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9
10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
11 **COUNTY OF RIVERSIDE**
12

13 FRANCISCO CERVANTES, as an
14 individual and on behalf of all others
15 similarly situated,

16 Plaintiff,

17 v.

18 ALPHA MATERIALS, INC., a California
19 corporation; and DOES 1-100, inclusive,

20 Defendants.
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Case No.: Case No.: CVRI2201967

Assigned for All Purposes to:
Hon. Harold Hopp
Dept. 1

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

**[Filed Concurrently with Notice of Motion
and Motion; Declarations of Nikki Trenner,
Francisco Cervantes, and Taylor Mitzner;
[Proposed] Order]**

Date: July 25, 2024
Time: 8:30 a.m.
Dept.: 1

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1 **I. INTRODUCTION**

2 Plaintiff and Class Representative Francisco Cervantes seeks final approval of a non-
3 reversionary class action settlement resolving wage and hour claims on behalf of 133 individuals
4 who worked for Alpha Materials, Inc. (“Alpha” or “Defendant”) as a non-exempt employee during
5 the Class Period of May 18, 2018 to November 5, 2023. The proposed \$295,000 total settlement
6 provides about \$158,070 in cash payments to the Class, with an average award of about \$1,188, plus
7 additional amounts payable under PAGA. The remaining balance will cover a modest service award
8 to Plaintiff, settlement administration costs, civil penalties to the state, and reasonable attorney’s
9 fees and costs. The parties and their counsel finalized the settlement after extensive and difficult
10 arms-length negotiations overseen by an experienced and highly-regarded mediator. The Court
11 conditionally certified the Class and preliminarily approved the settlement on March 12, 2024. Since
12 then, the Court-approved notice form was mailed to the Class Members on May 17, 2024, and they
13 reacted very favorably to the settlement. As of the filing of this motion, not one Class Member
14 requested exclusion, and there are no objections.

15 Class Counsel secured an excellent settlement with Alpha after extensive
16 investigation, litigation, and settlement negotiation and administration, all without any
17 compensation for services rendered or costs expended. The class notice duly informed the
18 class members that Class Counsel would request attorney’s fees not to exceed one-third
19 of the Gross Settlement Amount, or \$98,333.33, along with reimbursement of no more
20 than \$20,000 for actual costs incurred litigating this matter. As of the filing of this
21 motion, *not one Class Member objected* to the proposed fee award. Consistent with the
22 Settlement and notice, Plaintiff now respectfully requests the Court award Class
23 Counsel's fees in the amount of \$98,333.33 and costs in the amount of \$10,846.56 as
24 described in the Declaration of Nikki Trenner (“Trenner Decl.”) filed herewith. The
25 requested attorney’s fees are well within the range of reasonableness, especially
26 considering the complex and risky nature of this litigation, the contingent risk assumed,
27 the nearly two-plus delay in payment and, when subjected to a lodestar crosscheck, result
28 in a base lodestar that is higher than the actual fee request.

1 Accordingly, on behalf of himself and the Settlement Class, Plaintiff respectfully
2 requests the Court grant this motion, give full and final approval to the settlement, grant Class
3 Counsel's request for attorney's fees and costs, and enter judgment accordingly.

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

5 The details of the procedural and factual background of this matter were outlined in the
6 Plaintiffs' Motion for Preliminary Approval of Class Action Settlement (filed on or about
7 February 15, 2024). To re-familiarize the Court with this litigation, Defendant Alpha Materials
8 is a construction material supplier based in Jurupa Valley. Alpha sells concrete products such as
9 shotcrete and ready-mix concrete. Plaintiff Cervantes was employed by Defendant as a commercial
10 driver for over ten years. During his employment, Plaintiff typically worked shifts between ten and
11 thirteen hours, five days per week. [Trenner Decl., ¶ 2.]

12 Plaintiff alleges Alpha violated California wage and hour law in several respects. First, he
13 alleges a failure to pay all minimum and overtime wages by (1) failing to pay Plaintiff and the Class
14 Members for all hours worked by requiring them to don and doff their personal protective equipment
15 before clocking in and after clocking out for their shifts, and (2) failing to pay for rest and recovery
16 time. Next, Plaintiff alleges Alpha also failed to provide compliant meal periods as meal periods
17 were either interrupted or started late due to job demands. He also alleges Defendant failed to
18 provide legally compliant rest periods, rest breaks did not last a net 10 minutes and were no
19 completely free of employer control. He further claims Defendant did not reimburse business
20 expenses incurred by Class Members for the use of their personal cellular phones. Lastly, he alleges
21 Defendant failed to provide accurate, itemized wage statements and failed to pay all wages owed
22 upon the separation of employment. [Trenner Decl.), ¶ 3.]

23 Based on these allegations, on May 17, 2022, Plaintiff filed the underlying class action
24 complaint on behalf of himself and the Class Members, asserting claims for (1) failure to pay
25 minimum wages; (2) failure to pay overtime; (3) failure to provide meal periods; (4) failure to
26 provide rest periods; (5) failure to provide itemized wage statements; (6) failure to reimburse
27 business expenses, (7) failure to pay all wages due at termination; and (8) unfair competition. After
28 exhausting his administrative remedies, Plaintiff filed a First Amended Complaint adding claims

1 under PAGA based on the same alleged Labor Code violations. After his employment with Alpha
2 ended, Plaintiff filed a Second Amended Complaint adding claims for failure to timely pay wages
3 on separation of employment. [Trenner Decl., ¶ 4.]

4 Alpha has at all times denied Plaintiff's allegations and maintained its meal and rest break
5 and payroll policies and procedures comply with California law, and that it provided the class
6 members with required meal and rest breaks. Additionally, Alpha contends its timekeeping and
7 payroll policies accurately track and pay for all hours worked by its employees and at the correct
8 rates of pay. It also strongly contends the case cannot be maintained as any kind of class or
9 representative action, arguing for example that to the extent class members missed meal and/or rest
10 breaks, or that such breaks were non-compliant, it was intermittent and infrequent and evidence of
11 such missed breaks would be purely anecdotal, and therefore individualized issues predominate and
12 trial on a representative basis would be unmanageable. [Trenner Decl., ¶ 5.]

13 Since Plaintiff filled the initial complaint, and after agreeing to participate in early mediation,
14 the Parties engaged in formal and informal discovery to facilitate an exchange of information
15 necessary to engage in a meaningful mediation. The Parties then engaged Louis Marlin, Esq., a
16 highly respected mediator with extensive wage and hour class action experience and, in August
17 2023, participated in a full day mediation with Mr. Marlin. Throughout the day, the arms-length
18 negotiations were hard-fought and adversarial as the Parties exchanged extensive information on
19 their legal and factual positions, and made numerous offers and counter-offers. After a full day of
20 negotiations, the Parties reached agreement on all major issues and thereafter prepared the
21 Settlement Agreement now before the Court for approval. [Trenner Decl., ¶¶ 6-7.] The Court
22 granted preliminary approval to the settlement on March 12, 2024.

23 Class Notices were mailed to class members on May 17, 2024, with a 45-day window
24 (to July 1, 2024) for class members to opt out or object to the proposed settlement. [Declaration
25 of Taylor Mitzner ("Mitzner Decl."), ¶¶ 5, 8-9.]

26 **III. THE PROPOSED SETTLEMENT TERMS**

27 Under the settlement, Alpha will pay \$295,000.00 into a common fund, the Gross Settlement
28 Amount. Reasonable attorney's fees of up to \$98,333.33 (1/3 of the GSA), litigation costs of up to

1 \$20,000 (only \$10,846.56 is requested), an enhancement award to Plaintiff of up to \$5,000,¹
2 settlement administration costs of no more than \$7,750, and \$15,000 for civil penalties under PAGA
3 (of which 75%, or \$11,750, will go to the Labor & Workforce Development Agency, and 25%, or
4 \$3,250 will go to the Aggrieved Employees) all will be paid from the Gross Settlement Amount.
5 The remainder of approximately \$158,070 will be allocated among the Participating Class Members
6 based on their total weeks worked during the Class Period. No portion of the Gross Settlement
7 Amount will revert to Alpha. [Trenner Decl., ¶ 8.]

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

9 The Court conditionally certified a settlement class defined to include all persons who are
10 or were employed by Defendant in California and classified as a non-exempt employee during the
11 Class Period of May 18, 2018 to November 5, 2023. The Settlement Administrator ultimately
12 mailed class notices to 133 individuals identified as members of the Class. [Mitzner Decl.,
13 ¶ 5.] Nothing has changed to require reconsideration of the Court’s certification of the
14 Settlement Class.

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

16 This is a cash settlement that does not require Participating Class Members to submit a claim
17 form to receive their settlement share. Participating Class Members will receive their settlement
18 checks automatically via First Class U.S. Mail. Eighty percent of each settlement share will be
19 allocated to wages and the remaining twenty percent will be allocated to expenses reimbursement,
20 penalties and interest. Alpha will pay any and all applicable employer-side payroll taxes separately
21 and in addition to the Gross Settlement Amount. Subject to the Court’s approval, any amounts not
22 claimed (because a class member does not cash his or her settlement check) will be forwarded to
23 the State Controller’s Unclaimed Property Fund. [Trenner Decl., ¶ 9.]

24 Each Participating Class Member will receive a share of the Net Settlement Amount based
25 on his or her total weeks worked for Alpha during the Class Period while employed in a non-exempt
26 position. Thus, each Class Member’s Individual Settlement Payment will be calculated using criteria
27 typically used in determining appropriate amounts of unpaid wages, unpaid premium wages for

28 ¹ Plaintiff also entered into a separate individual settlement agreement.

1 missed meal and rest breaks, and potential statutory penalties under applicable law. These methods
2 are intended to ensure each Class Member receives a portion of the available settlement funds
3 corresponding to the relative value of his or her potential claims. The proposed allocation provides
4 a reasonable way to compensate Class Members based on the amount of time they worked for Alpha
5 and the number of instances they missed a meal break and/or rest break, were not provided
6 compensation in lieu of such missed breaks, or lost pay due to the alleged rounding and regular rate
7 issues. [Trenner Decl., ¶ 10.]

8 The average class award will be approximately \$1,188, the lowest award is about \$12.40,
9 and the largest award will be over \$2,800. There are 84 Class Members also eligible to receive a
10 share of the PAGA civil penalties, and their average PAGA award will be about \$44. [Mitzner Decl.,
11 ¶¶ 14-15.]

12 **C. Settlement Administration**

13 Phoenix Settlement Administrators, as the Court-approved Settlement Administrator,
14 mailed the Notice Packet to the Class members after making all reasonable effort to ascertain
15 the best mailing address, including running each address through the National Change of
16 Address database and "skip-tracing" any Notice Packets returned as undeliverable. [Mitzner
17 Decl., ¶¶ 3-7.] The Class Notice, previously approved by the Court, duly informed Class
18 Members of the settlement terms, including the estimated relief each Class Member will
19 receive, the amounts to be requested for attorney's fees and the class representative
20 enhancement awards, and the right to opt out of or object to the settlement. [Mitzner Decl., ¶ 5,
21 Exh. A.] Phoenix mailed 133 Notice Packets on May 17, 2024. [Mitzner Decl., ¶ 5.] Ultimately,
22 three Notice Packets were deemed undeliverable, representing a 97.7% success rate. [Mitzner
23 Decl., ¶ 9.] The 45-day response window for objecting to the settlement will expire on July 1,
24 2024. [Mitzner Decl., ¶¶ 8-10.] As of the filing of this motion, Phoenix has received zero
25 requests for exclusion (for a 100% participation rate), and zero objections to the settlement. No
26 disputes have been submitted regarding the information used to calculate class member
27 settlement shares. Phoenix will submit a supplemental declaration updating the Court on the
28 status of administration prior to the hearing. [Mitzner Decl., ¶¶ 8-10.]

1 **D. Release of Claims**

2 All Participating Class Members will release Alpha from all claims alleged in the operative
3 FAC, or that could have been brought based on the factual allegations in the FAC during the Class
4 Period. Plaintiffs and the LWDA will release those PAGA claims alleged in the PAGA notice to the
5 extent alleged in the FAC. The Class and PAGA releases are limited to the claims that were actually
6 pleaded or could have been pleaded based on the alleged facts in the FAC, and PAGA notice for the
7 PAGA claims. Only Plaintiff will provide a full general release of all claims. [Trenner Decl., ¶ 11.]

8 **E. PAGA and Notice to the LWDA**

9 As noted, the Parties allocated \$15,000 to payment of alleged civil penalties under PAGA,
10 which amount Plaintiff submits is fair, reasonable, and adequate, and furthers PAGA's underlying
11 purposes. As required by Labor Code section 2699(l)(2), Plaintiff gave notice of the settlement and
12 the approval hearing to the LWDA via its online portal. [Trenner Decl., ¶ 12; Exh. 1.]

13 **IV. ARGUMENT**

14 The law favors settlement, particularly in class actions where substantial resources can
15 be conserved by avoiding the time, cost, and rigors of formal litigation. H. Newberg & A.
16 Conte, 4 Newberg on Class Actions (4th ed. 2002), § 11.41; Class Plaintiffs v. City of Seattle
17 (9th Cir. 1992) 955 F.2d 1268, 1276, cert. denied, 506 U.S. 953; Van Bronkhorst v. Safeco
18 Corp. (9th Cir. 1976) 529 F.2d 943,950; Potter v. Pacific Coast Lumber Co. (1951) 37 Cal.2d
19 592, 602. Nevertheless, to make certain the rights of absent parties are not unjustly
20 compromised, the settlement of a class action requires court approval. Cal. Rule of Court
21 3.769; Dunk v. Ford Motor Co. (1996) 48 Cal.App.4th 1794, 1801; Wershba v. Apple Computer
22 (2001) 91 Cal.App.4th 224, 245. The purpose of that judicial review is to protect against fraud
23 or collusion, and to ensure fairness to absent class members. Dunk, 48 Cal.App.4th at 1800-01;
24 Newberg, at §§ 11.22, *et seq.* Review is accomplished through a two-step process intended to
25 determine whether, under the totality of circumstances, the settlement is fair, reasonable and
26 adequate. Dunk, 48 Cal.App.4th at 1801; Wershba, 91 Cal.App.4th at 245.

27 On a motion for final approval, the trial court is charged with determining whether, in
28 light of the total circumstances of the action and the response of the class members to the

1 proposed settlement, the settlement is fair, reasonable, and adequate. Dunk, 48 Cal.App.4th at
2 1801-02; Wershba, 91 Cal.App.4th at 244-45. The court has broad discretion in making that
3 determination and may consider a number of relevant factors, including: the strength of
4 plaintiff's case; the likelihood of potential recovery; the risk, expense and likely duration of
5 further litigation; the amount offered in settlement; the extent of discovery and stage of the
6 proceedings; the experience and opinion of counsel; and the reaction of class members to the
7 settlement. Id. In light of the strong judicial policy favoring the settlement of class actions,
8 courts generally apply a presumption of fairness to a proposed class action settlement when:
9 (1) the settlement is reached through arm's-length bargaining; (2) investigation and discovery
10 are sufficient to allow counsel and the court to act intelligently; (3) counsel is experienced in
11 similar litigation; and (4) the percentage of objectors is small. Dunk, 48 Cal.App.4th at 1802;
12 Wershba, 91 Cal.App.4th at 245.

13 **A. The Proposed Settlement Merits Final Approval**

14 The proposed settlement of this action warrants final approval under the standards
15 summarized above. The settlement is fair, reasonable and adequate, and represents a favorable
16 resolution of highly disputed claims. Further, the settlement thus far has been overwhelmingly
17 approved by the class members, as there are no objections and no Class Members have
18 requested exclusion.

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

20 The settlement is not the result of fraud or collusion. Rather, the proposed settlement
21 was reached following arm's-length negotiations presided over by Louis Marlin, Esq., a highly
22 respected and well-known mediator with extensive experience mediating wage and hour class
23 actions. [Trenner Decl., ¶ 7.] Moreover, Plaintiff and his counsel were well-informed about the
24 facts and the law, and counsel Zachary Crosner, Jamie Serb, and Nikki Trenner all have years of
25 litigation experience, including litigating wage and hour class actions. Plaintiff's counsel are well-
26 qualified to evaluate the risks and benefits of pursuing further litigation or settling the matter.
27 [Trenner Decl., ¶¶ 28-34.] Defendant Alpha likewise was represented by highly-qualified and
28

1 experienced defense counsel. Both sides advocated vigorously for their clients, and nothing
2 was "left on the table."

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

4 The settlement was well-received by the class. As of the filing of this motion, no
5 objections have been filed, and no Class Members have requested exclusion out of 133 settlement
6 class members. [Mitzner Decl., ¶¶ 8-9.] As many courts recognize, class member reaction to the
7 settlement is one of the most important factors to consider in determining if final approval should
8 be granted. Mandujano v. Basic Vegetable Prods., Inc., 541 F.2d 832, 837 (9th Cir. 1976); see also
9 In re: American Bank Note Holographics, 127 F.Supp.2d 418, 425 (S.D.N.Y. 2001) ("It is well-
10 settled that the reaction of the class to the settlement is perhaps the most significant factor to be
11 weighed in considering its adequacy") (internal quotation marks omitted).

12 **3. The Settlement Is Fair and Reasonable Considering the Benefits Conferred,**
13 **the Case Value, and Significant Litigation Risks**

14 The proposed settlement involves a substantial sum of money that, when distributed,
15 will confer meaningful monetary benefits on the Class members. As described above, each
16 individual award will be based on an allocation consistent with the nature of the claims asserted
17 and will fairly and equitably allocate the available funds in relation to the degree of damage
18 each Class member incurred. While Class members who worked for only a short period of time
19 will receive relatively small sums, those with longer tenures and who worked more hours and
20 shifts, and earned more compensation throughout the class period, will receive appropriately
21 larger awards.

22 Prior to mediation, the parties engaged in both formal and informal discovery to facilitate
23 settlement discussions. As a result, Plaintiff reviewed documents and information regarding Alpha's
24 payroll practices, a representative sampling of pay stubs and time records for about 25% of the class
25 members, applicable compensation plans, meal and rest break policies, etc., and information from
26 Defendant regarding class size and breakdown, number of work weeks/pay periods, average rates
27 of pay, and other information used to formulate a damages model. Plaintiff then had that information
28 reviewed with the assistance of a consulting expert. Plaintiff's counsel are confident they obtained

1 sufficient information to understand the law and facts of this case and make an informed decision
2 regarding the proposed settlement and whether it is fair and reasonable. [Trenner Decl., ¶¶ 6, 13.]

3 Using the data obtained from Defendant, Plaintiff ran various calculations and estimated
4 Alpha's likely maximum exposure on the class claims at approximately **\$3.944** million, including
5 about \$ on the unpaid wage/rounding claim, \$3,631,460 on the meal and rest break claims, \$148,300
6 on the unreimbursed expense claim, \$752,000 on the wage statement claims, and \$612,500 on the
7 waiting time penalty claims. [Trenner Decl., ¶ 14.]

8 First, on their unpaid wage claims, Plaintiffs allege Alpha failed to pay for all hours worked
9 because it required employees to don and doff protective equipment and take care of other pre- and
10 post-shift work off the clock and without compensation. Plaintiff also contends that, for employees
11 paid by piece rate, Alpha failed to compensate for non-productive time and required rest and
12 recovery periods. As a result, per Plaintiff, he and the class members lost as much as 90+ minutes
13 of compensable time each week due to this off the clock and uncompensated work. Plaintiff's
14 experts calculated this resulted in a loss of some 32,800 compensable hours worked, resulting in
15 some \$735,000 in unpaid wages over the Class Period. In response, Defendant argued its
16 timekeeping and payroll policies accurately tracked and paid for all employee time and. It also
17 argued that its policies prohibited any "off the clock" work and, accordingly, if any off the clock
18 work occurred it was intermittent and infrequent, against company policy, and done without the
19 employer's knowledge or consent. For these reasons, per Alpha, class certification of this issue
20 would be impossible because innumerable individual inquiries would be required to determine
21 whether any compensable "off the clock" work occurred. [Trenner Decl., ¶ 15.]

22 On the meal period claims, Plaintiff alleged several violations. First, he argued that meal
23 periods frequently were started late and/or interrupted and cut short by work circumstances, even
24 though employees were required to write down that they had received a timely, full 30-minute meal
25 period regardless. Further, Plaintiff contends he and the class members had to be available to
26 respond to work-related texts and phone calls while on their meal periods, and thus never really
27 were fully relieved of all duties. Assuming a 95% violation rate, Plaintiff calculated Defendant's
28 meal period exposure at about \$1,211,340 in meal period premiums. [Trenner Decl., ¶ 16.]

1 In response, Defendant argued its break policies were fully compliant with California law,
2 and that it provided all required meal periods and thereby met its obligations under the Labor Code
3 and applicable Wage Order. Further, Defendant argued to the extent employees missed a break or
4 took a non-compliant break, any such discrepancies were aberrational and against company policy
5 and a myriad of individual issues would be required to determine whether the potential violation
6 resulted from employee choice or some other reason. Per Defendant, individualized inquiries would
7 dominate on this issue and render class certification inappropriate. [Trenner Decl., ¶ 17.]

8 For the rest break claim, Plaintiff similarly argued that Defendant frequently provided non-
9 compliant rest breaks, as the Class Members often had to skip rest breaks or received shortened rest
10 breaks due to the hectic nature of the work, had to be available to respond to texts/phone calls, and
11 further were not completely relieved of all employer control. As with meal breaks, Defendant argued
12 its rest break policies complied with California law and that it authorized and permitted employees
13 to take all required rest breaks. Defendant further contended that, in light of the fact that it is not
14 required to maintain a record of rest breaks, any evidence of failure to authorize and permit rest
15 breaks and/or discouragement from taking rest breaks would be purely anecdotal and individual
16 issues would predominate. Assuming a 95% violation rate, Defendant's exposure here was
17 estimated at about \$1,262,340. [Trenner Decl., ¶ 18.]

18 On the expense reimbursement claim, Plaintiff alleges that use of his personal cellular phone
19 was necessary and consequential to his employment duties for purposes of group messaging, and
20 receiving work-related calls and texts. Defendant did not reimburse employees for the cost
21 associated with the use of the personal cellular phones for Defendant's benefit. Cochran v. Schwan's
22 Home Serv. (2014) 228 Cal.App.4th 1137, 1144. In response, Alpha argued it provided employees
23 with all tools and equipment necessary to perform their job duties and, to the extent employees used
24 their own phones, it was purely for personal convenience, was not necessary to their employment,
25 and therefore was not reimbursable. Without taking into consideration any of Defendant's defenses
26 to certification or on the merits, Plaintiffs' experts calculated Defendant's maximum exposure for
27 this claim at about \$63,755, based on \$5/work week per class member in unreimbursed expenses.
28 [Trenner Decl., ¶ 19.]

1 Plaintiff next alleged Alpha's wage statements violated Labor Code § 226 on their face by,
2 inter alia, failing to include the employer name and address, and the employees' social security
3 number/employee ID number. He also alleged derivative claims under Labor Code § 226 and §§
4 201-203 (waiting time penalties). These derivative claims are based on the unpaid wage claims and
5 will rise or fall along with those primary claims, in addition to being subject to "good faith" and
6 other defenses available to Defendant. E.g., Amaral v. Cintas Corp. No. 2 (2008) 163 Cal.App.4th
7 1157, 1203-04 (holding employer did not willfully fail to pay wages under Labor Code § 203 even
8 though the class prevailed on the merits on the underlying claim for failing to pay living wages).
9 Defendant argued further that the wage statements accurately contained all required information,
10 and that acted in good faith all times with respect to payment of wages. Plaintiff estimated the
11 exposure on these claims at about Accordingly, Plaintiff discounted these claims significantly in
12 light of these multiple potential defenses. Plaintiff's experts estimated the exposure here at about
13 \$340,000 on the wage statement claims (based on 6,322 pay periods in the limitations period and
14 accounting for the \$4,000 per employee cap), and \$331,200 on the waiting time penalty claims
15 based on 69 terminated employees in the limitations period. [Trenner Decl., ¶ 20.]

16 As far as potential PAGA liability, the alleged aggrieved employees theoretically are entitled
17 to penalties totaling about \$3.1 million should Plaintiff prevail on all claims, establish violations of
18 the multiple Labor Code sections at issue, and secure the maximum penalty on all issues. [Trenner
19 Decl., ¶ 21.] As with the class claims, Plaintiff discounted the potential PAGA penalties based on
20 Defendant's various defenses on the merits and also accounted for the Court's wide discretion to
21 reduce such penalties, or to decline to award penalties at all. Labor Code § 2699(e)(2); Carrington
22 v. Starbucks Corp. (2018) 30 Cal.App.5th 504 (trial court awarded penalties of \$5 per pay period
23 after a bench trial, which decision was upheld on appeal); In re Taco Bell Wage and Hour Actions
24 (E.D. Cal. Apr. 8, 2016) 2016 U.S. Dist. LEXIS 48557 (PAGA penalties denied after trial).
25 Accordingly, the Parties allocated \$15,000 to PAGA penalties. Accordingly, the Parties negotiated
26 a PAGA allocation of \$15,000 from the GSA.

27 Plaintiff submits this amount is reasonable under the circumstances and in line with
28 comparable settlements in other wage and hour class actions in California. E.g., Van Kempen v.

1 Matheson Tri-Gas, Inc. (N.D. Cal. Aug. 25, 2017) 2017 U.S. Dist. LEXIS 137182 (granting final
2 approval of \$5,000 PAGA penalty from \$370,000 settlement, or 1.4 percent of total settlement);
3 Slavkov v. First Water Heater Partners I (N.D. Cal. July 25, 2017) 2017 U.S. Dist. LEXIS 116303
4 (finding a \$7,500 PAGA payment reasonable when measured against the overall settlement of
5 \$345,000 and the possible weaknesses in plaintiffs' case, or 2.2 percent of total settlement).
6 Additionally, the LWDA has been informed of the terms of the PAGA portion of the settlement,
7 and will be able to weigh in as necessary. Jennings v. Open Door Mktg. Inc. (N.D. Cal. Oct. 3,
8 2018) 2018 U.S. Dist. LEXIS 171356, at *27 (approving settlement with PAGA penalties of 0.6%
9 where "[p]laintiffs [have] submitted the settlement agreement to the LWDA, and the LWDA has
10 not objected to the settlement.

11 Taking into account all of the above-discussed risk factors, Plaintiff calculated Defendant's
12 exposure on the class claims at around \$789,000 on a risk-discounted basis and, accordingly, the
13 settlement represents a little under 40% of the estimated recovery after trial. Given Defendant's
14 multi-layered defenses and all other potential risks of continued litigation, a total recovery for the
15 class of \$295,000, which will result in average award of over \$1,188 per class member, is a
16 significant result well within the range of reasonableness considering all potential outcomes, and it
17 will provide direct monetary awards to all Class Members without further delay. [Trenner Decl., ¶¶
18 22-23.]

19 Importantly, the mere fact that a settlement does not provide the same recovery as might be
20 achieved at trial is not a proper indicator of whether the settlement is fair, reasonable, and adequate.
21 Wershba, 91 Cal.App.4th at 246, 250 ("Compromise is inherent and necessary in the settlement
22 process...even if the relief afforded by the proposed settlement is substantially narrower than it
23 would be if the suits were to be successfully litigated, this is no bar to a class settlement because the
24 public interest may indeed be served by a voluntary settlement in which each side gives ground in
25 the interest of avoiding litigation"); 7-Eleven Owners for Fair Franchising v. Southland Corp. (2000)
26 85 Cal.App.4th 1135, 1150 ("The fact that a proposed settlement may amount to only a fraction of
27 the potential recovery does not, in and of itself, mean that the proposed settlement is grossly
28 inadequate and should be disapproved"); White v. Experian Information Solutions, Inc. (C.D. Cal.

1 2011) 803 F.Supp.2d 1086, 1098 (rejecting contention settlement was not fair and reasonable even
2 though it represented 99% discount off the maximum value of the claims); Lane v. Facebook, Inc.
3 (9th Cir. 2012) 696 F.3d 811, 819 ("[T]he question whether a settlement is fundamentally fair . . .
4 is different from the question whether the settlement is perfect in the estimation of the reviewing
5 court"). Importantly as well, the proposed settlement is non-reversionary and will provide
6 immediate benefits to the Class Members without a claims process. White, 803 F.Supp.2d at 1098;
7 c.f., Federal Judicial Center, Managing Class Action Litigation: A Pocket Guide for Judges (3d ed.
8 2010) at 20, available at [http:// www.fjc.gov/sites/default/files/2012/ClassGd3.pdf](http://www.fjc.gov/sites/default/files/2012/ClassGd3.pdf) (reversionary
9 provisions and/or cumbersome claims process may indicate lack of fairness). Plaintiff and his
10 counsel submit the settlement is within the "range of reasonableness," and is fair and adequate for
11 the Class.

12 **V. PLAINTIFF'S ENHANCEMENT AWARD**

13 Under the terms of the settlement, Plaintiff seeks a modest incentive award of \$5,000 for
14 his service in bringing these claims on behalf of the Class. The request is reasonable given the
15 risks he undertook on behalf of the Class Members. By contacting and retaining counsel to pursue
16 these claims, Plaintiff helped make this settlement possible for the absent Class Members, while
17 shouldering the risk of being liable for Defendant's litigation costs. Plaintiff also exposed himself
18 to unwanted notoriety related to filing a public lawsuit (discoverable even through a simple google
19 search) for the benefit of other employees, placing himself at risk of discrimination by future
20 prospective employers. As set forth in more detail in his declaration submitted with the
21 preliminary approval motion, among taking many other actions assisting in the successful
22 litigation of this case, Plaintiff provided substantial factual information and documents to counsel,
23 attended numerous meetings/phone conferences with counsel to discuss the case, and kept abreast
24 of all significant developments. [Declaration of Francisco Cervantes, ¶¶ 2-9; Trenner Decl., ¶ 24.]
25 Accordingly, the requested enhancement payment to Plaintiff is appropriate and justified as part of
26 the settlement. Staton v. Boeing (9th Cir. 2003) 327 F.3d 938, 977 (collecting cases awarding class
27 representatives service and incentive payments ranging from \$2,000 to \$25,000).
28

1 **VI. SETTLEMENT ADMINISTRATION COSTS**

2 The settlement provides for a payment to Phoenix for its services as the Settlement
3 Administrator. As set forth in the Declaration of Taylor Mitzner, Phoenix has performed and will
4 continue to perform its required duties through final distribution of the settlement funds and
5 incurred \$7,750 in fees and expenses. [Mitzner Decl., ¶ 17.] Accordingly, Plaintiff respectfully
6 requests the Court approve payment of \$7,750 to Phoenix from the GSA. [Trenner Decl., ¶ 25.]

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

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

10 This Court has discretion over the amount of attorneys' fees awarded and court
11 approval is required for Class Counsel's fees. Cal. Rule of Court 3.769; Levy v. Toyota
12 Motor Sales, U.S.A. (1992) 4 Cal.App.4th 807, 813; Lealao v. Beneficial Cal., Inc. (2000) 82
13 Cal.App.4th 19. In defining a reasonable fee, the Court should attempt to mimic the
14 marketplace for cases involving significant contingent risk, such as this one. Deposit
15 Guaranty Nat'l Bank, Jackson, Miss. v. Roper (1980) 445 U.S. 326, 338, rehg. den. 446 U.S.
16 947; Lealao, 82 Cal.App.4th at 49-50 (court should attempt "to award the fee that informed
17 private bargaining, if it were truly possible, might have reached" in determining a reasonable
18 fee, and a fee award should approximate a "range of fees freely negotiated in comparable
19 litigation"). Here, Class Counsel's request for attorney's fees and costs is reasonable and
20 justified by the work performed, the benefits obtained, and the contingent risk assumed.

21 As addressed in detail above, at the time the parties reached the tentative settlement
22 success for Plaintiff and the putative class was far from certain. Plaintiff faced a real risk that
23 some or all the claims would not be certified for class treatment, as Defendant had strong
24 arguments that its compensation policies were legal and properly compensated the class
25 members, that the class might not be sufficiently numerous, and that many putative class
26 members previously waived the claims at issue. Even if Plaintiff certified some or all of the
27 claims and ultimately prevailed on the merits, it undoubtedly would have taken several years
28

1 to realize any recovery while they pursued class certification, trial, and an almost certain
2 appeal. [Trenner Decl., ¶¶ 15-21.]

3 Nonetheless, Plaintiff succeeded and expeditiously obtained the relief he set out to
4 obtain, and the settlement provides substantial cash payments to Class Members, with an
5 average award of about \$1,188, and with a maximum award of over \$2,800. Importantly as
6 well, the Class Members have been overwhelmingly supportive of the Settlement – as of the
7 filing of this motion, there are no objections to the settlement and no opt outs. [Mitzner Decl.,
8 ¶¶ 8-10.]

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

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

19 As part of the Settlement, Alpha agreed not to object to an award of no more than 1/3
20 of the GSA for attorney's fees, or \$98,333.330, and up to \$20,000 in reimbursement for
21 litigation costs and expenses (although only \$10,846.56 is requested). Such a fee is
22 commensurate with what the market would provide for similar services and the Court
23 therefore can most certainly enforce the agreement. As California's Court of Appeal has
24 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. [Trenner Decl., ¶ 26.]
4 The requested fee and cost award was a product of these arms-length negotiations and fairly
5 reflects the marketplace value of the services rendered by Class Counsel in this case. As a
6 result, the 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
26 that 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
2 deterrents to wrongdoing. Conte, Attorney Fee Awards (2d ed. 1993) § 104. Without
3 prosecution on a contingent basis and use of the class action mechanism, the courthouse door
4 would effectively be closed to most class members due to the relatively small size of their
5 individual claims in relation to the enormous time and cost associated with class action
6 litigation.

7 Here, Class Counsel seek a fee award for their successful prosecution and resolution of
8 this action of no more than one-third of the total amount recovered by the Class via the
9 lawsuit, or \$98,333.33. The percentage requested is justified for the reasons set forth further
10 below, and comports with fee awards calculated on a percentage-of-the-benefit basis. Indeed,
11 review of class action settlements shows that courts have historically awarded fees in the
12 range of 20 to 50 percent, depending upon the circumstances of the case. In re Warner
13 Communications Sec. Litig. (S.D.N.Y. 1985) 618 F.Supp. 735, 749-50 (concluding that
14 percentage fees in common fund cases range from 20 to 50 percent); Newberg, Newberg on
15 Class Actions (3d ed.) § 14.03, pp. 13-14 ("Usually 50% of the fund is the upper limit on a
16 reasonable fee award from a common fund in order to assure that the fees do not consume a
17 disproportionate part of the recovery obtained for the class, although somewhat larger
18 percentages are not unprecedented.").

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

20 To ensure the fairness of an attorney's fee award, courts frequently conduct a lodestar
21 cross check of counsel's fees. "A lodestar cross-check thus provides a mechanism for bringing
22 an objective measure of the work performed into the calculation of a reasonable attorney fee."
23 Laffitte, 1 Cal.5th at 504. Here, Class Counsel spent 181.3 hours of time on this matter,
24 resulting in a modest and very reasonable lodestar of \$131,620.

25 As is fully detailed in the Trenner Declaration, Class Counsel's efforts included: (1)
26 extensive pre-lawsuit investigation of the claims of Plaintiff and the putative class, including legal
27 research, obtaining Plaintiff's employment records, research into similar claims and claims against
28 other employers in the same industry, and attempts to locate and contact other Alpha employees;

1 (2) drafting a PAGA notice letter; (3) drafting the initial complaint and related documents; (4) case
2 management, including communications with defense counsel, meeting and conferring/preparing
3 case management statements, etc.; (5) lengthy discussions with defense counsel regarding
4 settlement/mediation and informal discovery needed for meaningful settlement discussions; (6)
5 engaging in substantial informal discovery, including propounding informal discovery “requests”
6 and reviewing documents and other information produced; (7) drafting a mediation brief and
7 accompanying damages model after review and analysis of defendant’s informal discovery
8 production; (8) attending an all-day mediation; (9) negotiating and drafting the settlement
9 agreement and related documents; (10) drafting the motion for preliminary approval and attending
10 the hearing thereon; (11) administration of the settlement, including addressing application of the
11 escalator clause, communications with the Settlement Administrator and settlement class
12 members; (12) drafting the motion for final approval and motion for attorney’s fees, and attending
13 the final approval hearing; and (13) extensive communications with the Plaintiff regarding case
14 status, case investigation and document review, mediation, and settlement terms. Additionally,
15 Class Counsel will incur additional time to attend the final approval hearing and following final
16 approval to, inter alia, respond to class member inquiries, work with the Settlement Administrator
17 on the distribution of funds, and on the compliance hearing. [Trenner Decl., ¶ 27, Exh. 2.]

18 In pursuing this matter, Class Counsel incurred total attorney’s fees of \$131,620, the
19 lodestar is based on an eminently reasonable number of hours worked to litigate this matter to a
20 successful conclusion (181.3 attorney hours), and the requested attorney hourly rates are
21 reasonable and comport with hourly rates charged by other attorneys with similar experience in
22 this practice area in California. [Trenner Decl., ¶¶ 28-39.] On a lodestar basis, the fee request of
23 \$98,333.33 results in a base lodestar that is higher than the fees requested on percentage of
24 the recovery basis and, accordingly, there is no request for a lodestar enhancement. Class
25 Counsel submits the lodestar crosscheck operates to show that the percentage fee request is
26 reasonable considering the fees requested are lower than the actual value of the services
27 rendered when valued via traditional hourly billing.

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

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

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

16 **1. The Results Achieved.**

17 Class Counsel obtained an excellent result in this case for the Class Members. The
18 Settlement provides real monetary benefits to the Class Members, and the Settlement is
19 particularly advantageous to the Class Member because the proceeds will be distributed
20 shortly as opposed to waiting additional years for a similar, or possibly, less favorable result.
21 Considering many individual claims would be very modest and would not be cost-effective to
22 pursue successfully, the Settlement provided them with fair compensation for their claims.
23 Moreover, the absence of any objection to either the Settlement or the attorney's fee request
24 bolsters the excellent results. Indeed, the approval of the Class is overwhelming as indicated
25 by the fact that not only one class member opted out. Additionally, the settlement amounts to
26 a substantial percentage of the maximum value of the amount the Class might have obtained if
27 it had tried the case and recovered on all theories seeking recovery of wages and penalties.
28 "It is well-settled law that a cash settlement amounting to only a fraction of the potential

1 recovery does not per se render the settlement inadequate or unfair." In re Omnivision Techs.,
2 Inc., 559 (N.D. Cal. 2008) F.Supp.2d 1036, 1042.

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

4 At the time of filing the complaint, Class Counsel recognized that they would have to
5 expend a substantial amount of time and advance significant costs to prosecute a statewide
6 class action suit with no guarantee of compensation or reimbursement, in the hope of
7 prevailing against a sophisticated company represented by first-rate attorneys. Despite
8 their belief in the validity of Plaintiff's claims, they also knew they faced substantial risks
9 of class certification and the ability to prove class-wide and individual damages. In light of
10 the highly uncertain nature of this suit, Class Counsel also bore the risk that Defendant would
11 dig in and attempt to bury their small firm in work. Given the small size of Class Counsel's
12 firm, not receiving any compensation for several years while simultaneously advancing
13 litigation costs posed considerable risk and difficulty. [Trenner Decl., ¶¶ 40-41.]

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

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

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

24 There is a substantial difference between the risk assumed by attorneys being paid
25 by the hour and attorneys working on a contingent fee basis. The attorney being paid by
26 the hour can go to the bank with his fee. Powers v. Eichen (9th Cir. 2000) 229 F.3d 1249,
27 1256. The attorney working on a contingent basis can only log hours while working
28 without pay towards a result that will hopefully entitle him to a market fee considering

1 the risk and other factors of the undertaking. Id. at 1257. Otherwise, the contingent fee
2 attorney receives nothing. Id. In this case, Class Counsel subjected themselves to this
3 risk in this all or nothing contingent fee case wherein the necessity and financial burden
4 of private enforcement makes the requested award appropriate.

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

14 Here, the contingent fee practices of Plaintiff's counsel simply do not accommodate
15 the investment of unnecessary time in a case, and the adverse resolution of any one of several
16 difficult issues present in this matter could have doomed the entire effort. As discussed, the
17 attorney's fees in this case were not only contingent but fairly risky, and there was always a
18 palpable chance Plaintiff's counsel would receive nothing for any number of reasons.
19 [Trenner Decl., ¶¶ 40-41.] Accordingly, the contingent nature of the fee and the financial
20 burdens on Class Counsel and Plaintiff also support the fee requested.

21 **5. Awards in Other Cases**

22 As discussed, the attorney's fees requested by Class Counsel are within the range of
23 fees awarded in comparable cases, and review of class action settlements over the past 10
24 years shows that the courts have historically awarded fees in the range of 20 to 50 percent,
25 depending upon the circumstances of the case. In re Warner Communications Sec. Litig.
26 (S.D.N.Y. 1985) 618 F.Supp. 735, 749-50 (concluding that percentage fees in common fund
27 cases range from 20 to 50 percent); Newberg, Newberg on Class Actions (3d ed.) § 14.03, pp.
28 13-14 ("Usually 50% of the fund is the upper limit on a reasonable fee award from a common

1 fund in order to assure that the fees do not consume a disproportionate part of the recovery
2 obtained for the class, although somewhat larger percentages are not unprecedented."). Class
3 Counsel's requested fees equal to 1/3 of the gross amount recovered on behalf of the class and
4 are well within the range of reasonableness under either the percentage of the recovery or the
5 lodestar method in light of the contingent risk assumed, the delay in payment, the result
6 achieved, and the overall quality of the representation.

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

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

18 Per the Trenner Declaration, Class Counsel incurred a total of \$10,846.56 in
19 expenses in connection with this matter. These expenses include amounts paid for court
20 filing fees, service of process, expert witness fees, postage, and mediation fees, all of
21 which are costs normally billed to and paid by the client. These costs were reasonably
22 incurred in the prosecution of this matter, and should be reimbursed up to the limit
23 imposed by the Settlement Agreement. Plaintiff respectfully requests that the Court
24 authorize reimbursement of counsel's costs in the amount of \$10,846.56. [Trenner Decl.,
25 ¶¶ 42-43.]

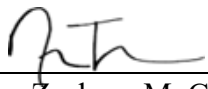
26 **VIII. CONCLUSION**

27 For all the foregoing reasons, Plaintiff Francisco Cervantes respectfully requests that the
28 Court grant this motion and grant final approval of the proposed class action settlement and

1 approve the payment of PAGA penalties to the State. Plaintiff further requests the Court approve
2 payment of the Settlement Administrator's fees and expenses, approve the requested class
3 representative enhancement payment, approve the award of attorney's fees and costs as requested,
4 and enter judgment in this action. Finally, Plaintiff request the Court set a final compliance
5 hearing for July 24, 2025, or a later date convenient for the Court.

6
7 Dated: July 1, 2024

CROSNER LEGAL, PC

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9
10 By: 
11 Zachary M. Crosner, Esq.
12 Jamie K. Serb, Esq.
13 Nikki Trenner, Esq.
14 Attorneys for Plaintiff Francisco Cervantes
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