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Attorneys for Plaintiff ANDREA SOSA,
on behalf of herself and others similarly situated

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES-SPRING STREET COURTHOUSE

ANDREA SOSA, on behalf of herself and others similarly situated,

Plaintiff,

vs.

BANK OF AMERICA NATIONAL ASSOCIATION; and DOES 1 to 100, inclusive,

Defendants.

Case No. 22STCV18958

CLASS ACTION

[Assigned for all purposes to the Hon. Theresa M. Traber, Dept. 1]

PLAINTIFF'S NOTICE AND MOTION FOR FINAL APPROVAL OF CLASS AND REPRESENTATIVE ACTION SETTLEMENT AND MOTION FOR AWARD OF ATTORNEYS' FEES AND COSTS; MEMORANDUM OF POINTS AND AUTHORITIES

[*Filed concurrently with the Declaration of Malcolm E. Clayton in Support; Declaration of CPT Group, Inc. Representative William Argueta; and [Proposed] Order and Judgment*]

Hearing Information:
Date: September 29, 2025
Time: 10:30 a.m.
Dept.: 1

TO THE COURT, TO ALL PARTIES AND TO THEIR COUNSEL OF RECORD:

NOTICE IS HEREBY GIVEN that on September 29, 2025 at 10:30 a.m. in in Department SSC1 of Los Angeles County Superior Court located at 312 N. Spring St., Los Angeles, California 90012, Plaintiff ANDREA SOSA ("Plaintiff") will move for an order and judgment encompassing the following:

1. Granting final approval of the class and representative action settlement;

2. Certifying a class for settlement purposes only;

3. For purposes of settlement, designating Plaintiff ANDREA SOSA as Class Representative and Joseph Lavi, Esq., Vincent C. Granberry, Esq., and Malcolm E. Clayton, Esq. of Lavi & Ebrahimian, LLP, as Class Counsel;

4. Approving the settlement as fair, adequate, and reasonable, based upon the terms as set forth in the court-approved Amended Stipulation for Settlement and Release of Class and Representative Action Claims ("Settlement" or "Settlement Agreement"), between Plaintiff and Defendant Bank of America, N.A. ("Defendant") a copy of which is attached to the Declaration of Malcolm E. Clayton ("Clayton Dec.") as **Exhibit "1"**, including payment by Defendant of the Gross Settlement Amount equal to the amount of Four Million Four Hundred Thousand Dollars and Zero Cents ($4,400,000.00) to pay: (1) the Individual Settlement Payments to Participating Class Members; (2) the PAGA Amount (including the LWDA Payment and the Aggrieved Employee PAGA Payments); (3) the court-approved award of attorneys' fees and costs to Class Counsel; (4) the court-approved Enhancement Award; and (5) the court-approved Settlement Administration Costs;

5. Approving Class Counsel's request for One Million Four Hundred Sixty-Six Thousand Six Hundred Sixty-Six Dollars and Sixty-Seven Cents ($1,466,666.67) in attorneys' fees, one-third of the Gross Settlement Amount, plus costs in the amount of Thirty-One Thousand Two Hundred Ninety-Five Dollars and Fifty-Nine Cents ($31,295.59).

6. Approving the Class Representative Enhancement Award of Ten Thousand Dollars

and Zero Cents ($10,000.00) to Plaintiff in recognition of her service on behalf of the Class Members;

7. Approving Administration Expenses Payment of Fifty-Seven Thousand Five Hundred Dollars and Zero Cents ($57,500.00); and

8. Approving payment of Two Hundred Twenty Thousand Dollars and Zero Cents ($220,000.00) to resolve the PAGA claims, with 75 percent ($165,000.00) to be paid to the California Labor and Workforce Development Agency ("LWDA") and 25 percent ($55,000.00) to the Aggrieved Employee PAGA Payments.

The motion is based on this Notice and Motion, Declaration of Malcolm E. Clayton, exhibits, all other pleadings and papers on file in this action, and any oral argument or other matter that may be considered by the Court.

Dated: September 5, 2025

Respectfully submitted,
LAVI & EBRAHIMIAN, LLP

By: *<u>/s/ Malcolm Clayton</u>*
Joseph Lavi, Esq.
Vincent C. Granberry, Esq.
Malcolm Clayton, Esq.
Attorneys for Plaintiff ANDREA SOSA on behalf of herself and others similarly situated

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MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

Plaintiff ANDREA SOSA ("Plaintiff") respectfully submits this memorandum in support of her motion for final approval of the proposed class and representative action settlement with Defendant Bank of America, N.A. ("Defendant" or the "Bank") (Plaintiff and Defendant are collectively hereinafter referred to as "the Parties"). By its April 16, 2025 order, the Court preliminarily approved a class settlement for all current or former non-exempt employees who worked for Defendant in California from June 26, 2020 through July 15, 2024, but excluding: (1) anyone other than Plaintiff Andrea Sosa who has filed their own separate class or PAGA action as a named plaintiff alleging the same or similar claims being released by the Settlement prior to April 16, 2024; and (2) any current or former non-exempt employees who previously released all claims being released in the Settlement ("Settlement Class Members"). As consideration for this Settlement, Defendant shall pay a sum equal to Four Million Four Hundred Thousand Dollars and Zero Cents ($4,400,000.00) ("Gross Settlement Amount") to fund the non-reversionary, no claims made settlement of this class action. (Amended Stipulation for Settlement and Release of Class and Representative Action Claims ("Settlement" or "Settlement Agreement"), § 9 attached as **Exhibit "1"** to Declaration of Malcolm E. Clayton ("Clayton Dec.").

On May 28, 2025, CPT Group, Inc. ("Settlement Administrator") mailed 17,454 Class Members the Court Approved Notice of Class Action Settlement in English ("Notice Packet"). (Declaration of CPT Group, Inc. Representative William Argueta ("Admin Dec.")].) To date, the Settlement Administrator has received one (1) objection, ten (10) requests for exclusion, and one (1) workweek dispute. (Admin Dec. ¶¶ 12-14, Ex. C (Objection).) The Settlement Administrator estimates the average Participating Class Members' settlement payment to be $149.58. (*Id.* ¶ 13.)

Each Participating Class Member (i.e., Settlement Class Member who have not elected to opt out) will receive a *pro rata* share of the Net Settlement Fund (i.e., Final Individual Settlement Payment). Participating Class Members were not required to submit claims to receive their share and the settlement is non-reversionary. (Settlement, ¶ 31.)

Plaintiff asserts that the Settlement should be approved because it is fair, adequate, and reasonable. It will result in fair payments to Participating Class Members, it is non-collusive, and was achieved as a result of informed litigation and arm's-length negotiations conducted by counsel experienced in class action litigation. Plaintiff also asserts that the requested class counsel fees and costs, Class Representative Enhancement, and Settlement Administration Costs should be approved as reasonable and fair.

II. SUMMARY OF LITIGATION

A. The Parties

The named Plaintiff worked as hourly-paid, non-exempt employee for Defendant and seeks to represent approximately 17,454 current and former hourly-paid, non-exempt employees who worked for Defendant in California from June 26, 2020, through July 15, 2024, but excluding: (1) anyone other than the Plaintiff who has filed their own separate class or PAGA action as a named plaintiff alleging the same or similar claims being released by the settlement prior to April 16, 2024; and (2) any current or former non-exempt employees who previously released all claims being released in the Settlement of the Lawsuits (hereinafter "Settlement Class" or "Settlement Class Members"). (Clayton Dec. ¶ 3.)

B. The Complaint and Allegations

This is a proposed employee wage and hour class action case. On June 9, 2022, Plaintiff commenced this Action by filing a Complaint alleging causes of action against Defendant for: (1) Failure to Pay Wages for All Hours Worked at Minimum Wage in Violation of Labor Code Sections 1194 and 1197; (2) Failure to Pay Overtime Wages for Daily Overtime Worked, All Hours Worked, and Failure to Include Additional Remuneration When Calculating Overtime Wages in Violation of Labor Code Sections 510, 1194, and 1198; (3) Failure to Authorize or Permit Meal Periods in Violation of Labor Code Sections 512 and 226.7; (4) Failure to Authorize or Permit Rest Periods in Violation of Labor Code Section 226.7; (5) Failure to Indemnify Employees for Employment-Related Losses/Expenditures in Violation of Labor Code Section 2802; (6) Failure to Timely Pay Earned Wages During Employment in Violation of Labor Code Section 204; (7) Failure to Provide Complete and Accurate Wage Statements in Violation of Labor Code Section 226; (8) Failure to Timely Pay All Earned Wages and Final Paychecks Due at Time of Separation of Employment in Violation of

Labor Code Sections 201, 202, and 203; and (9) Unfair Business Practices, in Violation of Business and Professions Code Sections 17200, *et seq.* (the "Action"). (Clayton Dec. ¶ 4.)

On June 9, 2022, Plaintiff submitted a notice to the LWDA informing it of her intention to bring a claim for civil penalties pursuant to the Private Attorneys General Act of 2004 ("PAGA"), Labor Code section 2698, *et seq*. (*Id*. ¶ 5.)

On October 19, 2022, Plaintiff filed a PAGA action alleging one cause of action for penalties pursuant to PAGA, Case No. 22STCV33904 in the Superior Court of California, County of Los Angeles (the "PAGA Action"). (*Id*. ¶ 6.)

Thereafter the Bank filed Notices of Related Cases in the Action and the PAGA Action, and the PAGA Action was related to and transferred to this Court. (*Id*. ¶ 7.)

On May 3, 2023, Plaintiff filed a First Amended Complaint in the Action that added Plaintiff's claim for civil penalties under PAGA, and on May 9, 2023, Plaintiff requested dismissal of the PAGA Action, thereby consolidating the PAGA Action into the Action. (*Id*. ¶ 8.)

On March 21, 2024, after extensive formal and informal discovery and data exchange, the Parties participated in a mediation with Paul Grossman, Esq., an experienced mediator in class action employment litigation. After a full day of arm's-length negotiations and further negotiations, the Parties memorialized the agreement in the Settlement Agreement, which was executed on December 18, 2024. The Parties executed the Settlement Agreement (amending pursuant to the Court's order) on April 15, 2024. (*Id*. ¶ 9.)

On June 26, 2024, Plaintiff filed a Second Amended Complaint (the "Operative Complaint"), alleging causes of actions against Defendant for: (1) Failure to Pay Wages for All Hours Worked at Minimum Wage in Violation of Labor Code Sections 1194 and 1197; (2) Failure to Pay Overtime Wages for Daily Overtime Worked, All Hours Worked, and Failure to Include Additional Remuneration When Calculating Overtime Wages in Violation of Labor Code Sections 510, 1194, and 1198; (3) Failure to Authorize or Permit Meal Periods in Violation of Labor Code Sections 512 and 226.7; (4) Failure to Authorize or Permit Rest Periods in Violation of Labor Code Section 226.7; (5) Failure to Indemnify Employees for Employment-Related Losses/Expenditures in Violation of Labor Code Section 2802; (6) Failure to Pay Wages for Accrued Paid Sick Days at the Regular Rate of Pay in Violation of Labor Code Section 246; (7) Failure to Provide Complete and Accurate Wage Statements in Violation of Labor Code Section 226; (8) Failure to Timely Pay All Earned Wages and Final Paychecks Due at Time of Separation of Employment in Violation of Labor Code Sections 201, 202, and 203; (9) Unfair Business Practices, in Violation of Business and Professions Code Sections 17200, *et seq.*; and (10) Civil Penalties Pursuant to PAGA, Labor Code Section 2698, *et seq.* (Clayton Dec. ¶ 10.)

Defendant has at all times denied the claims, and has entered into the Settlement Agreement solely as a compromise to resolve the litigation. Defendant's arguments included the following: that Defendant has compliant timekeeping policies and practices that require all time worked and actual start and stop times be reported, prohibit working off-the-clock, and direct that time spent on preparatory tasks including login procedures be recorded; that Defendant's meal and rest break policies and practices comply with California law by requiring that employees take all mandated meal and rest breaks in the required timeframes and automatically adding an hour of pay at the regular rate if a non-exempt employee's timesheet reflects a late, short, or missed meal break or the employee does not certify that the employee were permitted their rest breaks; and in addition, that the Bank reimburses California employees who are required to use their personal mobile phones or home internet as part of their job. The Bank further argued that to the extent Plaintiff had any viable individual claims it was due to her failure to comply with the Bank's policies and nature of the claims for which she sought to represent a class involve individualized inquiries that are not fit for class certification. (*Id.* ¶ 20.)

On April 16, 2025, the Court entered an Order Granting Motion for Preliminary Approval of the Class Action Settlement. Thereafter, through the Settlement Administrator the notice administration process commenced. (*Id.* ¶ 11.)

C. The Mediation, Informal Discovery, Exchange of Directly Relevant Informal Discovery, and Legal Analysis By Parties' Counsel

On March 21, 2024, the Parties participated in a full-day mediation session with Paul Grossman, Esq., a prominent mediator experienced in resolving wage and hour class and representative actions. Prior to mediation, the parties engaged in extensive formal and informal discovery exchange, including Defense counsel taking the deposition of Plaintiff. Ultimately, Plaintiff's counsel and Plaintiff's counsel's expert reviewed and analyzed the following: (1) a sampling of electronic time and pay data; (2) the total number of current and former putative class members and aggrieved employees who worked during the relevant time periods; (3) the total number of workweeks at issue during the relevant time periods; (4) the total number of pay periods at issue during the relevant time periods; (5) the average hourly rate for the putative class members; and (6) other relevant information, including Defendant's Employee Handbook, Plaintiff's personnel file, wage statements, and time records. Plaintiff's counsel and Plaintiff's counsel's expert reviewed the data produced by Defendant which included a random sample of timekeeping and payroll data of 1,120 putative class members, which spanned from July 30, 2022, through December 12, 2023. (Clayton Dec. ¶ 12.)

Counsel for the Parties have investigated the law as applied to the facts discovered regarding the alleged claims of Plaintiff and potential defenses thereto, and the potential damages claimed by Plaintiff. (*Id.* ¶ 13.)

Plaintiff and Class Counsel recognize the expense and length of continued proceedings necessary to litigate their disputes through trial and through any possible appeals. Plaintiff has also taken into account the uncertainty and risk of the outcome of further litigation, and the difficulties and delays inherent in such litigation. Plaintiff and Class Counsel are also aware of the burdens of proof necessary to establish liability for the claims asserted in the Action, both generally and in response to Defendant's compelling defenses thereto, and the difficulties in establishing damages for the Class Members. Based on the foregoing, Plaintiff and Class Counsel have determined that the Settlement set forth in the Agreement is a fair, adequate, and reasonable settlement, and is in the best interests of the Class Members. (*Id.* ¶ 14.)

Defendant denies the allegations in the Operative Complaint, denies any failure to comply with the laws as alleged in the Operative Complaint, and denies any and all liability for the causes of action alleged. (*See* Settlement ¶ 6.) Defendant contends that it complied in good faith with wage and hour laws and has dealt legally and fairly with Plaintiff and putative class members. (Clayton Dec. ¶ 15.)

/ / /

D. Summary of Settlement

Subject to Court approval pursuant to Section 382 of the California Code of Civil Procedure and Rule 3.769 et seq. of the California Rules of Court, the Parties have agreed to settle the Lawsuit by agreement upon the terms and conditions and for the consideration set forth in the Settlement Agreement. (Clayton Dec., Ex. 1.)

A summary of the key terms of the Settlement is as follows:

1. "Settlement Class" or "Settlement Class Members" means all current or former non-exempt employees who worked for Defendant in California from June 26, 2020, through July 15, 2024, but excluding: (1) anyone other than the Plaintiff who has filed their own separate class or PAGA action as a named plaintiff alleging the same or similar claims being released by the Settlement prior to April 16, 2024; and (2) any current or former non-exempt employees who previously released all claims being released in the Settlement of the Lawsuits. (Settlement ¶ 7.)

2. "Aggrieved Employees" shall include all current and former non-exempt employees who worked for Defendant in California from June 9, 2021 through July 15, 2024 ("PAGA Period"), and whose PAGA claims being settled and released in [the Agreement] have not all been released previously as part of another court-approved PAGA settlement. (Settlement ¶ 14.)

3. "Gross Settlement Fund" means the agreed total settlement amount of Four Million Four Hundred Thousand Dollars and Zero Cents ($4,400,000.00) (the "Gross Settlement Fund" or "GSF"). This settlement is being made on a non-reversionary basis, such that Defendant will pay the entirety of the agreed upon total settlement amount. (Settlement ¶ 9.) No additional funding or payment by Defendant will be required under the Agreement, other than Defendant shall pay its share of applicable employer-side payroll taxes separate from the GSF. (Settlement ¶ 10.)

4. Escalator. In connection with the Parties' settlement discussions, the Settlement Class Members' Unreleased Individual Pay Periods were estimated to be 345,960 (691,920 workweeks divided by 2) for the period of November 1, 2022 through March 21, 2024 (the data that was available at the time). In the event that the total number of Unreleased Individual Pay Periods for all Settlement Class Members for the period of November 1, 2022 through March 21, 2024 is greater than 380,556 (which is 10% higher than 345,960), then the GSF will be increased by one percent (1%) for each full percentage point above 380,556 (i.e., if the total number of Unreleased Individual Pay Periods for all Settlement Class Members is 1% higher than 380,556, then the GSF will be increased by 1%). (Settlement ¶ 40.)

5. Net Settlement Fund. The Net Settlement Fund ("NSF") will constitute the total sum that will be distributed to the Settlement Class Members. The NSF is the GSF less the following: Settlement Administration Costs (as defined [Settlement ¶ 11]); PAGA Amount (as defined [Settlement ¶ 14]); Class Counsel's Court-approved attorneys' fees and costs and expenses; and any Court-approved Enhancement Award for the Class Representative. (Settlement ¶ 11.)

6. Estimation of Individual Class Payments. Before sending the Notice, the Settlement Administrator shall calculate each Settlement Class Member's Estimated Individual Settlement Payment as follows.

    i. Assign each Settlement Class Member a total number of points by:

        1. Multiplying his or her number of Period A Unreleased Individual Pay Periods as set forth in the list provided by Defendant by 5. This amount shall be referred to as the "Weighted Period A Points."

        2. Add the Weighted Period A Points to his or her number of Period B Unreleased Individual Pay Periods on the list provided by Defendant. The sum of a Settlement Class Member's Weighted Period A Points and the number of Period B Unreleased Individual Pay Periods shall be referred to as the Settlement Class Member's "Individual Total Pay Period Points."

    ii. Add the Individual Total Pay Period Points for every Settlement Class Member and divide the NSF by that sum to get the Class Pay Period Value.

    iii. Multiply each Settlement Class Member's Individual Total Pay Period Points as calculated in subsection a.i by the Class Pay Period Value calculated in subsection a.ii to get each Settlement Class Member's "Estimated Individual Settlement Payment."

(Settlement ¶ 23.a.)

7. Calculation of Final Individual Class Payments. After Final Approval Order and Judgment of the Settlement Agreement is entered, the Settlement Administrator shall calculate each Participating Class Member's Final Individual Settlement Payment as follows.

    i. Add the Individual Total Pay Period Points for each Participating Class Member and divide the NSF by that number to get a Final Class Pay Period Value.

    ii. Multiply each Participating Class Member's Individual Total Pay Period Points as calculated in subsection a.i by the Final Class Pay Period Value calculated in subsection b.i to get each Participating Class Member's "Final Individual Settlement Payment."

(Settlement ¶ 23.b.)

8. Tax Matters.

    a. Final Individual Settlement Payments will be allocated 15% for unpaid wages and 85% for civil or statutory penalties, non-wage damages, and pre-judgment interest. The Aggrieved Employee PAGA Payments will be treated as civil and/or statutory penalties.

    b. Each recipient of any monies received as a result of this Settlement Agreement, including but not limited to the Participating Class Members, is responsible for any taxes associated with the monies received with the exception of the employee-side payroll taxes which shall be paid from the NSF and employer-side payroll taxes which shall be paid by

Defendant separately.

c. If required by federal, state or local law or regulation, the Settlement Administrator will prepare and provide Participating Class Members appropriate IRS Form W-2s and IRS Form 1099s.

d. The Parties acknowledge and agree that neither Defendant nor its attorneys have made any representations regarding the tax consequences of the settlement payments made under this Settlement Agreement. The Parties further agree that Defendant shall have no legal obligation to pay, on behalf of Settlement Class Members, any taxes, deficiencies, levies, assessments, fines, penalties, interest or costs, which may be required to be paid with respect to the settlement payments other than as provided for in this Agreement.

(Settlement ¶ 29.)

9. Payment Procedures. Within ten (10) calendar days after the occurrence of both (a) the Effective Date and (b) Defendant's deposit of the GSF funds into the QSF account created by the Settlement Administrator, the Settlement Administrator shall pay the Final Individual Settlement Payments to all Participating Class Members, Aggrieved Employee PAGA Payments, Court approved attorneys' fees and costs to Class Counsel, the Enhancement Award to the Class Representative, LWDA Payment, and Settlement Administration Costs to the Settlement Administrator. The Settlement Administrator shall withhold taxes from the Final Individual Settlement Payments to all Participating Class Members, in accordance with this Settlement Agreement and as ordered by the Court, and timely remit those amounts to the appropriate taxing authorities. (Settlement ¶ 28.)

10. The amount of Two Hundred Twenty Thousand Dollars and Zero Cents ($220,000.00) of the GSF shall be allocated to penalties under PAGA ("PAGA Amount"), subject to the Court's final approval, of which 75% of that amount will be paid to the LWDA ("LWDA Payment") and the remaining 25% will be distributed to the Aggrieved Employees ("Employee Payment"). (Settlement ¶ 14.)

11. Aggrieved Employee PAGA Payment Calculation. To determine each Aggrieved Employee's PAGA Payment, Defendant shall provide for each Aggrieved Employee: the number of pay periods during which each Aggrieved Employee was employed (and not on a leave of absence or on vacation for the entire week) during the PAGA Period minus any pay periods for which the PAGA claims being settled and released in this Settlement Agreement have already been released ("Unreleased PAGA Pay Periods"). (Settlement, ¶ 16.) The Settlement Administrator shall calculate a pay period value by dividing the Employee Payment by the total number of Unreleased PAGA Pay Periods for all Aggrieved Employees ("PAGA Pay Period Value"). The Settlement Administrator shall then calculate each Aggrieved Employee's share of the Employee Payment by multiplying the Aggrieved Employee's Unreleased PAGA Pay Periods by the PAGA Pay Period Value. (Settlement ¶ 16.)

12. "Released Parties" means Bank of America, N.A., and any of its affiliates, parents (including Bank of America Corporation), subsidiaries, predecessors, or successors, and each of their employees, agents, shareholders, officers, directors, attorneys, insurers, and any person or entity that could be jointly liable with Bank of America Corporation and Bank of America, N.A. for the claims being released by this Settlement Agreement. (Settlement ¶ 34.)

13. Release for All Participating Class Members. Upon the occurrence of the Effective Date, all Participating Class Members (which includes Plaintiff) will release the Released Parties from any and all actions, causes of action, suits, liabilities, claims, and demands whatsoever (including without limitation under theories of successor liability, joint employer liability, agency and/or conspiracy), whether known or unknown, which the Participating Class Member has or had against the Released Parties, or any of them, that are, were, or reasonably could have been asserted based on the facts, theories, and/or statutory or other violations alleged in the Second Amended Complaint and claims under the California Unfair Competition Law predicated on the foregoing, including any related statutory damages, liquidated damages, penalties, interest, and/or attorneys' fees and costs, under any federal, state, local or administrative law, constitution, charter, law, rule, regulation or ordinance (including but not limited to the California Labor Code, any California Industrial Welfare Commission Wage Orders, and the California Unfair Competition Law) through July 15, 2024 (the "Released Claims"). For avoidance of doubt, the Released Claims shall include, but not be limited to, any claims for: unpaid and/or underpaid wages of any type, failure to pay wages for all hours worked, failure to pay overtime, failure to provide or pay (or properly pay) for missed or non-compliant meal breaks, failure to authorize and permit or pay (or properly pay) for missed or non-compliant rest breaks, failure to pay wages at the regular rate of pay including but not limited to overtime, sick leave, and meal and rest break premiums, failure to indemnify employees for business expenses / employment-related losses / expenditures, failure to furnish accurate itemized wage statements, and failure to timely pay wages during employment and/or upon the termination of employment. (Settlement ¶ 34.)

14. Release by the Aggrieved Employees and LWDA. Upon the occurrence of the Effective Date, the LWDA and the Aggrieved Employees will release the Released Parties from the following "Released PAGA Claims": any and all actions, causes of action, suits, liabilities, claims, and demands whatsoever (including without limitation under theories of successor liability, joint employer liability, agency and/or conspiracy), whether known or unknown, which the Aggrieved Employee or State of California has or had against the Released Parties, or any of them, that are, were, or reasonably could have been asserted based on the facts, theories, and/or statutory or other violations alleged in the Second Amended Complaint and the notices sent to the LWDA pursuant to PAGA by or on behalf of the Plaintiff, including but not limited to, civil penalties under the Private Attorneys General Act of 2004, Cal. Labor Code § 2698 et seq., related to any claims for unpaid and/or underpaid wages of any type, failure to pay wages for all hours worked, failure to pay overtime, failure to provide or pay (or properly pay) for missed or non-compliant meal breaks, failure to authorize and permit or pay (or properly pay) for missed or non-compliant rest breaks, failure to pay wages at the regular rate of pay including but not limited to overtime, sick leave, and meal and rest break premiums, failure to indemnify employees for business expenses / employment-related losses / expenditures, failure to furnish accurate itemized wage statements, failure to timely pay wages during employment and/or upon the termination of employment, and claims under the California Unfair Competition Law predicated on the foregoing, under any federal, state, local or administrative law, constitution, charter, law, rule, regulation or ordinance (including but not limited to the California Labor Code, any California Industrial Welfare Commission Wage Orders, and the California Unfair Competition Law), whether for economic damages, noneconomic damages, restitution, statutory penalties, civil penalties, liquidated damages, punitive damages, interest, attorneys' fees, costs of suit or other monies, through July 15, 2024. (Settlement ¶ 35.)

15. Injunction Barring Pursuit of Released Claims. As part of the final approval of the settlement,

Plaintiff, Participating Class Members, Aggrieved Employees, and the LWDA shall be enjoined from filing, initiating or continuing to prosecute any actions, claims, complaints, or proceedings in court, arbitration, with the California Division of Labor Standards Enforcement ("DLSE"), with the LWDA, or with any other entity, with respect to the claims released as described in Paragraphs 34-36 above. This settlement is conditioned upon the release by Plaintiff, Participating Class Members, Aggrieved Employees, and the LWDA as described in Paragraphs 34-36, above, and upon covenants by Plaintiff, all Participating Class Members, Aggrieved Employees, and the LWDA that they will not and cannot participate in any actions, lawsuits, proceedings, complaints, or charges brought individually, by the DLSE, the LWDA, or by any other agency, persons or entity in any court, arbitration or before any administrative body with respect to the Released Claims, nor will such Participating Class Members, Plaintiff, or the LWDA contest or interfere with efforts by Defendant or by any other Released Parties to oppose any attempt to bring such released claims against any of them. Additionally, it is agreed herein that neither injunctive or declaratory relief, nor any equitable relief beyond what could be characterized as restitution of claimed unpaid wages required to be paid pursuant to this Settlement Agreement, will be ordered by the Court against Defendant in final approval of the settlement, which will otherwise be grounds for Defendant rescinding and terminating this Settlement Agreement. (Settlement ¶ 37.)

16. Settlement Administrator and Costs. Subject to Court approval, the Parties designate CPT Group, Inc. to administer the settlement in this action ("Settlement Administrator"), with a budget to administer the settlement for fees and costs of up to Forty Thousand Dollars and Zero Cents ($40,000.00) ("Settlement Administration Costs"). (Settlement ¶ 20.)

17. Attorney Fees / Costs. Class Counsel will request attorney fees in an amount of up to one-third of the GSF (One Million Four Hundred Sixty-Six Thousand Six Hundred and Sixty-Six Dollars and Sixty-Seven Cents ($1,466,666.67). Class Counsel will request reimbursement of reasonable costs and expenses incurred in prosecution of this matter in an amount of up to Thirty-Five Thousand Dollars and Zero Cents ($35,000.00). Amounts awarded by the Court for attorneys' fees and costs shall be paid from the GSF. (Settlement ¶ 17.)

18. Enhancement Award. Subject to approval by the Court, Plaintiff may apply to the Court for an enhancement award not to exceed Ten Thousand Dollars and Zero Cents ($10,000.00), in consideration for serving as the Class Representative ("Enhancement Award"). The Enhancement Award is in addition to the Individual Settlement Payment (as defined below) to which Plaintiff may be otherwise entitled along with all other Settlement Class Members. (Settlement ¶ 18.)

19. Undistributed Funds. In the event that any checks mailed to a Participating Class Member or Aggrieved Employee remains uncashed after the expiration of one hundred and eighty (180) days, or an envelope mailed to a Participating Class Member is returned and no forwarding address can be located for the Participating Class Member after reasonable efforts have been made, then any such funds shall be transmitted by the Settlement Administrator pursuant to governing California law to the State of California Unclaimed Property Fund, to be held there in the name of and for the benefit of such class members under California's escheatment laws. (Settlement ¶ 31.)

III. CLASS NOTICE AND RESULTS OF THE NOTICE PROCEDURE

On May 16, 2025, CPT Group, Inc. received the Class List from Defendant for 17,454 Class

Members. (Admin Dec., ¶ 6.) CPT Group, Inc. determined that the Esclator Clause was not triggered. (*Id.* ¶ 7.) On April 21, 2025, after updating the Class List against the National Change of Address Database maintained by the U.S. Postal Service, the Settlement Administrator mailed the Notice Packet to 17,454 Class Members. (*Id*., ¶¶ 8-9, Ex. B.)

There were 328 Notice Packets returned to CPT Group, Inc. as undeliverable and of these a total of 235 Notice Packets were capable of remailing following skip trace efforts. There are 93 Notice Packets which were ultimately undeliverable. (*Id*. ¶ 11.)

To date, CPT Group, Inc. has received ten (10) requests for exclusion from Settlement Class Members, one (1) objection to the Settlement, and one (1) objection to workweeks. (Admin Dec, ¶¶ 12-14, Ex. C.) The deadline for Class Members to submit Exclusions and Objections was July 12, 2025. (Admin Dec., ¶ 9.) Therefore, there are 17,444 Participating Class Members who will receive their share of the Net Settlement Amount.

CPT Group, Inc. estimates the Participating Class Members' average settlement payment to be $149.58. (Admin Dec., ¶ 13.) This number does not account for Class Counsel costs ultimately being lower than provided for in the Settlement

IV. EVALUATION OF THE SETTLEMENT

A. The Legal Standard for Final Approval

Before granting final approval of a class action settlement, the Court must review the settlement for fairness. (Cal. Rules of Court, rule 3.769(g); *Dunk v. Ford Motor Co.* (1996) 48 Cal. App. 4th 1794, 1801.) A court must take into account relevant factors, including, for example, the strength of the plaintiff's case, the risk, expense, complexity and likely duration of further litigation, the amount offered in settlement, the extent of discovery completed and the stage of the proceedings, the experience and views of counsel, and the reaction of the class members to the proposed settlement. (*Wershba v. Apple Computer, Inc.* (2001) 91 Cal. App. 4th 224, 244-45; *Dunk*, 48 Cal. App. 4th at 1801 ["The list of factors is not exhaustive and should be tailored to each case"]; *Officers for Justice v. Civil Serv. Comm'n* (9th Cir. 1982) 688 F.2d 615, 625.) Taking into account such factors, 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. (*Wershba*, 91 Cal. App. 4th at 245; *Dunk*, 48 Cal. App. 4th at 1802.) "The settlement or fairness hearing is not to be turned into a trial or rehearsal for trial on the merits. [The trial court is not] to reach any ultimate conclusions on the contested issues of fact and law which underlie the merits of the dispute, for it is the very uncertainty of outcome in litigation and avoidance of wasteful and expensive litigation that induce consensual settlements." (*Officers for Justice,* 688 F.2d at 625.)

B. This Settlement Should Be Finally Approved

In this case, the Settlement was reached as a result of arm's-length negotiations facilitated by highly regarded wage and hour mediator, Paul Grossman, Esq., and analysis by Class Counsel and Class Counsel's expert. (Clayton Dec. ¶ 16.)

The Settlement negotiations have been, at all times, adversarial and non-collusive in nature. While Plaintiff believes in the merits of her case, she also recognizes the inherent risks of litigation and understands the benefit of the Settlement Class receiving settlement funds immediately as opposed to risking an unfavorable decision on class certification, summary judgment, at trial, the damages awarded, and/or an appeal that can take several more years to litigate. (*Id*. ¶ 17.)

The Parties engaged in significant informal discovery and Defendant produced a sampling of time and pay data which Plaintiff and Plaintiff's expert analyzed. Plaintiff's counsel and Plaintiff's counsel's expert specifically analyzed the following: (1) a significant sampling of electronic time and pay data; (2) the total number of current and former putative class members and aggrieved employees who worked during the relevant time periods; (3) the total number of workweeks at issue during the relevant time periods; (4) the total number of pay periods at issue during the relevant time periods; (5) the average hourly rate for the putative class members; and (6) other relevant information, including Defendant's Employee Handbook, Plaintiff's personnel file, wage statements, and time records. Plaintiff's counsel and Plaintiff's counsel's expert reviewed the data produced by Defendant which included approximately a random sample of timekeeping and payroll data of 1,120 putative class members, which spanned from July 30, 2022, through December 12, 2023. (Clayton Dec. ¶ 18.)

Further, the Plaintiff's counsel had multiple discussions, calls, and emails with the

Defendant's counsel about the disputed factual and legal issues involved in this case, the risks attending further prosecution, including risks related to a contested motion for class certification, and the substantial benefits to be received pursuant to a compromise and settlement of the case as set forth in the Agreement. As such, settlement on the terms agreed to is in the best interest of Plaintiff and the Settlement Class. Plaintiff's maximum potential recovery in this matter, excluding PAGA penalties, would amount to approximately $**22,813,716.78**. The settlement reached in this matter was $4,400,000.00 or approximately **19.3%** of exposure.[1] (*Id*. ¶ 19.)

Defendant has at all times denied the claims, and has entered into this Settlement Agreement solely as a compromise to resolve the litigation. Defendant's arguments included the following: that Bank of America has compliant timekeeping policies and practices that require all time worked and actual start and stop times be reported, prohibit working off-the-clock, and direct that time spent on preparatory tasks including login procedures be recorded; that the Bank's meal and rest break policies and practices comply with California law by requiring that employees take all mandated meal and rest breaks in the required timeframes and automatically adding an hour of pay at the regular rate if a non-exempt employee's timesheet reflects a late, short, or missed meal break or the employee does not certify that the employee were permitted their rest breaks; and in addition, that the Bank reimburses California employees who are required to use their personal mobile phones or home internet as part of their job. The Bank further argued that to the extent Plaintiff had any viable individual claims it was due to her alleged failure to comply with the Bank's policies and nature of the claims for which she sought to represent a class involve individualized inquiries that are not fit for class certification. Accordingly, Plaintiff's derivative claims for wage statement penalties, final pay penalties, and civil penalties under the PAGA were also denied by Defendant. (*Id*. ¶ 20.)

If Plaintiff continued litigating this matter, the Class Members could potentially receive **nothing** if the Court agreed with Defendant's position or if Defendant was able to defeat certification based on the individual inquiries that would be required regarding Plaintiff's off the clock claims and meal and rest claims. Furthermore, even if the Court agreed with Plaintiff, Plaintiff still had to prove Defendant faced exposure under Plaintiff's derivative claims and acted intentionally and *willfully* in

[1] For detailed exposure analysis please see ¶¶ 14-21 of the Declaration of Malcolm Clayton in Support of Plaintiff's Motion for Preliminary Approval of Class Action Settlement, filed on January 15, 2025.

order to receive the additional penalties under Labor Code Sections 203, 204, and 226. As such, Plaintiff's decision to settle this matter was in the best interest of the Class Members. (Clayton Dec. ¶ 21.)

This is a fair and reasonable result. Other substantial benefits also include that it is a non-reversionary, non-claims made settlement, which distributes the Net Settlement Amount on a pro rata basis based on the number of Workweeks each Participating Class Member worked for Defendant during Periods A and B, with such workweeks fairly weighted to account for prior release of some claims in Period B. (Settlement ¶¶ 9, 22). The 25% portion of the PAGA Penalties allocated to Aggrieved Employees will be distributed to each Aggrieved Employee who worked during the PAGA Period based on their individual number of PAGA Period Pay Periods during the PAGA Period. (Settlement ¶ 16). Settlement Class Members will have one hundred eighty (180) days to cash their checks. Any funds not distributed after the expiration of the Individual Class Payment checks shall escheat to the California Controller's Unclaimed Property Fund in the name of the Class Member. (Settlement ¶ 31). (Clayton Dec. ¶ 22.)

The proposed Settlement results in substantial benefits to the class. If the Court were to approve the estimated requested amounts for attorneys' fees and costs, service enhancement, LWDA Payment, and settlement administration costs as set forth above, Plaintiff estimates that Class Members will receive an average settlement payment of slightly more than approximately $149.58, as described above. (See Admin Dec. ¶ 13.)

Plaintiff's Counsel is convinced that the proposed Settlement is in the best interest of the class based on the negotiations and a detailed knowledge of the issues present in this action. The defenses asserted by Defendant, the prospect of a potential adverse summary judgment ruling, preemption issues, class certification issues as well as the uncertainty of class certification, the difficulties of complex litigation, the lengthy process of establishing specific damages and various possible delays and appeals, were also carefully considered by Class Counsel in agreeing to the proposed Settlement. In light of the above, the proposed Settlement is reasonable and should be granted final approval. (Clayton Dec. ¶ 23.)

/ / /

V. THE REQUESTED ATTORNEYS' FEES AND COSTS ARE REASONABLE AND SHOULD BE APPROVED

Class Counsel seeks attorneys' fees and expenses award of one third (1/3) of the Settlement Amount or One Million Six Hundred Sixty-Six Thousand Four Hundred Sixty-Six Dollars and Sixty-Seven Cents ($1,466,666.67) and Class Counsel's expenses not to exceed Thirty-Five Thousand Dollars and Zero Cents ($35,000.00), in costs incurred in the prosecution of the Action. The requested fee and costs are fair compensation for undertaking complex, risky, expensive, and time-consuming litigation on a contingent fee basis, especially in light of the benefits achieved by Plaintiff's counsel for the Class Members.

A. Plaintiff's Fee Request of One-Third Of The Gross Settlement Is Proper Under The Common Fund Doctrine

California courts have recognized that an appropriate method for awarding attorney's fees in class actions is to award a percentage of the "common fund" created as a result of the settlement. (*City & County of San Francisco v. Sweet* (1995) 12 Cal.4th 105, 110-11 (*Sweet*); *Quinn v. State* (1975) 15 Cal. 3d 162, 168 (*Quinn*); see also *Apple Computer, Inc. v. Superior Court* (2005) 126 Cal. App. 4th 1253, 1270; *Lealao v. Beneficial California, Inc.* (2000) 82 Cal. App. 4th 19, 26 (*Lealao*).) The basis of the common fund is fairness to the successful litigant, who might otherwise receive no benefit because his recovery might be consumed by the expenses; correlative prevention of an unfair advantage to others who are entitled to share in the fund and who should bear their share of the burden of its recovery; encouragement of the attorney for the successful litigant, who will be more willing to undertake and diligently prosecute proper litigation for the protection or recovery of the fund if he is assured that he will be properly and directly compensated should his efforts be successful. (*Sweet*, 12 Cal. 4th at 111.) In *Quinn*, the California Supreme Court stated: "[O]ne who expends attorneys' fees in winning a suit which creates a fund from which others derive benefits may require those passive beneficiaries to bear a fair share of the litigation costs." (*Quinn,* 15 Cal. 3d at 167.) Similarly, in *Sweet*, the California Supreme Court recognized that the common fund doctrine has been applied "consistently in California when an action brought by one party creates a fund in which other persons are entitled to share." (*Sweet,* 12 Cal. 4th at 110.)

Several courts have expressed frustration with the alternative "lodestar" approach for deciding fee awards, which usually involves wading through voluminous and often indecipherable time records. (*Lealao*, 82 Cal. App. 4th at 31 n.5 (citing *In re Activision Sec. Litig.* (N.D. Cal 1989) 723 F. Supp. 1373, 1375).) The percentage approach is preferable to the lodestar because: (1) it aligns the interests of class counsel and absent class members; (2) it encourages efficient resolution of the litigation by providing an incentive for early, yet reasonable, settlement; and (3) it reduces the demands on judicial resources. (*In re Activision Sec. Litig.*, 723 F. Supp. At 1378-79.) The Ninth Circuit now routinely uses the percentage of the common fund approach to determine the award of attorney's fees. (*Lealao*, 82 Cal. App. 4th at 30-31; see *e.g., In re Pac. Enters. Sec. Litig.* (9th Cir. 1995) 47 F.3d 373, 378-79 (approving attorney's fee of 33%).)

Class Counsel seeks One Million Four Hundred Sixty-Six Thousand Six Hundred Sixty-Six Dollars and Sixty-Seven Cents ($1,466,666.67) in attorney's fees which is one third (33 1/3%) of the Gross Settlement Amount of $4,400,000.00 and is easily within the range of reasonableness. Historically, courts have awarded percentage fees in the range of 20% to 50%, depending on the circumstances of the case. (*See In re Activision Sec. Litig.*, 723 F. Supp. at 1378.) According to Professor Newberg: "No general rule can be articulated on what is a reasonable percentage of a common fund…Usually 50 per cent of the fund is the upper limit on a reasonable fee award from a common fund, in order to assure that fees do not consume a disproportionate part of the recovery obtained for the class, though somewhat larger percentages are not unprecedented." (Newberg on Class Actions (4th Ed.), §14.6.) Because Class Counsel's requested fee is reasonable and falls well within the historical range of attorney's fee awards under the common fund theory, the Court should approve the requested fees as reasonable pursuant to the common fund approach.

B. Class Counsel's Hourly Rates And Hours Are Reasonable

The hourly rates of associate attorneys—$675 for Malcolm Clayton, Elizabeth L. Harrier Danielle E. Montero, and S. Phillip Song; $750 for Vincent Granberry; and $1,000 for partner Joseph Lavi—are in line with rates approved for attorneys in this jurisdiction with similar experience. (Clayton Dec. ¶¶ 24-26; 29-32); Ex. 4-5 [printouts of California firms from 2014 NLJ Survey of Attorney Fees, 2008 NLJ Survey of Attorney Fees].) A reasonable hourly rate is the prevailing rate charged by attorneys of similar skill and experience in the relevant community. (*PLCM Group, Inc. v. Drexler* (2000) 22 Cal. 4th 1084, 1095; *Hopson v. Hanesbrands Inc.* (N.D. Cal. Apr. 3, 2009, No.

CV08-0844 EDL) 2009 U.S. Dist. LEXIS 33900.) When determining a reasonable hourly rate, courts may consider factors such as the attorney's skill and experience, the nature of the work performed, the relevant area of expertise and the attorney's customary billing rates. (*Flannery v. California Highway Patrol* (1998) 61 Cal. App. 4th 629, 632.) Counsel's skill and experience support their hourly rates. (Clayton Dec. ¶¶ 29-37 [describing experience in employment law and class actions with Mr. Granberry an associate out of law school in 2010, and Mr. Lavi a founding partner and out of law school and practicing since 2000].) Other attorneys working in California courts charge comparable if not higher rates as indicated in the printouts of California firms' billing rates from the 2014 National Law Journal Survey showing partner rates up to $1,195 and associate rates up to $750. (Clayton Dec. Ex. 4 [printouts from 2014 National Law Journal Survey for California firms showing a high rate for partners of $1,195 and high for associates of $725]; *See* Ex. 5 [2008 National Law Journal Survey showing 2008 fees of California partners with high of $980 and associate high of $570]; see, *e.g., Richard v. Ameri-Force Mgmt. Servs., Inc.*, Case No. 37-2008-00096019 (San Diego Super. Ct., August 27, 2010) [$695 to $750 an hour for partners]; *Barrera v. Gamestop Corp.*, Case No. CV 09-1399 (C.D. Cal. Nov. 29, 2010) [$700 an hour for partners]; and *Anderson v. Nextel Retail Stores, LLC*, Case No. CV 07-4480 (C.D. Cal. June 20, 2010) [$655 to $750 an hour for partners].)

Class Counsel's rates are also in line with the Laffey Matrix which states a rate of $878 per hour for attorneys out of law school 11-19 years and $1,057 per hour for attorneys out of law school over 20 years. (Clayton Dec. Ex. 6 available at http://www.laffeymatrix.com/see.html.) California Courts have applied the Laffey Matrix with adjustments to the specific California locality where the Counsel's office is located based on "Locality Pay Tables." (*Syers Properties III, Inc. v. Rankin* (2014) 226 Cal.App.4th 691, 695-696 [affirming fee award based on Laffey Matrix with upward 9 percent rate adjustment from D.C. area compared to San Francisco Bay Area based on Locality Pay Tables]; *In re HPL Techs., Inc., Secs. Litig.* (N.D. Cal. April 22, 2005, No. C-02-3510 VRW) 365 F.Supp.2d 912, 921-922 [using Laffey Matrix with upward adjustment of 9 percent for San Francisco based on difference between D.C. Area 's +15.98 locality pay compared to San Francisco's +26.39 percent locality pay differential from the federal courts' "Judiciary Salary Plan Pay Tables."].) Here, Plaintiff's Counsels' offices are located in Los Angeles County. For 2023, the Locality Pay Tables (and Judiciary Salary Plan Pay Tables referred to in *In re HPL Techs., Inc.*), state a 2.4 percent increase for the Los Angeles-Long Beach, CA area which includes the following counties: Imperial County, Kern County, Los Angeles County, Orange County, Riverside County, San Bernardino County, San Luis Obispo County, Santa Barbara County, and Ventura County. (Clayton Dec. Ex. 7, 8 [2023 Locality Pay Tables for Washington-Baltimore-Arlington and Los Angeles-Long Beach, CA available at https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/2023/general-schedule/]; Clayton Dec. Ex. 9, 10 [Judiciary Salary Plan Pay Tables available at http://www.uscourts.gov/careers/compensation/judiciary-salary-plan-pay-rates]; Clayton Dec. Ex. 11 [2023 Locality Pay Area Definitions defining counties within Los Angeles-Long Beach, CA area available at https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/2023/locality-pay-area-definitions/].) In applying the 2.4% locality increase for attorneys working in Imperial County, Kern County, Los Angeles County, Orange County, Riverside County, San Bernardino County, San Luis Obispo County, Santa Barbara County, and Ventura County over the Washington-Baltimore area stated in the Laffey Matrix, the Laffey Matrix states the following relevant rates: $447 for attorneys 1 to 3 years out of law school, $551 for attorneys 4 to 7 years out of law school, $795 for attorneys 8 to 10 years out of law school, $899 for attorneys 11 to 19 years out of law school, and $1,082 for attorneys 20 plus years out of law school.

Lavi & Ebrahimian, LLP has spent approximately 577 hours on this matter with a total lodestar of $423,800.00. (Clayton Dec. ¶¶ 29-37.) In summary form, counsel's many tasks included the following: pre-filing investigation, legal research, and research of Defendant; meeting and communicating with client regarding his responsibility in bringing the action, the facts of her case, her employment, her work environment, her documents pleadings; reviewing Plaintiff's file and determining liability and evaluating claim and defense strengths and weaknesses; legal research of case law and wage orders regarding applicable claims and defenses; meeting and conferring over informal discovery and the mediation session; drafting notices for litigation; evaluating Defendant's policies; arranging, prosecuting and defending depositions; determining case strategy; communicating with Defendant's Counsel; analyzing data and information provided in informal discovery; calculating damages; negotiating settlement and settlement documents; communicating with the administrator and responding to administrator's inquiries; preparing the motion for preliminary approval and supporting documents; meeting with client regarding approval of the settlement; drafting motion for final approval and supporting documents. All of the tasks and work performed were reasonable and necessary to the prosecution of this case and justified, particularly in light of the result achieved. (Clayton Dec. ¶ 30.)

Contingent Risk of Litigation: The rationale for a fee enhancement in contingency cases is to not only compensate the attorney for legal services, but to provide fair compensation for the risk and delay of not being paid at all. (*Ketchum v. Moses* (2001) 24 Cal.4th 1122, 1132-1133.) In counsel's experience, the risks of prosecuting a class action case such as this are significant. Class Counsel has expended time in the prosecution of this litigation on a contingency basis without any direct compensation and having advanced litigation costs, carrying the risk that this time and the current out-of-pocket costs would be lost if the case were not resolved successfully.

Litigation Precluded Other Employment: As a relatively small law firm, Class Counsel can only properly litigate a limited number of cases at one time. The professional demands of this case were not insignificant. Class Counsel was necessarily precluded from working on other cases while working on this case. (Clayton Dec. ¶¶ 29-37; [L&E 577 hours]).

Lodestar Multiplier Is Reasonable: If evaluated in a Lodestar approach, Class Counsel's requested attorney's fees are reasonable. The Lodestar multiplier relative to the fees requested in this case is 3.39 ($1,466,666.67 fees / $432,800 billable), a reasonable multiplier considering the amounts recovered for the Settlement Class and the risks of the undertaking this matter on a contingent basis, with no guarantee of recovery. (*See* Clayton Dec. ¶¶ 26-35). However, such "unadorned lodestar reflects the general local hourly rate for a fee-bearing case; it does not include any compensation for contingent risk, extraordinary skill, or any other factors a trial court may consider . . . ." (*Ketchum v. Moses* (2001) 24 Cal.4th at p. 1138.) "The purpose [of a multiplier] . . . is to bring the financial incentives for attorneys enforcing important constitutional rights . . . into line with incentives they have to undertake claims for which they are paid on a fee-for-services basis." (*Id*. at pp. 1132-1133.) To determine a fee that truly reflects market value, non-lodestar factors must be considered and the lodestar adjusted accordingly. (*Horsford v. Bd. of Trustees* (2005) 132 Cal.App.4th 359, 394-395.). Specifically, *Ketchum* considers four factors in awarding a lodestar multiplier: (1) the novelty and difficulty of the questions involved, (2) the skill displayed in presenting them, (3) the extent to which the nature of the litigation precluded other employment by the attorneys, and (4) the contingent nature of the fee award.

Here, given the contingent-risk, the lack of any payment for counsel's legal services to-date, the results obtained, the preclusion factor, the public interest advanced by the case, and the skill displayed in presenting the case, an enhancement to the lodestar of 3.39 is fully justified. (See e.g., *City of Oakland v. Oakland Raiders* (1988) 203 Cal.App.3d 78, 82 (2.34 multiplier even in noncontingent case); *Wershba,* (2001) 91 Cal.App.4th 224, 255 ("noting that "[m]ultipliers can range from 2 to 4 or even higher").

C. Plaintiff's Costs Request Is Reasonable

The Settlement allows for a request of up to Thirty-Five Thousand Dollars and Zero Cents ($35,000.00), by Plaintiff's Counsel for costs. Plaintiff's Counsel has expended Thirty-One Thousand Two Hundred Ninety-Five Dollars and Fifty-Nine Cents ($31,295.59) in costs in this case. (Clayton Dec., Ex. 3.) All costs were reasonably incurred in prosecution of the lawsuit and paid on a contingency basis. A large portion of these costs were associated with filing fees for this case, service of documents, mediation, deposition, expert analysis, and telephonic court appearances; the remainder was reasonably incurred in prosecution of the lawsuit. Therefore, Class Counsel seeks the costs in the amount of Thirty-One Thousand Two Hundred Ninety-Five Dollars and Fifty-Nine Cents ($31,295.59), as appropriate and reasonable reimbursement of such costs. (Clayton Dec. ¶ 39.)

VI. THE REQUESTED ENHANCEMENT PAYMENT TO NAMED PLAINTIFF IS REASONABLE

An Enhancement Award of up to $10,000.00 to Plaintiff for her services as Class Representative and the risk in connection with that role. Extraordinary circumstances exist of having been deposed and providing verified discovery, which warrant an award of this amount. Enhancement awards in wage and hour cases typically range from $5,000.00 to $40,000.00, although some awards are higher. Often, multiple class representatives receive awards in the above range. (*See e.g.*, *Munoz v. BCI Coca-Cola Bottling Co. of Los Angeles* (2010) 186 Cal.App.4th 399, 412 [approving an enhancement request of $10,000.00 per named plaintiff in a 188 member class]; *Cook v. Niedert*, 142 F.3d 1004, 1016 (7th Cir. 1998); *Thornton v. East Texas Motor Freight*, 497 F.2d 416, 420 (6th Cir. 1974) ["We also think there is something to be said for rewarding those drivers who protect and help to bring rights to a group of employees who have been the victims of discrimination."].) Additionally, Plaintiff participated heavily in discovery, being deposed and providing verified responses to Defendant's requests. In light of this service, the requested enhancement is modest, reasonable, and should be approved. (Clayton Dec. ¶ 27.)

Plaintiff has performed considerable services on behalf of the Class during the litigation. Plaintiff's Counsel cannot overstate the importance of the role of the employee who searches out an attorney and steps forward to assume the risk of litigation in order to represent a class and put the interests of the class before her interests. Plaintiff has understood and understands that this is a class action where he is serving as the class representative and must protect the class members' interests. Plaintiff is the catalyst to the benefit reached for the class members and has actively protected the Class Members' interests during the pendency of this matter and will continue to do so, even if the case were required to go to trial. Plaintiff spent significant time participating in this matter by searching for an attorney, communicating with her attorneys on numerous occasions, searching for and producing relevant documents related to his employment, responding to her attorney's telephone inquiries, preparing for and participating in a deposition, being available during the mediation, spending time in meetings and telephone conferences with counsel to better inform counsel of the Class Member's work environment and requirements, providing necessary information for settlement discussions, reviewing the settlement documents, and approving the settlement on behalf of all class members. (*Id*. ¶ 28)

Plaintiff also undertook the significant risks associated with acting as class representative. She understood that she was putting herself at risk to pay the cost of litigation if the case was unsuccessful and accepted those risks. (*Id*.)

In contrast, without having to take on any of the risk incurred by Plaintiff or time spent by Plaintiff in litigating this matter; class members will receive a payment for their claims. It appears that the Settlement Class Members recognize this enhancement was justified because the Settlement Class received notice of the requested amount, and no one has objected to the request. Thus, the service payment request as an enhancement award to Plaintiff is warranted to compensate her for her time and effort, the fear and stress associated with assuming the responsibility of serving as the class representative, and the concrete risks she assumed as a class representative. (*Id.*)

VII. THE PROPOSED SETTLEMENT ADMINISTRATION COSTS ARE REASONABLE

As preliminarily approved by the Court, Forty Thousand Dollars and Zero Cents ($40,000.00) was allocated to settlement administration costs as reasonable. However, the ultimate class size exceeded the amounts contemplated in the bid, as a result the Settlement Administrator actually incurred Fifty-Seven Thousand Five Hundred Dollars and Zero Cents ($57,500.00) for their services in the action. (Admin Dec. ¶ 19.) CPT Group, Inc., upon receiving the class list, was required to mail approximately 6,000 additional notices over what was expected in their bid. (Clayton Dec. ¶ 40). The additional cost to the Settlement Class for the compliant mailing is approximately Seventy-Nine Cents ($0.79) per Class Member. ($13,795.59 divided by 17,464 Class members = $0.79 [13,795.59 overall increase to deductions, $17,500 increase mailing costs minus $3,805.41 unused attorney cost allocation]). (*Id.*) This was a reasonable, necessary and unavoidable cost increase. CPT Group, Inc. is an experienced class administrator and has adequately performed the administration tasks required by the preliminary approval order. (*Id.*) Therefore, Class Counsel requests that the Court award CPT Group, Inc. the amount of Fifty-Seven Thousand Five Hundred Dollars and Zero Cents ($57,500.00) for the costs of administration. (*See,* Admin Dec. ¶ 19, Ex. B)

VIII. THE PROPOSED ALLOCATION TO THE LWDA IS REASONABLE

The Settlement allocates payment of $165,000.00 to the LWDA which is 75% of the PAGA Amount as resolution of the PAGA claims. (*See* Lab. Code § 2699, subd. (e)(2).) This is a disputed Settlement which has not resulted in full relief obtained by the Plaintiff. Plaintiff believes this amount of money allocated to the PAGA claims is fair based on the amount of settlement being paid to the Aggrieved Employees, Plaintiff's duty to vigorously represent the Aggrieved Employees, and the Settlement serving the ultimate purpose of PAGA.

Plaintiff and Plaintiff's Counsel have a duty to "vigorously and tenaciously" protect the interests of the Aggrieved Employees. (*Simons v. Horowitz* (1984) 151 Cal.App.3d 834, 846.) Plaintiffs must also seek to further the purpose of the PAGA which is to enforce the PAGA penalties as a way to discourage Labor Code violations and penalize an employer violating the law. (*Iskanian v. CLS Transportation* (2014) 59 Cal.4th 348, 387 ["Representative actions under the PAGA …

directly enforce the state's interest in penalizing and deterring employers who violate California's labor laws."].) Thus, the purpose of PAGA is not focused on obtaining as much in penalties as possible, but to enforce the Labor Code. (*Id*. at 383 ["the Legislature's purpose in enacting the PAGA was to augment the limited enforcement capability of the Agency by empowering employees to enforce the Labor Code as representatives of the Agency."].) To balance these goals of obtaining damages for the Aggrieved Employees, seeking to discourage Labor Code violations and penalize the employer when the settlement is significantly less than the estimated damages, Class Counsel believed it appropriate to seek significant relief focusing on claims with damages that would go to the class members whose rights were allegedly violated and suffered the most from the alleged Labor Code violations. These damages and the amount paid in settlement to these claims also serve the purpose of PAGA civil penalties to discourage Labor Code violations and penalize Defendant for Plaintiff's belief that Defendant violated the law. Accordingly, Class Counsel believed it fair that the Aggrieved Employees should receive the majority of the damages when the settlement is less than the full estimate of liability because: (1) the Aggrieved Employees are the direct victims of the alleged Labor Code violations; and (2) although not allocated as PAGA penalties, the non-PAGA settlement amount furthers the purpose of the PAGA penalties, i.e., to discourage Labor Code violations and penalize an employer violating the law. (*Iskanian*, 59 Cal.4th at 387.) (*See* Lab. Code § 2699, subd. (e)(2) [court may award less than the statutory maximum PAGA penalties if unjust, arbitrary and oppressive, or confiscatory]; *Amaral v. Cintas Corp. No. 2* (2008) 163 Cal.App.4th 1157, 1213-1214 [noting court's discretion].

It is extremely common in approved wage and hour class action cases that settle that only a small portion of the total settlement is paid to PAGA penalties "in order to maximize payments to class members." (*Magadia v. Wal-Mart Assocs.* (N.D. Cal. May 31, 2019, No. 17-CV-00062-LHK) 2019 U.S. Dist. LEXIS 91732, *90-91, citing as examples *Ceja-Corona v. CVS Pharm., Inc.* (E.D. Cal. Jan. 14, 2015) 2015 U.S. Dist. LEXIS 5118, 2015 WL 222500, at *2-3 [preliminarily approving $10,000 in PAGA penalties out of a total settlement amount of $900,000]; *Thio v. Genji, LLC* (N.D. Cal. 2014) 14 F. Supp. 3d 1324, 1330 [preliminarily approving $10,000 in PAGA penalties out of a total settlement amount of $1,250,000]; *Franco v. Ruiz Food Prods.* (E.D. Cal. Nov. 27, 2012) 2012

U.S. Dist. LEXIS 169057, 2012 WL 5941801, at *14 [granting final approval of $10,000 in PAGA penalties out of a total settlement amount of $2,500,000]; *Garcia v. Gordon Trucking, Inc.* (E.D. Cal. Oct. 31, 2012) 2012 U.S. Dist. LEXIS 160052, 2012 WL 5364575, at *3 [granting final approval of $10,000 in PAGA penalties out of a total settlement amount of $3,700,000]; *Chu v. Wells Fargo Invs., LLC* (N.D. Cal. Feb. 16, 2011) 2011 U.S. Dist. LEXIS 15821, 2011 WL 672645, at *1 [granting final approval of $10,000 in PAGA penalties out of a total settlement amount of $6,900,000].) Like here, in these approved settlements, the parties generally maximized statutory penalties and minimized PAGA penalties to focus on claims to the class members, the persons who actually suffered the Labor Code violations.

IX. DISTRIBUTION SCHEDULE

- Approximate Funding Deadline: Defendant will fund the settlement account fifteen (15) calendar days after the Effective Date. (Settlement, §27.)
- Approximate Distribution Deadline: The Settlement Administrator shall cause the Settlement Payments to be mailed to the Class Members within ten (10) calendar days of the receipt of funding. (Settlement, §33.)

X. CONCLUSION

The Settlement should be approved as fair, adequate, and reasonable. It will result in fair payment to Participating Class Members, is non-collusive, and was achieved as a result of informed, extensive litigation, and arm's-length negotiations conducted by counsel for the respective parties who are experienced in wage and hour class action litigation, with the assistance of an experienced and well-regarded mediator.

Dated: September 5, 2025

Respectfully submitted,
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