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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

DIYARI CORRAL-BEY, an individual, on behalf of himself and others similarly situated, PLAINTIFF, v. FLUOR FLATIRON BALFOUR BEATTY DRAGADOS DBJV (DBA LINXS); and DOES 1 thru 50, inclusive, DEFENDANTS.	CASE NO. 22STCV20310 [Case Assigned for All Purposes to Hon. David S. Cunningham in Dept. 11] **NOTICE OF MOTION AND MOTION FOR FINAL APPROVAL OF CLASS ACTION SETTLEMENT; MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT THEREOF** *[Filed concurrently with Motion for Approval of Attorneys' Fees and Costs; Declarations of Eric B. Kingsley, Diyari Corral-Bey and Madely Nava, Proposed Order, and Judgment]* Date: August 4, 2025 Time: 10:00 AM Dept.: 11 Complaint Filed: July 22, 2022 Trial Date: None Set

TO ALL PARTIES AND TO THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that on August 4, 2025 at 10:00 AM in Department 11 of the above-entitled court, Plaintiff Diyari Corral-Bey ("Plaintiff") will, and hereby does, move the Court for an Order of Final Approval of the Class Settlement in this case. Plaintiff moves the Court for an order:

1. Granting final approval of the settlement in the case pursuant to the Class Action and PAGA Settlement Agreement ("Agreement"), a copy of which is attached to the concurrently-filed Declaration of Eric B. Kingsley as Exhibit "1";

2. Affirming Kingsley Szamet Employment Lawyers and Abramson Labor Group as Class Counsel;

3. Affirming Diyari Corral-Bey as Class Representative and awarding an enhancement award of $5,000.00;

4. Awarding Apex Class Action Administration claims administration fees of $13,000.00 for its services as Administrator; and,

5. Entering judgment.

This Motion will be made pursuant to Code of Civil Procedure section 382 and California Rule of Court, rule 3.769 on the grounds that the proposed Agreement is fair, adequate, reasonable, and in the best interest of the Settlement Class Members and the parties.

The Motion will be based on this Notice of Motion, the attached Memorandum of Points and Authorities, the Declarations of Eric B. Kingsley, Diyari Corral-Bey, Madely Nava, all other papers and records on file in this action, and on such oral and documentary evidence as may be presented at the hearing on this Motion.

DATED: July 11, 2025

KINGSLEY SZAMET EMPLOYMENT LAWYERS

By: ______________________________

Eric B. Kingsley
Attorneys for Plaintiff DIYARI CORRAL-BEY and the proposed class

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MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

Plaintiff Diyari Corral-Bey ("Plaintiff") submits this Motion for Final Approval of Class Settlement and requests that the Court:

1. Grant final approval of the settlement in this case pursuant to the Class Action and PAGA Settlement Agreement ("Agreement"), a copy of which is attached to the concurrently-filed Declaration of Eric B. Kingsley as Exhibit "1";

2. Award attorneys' fees and costs as detailed in the concurrently-filed Motion for Attorneys' Fees and Costs;

3. Award Apex Class Action Administration claims administration fees of $13,000.00 for its services as Administrator;

4. Affirm named Plaintiff Diyari Corral-Bey as Class Representative and award a cumulative Class Representative payment of $5,000.00; and

5. Enter judgment.

II. FACTUAL BACKGROUND

A. Litigation Overview and Procedural History

On June 22, 2022, Plaintiff filed this wage and hour class action lawsuit, seeking recovery for Defendant's alleged failure to reimburse expenses under Labor Code §2802 and violation of Business & Professions Code §17200. (Declaration of Eric B. Kingsley ("Kingsley Decl.") ¶5.) Also on June 22, 2022, Plaintiff sent a notice letter, pursuant to Labor Code §2699 ("PAGA"), to the Labor Workforce Development Agency ("LWDA") regarding his intent to seek civil penalties for the same Labor Code violations above, under PAGA. (Kingsley Decl. ¶6.)

On August 30, 2022, Plaintiff filed an amended Complaint adding an additional cause of action for penalties pursuant to PAGA based on the underlying Labor Code violations already pled. (Hereafter, the "Action".) (Kingsley Decl. ¶7.)

Defendant filed a notice of removal on or around September 23, 2022, removing the state action to the United States District for the Central District of California, Case No. 2:22cv6903 MEMF-PVCx. (Kingsley Decl. ¶8.) The case was remanded back to Los Angeles County Superior

Court on September 18, 2023. (*Id.*)

B. The Discovery Process

The Parties have not engaged in formal discovery, instead focusing their efforts on resolving this case through early mediation. (Kingsley Decl. ¶9.)

Based on their own independent investigation and evaluation, Class Counsel is of the opinion that the Agreement with Defendant is fair, reasonable and adequate, and in the best interest of the settlement classes in light of all known facts and circumstances, including the risk of significant delay, defenses asserted by Defendant, uncertainties regarding a class and representative action trial on the merits, and numerous potential appellate issues. (Kingsley Decl. ¶10.) Although Defendant denies any liability, Defendant is agreeing to this Agreement solely to avoid the cost of litigation. (*Id.*) Accordingly, the Parties and their counsel desire to fully, finally, and forever settle, compromise and discharge all disputes and claims arising from or relating to the Action on the terms set forth here. (*Id.*)

C. Preliminary Approval

On January 15, 2025, the Court issued an Order preliminarily approving the settlement in this case, approving the proposed Class Notice, ordering that the Administrator send notice to the Class, and setting a date for the Final Approval and Fairness Hearing. (Kingsley Decl. ¶10.)

D. Response Deadline

Due to inadvertent oversight, the Class Notices were not mailed until May 22, 2025. (Kingsley Decl. ¶12.) The response deadline ends on July 21, 2025. (Kingsley Decl. ¶13.) As such, Plaintiff will file a supplemental declaration from the Administrator with the final calculations no later than July 24, 2025. (Kingsley Decl. ¶14.)

III. THE PRELIMINARILY APPROVED SETTLEMENT

A. The Settlement Class

For purposes of Agreement, the settlement Class is defined as: "all non-exempt employees who are employed or have been employed by Fluor Flatiron Balfour Beatty Dragados (DBA Linxs), in the State of California during the Class Period" ("Class"). (Kingsley Decl. ¶15; Agreement, Ex. 1 at § 1, ¶5.) The Class Period is June 22, 2018 to June 10, 2024. (Kingsley Decl.

¶16; Ex. 1 at § 1, ¶24.) As of April 10, 2024 (the date of mediation) and based on documents and other information produced by Defendant, there are approximately 1150 Class Members. (Kingsley Decl. ¶17; Ex. 1 at § 9.)

To date, the Class contains 1,127 individuals. (Nava Decl. ¶14.)

B. The Aggrieved Employees

For purposes of Agreement, the Aggrieved Employees are defined as: "all non-exempt employees who are employed or have been employed by Fluor Flatiron Balfour Beatty Dragados (DBA LINXS), in the State of California during the PAGA Period" ("Aggrieved Employee"). (Kingsley Decl. ¶18; Agreement, Ex. 1 at § 1, ¶4.) The PAGA Period is June 22, 2021 to June 10, 2024. (Kingsley Decl. ¶19; Ex. 1 at § 1, ¶31.) As of April 10, 2024 (the date of mediation) and there are approximately 890 Aggrieved Employees. (Kingsley Decl. ¶20; Ex. 1 at § 9.)

C. Settlement Payments

As detailed fully in the Agreement, the Settlement provides for Defendant to pay a Gross Settlement Amount of $285,000.00, which includes the sum of the Individual Class Payments, the Class Representative service award, the Class Counsel Award, PAGA Payment, and the Settlement Administration Costs. (Kingsley Decl. ¶21; Ex. 1 at § 3, ¶1.) Plaintiff now requests final approval of the allocation of the Gross Settlement Amount to determine the Net Settlement Amount for distribution to the Class as follows:

Gross Settlement Amount:	$	285,000.00
Less Class Counsel's Fees:	$	95,000.00
Less Class Counsel's Costs:	$	12,648.58[1]
Less Administrator's Costs:	$	13,000.00
Less PAGA Payment:	$	10,000.00 *($*7,500.00 *to the LWDA; $*2,500.00 *to remain in the* Net Settlement Amount*)*

[1] The Agreement contemplates a Class Counsel Litigation Expenses Payment of no more than $15,000.00. (Ex. 1 at §3, ¶3.2.2.) However, to-date Class Counsel has incurred $11,973.78 in costs related to this matter. (Kingsley Decl. ¶¶95-98.) Class Counsel anticipates incurring an additional $674.80 in filing Plaintiff's Motion for Approval of Class Action Settlement and Motion for Approval of Attorneys' Fees. As such, Class Counsel is requesting $12,648.58 in litigation expenses. (*Ibid*.) The remaining $2,351.42 will be allocated to the Net Settlement Amount, increasing it from $149,500.00 to $151,851.42, which is higher than originally contemplated. (Ex. 1 at §3.)

Less Class Representative Enhancement:	$	5,000.00
Net Settlement Amount:	**$**	151,851.42

D. Individual Settlement Payments

The Individual Class Payment amount of each Participating Class Member is an individualized amount that is based on the Participating Class Member's pro rata share of the Net Settlement Amount calculated according to the number of Workweeks worked during the Class Period. (Ex. 1 at § 1, ¶23; *see also* Ex. A to the Agreement [Class Notice].) Specifically, Individual Class Payments will be paid from the Net Settlement Amount and shall be paid pursuant to the settlement formula as follows: (a) dividing the Net Settlement Amount by the total number of Workweeks worked by all Participating Class Members during the Class Period and (b) multiplying the result by each Participating Class Member's Workweeks. (Ex. 1 at § 3, ¶2.4.) One hundred percent (100%) of each Participating Class Member's Individual Class Payment will be allocated to settlement of claims for reimbursement, interest and penalties (the "Non-Wage Portion"). The Non-Wage Portions are not subject to wage withholdings and will be reported on IRS 1099 Forms. (Ex. 1 at § 3, ¶2.4.1.)

The Agreement provides for a specific and detailed dispute process regarding Individual Class Payments. (*See* Ex. 1 at § 8, ¶5.)

The Individual PAGA Payment of each Aggrieved Employee will be an equal payment to each Aggrieved Employee calculated by (a) dividing the amount of the Aggrieved Employees' 25% share of PAGA Penalties ($2,500.00) by the total number of PAGA Period Pay Periods worked by all Aggrieved Employees during the PAGA Period and (b) multiplying the result by each Aggrieved Employee's PAGA Period Pay Periods. (Ex. 1 at § 3, ¶2.5.)

Based on current calculations, the average potential recovery is $130.44 per Settlement Class Member. (Nava Decl. ¶16.)

E. Class Notice

The Court approved the proposed Class Notice, and directed the mailing of the Notice by first-class mail to Settlement Class Members in accordance with the proposed implementation schedule. (Kingsley Decl. ¶22) The procedures for giving notice to the Settlement Class Members, as set forth in the Agreement and Plaintiffs' Motion for Preliminary Approval and approved by the Court, have been fully and properly carried out. (Nava Decl. ¶¶3-19.)

To date, Apex Class Action Administration received zero (0) requests to be excluded ("opt-outs") from the proposed Agreement and no objections. (Nava Decl. ¶¶11-13.)

F. Check Mailed Settlement – No Reversion

The Parties agreed to, and the Court preliminary approved, a checks-mailed settlement without the possibility of reversion of settlement funds to Defendant. Under the Agreement, every Settlement Class Member will receive a settlement check and Settlement Class Member do not need to submit a claim in order to receive a settlement check. Any funds that remain uncashed after 180 days shall be turned over by the Administrator, with information for each Settlement Class Member who failed to timely cash his/her settlement check, to the State of California Controller's Office Unclaimed Property Fund. (Ex. 1 at § 4, ¶4.3.)

IV. THE COURT SHOULD ORDER FINAL APPROVAL OF THE SETTLEMENT

Pursuant to California Code of Civil Procedure § 1781(f), "a class action shall not be dismissed or compromised without the approval of the court, and notice of the proposed dismissal or compromise shall be given to all members of the Class in such manner as the court directs . . . ." In deciding whether to grant final approval to a proposed class action settlement under Code of Civil Procedure § 382, the court's overriding concern is whether the proposed settlement is "fair, adequate, and reasonable." (*Dunk v. Ford Motor Co.* (1996) 48 Cal.App.4th 1794, 1801.)

A. The Settlement is Entitled to a Presumption of Fairness

"A presumption of fairness exists where: (1) the settlement is reached through arm's length bargaining; (2) investigation and discovery are sufficient to allow counsel and the court to act intelligently; (3) counsel is experienced in similar litigation; and (4) the percentage of objectors is small." (*Dunk*, *supra*, 48 Cal.App.4th at p. 1802.) The proposed Settlement in the present case meets all of the *Dunk* factors and is therefore entitled to a presumption of fairness.

As to the first *Dunk* factor, this settlement is the result of adversarial, non-collusive, and arm's-length negotiations. All settlement discussions were made by experienced and informed counsel, who believe that this settlement represents a favorable resolution for the Settlement Class

Members. (Kingsley Decl. ¶23.) The settlement negotiations have been, at all times, adversarial and non-collusive, and no self-dealing or other type of misconduct by either side has taken place. (Kingsley Decl. ¶24.)

Second, the Parties engaged in informal discovery that permitted Class Counsel to fairly evaluate the strength of the case and the risks associated with ongoing litigation. This included information needed to evaluate the reimbursement claim. (Kingsley Decl. ¶25.) Receipt of appropriate discovery allowed Class Counsel to fairly evaluate the exposure and risks associated with each claim alleged in the lawsuit. (Kingsley Decl. ¶26.)

Third, Class Counsel have significant experience in cases of this type, including several years prosecuting wage, hour, and working condition violations. (Kingsley Decl. ¶27.) Class Counsel is thus qualified to evaluate the class claims and viability of the defenses. Class Counsel believes that the settlement is fair, reasonable, adequate, and in the best interests of the class and that the average recovery for each Settlement Class Member $130.44 is substantial, given the risks inherent in litigation and the defenses asserted. (Kingsley Decl. ¶28.)

Finally, the fourth *Dunk* factor considers the percentage of objectors. Here, there were zero (0) request to be excluded and no objectors. (Nava Decl. ¶¶11-13.) As all of the *Dunk* factors are satisfied, this settlement is entitled to a presumption of fairness.

B. <u>The Court Should Approve This Class Action Settlement Because it Satisfies Each of the *Kullar* Factors</u>

The case of *Kullar v. Foot Locker Retail, Inc* (2008) 168 Cal.App.4th 116, 128, set forth several factors that the Court should analyze in determining whether to approve a class action settlement. These factors include: (1) the strength of plaintiff's case; (2) the risk, expense, complexity and likely duration of further litigation; (3) the risk of maintaining class action status through trial; (4) the amount offered in settlement; (5) the extent of discovery completed and stage of the proceedings; (6) the experience and views of counsel; (7) the presence of a governmental participant; and (8) the reaction of the class members to the proposed settlement.

In *Munoz v. BCI Coca-Cola Bottling Co. of Los Angeles* (2010) 186 Cal. App. 4th 399, 409, the court clarified that a Kullar showing does not require the parties to submit the outer reaches of maximum possible recovery without taking into account the actual risks of certification, decertification, dispositive motions, and trial, so long as there is a record which allows "an understanding of the amount that is in controversy and the realistic range of outcomes of the litigation." *Munoz*, 186 Cal. App. 4th at 409.

The proposed settlement satisfies each of these factors. (Kingsley Decl. ¶29.) Class Counsel conducted extensive informal discovery before entering into meaningful settlement negotiations in this matter. (*Id.* at Kingsley Decl. ¶¶9-10.) This discovery permitted Class Counsel to fairly evaluate the strength of the case and the risks associated with ongoing litigation. (Kingsley Decl. ¶30.) Class Counsel is experienced in handling wage and hour class actions and, after weighing all of the following factors, supports this Agreement. (Kingsley Decl. ¶31.)

1. <u>The Strength of Plaintiffs' Case</u>

a) The Risks Associated with the Reimbursement Claim

Labor Code section 2802 provides that an employer must "indemnify his or her employee for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of his or her duties . . . ." (Lab. Code, § 2802, subd. (a).)

Here, Defendant required Plaintiff and the Proposed Class to use their cell phones for each and every shift. Defendant also required Plaintiff and the aggrieved employees be available by cell phone and answer/use their cell phones while working and this was necessary to perform their job duties. (Kingsley Decl. ¶32.) This was the primary method of communication between the crew and supervisors. (*Id.*)

For example, Plaintiff and all aggrieved employees communicated with Defendant's supervisors via text message or phone call on their personal cell phones. (*Id.*) As such, these cell phones were not provided by Defendant and Defendant failed to reimburse Plaintiff and the aggrieved employees for the costs of regular and consistent cellular phone usage, vehicle usage, and purchased tools for work despite the fact that these expenditures were necessary for business related purposes. (Kingsley Decl. ¶33.)

Defendant argued that there was no need for cell phone usage, and any use was at the choice of the employee and was minimal. (Kingsley Decl. ¶34.)

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b) The Risks Associated with the PAGA Claim

PAGA's statutory penalties are available for violations of Labor Code sections 2802 as stated in Labor Code section 2699. Labor Code section 2699(f) provides, in relevant part, "[f]or all provisions of this code except those for which a civil penalty is specifically provided, there is established a civil penalty for a violation of these provisions, as follows: one hundred dollars ($100) for each aggrieved employee per pay period for the initial violation and two hundred dollars ($200) for each aggrieved employee per pay period for each subsequent violation." In addition, the statute provides that "[a]ny employee who prevails in any action shall be entitled to an award of reasonable attorney's fees and costs." (Labor Code § 2699(g)(1).)

As each penalty corresponds to an independent Labor Code violation, the penalties are aggregated consistent with PAGA's purpose. (See *Gonzalez v. CoreCivic of Tennessee, LLC* (E.D. Cal., Sept. 13, 2018, No. 116CV01891DADJLT) 2018 WL 4388425, at *8 [PAGA penalties may be "stacked" when multiple violations are at issue, and "there is no obvious reason to use 'unstacked' calculations to estimate the value of the case" when determining whether to approve a PAGA settlement.].) As such, Defendant is liable for PAGA penalties for each Labor Code violation per pay period.

The Parties discounted the PAGA claim for multiple reasons. First, the aggrieved employees' PAGA claims are derivative of all the foregoing class claims. Second, a court has discretion to award less than the maximum penalty. Labor Code § 2699(e)(2) ("a court may award a lesser amount than the maximum civil penalty amount specified by this part if, based on the facts and circumstances of the particular case, to do otherwise would result in an award that is unjust, arbitrary and oppressive, or confiscatory"). *See e.g.*, *Carrington v. Starbucks Corporation* (2018) 30 Cal.App.5th 504, 241 Cal.Rptr.3d 647, 669 (affirming award of 10% of maximum PAGA penalty). Finally, the settlement Class is compensated for these violations in the proposed Agreement, and thus any PAGA recovery for these same violations would be duplicative. As such, the Agreement's contemplated PAGA payment of $10,000.00 is appropriate. (Kingsley Decl. ¶35.)

See Nordstrom Commissions Cases, 186 Cal.App.4th 576, 589 (2010) (affirming settlement allocating $0 of $6.4 million settlement to PAGA penalties).

2. The Risk, Expense, Complexity, and Likely Duration of Further Litigation

There is significant expense associated with the class certification process, which the Parties can avoid by entering into the contemplated Agreement now. (Kingsley Decl. ¶36.) If the Court did eventually certify reimbursement class, trial of a case involving approximately 1150 Class Members would require the retention of expensive expert witnesses, the accrual of extensive litigation costs, and a significant time overlay by the parties. (Kingsley Decl. ¶37.) Moreover, given the complexity and unsettled nature of the issues in this case it is likely that any outcome at trial would have resulted in a lengthy and costly appeal. (Kingsley Decl. ¶38.) An appeal would result in further delay for the Class Members who are waiting for a resolution in this matter. (*Id.*)

3. The Risk of Maintaining Class Action Status through Trial

This case has not been certified to be tried as a class action. (Kingsley Decl. ¶39.) While Plaintiff believes there is strong evidence to support certification, certification is always hard fought and subject to judicial discretion. Moreover, in class actions, decertification is always a possibility. (*Id.*) In attempting to certify a class, the parties would need to conduct multiple depositions, including of the Class Representative and of several person(s) most knowledgeable regarding Defendant's reimbursement policies. (*Id.*) There is a risk for both sides as to what these depositions will reveal and whether they will support class certification. (*Id.*)

4. The Amount Offered in Settlement

It was very difficult for the Parties to reach this Settlement of $285,000.00. (Kingsley Decl. ¶40.) This Settlement is the result of adversarial, non-collusive, and arms-length negotiations. (Kingsley Decl. ¶41.) The Parties arrived at it after extensive investigation and discovery, careful evaluation of the law, risks, and all information substantiating the amount of penalties reasonably likely to be awarded to the class were the trier of fact to find Defendant liable, and the assistance of an experienced mediator, Hon. Tagore Subramaniam. (*Id.*)

a) Plaintiff's Assessment of Defendant's Maximum Exposure

With regard to the Reimbursement Claim analysis, Plaintiff believed that it was reasonable to value the potential reimbursement at $25.00 per month, per employee, for reimbursement of personal cell phone usage. (Kingsley Decl. ¶42.) This brought the damages for this claim to $412,500.00 (16,500 months at $25.00 per month). (Kingsley Decl. ¶43.) Plaintiff took into account the risks noted above that cell phone usage was by choice and sporadic. Plaintiff assessed the full value of the PAGA claim, without any discount, at approximately $2,279,070.00. (Kingsley Decl. ¶44.) This is based on converting the 49,000 pay periods in the PAGA Period, to months and assessing a $100.00 penalty per month (22,790.70 months). (Kingsley Decl. ¶45.)

The main risk taken into account with PAGA is the discretionary nature of the penalty award. (Kingsley Decl. ¶46.) A judge can award the statutory maximum of $100 for the initial violation and $200 thereafter or – in theory – one cent per wage statement. (Kingsley Decl. ¶47.) While there is a dearth of available authority, in Plaintiff's view, were he to succeed on any of the underlying Labor Code violations, it is not likely that a Judge would also award a large amount of penalties of top of any damages recovered. (Kingsley Decl. ¶48.)

Per Plaintiff's assessment, the maximum potential value of all of Plaintiff's and the Class Members' claims was approximately $2,691,570.00. (Kingsley Decl. ¶49.) However, as a result of the forgoing risks on the merits, Class Counsel believes the Gross Settlement Amount of $285,000.00 is fair and reasonable. (Kingsley Decl. ¶50.)

5. <u>The Extent of Discovery Completed and Stage of the proceedings</u>

As outlined above, Class Counsel conducted a thorough investigation into the facts of the claims alleged. (Kingsley Decl. ¶51.) The agreement to settle did not occur until Class Counsel exchanged and possessed sufficient information to make an informed judgement regarding the likelihood of success on the merits and the results that could be obtained through further litigation. (*Id.*)

6. <u>The Experience and Views of Counsel</u>

Kingsley Szamet Employment Lawyers is very experienced in prosecuting employment litigation, and the firm has focused its practice since 2000 on wage, hour, and working condition violations. (Kingsley Decl. ¶¶52-53.) The firm is well versed in class action litigation and has diligently and aggressively pursued this action. (*IbId.*) Kingsley Szamet Employment Lawyers currently serves as Class Counsel for dozens of pending class action lawsuits in Northern, Central, and Southern California. (*Ibid*.) A list of representative cases that Kingsley Szamet Employment Lawyers has handled is included in the accompanying declaration of Eric B. Kingsley. (Kingsley Decl. ¶¶52-53.) After factoring in the risks explained above, Class Counsel believes that the proposed settlement is fair and reasonable. (Kingsley Decl. ¶54.)

7. <u>The Presence of a Governmental Participant</u>

There is no governmental participant in this action. (Kingsley Decl. ¶55.)

8. <u>The Proposed Plan of Allocation Is Fair and Reasonable</u>

Plans of allocation are subject to the same standard of review as class action settlements; they must be "fair, adequate and reasonable." (See, e.g., *Officers for Justice v. Civil Service Comm'n* (9th Cir. 1982) 688 F.2d 615, 624–625, 629–630.) Here, the proposed plan of allocation compensates Class Members pro rata based on the number of Workweeks worked by the Class Member during the Class Period. The lump sum payment to each member of the Settlement Class not excluding him/ herself will be determined by (a) dividing the Net Settlement Amount by the total number of Workweeks worked by all Participating Class Members during the Class Period and (b) multiplying the result by each Participating Class Member's Workweeks. This allocation distributes Settlement funds proportionally to each class member's damages, and should therefore be approved as fair, adequate, and reasonable. (Ex. 1 at § 3, ¶2.4.)

9. <u>The Reaction of the Class Members to the Proposed Settlement</u>

To date, there are zero (0) request to be excluded from the proposed Agreement and zero (0) objections. (Nava Decl. ¶¶11-13.) Such indicates that the reaction of Settlement Class Members on the whole is positive and weighs in favor of approval. Again, Plaintiff will file a supplemental declaration from the Administrator with the final calculations no later than July 24, 2025.

V. ENHANCEMENT TO PLAINTIFF

Plaintiff's Counsel request an enhancement of $5,000.00 to the Class Representative Diyari Corral-Bey for his work on behalf of the Class. (Kingsley Decl. ¶101.) "Courts routinely approve incentive awards to compensate named plaintiffs for the services they provide and the risks they incurred during the course of the class action litigation." *Ingram v. The Coca-Cola Company*, 200

F.R.D. 685, 694 (N.D. Ga 2001) (internal quotations and citations omitted); *see also Van Vranken v. Atlantic Richfiled Co.*, 901 F. Supp. 294, 299 (N.D. Cal. 1995). In *Coca-Cola*, the Court approved service awards of $300,000 to each named plaintiff in recognition of the services they provided to the class by responding to discovery, participating in the mediation process, and taking the risk of stepping forward on behalf of the class. *Coca-Cola*, 200 F.R.D. at 694; *see also*, *e.g. Van Vranken*, 901 F. Supp. at 299 (approving $50,000 participation award to plaintiffs); *Glass v. UBS Financial Services, Inc.*, Case No. C-06-4068 MMC, 2007 WL 227862, at *17 (N.D. Cal. Jan. 26, 2007) (approving $25,000 enhancement to each named plaintiff).

Mr. Corral-Bey is an adequate class representative because he has diligently, adequately and fairly represented the Class and has not placed his interests above any member of the Class. (*see* Declaration of Diyari Corral-Bey ("Corral-Bey Decl.") ¶¶4-14.)

Here, Class Counsel requests an enhancement for Mr. Corral-Bey's valiant effort and time expended in this matter. The time spent by Plaintiff is significant and includes researching and retaining competent counsel; providing information to Class Counsel regarding the nature of the work at Defendant; compiling relevant documents; working closely with Class Counsel to develop the theories of liability and martial relevant evidence; regularly discussing the status of the case with Class Counsel; discussing the case via telephone with many Class Members; attending a full-day of mediation; and responding promptly to Class Counsel's communications regarding settlement. (Kingsley Decl. ¶102; Corral-Bey Decl. ¶¶5-14.) As set forth in the Agreement, Plaintiff will also be entering into a general release of liability pursuant to Civil Code Section 1542. (Kingsley Decl. ¶103; Ex. 1 at § 6, ¶1.1.)

Class Counsel considers this to be a fair and reasonable enhancement. (Kingsley Decl. ¶104.) The enhancement takes into consideration the time, effort, and expense incurred by Mr. Corral-Bey in coming forward to litigate this matter on behalf of all Settlement Class Members. (Kingsley Decl. ¶105.) Additionally, the Class Representative was at risk for paying for Defendant's legal fees and costs in the event that Defendant prevailed at trial. (Kingsley Decl. ¶106.)

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VI. SUBMISSION TO THE LABOR AND WORKFORCE DEVELOPMENT AGENCY

As indicated on the Proof of Service, Plaintiff's Motion for Final Approval of Class Action Settlement ("Motion") will be concurrently uploaded to the Labor and Workforce Development Agency's ("LWDA") website on the date this Motion is filed as required by statute. Proof of submission of Plaintiff's Motion, all related documents, and copy of the email from the LWDA confirming receipt is attached to the Declaration of Eric B. Kingsley as Exhibit "7." (Kingsley Decl. ¶113.)

VII. CONCLUSION

Plaintiff respectfully submits that the proposed Agreement is fair, adequate, reasonable, and in the best interest of the Settlement Class Members. Therefore, Plaintiff respectfully requests that the Court (1) grant Final Approval of the Agreement and all of its terms; (2) award attorneys' fees and costs in the amount detailed in the concurrently filed Motion for Attorneys' Fees and Costs; (3) award Apex Class Action Administration claims administration fees of $13,000.00; and (4) award the Class Representative an enhancement of $5,000.00; and (5) enter judgment.

DATED: July 11, 2025

KINGSLEY SZAMET EMPLOYMENT LAWYERS

By: ______________________

Eric B. Kingsley
Attorneys for Plaintiff DIYARI CORRAL-BEY and the proposed class

(PROOF OF SERVICE)
[CCP 1013(a)(3)]
STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California. I am over the age of 18 years and not a party to the within action. My business address is 16133 Ventura Boulevard, Suite 1200, Encino, California 91436.

On July 11, 2025, I served all interested parties in this action the following documents described as: **NOTICE OF MOTION AND MOTION FOR FINAL APPROVAL OF CLASS ACTION SETTLEMENT; MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT THEREOF** by placing a true copy thereof enclosed in a sealed envelope addressed as follows:

FISHER & PHILLIPS LLP
Lonnie D. Giamela
lgiamela@fisherphillips.com
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Attorneys for Defendant

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11846 Ventura Blvd, Suite 100
Studio City, CA, 91604
Attorneys for Plaintiff

[XX] BY ELECTRONIC SERVICE: I caused a true and correct copy thereof to be electronically filed using the Labor and Workforce Development Agency Electronic Filing ("EF") System (https://dir.tfaforms.net/315) and service was completed by electronic means by transmittal of the documents referenced herein on the EF System.

[[XX] (BY ELECTRONIC MAIL THROUGH CASE ANYWHERE) On interested parties set forth on the attached service list.

[XX] (STATE) I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on July 11, 2025, at Encino, California.

Kimberly Madrid