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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES, CENTRAL CIVIL WEST**

RAMON SINGLEY, as an individual and
on behalf of all others similarly situated,

Plaintiffs,

vs.

BLS LIMOUSINE SERVICE OF LOS
ANGELES, INC., a California corporation;
and DOES 1 through 50, inclusive,

Defendants.

Case No.: BC619822

(Assigned to the Honorable Kenneth R. Freeman,
Department 310)

**PLAINTIFF'S NOTICE OF MOTION AND
MOTION FOR FINAL APPROVAL OF
CLASS ACTION SETTLEMENT**

Date: February 27, 2018
Time: 3:00 P.M.
Dept.: 310

1 **TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:**

2 **PLEASE TAKE NOTICE** that on February 27, 2018, at 3:00 p.m., or as soon thereafter
3 as the matter may be heard, before the Honorable Kenneth R. Freeman, judge presiding, in
4 Department 310 of the above referenced Court located at 600 S. Commonwealth Ave., Los
5 Angeles, CA 90005, Plaintiff Ramon Singley ("Plaintiff") will and hereby does move the Court
6 for an Order: (1) granting final approval to the Class of the settlement; (2) fully and finally
7 approving and directing distribution to the Class of the settlement sum pursuant to the terms of
8 the Amended Joint Stipulation of Class Action Settlement (hereafter "Stipulation" or "Settlement
9 Agreement") in this matter, (3) fully and finally approving the enhancement payment to the
10 Class Representative, (4) fully and finally approving the Claims Administrator's costs, and (5)
11 fully and finally approving the award of attorney's fees and costs.

12 This Motion is made pursuant to Rule 3.769 of the California Rules of Court, which
13 provides for court approval of the settlement of a purported class action and allows the Court to
14 grant final certification of a class for settlement purposes. In light of the overwhelmingly
15 positive response, as shown by the lack of any objections to the settlement or opt-outs, there is
16 no question that the settlement is fair, reasonable and adequate and thus should be granted final
17 approval.

18 This Motion will be based on the Memorandum of Points and Authorities included
19 herein, the [Proposed] Order Granting Final Approval of Class Settlement and Judgment, upon
20 the class papers previously filed with this Court, and the supporting Declarations of Larry W.
21 Lee, Howard L. Magee, Ramon Singley, and Elizabeth Kruckenberg, upon the oral arguments of
22 counsel (should there be any), and on the complete records and file herein.

23 DATED: January 26, 2018

DIVERSITY LAW GROUP, P.C.

24
25 By: 

Larry W. Lee

Attorneys for Plaintiff and the Class

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Other Authorities

4 Newberg on Class Actions 4th § 11.41 (2008).....	11, 15
Brickman, <i>Effective Hourly Rates of Contingency-Fee Lawyers: Competing Data and Non-Competitive Fees</i> (Fall 2003) 81 Wash U. L. Q. 653, 659 n. 11	19
Eisenberg & Miller, <i>Attorney Fees in Class Action Settlements: An Empirical Study: 1993-2008</i> , 7 J. of Empirical Leg. Stud. 248, 262, fn.16 (2010)	19
Fitzpatrick, <i>An Empirical Study of Class Action Settlements and Their Fee Award</i> , 7 J. Empirical Leg. Stud. 811, 833 (2010)	19
Manual for Complex Litigation Fourth (Fed. Judicial Center 2004) (“Manual”), § 21.6 at 309 .	11, 12

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---------------------------	----

Federal Cases

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<i>Byrd v. Civil Serv. Comm’n</i> , 459 U.S. 1217 (1983)	11
<i>Chemical Bank v. City of Seattle</i> , 955 F.2d 1268, 1276 (9 th Cir. 1992)	11, 12
<i>Chun-Hoon v. McKee Foods Corp.</i> , 716 F. Supp. 2d 848, 852 (N.D. Cal. 2010).....	11
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<i>City of Detroit v. Grinnell Corp.</i> , 495 F. 2d 448, 470 (2d Cir. 1974)	20
<i>Class Plaintiffs v. City of Seattle</i> , 955 F.2d 1268, 1291 (9th Cir. 1992)	11, 12
<i>Craft v. County of San Bernardino</i> , 624 F. Supp. 2d 1113, 1125-26 (C.D. Cal. 2008)	22
<i>Dyer v. Wells Fargo Bank, N.A.</i> , 303 F.R.D. 326, 334 (N.D. Cal. 2014).....	22
<i>Eisen v. Carlisle & Jacquelin</i> , 417 U.S. 156, 174-75 (1974).....	10

1	<i>Ellis v. Naval Air Rework Facility</i> , 87 F.R.D. 15, 18 (N.D. Cal. 1980)	13, 15
2	<i>Fernandez v. Victoria Secret Stores LLC</i> , 2008 WL 8150856, *16 n. 59 (C.D. Cal. July 21, 2008)	
3		19
4	<i>Gaskill v. Gordon</i> , 160 F.3d 361, 363 (7th Cir. 1998)	18
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6	<i>Hopkins v. Stryker Sales Corp.</i> , No. 11-CV-02786-LHK, 2013 WL 496358, at *5 (N.D. Cal. Feb.	
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8	<i>In re General Motors Corp.</i> , 55 F.3d 768, 806 (3d Cir. 1995)	13
9	<i>In re Rite Aid Corp. Secs. Litig.</i> , 396 F.3d 294, 306-307 (3d Cir. 2005)	20
10	<i>In re Wash. Pub. Power Supply Sys. Sec. Litig.</i> , 720 F.Supp. 1379 (D. Ariz. 1989)	12, 13
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13	<i>Linney v. Cellular Alaska P'ship</i> , 151 F.3d 1234, 1238 (9th Cir. 1998)	12, 15
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15	(SDNY 1979)	17
16	<i>Mullane v. Central Hanover Bank & Trust Co.</i> , 339 U.S. 306, 314 (1950)	10
17	<i>New York Gaslight Club, Inc. v. Carey</i> , 447 U.S. 54, 62 (1980)	22
18	<i>Officers for Justice v. Civil Serv. Comm'n</i> , 668 F.2d 615, 625 (9th Cir. 1982)	11, 12, 14, 15
19	<i>Phillips Petroleum Co. v. Shutts</i> , 472 U.S. 797, 811-12 (1985)	9
20	<i>Report of the Third Circuit Task Force, Court Awarded Attorney Fees</i> 108 F.R.D. 237, 258	
21	(1985)	21
22	<i>Swedish Hospital v. Shalala</i> , 1 F.3d 1261, 1272 (D.C. Cir. 1993)	19, 20
23	<i>Van Bronkhorst v. Safeco Corp.</i> , 529 F.2d 943, 950 (9th Cir. 1976)	11, 15
24	<i>Vizcaino v. Microsoft Corp.</i> , 290 F.3d 1043, 1051 (9th Cir. 2002)	21
25	<i>Willner v. Manpower Inc.</i> , No. 11-CV-02846-JST, 2015 WL 3863625, at *7 (N.D. Cal. June 22,	
26	2015)	21
27	<i>Women's Committee for Equal Employment Opportunity v. NBC</i> , 76 F.R.D. 173 (SDNY 1977)	17
28	<i>Young v. Katz</i> , 447 F.2d 431, 433-434 (5th Cir. 1971)	14

State Cases

<i>7-Eleven Owners for Fair Franchising v. Southland Corp.</i> (2000) 85 Cal. App. 4th 1135, 1146	12, 13
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<i>Laffitte v. Robert Half Int'l</i> , 231 Cal. App. 4th 860, 871 (2014)	19, 21
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<i>PLCM Group, Inc. v. Drexler</i> , 22 Cal. 4th 1084, 1095 (2000)	22
<i>Serrano v. Unruh</i> , 32 Cal. 3d 621, 639 (1982) [<i>Serrano IV</i>]	22
<i>Serrano v. Priest</i> , 20 Cal. 3d 25 (1977) at 48 [<i>Serrano III</i>]	23
<i>Sutter Health Uninsured Pricing Cases</i> , 171 Cal App.4th 495, 512 (2009)	21
<i>Vasquez v. Superior Court</i> (1971) 4 Cal. 3 rd 800, 820-821	11
<i>Wershba v. Apple Computer, Inc.</i> , 91 Cal. App. 4th 224, 255 (2001)	21, 24

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. INTRODUCTION**

3 Plaintiff and Class Representative Ramon Singley (“Plaintiff” or “Class Representative”)
4 submits this Memorandum in support of the Motion for Final Approval of Class Action
5 Settlement.

6 The settlement entered into by and between the parties provides for a settlement fund of
7 Four Hundred Fifty Thousand Dollars (\$450,000) (the “Settlement Fund”) to be created for the
8 benefit of the Class. From this Settlement Fund, attorney’s fees, litigation costs, enhancement
9 payments to each Plaintiff, PAGA payment, and the costs of claims administration are to also be
10 paid.

11 The history of this litigation was previously detailed in Plaintiff’s preliminary approval
12 motion, and thus is incorporated herein.

13 Per the Court’s ruling, the Claims Administrator in this matter distributed the Class
14 Notice. (*See* Declaration of Elizabeth Kruckenberg (“Kruckenberg Decl.”) at ¶¶ 3-5.) There
15 have been *no* objections filed to the Settlement. (*Id.* at ¶ 9.) Moreover, there have been no
16 individuals who have requested exclusion from the settlement. (*Id.* at ¶ 8.) Thus, this favorable
17 response by the Class supports the Court’s Preliminary Approval Order finding that the
18 Settlement was fair, adequate and reasonable.

19 In sum, as a result of the notice process, and in light of the complete lack of any
20 objections or opt-outs, the Court may confirm its preliminary approval as this process supports
21 the Court’s initial finding that the Settlement is fair, adequate and reasonable.

22 In addition to the results of the notice process, for the same reasons as set forth earlier in
23 Plaintiff’s Motion for Preliminary Approval of Class Action Settlement, the following represents
24 the basic points previously covered supporting approval of the Settlement:

- 25 • The Settlement provides a total settlement sum of \$450,000 for a class size of 262
- 26 Class Members;
- 27 • Plaintiff performed adequate investigation of this case, including the production
- 28 of information by Defendant of payroll policies and class data for the entire class

necessary for Plaintiff to fully evaluate this case; and

- A highly regarded claims administrator was retained, Phoenix Settlement Administrators, at a competitive price.

With this additional information, the Court should grant Final Approval consistent with the Preliminary Approval Order.

II. THE SETTLEMENT

A. Class Members Were Provided Proper Notice.

The notice procedures required by the Preliminary Approval Order have been followed and satisfy all due process rights of Class Members.

The Preliminary Approval Order contemplated that the Class Notice, as approved in the Preliminary Approval Order, be sent to all Class Members by first class mail, as specified in the Settlement. The Preliminary Approval Order contemplated, further, that Phoenix Settlement Administrators (“Phoenix” and/or “Claims Administrator”) would serve as the Claims Administrator.

As clearly stated in the Declaration of the Claims Administrator, notice was provided to Class Members as required by the Preliminary Approval Order. The Claims Administrator received a Class Member mailing list from Defendant that included 262 Class Members, and, on November 27, 2017, each of the persons identified on the mailing list was sent the Class Notice and Claim Form via first class mail. (Kruckenberg Decl. at ¶ 5.) As part of the settlement notice process, the Claims Administrator has re-mailed Class Notices to 23 Class Members using newly updated addresses. (Kruckenberg Decl. at ¶ 6.) In total, to date, Class Notice was provided to 254 of the 262 Class Members. (Kruckenberg Decl. at ¶¶ 6). Class Notice could not be delivered to the remaining 8 Class Members because they have changed addresses and the Administrator was unable to determine their new address. (*Id.* at ¶ 7).

The provision of the notice to Class Members and administration of the claims process as described above meets the requirements for the “best notice practicable” in this case as necessary to protect the due process rights of Class Members. *See, e.g., Phillips Petroleum Co. v. Shutts*, 472 U.S. 797, 811-12 (1985) (provision of “best notice practicable” with description of the

1 litigation and explanation of opt-out rights satisfies due process); *Eisen v. Carlisle & Jacquelin*,
2 417 U.S. 156, 174-75 (1974) (individual notice must be sent to class members who can be
3 identified through reasonable means); *Mullane v. Central Hanover Bank & Trust Co.*, 339 U.S.
4 306, 314 (1950) (best practicable notice is that which is “reasonably calculated, under all the
5 circumstances, to apprise interested parties of the pendency of the action and afford them an
6 opportunity to present their objections”).

7 Here, the Class Members were provided with a mailing regarding the settlement that
8 explained the settlement and allowed Class Members to seek information, ask questions, and
9 seek additional forms. As such, proper notice has been given to the Class Members.

10 The Court, therefore, may proceed to determine the fairness and adequacy of the
11 Settlement, and order its approval, secure in the knowledge that all absent Class Members have
12 been given the opportunity to participate fully in the claims, exclusion, and the approval process.

13 **III. THE SETTLEMENT TERMS ARE FAIR, ADEQUATE AND REASONABLE,**
14 **AND THE SETTLEMENT SHOULD BE GIVEN FINAL APPROVAL**

15 **A. The Terms Of The Settlement, The Negotiation Of The Settlement And The**
16 **Reception Of The Settlement By Class Members All Strongly Support The**
17 **Conclusion That The Settlement Is Fair, Adequate And Reasonable**

18 Without reiterating the Parties’ showing that the Settlement Agreement and the
19 negotiation process that led up to it was fair and adequate, as set forth in detail in the Motion for
20 Preliminary Approval of Class Action Settlement, the Parties highlight the following facts. The
21 Agreement was the product of negotiation between highly able and experienced attorneys on
22 both sides, possessed of the relevant data and extensive legal research which they had carefully
23 analyzed. (Declaration of Larry W. Lee (“Lee Decl.”) at ¶ 5). In addition, the resolution of this
24 case was reached only after the production of payroll policies and class payroll data. (Lee Decl.
25 at ¶ 5).

26 The results after mailing of the Class Notice support confirmation of the Court’s
27 preliminary approval of the settlement with final approval of the settlement, as evidenced by the
28

fact that *there is not a single Class member who has objected to or opted-out of the current settlement.*

The Court may appropriately infer that the class action settlement is fair, adequate and reasonable when, among other reasons, few class members object to it. *See Class Plaintiffs v. City of Seattle*, 955 F.2d 1268, 1291 (9th Cir. 1992); *Churchill Vill. LLC v. Gen. Elec.*, 361 F.3d 566, 577 (9th Cir. 2004) (approving settlement with 45 objections and 500 opt-outs from a 90,000-person class, representing .05% and .56% of the class, respectively); *Chun-Hoon v. McKee Foods Corp.*, 716 F. Supp. 2d 848, 852 (N.D. Cal. 2010) (where 16 of 329 class members opted out, court found that positive class reaction “strongly supports settlement”). Here, the lack of any objections or opt-outs to this current settlement is an indication that Class Members themselves view the settlement as fair, adequate and reasonable.

B. Under Well-Established Legal Principles, the Court Should Grant Final Approval to the Settlement

1. Standard of Review

On a motion for final approval of a class action settlement under Civil Code § 1781(f) and Federal Rules of Civil Procedure (“FRCP”) Rule 23(e), a court’s inquiry is whether the settlement is “fair, adequate and reasonable.”¹ *Officers for Justice v. Civil Serv. Comm’n*, 668 F.2d 615, 625 (9th Cir. 1982), *cert. denied subnom.*, *Byrd v. Civil Serv. Comm’n*, 459 U.S. 1217 (1983). A settlement is fair, adequate and reasonable, and therefore merits final approval, when “the interests of the class are better served by the settlement than by further litigation.” *See* Manual for Complex Litigation Fourth (Fed. Judicial Center 2004) (“Manual”), § 21.6 at 309.

The law favors settlement, particularly in class actions and other complex cases, where substantial resources can be conserved by avoiding the time, cost, and rigors of formal litigation. *See* 4 Newberg on Class Actions 4th § 11.41 (2008); *Chemical Bank v. City of Seattle*, 955 F.2d 1268, 1276 (9th Cir. 1992); *Van Bronkhorst v. Safeco Corp.*, 529 F.2d 943, 950 (9th Cir. 1976).

Although the Court possesses “broad discretion” in determining that a proposed class action settlement is fair, the Court’s role must be limited to the extent necessary to reach a

¹ Both Civil Code § 1781(f) and FRCP Rule 23 have been expressly authorized by the California Supreme Court for use in all California class action litigation. *See Vasquez v. Superior Court* (1971) 4 Cal. 3rd 800, 820-821.

1 reasoned judgment that the agreement is not the product of fraud or overreaching by, or collusion
2 between, the negotiating parties, and that the settlement, taken as a whole, is fair, reasonable and
3 adequate to all concerned. *See Officers for Justice, supra* 688 F.2d at 625. Accordingly, the
4 Court should give due regard to what is otherwise a “private consensual agreement” between the
5 parties. *Id.*; *see also Church v. Consolidated Freightways, Inc.*, 1993 WL 149840 (N.D. Cal.
6 1993); *In re Wash. Pub. Power Supply Sys. Sec. Litig.*, 720 F.Supp. 1379 (D. Ariz. 1989), *aff’d*
7 *sub nom.*, *City of Seattle*, 955 F.2d 1268; Manual § 21.6 at 309 (“The judicial role in reviewing a
8 proposed settlement is critical, but limited to approving the proposed settlement, disapproving it,
9 or imposing conditions on it. The judge cannot rewrite the agreement.”)

10 A court’s approval of a class action settlement will only be reversed for a clear abuse of
11 discretion. *See Dunk v. Ford Motor Co.* (1996) 48 Cal. App. 4th 1794, 1801; *see also Officers*
12 *for Justice*, 688 F.2d at 626 (“reverse only upon a strong showing that the district court’s
13 decision was a clear abuse of discretion”); *Chemical Bank*, 955 F.2d at 1276; *Ackerman v.*
14 *Kassar*, 1993 WL 326453 (9th Cir. 1993); *Linney v. Cellular Alaska P’ship*, 151 F.3d 1234,
15 1238 (9th Cir. 1998).

16 As the court in *7-Eleven Owners for Fair Franchising v. Southland Corp* cautioned: “[i]t
17 cannot be overemphasized that neither the trial court in approving the settlement nor this Court
18 in reviewing that approval have the right or duty to reach any ultimate conclusions on the issues
19 of fact and law which underlie the merits of the dispute. It is well settled that in the judicial
20 consideration of proposed settlements, ‘the [trial] judge does not try out or attempt to decide the
21 merits of the controversy,’ [citation] and the appellate court ‘need not and should not reach any
22 dispositive conclusions on the admittedly unsettled legal issue.’” *7-Eleven Owners for Fair*
23 *Franchising v. Southland Corp.* (2000) 85 Cal. App. 4th 1135, 1146.

24 **2. The Settlement Is Presumed To Be Fair**

25 The Court should begin its analysis with the presumption that the settlement is fair and
26 should be approved:

27 [A] presumption of fairness exists where : (1) the settlement is reached through
28 arm’s-length bargaining; (2) investigation and discovery are sufficient to allow

counsel and the court to act intelligently; (3) counsel is experienced in similar litigation; and (4) the percentage of objectors is small.

Dunk v. Ford Motor Co (1996) 48 Cal. App. 4th 1794, 1802; *7-Eleven Owners for Fair Franchising*, 85 Cal. App. 4th at 1146; *accord, Ellis v. Naval Air Rework Facility*, 87 F.R.D. 15, 18 (N.D. Cal. 1980); *In re Wash. Pub Power Supply*, 720 F Supp at 1387.

The settlement in the case at bar warrants approval and carries a presumption of fairness. As previously noted in the application for Preliminary Approval, this current settlement was negotiated at arms' length, and only after the entire payroll data for the class was produced and analyzed. (Lee Decl. at ¶ 5).

Furthermore, Class Counsel is highly experienced in this type of litigation. As shown in the supporting declarations, Class Counsel has significant experience in class actions and employment wage and hour matters. (Lee Decl. at ¶¶ 12-14; Declaration of Howard L. Magee ("Magee Decl.") at ¶¶ 4-5).

3. Two-Way Costs and Other Risks Inherent In Continued Litigation Favor Final Approval

To assess the fairness, adequacy and reasonableness of a class action settlement, the Court also should weigh the immediacy and certainty of substantial settlement proceeds against the risks inherent in continued litigation. *See also In re General Motors Corp.*, 55 F.3d 768, 806 (3d Cir. 1995) ("present value of the damages plaintiffs would likely recover if successful, appropriately discounted for the risk of not prevailing, should be compared with the amount of the proposed settlement") (internal citations omitted); *Girsh v. Jepson*, 521 F.2d 153, 157 (3d Cir. 1975); *Boyd v. Bechtel Corp.*, 485 F. Supp. 610, 616-17 (N.D. Cal. 1979).

If Plaintiff pursued this case without settlement and failed to prevail, Plaintiff would have been responsible for Defendant's fees and/or costs. As such, should individual, current or former employees of Defendant want to bring individual claims on the same causes of action, they would each face the uncertainty of prevailing and the possibility of paying fees and/or costs to Defendant. Accordingly, such claims likely would not be brought by many of these current and former employees—thus, this lawsuit achieves a true benefit for the class that they might not

1 otherwise get or seek as individuals. Here, given that a fair and reasonable settlement has been
2 reached, neither Plaintiff nor any of the class members will be required to pay for Defendant's
3 litigation fees and costs.

4 The risks of this case were weighed by Class Counsel and, should be considered a
5 significant issue by the Court in its determination of final approval. Class Counsel obtained a
6 very substantial settlement for the Class that resulted in a fair recovery which at the same time
7 provides for finality and no risk of attorneys' fees or costs by the Class Members or the Class
8 Representatives.

9 The Settlement Agreement also affords the Class prompt, fair relief, while avoiding
10 significant legal and factual battles that otherwise may have prevented the Class from obtaining
11 any recovery at all. While Class Counsel believe the Class Members' claims are meritorious and
12 can be successfully litigated, they are experienced and fully understand the inherent risks and
13 uncertainty involved with such matters as the resolution of class certification, the outcome of a
14 potential trial, and the outcome of any appeals that would inevitably follow should the Class
15 prevail at trial.

16 Class Counsel has also assessed the same risks in connection with the current settlement.
17 Because the settlement provides immediate and substantial relief, without the attendant risks and
18 delay of continued litigation – not to mention the threat of litigation fees and costs – Class
19 Counsel believe that the settlement warrants the Court's final approval.

20 **4. The Complexity, Expense and Likely Duration of Continued**
21 **Litigation Against Defendant Favor Final Approval**

22 Another factor considered by courts in approving a settlement is the complexity, expense,
23 and likely duration of the litigation. *See Officers for Justice*, 688 F.2d at 625; *Girsh*, 521 F.2d at
24 157. In applying this factor, the Court must weigh the benefits of the settlement against the
25 expense and delay involved in achieving an equivalent or more favorable result at trial. *See*
26 *Young v. Katz*, 447 F.2d 431, 433-434 (5th Cir. 1971).

27 As noted above, continued litigation could have led to appeals on a number of issues. On
28 the other hand, the settlement that was reached provides to all Class Members – regardless of

1 their means – fair relief in a prompt and efficient manner. Were the Court to deny final approval,
2 the Class Members would be left without a remedy as a practical matter and courts across the
3 State would have to address the issues presented here in a piecemeal, costly, and time-consuming
4 manner. The settlement in this case is therefore consistent with the “overriding public interest in
5 settling and quieting litigation” that is “particularly true in class action suits.” *See Van*
6 *Bronkhorst v. Safeco Corp.*, 529 F.2d at 950 (footnote omitted); *see also* 4 Newberg at § 11.41.

7 **5. The Opinion of Experienced Counsel Favors Final Approval**

8 Class Counsel supports the settlement as fair, reasonable and adequate, and in the best
9 interest of the Class Members as a whole. (Lee Decl. at ¶ 6; Magee Decl. at ¶ 2). Similarly,
10 counsel for Defendant is also in favor of this settlement.

11 The endorsement of qualified and well-informed counsel of a settlement as fair,
12 reasonable, and adequate is entitled to significant weight by the Court in its final approval
13 determination. *See Officers for Justice*, 688 F.2d at 625; *Ellis*, 87 F.R.D. at 18; *Boyd*, 485
14 F.Supp. at 617; *Linney*, 151 F.3d at 1242.

15 **6. Discovery and the Settlement Discussions Undertaken In This Action**
16 **Favor Final Approval**

17 Prior to negotiating the settlement, Class Counsel engaged in significant investigation of
18 the claims at issue. Defendant also produced key data pertaining to all of the class members that
19 allowed Plaintiff to ascertain and determine the potential amount of damages that Defendant
20 possibly could be liable for if Plaintiff prevailed at trial. (Lee Decl. at ¶ 4). It was only after the
21 production of such information and data that the Parties engaged in settlement discussions which
22 ultimately led to this settlement. (Lee Decl. at ¶ 5).

23 As detailed above, each of the factors counsel strongly in favor of final approval of the
24 Settlement by this Court.

25 **IV. THE REQUESTED CLASS REPRESENTATIVE ENHANCEMENT SHOULD BE**
26 **APPROVED**

27 Plaintiff has requested, and Defendant does not oppose, an enhancement of Five
28 Thousand Dollars (\$15,000), pursuant to the terms of the Settlement Agreement. Plaintiff

1 requests that this Court approve such service payments in light of the efforts Plaintiff put into
2 this case, the absence of any objection to his service payment, and the excellent result achieved.

3 As shown in the supporting declaration, the Class Representative spent time with Class
4 Counsel on a number of occasions to discuss the case, including providing substantive
5 information regarding Defendant's practices, and providing documents related to his own claims
6 and the claims of the Class. (Declaration of Ramon Singley ("Singley Decl.") at ¶¶ 3-11). As
7 part of his duties as Class Representative, Plaintiff provided invaluable information, evidence,
8 and documents that resulted in this settlement.

9 In addition to the invaluable services the Class Representative provided, he also took a
10 significant risk, both professionally and monetarily, in acting as a Class Representative. Because
11 the claims alleged by Plaintiff involved the payment of costs to the prevailing party, Plaintiff
12 could have possibly faced paying the costs of Defendant had Plaintiff not prevailed in this action.
13 (Singley Decl. at ¶ 8). Moreover, given that future employers are much less likely to hire
14 individuals who have filed suit against their prior employer, particularly cases of this nature, the
15 Class Representative could face negative employment prospects in the future.

16 The Class Representative took such risks upon himself and the whole class benefited
17 from this. Class Members did not have to file individual lawsuits and bear the risks of payment
18 of fees and costs if they did not prevail, nor did they have to face the potential for retaliation and
19 not getting future employment had they filed a lawsuit which is a public record. These are
20 significant benefits, even apart from the time the Class Representative has spent working on this
21 case, that weigh in favor of granting the requested enhancement.

22 Finally, as part of the class settlement, Plaintiff also agreed to give a general release of
23 his own individual claims, something that the Class Members did not have to do. Thus, Plaintiff
24 has sacrificed his own individual rights for those of the class members. This is a significant
25 factor to take into account that further warrants the award of the requested enhancement amount.

26 Courts have routinely granted approval of settlements containing such enhancements. In
27 *League of Martin v. City of Milwaukee*, 588 F. Supp. 1004 (E. D. Wis. 1984), the court held that
28 the proposal settlement properly granted the named plaintiffs individual relief. It is "not

1 uncommon for Class Members...to receive special relief in settlement... [The Plaintiff]...had
2 been instrument in prosecuting this lawsuit since the date it was filed.” *Id.* at 1024. In *Kyriazi v.*
3 *Western Elec. Co.*, 527 F. Supp. 18 (D. N. J. 1981), a named plaintiff in a Title VII class action
4 was awarded individual relief of back-pay and interest, reinstatement, punitive damages and
5 counsel fees. Similarly, in *Women’s Committee for Equal Employment Opportunity v. NBC*, 76
6 F.R.D. 173 (SDNY 1977), the court approved as fair a settlement that included awards to 16
7 named plaintiffs of virtually all the damages they sought.

8 In *Lo Re v. Chase Manhattan Corp.*, 1979 U. S. Dist. LEXIS 12210, 19 FEP Cas. (BNA)
9 1366 (SDNY 1979), the court approved a class representative payment of \$229,000 out of a
10 \$1,579,000 settlement fund to the named plaintiff for his individual claims. One of the factors
11 considered by the court in determining that such payments were fair was the fact that none of the
12 absent Class Members objected to the enhancements. The court held that this fact showed that
13 the Class Members were not offended by these enhancements. *Id.* at 17. In the present case,
14 there are no objections filed by any individual to the requested amounts. As such, one can infer
15 that none of the Class Members have any disagreement with such individual enhancements.
16 Furthermore, and as explained above, the Class Representative took substantial risk in bringing
17 the current benefits to the class.

18 Here, this litigation has resulted in a significantly valuable benefit to the class, and the
19 Class Representative took on substantial risk and sacrifice in helping to get this financial benefit
20 to the class. As such, the enhancement should be awarded to the named Plaintiff for his
21 commitment, dedication, and risks taken for this litigation. Accordingly, the court should find
22 that the enhancement as fair and reasonable.

23 **V. THE REQUESTED ATTORNEYS’ FEES SHOULD BE APPROVED**

24 Class Counsel has achieved an excellent settlement in this litigation, as set forth in the
25 Settlement Agreement and this Motion. The proposed settlement provides substantial benefits to
26 the Class and was reached after aggressive investigation and litigation by Class Counsel. Class
27 Counsel and Plaintiff achieved a \$450,000.00 common fund for the benefit of the Class to
28 compensate the Class for the claims alleged. There have been no objections filed against the

1 Settlement or to Class Counsel's request for attorneys' fees in the amount of \$150,000.00 and
2 costs in an amount up to \$4,714.78.² In fact, there has not been a single objection to the
3 Settlement, nor a single opt-out among the 262 Class Members. As more fully detailed below,
4 Class Counsel's request for attorney's fees and reimbursement of costs, is fair, reasonable, and
5 adequate. Accordingly, final approval should be granted.

6 **A. An Award of Attorneys' Fees and Costs is Requested When A Common**
7 **Fund Has Been Created for the Benefit of the Class**

8 Class Counsel's application for an award of attorneys' fees in the amount of \$150,000 of
9 the \$450,000 settlement fund created on behalf of the Class is reasonable and fair. The requested
10 fee represents fair compensation for undertaking complex, risky, expensive, and time-consuming
11 litigation on a contingent basis.

12 Class Counsel seeks a fee award calculated as thirty-three and one-third percent (33
13 1/3%) of the total value of the Settlement for the successful prosecution and resolution of this
14 action. Recently, the California Supreme Court issued its ruling regarding the award of
15 attorney's fees in wage and hour class action settlements. Under California law, the award of
16 attorneys' fees in common fund wage and hour class action settlements should start with the
17 percentage method. *See Laffitte v. Robert Half Int'l*, 1 Cal. 5th 480, 503 (2016) ("We join the
18 overwhelming majority of federal and state courts in holding that when class action litigation
19 establishes a monetary fund for the benefit of the class members, and the trial court in its
20 equitable powers awards class counsel a fee out of that fund, the court may determine the amount
21 of a reasonable fee by choosing an appropriate percentage of the fund created."). Under the
22 percentage of the fund method, the Court's objective remains to "mimic the market" in fixing a
23 reasonable fee. *See Gaskill v. Gordon*, 160 F.3d 361, 363 (7th Cir. 1998) (J. Posner) ("When a
24 fee is set by a court rather than by contract, the object is to set it at a level that will approximate
25 what the market will set... The judge, in other words, is trying to mimic the market in legal
26 services.").

27 An award of 33% of the fund in attorneys' fees mimics the marketplace as it "is

28 ² In fact, the terms of the Settlement provided for reimbursement of costs to Class Counsel not to exceed \$15,000;
again, not a single Class Member objected to the amount of reimbursement to be paid to Class Counsel.

1 supported by the fact that typical contingency fee agreements provide that class counsel will
2 recover 33% if the case is resolved before trial and 40% if the case is tried.” *Fernandez v.*
3 *Victoria Secret Stores LLC*, 2008 WL 8150856, *16 n. 59 (C.D. Cal. July 21, 2008) (citing
4 Brickman, *Effective Hourly Rates of Contingency-Fee Lawyers: Competing Data and Non-*
5 *Competitive Fees* (Fall 2003) 81 Wash U. L. Q. 653, 659 n. 11). Indeed, “empirical studies [that]
6 show that . . . fee awards in class actions average around one-third of the recovery.” *Chavez v.*
7 *Netflix, Inc.*, 162 Cal. App. 4th 43, 66 n.11 (2008).

8 The California Supreme Court in *Laffitte* affirmed a fee award representing 33 1/3
9 percent of the fund. *Laffitte*, 1 Cal. 5th at 506. And this was based on a lodestart amount that
10 required a multiplier of 2.13. *Id.* at 487. As the Court held, only when the multiplier is
11 “extraordinarily high or low [should] the trial court [] consider whether the percentage method
12 should be adjusted so as to bring the imputed multiplier within a justifiable range.” *Id.* at 505.

13 Moreover, in the *Laffitte* intermediate court decision, the court observed that “33 1/3
14 percent of the common fund is consistent with, and in the range of, awards in other class action
15 lawsuits.” *Laffitte v. Robert Half Int’l*, 231 Cal. App. 4th 860, 871 (2014). Here, the fee award
16 representing 33 1/3% of the fund clearly falls within that range, and is consistent with other
17 comprehensive surveys of class action settlements and fee awards. *See* Fitzpatrick, *An Empirical*
18 *Study of Class Action Settlements and Their Fee Award*, 7 J. Empirical Leg. Stud. 811, 833
19 (2010) (analyzing 444 cases between 2006-2007 and concluding that “[m]ost fee awards were
20 between 25 percent and 35 percent, with almost no awards more than 35 percent.”); Eisenberg &
21 Miller, *Attorney Fees in Class Action Settlements: An Empirical Study: 1993-2008*, 7 J. of
22 Empirical Leg. Stud. 248, 262, fn.16 (2010) (independent studies of class action litigation
23 nationwide conclude that fees representing one-third of the total recovery is consistent with
24 market rates).

25 The results delivered by Plaintiff’s Counsel also support the requested percentage of the
26 fund. Here, Plaintiff and his counsel secured a \$450,000 common fund settlement.

27 Finally, “the response of the class members to attorneys’ fee notice, though not decisive,
28 is relevant to the... reasonable determination” regarding fees. *Swedish Hospital v. Shalala*, 1

1 F.3d 1261, 1272 (D.C. Cir. 1993). A positive response rate tends to suggest that the court's
2 "approximation of the market" for fees is well supported. *Id.* at p. 1269. In this case, the class
3 notice specifically notified class members that Plaintiff's Counsel would be seeking 1/3 of the
4 settlement fund as attorneys' fees. To date, no class member has objected to the settlement. This
5 strong favorable response also supports the requested fees.

6 In addition, it is recognized that one of the primary factors justifying an enhanced
7 attorney's fees reward is the attendant risks inherent in the litigation. As observed in *City of*
8 *Detroit v. Grinnell Corp.*, 495 F. 2d 448, 470 (2d Cir. 1974):

9
10 No one expects a lawyer whose compensation is contingent upon his success to
11 charge, when successful, as little as he would charge a client who had agreed to
12 pay for his services, regardless of success. Nor, particularly in complicated cases
producing large recoveries, is it just to make a fee depend solely on the reasonable
amount of time expended.

13 Here, it is clear that a common fund of \$450,000.00 dollars has been created as the entire
14 amount is to be paid out without any reversions. For Class Counsel, the fees here were wholly
15 contingent in nature and the case presented far more risk than the usual contingent fee case.
16 Among the risks was the cost inherent in class action litigation, as well as a potentially drawn-
17 out battle with a defendant that has retained premier defense counsel.

18 As a secondary backup support for the percentage of the fund method, when fees are
19 allocated by percentage method, courts have discretion to "cross-check" the fees awarded
20 through the lodestar method. However, the *Laffitte* Court "emphasize[d] [that] the lodestar
21 calculation, when used in this manner, does not override the trial court's primary determination
22 of the fee as a percentage of the common fund and thus does not impose an absolute maximum
23 or minimum on the potential fee award." *Laffitte*, 1 Cal. 5th at 505 (emphasis added); *In re Rite*
24 *Aid Corp. Secs. Litig.*, 396 F.3d 294, 306-307 (3d Cir. 2005) ("[The lodestar cross-check does
25 not trump the primary reliance on the percentage of common fund method.]").

26 The Supreme Court in *Laffitte* stated: "If the multiplier calculated by means of a lodestar
27 cross-check is extraordinarily high or low, the trial court should consider whether the percentage
28 used should be adjusted so as to bring the imputed multiplier within a justifiable range, but the

1 court is not necessarily required to make such an adjustment.” *Id.* (emphasis added). Thus, a
2 lodestar cross-check is aimed at astronomical multipliers. Indeed, cross-checks are not required;
3 in many cases, performing a cross-check “undermines” one of the primary reasons for using the
4 percentage method: aligning counsel’s incentives with the benefits delivered to the class and
5 discouraging protracted litigation. *Id.* at 506 (finding trial courts “retain the discretion to forgo a
6 lodestar cross-check”); *Report of the Third Circuit Task Force, Court Awarded Attorney Fees*
7 108 F.R.D. 237, 258 (1985); *Lealao*, 82 Cal. App. 4th 19, 29–30 (citing the recommendations of
8 the Third Circuit Task Force with approval and observing that “[t]he criticisms of the lodestar
9 approach set forth in this Report are now echoed by many authorities, who have been most vocal
10 about the manner in which it exacerbates the problem of ‘cheap settlements’ and burdens already
11 overworked trial judge.”).

12 Courts have defined reasonable multipliers on a lodestar cross-check to “range from 2 to
13 4 or even higher.” *Wershba v. Apple Computer, Inc.*, 91 Cal. App. 4th 224, 255 (2001); see also,
14 e.g., *Sutter Health Uninsured Pricing Cases*, 171 Cal App.4th 495, 512 (2009) (applying a 2.52
15 multiplier on a cross-check in an antitrust class action); *Chavez*, 162 Cal. App. 4th at 60
16 (applying a 2.5 multiplier on a lodestar cross-check); *City of Oakland v. Oakland Raiders*, 203
17 Cal. App. 3d 78 (1988) (affirming a 2.34 multiplier without remand). The intermediate court in
18 *Laffitte*, after finding that “2 to 4” is a reasonable range for multipliers on a cross-check, affirmed
19 a 2.13 multiplier. *Laffitte*, 231 Cal. App. 4th at 881-82. The intermediate court opinion was
20 affirmed in full by the California Supreme Court in its new decision guiding lower courts on
21 assessing fees.

22 Moreover, the Ninth Circuit cited with approval a comprehensive study of fees awarded
23 by the percentage method shows that the majority of multipliers awarded are “in the 1.5-3.0”
24 range. See *Vizcaino v. Microsoft Corp.*, 290 F.3d 1043, 1051 (9th Cir. 2002) (affirming a
25 multiplier of 3.65 in an employment class action case and analyzing the multiplier awarded in
26 over 30 cases). Federal district courts applying California law have likewise routinely approved
27 cross-check multipliers between 2 and 3 in employment cases. See, e.g., *Willner v. Manpower*
28 *Inc.*, No. 11-CV-02846-JST, 2015 WL 3863625, at *7 (N.D. Cal. June 22, 2015) (affirming a

1 2.10 multiplier on settlement of California Labor Code violations); *Dyer v. Wells Fargo Bank*,
2 *N.A.*, 303 F.R.D. 326, 334 (N.D. Cal. 2014) (approving attorneys' fees that resulted in lodestar
3 multiplier of 2.83); *Hopkins v. Stryker Sales Corp.*, No. 11-CV-02786-LHK, 2013 WL 496358,
4 at *5 (N.D. Cal. Feb. 6, 2013) (approving a multiplier of 2.76 in settlement of Labor Code
5 violations). Other courts have found even higher multipliers to be reasonable by comparison to
6 other cases. *See Craft v. County of San Bernardino*, 624 F. Supp. 2d 1113, 1125-26 (C.D. Cal.
7 2008) (approving a 5.2 multiplier on a cross-check after surveying a large body of cases
8 affirming a higher multiplier).

9 With respect to Class Counsel's lodestar, to date, over 125 hours have been expended by
10 Class Counsel in this matter. (Lee Decl. at ¶ 8; Magee Decl. at ¶ 3). Moreover, Class Counsel
11 expects to incur approximately 15 additional hours of attorney time in finalizing this settlement.
12 (Lee Decl. at ¶ 8). Mr. Lee requests an hourly rate of \$650.00 per hour, and \$750 per hour for
13 Mr. Magee. (Lee Decl. at ¶ 9; Magee Decl. at ¶ 3). The courts are quite liberal in the evidence
14 required to prove an attorney's hours. Detailed time records are not required. An attorney's
15 testimony alone may suffice: "Testimony of an attorney as to the number of hours worked on a
16 particular case is sufficient evidence to support an award of attorney fees, even in the absence of
17 detailed time records." *Martino v. Denevi*, 182 Cal. App. 3d 553, 559 (1986).

18 Reasonable hours include, in addition to time spent during litigation, the time spent
19 before the action is filed, including time spent interviewing the clients, investigating the facts and
20 the law, and preparing the initial pleadings. *New York Gaslight Club, Inc. v. Carey*, 447 U.S. 54,
21 62 (1980). Further, the fee award should include fees incurred to establish and defend the
22 attorneys' fee claim. *Serrano v. Unruh*, 32 Cal. 3d 621, 639 (1982) [*Serrano IV*]. Thus, Class
23 Counsel requests that the court find that these hours were reasonable in this litigation.

24 A reasonable hourly rate is the prevailing rate charged by attorneys of similar skill and
25 experience in the relevant community. *PLCM Group, Inc. v. Drexler*, 22 Cal. 4th 1084, 1095
26 (2000). The court may consider other factors when determining a reasonable hourly rate, e.g.,
27 the attorney's skill and experience, the nature of the work performed, the relevant area of
28 expertise and the attorney's customary billing rates. *Flannery v. California Highway Patrol*, 61

1 Cal. App. 4th 629, 632-33 (1998).

2 Class Counsel's skill and experience justify the requested rate. As shown in the
3 supporting declarations, Class Counsel have significant experience in the area of employment
4 and wage and hour class actions. Specifically, Class Counsel's practice focuses on representing
5 employees in employment matters, particularly wage and hour cases. (Lee Decl. at ¶ 13; Magee
6 Decl. at ¶¶ 4-5). As such, based on the hours and applicable rate, the total lodestar to be
7 expended by Class Counsel through finalizing this settlement will be approximately
8 \$107,950.00.

9 Once the court establishes the lodestar amount, it may enhance the fee award by a
10 multiplier in order to make an appropriate fee award. *Serrano III*, 20 Cal. 3d at 48. The
11 pertinent factors include the difficulty of the questions involved and the skill in presenting them,
12 the contingent nature of the fee award, the extent to which the litigation precluded other
13 employment, and the percentage-of-the-fund the attorney would have received on the fair
14 market. *Id.*, *Lealao*, 82 Cal. App. 4th at 49. However, this list is not exhaustive and the court
15 can consider other factors it deems important in setting the multiplier. *Ketchum v. Moses*, 24
16 Cal. 4th 1122, 1139 (2001).

17 *Lealao* contains several factors justifying an enhancement based on the percentage-of-
18 the-benefit, namely, no objections by Class Members, commendable conduct by counsel, and
19 significant recoveries by Class Members, all of which were previously detailed above. *Lealao*,
20 82 Cal. App. 4th at 51-53. As in *Lealao*, the Class was notified of the settlement and attorney's
21 fee with no objections. The extreme effort undertaken by counsel, as shown by their hours and
22 the significantly high amount of claims being paid out, shows commendable conduct.

23
24 It is also critical to note that prompt settlement cannot be used to diminish the fee or the
25 enhancement based on a percentage-of-the-fund. *Lealao*, 82 Cal. App. 4th at 52 (the promptness
26 of settlement "cannot be used to justify the refusal to apply a multiplier"). According to *Lealao*,
27 courts placed "an extraordinarily high value" on settlement, and counsel should be rewarded, not
28 punished, for achieving this goal in a timely fashion. *Id.*

1 The multiplier should be enhanced by the contingent nature of counsel's fee recovery.
2 The risks in taking on a class action case are enormous, not the least of which is time and effort.
3 For example, Class Counsel was also the counsel of record for plaintiff in *Blair v. Dole*, LASC
4 Case No. BC536197, wherein, after substantial litigation, this Court granted summary judgment
5 in favor of defendant. Similarly, with respect to the attendant wage statement claim, there was
6 also significant risk involved, as Plaintiff would still need to establish class certification and that
7 Class Members suffered "injury" as required under Labor Code § 226(e). Finally, the class
8 claims could have been completely wiped out in light of Defendant's previously pending Motion
9 to Compel Arbitration which also sought to dismiss/strike the class claims.

10 Thus, the risks are very real and substantial for Class Counsel. Not only was there
11 significant risk taken upon by Plaintiff's counsel in this matter, but their ability to obtain the
12 current settlement should be seen as quite commendable.

13 Here based upon Plaintiff's counsel's lodestar of \$107,950.00, Plaintiff's request for a
14 multiplier of 1.4 is reasonable and fair, particularly based on the factors described above.
15 *Wershba v. Apple Computer, Inc.*, 91 Cal. App. 4th 224 (Ct.App.2001) (noting that courts using
16 the lodestar method to calculate attorney fees awards in class actions typically apply multipliers
17 in the range of 2 to 4); *Boyd v. Bank of Am. Corp.*, 2014 U.S. Dist. LEXIS 162880 (C.D. Cal.
18 Nov. 18, 2014) (awarding 33% of the common fund, based on a multiplier of 2.58, in a wage and
19 hour class action settlement); *Vandervort v. Balboa Capital Corp.*, 8 F. Supp. 3d 1200, 1210
20 (C.D. Cal. 2014) (awarding 33% of the common fund, based on a multiplier of 2.52).

21 As such, the requested fee award is fair and reasonable, and should be awarded in its
22 entirety. Class Counsel risked not only a great deal of time, but also a great deal of expense to
23 ensure the successful litigation of this action on behalf of all Class Members. For such reasons,
24 Class Counsel's request for attorneys' fees in the amount of \$150,000.00 is fair, reasonable, and
25 adequate.
26

27 **VI. THE COURT SHOULD APPROVE THE REQUEST FOR REIMBURSEMENT**
28 **OF COSTS**

1 The request for reimbursement of costs, in the amount of \$4,714.78 is fair and
2 reasonable. Pursuant to the terms of the Settlement Agreement, Plaintiff is allowed to seek
3 reimbursement of litigation costs up to a maximum of \$15,000. To date, Class Counsel has
4 expended \$4,714.78 in litigation related costs. (Lee Decl. at ¶ 11). The authority for the court to
5 award this is the parties' Settlement Agreement and Labor Code § 218.5. As such, this request
6 should be approved.

7 **VII. THE CLAIMS ADMINISTRATOR'S FEES AND COSTS SHOULD BE**
8 **APPROVED**

9 Pursuant to the terms of the Settlement Agreement, the fees and costs of the Claims
10 Administrator, Phoenix Settlement Administrators, are to be paid out of the class settlement
11 funds. In total, the class administration costs total \$6,500.00. (Kruckenberg Decl. ¶ 12). Thus,
12 class administration fees in the amount of \$6,500.00, as agreed to in the Settlement, should be
13 approved.

14 **VIII. CONCLUSION**

15 For all the foregoing reasons, and on the basis of the authorities cited herein, Plaintiff
16 respectfully submits that the standards for final approval have been met, and the terms of the
17 Settlement Agreement are fair, adequate and reasonable.

18 Accordingly, Plaintiff respectfully requests that the Court enter an Order in the form
19 proposed and submitted:

- 20 1. Granting final approval to the proposed Settlement Agreement;
- 21 2. Approving distribution of the settlement funds pursuant to the terms of the
22 Settlement Agreement;
- 23 3. Approving Plaintiff's request for award of the class representative enhancement
24 with payment pursuant to the terms of the Settlement Agreement;
- 25 4. Approving Plaintiff's request for an award of the Class Counsel's fees and costs
26 with payment pursuant to the terms of the Settlement Agreement;
- 27 5. Approving Plaintiff's request for payment of the claims administration costs with
28 payment pursuant to the terms of the Settlement Agreement; and

6. Entering final judgment as to all members of the Settlement Class in this action.

RESPECTFULLY SUBMITTED,

DATED: January 26, 2018

DIVERSITY LAW GROUP, P.C.

By: 
Larry W. Lee
Attorneys for Plaintiff and the Class

[illegible]

STATE OF CALIFORNIA]
COUNTY OF LOS ANGELES]ss.
]

On January 26, 2018, I served the following document(s) described as: **PLAINTIFF'S NOTICE OF MOTION AND MOTION FOR FINAL APPROVAL OF CLASS ACTION SETTLEMENT** on the interested parties in this action as follows:

Attorney for Defendant BLS Limousine Service of Los Angeles, Inc.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on January 26, 2018, at Los Angeles, California.

Olympia Peña