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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SAN DIEGO

LATISHA ANQUINETTE JOHNSON,
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.

AMERICARE HEALTH & RETIREMENT
INC., a California corporation; SILVERGATE
FALLBROOK, an unknown business entity;
AMERICARE HEALTHCARE &
RETIREMENT, INC., an unknown business
entity; SILVERGATE SAN MARCOS, an
unknown business entity; SILVERGATE
RETIREMENT RESIDENCE & MEMORY
CARE SUITES, an unknown business entity;
and DOES 1 through 100, inclusive,

Defendants.

Case No.: 37-2022-00051286-CU-OE-CTL

Honorable Joel R. Wohlfeil
Department C-73

CLASS ACTION

**PLAINTIFF'S NOTICE OF MOTION
AND MOTION FOR ATTORNEYS'
FEES, COSTS, AND SERVICE AWARD;
MEMORANDUM OF POINTS AND
AUTHORITIES IN SUPPORT THEREOF**

[Declaration of Class Counsel
(Edwin Aiwazian); Declaration of Class
Representative (Latisha Anqunette Johnson);
Notice of Motion and Motion for Final
Approval of Class Action Settlement;
Declaration of Settlement Administrator
(Jennifer Beliveau); [Proposed] Order
Granting Final Approval of Class Action
Settlement and Judgment; and [Proposed]
Order Awarding Attorneys' Fees and Costs,
and Service Award filed concurrently
herewith]

Date: July 12, 2024
Time: 9:00 a.m.
Department: C-73

Complaint Filed: December 22, 2022
Trial Date: None Set

PLEASE TAKE NOTICE that on July 12, 2024 at 9:00 a.m. or as soon thereafter as the matter may be heard before the Honorable Joel R. Wohlfeil in Department C-73 of the Superior Court of California for the County of San Diego, located at 330 West Broadway, San Diego, California 92101, Plaintiff Latisha Anqunette Johnson (“Plaintiff” or “Class Representative”) will, and hereby does, move for an order awarding the following pursuant to the Class Action and Private Attorney General Act Settlement Agreement (“Settlement,” “Agreement,” or “Settlement Agreement”):

- Payment in the amount of **\$514,500.00** to Lawyers *for* Justice, PC (“Class Counsel”), representing thirty-five percent (35%) of the original Gross Settlement Amount, for attorneys’ fees, which is reasonable and justified on a percentage-basis and also based on a lodestar cross-check with a multiplier of 1.1;

- Payment in the amount of **\$15,639.09** to Class Counsel for reimbursement of litigation costs and expenses;

Payment in the amount of **\$7,500.00** to Plaintiff Latisha Anqunette Johnson, as a Service Award, for her time and effort in representing the Class.

This motion is made pursuant to Rules 3.769, 3.764, and 3.1113(e) of the California Rules of Court, which require approval by the Court of a class action settlement, allow memoranda in support of a motion for class certification to be up to twenty (20) pages, and permit the Court to extend the page limit for memoranda.

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This motion is based upon the following Memorandum of Points and Authorities; the concurrently-filed the Declarations of Class Counsel (Edwin Aiwarzian) and Class Representative (Latisha Anqunette Johnson) in support thereof; as well as the concurrently-filed Notice of Motion and Motion for Final Approval of Class Action Settlement and the Declaration of Settlement Administrator (Jennifer Beliveau of Simpluris) in support thereof; the pleadings and other records on file with the Court in this matter; and such evidence and oral argument as may be presented at the hearing on this Motion.

Dated: June 18, 2024

LAWYERS for JUSTICE, PC

By:



Edwin Aiwarzian
Matthew Richard Soto
Attorneys for Plaintiff and the Class

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MEMORANDUM OF POINTS AND AUTHORITIES

I. SUMMARY OF MOTION

Plaintiff Latisha Anquetette Johnson (“Plaintiff” or “Class Representative”) seeks an award of attorneys’ fees in the amount of \$514,500.00, which is thirty-five percent (35%) of the Gross Settlement Amount, and reimbursement of litigation costs and expenses in the amount of \$15,639.09 (together, “Attorneys’ Fees and Costs) to Lawyers *for* Justice, PC (“Class Counsel”) and a Service Award in the amount of \$7,5000.00 to Plaintiff, as provided by the Class Action and Private Attorney General Act Settlement Agreement (“Settlement,” “Agreement,” or “Settlement Agreement”)¹ entered into by and between Plaintiff and Defendant Americare Health & Retirement Inc. (“Defendant”) (together with Plaintiff, the “Parties”).

The litigation involved formal and informal discovery and ongoing investigation into the facts of the case, including and not limited to, the exchange, review, and analysis of thousands of pages of information, documents, and data prior to mediation conducted by Jeffrey Krivis, Esq., and extensive settlement negotiations. This matter has required **480.5.40 hours** of attorney time by Class Counsel. As will be demonstrated herein, the request for an award of attorneys’ fees, which represents 35% of the original Gross Settlement Amount of \$1,470,000.00, is fully supported by the use of the percentage-fee method. Courts have historically awarded fees of up to 50% of the recovery. The requested attorneys’ fees are also supported under the lodestar cross-check method.²

Plaintiff also moves for payment in the amount of \$7,500.00 as a Service Award, to compensate Plaintiff for the time and efforts that she expended spearheading this lawsuit on behalf of the Class and the State of California.

The requests for Attorneys’ Fees and Costs and Service Award were fully disclosed in the Notice of Proposed Class Action Settlement and Hearing Date for Court Approval (“Initial Class Notice”) that was mailed to the Class Members on December 27, 2023 and in the Further Notice

¹ In the interest of judicial efficient, and in support of final approval of the Settlement, Settlement Administration Costs, and the amount for the PAGA Penalties, Plaintiff respectfully refers the Court to Plaintiff’s Motion for Final Approval of Class Action Settlement, and papers in support thereof, filed concurrently herewith, on June 18, 2024

² Applying a modest multiplier of 1.1, the total enhanced lodestar fees are \$528,550.00, and Class Counsel seeks an attorneys’ fees award of \$514,500.00 (equal to 35% of the Gross Settlement Amount).

of Proposed Class Action Settlement and Hearing Date For Court Approval (“Corrective Class Notice”) (together the Initial Class Notice and Corrective Class Notice are referred to as, the “Class Notices”). Most importantly, as of the date of this Motion, *not a single Class Member has objected to any aspect of the Settlement, including the requested Attorneys’ Fees and Costs and Service Award*. Accordingly, the Court should award Attorneys’ Fees and Costs and Service Award in the amounts as fully disclosed to the Class and as requested herein.

II. PROCEDURAL HISTORY AND FACTUAL BACKGROUND

Defendant is the parent company that owns and operates several locations throughout California. Defendant was founded in 1984 and its executive office is located in Solana Beach, California. Defendant invests in retirement communities and medical office buildings in the Southern California area. Specifically, Defendant owns and operates rental retirement communities which offer independent senior housing, assisted living services, and specialty care. Defendant also operates outpatient medical office buildings. Defendant owns four (4) assisted living communities with over 300 apartments and owns five (5) medical office buildings with about sixty medical and dental practices. Plaintiff Latisha Anquetette Johnson is a former employee of Defendant.

On January 2, 2020, Plaintiff filed a putative class action complaint (“Original Complaint”), thereby commencing a putative class action against Defendant for violations of the California Labor Code and the California Business and Professions Code, entitled Johnson v. AmeriCare Health & Retirement, Inc., et al., Superior Court of California, San Diego County, Case No. 37-2020-00000221-CU-OE-CTL (“Original Action”), that was dismissed without prejudice on September 15, 2022. This lawsuit had alleged ten (10) causes of action for violations of the California Labor Code and Industrial Welfare Commission Wage Orders, for alleged failure to pay minimum wages, failure to pay overtime wages, failure to provide meal periods and associated premiums, failure to provide rest periods and associated premiums, failure to pay timely wages during employment, failure to timely pay final wages and associated waiting-time penalties, failure to keep compliant payroll records, failure to keep compliant wage statements, failure to reimburse business expenses, and for violations of California Business and Professions Code Section 17200 et seq..

On April 24, 2020, Plaintiff propounded multiple sets of formal written discovery on Defendant, including Requests for Production of Documents, (Sets One & Two); Special Interrogatories, (Sets One, Two & Three); and Form Interrogatories, (Set One). On April 24, 2020, Plaintiff noticed the deposition of Defendant’s person most knowledgeable regarding job duties and organizational structure of Defendant. Thereafter, on July 24, 2020, Defendant responded to Plaintiff’s discovery requests.

On June 10, 2020, Defendant propounded multiple sets of discovery on Plaintiff, including Requests for Production of Documents, (Set One); Special Interrogatories (Set One); Requests for Admission, (Set One); and Form Interrogatories, (General, Set One & Employment, Set One). Thereafter, on September 4, 2020, Plaintiff responded to Defendant’s discovery requests.

On August 4, 2021, the Parties participated in a mediation session with Jeffrey Krivis, Esq. The settlement discussions were conducted at arm’s-length and reached a settlement. On August 4, 2021, the Parties executed a Memorandum of Understanding setting forth basic and key terms of the settlement.

On April 20, 2022, Plaintiff provided written notice to the LWDA and Defendant, giving notice of her intent to pursue civil penalties under PAGA, California Labor Code § 2698, Et Seq. on behalf of herself and the State of California, as well as on behalf of a proposed group of aggrieved employees, for alleged violations of multiple provisions of the California Labor Code and Industrial Welfare Commission Wage Orders (“LWDA Notice”).

On September 15, 2022, the Court on its own motion, via the Honorable Kenneth J. Medel, dismissed the Original Action without prejudice.

On December 22, 2022, Plaintiff filed a renewed Class Action Complaint for Damages and Enforcement Under the Private Attorneys General Act, Cal. Labor Code § 1698 Et Seq. (“Operative Complaint”) in the San Diego County Superior Court (“Court”), thereby commencing the above-captioned lawsuit (“Action”).

Plaintiff’s core allegation is that Defendant has violated the California Labor Code by engaging in a uniform practice and procedure, with respect to Plaintiff and the Class Members, of, inter alia, failing to pay all overtime and minimum wages, failing to provide compliant meal and

rest periods and associated premium pay, failing to timely pay wages during employment and upon termination of employment, failing to provide compliant wage statements, failing to maintain requisite payroll records, and failing to reimburse necessary business expenses, and thereby engaged in unfair business practices in violation of California Business and Professions Code section 17200, et seq. and conduct that gives rise to penalties pursuant to PAGA. Plaintiff contends that she, and the Class Members, are entitled to, inter alia, unpaid wages, penalties (including and not limited to, penalties pursuant to PAGA), and attorneys' fees.

Defendant has vigorously denied, and continues to deny, any liability and wrongdoing associated with the claims alleged in the Action or otherwise. Defendant contends, inter alia, that at all times it fully complied with all wage and hour laws applicable to Plaintiff and the Class Members in connection with the services performed for Defendant. Defendant further denies that the Action is appropriate for class treatment or representative adjudication for any purpose other than for settlement purposes only.

The Parties have actively litigated this matter since the Original Action was commenced on January 2, 2020 (which was dismissed without prejudice on September 15, 2022). On August 4, 2021, 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. With the aid of the mediator and his evaluation, the Parties ultimately reached the Settlement described herein to resolve the Action in its entirety.

On September 19, 2023, Plaintiff filed a Motion for Preliminary Approval of Class Action Settlement and supporting documents. On November 3, 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 Initial Class Notice, and the proposed administration procedures and associated deadlines.

On December 27, 2023, the Initial Class Notice was mailed to all Class Members. On April 2, 2024, due to an error in the information the Settlement Administrator relied on for mailing the Initial Class Notice, the Parties filed their Joint Stipulation to Mail Corrective Class Notices, and Continue the Hearing on Plaintiff's Motion for Final Approval and Related Deadlines ("Stipulation

to Mail Corrective Class Notices”), seeking approval of the Corrective Class Notice to be sent out to Class Members to correct the errors in the Initial Class Notice. On April 4, 2024, the Court granted the Parties Stipulation to Mail Corrective Class Notices, and on April 11, 2024, the Corrective Class Notice was mailed to all Class Members. Since the mailing of the Class Notices, the Settlement Administrator has received no valid objections to the Settlement (“Notice of Objections”) and only three (3) Request for Exclusions.

Plaintiff now moves for approval of the requested Attorneys’ Fees and Costs and Service Award, and for final approval of the Settlement, Settlement Administration Costs, and the amount for the PAGA Penalties, as set forth in the concurrently filed Motion for Final Approval of Class Action Settlement.

III. SUMMARY OF THE SETTLEMENT TERMS AND NOTICE ADMINISTRATION

Under the terms of the Settlement Agreement, Defendant will pay an escalated Gross Settlement Amount of \$1,474,154.69.³ Subject to approval by the Court, the Net Settlement Amount will be calculated by deducting the following amounts from the Gross Settlement Amount: (1) Attorneys’ Fees and Costs, consisting of attorneys’ fees in an amount of \$514,500.00 (i.e., up to 35% of the Gross Settlement Amount) and reimbursement of costs and expenses of \$15,639.09 to Class Counsel; (2) settlement administration costs of \$11,500.00 to the Settlement Administrator, Simpluris (“Settlement Administration Costs”); (3) payment to the LWDA of its 75% share of the PAGA Penalties (i.e., \$150,000.00 out of \$200,000.00) (“LWDA Payment”); and (4) Service Award in the amount of \$7,500.00 to Plaintiff Latisha Anqunette Johnson (“Service Award”).⁴ The Net Settlement Amount, which is estimated to be \$774,961.60, will be distributed in accordance with the Settlement Agreement to Settlement Class Members.

On November 3, 2023, Simpluris received the Court-approved text for the Class Notice.⁵

On November 29, 2023, Simpluris received the Class Data List (“First Class Data List”) from Defendants and on December 6, 2023, Simpluris received a revised Class Data List (“Second Class Data List”) from Defendants, containing each Class Member’s full names, last known

³ Class Action and Private Attorney General Act Settlement Agreement (“Settlement Agreement”), ¶¶ 1.10 & 19.

⁴ Settlement Agreement, ¶¶ 6, 7, 8, & 9; see also n.1, supra.

⁵ Declaration of Jennifer Beliveau Regarding Notice and Settlement Administration (“Simpluris Declaration” or “Simpluris Decl.”), ¶ 5.

mailing addresses, Social Security Numbers, and such other information as was necessary for Simpluris to calculate Workweeks during the Settlement Period.⁶ The Class Data and List contained information for nine hundred and sixty-five (965) individuals identified as Class Members.⁷ Simpluris processed the names and addresses through the National Change of Address Database (“NCOA”) and updated the Class Data and List with any updated addresses located.⁸

On August 23, 2023, Simpluris mailed the Initial Class Notice via first class mail to nine hundred and sixty-five (965) individuals identified as Class Members in the Class Data List.⁹

As of the date of this Motion, eleven (11) Initial Class Notices were returned as undeliverable with forwarding addresses, and Simpluris promptly re-mailed the Notice to the forwarding addresses.¹⁰ Ninety-one (91) Initial Class Notices were returned as undeliverable without forwarding addresses.¹¹ Simpluris performed a skip-trace search on the ninety-one (91) Initial Class Notices that were returned to Simpluris without forwarding addresses, located an updated address for seventy (70) Class Members, and promptly re-mailed the Initial Class Notice to the updated addresses.¹² Ultimately, twenty-one (21) Initial Class Notices remain undeliverable because an updated address was not located through skip-tracing or the Class Notice was returned as undeliverable a second time.¹³

On or about January 10, 2024, Defendant discovered there were several individuals who were erroneously included as Class Members in the Second Class Data List, although they were not Class Members, overrepresenting the total Workweeks.

On or about February 2, 2024, Defendant provided Simpluris a corrective Class Data List (“Third Class Dats List”).¹⁴ After processing the Third Class Data List, Simpluris found that of the nine hundred and sixty-five individuals (965) in the Initial Class Data List, fifty-two (52) were removed as they were determined to be exempt during the Settlement Period resulting in there

⁶ *Id.*, ¶ 6.

⁷ *Ibid.*

⁸ *Id.*, ¶ 7.

⁹ *Id.*, ¶ 8.

¹⁰ *Id.*, ¶ 9.

¹¹ *Ibid.*

¹² *Ibid.*

¹³ *Ibid.*

¹⁴ *Id.*, ¶ 11.

being nine hundred and thirteen (913) Class Members.¹⁵

On April 11, 2024, Simpluris mailed the Corrective Class Notice via first class mail to nine hundred and thirteen (913) individuals identified as Class Members in the Corrective Class Data and List.¹⁶

As of the date of this Motion, fifty-one (51) Corrective Class Notices were returned as undeliverable with forwarding addresses, and Simpluris promptly re-mailed the Corrective Class Notice to the forwarding addresses.¹⁷ Seventeen (17) Corrective Class Notices were returned as undeliverable without forwarding addresses.¹⁸ Simpluris performed a skip-trace search on the seventeen (17) Corrective Class Notices that were returned to Simpluris without forwarding addresses, located an updated address for six (6) Class Members, and promptly re-mailed the Notice to the updated addresses.¹⁹ Ultimately, eleven (11) Corrective Class Notices remain undeliverable because an updated address was not located through skip-tracing or the Corrective Class Notice was returned as undeliverable a second time.²⁰ As of the date of this Motion, the Settlement Administrator has not received any Notice of Objections and only three (3) Requests for Exclusion from Class Members.²¹

To date, there are nine hundred and ten (910) Class Members who did not submit a timely and valid Request for Exclusion, and are therefore, deemed to be Settlement Class Members.²² Pursuant to the terms of the Settlement, the Net Settlement Amount of approximately \$774,961.60 will be distributed to Settlement Class Members in accordance with the terms of the Settlement.²³ The highest Individual Settlement Payment is currently estimated to be \$3,450.17 and the average Individual Settlement Payment is currently estimated to be \$796.66.²⁴

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¹⁵ Ibid.

¹⁶ *Id.*, ¶ 14.

¹⁷ *Id.*, ¶ 15.

¹⁸ Ibid.

¹⁹ Ibid.

²⁰ Ibid.

²¹ *Id.*, ¶¶ 19 & 20.

²² *Id.*, ¶ 22.

²³ *Id.*, ¶ 23.

²⁴ *Id.*, ¶ 24.

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

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

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

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

"The ultimate goal . . . is the award of a 'reasonable' fee to compensate counsel for their efforts, irrespective of the method of calculation." *Consumer Privacy Cases* (2009) 175 Cal.App.4th 545, 557-58 (quoting *Apple Computer, Inc. v. Superior Court, supra*, 126 Cal.App.4th at 1270). It is not an abuse of discretion to choose one method over another as long as the method chosen is applied consistently using percentage figures and/or rates that accurately reflect the

marketplace. In cases where class members present claims against a settlement amount and the settlement agreement provides that the defendant agrees to paying the attorneys a percentage of the same, use of that percentage method is appropriate. *Lealao, supra*, 82 Cal.App.4th at 32.

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

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

California and federal courts have long recognized that an appropriate method for determining the award of attorneys' fees is based on a percentage of the total value of benefits made available to class members by the settlement. *Laffitte*, 1 Cal.5th at 503; *Boeing Co. v. Van Gemert* (1980) 444 U.S. 472, 478; *Paul, Johnson, Alston & Hunt v. Gaulty* (9th Cir. 1989) 886 F.2d 268, 272; *Vincent v. Hughes Air West, Inc.* (9th Cir. 1977) 557 F.2d 759, 769; *Serrano v. Priest* (1977) 20 Cal.3d 25, 34.²⁵ 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.

²⁵ 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 See *Serrano*, *supra*, 20 Cal.3d at 35; *Crampton v. Takegoshi* (1993) 17 Cal.App.4th 308, 317;
2 *Vincent*, *supra*, 557 F.2d at 769.

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

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

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

25 Under the terms of the Settlement Agreement, Defendant will pay the escalated Gross
26 Settlement Amount of \$1,474,154.69.²⁶ The requested attorneys' fees are thirty-five percent (35%)
27 of the original value of the Gross Settlement Amount (equal to \$514,500.00). In light of Class
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²⁶ Settlement Agreement, ¶ 1.10 & 19; Aiwazian Decl., ¶ 9.

Counsel's successful prosecution and resolution of the case, the requested attorneys' fees are appropriate and reasonable.

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.²⁷

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

²⁷ Aiwazian Decl., ¶ 10.

a lawyer who recovers” a settlement “for the benefit of persons other than himself or his client is entitled to a reasonable attorneys’ fee from the fund as a whole”).

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

Class Counsel have obtained a substantial recovery on behalf of Plaintiff, the Class, and the State of California, and the results achieved justify an attorneys’ fees award that is the equivalent of the standard market fee and that is consistent with the contingency-fee agreement entered into by and between Plaintiff and Class Counsel. Thus, the requested attorneys’ fees are appropriate.

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

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

Each and every one of these factors favors the attorneys’ fees sought here; however, some of the most relevant factors to this Court’s fee determination will be addressed herein. The award of attorneys’ fees in the amount of \$514,500.00 (which is 35% of the original Gross Settlement Amount) is commensurate with the time, effort, and expense dedicated to the case, the contingent nature of Class Counsel’s fee and the risks taken in commencing the case, the skill and

determination required, the results that Class Counsel have achieved, and the value of the settlement that Class Counsel have obtained for the Class Members.

1. Time & Labor.

Class Counsel used its experience and skills, and dedicated the full extent of resources, to litigate and bring this matter to a successful conclusion on behalf of the Class. Moreover, as demonstrated in the supporting declaration, Class Counsel has extensive experience in the handling of class actions and complex litigation matters.²⁸

As outlined in the Declaration of Edwin Aiwazian, Class Counsel has fully and actively participated in litigation of this case.²⁹ Prior to commencing the lawsuit, Class Counsel had conducted a significant amount of investigation into the factual and legal issues, Defendant's business, and its operations and employment policies, practices, and procedures.³⁰ During the litigation of the action, Class Counsel had the opportunity to interview Plaintiff and other Class Members; propounded formal written discovery requests and reviewed Defendant's objections, responses, and supplemental responses thereto; reviewed and analyzed a large volume of documents and data produced by Defendant and obtained through other sources; and prepared damages and penalties valuation calculations.³¹ Class Counsel researched applicable law, developed liability, damages, and penalties valuation models in connection with mediation and settlement negotiations, and met and conferred with Defendant's counsel on numerous occasions, e.g., to discuss issues relating to the pleadings, case management, discovery, the production of information, documents, and data in the course of litigation and in connection with mediation and settlement negotiations, as well as mediation and settlement negotiations.³²

Class Counsel has dedicated staffing and monetary resources necessary to prosecute this matter diligently and with maximum efficiency and has fully and actively participated in the litigation process. The Task and Time Charts, which is attached as **Exhibit A** to the accompanying declaration of Edwin Aiwazian, set forth in detail the hours that Class Counsel has spent

²⁸ Aiwazian Decl., ¶¶ 14-18.

²⁹ *Id.*, Exh. A.

³⁰ Aiwazian Decl., ¶ 6 & Exh. A.

³¹ *Id.*, ¶ 6.

³² *Ibid.*

performing tasks on behalf of Plaintiff, the Class, and the State of California.³³ The Task and Time Chart is thorough and comprehensive, and was prepared so that the Court can peruse it without having to set forth each and every task in the body of this Motion. The Court is respectfully referred to the chart, which set forth the history of the work performed by Class Counsel, commencing with the pre-filing analysis and research, and continuing up to settlement and final approval. Attorneys at Lawyers for Justice, PC have spent **480.50 hours** performing tasks and to obtain a significant recovery in the case.³⁴ These hours were required to bring this matter to its successful conclusion. In light of the value of time expended and the carrying of costs involved in litigating this case, the requested attorneys' fees are fair, adequate, and reasonable.

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

The skill required to properly litigate the case is evident not only in the results achieved, but in the steps necessary to reach those results. Defendant retained well-respected counsel to represent its defenses. More specifically, Defendant and its counsel felt very strongly about Defendant's ability to avoid class certification and representative adjudication, and prevail at trial. Plaintiff and Class Counsel believed that they would have obtained class certification and prevailed at trial.

Class Counsel undertook significant investigation, analysis, and research prior to filing this case, during the litigation, and prior to mediation. Class Counsel took steps to prepare the matter for class certification and representative adjudication and had every intention of taking the case to trial on a class-wide basis if Defendant did not offer an appropriate class-wide settlement. Despite all of the obstacles that had to be overcome, as demonstrated in the Declarations of Edwin Aiwazian, Class Counsel used their extensive experience in the handling of class actions and complex wage-and-hour litigation matters in order to obtain the Settlement with maximum efficiency.³⁵

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³³ *Id.*, Exh. A.

³⁴ *Id.*, ¶ 12.

³⁵ Aiwazian Decl., ¶¶ 14-18.

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

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

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

16 As a result of this litigation and extensive settlement negotiations, Defendant agreed to pay
17 the escalated Gross Settlement Amount of \$1,474,154.69 to settle the case. After deducting the
18 attorneys' fees (\$514,500.00), litigation costs and expenses (\$15,639.09), Service Award
19 (\$7,500.00), Settlement Administration Costs (\$11,500.00), and LWDA Payment (\$150,000.00)
20 from the escalated Gross Settlement Amount, it is currently estimated that the Net Settlement
21 Amount is approximately \$774,961.60.³⁶ The Net Settlement Amount will be fully distributed in
22 accordance with the terms of the Settlement. The Settlement offers significant monetary relief to
23 the Settlement Class Members, and the State of California.

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

25 Plaintiff entered into a contingency fee agreement with Class Counsel, and the
26 representation of the Class provided by Class Counsel has been wholly contingent. Class Counsel
27 took on the case without knowing whether any recovery would be obtained. Class Counsel have
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³⁶ Simpluris Decl., ¶ 23.

collectively invested **480.50 hours** of time to obtain relief on behalf of Plaintiff, the Class, and the State of California.³⁷ Class Counsel have also collectively incurred litigation costs and expenses in the amount of \$15,639.09.³⁸

Class Counsel have borne all of the risks and costs of litigation and will not receive any compensation until recovery is obtained.³⁹ Class Counsel are well-experienced in wage-and-hour class action and complex litigation and used that experience to obtain a great result.⁴⁰ The skill and determination that Class Counsel have shown, along with the results obtained, justify the requested Attorneys' Fees and Costs. Considering the amounts requested, the work performed, and the risks incurred, the requested fees and costs are reasonable and should be awarded.

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

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

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

5. The Amount Involved and the Results Achieved.

The results achieved, in light of the difficulties inherent in similar cases and the specific difficulties faced in this matter, are considerable. The Settlement has yielded a positive response from the Class Members—no Class Members objected to the Settlement and only three (3) have opted-out.⁴¹

³⁷ Aiwasian Decl., ¶ 12, Exh. A.

³⁸ See Part VII, *infra*.

³⁹ Aiwasian Decl., ¶ 19.

⁴⁰ See *id.*, ¶¶ 14-18.

⁴¹ Simpluris Decl., ¶¶ 19 & 20.

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

Here, the results achieved and obtained on behalf of Plaintiff and the Class are reasonable in light of the risks inherent in further litigating this case. Class Counsel’s efforts have resulted in a settlement that provides for an escalated Gross Settlement Amount of \$1,474,154.69.⁴² The Gross Settlement Amount will be fully paid out, in accordance with the terms of the Settlement Agreement. The highest Individual Settlement Share to a Settlement Class Member is currently estimated to be \$3,450.17 and the average Individual Settlement Share is currently estimated to be \$796.66.⁴³

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

Lawyers for Justice, PC is a recognized class action law firm that employed its attorneys’ knowledge, skills, and experience in bringing this case to a successful conclusion. Class Counsel have years of complex and class action litigation experience, have recovered millions of dollars on behalf of thousands of individuals in California, and have successfully handled numerous significant wage-and-hour class action and complex cases.⁴⁴

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

⁴² Aiwasian Decl., ¶¶ 5-9.

⁴³ Simpluris Decl., ¶ 24;

⁴⁴ Aiwasian Decl., ¶¶ 14-18.

1 F.3d at 1050 (“[W]hile the primary basis of the fee award remains the percentage method, the
2 lodestar may provide a useful perspective on the reasonableness of a given percentage award.”).
3 Importantly, “the lodestar calculation . . . does not override the trial court’s primary determination
4 of the fee as a percentage” of the settlement amount and “does not impose an absolute maximum
5 or minimum on the potential fee award.” *Laffitte, supra*, 1 Cal.5th at 505.

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

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

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

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

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

As discussed above in Part IV.C.1, *infra*, attached to the Declarations of Edwin Aiwarzian is a task and time chart that sets forth in detail the numerous tasks that Class Counsel performed on behalf of Plaintiff and the Class, and the time required for completing those tasks.⁴⁵ The chart demonstrate that Class Counsel has spent a total of **480.50 hours** litigating the case and finalizing the Settlement.⁴⁶ In light of the facts and circumstances of the case, as well as the results that Class Counsel have achieved on behalf of Plaintiff and the Class Members, Class Counsel have spent a reasonable number of hours on this case. 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 awarding attorneys' fees, the aim is to mirror "the established practice in the private legal market of rewarding attorneys for taking the risk of nonpayment by paying them a premium over their normal hourly rates for winning contingency cases." See *id.*

Class Counsel has been actively involved in this case, prior to its commencement and all the way up to the present, and Class Counsel's dedication to providing representation in this matter has precluded other employment. Here, Class Counsel bore the risk that, despite all of their efforts and skills employed, there may be no recovery. Ultimately, Class Counsel was successful in reaching a settlement of \$1,474,154.69.

As set forth in the Declarations of Edwin Aiwarzian, the professional backgrounds and experience of Lawyers for Justice, PC support a reasonable hourly rate of compensation of at least

⁴⁵ See Aiwarzian Decl., Exh. A.

⁴⁶ Aiwarzian Decl., ¶ 12.

\$1,000 per hour for services provided by Lawyers for Justice, PC.⁴⁷ While the circumstances of every case is unique, the fact remains that the work performed and efforts undertaken by Class Counsel on behalf of the Class Members justify the requested attorneys' fees.

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

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

Courts frequently apply multipliers to enhance the lodestar to reflect the risks involved, the complexity of the litigation, and the other relevant facts. *Vizcaino*, 290 F.3d at 1051; *Graham v. DaimlerChrysler Corp.* (2004) 34 Cal.4th 553, 579 ("One of the most common fee enhancers [...] is for contingency risk."). Such an enhancement "mirrors the established practice in the private legal market of rewarding attorneys for taking the risk of nonpayment by paying them a premium over their normal hourly rates for winning contingency cases." *Vizcaino*, 290 F.3d at 1051; *accord Ketchum*, 24 Cal.4th at 1132-33. A risk multiplier also serves to bring the financial incentives for enforcing important rights "into line with incentives [attorneys] have to undertake claims for which they are paid on a fee-for-services basis." *Ketchum*, 24 Cal. 4th at 1132.

In determining whether or not to enhance the lodestar, California courts take into account multiple factors, many of which were specifically addressed above in §§ IV.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)

⁴⁷ Aiwazian Decl., ¶ 13.

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

As discussed above, this was a highly-contested matter which required an extensive amount of time and labor. Defendant raised defenses and denied liability, and the case involved gathering and analyzing documents and data not only from Defendant but also from the Class Members. The handling of this matter involved a great amount of effort, and required the exercise of high-level of skill, which Class Counsel 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 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 \$1,474,154.69. Also, Class Counsel’s efforts throughout the case demonstrate dedication to the interests of the Class Members.

Class Counsel's application for attorneys' fees in light of the facts and circumstances surrounding the matter is well within the range of reasonableness. While handling this matter, Class Counsel devoted the hours in legal time summarized above and detailed in the Task and Time Chart, which is attached as **EXHIBIT A** to the Declaration of Edwin Aiwarzian.⁴⁸ As the chart indicates, Class Counsel has worked **480.50 hours** in the pursuit of this matter. The attorney task and time chart presents the entire picture. Applying a reasonable blended rate of \$1,000 per hour to **480.50 hours** of work performed by Lawyers for Justice, PC would place a base lodestar value of \$480,500.00 on Class Counsel's services, and applying a modest multiplier of 1.1, the total enhanced lodestar fees are \$528,550.00.⁴⁹ Class Counsel seeks an attorneys' fee award of \$514,500.00 (equal to 35% of the original Gross Settlement Amount based on the Settlement Agreement). Far greater multipliers have been awarded in similar cases, and the total amount of fees sought by Class Counsel is also reasonable compared to fees awarded in similar cases. Courts routinely enhance lodestar amounts based on multipliers that "range from 2 to 4 or even higher." *Wershba, supra*, 91 Cal.App.4th at 255 (emphasis added); *see also, e.g., Chavez v. Netflix, Inc.* (2008) 162 Cal.App.4th 43, 66 (approving multiplier of 2.5); *Vizcaino*, 290 F.3d at 1051 (approving multiplier of 3.65); *Wal-Mart Stores, Inc. v. Visa U.S.A., Inc.* (2d Cir. 2005) 396 F.3d 96, 123 (approving multiplier of 3.5); *Craft v. County of San Bernardino* (C.D. Cal. 2006) 624 F.Supp.2d 1113, 1125 (awarding multiplier of 5.2 and referring to other cases with cross-check multipliers ranging from 4.5 to 19.6).

Therefore, application of a modest multiplier of 1.1 is warranted, and the lodestar as a cross-check to the percentage figure sought herein, strongly supports the reasonableness of the requested attorneys' fees award. Plaintiffs respectfully request that the Court grant final approval of, and award, attorneys' fees in the amount of \$514,500.00 to Class Counsel.

V. 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 \$40,000.00. As set forth in the Declarations of Edwin Aiwarzian, Class Counsel seeks

⁴⁸ Aiwarzian Decl., Exh. A.

⁴⁹ Aiwarzian Decl., ¶¶ 12-13;

reimbursement of \$15,639.09 in litigation costs and expenses incurred in this case.⁵⁰ This amount was reasonable and necessary in the prosecution of the case and to obtain the Settlement, and is less than the gross amount allocated under the Settlement Agreement.⁵¹ The cost savings of \$24,360.91 will be part of the Net Settlement Amount, which will be distributed to the Settlement Class Members in accordance with the Settlement.⁵² Accordingly, Plaintiff requests that the Court award litigation costs and expenses in the amount of \$15,639.09 to Class Counsel, Lawyers for Justice, PC.

VI. THE REQUESTED SERVICE AWARD IS FAIR AND REASONABLE, AND SHOULD BE APPROVED.

The Settlement provides for a Service Award in the amount of \$7,500.00 to Plaintiff Latisha Anquette Johnson to compensate Plaintiff for the time and effort that was expended in this matter. The requested Service Award is both common and reasonable and should be awarded.

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

The requested Service Award is fair and appropriate because Plaintiff spent a substantial amount of time and effort producing relevant documents and past employment records, as well as providing the facts and evidence necessary to attempt to prove the allegations.⁵³ Plaintiff was available whenever Class Counsel needed her and actively tried to obtain, and gave, information that would facilitate the pursuit of class and PAGA claims.⁵⁴ Plaintiff spent numerous hours speaking with Class Counsel about her claims, describing her work experiences with Defendant,

⁵⁰ *Id.*, ¶ 19.

⁵¹ *Ibid.*

⁵² *Ibid.*

⁵³ Aiwazian Decl., ¶ 20; Declaration of Latisha Anquette Johnson (“Johnson Decl.”), ¶¶ 3-5.

⁵⁴ Aiwazian Decl., ¶ 20; Johnson Decl., ¶¶ 3-5.

1 and gathering and reviewing documents.⁵⁵ These services merit the requested Service Award to
2 Plaintiff, who has not received any compensation for her efforts in this matter to date.⁵⁶

3 The requested Service Award was fully disclosed in the Class Notice that was mailed to the
4 Class Members. No objections were made with regards to the requested Service Award.
5 Accordingly, it is appropriate and just for Plaintiff Latisha Anqunette Johnson to receive \$7,500.00
6 as a reasonable Service Award, for her services in this case, in addition to her individual settlement
7 payment.

8 **VII. CONCLUSION**

9 For the foregoing reasons, Plaintiff respectfully requests that the Court award Attorneys'
10 Fees and Costs and the Service Award in their entirety, as sought herein.

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12 Dated: June 18, 2024

LAWYERS for JUSTICE, PC

13
14 By:



Edwin Aiwanian
Matthew Richard Soto
Attorneys for Plaintiff and the Class

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⁵⁵ Aiwanian Decl., ¶ 20; Johnson Decl., ¶¶ 2-5.

⁵⁶ Johnson Decl., ¶ 8.