portion of the
9 settlement, and will be able to weigh in as necessary. Jennings v. Open Door Mktg. Inc. (N.D. Cal.
10 Oct. 3, 2018) 2018 U.S. Dist. LEXIS 171356, at *27 (approving settlement with PAGA penalties of
11 0.6% where “[p]laintiffs [have] submitted the settlement agreement to the LWDA, and the LWDA
12 has not objected to the settlement”).

13 Thus, Defendant raised significant procedural and merits defenses to Plaintiff’s claims, any
14 one of which, if successful, could have derailed Plaintiff’s case. Accordingly, Plaintiff faced risky
15 issues going forward with this litigation, and given the need to secure class certification, try the case,
16 and deal with post-trial appeals, it would have taken years to realize any recovery in this action.
17 Plaintiff’s counsel discounted the value of the class claims consistent with the risks discussed above,
18 and carefully weighed the likelihood of the class receiving substantially greater benefit if the
19 litigation continued. Plaintiff’s counsel concluded – in light of these very real and substantial risks
20 – settlement on the proposed terms and without prolonged and costly litigation was in the best
21 interests of the class. The overall \$854,571.61 recovery represents a significant percentage of
22 Defendant’s potential exposure and given these risks addressed above, a total recovery for the class
23 is a fair result within the range of reasonableness considering all potential outcomes. [Serb Decl.,
24 ¶¶ 36-37.]

25 Importantly, the mere fact that a settlement does not provide the same recovery as might be
26 achieved at trial is not a proper indicator of whether the settlement is fair, reasonable, and adequate.
27 Wershba, 91 Cal.App.4th at 246, 250 (“even if the relief afforded by the proposed settlement is
28 substantially narrower than it would be if the suit¹³ were to be successfully litigated, this is no bar to

1 a class settlement because the public interest may indeed be served by a voluntary settlement in
2 which each side gives ground in the interest of avoiding litigation”); 7-Eleven Owners for Fair
3 Franchising v. Southland Corp. (2000) 85 Cal.App.4th 1135, 1150 (“The fact that a proposed
4 settlement may amount to only a fraction of the potential recovery does not, in and of itself, mean
5 that the proposed settlement is grossly inadequate and should be disapproved”); Lane v. Facebook,
6 Inc. (9th Cir. 2012) 696 F.3d 811, 819 (“[T]he question whether a settlement is fundamentally fair .
7 . . is different from the question whether the settlement is perfect in the estimation of the reviewing
8 court”); White v. Experian Information Solutions, Inc. (C.D. Cal. 2011) 803 F.Supp.2d 1086, 1098
9 (rejecting contention settlement was not fair and reasonable even though it represented 99% discount
10 off the maximum value of the claims). Importantly as well, the proposed settlement is non-
11 reversionary and will provide benefits to the Class Members without a claims process. White v.
12 Experian, 803 F.Supp.2d at 1098; c.f., Federal Judicial Center, Managing Class Action Litigation:
13 A Pocket Guide for Judges (3d ed. 2010) at 20, available at
14 www.fjc.gov/sites/default/files/2012/ClassGd3.pdf (reversionary provisions and/or cumbersome
15 claims process may indicate lack of fairness). Plaintiff and her counsel submit the settlement is
16 within the “range of reasonableness,” and is fair and adequate for the Class.

17 **V. PLAINTIFF’S ENHANCEMENT AWARD**

18 Pursuant to the terms of the settlement, Plaintiff seeks a modest incentive award of \$5,000
19 for his service in bringing these claims on behalf of the Class. The request is reasonable given the
20 risks he undertook on behalf of the Class Members. By contacting and retaining counsel to pursue
21 these claims, Plaintiff helped make this settlement possible for the absent Class Members, while
22 shouldering the risk of being liable for GGUSD’s litigation costs. Plaintiff also exposed himself to
23 unwanted notoriety related to filing a public lawsuit (discoverable even through a simple google
24 search) for the benefit of other employees, assuming a risk of discrimination by future prospective
25 employers. As set forth in more detail in his declaration previously submitted (RoA No. 156), among
26 taking many other actions assisting in the successful litigation of this case, Plaintiff provided
27 substantial factual information and documents to counsel, attended numerous meetings/phone
28 conferences with counsel to discuss the case,¹⁴ responded to discovery, and kept abreast of all

1 significant developments. [Serb Decl., ¶ 38.] Finally, there are no class member objections
2 submitted with respect to the amounts Plaintiff proposes to receive. [Islas Decl., ¶ 9.] Accordingly,
3 the requested enhancement payment to Plaintiff is appropriate and justified as part of the settlement.

4 **VI. SETTLEMENT ADMINISTRATION COSTS**

5 The settlement provides for a payment to Phoenix for its services as the Settlement
6 Administrator. As set forth in the Declaration of Lluvia Islas, Phoenix has performed and will
7 continue to perform its required duties through final distribution of the settlement funds, and
8 incurred \$32,103.00 in fees and expenses. [Islas Decl., ¶ 16; Exh. B.] Accordingly, consistent with
9 the Settlement Agreement, Plaintiff respectfully requests the Court approve payment of \$28,000 to
10 Phoenix from the GSA, with the balance to be funded separately by the Parties. [Serb Decl., ¶ 39.]

11 **VII. ATTORNEY'S FEES AND COSTS**

12 **A. The Attorney's Fees Requested Are Fair and Reasonable and Should Be**
13 **Approved**

14 This Court has discretion over the amount of attorneys' fees awarded and court approval
15 is required for Class Counsel's fees. Cal. Rule of Court 3.769; Levy v. Toyota Motor Sales,
16 U.S.A. (1992) 4 Cal.App.4th 807, 813; Lealao v. Beneficial Cal., Inc. (2000) 82 Cal.App.4th
17 19. In defining a reasonable fee, the Court should attempt to mimic the marketplace for cases
18 involving significant contingent risk, such as this one. Deposit Guaranty Nat'l Bank, Jackson,
19 Miss. v. Roper (1980) 445 U.S. 326, 338, rehg. den. 446 U.S. 947; Lealao, 82 Cal.App.4th at
20 49-50 (court should attempt "to award the fee that informed private bargaining, if it were truly
21 possible, might have reached" in determining a reasonable fee, and a fee award should
22 approximate a "range of fees freely negotiated in comparable litigation"). Here, Class
23 Counsel's request for attorney's fees and costs is reasonable and justified by the work
24 performed, the benefits obtained, and the contingent risk assumed. As addressed in detail
25 above, at the time the parties reached the tentative settlement success for Plaintiff and the
26 putative class was far from certain. Plaintiff faced a real risk that some or all the claims would
27 not be certified for class treatment, as GGUSD had strong arguments that its compensation
28 policies were legal and properly compensated the class members. Even if Plaintiff certified

1 some or all of the claims and ultimately prevailed on the merits, it undoubtedly would have
2 taken several more years to realize any recovery while they pursued class certification, trial,
3 and a certain appeal. [Serb Decl., ¶¶ 34-35.]

4 Nonetheless, Plaintiff succeeded and expeditiously obtained the relief he set out to
5 obtain, and the settlement provides direct cash payments to Class Members with an average
6 award of \$101.82, and with a maximum award of over \$181. Importantly as well, the Class
7 Members have been overwhelmingly supportive of the Settlement – as of the filing of this
8 motion, there are no objections to the settlement and only 0.4% of the Class opted out. [Islas
9 Decl., ¶¶ 8-9.]

10 **B. The Requested Fee Award Is Reasonable and Appropriate**

11 The United States Supreme Court has ruled the parties to a class action properly may
12 negotiate not only the settlement of the action itself but also the payment of attorney's fees.
13 Evans v. Jeff D. (1986) 475 U.S. 717, 734-35, 738, fn. 30.) In Hensley v. Eckerhart (1983)
14 461 U.S. 424, 437, the Supreme Court explained that negotiated, agreed-upon attorney's fee
15 provisions are the ideal towards which the parties should strive: "A request for attorney's fees
16 should not result in a second major litigation. Ideally, of course, litigants will settle the amount
17 of a fee." The United States Supreme Court has reemphasized this policy and further stressed
18 trial courts have "a responsibility to encourage agreement" on fees. Blum v. Stenson (1984)
19 465 U.S. 886, 902 n.19.

20 As part of the Settlement, GGUSD agreed not to object to an award of no more than 1/3
21 of the original GSA for attorney's fees, or \$260,000, and up to \$29,000 in reimbursement for
22 litigation costs and expenses (only \$18,556.44 is requested). Such a fee is commensurate with
23 what the market would provide for similar services and the Court therefore can most certainly
24 enforce the agreement. As California's Court of Appeal has instructed:

25 Given the unique reliance of our legal system on private litigants to enforce substantive
26 provisions of law through class and derivative actions, attorneys providing the essential
27 enforcement services must be provided incentives roughly comparable to those negotiated
28 in the private bargaining that takes place in the legal marketplace, as it will otherwise be
economic for defendants to increase injurious behavior.

1 Lealao, 82 Cal.App.4th at 47.

2 Here, the parties did not negotiate the inclusion of attorney's fees until after extensive
3 arms-length bargaining regarding relief to the Class was completed. [Serb Decl., ¶ 40.] The
4 requested fee and cost award was a product of these arms-length negotiations and fairly reflects
5 the marketplace value of the services rendered by Class Counsel in this case. As a result, the
6 fee agreed to by the parties should be approved.

7 C. **Class Counsel's Fees are Justified When Calculated as a Percentage of the**
8 **Common Fund**

9 In approving fee applications, courts typically apply either a percentage-of-recovery
10 method or the lodestar method. Laffitte v. Robert Half Int'l, Inc. (2016) 1 Cal.5th 480, 489;
11 Wershba v. Apple Computer, Inc. (2001) 91 Cal.App.4th 224, 254, disapproved on other
12 grounds, Hernandez v. Restoration Hardware, Inc. (2018) 4 Cal.5th 260. The California
13 Supreme Court recently recognized the advantages and equities of calculating attorney's fees
14 using the percentage-of-the-common-fund method in another wage-and-hour case:

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

19 Laffitte, 1 Cal.5th at 503 (citations omitted).

20 Indeed, both California and federal courts have long recognized an appropriate method
21 for determining the award of attorney's fees is based on a percentage of the total value of
22 benefits afforded to class members by the settlement. Serrano v. Priest (1977) 20 Cal.3d 25,
23 34; Boeing Co. v. Van Gernert (1980) 444 U.S. 472, 478; Vincent v. Hughes Air West, Inc.
24 (9th Cir. 1977) 557 F.2d 759, 769. Awarding a fee based on a percentage of the common fund
25 recovered operates to "spread litigation costs proportionately among all the beneficiaries so that
26 the active beneficiary does not bear the entire burden alone." Vincent, 557 F.2d at 769.

27 In determining a reasonable common fund fee award, courts should also consider the
28 fact that fees serve as an economic incentive for lawyers to bring class action litigation to

1 achieve increased access to the judicial system for meritorious claims and to enhance deterrents
2 to wrongdoing. Conte, Attorney Fee Awards (2d ed. 1993) § 104. Without prosecution on a
3 contingent basis and use of the class action mechanism, the courthouse door would effectively
4 be closed to most class members due to the relatively small size of their individual claims in
5 relation to the enormous time and cost associated with class action litigation.

6 Here, Class Counsel seek a fee award for their successful prosecution and resolution of
7 this action of no more than 1/3 of the total initial amount recovered by the Class via the lawsuit,
8 or \$260,000. The percentage requested is justified for the reasons set forth further below, and
9 comports with fee awards calculated on a percentage-of-the-benefit basis. Indeed, review of
10 class action settlements shows that courts have historically awarded fees in the range of 20 to
11 50 percent, depending upon the circumstances of the case. In re Warner Communications Sec.
12 Litig. (S.D.N.Y. 1985) 618 F.Supp. 735, 749-50 (concluding that percentage fees in common
13 fund cases range from 20 to 50 percent); Newberg, Newberg on Class Actions (3d ed.) § 14.03,
14 pp. 13-14 ("Usually 50% of the fund is the upper limit on a reasonable fee award from a
15 common fund in order to assure that the fees do not consume a disproportionate part of the
16 recovery obtained for the class, although somewhat larger percentages are not
17 unprecedented.").

18 **D. A Lodestar Cross-Check Also Supports Class Counsel's Fee Request**

19 To ensure the fairness of an attorney's fee award, courts frequently conduct a lodestar
20 cross check of counsel's fees. "A lodestar cross-check thus provides a mechanism for bringing
21 an objective measure of the work performed into the calculation of a reasonable attorney fee."
22 Laffitte, 1 Cal.5th at 504. Here, Class Counsel spent 305.0 hours of time on this matter, resulting
23 in a modest and very reasonable lodestar of \$242,560.00.

24 As is fully detailed in the Serb Declaration, Class Counsel's efforts included:
25 (1) extensive pre-lawsuit investigation of the claims of Plaintiff and the putative class, including
26 legal research, research into similar claims and claims against other employers in the same industry,
27 and attempts to locate and contact other GGUSD employees; (2) drafting a PAGA notice letter; (3)
28 drafting the initial class complaint and related documents; (4) attending to the removal to federal
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1 court; (5) drafting the PAGA complaint and related documents; (6) case management in both
2 matters, including communications with defense counsel, meeting and conferring/preparing case
3 management statements, etc.; (7) drafting a first amended complaint; (8) propounding and
4 responding to written discovery, (9) lengthy discussions with defense counsel regarding
5 settlement/mediation and informal discovery needed for meaningful settlement discussions;
6 (10) engaging in substantial informal discovery, including propounding informal discovery
7 “requests” and reviewing documents and other information produced; (11) drafting a mediation brief
8 and accompanying damages model after review and analysis of GGUSD’s informal discovery
9 production; (12) attending an all-day mediation; (13) negotiating and drafting the settlement
10 agreement and related documents; (14) drafting the motion for preliminary approval, and attending
11 the hearing; (14) administration of the settlement, including communications with the Settlement
12 Administrator and settlement class members; (15) drafting the motion for final approval and motion
13 for attorney’s fees, and attending the final approval hearing; and (16) extensive communications
14 with the Plaintiff regarding case status, case investigation and document review, mediation, and
15 settlement terms. [Serb Decl., ¶ 41, Exh. 2.] Additionally, Class Counsel will incur additional time
16 following final approval to, inter alia, respond to class member inquiries, work with the Settlement
17 Administrator on the distribution of settlement funds, and on the compliance hearing.

18 In pursuing this matter, Class Counsel incurred total attorney’s fees of \$242,560.00. The
19 lodestar is based on an eminently reasonable number of hours (305.0 attorney hours) worked to
20 litigate this matter to a successful conclusion, and the requested attorney hourly rates are reasonable
21 and comport with hourly rates charged by other attorneys with similar experience in this practice
22 area in California. On a lodestar basis, the fee request of \$260,000 results in a multiplier of 1.07,
23 which is a modest enhancement entirely in line with California law. (Serb Decl., ¶¶ 41-54.)
24 Indeed, California courts routinely approve multipliers in the in the 2-4 range to compensate
25 for the time and risk of class action cases. Chavez v. Netflix, Inc. (2008) 162 Cal.App.4th 43,
26 66 (affirming attorneys' fee award including an upward multiplier of 2.5); Wershba, 91
27 Cal.App.4th at 255 ("Multipliers can range from 2 to 4 or even higher."); City of Oakland
28 Oakland Raiders (1988) 203 Cal.App.3d 78, 85⁹ (affirming a multiplier of 2.34).) Class Counsel

1 submits that the requested 1.07 multiplier effectively operates to show that the percentage fee
2 request is reasonable considering the challenges presented in this contingency fee matter, and
3 appropriately compensates Class Counsel for the contingent risk assumed and delay in payment
4 during the 4+ years counsel has been representing Plaintiff. Thus, the multiplier results in a fee
5 constituting a fair return on the contingency.

6 **E. The Award is Supported By 1) the Results Achieved; 2) the Risk, 3) the Skill**
7 **Required, 4) the Contingent Nature of the Fee and 5) Awards in Similar Cases.**

8 What has now emerged in most fee award decisions is the recognition that fee
9 determinations in both common fund and statutory fee situations are incapable of mathematical
10 precision because of the intangible factors that must be resolved in the court's discretion based
11 on the circumstances of each particular case. Conte, § 207, p. 44. In determining an appropriate
12 fee in a common fund case, a Court must decide, based on the unique posture of each case,
13 what percentage of the common fund would most reasonably compensate Class Counsel given
14 the nature of the litigation and the performance of counsel. Paul, Johnson, Alston & Hunt v.
15 Grauly (9th Cir. 1989 886 F.2d 268, 272) (the benchmark percentage fee may be adjusted to
16 account for the circumstances involved in a case).

17 Courts apply a five-part test in calculating a reasonable percentage fee in common fund
18 cases: (1) the results achieved; (2) the risk of litigation; (3) the skill required and the quality of
19 work; (4) the contingent nature of the fee and the financial burden carried by the plaintiffs; and
20 (5) awards made in similar cases. Laffitte, 1 Cal.5th at 489.

21 **1. The Results Achieved.**

22 Class Counsel obtained an excellent result in this case for the Class Members. The
23 Settlement provides real monetary benefits to the Class Members, and the Settlement is
24 particularly advantageous to the Class Member because the proceeds will be distributed shortly
25 as opposed to waiting additional years for a similar, or possibly, less favorable result.
26 Considering many individual claims would be very modest and would not be cost-effective to
27 pursue successfully, the Settlement provided them with fair compensation for their claims.

28 Moreover, the absence of any objection to either the Settlement or the attorney's fee request
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1 bolsters the excellent results. Indeed, the approval of the Class is overwhelming as indicated by
2 the fact that not only one class member opted out. Additionally, the settlement amounts to a
3 substantial percentage of the maximum value of the amount the Class might have obtained if it
4 had tried the case and recovered on all theories seeking recovery of wages and penalties. "It is
5 well-settled law that a cash settlement amounting to only a fraction of the potential recovery
6 does not per se render the settlement inadequate or unfair." In re Omnivision Techs., Inc., 559
7 (N.D. Cal. 2008) F.Supp.2d 1036, 1042.

8 **2. Class Counsel Bore Considerable Risk.**

9 At the time of filing the complaint, Class Counsel recognized that they would have to
10 expend a substantial amount of time and advance significant costs to prosecute a statewide
11 class action suit with no guarantee of compensation or reimbursement, in the hope of
12 prevailing against a sophisticated company represented by first-rate attorneys. Despite their
13 belief in the validity of Plaintiff's claims, they also knew they faced substantial risks of class
14 certification and the ability to prove class-wide and individual damages. In light of the highly
15 uncertain nature of this suit, Class Counsel also bore the risk that GGUSD would dig in and
16 attempt to bury their small firm in work. Given the small size of Class Counsel's firm, not
17 receiving any compensation for several years while simultaneously advancing litigation costs
18 posed considerable risk and difficulty. [Serb Decl., ¶¶ 55-56.]

19 **3. The Skill Required and the Quality of Work.**

20 Practice in the narrow area of wage and hour litigation requires skill, knowledge and
21 experience. The issues presented in this case required more than just a general appreciation of
22 wage and hour law and class action procedure. This Settlement was possible only because
23 counsel persuaded GGUSD that Plaintiff and the putative class had a realistic chance of
24 prevailing on their claims despite GGUSD's contrary arguments, and that the case would
25 be pursued through class certification and trial if necessary. In successfully navigating
26 these hurdles, Class Counsel displayed appropriate skill while pursuing a risky and difficult
27 case.

1 **4. The Contingent Nature of the Fee and Risk Assumed**

2 There is a substantial difference between the risk assumed by attorneys being paid
3 by the hour and attorneys working on a contingent fee basis. The attorney being paid by
4 the hour can go to the bank with his fee. Powers v. Eichen (9th Cir. 2000) 229 F.3d 1249,
5 1256. The attorney working on a contingent basis can only log hours while working without
6 pay towards a result that will hopefully entitle him to a market fee considering the risk and
7 other factors of the undertaking. Id. at 1257. Otherwise, the contingent fee attorney receives
8 nothing. Id. In this case, Class Counsel subjected themselves to this risk in this all or
9 nothing contingent fee case wherein the necessity and financial burden of private
10 enforcement makes the requested award appropriate.

11 Counsel retained on a contingency fee basis, whether in private matters or in class
12 action litigation, is entitled to a premium beyond their standard, hourly, non-contingent fee
13 schedule to compensate for both the contingent risk assumed and the delay in payment.
14 The simple fact is that despite the most vigorous and competent of efforts, success is never
15 guaranteed. McKittrick v. Gardner (4th Cir. 1967) 378 F.2d 872, 875. Indeed, if counsel is
16 not adequately compensated for the risks inherent in difficult class actions, competent
17 attorneys will be discouraged from prosecuting similar cases. Ketchum v. Moses (2001) 24
18 Cal.4th 1122, 1132-33; Cazares v. Saenz (1989) 208 Cal.App.3d 279, 287.

19 Here, the contingent fee practices of Plaintiff's counsel simply do not accommodate the
20 investment of unnecessary time in a case, and the adverse resolution of any one of several
21 difficult issues present in this matter could have doomed the entire effort. As discussed, the
22 attorney's fees in this case were not only contingent but fairly risky, and there was always a
23 chance Plaintiff's counsel would receive nothing for any number of reasons. [Serb Decl., ¶¶ 55-
24 56.] Accordingly, the contingent nature of the fee and the financial burdens on Class Counsel
25 and Plaintiff also support the fee requested.

26 **5. Awards in Other Cases**

27 As discussed, the attorney's fees requested by Class Counsel are within the range of fees
28 awarded in comparable cases, as cross-checked²²¹ against the lodestar method in light of the
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1 contingent risk assumed, the delay in payment, the result achieved, and the overall quality of
2 the representation. In re Warner Communications Sec. Litig. (S.D.N.Y. 1985) 618 F.Supp. 735,
3 749-50 (concluding that percentage fees in common fund cases range from 20 to 50 percent);
4 Newberg, Newberg on Class Actions (3d ed.) § 14.03, pp. 13-14 ("Usually 50% of the fund is
5 the upper limit on a reasonable fee award from a common fund in order to assure that the fees
6 do not consume a disproportionate part of the recovery obtained for the class, although
7 somewhat larger percentages are not unprecedented.")

8 **F. Class Counsel's Costs and Expenses are Reasonable**

9 Plaintiff's counsel also request reimbursement of actual out-of-pocket expenses incurred to
10 prosecute this action. These expenses were incidental and necessary to the effective representation
11 of the employees, and Plaintiff's counsel is permitted to recover litigation costs and expenses under
12 the common fund doctrine and the Settlement Agreement. Serrano, 20 Cal.3d at 35 (common fund
13 doctrine permits recovery of fees and costs from the fund); Rider v. County of San Diego (1992) 11
14 Cal.App.4th 1410, 1424 n.6 (costs are recoverable from the common fund "[o]f necessity, and for
15 precisely the same reasons discussed above with respect to the recovery of attorneys' fees by ...
16 [Plaintiffs'] attorneys"). Plaintiff's counsel also are entitled to recover "those out-of-pocket
17 expenses that would normally be charged to a fee-paying client." Harris v. Marhoefer (9th Cir. 1994)
18 24 F.3d 16, 19.

19 As explained in the Serb Declaration, Class Counsel incurred a total of \$18,556.44
20 in expenses incurred in connection with this litigation. These expenses include the amounts
21 paid for court filing fees, service of process, and mediation fees, all of which are costs
22 normally billed to and paid by the client. These costs were reasonably incurred in the
23 prosecution of this matter and it is respectfully requested that the Court authorized they be
24 reimbursed in full. [Serb Decl., ¶¶ 57-58; Exh. 3.]

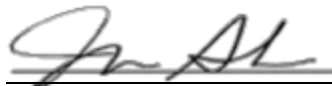
25 **VIII. CONCLUSION**

26 For all the foregoing reasons, Plaintiff Vince Burklund respectfully requests that the Court
27 grant this motion and grant final approval of the proposed class action settlement and approve the
28 payment of PAGA penalties to the State. Plaintiff further requests the Court approve payment of the
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1 Settlement Administrator's fees and expenses, approve the requested class representative
2 enhancement payment, approve the award of attorney's fees and costs as requested, and enter
3 judgment in this action. Finally, Plaintiff requests the Court set a compliance hearing for September
4 2, 2027, or a later date convenient for the Court.

5
6 Dated: August 19, 2026

CROSNER LEGAL, PC

7
8 By:  _____

9 Jamie K. Serb, Esq.

10 Attorneys for Plaintiff VINCE BURKLUND
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