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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SANTA CLARA**

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

Plaintiff,

vs.

CALIFORNIA WATER SERVICE, an
unknown business entity; and DOES 1 through
100, inclusive,

Defendants.

Case No.: 21CV376394

Honorable Charles F. Adams
Department 7

CLASS ACTION

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

[Declaration of Class Counsel
(Joanna Ghosh); Declaration of Class
Representative (Bryan Hicks); Declaration of
Settlement Administrator (Kevin Lee); and
[Proposed] Final Approval Order and
Judgment filed concurrently herewith]

Date: March 21, 2024
Time: 1:30 p.m.
Department: 23

Complaint Filed: February 23, 2021
FAC Filed: February 24, 2023
Trial Date: None Set

1 **PLEASE TAKE NOTICE** that on February 23, 2024 at 10:30 a.m., in Department 23 of
2 the above-entitled Court, located at Gordon D. Schaber Courthouse, 720 Ninth Street,
3 Sacramento, California 95814, Plaintiff Bryan Hicks (“Plaintiff”) will and hereby does move for
4 an order granting final approval of:

5 1. The Class Action Settlement and Release and Amendment No. 1 to Class Action
6 Settlement and Release (together, “Settlement,” “Agreement,” or “Settlement Agreement”) on
7 the grounds that the Settlement is fair, adequate, and reasonable because:

- 8 • A Net Settlement Amount of approximately **\$1,296,090.72** will be fully distributed to
9 the Settlement Class Members who did not timely opt out of the Settlement
10 (“Participating Settlement Class Member”);
- 11 • **No Notices of Objection** have been submitted to the Settlement Administrator,
12 Phoenix Settlement Administrators (“Settlement Administrator”);
- 13 • **Five (5) Requests for Exclusion** was submitted to the Settlement Administrator;

14 2. Payment in the amount of **\$810,343.71** to Lawyers for Justice, PC (“Class
15 Counsel”), representing thirty-five percent (35%) of the escalated Gross Settlement Fund, for
16 attorneys’ fees, which is reasonable and justified on a percentage-basis and also based on a
17 lodestar cross-check;

18 3. Payment in the amount of **\$13,333.32** to Class Counsel for reimbursement of
19 litigation costs and expenses;

20 4. Payment in the amount of **\$12,500.00** to the Settlement Administrator, Phoenix
21 Settlement Administrators (“Phoenix”), for Settlement Administration Costs; and

22 5. Payment in the amount of **\$8,000.00** to Plaintiff Bryan Hicks, as Class
23 Representative Enhancement Payment, for his time and effort in representing the Settlement
24 Class.

25 6. Allocation of the penalties under the Private Attorneys General Act of 2004,
26 California Labor Code section 2698, *et seq.*, in the amount of \$175,000.00, of which seventy-five
27 percent (75%), or **\$131,250.00**, will be paid to the California Labor and Workforce Development
28 Agency and twenty-five percent (25%), or **\$43,750.00**, will be distributed to all current and

1 former non-exempt Cal Water employees who were employed by Cal Water during the PAGA
2 Period (“Allegedly Aggrieved Employees”).

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

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

11 Dated: February 28, 2024

LAWYERS for JUSTICE, PC

12
13 By:



14 Brian J. St. John

15 Attorneys for Plaintiff and the Settlement Class
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MEMORANDUM OF POINTS AND AUTHORITIES

I. SUMMARY OF MOTION

Plaintiff Bryan Hicks (“Plaintiff”) seeks final approval of: (1) the escalated Gross Settlement Fund of \$2,315,267.75¹; (2) attorneys’ fees in the amount of \$810,343.71, which is thirty-five percent (35%) of the escalated Gross Settlement Fund, and reimbursement of litigation costs and expenses in the amount of \$13,333.32 (together, “Attorneys’ Fees and Costs”) to Lawyers for Justice, PC (“Class Counsel”); (3) Settlement Administration Costs in the amount of \$12,500.00 to Phoenix Settlement Administrators (“Phoenix” or “Settlement Administrator”); (4) Class Representative Enhancement Payment in the amount of \$8,000.00 to Plaintiff Bryan Hicks; and (5) allocation of \$175,000.00 for penalties under the Private Attorneys General Act of 2004, California Labor Code § 2698, *et seq.* (“PAGA Settlement Amount”).

Plaintiff seeks relief on behalf of the following Class:

All current and former hourly non-exempt Cal Water employees who worked for Cal Water in California from February 23, 2017, to and including August 8, 2022. (“Settlement Class” or “Settlement Class Members”)²

This matter involved ongoing investigations, formal and informal discovery, review and analysis of information, documents, and data in the course of litigation and in connection with mediation conducted by Jeffrey Krivis, Esq., and extensive settlement negotiations. This matter has required 528.70 hours of attorney time by Class Counsel. As will be demonstrated herein, the request for attorneys’ fees, which represents thirty-five percent (35%) of the escalated Gross Settlement Fund, is fully supported by the use of the percentage-fee method. Courts have historically awarded fees of up to fifty percent (50%) of the recovery. The requested attorneys’ fees are also supported under the lodestar cross-check method.³

¹ Pursuant to the escalator clause in Paragraph II.16 of the Class Action Settlement and Release (together with Amendment No. 1 to Class Action Settlement and Release, “Settlement Agreement”), the Gross Settlement Fund has increased from \$2,150,000.00 to \$2,315,267.75. See Declaration of Kevin Lee Regarding Notice and Settlement Administration (“Phoenix Declaration” or “Phoenix Decl.”), ¶ 13.

² Settlement Agreement, ¶ II.34. “Class Period” is defined as the period of time from February 23, 2017 through August 8, 2022. *See id.*, ¶ II.7.

³ Applying a modest multiplier of 1.86, the total enhanced lodestar fees are \$811,290.15, and Class Counsel seeks an attorneys’ fees award of \$810,343.71 (equal to 35% of the escalated Gross Settlement Fund).

1 Plaintiff moves for final approval of the Class Representative Enhancement Payment in
2 the amount of \$8,000.00, to compensate Plaintiff for the time and effort that he expended
3 spearheading this lawsuit on behalf of the Settlement Class, Allegedly Aggrieved Employees,
4 and the State of California. Plaintiff also moves for final approval of the payment to the
5 Settlement Administrator in the amount of \$12,500.00 for Settlement Administration Costs.

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

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

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

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

27 Defendant California Water Service Company ("Defendant" or "Cal Water") is a public
28 utility company providing drinking water and wastewater services to numerous regions within

1 California, servicing approximately 500,000 customers through 28 operation centers. Plaintiff
2 Bryan Hicks is a former employee of Defendant.

3 On February 23, 2021, Plaintiff filed a Class Action Complaint for Damages in the Santa
4 Clara County Superior Court (“Court”), thereby commencing the above-captioned lawsuit
5 (“Action”).

6 On February 24, 2023, Plaintiff filed a First Amended Class Action Complaint for
7 Damages & Enforcement Under the Private Attorneys General Act, California Labor Code §
8 2698, *Et Seq.* (“Operative Complaint”).

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

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

24 The Parties have actively litigated the Action since it was commenced on February 23,
25 2021. On February 23, 2022, the Parties participated in a formal, full-day mediation conducted
26 by Jeffrey Krivis, Esq., a well-regarded mediator experienced in mediating complex labor and
27 employment matters. With the aid of the mediator’s evaluation, the Parties ultimately reached
28 the Settlement described herein to resolve the Action in its entirety.

On May 19, 2023, Plaintiff filed a Motion for Preliminary Approval of Class Action Settlement (“Motion for Preliminary Approval”) and supporting documents. On August 7, 2023, the Court issued a tentative ruling wherein the Court raised certain points of inquiry regarding the Settlement. On August 10, 2023, Plaintiff filed a supplemental declaration in support of the Motion for Preliminary Approval. On August 11, 2023, the Court entered an Order Granting Plaintiff’s Motion for Preliminary Approval of Class Action Settlement (“Preliminary Approval Order”), thereby preliminarily approving the terms of the Settlement, the Class Notice, and the proposed administration procedures and associated deadlines.

Plaintiff now moves for final approval of the Settlement, Attorneys’ Fees and Costs, Class Representative Enhancement Payment, Settlement Administration Costs, and allocation for PAGA Settlement Amount.

III. SUMMARY OF THE SETTLEMENT TERMS AND PLAN OF DISTRIBUTION

Under the terms of the Settlement Agreement, Defendant has agreed to pay an escalated Gross Settlement Fund (\$2,315,267.75) on a non-reversionary basis.⁴ Subject to approval by the Court, the Net Settlement Amount will be calculated by deducting the following amounts from the escalated Gross Settlement Fund: (1) Attorneys’ Fees and Costs, consisting of attorneys’ fees in the amount of \$810,343.71 and reimbursement of litigation costs and expenses in the amount of \$13,333.32 to Class Counsel; (2) Class Representative Enhancement Payment in the amount of \$8,000.00 to Plaintiff Bryan Hicks; (3) Settlement Administration Costs in the amount of \$12,500.00 to Phoenix; and (4) the amount of \$175,000.00 allocated to penalties under the Private Attorneys General Act (“PAGA”), of which 75% (i.e., \$131,250.00) will be distributed to the Labor and Workforce Development Agency (“LWDA”) and 25% (i.e., \$43,750.00) will be distributed on a *pro rata* basis to all current and former non-exempt Cal Water employees who were employed by Cal Water during the PAGA Period (“Allegedly Aggrieved Employees”).⁵

⁴ Settlement Agreement, ¶ II.16. See also n.1, *supra*.

⁵ *Id.*, ¶¶ II.2, II.21, & III.45. “PAGA Period” is defined as the period of time between February 23, 2020 through August 8, 2022. See *id.*, ¶ II.21.

The Net Settlement Amount, which is estimated to be \$1,296,090.72, will be distributed in accordance with the Settlement Agreement, and there is no reversion to Defendant.⁶

The Settlement Administrator will calculate each Participating Settlement Class Member's (i.e., Settlement Class Members who did not timely opt out of the Class Settlement) share of the Net Settlement Amount ("Individual Settlement Payment"), as follows: After Final Approval, the Settlement Administrator will divide the final Net Settlement Amount by the number of weeks each Participating Settlement Class Member worked for Defendant as an hourly-paid or non-exempt employee in California during the Class Period ("Workweeks") of all Settlement Class Members to yield the "Final Workweek Value," and multiply each Settlement Class Member's individual Workweeks by the Final Workweek Value to yield his or her Individual Settlement Payment.⁷

The Settlement Administrator will calculate each Allegedly Aggrieved Employee's *pro rata* share of the 25% share of the PAGA Settlement Amount ("Individual PAGA Payment"), in accordance with the Settlement Agreement and as follows: The Settlement Administrator will divide the 25% portion of the PAGA Settlement Amount allocated to Allegedly Aggrieved Employees by the total number of Workweeks during the PAGA Period of all Allegedly Aggrieved Employees and multiply the resultant figure by Allegedly Aggrieved Employee's individual Workweeks during the PAGA Period to yield his or her Individual PAGA Payment.⁸

Settlement Class Members had forty-five (45) calendar days after the initial mailing of the Class Notice to Settlement Class Members to dispute the number of Workweeks credited to each of them, opt out of the Class Settlement, and/or object to the Class Settlement ("Response Deadline").⁹ The Response Deadline was October 16, 2023.¹⁰ As of this date, the Settlement Administrator has received five (5) written requests for exclusion from the Class Settlement

⁶ This amount is higher than the amount stated in Paragraph 11 of the accompanying Declaration of Kevin Lee Regarding Notice and Settlement Administration ("Phoenix Declaration" or "Phoenix Decl.") because the Settlement Administrator's calculation assumes that Class Counsel will obtain litigation costs and expenses in the maximum amount of \$25,000.00. However, Class Counsel seeks the amount of only \$13,333.32 for reimbursement of litigation costs and expenses (and the difference of \$11,666.68 will remain part of the Net Settlement Amount).

⁷ *Id.*, ¶¶ II.35 & III.46.b.

⁸ *Id.*, ¶ III.47.

⁹ *Id.*, ¶ II.24.

¹⁰ Phoenix Decl., ¶¶ 5 & 6 & Exh. A.

1 (“Requests for Exclusion”) and zero (0) written objections to the Class Settlement (“Notices of
2 Objection”) from Settlement Class Members.¹¹

3 Each Participating Settlement Class Member’s Individual Settlement Payment will be
4 allocated as follows: forty percent (40%) as wages (the “wage portion”), which will be reported
5 on an IRS Form W-2; and the remaining sixty percent (60%) as penalties, interest, and other non-
6 wage damages, which will be reported on an IRS Form 1099.¹² Each Allegedly Aggrieved
7 Employee’s Individual PAGA Payment will be allocated as one hundred percent (100%)
8 penalties.¹³ Defendant will pay the employer’s share of payroll taxes and contributions with
9 respect to the wage portion of Individual Settlement Shares (“Employer Payroll Tax Payments”)
10 in addition to the Gross Settlement Fund.¹⁴

11 The Individual Settlement Payment checks issued to Participating Settlement Class
12 Members and Individual PAGA Payment checks issued to Allegedly Aggrieved Employees will
13 be negotiable for one hundred eighty (180) calendar days from the date of issuance.¹⁵ Individual
14 Settlement Payment and/or Individual PAGA Payment checks that are not cashed within the 180-
15 day period will be cancelled.¹⁶ The funds associated with such cancelled checks will be
16 transmitted by the Settlement Administrator to the Leadership Counsel for Justice &
17 Accountability.¹⁷

18 **IV. THE SETTLEMENT ADMINISTRATION PROCESS**

19 The Court-appointed Settlement Administrator, Phoenix, has taken all necessary steps to
20 effectuate the notice and settlement administration process, as set forth in the Court’s August 11,
21 2023 Preliminary Approval Order.

22 On August 18, 2023, Phoenix received a mailing list from Defendant’s counsel that
23 contained each Settlement Class Member’s (1) full name; (2) last-known mailing address; (3)
24 last known telephone number; (4) Social Security number; and (5) start and end dates of

25 ¹¹ Phoenix Decl., ¶¶ 7 & 8.

26 ¹² Settlement Agreement, ¶ III.67.

27 ¹³ Ibid.

¹⁴ *Id.*, ¶ III.40.

¹⁵ *Id.*, ¶ III.65.

28 ¹⁶ Ibid.

¹⁷ Ibid.

employment as hourly and/or non-exempt employee for Defendant for each Settlement Class Member (collectively, “Class List”).¹⁸

The Class List contained information for one thousand thirty-eight (1,038) individuals identified as Settlement Class Members.¹⁹ Phoenix processed the names and addresses through the National Change of Address Database (“NCOA”) and updated the Class List with any updated addresses located.²⁰

On October 20, 2023, Phoenix mailed the Class Notice via first class mail to 1,038 individuals identified as Settlement Class Members in the Class List.²¹ During the response period, Defendant notified Phoenix of fifty (50) inadvertently excluded individuals.²² The requisite information was provided to Phoenix, and all fifty (50) additional Settlement Class Members were mailed a Notice on October 16, 2023.²³ Accounting for these additional Settlement Class Members, there are one thousand eighty-eight (1,088) individuals identified as Settlement Class Members.²⁴ The Class Notice informed additional Settlement Class Members the deadline to submit Request for Exclusion, Workweek Dispute, or Notice of Objection was November 20, 2023.²⁵

No Class Notices were returned as undeliverable with forwarding addresses.²⁶ Twenty (20) Class Notices were returned as undeliverable without forwarding addresses.²⁷ Phoenix performed a skip-trace search on the twenty (20) Class Notices that were returned to Phoenix without forwarding addresses, located an updated address for eighteen (18) Settlement Class Members, and promptly re-mailed the Class Notice to the updated addresses.²⁸ Ultimately, two (2) Class Notices remain undeliverable because an updated address was not located through skip-

¹⁸ Phoenix Decl., ¶ 3.

¹⁹ Ibid.

²⁰ *Id.*, ¶ 4.

²¹ *Id.*, ¶ 5.

²² *Id.*, ¶ 6.

²³ Ibid.

²⁴ Ibid.

²⁵ Ibid.

²⁶ *Id.*, ¶ 7.

²⁷ Ibid.

²⁸ Ibid

tracing.²⁹

The Settlement Administrator has received zero (0) Notices of Objection and five (5) Request for Exclusion from Settlement Class Members.³⁰

To date, there are one thousand eighty-three (1,083) Settlement Class Members who did not submit a timely and valid Request for Exclusion, and are therefore, deemed to be Participating Settlement Class Members.³¹ Pursuant to the terms of the Settlement, the Net Settlement Amount of approximately \$1,296,090.72 will be distributed to Participating Settlement Class Members in accordance with the terms of the Settlement.³² The highest Individual Settlement Payment is currently estimated to be at least \$1,810.57 and the average Individual Settlement Payment is currently estimated to be at least \$1,185.99.³³ The highest Individual PAGA Payment is currently estimated to be at least \$61.94, and the average Individual PAGA Payment is currently estimated to be at least \$47.55.³⁴

V. THE COURT SHOULD GRANT FINAL APPROVAL OF THE CLASS ACTION SETTLEMENT.

The trial court has broad discretion to determine whether a class action settlement is fair and reasonable. *Chavez v. Netflix, Inc.* (2008) 162 Cal.App.4th 43, 52. To determine whether the settlement is fair and reasonable, courts consider relevant factors such as:

the strength of plaintiffs' case, the risk, expense, complexity and likely duration of further litigation, the risk of maintaining class action status through trial, the amount offered in settlement, the extent of discovery completed and the stage of the proceedings, the experience and views of counsel, the presence of a governmental participant, and the reaction of the class members to the proposed settlement.

Dunk v. Ford Motor Co. (1996) 48 Cal.App.4th 1794, 1801. "The list of factors is not exclusive and the court is free to engage in a balancing and weighing of the factors depending on the

²⁹ Phoenix Decl., ¶ 8.

³⁰ *Id.*, ¶¶ 9 & 10.

³¹ *Id.*, ¶ 12.

³² *Id.*, ¶ 14; see n.6, *supra*.

³³ *Id.*, ¶ 15. The actual average and highest Individual Settlement Payment will be larger than the amounts stated in the Phoenix Declaration because the Net Settlement Amount is larger due to Class Counsel's request for reimbursement of litigation costs and expenses in an amount that is less than \$25,000.00 (the difference between the amount sought and the amount authorized under the Settlement will be part of the Net Settlement Amount). See n.6, *supra*.

³⁴ *Id.*, ¶ 16.

circumstances of each case.” *Wershba v. Apple Computer, Inc.* (2001) 91 Cal.App.4th 224, 245. “Due regard should be given to what is otherwise a private consensual agreement between the parties.” *Dunk, supra*, 48 Cal.App.4th at 1801.

The proponent of the settlement has the burden to show that it is fair and reasonable. *Wershba, supra*, 91 Cal.App.4th at 245. At the final approval stage, a presumption of fairness exists where, as here: “(1) the settlement is reached through arm’s-length bargaining; (2) investigation and discovery are sufficient to allow counsel and the court to act intelligently; (3) counsel is experienced in similar litigation; and (4) the percentage of objectors is small.” *Dunk, supra*, 48 Cal.App.4th at 1802. In reviewing a class settlement, the court need not reach any ultimate conclusions on the issues of fact and law that underlie the merits of the dispute. *7-Eleven Owners for Fair Franchising v. Southland Corp.* (2000) 85 Cal.App.4th 1135, 1146. The inquiry is not whether the settlement agreement is the best one that class members could have possibly obtained, but whether the settlement, taken as a whole, is “fair, adequate, and reasonable.” *Chavez v. Netflix, Inc.* (2008) 162 Cal.App.4th 43, 55. A settlement need not obtain 100 percent of the damages sought in order to be fair, reasonable, and ultimately, meaningful. *Wershba, supra*, 91 Cal.App.4th at 251. Even if the proposed settlement affords relief that is substantially narrower than it would be if the case were to be successfully litigated, that is no bar to a class settlement because the public interest may indeed be served by a voluntary settlement in which each side gives ground in the interest of avoiding prolonged litigation. *Id.*

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

The parties actively litigated the case since it was commenced on February 23, 2021. Counsel for the parties used the pre-mediation time period to investigate the veracity, strength, and scope of the claims, and also to prepare the matter for class certification and trial.³⁵ The parties conducted formal and informal discovery and investigation into the facts of the case, and

³⁵ Declaration of Joanna Ghosh (“Ghosh Decl.”), ¶ 6.

also informally exchanged information, documents, and data in preparation for mediation.³⁶ Class Counsel analyzed information, documents, and data obtained from Defendant, Plaintiff, and other sources.³⁷ The information, documents, and data reviewed and analyzed by Class Counsel included, and were not limited to, employment records of Plaintiff and other Settlement Class Members, a detailed sampling of Settlement Class Members' time and pay data, company policy acknowledgements, internal memoranda, job descriptions, new hire orientation checklists, operations and employment practices, collective bargaining agreements, forms, operations and employment practices, procedures, and policies (including but not limited to California Water Service Group Policy and Procedure Manual, Business Expense Policy, and Business Code of Conduct Policy), among other information, data, and documents.³⁸ Class Counsel worked with Plaintiff to object to, respond to, and produce documents responsive to Defendant's Demand to Produce Documents that had been propounded on Plaintiff.³⁹ Plaintiff prepared for and attended a full-day deposition, at which he provided testimony, and Class Counsel prepared for and defended the deposition of Plaintiff.⁴⁰ Class Counsel researched applicable law, developed damages, penalties, and valuation models in preparation for mediation, and met and conferred with Defendant's counsel on numerous occasions, e.g., to discuss issues relating to the case management, formal and informal discovery, and production of documents and data in the course of litigation and in connection to mediation and settlement negotiations.⁴¹

After conducting formal and informal discovery and investigation into the facts of the case, the parties participated in a formal, full-day mediation conducted by Jeffrey Krivis, Esq., a well-regarded mediator experienced in mediating complex labor and employment matters.⁴² In the course of litigation and in connection with mediation and settlement discussions, the parties exchanged information and data, and discussed various aspects of the case, including and not limited to, the risks and delays of further litigation, the risks and expenses to the parties of

³⁶ Ghosh Decl., ¶ 6.

³⁷ Ibid.

³⁸ Ibid.

³⁹ Ibid.

⁴⁰ Ibid.

⁴¹ Ibid.

⁴² *Id.*, ¶ 8.

proceeding with class certification and trial, the law relating to class certification, off-the-clock theory, meal and rest periods, non-discretionary bonus/shift differential/incentive pay, regular rate of pay, wage-and-hour enforcement, business expense reimbursement, PAGA representative claims, the evidence produced and analyzed, and the possibility of appeals, among other things.⁴³ During all settlement discussions, the parties conducted their negotiations at arm's length in an adversarial position.⁴⁴ Arriving at a settlement that was acceptable to the parties was not easy.⁴⁵ Defendant and its counsel felt very strongly about Defendant's ability to prevail on the merits and to obtain a denial of class certification, while Plaintiff and Class Counsel believed that class certification would be obtained and Plaintiff would prevail at trial.⁴⁶ After conducting formal and informal discovery and investigations, extensive settlement negotiations, and with the aid of the mediator's evaluation, the parties agreed that the matter was well-suited for settlement given the legal issues relating to Plaintiff's principal claims, as well as the costs and risks to the parties that would attend further litigation.⁴⁷

The Settlement takes into account the strengths and weaknesses of each side's position and the uncertainty of how the case might have concluded at certification, trial, and/or appeals. Class Counsel also reviewed and analyzed documents obtained from Defendant, Plaintiff, and other sources, and performed significant research into the applicable law, which is constantly evolving as it relates to class certification, off-the-clock theory, meal and rest periods, non-discretionary bonus/shift differential/incentive pay, regular rate of pay, wage-and-hour enforcement, business expense reimbursement PAGA representative actions, collective bargaining agreements, exemption, preemption, wage-and-hour enforcement, Plaintiff's claims and damages, and Defendant's defenses, as well as facts discovered.⁴⁸ The Settlement was based on this large volume of facts, evidence, and investigation.⁴⁹ Additionally, Class Counsel has

⁴³ Ghosh Decl., ¶ 8.

⁴⁴ Ibid.

⁴⁵ Ibid.

⁴⁶ Ibid.

⁴⁷ Ibid.

⁴⁸ *Id.*, ¶ 6

⁴⁹ *Id.*, ¶¶ 6 & 8.

extensive experience in handling complex wage-and-hour matters, including significant experience in employment class and representative action litigation.⁵⁰

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

The Settlement, which provides for an escalated Gross Settlement Fund of \$2,315,267.75, represents a fair, adequate, and reasonable resolution of the case, given the risks inherent in litigating class claims through certification proceedings, trial, and/or appeals.⁵¹ The Settlement was calculated using information and data uncovered through extensive case investigation, formal and informal discovery, and the exchange of information in the context of mediation and settlement negotiations.⁵² Had the action not settled, Defendant would have vigorously challenged class certification, manageability of representative adjudication, and liability. Defendant contended that individualized questions of fact predominate over any common issues, and these issues would pose challenges to certification. Defendant would have likely argued again at trial, if any, that Plaintiff's claims were not appropriate for class-wide adjudication. On the other hand, Defendant also faced the risk of the Court certifying a class and allowing a jury to decide Plaintiff's claims on a class-wide basis. Additionally, preparation for trial would have been expensive for all parties.

It is preferable to reach an early resolution of a dispute because such resolutions save time and money that would otherwise go to litigation. If this matter had settled after further litigation, the settlement amount would have taken into account the additional costs incurred, and there might have been less money available for Settlement Class Members after all was said and done. This is not just an abstract contention. The risks and expenses of further litigation outweighed any benefit that might have been gained otherwise. These risks of further litigation include a determination that the claims were unsuitable for class treatment, failure to obtain certification, class de-certification after certification of a class, allowing a jury to decide the claims asserted in the case, and the real possibility of no recovery after years of litigation.

⁵⁰ Ghosh Decl., ¶¶ 13-18.

⁵¹ *Id.*, ¶¶ 8 & 21.

⁵² *Id.*, ¶¶ 5-8.

1 Additionally, the parties were moving into the phase of the litigation where they would have to
2 conduct a significant amount of additional discovery, including and not limited to, depositions of
3 Defendant's Person Most Knowledgeable designees, expert witnesses, and percipient witnesses,
4 such as managers, supervisors, and other current and former employees throughout the State of
5 California. Additional formal discovery would have certainly arisen, which would have cost the
6 parties additional time and money. In contrast, the Settlement provides real and significant
7 benefits for the Settlement Class here and now, while avoiding the further expenses, risks, and
8 delay of prolonged litigation with only the possibility of recovery.

9 It would be grossly inefficient for such a large class of current and former employees to
10 bring individual actions to recover from Defendant for the alleged violations of wage-and-hour
11 laws. Moreover, the potential individual recovery that could be obtained by a Settlement Class
12 Member would not be significant enough to provide him or her with the incentive to sue. By
13 granting final approval of the Settlement, the Court can approve a resolution that provides a
14 certain and substantial recovery for Settlement Class Members.

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

16 The Settlement, which provides for an escalated Gross Settlement Fund of
17 \$2,315,267.75, represents a fair, reasonable, and adequate resolution of the case. The Settlement
18 was calculated using information and data uncovered through extensive case investigation,
19 formal and informal discovery, and the exchange of information in the context of mediation and
20 settlement negotiations. The Settlement takes into account the potential risks and rewards
21 inherent in any case and, in particular, in this matter. Moreover, considering all of the facts in
22 the case, the escalated Gross Settlement Fund represents a considerable recovery.

23 Even after deducting attorneys' fees in the amount of \$810,343.71, litigation costs and
24 expenses in the amount of \$13,333.32, Class Representative Enhancement Payment in the
25 amount of \$8,000.00, Settlement Administration Costs in the amount of \$12,500.00, and PAGA
26 Settlement Amount in the amount of \$175,000.00 from the escalated Gross Settlement Fund of
27 \$2,315,267.75, the Net Settlement Amount is currently estimated to be \$1,296,090.72.⁵³ Under

28 ⁵³ Phoenix Decl., ¶ 14; see n.6, *supra*.

the Settlement Agreement, the escalated Gross Settlement Fund will be fully paid out without any reversion to Defendant, in accordance with the terms of the Settlement. As discussed in Section III, *supra*, each Participating Settlement Class Member will be paid a *pro rata* share of the Net Settlement Amount, based on the number of Workweeks during the Class Period credited to him or her and each Allegedly Aggrieved Employee will be paid a *pro rata* share of the twenty-five percent share of the PAGA Settlement Amount, based on the number of Workweeks during the PAGA Period credited to him or her. To date, there are 1,083 Participating Settlement Class Members, representing 99.54% of the Settlement Class Members.⁵⁴ The highest Individual Settlement Payment to a Participating Settlement Class Member is currently estimated to be at least \$1,810.57 and the average Individual Settlement Payment is currently estimated to be at least \$1,185.99.⁵⁵ The highest Individual PAGA Payment is currently estimated to be at least \$61.94, and the average Individual PAGA Payment is currently estimated to be at least \$47.55.⁵⁶ These are significant individual recoveries, particularly in light of the risks of litigation.

At the final approval stage, “[a]n allocation formula need only have a reasonable, rational basis [to warrant approval], particularly if recommended by experienced and competent class counsel.” *In re American Bank Note Holographics, Inc., Securities Litigation* (S.D.N.Y. 2001) 127 F.Supp.2d 418, 429-30. The *pro rata* allocation here is a fair and reasonable way to distribute the Net Settlement Amount. In light of the above considerations, Class Counsel believes that the Settlement as a whole is fair, reasonable, and adequate, and in the best interest of the Settlement Class Members.⁵⁷ Although the recommendations of Class Counsel are not conclusive, the Court can properly take the recommendations into account, particularly if Class Counsel appears to be competent, has experience with this type of litigation, and significant discovery and investigation have been completed, as is the case here. Conte & Newberg, *Newberg on Class Actions* (4th Ed., 2002) § 11.47. Accordingly, the Court should grant final approval of the Settlement.

⁵⁴ Phoenix Decl., ¶ 12.

⁵⁵ *Id.*, ¶ 15; see n.33, *supra*.

⁵⁶ *Id.*, ¶ 16.

⁵⁷ Ghosh Decl., ¶ 21.

D. The Settlement Class Was Represented by Competent Counsel.

Class Counsel has extensive experience in employment class and representative action law and complex wage-and-hour litigation.⁵⁸ Lawyers *for* Justice, PC has been appointed class counsel in numerous complex wage-and-hour cases, and has recovered millions of dollars for individuals in California.⁵⁹ Both parties' counsel were capable of assessing the strengths and weaknesses of the Settlement Class Members' claims against Defendant and the benefits of the Settlement under the circumstances of the case and in the context of a private, consensual settlement agreement.

E. There are no Notices of Objection to the Settlement.

The Settlement has been well received by the Settlement Class – *not a single Settlement Class Member objected to the Settlement.*⁶⁰ Specifically, no objections have been made as to the Gross Settlement Fund or requested Attorneys' Fees and Costs, Class Representative Enhancement Payment, Settlement Administration Costs, or the allocation for PAGA Settlement Amount. California courts have consistently found that a small number of objectors indicates the class' support for a settlement and strongly favors final approval. *Wershba, supra*, 91 Cal.App.4th at 250-51 (final approval granted despite 20 objectors); *7-Eleven Owners, supra*, 85 Cal.App.4th at 1152-53 (final approval granted despite 9 objectors).

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

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

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

Trial courts have "wide latitude" in assessing the value of attorneys' fees and their decisions will "not be disturbed on appeal absent a manifest abuse of discretion." *Lealao v.*

⁵⁸ Ghosh Decl., ¶¶ 13-18.

⁵⁹ Ibid.

⁶⁰ Phoenix Decl., ¶ 8.

1 *Beneficial Cal., Inc.* (2000) 82 Cal.App.4th 19, 41; *Ketchum v. Moses* (2001) 24 Cal.4th 1122,
2 1132 (The “experienced trial judge is the best judge of the value of professional services
3 rendered in her court[.]”); *Cellphone Termination Fee Cases* (2009) 180 Cal.App.4th 1110,
4 1118. Where the amount of a settlement is a “certain easily calculable sum of money,”
5 California courts may calculate attorneys’ fees as a reasonable percentage of the settlement.
6 Weil and Brown, California Practice Guide, Civil Procedure Before Trial, Chapter 14, § 14:145;
7 *see also Laffitte v. Robert Half Int’l Inc.* (2016) 1 Cal.5th 480, 503; *Dunk, supra*, 48 Cal.App.4th
8 at 1808. The percentage-of-the-benefit approach is preferred in class and representative actions
9 because “it better approximates the workings of the marketplace than the lodestar approach.”
10 *Lealao, supra*, 82 Cal.App.4th at 49.

11 California law provides that an attorneys’ fees award should be equivalent to fees paid in
12 the legal marketplace for the result achieved and risk incurred. *Id.* at 47-50; *Laffitte v. Robert*
13 *Half Int’l, Inc.* (2016) 1 Cal.5th 480, 503. In *Lealao*, the court held that when an action leads to
14 a recovery that can be “monetized” with a reasonable degree of certainty, the trial court should
15 “ensure that the fee awarded is within the range of fees freely negotiated in the legal marketplace
16 in comparable litigation.” *Lealao, supra*, 82 Cal.App.4th at 50. Fee awards that are too small
17 will “chill the private enforcement essential to the vindication of many legal rights and obstruct
18 the representative actions that often relieve the courts of the need to separately adjudicate
19 numerous claims.” *Lealao, supra*, 82 Cal.App.4th at 53.

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

Historically, courts have awarded fees as high as fifty percent (50%) of the settlement, depending on the circumstances of the case. Conte & Newberg, *Newberg on Class Actions* (4th Ed., 2002) § 14.03; *see also In re Ampicillin Antitrust Litig.* (D.D.C. 1981) 526 F.Supp. 494 (awarding attorneys' fees in the amount of 45% of the settlement amount of \$7.3 million); *Beech Cinema, Inc. v. Twentieth-Century Fox Film Corp.* (S.D.N.Y. 1979) 480 F.Supp. 1195 (awarding approximately 53% of the settlement amount as attorneys' fees). California courts routinely approve class action attorneys' fees awards "averag[ing] around one-third of the recovery." *Chavez v. Netflix, Inc.* (2008) 162 Cal.App.4th 43, 66 n.11 (lower court found 20 to 40 percent range of contingency fee in marketplace was appropriate in class actions); *see also Laffitte*, 1 Cal.5th at 488 & 506 (approving fee award of 1/3 of common fund of \$19 million).

B. A Fee Award of a Percentage of the Entire Fund Is Appropriate.

California and federal courts have long recognized that an appropriate method for determining the award of attorneys' fees is based on a percentage of the total value of benefits made available to class members by the settlement. *Laffitte*, 1 Cal.5th at 503; *Boeing Co. v. Van Gemert* (1980) 444 U.S. 472, 478; *Paul, Johnson, Alston & Hunt v. Gaulty* (9th Cir. 1989) 886 F.2d 268, 272; *Vincent v. Hughes Air West, Inc.* (9th Cir. 1977) 557 F.2d 759, 769; *Serrano v. Priest* (1977) 20 Cal.3d 25, 34.⁶¹ The purpose of this equitable doctrine is to spread litigation costs proportionally among all the beneficiaries so that the active beneficiary does not bear the entire burden alone. *See Vincent, supra*, 557 F.2d at 769.

When a litigant's efforts result in a settlement from which others may derive benefits, the litigant may require the passive beneficiaries to compensate those whose efforts brought about the settlement. *See*, R. Pearle, *California Attorney Fee Awards* (CEB, 1993) § 7A, p. 5-7 (permitting attorneys' fees and costs to be paid out of the settlement or directly on behalf of the other parties enjoying the benefit of the settlement). Both state and federal courts have embraced this doctrine. *See Serrano, supra*, 20 Cal.3d at 35; *Crampton v. Takegoshi* (1993) 17 Cal.App.4th 308, 317; *Vincent, supra*, 557 F.2d at 769.

⁶¹ The California Supreme Court has urged trial courts to consider class action federal authority. *Green v. Obledo* (1981) 29 Cal.3d 126, 146; *Vasquez v. Superior Court* (1971) 4 Cal.3d 800, 821.

1 The propriety of calculating and awarding attorneys' fees as a percentage of a monetary
2 settlement that has, by litigation, been preserved or recovered for the benefit of others, has been
3 confirmed by the California Supreme Court. *Laffitte, supra*, 1 Cal.5th 480 at 486 & 506. The
4 California Supreme Court has taken the position that "[t]rial courts have discretion to conduct a
5 lodestar cross-check on a percentage fee," "they also retain the discretion to forgo a lodestar
6 cross-check and use other means to evaluate the reasonableness of a requested percentage fee[.]"
7 and "[t]he percentage [...] method survives in California." *Id.* (internal quotes omitted).

8 Courts have consistently recognized that class and representative action litigation is
9 increasingly necessary to protect the rights of individuals whose injuries and/or damages are too
10 small to economically justify legal action on an individual basis. Accordingly, in determining a
11 reasonable fee award, courts award fees to serve as an economic incentive for lawyers to pursue
12 such litigation in order to achieve increased access to the judicial system for meritorious claims
13 and to enhance deterrents to wrongdoing. This is especially true in situations where multiple
14 similar alleged wrongs would not be economically feasible to pursue individually, such as here.
15 See A. Conte, *Attorney Fee Awards* (2d Ed., 1993) 104, at 6.

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

23 Under the terms of the Settlement Agreement, Defendant will pay an escalated Gross
24 Settlement Fund of \$2,315,267.75 on a non-reversionary basis. The requested attorneys' fees are
25 thirty-five percent (35%) of the escalated Gross Settlement Fund. In light of Class Counsel's
26 successful prosecution and resolution of the case, the requested attorneys' fees are appropriate
27 and reasonable.

28 ///

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

The percentage method is consistent with, and is intended to mirror, the practice in the private marketplace where contingent-fee attorneys typically negotiate percentage-fee arrangements with their clients. A named plaintiff's agreement to pay a contingent fee is powerful evidence of a reasonable fee. One of the best ways to demonstrate the value of counsel's work to the class is to review the consideration agreed to be paid by the named plaintiff. If the named plaintiff has employed counsel on a contingency-fee basis, it would indeed be inequitable for the members of the class, who will enjoy the benefits of the settlement without incurring the risks of bringing the claim, to pay less than the named plaintiff. In this case, Plaintiff has agreed to a contingency fee of at least thirty-five percent (35%) of the recovery.⁶²

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

⁶² Ghosh Decl., ¶ 9.

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

6 Class Counsel has obtained a substantial recovery on behalf of Plaintiff and the
7 Settlement Class, and the results achieved justify an attorneys' fees award that is the equivalent
8 of the standard market fee and that is consistent with the contingency-fee agreement entered into
9 by and between Plaintiff and Class Counsel. Thus, the requested attorneys' fees are appropriate.

10 **C. The Attorneys' Fees Award Requested by Class Counsel Is Reasonable**
11 **Based on the Factors Considered in Determination of Fee Awards.**

12 In *Camden I Condominium Association, Inc. v. Dunkel*, the court identified twelve factors
13 to be considered in determining whether fee awards are reasonable: (1) the time and labor
14 required; (2) the novelty and difficulty of the questions involved; (3) the skill required to perform
15 the legal services properly; (4) the preclusion of other employment by the attorney due to the
16 acceptance of the case; (5) the customary fee; (6) whether the fee is fixed or contingent; (7) time
17 limitation imposed by the client or the circumstances; (8) the amount involved and results
18 obtained; (9) the experience, reputation and ability of the attorney; (10) the undesirability of the
19 case; (11) the nature and length of the professional relationship with the client; and (12) awards
20 in similar cases. *Camden I Condominium Association, Inc. v. Dunkel* (11th Cir. 1991) 946 F.2d
21 768, 772.

22 Each and every one of these factors favors the attorneys' fees sought here; however,
23 some of the most relevant factors to this Court's fee determination will be addressed herein. The
24 award of attorneys' fees in the amount of \$810,343.71 (which is 35% of the escalated Gross
25 Settlement Fund) is commensurate with the time, effort, and expense dedicated to the case, the
26 contingent nature of Class Counsel's fee and the risks taken in commencing the case, the skill
27 and determination required, the results that Class Counsel has achieved, and the value of the
28 settlement that Class Counsel has obtained for the Settlement Class Members.

1 **1. *Time & Labor.***

2 Class Counsel used its experience and skills, and dedicated the full extent of resources, to
3 litigate and bring this matter to a successful conclusion on behalf of the Settlement Class,
4 Allegedly Aggrieved Employees, and the State of California. Moreover, as demonstrated in the
5 supporting declaration, Class Counsel has extensive experience in the handling of class actions
6 and complex litigation matters.⁶³

7 As outlined in the Declaration of Joanna Ghosh, Class Counsel has fully and actively
8 participated in litigation of this case.⁶⁴ Prior to commencing the lawsuit, Class Counsel had
9 conducted a significant amount of investigation into the factual and legal issues, Defendant's
10 business, and its operations and employment policies, practices, and procedures.⁶⁵ During the
11 litigation of the action, Class Counsel reviewed and analyzed information, documents, and data
12 obtained from Defendant, Plaintiff, and other sources; and prepared liability, damages, and
13 penalties valuation calculations.⁶⁶ Class Counsel also met and conferred with Defendant's
14 counsel over the issues relating to pleadings, case management, formal and informal discovery,
15 and production of documents and data, among other things; engaged in extensive settlement
16 negotiations with Defendant's counsel; and prepared for and attended court proceedings,
17 mediation, and settlement negotiations. Other work performed by Class Counsel included, and
18 was not limited to, case strategy and analysis; defending the deposition of Plaintiff; drafting,
19 reviewing, and revising pleadings, the mediation brief, and settlement approval motion papers;
20 preparing and appearing for court proceedings, among other tasks.⁶⁷

21 Class Counsel has dedicated staffing and monetary resources necessary to prosecute this
22 matter diligently and with maximum efficiency and has fully and actively participated in the
23 litigation process. The Task and Time Chart, which is attached as EXHIBIT A to the
24 accompanying Declaration of Joanna Ghosh, sets forth in detail the hours that Class Counsel has
25

26 _____
27 ⁶³ Ghosh Decl., ¶¶ 13-18.

⁶⁴ *Id.*, Exh. A.

⁶⁵ *Id.*, ¶ 6 & Exh. A.

⁶⁶ *Id.*, ¶ 6.

⁶⁷ *Ibid.*

1 spent performing tasks on behalf of Plaintiff and the Settlement Class.⁶⁸ The Task and Time
2 Chart is thorough and comprehensive, and was prepared so that the Court can peruse it without
3 having to set forth each and every task in the body of this Motion. The Court is respectfully
4 referred to the chart, which sets forth the history of the work performed by Class Counsel,
5 commencing with the pre-filing analysis and research, and continuing up to settlement and final
6 approval. Class Counsel has spent 528.70 hours performing tasks and to obtain a significant
7 recovery on behalf of Plaintiff and the Settlement Class.⁶⁹ These hours were required to bring
8 this matter to its successful conclusion. In light of the value of time expended and the carrying
9 of costs involved in litigating this case, the requested attorneys' fees are fair, adequate, and
10 reasonable.

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

12 The skill required to properly litigate the case is evident not only in the results achieved,
13 but in the steps necessary to reach the same. Defendant retained well-respected counsel to
14 represent its defenses. More specifically, Defendant and its counsel felt very strongly about
15 Defendant's ability to obtain a denial of certification and to prevail on the merits. Plaintiff and
16 Class Counsel believed that they would have obtained class certification and prevailed at trial.

17 Class Counsel undertook significant investigation, analysis, and research prior to filing
18 this case, during the litigation, and prior to mediation. Class Counsel took steps to prepare the
19 matter for class certification and had every intention of taking the case to trial on a class-wide
20 basis if Defendant did not offer an appropriate class-wide settlement. Despite all of the obstacles
21 that had to be overcome, as demonstrated in the Declaration of Joanna Ghosh, Class Counsel
22 used its extensive experience in the handling of class actions and complex wage-and-hour
23 litigation matters in order to obtain the Settlement with maximum efficiency.⁷⁰

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

25 The Settlement represents an excellent resolution of the action, given the risks inherent in
26 litigating the case through certification proceedings, trial, and/or appeals. Had the case not

27 ⁶⁸ Ghosh Decl., Exh. A.

28 ⁶⁹ Ibid.

⁷⁰ *Id.*, ¶¶ 13-18.

settled, Defendant would have vigorously challenged certifiability, manageability of representative adjudication, and liability. Defendant, however, faced risks if the Court certified a class and allowed a jury to decide the claims. Additionally, preparing the case for trial would have been expensive for the parties.

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

As a result of this litigation and extensive settlement negotiations, Defendant agreed to pay an escalated Gross Settlement Fund of \$2,315,267.75 to settle the matter. After deducting the attorneys' fees (\$810,343.71), litigation costs and expenses (\$13,333.32), Class Representative Enhancement Payment (\$8,000.00), Settlement Administration Costs (\$12,500.00), and the PAGA Settlement Amount (\$175,000.00) from the escalated Gross Settlement Fund, it is currently estimated that the Net Settlement Amount is approximately \$1,296,090.72.⁷¹ The Net Settlement Amount will be fully distributed in accordance with the terms of the Settlement. The highest Individual Settlement Payment to a Participating Settlement Class Member is currently estimated to be at least \$1,810.57 and the average Individual Settlement Payment is currently estimated to be at least \$1,185.99.⁷² The highest Individual PAGA Payment is currently estimated to be at least \$61.94, and the average Individual PAGA Payment is currently estimated to be at least \$47.55.⁷³ The Settlement offers significant monetary relief to the Participating Settlement Class Members, the State of California, and Allegedly Aggrieved Employees.

⁷¹ Phoenix Decl., ¶ 14; see n.6, *supra*.

⁷² *Id.*, ¶ 15; see n.33, *supra*.

⁷³ *Id.*, ¶ 16.

1 **4. Whether the Fee Is Fixed or Contingent.**

2 Plaintiff entered into a contingency fee agreement with Class Counsel, and the
3 representation of the Settlement Class provided by Class Counsel has been wholly contingent.
4 Class Counsel took on the case without knowing whether any recovery would be obtained. Class
5 Counsel has invested 528.70 hours of time to obtain relief on behalf of Plaintiff and the
6 Settlement Class.⁷⁴ Class Counsel has also incurred litigation costs and expenses in the amount
7 of \$13,333.32.⁷⁵

8 Class Counsel has borne all of the risks and costs of litigation and will not receive any
9 compensation until recovery is obtained.⁷⁶ Class Counsel is well-experienced in wage-and-hour
10 class action and complex litigation and used that experience to obtain a great result.⁷⁷ The skill
11 and determination that Class Counsel has shown, along with the results obtained, justify the
12 requested attorneys' fees. Considering the amounts requested, the work performed, and the risks
13 incurred, the requested fees and costs are reasonable and should be awarded.

14 In determining the reasonableness of a fee award in a class action settlement, whether or
15 not representation is provided on a contingency basis is an important factor:

16 A contingent fee must be higher than a fee for the same legal services paid as they
17 are performed. The contingent fee compensates the lawyer not only for the legal
18 services she renders but for the loan of those services. A lawyer who both bears
19 the risk of not being paid and provides legal services is not receiving the fair
market value of her work if she is paid only for the second of these functions. If
she is paid no more, competent counsel will be reluctant to accept fee award
cases.

20 *Cates v. Chiang* (2013) 213 Cal.App.4th 791, 823 (internal quotes and citations omitted). Class
21 Counsel litigated the case on a contingent basis with all of the concomitant risk factors inherent
22 in such an uncertain undertaking. Had Class Counsel not been successful, the time that Class
23 Counsel has devoted to litigating the case would have been for naught, and would not have
24 produced any fee or any reimbursement of costs or expenses.

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27 ⁷⁴ Ghosh Decl., ¶ 11, Exh. A.

28 ⁷⁵ See Part VII, *infra*.

⁷⁶ Ghosh Decl., ¶ 19.

⁷⁷ See *id.*, ¶¶ 13-18.

1 **5. *The Amount Involved and the Results Achieved.***

2 The results achieved, in light of the difficulties inherent in similar cases and the specific
3 difficulties faced in this matter, are considerable. The Settlement has yielded a positive response
4 from the Settlement Class Members—no Settlement Class Members objected to the Settlement.⁷⁸

5 The court in *Camden* noted that, “a key element of the common fund case is that fees are
6 [...] taken from the fund [...] and a common fund is itself the measure of success ... [and]
7 represents the benchmark on which a reasonable fee will be awarded.” *Camden*, 946 F. 2d 768,
8 fn. 28 (citing *Court Awarded Attorney Fees, Report of the Third Circuit Task Force* (October 8,
9 1985) 108 F.R.D. 237 and Newberg, *Attorney Fee Awards* § 2.07 (1986)).

10 Here, the results achieved and obtained on behalf of Plaintiff and the Settlement Class are
11 reasonable in light of the risks inherent in further litigating this matter. Class Counsel’s efforts
12 have resulted in a settlement that provides for an escalated Gross Settlement Fund of
13 \$2,315,267.75.⁷⁹ The escalated Gross Settlement Fund will be fully paid out, in accordance with
14 the terms of the Settlement Agreement. The highest Individual Settlement Payment to a
15 Participating Settlement Class Member is currently estimated to be at least \$1,810.57 and the
16 average Individual Settlement Payment is currently estimated to be at least \$1,185.99.⁸⁰ The
17 highest Individual PAGA Payment is currently estimated to be at least \$61.94, and the average
18 Individual PAGA Payment is currently estimated to be at least \$47.55.⁸¹

19 **6. *The Reputation and Ability of the Attorneys.***

20 Lawyers for Justice, PC is a recognized class action law firm that employed its attorneys’
21 knowledge, skills, and experience in bringing this case to a successful conclusion. Class Counsel
22 has years of complex and class action litigation experience, has recovered millions of dollars on
23 behalf of thousands of individuals in California, and has successfully handled numerous
24 significant wage-and-hour class action and complex cases.⁸²

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⁷⁸ Phoenix Decl., ¶ 8.

27 ⁷⁹ Ghosh Decl., ¶¶ 5-8.

28 ⁸⁰ Phoenix Decl., ¶ 12; see n.33, *supra*.

⁸¹ *Id.*, ¶ 13.

⁸² Ghosh Decl., ¶¶ 13-18.

D. The Lodestar Methodology Also Justifies Approval of the Requested Fees, Because Class Counsel Has Performed Work That Is of Significant Value Based On Reasonable Hours and Prevailing Hourly Rates of Compensation.

While the percentage-of-the-benefit approach is endorsed as the better approximation of the workings of the marketplace than the lodestar approach, courts may also use the lodestar method to “cross-check” the results of the other. See *Laffitte, supra*, 1 Cal.5th at 505 (explaining that “[a] lodestar cross-check is simply a quantitative method for bringing a measure of the time spent by counsel into the trial court’s reasonableness determination”); see also, e.g., *Vizcaino*, 290 F.3d at 1050 (“[W]hile the primary basis of the fee award remains the percentage method, the lodestar may provide a useful perspective on the reasonableness of a given percentage award.”). Importantly, “the lodestar calculation . . . does not override the trial court’s primary determination of the fee as a percentage” of the settlement amount and “does not impose an absolute maximum or minimum on the potential fee award.” *Laffitte, supra*, 1 Cal.5th at 505.

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

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

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

As discussed above, the case was highly contested and required a significant amount of time and labor. Defendant made it clear very early on that it disputed all of the allegations of the case and disputed that the matter was appropriate for class treatment. Defendant raised affirmative defenses and denied liability, and the pursuit of this matter involved gathering and analyzing data not only from Defendant but also from the Settlement Class Members. The handling of the case involved a great amount of effort, and also required and involved the exercise of a high level of skill, which Class Counsel has as a result of its extensive experience in employment class and representative actions and complex wage-and-hour litigation. Long and

difficult battles would have followed as the case moved toward certification and trial, including taking and defending depositions of Defendant's Person Most Knowledgeable designees, percipient witnesses, and experts, propounding discovery requests and conducting additional document production, and engaging in extensive motion practice. As Class Counsel geared up for these battles, Class Counsel undertook intense preparation in an attempt to resolve the entire matter through mediation.

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

As discussed above in Part VII.C.1, *infra*, attached to the Declaration of Joanna Ghosh is a task and time chart that sets forth in detail the numerous tasks that Class Counsel performed on behalf of Plaintiff and the Settlement Class, and the time required for completing those tasks.⁸³ The chart demonstrates that Class Counsel has spent a total of 528.70 hours litigating the case and finalizing the Settlement.⁸⁴ In light of the facts and circumstances of the case, as well as the results that Class Counsel has achieved on behalf of Plaintiff and the Settlement Class Members, Class Counsel has spent a reasonable number of hours on this matter. In addition, Class Counsel will continue to perform work on this matter through the date of final approval and in connection with the implementation of the Settlement.

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

Both California and federal courts recognize that attorneys should be compensated for providing representation on a contingency basis and for taking on the risks associated with said representation, as well as being provided with financial incentives to enforce important rights and protections like those at issue in this action. See *Ketchum*, *supra*, 24 Cal.4th at 1132-33. In

⁸³ See Ghosh Decl., Exh. A.

⁸⁴ Ghosh Decl., ¶ 11.

1 awarding attorneys’ fees, the aim is to mirror “the established practice in the private legal market
2 of rewarding attorneys for taking the risk of nonpayment by paying them a premium over their
3 normal hourly rates for winning contingency cases.” See *id.*

4 Class Counsel has been actively involved in this case, prior to its commencement and all
5 the way up to the present, and Class Counsel’s dedication to providing representation in this
6 matter has precluded other employment. Here, Class Counsel bore the risk that, despite all of its
7 efforts and skills employed, there may be no recovery. Ultimately, Class Counsel was successful
8 in reaching an escalated settlement of \$2,315,267.75.

9 As set forth in the Declaration of Joanna Ghosh, the professional backgrounds and
10 experience of Class Counsel support a reasonable blended hourly rate of compensation of at least
11 \$825 per hour for services provided by Class Counsel.⁸⁵ Lawyers for Justice, PC has been
12 awarded attorneys’ fees, compensating Lawyers for Justice, PC at the blended rate of at least
13 \$825 for legal service performed, by courts of this state.⁸⁶ While the circumstances of every case
14 are unique, the fact remains that the work performed and efforts undertaken by Class Counsel on
15 behalf of the Settlement Class Members, Allegedly Aggrieved Employees, and the State of
16 California justify the requested attorneys’ fees.

17 **3. The Risks Involved, Skill Required, Complexity of the Matter, and Results**
18 **Obtained Warrant Upward Enhancement of the Lodestar.**

19 Even when courts have opted to award fees in Total Settlement Amount cases based on
20 time reasonably expended on the action, courts have generally awarded these fees based on the
21 actual time expended (the lodestar) in conjunction with a multiplier of between 2 and 4. *Kerr v.*
22 *Screen Extras Guild, Inc.* (9th Cir. 1975) 526 F.2d 67. Such a multiplier is warranted in this case.

23 Courts frequently apply multipliers to enhance the lodestar to reflect the risks involved,
24 the complexity of the litigation, and the other relevant facts. *Vizcaino*, 290 F.3d at 1051; *Graham*
25 *v. DaimlerChrysler Corp.* (2004) 34 Cal.4th 553, 579 (“One of the most common fee enhancers
26 [...] is for contingency risk.”). Such an enhancement “mirrors the established practice in the
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28 ⁸⁵ Ghosh Decl., ¶ 12.

⁸⁶ *Ibid.*

private legal market of rewarding attorneys for taking the risk of nonpayment by paying them a premium over their normal hourly rates for winning contingency cases.” *Vizcaino*, 290 F.3d at 1051; *accord Ketchum*, 24 Cal.4th at 1132-33. A risk multiplier also serves to bring the financial incentives for enforcing important rights “into line with incentives [attorneys] have to undertake claims for which they are paid on a fee-for-services basis.” *Ketchum*, 24 Cal. 4th at 1132.

In determining whether or not to enhance the lodestar, California courts take into account multiple factors, many of which were specifically addressed above in §§ VI.B-C, *infra*. See, *Cates* at 822-823. Multiple factors warrant enhancement in this case, including the following:

- The time and labor required
- The skill requisite to perform the legal services properly
- The preclusion of other employment by the attorney due to the acceptance of the case
- The contingent nature of the fee
- The amount involved and results obtained
- The experience, reputation, and ability of the attorney
- Awards in similar cases

Ketchum at 1134.

Adjustment of the base lodestar figure to compute an award of attorneys’ fees for a claim under the California Labor Code is appropriate. See *Id.*, at 1135-1136; *Serrano v. Priest* (1977) 20 Cal.3d 25, 48-49. “The lodestar is calculated by multiplying the reasonable hours expended by a reasonable hourly rate. The court may then enhance the lodestar with a multiplier, if appropriate.” *Wershba, supra*, 91 Cal.App.4th at 254. In the first stage of the lodestar adjustment method, the trial court determines the reasonable hourly rate of compensation for counsel, which it then multiplies by the number of hours the court finds were reasonably spent preparing the case, to obtain the lodestar figure. *Ketchum, supra*, 24 Cal.4th at 1131-1132. The lodestar figure is the “basic fee for comparable legal services in the community” based upon the “hourly amount to which attorneys of like skill in the area would typically be entitled.” *Id.*, at 1132-1133 (quotation marks and citation omitted).

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As discussed above, this was a highly contested matter which required an extensive amount of time and labor. Defendant raised defenses and denied liability, and the case involved gathering and analyzing documents and data not only from Defendant but also from the Settlement Class Members. The handling of this matter involved a great amount of effort, and required the exercise of high-level of skill, which Class Counsel has as a result of extensive experience in employment class actions and wage-and-hour litigation. Class Counsel has been actively involved in the prosecution of this matter, prior to its commencement and Class Counsel's work has continued all the way up to the present. Class Counsel's dedication to the representation of the Settlement Class Members has precluded other employment.

Most importantly, all services were performed by Class Counsel on a contingent basis. Both California and federal courts recognize that attorneys should be compensated for taking on such contingent risks and provided with financial incentives to enforce important rights and protections like those at issue in the matter at hand. See, e.g., *Vizcaino*, 290 F.3d at 1051; *Ketchum*, 24 Cal. 4th at 1132-33. Here, Class Counsel bore the risk that, despite all of its efforts and the skill employed, there may be no recovery. Therefore, at a minimum, Class Counsel is entitled to a risk multiplier. The results obtained by way of Class Counsel's efforts are significant here. Class Counsel was successful in achieving substantial results in the form of a settlement of \$2,315,267.75. Also, Class Counsel's efforts throughout the case demonstrate dedication to the interests of the Settlement Class Members.

Class Counsel's application for attorneys' fees in light of the facts and circumstances surrounding the matter is well within the range of reasonableness. While handling this matter, Class Counsel devoted the hours in legal time summarized above and detailed in the Task and Time Chart, which is attached as EXHIBIT A to the Declaration of Joanna Ghosh.⁸⁷ As the chart indicates, Class Counsel has worked 528.70 hours in the pursuit of this matter. The attorney task and time chart presents the entire picture. Applying a reasonable blended rate of \$825 per hour to 528.70 hours of work performed by Lawyers for Justice, PC would place a base lodestar value of \$436,177.50 on Class Counsel's services, and applying a modest multiplier of 1.86, the total

⁸⁷ Ghosh Decl., Exh. B.

enhanced lodestar fees are \$811,290.15.⁸⁸ Class Counsel seeks an attorneys’ fee award of \$810,343.71 (equal to 35% of the escalated Gross Settlement Fund). Far greater multipliers have been awarded in similar cases, and the total amount of fees sought by Class Counsel is also reasonable compared to fees awarded in similar cases. Courts routinely enhance lodestar amounts based on multipliers that “range from **2 to 4 or even higher.**” *Wershba, supra*, 91 Cal.App.4th at 255 (emphasis added); *see also, e.g., Chavez v. Netflix, Inc.* (2008) 162 Cal.App.4th 43, 66 (approving **multiplier of 2.5**); *Vizcaino*, 290 F.3d at 1051 (approving **multiplier of 3.65**); *Wal-Mart Stores, Inc. v. Visa U.S.A., Inc.* (2d Cir. 2005) 396 F.3d 96, 123 (approving **multiplier of 3.5**); *Craft v. County of San Bernardino* (C.D. Cal. 2006) 624 F.Supp.2d 1113, 1125 (awarding **multiplier of 5.2** and referring to other cases with cross-check **multipliers ranging from 4.5 to 19.6**).

The nature of the work performed, skill exercised, and the outcome in this matter support the percentage fee sought and the application of a lodestar multiplier. This matter involves an outstanding monetary recovery involving an escalated **Gross Settlement Fund of \$2,315,267.75** (with a Net Settlement Amount of **at least \$1,296,090.72 to be paid to Participating Settlement Class Members** with an average payment of approximately \$1,185.99 per Participating Settlement Class Member, a **payment of \$43,750.00 to Allegedly Aggrieved Employees** with an average payment of \$47.55 per Allegedly Aggrieved Employee, and **payment of \$131,250.00 to the State of California**)—support the percentage fee sought and the application of a lodestar multiplier.⁸⁹

Therefore, application of a modest multiplier of 1.86 is warranted, and the lodestar as a cross-check to the percentage figure sought herein, strongly supports the reasonableness of the requested attorneys’ fees award. Plaintiff respectfully requests that the Court grant final approval of, and award, attorneys’ fees in the amount of \$810,343.71 to Class Counsel.

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⁸⁸ Ghosh Decl., ¶ 11; *see n.3, supra*.

⁸⁹ Phoenix Decl., ¶¶ 11-13. *See n.6 & 33.*

VII. COSTS TO BE REIMBURSED TO CLASS COUNSEL ARE FAIR AND REASONABLE, AND SHOULD BE APPROVED.

The Settlement provides for reimbursement of litigation costs and expenses of up to \$25,000.00. As set forth in the Declaration of Joanna Ghosh, Class Counsel seeks reimbursement of \$13,333.32, in litigation costs and expenses incurred in this matter.⁹⁰ This amount was reasonable and necessary in the prosecution of the case and to obtain the Settlement, and is less than the maximum amount allocated under the Settlement Agreement.⁹¹ The cost savings of \$11,666.68 will be part of the Net Settlement Amount, which will be distributed to the Participating Settlement Class Members in accordance with the Settlement.⁹² Accordingly, Plaintiff requests that the Court award litigation costs and expenses in the amount of \$13,333.32 to Class Counsel.

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

As set forth in the accompanying Phoenix Declaration, the total costs incurred and to be incurred by Phoenix for the notice and settlement administration process are \$12,500.00.⁹³ The costs incurred and to be incurred include, but are not limited to, expenses for formatting, printing, translating, and mailing the Class Notice to the Settlement Class Members; performing skip-trace searches on Class Notices returned as undeliverable; re-mailing the Class Notices to any updated addresses located by skip-trace search; receiving, reviewing, and processing Requests for Exclusion, Notices of Objection, and Workweeks disputes (if any); handling inquiries from Settlement Class Members regarding the Settlement; calculating Individual Settlement Payments and Individual PAGA Payments and preparing the associated tax forms; and transmitting payments, among other things.⁹⁴

Accordingly, the Court should grant final approval of payment to Phoenix, a necessary third-party for handling of the notice and settlement process, in the amount of \$12,500.00.

⁹⁰ Ghosh Decl., ¶ 19 & Exh. B.

⁹¹ Ibid.

⁹² Ibid.

⁹³ Phoenix Decl., ¶ 18.

⁹⁴ *Id.*, ¶ 3.

IX. THE REQUESTED CLASS REPRESENTATIVE ENHANCEMENT PAYMENT IS FAIR AND REASONABLE, AND SHOULD BE APPROVED.

The Settlement provides for a Class Representative Enhancement Payment in the amount of \$8,000.00 to Plaintiff Bryan Hicks to compensate Plaintiff for the time and effort that he expended on behalf of the Settlement Class, Allegedly Aggrieved Employees, and the State of California. The requested Class Representative Enhancement Payment is both common and reasonable and should be awarded.

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

The requested Class Representative Enhancement Payment is fair and appropriate because Plaintiff spent a substantial amount of time and effort producing relevant documents and past employment records, as well as providing the facts and evidence necessary to attempt to prove the allegations in the case, including and not limited to, by way of working with Class Counsel to prepare responses to discovery requests that were propounded on him by Defendant, preparing for and attending his deposition, and reviewing his deposition transcript.⁹⁵ Plaintiff was available whenever Class Counsel needed him and actively tried to obtain, and gave, information that would facilitate the pursuit of the case.⁹⁶ Plaintiff spent numerous hours speaking with Class Counsel about his claims, describing his work experiences with Defendant, and gathering and reviewing documents.⁹⁷ These services merit the requested Class Representative Enhancement Payment to Plaintiff, who has not received any compensation for

⁹⁵ Ghosh Decl., ¶ 20; Declaration of Bryan Hicks (“Hicks Decl.”), ¶¶ 3-5.

⁹⁶ Ghosh Decl., ¶ 20; Hicks Decl., ¶¶ 3-5.

⁹⁷ Ghosh Decl., ¶ 20; Hicks Decl., ¶¶ 2-6.

his efforts on behalf of the Settlement Class Members to date.⁹⁸

The requested Class Representative Enhancement Payment was fully disclosed in the Notice that was mailed to the Settlement Class Members. No objections were made with regards to the requested Class Representative Enhancement Payment. Accordingly, it is appropriate and just for Plaintiff Bryan Hicks to receive \$8,000.00 as a reasonable Class Representative Enhancement Payment for his services on behalf of the Settlement Class, Allegedly Aggrieved Employees, and the State of California, in addition to his individual settlement payment.

X. CONCLUSION

For the foregoing reasons, Plaintiff respectfully requests that the Court grant final approval of the Settlement, and award Attorneys' Fees and Costs, Class Representative Enhancement Payment, Settlement Administration Costs, and allocation for the PAGA Settlement Amount in their entirety, as sought herein; and permit the filing of a memorandum that exceeds the page limit.

Dated: February 28, 2024

LAWYERS for JUSTICE, PC

By: 

Brian J. St. John

Attorneys for Plaintiff and the Settlement Class

⁹⁸ Hicks Decl., ¶ 9.