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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES**

JUAN DAVID ARREOLA CARRILLO, as
an individual and on behalf of all others
similarly situated,

Plaintiff,

vs.

KPS GLOBAL, LLC, a Delaware corporation;
and DOES 1 through 100,

Defendants.

CASE NO. 22STCV19527

*[Case assigned for all purposes to the Hon.
Kenneth R. Freeman, Dept. 14]*

**PLAINTIFF'S NOTICE OF MOTION
AND MOTION FOR FINAL APPROVAL
OF CLASS ACTION SETTLEMENT,
ATTORNEYS' FEES AND COSTS, AND
CLASS REPRESENTATIVE
ENHANCEMENT AWARD**

Date: March 11, 2025
Time: 11:00 a.m.
Dept.: 14

Action Filed: June 15, 2022
Trial Date: None Set

PLEASE TAKE NOTICE that on March 11, 2025, at 11:00 a.m., or as soon thereafter as the matter may be heard in Department 14 of the Los Angeles County Superior Court, located at 312 North Spring Street, Los Angeles, CA 90012, Plaintiff Juan David Arreola Carrillo, individually and on behalf of a class of similarly situated individuals, will and hereby does move this Court for entry of an Order pursuant to California Code of Civil Procedure § 382 and Rule 3.769 of the California Rules of Court:

1. Confirming the certification of the Settlement Class for settlement purposes under California Code of Civil Procedure § 382;
2. Confirming the appointment of Plaintiff Juan David Arreola Carrillo as the Class Representative for settlement purposes;
3. Confirming the appointment of Fletcher W. Schmidt, Paul K. Haines, Andrew J. Rowbotham, and Susan J. Perez of Haines Law Group, APC as Class Counsel for settlement purposes;
4. Granting final approval of the proposed Class Action and PAGA Settlement Agreement (“Settlement Agreement”);
5. Approving an award of \$419,326.17 in attorneys’ fees to Class Counsel;
6. Approving an award of \$19,896.23 in actual litigation costs reimbursement to Class Counsel;
7. Approving an award of \$10,000.00 in costs to CPT Group, Inc. (“CPT”) for its settlement administration services;
8. Approving a Class Representative Enhancement Award of \$5,000.00 to Plaintiff Juan David Arreola Carrillo for his service as Class Representative; and
9. Entering final judgment in the form of the [Proposed] Judgment and Order Granting Plaintiff’s Motion for Final Approval of Class Action Settlement, Attorneys’ Fees and Costs, and Class Representative Enhancement Award (the “[Proposed] Judgment and Order”) submitted herewith.

This Motion is made on the following grounds: (1) the Settlement Class continues to meet the requirements for class certification for settlement purposes only under Code of Civil

1 Procedure § 382; (2) Plaintiff and Class Counsel continue to be adequate representatives of the
2 Settlement Class; (3) the Settlement is a fair, adequate, and reasonable compromise of disputed
3 wage and hour claims; (4) the requested awards of attorneys' fees and costs, Class Representative
4 Enhancement Award, and settlement administration costs are all fair, adequate, and reasonable;
5 and (5) in light of the foregoing, the [Proposed] Judgment and Order submitted concurrently
6 herewith should be entered so as to give finality to, and allow for disbursements from, the
7 Settlement.

8 This Motion is based on this Notice of Motion; the attached Memorandum of Points and
9 Authorities; the supporting declarations of Fletcher W. Schmidt, Paul K. Haines, Andrew J.
10 Rowbotham, Susan J. Perez, Juan David Arreola Carrillo,¹ and Emilio Cofinco of CPT, and the
11 exhibits attached thereto; the Settlement Agreement; all other pleadings and papers on file in this
12 action; and on any further oral or documentary evidence or argument presented at the time of
13 hearing.

14 Dated: February 7, 2025

Respectfully submitted,
HAINES LAW GROUP, APC

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16 By:



Andrew J. Rowbotham
Attorneys for Plaintiff

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28 ¹ Plaintiff Juan David Arreola Carillo previously submitted his declaration in support of
preliminary settlement approval on January 2, 2024. For the convenience of the Court, Plaintiff
is re-submitting his declaration with the current filing.

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1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. INTRODUCTION**

3 Plaintiff Juan David Arreola Carrillo (“Plaintiff”) hereby submits this Memorandum of
4 Points and Authorities in support of his Motion for Final Approval of this Class Action Settlement
5 (the “Settlement”) on behalf of all current and former nonexempt employees of KPS Global, LLC
6 (“Defendant”) in California who worked at any time between June 15, 2018, and August 15, 2024
7 (the “Class Period”). Plaintiff and Defendant will be referred to collectively herein as the
8 “Parties.”

9 This is a \$1,257,978.50 non-reversionary Settlement.² All participating Settlement Class
10 members will automatically receive payments without the need to submit a claim form. This
11 results in average Individual Settlement Payment of approximately \$1,475.06 to each of the 511
12 Settlement Class members, with the highest Individual Settlement Payment expected to be
13 approximately \$7,735.02. Further, this Settlement provides additional consideration to the State
14 of California and 428 aggrieved employees for the resolution of the Private Attorneys General
15 Act (“PAGA”) claim, resulting in average Individual PAGA Payments of approximately \$27.36,
16 with the highest additional Individual PAGA Payment expected to be approximately \$167.00.
17 This is an excellent resolution of the disputed wage and hour claims at issue in this case
18 considering the significant litigation risks that Plaintiff faced. After receiving notice of the
19 proposed Settlement and the estimated Individual Settlement Payments, not a single Settlement
20 Class members disputed their workweek information, objected to, or elected to opt out of, the
21 Settlement, providing a perfect 100% participation rate.

22 As explained below, the Court should grant Plaintiff’s Motion in its entirety because:
23 (1) the Settlement Class continues to meet the requirements for class certification for settlement
24 purposes under Code of Civil Procedure § 382; (2) the Settlement is a fair, adequate, and

25 _____
26 ² Shortly after receiving the class data from Defendant, the Settlement Administrator informed
27 the Parties that the number of workweeks worked by Settlement Class members during the Class
28 Period exceeded the threshold set by the escalator clause by 36.43%. As a result, the Gross
Settlement Amount was automatically increased by 26.43% per the terms of the Settlement (from
\$995,000.00 to \$1,257,978.50). Settlement Class members were informed of the updated figures
with their Notice Packets.

reasonable compromise of the disputed claims in this case; and (3) the amounts requested for Class Counsel’s attorneys’ fees and costs, Plaintiff’s Class Representative Enhancement Award, payment to the LWDA, and settlement administration costs are all fair, adequate, and reasonable. In light of the foregoing, this Court should enter the [Proposed] Judgment and Order Granting Plaintiff’s Motion for Final Approval of Class Action Settlement, Attorneys’ Fees and Costs, and Class Representative Enhancement Award (the “[Proposed] Judgment and Order”), submitted concurrently herewith.

II. FACTUAL AND PROCEDURAL BACKGROUND

Defendant manufactures and installs insulated panel systems, aftermarket parts, and replacement equipment along with custom walk-in coolers, walk-in freezers and industrial cold storage applications in San Dimas, California. Declaration of Andrew J. Rowbotham (“Rowbotham Decl.”), ¶ 9. Plaintiff was employed by Defendant as a non-exempt “Assembler” and “Machine Operator” from approximately May 2017 until approximately December 2021. Declaration of Juan David Arreola Carrillo (“Carrillo Decl.”), ¶ 2. Like all Settlement Class members, Plaintiff was subject to Defendant’s wage and hour policies and practices. *Id.*

On June 15, 2022, Plaintiff filed the initial Complaint in this action, alleging Defendant failed to: (i) pay all overtime wages; (ii) pay all minimum wages; (iii) provide all meal periods; (iv) authorize and permit all rest periods; (v) provide accurate, itemized wage statements; (vi) timely pay all final wages upon separation of employment; and (vii) comply with California’s Unfair Competition law. Rowbotham Decl. ¶ 10. On August 22, 2022, Plaintiff filed the operative First Amended Complaint (“FAC”), adding a cause of action for civil penalties under PAGA. *Id.*

In connection with mediation, Defendant provided Plaintiff with timekeeping and payroll records for putative class members who worked any of the representative 14-month sampling of the Class Period (25% of the total months at the time). Rowbotham Decl., ¶ 11. Defendant also provided the employee handbook and other relevant policies, including bonus policies, in effect during the Class Period. *Id.* Plaintiff, with the help of his expert who holds a Ph.D. in economics, conducted an analysis of this data and created a comprehensive damages model to calculate the likely exposure that Defendant faced on each claim. *Id.*

On March 2, 2023, the Parties participated in a mediation with Jeffrey Krivis, Esq., a highly respected wage and hour class action mediator. Rowbotham Decl., ¶ 12. During mediation, the Parties exchanged divergent views on Defendant’s liability and exposure valuations, their legal positions, and the likelihood of certification of Plaintiff’s claims. *Id.* With the help of Mr. Krivis, the Parties ultimately reached a class-wide settlement at the conclusion of mediation. *Id.* Over the following months, the Parties negotiated and executed the Settlement. *Id.* The Court preliminarily approved the Settlement on August 15, 2024. *Id.*; *see* Exhibit 1 (Preliminary Approval Order).³

On November 27, 2024,, the Court-approved Class Notice was mailed via U.S. first-class mail to all 511 potential Settlement Class members. *See* Declaration of Emilio Cofinco (“Cofinco Decl.”), ¶ 8; Exhibit A. Settlement Class members had until January 27, 2025, to submit disputes, objections, and/or requests for exclusion (the “Response Deadline”). *Id.* After the Response Deadline passed, no Settlement Class members objected to, or elected to opt-out of, the Settlement, resulting in a 100% participation rate. *Id.*, ¶¶ 12-14, 16. Plaintiff now respectfully submits the Settlement for this Court’s final approval.

III. SUMMARY OF THE SETTLEMENT AND NOTICE PROCESS

A. Settlement Class Definition

The Settlement Class includes: “all current and former nonexempt employees of Defendant in California who worked at any time between June 15, 2018, and August 15, 2024.” *See* Rowbotham Decl., Exhibit 1.

B. Monetary Terms

Defendant will pay a non-reversionary Gross Settlement Amount (“GSA”) of \$1,257,978.50. *See* Settlement, ¶ 3.1. The Net Settlement Amount (“NSA”) is the amount remaining from the GSA after deducting Court-approved amounts for attorneys’ fees (\$419,326.17) and verified costs reimbursement (\$19,896.23), the Class Representative Enhancement Award (\$5,000.00), settlement administration costs (\$10,000.00), and payment to

³ Plaintiff provided the LWDA with the Settlement Agreement along with all moving papers associated with the Motion for Preliminary Approval. *See* Rowbotham Decl. ¶ 13; Exhibit 2 (LWDA Submission Confirmation)

the LWDA for its share of PAGA penalties (\$37,500.00). *See id.*, ¶ 1.28; Rowbotham Decl., ¶ 14, Exhibit 3 (Cost Records).⁴ Based on these requested amounts, the NSA is calculated to be \$753,756.10. *See* Cofinco Decl., ¶ 15.

CPT Group, Inc. (“CPT”) will calculate and apportion Individual Settlement Payments based on the proportionate number of workweeks worked by each participating Settlement Class members during the Class Period divided by the total number of workweeks worked by all participating Settlement Class members. Settlement, ¶ 3.2.4. Further, 25% of the amount set aside for PAGA will be paid to all Aggrieved Employees, regardless of their election to opt-out from participating in the Settlement, based on the proportionate number of workweeks worked by the PAGA Aggrieved Employees during the PAGA Period, divided by the total number of pay periods worked by all PAGA Aggrieved Employees during the PAGA Period. *Id.*, ¶ 3.2.5. Individual Settlement Payments will be classified as 1/3 wages to be reported on an IRS Form W-2, and 2/3 penalties and interest to be reported on an IRS Form 1099. *Id.*, ¶ 3.2.4.1. The portion of PAGA civil penalties payable to the Aggrieved Employees will be allocated as 100% penalties to be reported on an IRS Form 1099. *Id.*, ¶ 3.2.5.2.

C. Summary of Notice Process

On November 19, 2024, Defendant provided CPT, the Court-approved Settlement Administrator, with a mailing list containing the names, last known mailing addresses, Social Security numbers, phone number, email, dates of employment, workweeks and pay period information for each potential Settlement Class member during the Class Period. Cofinco Decl., ¶ 5. After performing address updates and verifications, CPT mailed the Class Notice to all 511 potential Settlement Class members on November 27, 2024. *Id.*, ¶¶ 7-8. Following the initial mailing, 63 Notice Packets were returned. *Id.*, ¶ 10. As a result of CPT’s use of a skip trace, 32 Notice Packets were re-mailed. *Id.*, ¶ 11. Ultimately, 32 Notice Packets remains undeliverable. *Id.* Settlement Class members had until January 27, 2025, to submit objections, disputes, and/or

⁴ Class Counsel’s cost records identify to-date out of pocket expenses as \$19,841.01. *See* Rowbotham Decl., Exhibit 3. This figure includes an additional \$55.22 in anticipated future costs for the filing and service of the Motion for Final Approval and the Settlement Administrator’s final accounting declaration. Rowbotham Decl., ¶ 14.

requests for exclusion. *Id.*, ¶¶ 8. As of the date of this filing, not a single Settlement Class member objected to, or elected to opt out of, the Settlement, resulting in a 100% participation rate. *Id.*, ¶¶ 12-14, 16. CPT also reports zero disputes regarding the information included in the Notice Packets. *Id.*, ¶ 13.

D. Timing of Payments

Defendant will deposit the GSA (\$1,257,978.50), along with the amounts necessary to fully pay Defendant's share of payroll taxes, with the Settlement Administrator within thirty (30) calendar days after the Court enters a Judgment on its Order Granting Final Approval of the Settlement, assuming no objections or appeals. *See* Settlement, ¶ 4.3. Should an objection or appeal be filed, Defendant will fund the GSA within thirty (30) days of the Judgment becoming final. *Id.* Within ten (10) business days following the full funding of the GSA, the Settlement Administrator will calculate all Individual Class Payments and Individual PAGA Payments and mail the Individual Settlement Payments to the participating Settlement Class members. *Id.*, ¶ 4.4. Settlement Class members will have 180 days from the date CPT mails the Individual Settlement Payments to cash their checks. *Id.*, ¶ 4.4.1. In the event that there are any uncashed checks remaining after 180 days, CPT will transfer any remaining funds to the California Controller's Unclaimed Property Fund in the name of the Settlement Class Member. *Id.*, 4.4.3.

IV. ARGUMENT

A. This Court Should Confirm its Conditional Certification of the Settlement Class for Settlement Purposes Because It Meets All of the Requirements for Class Certification Under Code of Civil Procedure § 382

Under Code of Civil Procedure § 382, a class may be certified if: (1) it is ascertainable and its members are too numerous for joinder to be practical; (2) the representative and absent class members share a community of interest, and questions of law and fact common to the class predominate over questions unique to individual class members; (3) the representative's claims are typical of the class's claims; and (4) the representative will fairly and adequately represent the class's interests. *See Richmond v. Dart Industries, Inc.* (1981) 29 Cal.3d 462, 470. Here, the Court found that the Settlement Class meets all the requirements for class certification for settlement purposes when it granted preliminary approval of the Settlement on August 15, 2024. *See*

Rowbotham Decl., Exhibit 1. Since then, no events have cast doubt on the propriety of this determination, and in fact, the reaction of the Settlement Class members has been overwhelmingly supportive of the Settlement, with not a single Settlement Class member objecting to, or electing to opt out of, the Settlement, resulting in a 100% participation rate. *See* Cofinco Decl., ¶¶ 12-14, 16. The Court should therefore confirm its conditional certification of the Settlement Class.

B. This Court Should Finally Approve the Settlement Because it is a Fair, Adequate, and Reasonable Compromise of Disputed Wage and Hour Claims

California courts have a strong policy in favor of settlement. *See Stambaugh v. Superior Court* (1976) 62 Cal.App.3d 231, 236. Unlike individual settlements, class action settlements involve a court approval process that exists to prevent fraud, collusion, and unfairness to class members. *See Malibu Outrigger Bd. of Governors v. Superior Court* (1980) 103 Cal.App.3d 573, 578-79. This approval process consists of preliminary settlement approval, notice being given to class members, and a final fairness and approval hearing being held, at which class members can be heard with respect to the settlement. *Id.* Now that the settlement administrator has provided notice to the Settlement Class members, Plaintiff respectfully requests that the Court finally approve the Settlement as fair, adequate, and reasonable.

1. The Settlement was Reached at Arms' Length, Through Experienced Counsel and an Experienced Mediator, and Was Based on Sufficient Information to Intelligently Negotiate a Fair Settlement Considering the Claims Asserted and Risks of Continued Litigation

A settlement is presumptively fair where it is reached through arms'-length bargaining, based on sufficient discovery and investigation to allow counsel and the court to act intelligently, counsel is experienced in similar litigation, and the percentage of objectors to the settlement is small. *Dunk v. Ford Motor Co.* (1996) 48 Cal.App.4th 1794, 1802. In deciding whether to approve a proposed settlement, a trial court has broad powers to determine if the proposed settlement is fair under the circumstances of the case. *Mallick v. Superior Court* (1979) 89 Cal.App.3d 434, 438. In exercising these powers, the overriding concern is to ensure that a proposed settlement is "fair, adequate, and reasonable." *Dunk, supra*, 48 Cal.App.4th at 1801 (internal quotations omitted). Relevant factors for the Court to consider include, but are not limited to:

1 [T]he strength of plaintiff's case, the risk, expense, complexity and likely
2 duration of further litigation, the risk of maintaining class action status
3 through trial, the amount offered in settlement, the extent of discovery
4 completed and the stage of the proceedings, the experience and views of
counsel, the presence of a governmental participant, and the reaction of the
class members to the proposed settlement.

5 *Id.* These factors require balancing, are non-exhaustive and, as such, trial courts should tailor the
6 factors to each case and give due regard to "what is otherwise a private consensual agreement
7 between the parties." *Id.*

8 "In the context of a settlement agreement, the test is not the maximum amount plaintiffs
9 might have obtained at trial on the complaint, but rather whether the settlement is reasonable
10 under all of the circumstances." *Wershba v. Apple Computer, Inc.* (2001) 91 Cal.App.4th 224,
11 250. Because settlements inherently involve compromise, even settlements providing for
12 substantially narrower relief than what may be obtained if the suit were successfully litigated can
13 be reasonable because, "the public interest may indeed be served by a voluntary settlement in
14 which each side gives ground in the interest of avoiding litigation." *Id.* (quoting *Air Lines*
15 *Stewards, etc., Local 550 v. American Airlines, Inc.*, 455 F.2d 101, 109 (7th Cir. 1972)).

16 Here, the Settlement resulted from extensive arms'-length settlement negotiations
17 between qualified and experienced counsel with the aid of a well-respected and experienced
18 neutral third-party mediator. The Settlement is fair, adequate, and reasonable for all Settlement
19 Class members. While Plaintiff steadfastly maintains that his claims are meritorious, Defendant
20 vigorously contests liability and the appropriateness of class treatment and, correspondingly,
21 Plaintiff acknowledges the substantial risks and uncertainty in proceeding with class certification
22 and eventually trial, which justify a downward departure from the maximum exposure that
23 Plaintiff calculated each claim carried.

24 As detailed in Plaintiff's Motion for Preliminary Approval, Defendant contends that the
25 Incentive Pay payments were completely discretionary and were based on various and changing
26 criteria. Rowbotham Decl., ¶ 15. As a result, Defendant asserts that the regular rate claim is
27 unmanageable, as it requires individualized inquiries into each payment to determine the terms
28 by which each bonus could be earned, whether each employee met those terms, whether the

1 communication of the bonus to employees meets the criteria necessary for a non-discretionary
2 payment, and whether there was actually any underpayment of overtime on any given week due
3 to the bonus. *Id.* Each of these steps would result in an unmanageable series of mini-trials. *Id.*

4 As to Plaintiff's meal period allegations, Defendant argues it maintains a legally-
5 compliant written meal period policy, that it has always provided meal periods consistent with
6 that policy, and that it is only required to "provide" the opportunity to take meal periods, not
7 "ensure" meal periods are taken. *Brinker Restaurant Corp. v. Superior Court*, 54 Cal.4th 1004,
8 1038 (2012) (rejecting "ensure" standard and holding employers only have to "provide"
9 employees the opportunity to take meal periods). Defendant further maintains that any meal
10 period violations reflected in timekeeping records were the result of employee choice, not
11 Defendant's policies, thereby precluding liability. Rowbotham Decl. ¶ 16. Defendant further
12 contends that employees validly waived second meal periods on shifts over 10 hours. *Id.*
13 Defendant also argues individualized inquiries will be required to determine why meal periods
14 are late, short, or missed, whether there was a valid waiver, and whether a premium was paid on
15 each such shift, thereby precluding class certification of the meal period claim. *Id.*

16 As to Plaintiff's rest period claim, Defendant argues it maintains a facially compliant
17 written rest period policy, and that it has always authorized and permitted rest periods in
18 compliance with that policy. Rowbotham Decl. ¶ 17. Defendant also denies that it has a policy
19 requiring employees to remain inside the facility during rest periods. *Id.* As a result, Defendant
20 argues the rest period claim is not amenable to class treatment, as individual inquiries would be
21 required to determine whether the employee was authorized to take rest periods on each particular
22 shift based on their schedule, resulting in an unmanageable series of mini-trials. *Id.* This
23 manageability concern is especially present for the rest period claim as rest periods are not
24 recorded. *Id.*

25 As to Plaintiff's derivative claims, Defendant argues that the alleged wage statement
26 violations were not "knowing and intentional," and that Plaintiff could not show he "suffer[ed]
27 injury," as required by Labor Code § 226(e) for imposition of penalties. *See Amaral v. Cintas*
28 *Corp.* (2008) 163 Cal. App. 4th 1157, 1201. Defendant further contends that it possesses strong,

1 good faith defense to Plaintiff’s underlying claims, thus precluding recovery of waiting time
2 penalties (which are only available for the “willful” failure to pay wages). *See* 8 Cal. Code Regs.
3 § 13520 (“[A] good faith dispute that any wages are due will preclude imposition of waiting time
4 penalties under Section 203...A good-faith dispute that any wages are due occurs when an
5 employer presents a defense, based in law or fact which, if successful, would preclude any
6 recovery on the part of the employee.”) Defendant also maintains that, given these good-faith
7 defenses, this Court would exercise its discretion to substantially reduce any PAGA penalties if
8 it were to find Defendant liable for any of Plaintiff’s underlying claims. Rowbotham Decl. ¶ 18.

9 These considerations not only bore heavily on the negotiations leading to the Settlement,
10 but also confirm that the Settlement is a fair, adequate, and reasonable compromise considering
11 the risks of further litigation. As detailed in Plaintiff’s Motion for Preliminary Approval, Class
12 Counsel and their retained expert carefully vetted the claims at issue and analyzed Defendant’s
13 data to construct a comprehensive damages model and arrive at the calculated damages figures.
14 It was only after this comprehensive analysis that the Parties participated in a mediation session
15 and ultimately reached the Settlement now before the Court. Thus, while these risks are far from
16 exhaustive, they show that the Settlement is fair, adequate, and reasonable.

17 **2. *The Settlement Fairly, Reasonably, and Adequately Compensates Class***
18 ***Members Because Each Settlement Class Member Will Be Paid Based***
19 ***on the Extent of His or Her Injury***

20 CPT will calculate Individual Settlement Payments by dividing the NSA by the total
21 number of workweeks worked by all Settlement Class members during the Class Period and then
22 multiplying the result by each Settlement Class member’s specific workweeks. *See* Settlement,
23 ¶ 3.2.4. This method of distribution compensates Settlement Class members based on the
24 estimated extent of their injuries, as Settlement Class members who worked more workweeks
25 during the relevant time period were subjected to more of the alleged wage and hour violations
26 than those who worked fewer workweeks, and only Settlement Class members with standing to
27 pursue PAGA penalties are eligible to recover those penalties. Thus, the formula is tethered to the
28 damages and penalties that Settlement Class members could recover and is therefore, fair,
adequate, and reasonable.

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C. The Requested Award of Attorneys' Fees is Reasonable as a Percentage of the Gross Settlement Amount Confirmed by a Lodestar Cross-Check

California state and federal courts routinely award fee awards of one-third of the settlement fund in class actions. *Chavez v. Netflix, Inc.* (2008) 162 Cal.App.4th 43, 66, fn. 11; *see also Wershba, supra*, 91 Cal.App.4th at 254 (recognizing the “percentage of recovery” method); *In re Pacific Enterprises Securities Litig.*, 47 F.3d 373, 379 (9th Cir. 1995) (affirming 33% fee award). Indeed, the California Supreme Court approved the use of the “percentage of fund” method in California. *See Laffitte v. Robert Half Int’l, Inc.* (2016) 1 Cal.5th 480, 506 (“the percentage of fund method survives in California class action cases...”). Specifically, the *Laffitte* Court held:

1 The recognized advantages of the percentage method—including relative
2 ease of calculation, alignment of incentives between counsel and the class, a
3 better approximation of market conditions in a contingency case, and the
4 encouragement it provides counsel to seek an early settlement and avoid
unnecessarily prolonging the litigation—convince us the percentage method
is a valuable tool that should not be denied our trial courts.

5 *Id.*, at 503 (internal citation omitted); *see also Rawlings v. Prudential-Bache Properties,*
6 *Inc.*, 9 F.3d 513, 516 (6th Cir. 1993) (holding that the percentage of the fund method more
7 accurately reflects the results achieved than the lodestar method and “establishes reasonable
8 expectations on the part of Plaintiffs’ attorneys as to their expected recovery; and it encourages
9 early settlement, which avoids protracted litigation.”); *In re Rite Aid Corp. Securities Litigation*,
10 396 F.3d 294, 300 (3d Cir. 2005) (“The percentage-of-recovery method is generally favored in
11 common fund cases because it allows courts to award fees from the fund in a manner that rewards
12 counsel for success and penalizes it for failure.”). This is consistent with Class Counsel’s
13 experience in similar wage-and-hour class action matters. *See* Rowbotham Decl., ¶ 19.

14 Here, Class Counsel’s fee request of \$419,326.17, representing one-third of the GSA, is
15 the same percentage sought in *Laffitte*, and is fair and reasonable based on the percentage of the
16 recovery method. Rowbotham Decl., ¶ 19. In *Laffitte*, the California Supreme Court held that trial
17 courts have discretion to assess the reasonableness of fee awards with tools such as the “lodestar
18 cross-check,” whereby the trial court calculates counsel’s lodestar and determines whether the
19 “lodestar multiplier” needed to bring the lodestar on par with the percentage of recovery is
20 reasonable. *Laffitte*, 1 Cal.5th at 503-06. Under the lodestar method, the court multiplies the
21 number of hours reasonably expended by each attorney or legal staff member by their reasonable
22 hourly rates, then enhances this lodestar figure by a “multiplier” to account for a range of factors,
23 such as the contingent nature of the case and the degree of success achieved. *See Serrano v. Priest*,
24 (1977) 20 Cal.3d 25, 48-49; *Ketchum v. Moses*, (2001) 24 Cal.4th 1122, 1132-36; *Thayer v. Wells*
25 *Fargo Bank*, (2001) 92 Cal.App.4th 819, 834 (“There is no hard-and-fast rule limiting the factors
26 that may justify an exercise of judicial discretion to increase or decrease a lodestar calculation”).

27 Under California law, lodestar multipliers can range from 2 to 4 or even higher. *See, e.g.,*
28 *Chavez*, 162 Cal.App.4th at 49-50 (approving multiplier of approximately 2.5); *Coalition for L.*
County Planning etc. Interest v. Bd. of Supervisors, (1977) 76 Cal.App.3d 241, 251 (approving

multiplier of approximately 12.8). In class and representative actions, where the value of the benefit conferred “can be monetized with a reasonable degree of certainty,” a court may “adjust the lodestar in comparison to a percentage of the common fund to ensure that the fee awarded is reasonable and within the range of fees freely negotiated in the legal marketplace in comparable litigation.” *Consumer Privacy Cases*, (2009) 175 Cal.App.4th 545, 557.

In this case, Class Counsel has a lodestar of approximately \$205,617.50, which results in a reasonable 2.04 multiplier compared to the \$419,326.17 fee request. Rowbotham Decl., ¶ 20. A summary showing the number of hours of work performed by each attorney and paralegal is set forth below. *Id.* The billing rates used are reasonable in view of the evidence submitted herewith, and have all been previously approved by various courts throughout California.⁵ *Id.*, ¶¶ 2-4, 20, Exhibit 4 (*Laffey Matrix*); Declaration of Paul K. Haines (“Haines Decl.”), ¶¶ 2-11; Declaration of Fletcher W. Schmidt (“Schmidt Decl.”), ¶¶ 2-9; Declaration of Susan J. Perez (“Perez Decl.”), ¶¶ 2-6.

Name	Rate	Hours	Pre-Multiplier Lodestar
Paul K. Haines (19th Year Attorney)	\$925	49.3	\$45,602.50
Fletcher W. Schmidt (13th Year Attorney)	\$825	71.5	\$58,987.50
Andrew J. Rowbotham (11th Year Attorney)	\$725	96.2	\$69,745.00
Susan J. Perez (6th Year Attorney)	\$550	43.9	\$24,145.00
HLG Associate Attorneys (1st and 2nd Year Attorneys)	\$425	14.2	\$6,035.00
HLG Paralegals	\$175	6.3	\$1,102.50
Total Lodestar			\$205,617.50

⁵ When setting rates, courts should utilize attorneys’ “current” rates, i.e., their rates at the time of the fee application. This accounts for the delay in receiving payment, as well as lost interest and inflation. *See Graham v. DaimlerChrysler Corp.* (2004) 34 Cal.4th 553, 584 (approving use of present-day rates to account for the delay in payment); *Pennsylvania v. Delaware Valley Citizens’ Council for Clean Air* (1987) 483 U.S. 711, 716 (“In setting fees for prevailing counsel, the courts have regularly recognized the delay factor...by basing the award on current rates.”); *Bouman v. Block*, 940 F.2d 1211, 1235 (9th Cir.1991) (affirming district court’s use of current hourly rates).

1 As discussed above, this case presented significant risks to both class certification and
2 merits considerations. Accordingly, it is fair and reasonable to account for these risks in
3 compensating Class Counsel. Since undertaking representation of Plaintiff, Class Counsel has
4 devoted substantial time to this litigation without receiving any compensation to date.
5 Rowbotham Decl., ¶ 21. Class Counsel's efforts include conducting pre-filing investigation,
6 analyzing Plaintiff's claims, conducting legal research and analysis, drafting, reviewing, and
7 revising all pleadings, stipulations, and status reports filed in this action, drafting notice letters to
8 the LWDA, engaging in strategy meetings, extensively reviewing and evaluating the produced
9 timekeeping and payroll records with the assistance of a retained expert to build a comprehensive
10 damages model, preparing for and attending mediation, negotiating and drafting the
11 Memorandum of Understanding, long-form Settlement Agreement, and Notice Packet
12 documents, preparing the Motions for Preliminary and Final Approval and supplemental briefing
13 thereto, overseeing the notice process, fielding questions from Settlement Class members, and
14 otherwise litigating the case. *Id.* Given the considerable potential for adverse outcomes in this
15 case, including, but not limited to, losing on class certification, the contingent risk borne by Class
16 Counsel was great. The quality of Class Counsel's work, and the efficacy and dedication with
17 which it was performed, should be equivalently compensated.

18 As discussed above, this case presented significant risks to both class certification and
19 merits considerations. Accordingly, it is fair and reasonable to account for these risks in
20 compensating Class Counsel. Class Counsel should also be compensated for the risks involved in
21 undertaking this litigation and for expending considerable effort, all while working on a pure
22 contingency basis. Since undertaking representation of Plaintiff, Class Counsel has expended
23 \$19,896.23 in litigation costs and devoted substantial time to this litigation without receiving any
24 compensation to date. Rowbotham Decl., ¶ 14, Exhibit 3.

25 Class Counsel's previous experience in litigating wage and hour class actions also
26 supports the reasonableness of the fee request. Class Counsel are well-versed in plaintiff and
27 defense-side wage and hour class action litigation and collectively bring more than 100 years of
28 wage-and-hour class and representative action litigation experience. *See* Rowbotham Decl., ¶¶ 2-

4; *see also generally* Haines Decl.; Schmidt Decl.; and Perez Decl. Class Counsel have also been certified as class counsel in numerous other cases in both State and federal court. *Id.* Class Counsel’s experience in similar matters was integral in evaluating the strengths and weaknesses of this case and the reasonableness of the Settlement. Practice in the narrow field of wage and hour litigation requires skill and knowledge concerning the rapidly evolving substantive state and federal law, as well as the procedural law of class action litigation. Because it is reasonable to compensate Class Counsel equal with their skill, reputation, and experience, the requested fee award of one-third of the GSA is fair and reasonable and should therefore be approved.

D. The Requested Cost Reimbursement Warrants Final Approval as Fair, Adequate, and Reasonable

Class Counsel incurred and respectfully requests reimbursement of \$19,896.23 in actual litigation costs, which is substantially *less* than the \$30,000.00 amount preliminarily approved by the Court as set out in the Settlement Agreement. Rowbotham Decl., ¶ 14, Exhibits 1 and 3; *see also* Settlement, ¶¶ 3.2.2. The unclaimed amount of litigation costs will be paid to the Settlement Class members as part of the NSA. *Id.* Class Counsel’s request is fair, adequate, and reasonable, as all these costs are documented and reasonably incurred. *See* Rowbotham Decl., Exhibit 3. Moreover, the costs Plaintiff seeks to reimburse are the types of costs routinely approved by courts. *See, e.g., Harris v. Marhoefer* 24 F.3d 16, 19 (9th Cir. 1994) (counsel should recover “those out-of-pocket expenses that would normally be charged to a fee paying client”); *Ashker v. Sayre*, No. 05-03759 CW, 2011 WL 825713, at * 3 (N.D. Cal. 2011) (“costs of reproducing pleadings, motions and exhibits are typically billed by attorneys to their fee-paying clients” and are reimbursable); *Trustees of Const. Industry & Laborers Health and Welfare Trust v. Redland Ins. Co.*, 460 F.3d 1253, 1258-59 (9th Cir. 2006) (legal research costs are reimbursable); *In re Immune Response Securities Litigation* 497 F.Supp.2d 1166, 1177-78 (S.D. Cal. 2007) (mediation expenses, legal research, copies, postage, filing fees, messenger and overnight delivery costs are reimbursable).

Notably, not a single Settlement Class member objected to the Settlement, including Class Counsel’s request for up to \$30,000.00 in reimbursement of verified costs. Cofinco Decl., ¶ 12. Because the expense reimbursements requested by Class Counsel were reasonably incurred, and

no Settlement Class member has objected to them, the Court should grant Class Counsel's request for \$19,896.23 in actual litigation costs reimbursement.

E. The Court Should Finally Approve the Requested Settlement Administration Costs

Plaintiff also requests that the Court approve \$10,000.00 in administration costs to CPT as the Settlement Administrator. Rowbotham Decl., ¶ 22; Cofinco Decl., ¶ 18, Exhibit B. This figure is \$1,750.00 more than originally reported at preliminary approval as a result of the escalator clause triggering (raising the class size from an estimated 350 to 511) and the modification of the Settlement to require uncashed funds be distributed to the State Controller Unclaimed Property Fund per the Court's Preliminary Approval Checklist. Rowbotham Decl., ¶ 22. As detailed in the declaration of Emilio Cofinco submitted concurrently with this Motion, CPT performed duties in connection with this Settlement that were integral in effectuating the Settlement and the Notice process. Among other things, CPT calculated each Settlement Class member's Individual Settlement Payment, updated addresses contained in the class data supplied by Defendant, formatted the Notice Packets for mailing, mailed Notice Packets to all 511 individuals who were eligible to take part in the Settlement, kept the Parties informed of the status of the Notice mailing through weekly reports, and otherwise administered the Settlement. *See generally*, Cofinco Decl. For these reasons, CPT's requested costs are fair, reasonable, and adequate, and should be finally approved.

F. The Court Should Finally Approve Plaintiff's Requested Class Representative Enhancement Award Because the Requested Amount is Fair, Adequate, and Reasonable Considering Plaintiff's Efforts and the Risks Assumed on Behalf of the Class

Courts routinely approve service awards to compensate named plaintiffs for the services they provide and the risks they incur during class action litigation. *See, e.g., Bell v. Farmers Ins. Exchange* (2004) 115 Cal.App.4th 715, 726 (upholding "service payments" to named plaintiffs for their efforts in bringing the case); *Van Vranken v. Atlantic Richfield Co.* 901 F.Supp. 294 (N.D. Cal. 1995) (approving \$50,000.00 service payment).

Here, Plaintiff seeks a Class Representative Enhancement Award of \$5,000.00 and believes that this request is reasonable given Plaintiff's considerable efforts in this case, the risks

1 Plaintiff undertook on behalf of the Settlement Class members, and the general release of all
2 claims against Defendant subject to a waiver of California Civil Code § 1542. Rowbotham Decl.,
3 ¶ 23; Settlement, ¶ 3.2.1. The amount requested as a Class Representative Enhancement Award
4 for the named Plaintiff is warranted and within the range of service award amounts regularly
5 approved by courts throughout California. *See, e.g., Fidelina Rangel v. Forest River, Inc.*, Case
6 No. CIVD1706616, San Bernardino County Superior Court, Hon. David Cohn, presiding
7 (awarding \$10,000 enhancement award to the named plaintiff); *Anthony Controulis, et al. v.*
8 *Anheuser-Busch, LLC*, Case No. BC518518, Los Angeles County Superior Court (awarding
9 \$10,000 enhancement awards to each of two named plaintiffs); *Damontae Levinston, et al. v.*
10 *Commerce Distribution Company LLC, et al.*, Case No. 22STCV05730, Los Angeles County
11 Superior Court (awarding \$10,000 enhancement awards to each of four named plaintiffs); *Torres*
12 *Dawson, et al. v. Wonderful Pistachios and Almonds, LLC*, Kern County Superior Court, Case
13 No. BCV-17-100848 (same); *Koreisz v. On Q Financial Inc.*, Ventura County Superior Court,
14 Case No. 56-2018-00517126-CU-OE-VTA (same). Among other things, Plaintiff's efforts
15 included searching for relevant documents and providing them to Class Counsel for use in the
16 lawsuit, providing factual information to Class Counsel, holding various phone calls with Class
17 Counsel to discuss the claims in the lawsuit and Defendant's policies and practices, reviewing the
18 Complaints, assisting Class Counsel in preparing for mediation, making himself available for the
19 full-day mediation to assist Class Counsel in resolving factual disputes raised during the day,
20 discussing the case and general case strategy with Class Counsel on numerous occasions,
21 reviewing the settlement documents, otherwise assisting Class Counsel in moving the case
22 towards resolution, the significant risks Plaintiff undertook by serving as the named plaintiff, and
23 the fact that he agreed to a general release of all claims subject to a waiver of Civil Code § 1542.
24 Rowbotham Decl., ¶ 23.

25 Plaintiff has invested considerable time and effort into seeing this litigation through
26 resolution, and the Settlement Class, who would not be receiving anything if it were not for
27 Plaintiff's decision to pursue these claims, will benefit from his participation. Rowbotham
28 Decl., ¶ 23. Plaintiff attached his name to this lawsuit for the benefit of the Settlement Class

1 members and to the risk of himself, and agreed to a broader, general release of claims beyond
2 what other Settlement Class members are releasing through this action, including a waiver of
3 Civil Code § 1542. *Id.*; Carrillo Decl., ¶¶ 3-4. Plaintiff deserves to be compensated for these
4 unique risks and his broad release of claims, which other Settlement Class members are not
5 subject to. Plaintiff Carrillo estimates spending at least 15 total hours performing these duties on
6 behalf of the Settlement Class. *See* Carrillo Decl., ¶ 4. Moreover, after receiving notice of the
7 proposed service payments, not a single Settlement Class member objected to the proposed award.
8 *See* Cofinco Decl., ¶ 12. Thus, Plaintiff's request for enhancement awards is proper and justified
9 as part of the Settlement and should be finally approved.

10 **V. CONCLUSION**

11 For the reasons stated herein, Plaintiff respectfully submits that this Court should grant
12 Plaintiff's Motion in its entirety and adopt the [Proposed] Judgment and Order Granting
13 Plaintiff's Motion for Final Approval of Class Action Settlement, Attorneys' Fees and Costs, and
14 Class Representative Enhancement Award, submitted herewith.

15 Dated: February 7, 2025

Respectfully submitted,
HAINES LAW GROUP, APC

16
17 By:



Andrew J. Rowbotham
Attorneys for Plaintiff