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**SUPERIOR COURT OF CALIFORNIA, COUNTY OF ALAMEDA**

**CIVIL UNLIMITED DIVISION**

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| ALEXANDER BRICK, an individual, on behalf of himself and on behalf of all persons similarly situated,<br><br>Plaintiffs,<br><br>v.<br><br>CALIFORNIA HYDRONICS CORPORATION, a California Corporation; and DOES 1 through 50, inclusive<br><br>Defendants. | CASE NO. 22CV018191<br><br>**MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF MOTION FOR FINAL APPROVAL OF CLASS SETTLEMENT**<br><br>Hearing Date: August 28, 2025<br>Hearing Time: 10:00 a.m.<br>Reservation Number: A-18191-003<br><br>Judge: Hon. Michael Markman<br>Dept.:23<br><br>Action filed: September 20, 2022 |

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## I. INTRODUCTION

Plaintiff ALEXANDER BRICK ("Plaintiff") respectfully submit this memorandum in support of the unopposed Motion for Final Approval of the Proposed Class Action Settlement with Defendant California Hydronics Corporation, a California Corporation ("Defendant") and also seek final approval of Plaintiff Alexander Bricks claims under the Private Attorneys General Act, Cal. Labor Code §§ 2699 *et seq.* (PAGA). The parties to this action have reached a Settlement and the Court preliminarily approved the Plaintiff's Motion for Approval of Class Settlement on March 20, 2025, with an order entered on April 2, 2025 ("Preliminary Approval Order"). In accordance with the Preliminary Approval Order, the approved Class Notice has been disseminated to the Class[1].

Plaintiff respectfully submits this memorandum in support of the unopposed motion for final approval and the proposed entry of the Final Approval Order and Judgment, submitted herewith. While the Settlement Agreement estimated 112 Class Members, it was later discovered that 118 Class Members would comprise the class. This decreases the payout per class members above that originally contemplated by the Settlement Agreement. After disseminating the notice to the 118 members of the Class, at the time of filing, **there were zero objections, and zero opt-outs/requests for exclusion,** meaning that the entire Class has elected to participate in the Settlement, as the opt-out period for Class members has now expired. This overwhelmingly positive response evidences the Class' collective approval of the settlement, and Plaintiff respectfully submits that the class settlement should be finally approved for the same reasons that the Court preliminarily approved the settlement as fair, reasonable and adequate.

## II. THE SETTLEMENT BEFORE THE COURT

The proposed non-reversionary Settlement provides a Gross Settlement Amount of $280,000 to resolve all claims, including those under PAGA. (Settlement Agreement ¶ 3.1). In addition to individual payments to Class Members, the Gross Settlement Amount includes Court-approved attorneys' fees and litigation costs, a service award for Plaintiff, PAGA penalties, and Settlement Administrator expenses. Defendant will separately pay employer-side payroll taxes. After deductions, the estimated Net Settlement Amount is $109, 676, to be distributed pro rata based on the number of Workweeks worked by each Participating Class Member during the Class Period. (Settlement Agreement ¶ 3.2.4). The 118 Participating Class Members are expected to receive meaningful relief, with no objections or requests for exclusion received.

Subject to Court approval, the Settlement allocates $28,000 toward PAGA penalties, with $21,000 payable to the LWDA and $7,000 to Aggrieved Employees, regardless of the opt-out status. PAGA payments will be allocated based on Eligible Pay Periods worked during the June 9, 2021, to February 28, 2025, PAGA Period. (Settlement Agreement ¶ 7.6).

Phoenix Settlement Administrators has served as the Settlement Administrator and estimates final administration costs at $6,250. The Administrator will distribute all payments within 14 days of the Effective Date. Uncashed checks will be void after 180 days, with residual funds redirected to in compliance with CPP § 384(b). (Settlement Agreement ¶ 4.3.1-4.3.3).

Plaintiff seeks approval of attorneys' fees in the amount of $93,324 (33.33% of the Gross Settlement), litigation costs of $26,308.03, (note that although costs were requested in the amount of $35,000.00, true costs were  less which means additional money for the net settlement amount to be distributed pro rata to the Class based on the aforementioned criteria), and a service award of $7,500. These amounts are reasonable based on Class Counsel's work performed, lodestar cross-check, and results achieved. Supporting declarations and documentation are submitted herewith.

Given the risks of continued litigation, including certification challenges and contested liability, the Settlement represents a fair, reasonable, and adequate result for the Class. The Court should grant final approval.

## III. GENERAL STANDARD OF REVIEW

Settlements of disputed claims are favored by the courts. *Huens v. Tatum*, 52 Cal. App. 4th 259, 265 (1997), *7-Eleven Owners for Fair Fran. v. Southland Corp.*, 85 Cal. App. 4th 1135, 1151 (2000) ("[V]oluntary conciliation and settlement are the preferred means of dispute resolution. This is especially true in complex class action litigation.").

"[T]o prevent fraud, collusion or unfairness to the class, the settlement or dismissal of a class action requires court approval." *Dunk v. Ford Motor Co.*, 48 Cal. App. 4th 1794, 1801 (1996) (citing *Malibu Outrigger Bd. of Governors v. Superior Court*, 103 Cal. App. 3d 573, 578-579 (1980)). Courts have emphasized that there is an initial presumption that the compromise is fair and reasonable where: (1) investigation and discovery are sufficient to allow counsel and the court to act intelligently; (2) the settlement is reached through arm's-length bargaining; (3) counsel is experienced in similar litigation; and (4) the percentage of objectors is small. *Dunk*, 48 Cal. App.4th at 1802, citing *Newberg & Conte, Newberg on Class Actions*, (3d ed. 1992) §11.41, pp. 11-91. Here, each factor weights in favor of a presumption of fairness.

## IV. THE SETTLEMENT IS FAIR, REASONABLE, AND ADEQUATE

The Court must determine whether the settlement is fair, adequate, and reasonable. *Dunk v. Ford Motor Co*, 48 Cal.App.4th 1794, 1801 (1996); see also *Officers for Justice v. Civil Service Com'n*, 688 F.2d 615, 625 (9th Cir. 1982). The purpose of the requirement is "the protection of those class members, including the named plaintiffs, whose rights may not have been given due regard by the negotiating parties." *Dunk*, *supra*, at 1801.

The trial court has broad discretion to determine whether the settlement is fair. *Cellphone Termination Fee Cases*, 180 Cal. App. 4th 1110, 1117 (2009). The well-recognized factors that the trial court should consider in evaluating the reasonableness of a class action settlement agreement include: (i) the strength of plaintiffs' case; (ii) the risk, expense, complexity and likely duration of further litigation, (iii) the risk of maintaining class action status through trial, (iv) the amount offered in settlement, (v) the extent of discovery completed and the stage of the proceedings, (vi) the experience and views of counsel, (vii) the presence of a governmental participant, and (viii) the reaction of the class members to the proposed settlement. *Kullar v. Foot Locker Retail, Inc.*, 168 Cal. App. 4th 116, 128 (2008).

The list of factors is not exhaustive and should be tailored to each case. *Dunk, supra*, at 1801. Due regard should be given to what is otherwise a private consensual agreement between the parties. *Id*. The inquiry "must be limited to the extent necessary to reach a reasoned judgment that the agreement is not the product of fraud or overreaching by, or collusion between, the negotiating parties, and that the settlement, taken as a whole, is fair, reasonable and adequate to all concerned." *Id*. "Ultimately, the [trial] court's determination is nothing more than 'an amalgam of delicate balancing, gross approximations and rough justice.'" *Id*. These factors are analyzed below, and all support final approval of the class action settlement before this Court, consistent with this Court's Preliminary Approval Order.

### A. THE INVESTIGATION AND ANALYSIS OF DOCUMENTS ARE SUFFICIENT TO ALLOW COUNSEL AND THIS COURT TO ACT INTELLIGENTLY

Over the course of over two years of litigation the Parties engaged in the investigation of the claims, including the production of documents, class data, and other information, allowing for the full and complete analysis of liabilities and defenses to the claims in this matter. The procedural history and discovery and investigation performed was detailed in the Motion for Preliminary Approval for this matter.

### B. THE SETTLEMENT WAS REACHED THROUGH ARM'S LENGTH BARGAINING

The Settlement was the product of litigation and arms-length mediation before the experienced and highly qualified Michael D. Young. Prior to settlement, Defendant provided Class Counsel with necessary information for the members of the Class, including time data, and data concerning the composition and makeup of the Class. In preparation for Mediation, Plaintiffs prepared and submitted a Mediation Brief. On July 16, 2024, the Parties participated in a second full-day mediation session with Mr. Young, during which material terms of the settlement were negotiated and agreed upon. This mediation resulted in the drafting of the Settlement Agreement, which was subsequently finalized and executed by all Parties. (Decl. of Nevels ¶ 11).

Defendant maintains it did not engage in any wrongdoing and has no legal liability arising out of the conduct alleged in the Action. Plaintiff and Class Counsel have determined that it is desirable and beneficial to the Class to resolve the Released Class Claims of the Class in accordance with this Settlement. Class Counsel are experienced and qualified to evaluate the class claims, the viability of the defenses asserted, and the risks and benefits of trial and settlement, especially with respect to wage and hour class actions, having previously litigated and certified similar claims against other employers. (Decl. of Webb ¶ 30-37).

The fact that the settlement was negotiated with the assistance of an experienced mediator supports approval. *Alberto v. GMRI, Inc.*, 252 F.R.D. 652, 666 (E.D. Cal. Jun 24, 2008); *Glass v. UBS Fin. Servs.*, 2007 U.S. Dist. LEXIS 8476; 15 Wage & Hour Cas. 2d (BNA) 1330, at *15 (N.D. Cal. 2007) ("The settlement was negotiated and approved by experienced counsel on both sides … with the assistance of a well-respected mediator … this factor supports approval …"). During the 5-month period from July 16, 2024, to January 14, 2025, the Settlement Agreement was drafted, finalized, and executed. Thereafter, the Settlement Agreement was presented by motion to this Court for Preliminary Approval.

Finally, the thirty-three and one-third percent (33.33%) of the Gross Settlement Amount for Attorney's Fees is appropriate given the significant efforts of Class Counsel. In support thereof, Plaintiff is submitting with this Motion, Declaration of Lenden F. Webb, Brooke B. Nevels; and Kyle Nordrehaug.

### C. CLASS COUNSEL IS EXPERIENCED IN SIMILAR LITIGATION

Class Counsel in this matter have extensive class action experience, having represented persons in class action lawsuits in both employment and wage and hour class actions. Class Counsel has previously litigated wage and hour class actions involving claims similar to this case and have been approved as experienced class counsel during contested motions in state and federal courts throughout California. As such, Class Counsel is experienced and knowledgeable in this area of law, and, having participated in every aspect of the settlement discussions, has concluded the Settlement is fair, adequate, and reasonable and in the best interest of the class. (Decl. of Webb ¶ 30-37).

### D. THERE ARE NO OBJECTIONS AND NO CLASS MEMBERS OPTED OUT

The reaction of the Class supports approval of the Settlement. On April 25, 2025, the Settlement Administrator mailed the Court-approved Class Notice to the Class Members, which provided each class member with the terms of the Settlement, including notice of the claims at issue and the financial terms of the settlement, including the attorneys' fees, costs, and service award that were being sought, how individual settlement awards would be calculated, and the specific, estimated payment amount to that individual. (See Decl. of Phoenix ¶ 5). There have been no objections, and no requests to opt-out were received prior to the deadline. (See Decl. of Phoenix ¶8-9).

The absence of any objector no opt-outs strongly supports the fairness, reasonableness and adequacy of the Settlement. *See In re Austrian & German Bank Holocaust Litigation*, 80 F. Supp. 2d 164, 175 (S.D.N.Y. 2000) ("If only a small number of objections are received, that fact can be viewed as indicative of the adequacy of the settlement."); *Stoetzner v. U.S. Steel Corp.*, 897 F.2d 115, 118-119 (3d. Cir. 1990) (29 objections out of 281 member class "strongly favors settlement"). Here, the widespread approval of the class is evident in light of the overwhelming participation and lack of any objection.

### E. THE STRENGTH OF PLAINTIFF'S CASE AND THE RISK, EXPENSE, COMPLEXITY AND LIKELY DURATION OF FURTHER LITIGATION

The Action generally alleges that Plaintiff and other California Class Members were not properly paid for all hours worked, including time worked off-the-clock during meal breaks, COVID-19 screenings, and other mandatory tasks. Plaintiff and Class Members further allege they were not paid all minimum and overtime wages due, were not provided compliant off-duty meal and rest periods, were subject to unlawful time rounding practices, were not paid sick leave at the correct regular rate of pay, were not timely paid wages, and were not provided accurate itemized wage statements. The Action also alleges that Defendant failed to reimburse all necessary business expenses, and seeks unpaid wages, penalties, attorneys' fees, litigation costs. Here, a number of defenses asserted by Defendant present serious challenges to the claims brought by Plaintiff and the other Settlement Class Members. Defendant expressly denies all allegations of wrongdoing and continues to assert that its employment practices complied with all applicable labor laws.

The California Supreme Court's decision in *Duran v. U.S. Bank National Assn.*, 59 Cal. 4th 1 (2014), underscores the difficulty of certifying a class where liability defenses depend on individualized proof; even where plaintiffs allege uniform policies, they must still demonstrate that such policies had a consistently unlawful effect. Here, the individualized nature of several claims, combined with Defendant's assertions of compliance and prior payments, create a meaningful risk that class-wide adjudication would be unmanageable or fail on the merits.

Plaintiff and Class Counsel, who are experienced in wage and hour class actions, have taken these risks into account, recognizing the expense and length of continued litigation, including likely appeals, which could delay resolution for years. The litigation has already been vigorously contested, including extensive investigation, discovery, and two mediations with respected mediator Michael D. Young. Class Counsel conducted a thorough analysis of payroll and employment data, issued a *Belaire-West* notice, and carefully evaluated the strength of the claims and defenses. Based on this analysis and their experience with similar cases, Plaintiff and Class Counsel assert that the proposed Settlement is fair, reasonable, and adequate, and in the best interest of the Settlement Class.

In sum, the proposed Settlement provides meaningful recovery to all Class Members (approximately $9.43 per workweek, with an average payment of $929.46 per Class Member) while avoiding the uncertainties and delays of protracted litigation. As recognized in *Glass v. UBS Fin. Servs.*, courts favor settlements when parties face substantial litigation risks and costs. Here too, the potential for adverse rulings, the need for individualized proof, and the limited economic damages from certain claims make the Settlement a fair and pragmatic resolution, thereon warranting final approval as fair, reasonable, and adequate under the circumstances.

### F. THE AMOUNT OFFERED IN SETTLEMENT

The calculations to compensate for the amount due to the Class Members at the time this Settlement was negotiated were calculated by Plaintiffs' Counsel, Brooke Nevels. Plaintiff's Counsel analyzed the data for scores of putative class members to determine the potential maximum damages for the class claims.

Based on calculations for the 10,203 workweeks worked by Class Members, it was determined that damages included the following: approximately $21,248 in wages owed for 349 hours of improper quarter-hour rounding (an average of $180.06 per Class Member); $7,730 in overtime underpayments (approximately $65.50 per Class Member); $448,438 in off-the-clock wages (based on an assumption of one unpaid hour per workweek, or $3,800.32 per Class Member); $219,943 in meal period premiums (including $115,389 previously paid by Defendant, for an average of $1,863.92 per Class Member); $345,856 in rest period premiums (an average of $2,930.98 per Class Member); $11,640 in unreimbursed business expenses (approximately $98.64 per Class Member); $326,301 in waiting time penalties (an average of $2,765.26 per Class Member); and $182,700 for wage statement violations (approximately $1,548.30 per Class Member). In total, estimated damages for Plaintiff and the Class Members amount to $1,572,724, equating to approximately $154.14 per workweek. This figure does not include the value of the PAGA claims, which are estimated at $1,363,850, nor does it include attorneys' fees and costs.

Consequently, the Gross Settlement Amount represents 17.8% of the value of the potential maximum damages at issue for this case, assuming these amounts could all be proven in full at trial. The above calculations should then be adjusted in consideration for both the risk of certification and the risk of establishing class-wide liability on all claims.

The average settlement amount per Class Member will be $929.46, which represents significant compensation for the class members. Plaintiffs argue that this Settlement in this case is fair, reasonable and adequate considering the Defendant's potential defenses to Plaintiffs' claims, the risk of the class becoming certified, and the total amount of the Settlement compared to the potential estimated available settlement.

### G. ENHANCEMENTS TO CLASS REPRESENTATIVES ARE JUSTIFIED

Requests for approval of enhancement/incentive payments to class representatives must include evidentiary support consistent with the parameters outlined in *Clark v. American Residential Services LLC*, 175 Cal.App.4th 785, 804-07 (2009). Relevant factors to consider in deciding whether such an award is warranted include (i) the actions the plaintiff has taken to protect the interests of the class; (ii) the degree to which the class has benefitted from those actions; (iii) the amount of time and effort the plaintiff expended in pursuing the litigation; (iv) the risk to the class representative in commencing suit, both financial and otherwise; (v) the notoriety and personal difficulties encountered by the class representative, (vi) the duration of the litigation; and (vii) the personal benefit (or lack thereof) enjoyed by the class representative as a result of the litigation. *See Cook v. Niedert,* 142 F.3d 1004, 1016 (7th Cir.1998); *see also Van Vranken v. Atlantic Richfield Co*., 901 F.Supp. 294, 299 (N.D.Cal.1995).

Here, Plaintiff Alexander Brick deserves and should be awarded enhancements for the dedication of their personal time and energies toward the protection of the class. As outlined in the respective declaration, the class member engaged in the discovery process, dedicated significant time working with his respective attorneys to provide the specific facts and insight necessary to prosecute the case and achieve a positive result for each of the 118 Class Members.

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

In defining a reasonable fee, the Court should mimic the marketplace for cases involving a significant contingent risk such as this one. Our legal system places unique reliance on private litigants to enforce substantive provisions of employment law through class actions. See *Gentry v. Superior Court*, 42 Cal. 4th 443, 450-6 (2007) (confirming the public importance of private enforcement of overtime laws through class actions). Therefore, attorneys providing these substantial benefits should be paid an award equal to the amount negotiated in private bargaining that takes place in the legal marketplace. Deposit Guaranty Nat. Bank, Jackson, Miss. v. Roper, 445 U.S. 326, 338 (1980). The "percentage of the fund method more accurately reflects the results achieved." *Laffitte v. Robert Hall Internat. Inc,* 1 Cal. 5th 480, 489 (2016) (quoting *Rawlings v. Prudential-Bache Properties*, 9 F.3d 513, 519 (6th Cir. 1993)).

At the time this case was brought, the result was far from certain. Defendant's practices at issue here had been in place for years, and Defendant proffered numerous defenses to the merits of the case and to class certification that created difficulties with proof and complex legal issues for Class Counsel to overcome. As discussed below, Defendant asserted that Defendant's practices complied with all applicable Labor laws. If successful, Defendant's defenses could eliminate or substantially reduce any recovery to the Class. While Plaintiff believes that these defenses could be overcome, Defendant maintains these defenses have merit and therefore present a serious risk to recovery by the Class.

This Settlement was possible only because Class Counsel were able to persuade Defendant that there was an appreciable risk that Class Counsel would prevail on the factual and legal issues underlying liability, obtain class certification, and overcome difficulties in proof as to monetary relief at trial. In successfully navigating these hurdles so as to convince Defendant to settle, Class Counsel displayed skills consistent with those that might be expected of attorneys of comparable class action experience. Here, Class Counsel was pursuing a difficult and risky claim against Defendant where previous actions had failed to establish liability, failed to obtain class certification and/or failed to obtain monetary recovery for all employees.

## VI. THE FEE AWARD IS A REASONABLE PERCENTAGE OF THE TOTAL VALUE CREATED FOR THE BENEFIT OF THE CLASS

Class Counsel seeks an attorney fee award for their successful prosecution and resolution of this action, calculated as 33.33% of the total value of the common fund created by the Settlement. In cases such as the present, courts have long recognized that an appropriate method for determining the award of attorneys' fees is based on a percentage of the total value of benefits afforded to class members by the settlement. *Laffitte v. Robert Hall Internat. Inc,* 1 Cal. 5th 480, 489 (2016); *Boeing Co. v. Van Gemert*, 444 U.S. 472, 478 (1980); *Paul, Johnson, Alston & Hunt v. Graulty*, 886 F.2d 268, 272 (9th Cir. 1989); *Vincent v. Hughes Air West, Inc*. 557 F.2d 759, 769 (9th Cir. 1977). The settlement value here is $280,000, and a thirty-three and one-third percent (33.33%) fee award is reasonable and within the range of commonly awarded fees. Accordingly, Class Counsel reasonably requests $93,324 for attorneys' fees as a percentage (33.33%) of the common fund created for the benefit of the Class in accordance with the terms of the Agreement; this is an all-in common fund settlement without a reversion to the Defendant.

### A. In a Common Fund Case, an Award Based Upon the Percentage of the Fund is Appropriate

Courts routinely approve fee awards based on a percentage of the common fund in class actions. The California Supreme Court confirmed that trial courts may use this method in *Laffitee* noting its efficiency, fairness, and alignment with market-based principles. *Laffitee, 1 Cal.5th* at

480; *Lealao v. Beneficial Cal. Inc.*, 82 Cal.App.4th 19 (2000); *Apple Computer Inc. v. Superior Court*, 126 Cal.App.4th 1253 (2005).

Here, the 33.33% fee request aligns with awards approved in similar wage and hour class actions, often ranging between 30-40%. See *Beaver v. Tarsadia Hotels*, U.S. Dist. LEXIS 160214, at 28 (S.D. Cal. 2017); *Singer v. Becton Dickinson & Co*, WL 2196104 (S.D. Cal. 2010). Moreover, this is a non-reversionary settlement, and Class Members were notified of the requested percentage without objection.

Courts may also apply a lodestar cross-check to confirm reasonableness. Here, the implied multiplier is approximately .43 which is significantly below and certainly within the range deemed appropriate by *Laffitte* and other courts. Given the contingent risk, favorable result, market comparability, lack of objections, and reasonable lodestar, the requested 33.33% fee award is fair and should be approved.

### B. THE FEE AWARD IS SUPPORTED BY CLASS COUNSEL'S LODESTAR

The reasonableness of the requested attorneys' fee of Thirty-Three and One-Third percent equal to $93,324 is also established by reference to Class Counsel's lodestar in this matter. The contemporaneous billing records for Class Counsel evidence that through August 4, 2025, Class Counsel's total lodestar is $216,380.34 with significant additional fees still to be incurred to complete final approval and the settlement process. The requested fee award is therefore currently equivalent to Class Counsel's total lodestar of .43 and there will be additional lodestar incurred by Class Counsel to complete the settlement process and manage the settlement distribution and reports. Such a multiplier is well within—and in fact, significantly below—the range of positive multipliers approved in other cases such as *Vizcaino* and *Laffitte*. As evidenced by the billing, Class Counsel's work was efficiently performed and highly successful. As a result, this Court may conclude that the requested award is fair and reasonable and is justified under California law.

### C. THE FEE AWARD IS SUPPORTED BY THE: 1) RESULTS ACHIEVED, 2) RISK, 3) SKILL REQUIRED, 4) CONTINGENT NATURE OF THE FEE, AND 5) AWARDS IN SIMILAR CASES

Courts consider a five-part test in approving a reasonable percentage fee award in common fund cases, considering the: (1) results achieved; (2) risks of litigation; (3) skill and quality of work required; (4) contingent nature of the fee and the financial burden carried by the plaintiffs; and (5) awards made in similar cases. *In re Omnivision Technologies, Inc*., 559 F.Supp.2d 1036, 1046 (N.D. Cal. 2007). Here, each factor supports the requested fee award.

**1. THE RESULTS ACHIEVED**

"The overall result and benefit to the class from the litigation is the most critical factor in granting a fee award." *Id*. (quoting *In re Heritage Bond Litig. v. U.S. Trust Co. of Tex.*, 2005 U.S. Dist. LEXIS 13627, at 27-28 (C.D. Cal. 2005)). Here, Class Members are receiving a significant payment from this Settlement, which provides immediate monetary benefits to the Class Members that are superior to those recovered in similar wage and hour class actions; the result achieved therefore supports the requested award.

**2. RISKS OF LITIGATION**

"The risk that further litigation might result in Plaintiff not recovering at all, particularly a case involving complicated legal issues, is a significant factor in the award of fees." *Omnivision*, *Supra* at 1046-7. Here, a number of defenses asserted by Defendants present serious threats to the claims of Plaintiff and the other Settlement Class Members and thereby increase the risk inherent to such litigation as the present, including that Defendant's employment practices complied with all applicable Labor laws, the veracity of which would create additional hurdles in establishing derivative claims, such as inaccurate wage statements and waiting time penalties.

There was also a significant risk that, if the Actions were not settled, Plaintiff would be unable to obtain class certification and thereby not recover on behalf of any employees other than themselves. Defendant argued that the individual experience of each putative class member varied with respect to the claims. These defenses and hurdles represented substantial risks any of which could have resulted in the Class receiving nothing if the claims were litigated to trial. This factor therefore also supports an enhancement of the fee award.

**3. THE SKILL REQUIRED AND THE QUALITY OF WORK**

The issues presented in this case required more than just a general appreciation of wage and hour law and class action procedure because this area of practice is still developing as evidenced by the Supreme Court's decision in *Brinker Restaurant Corp. v. Superior Court*, 53 Cal. 4th 1004 (2012) and the Ninth Circuit's decision in *Sakkab v. Luxxotica Retail N. Am., Inc*., 803 F.3d 425 (9th Cir. 2015). Here, the Settlement was possible only because Class Counsel was able to convince Defendant that Plaintiff could potentially prevail on the contested issues regarding liability, achieve class certification, overcome difficulties in proof as to monetary relief and take the case to trial if need be. In successfully navigating these hurdles inherent to both class actions and wage and hour claims, Class Counsel displayed the necessary skills in both wage and hour and class action litigation.

#### 4. THE CONTINGENT NATURE OF THE FEE AND THE FINANCIAL BURDEN

The contingent nature of this case strongly supports the requested fee award. Unlike hourly counsel, contingency lawyers assume significant financial risk, investing substantial time and advancing costs with no guarantee of recovery. As the California Supreme Court has recognized, a contingent fee must account for both the legal services rendered and the risk of nonpayment. *Graham v. DaimlerChrysler Corp.*, 34 Cal.4th 553, 580 (2004).

Class Counsel litigated this case for nearly three years without compensation, advancing all costs and facing the possibility of receiving nothing. The risks were especially pronounced given the vigorous defense and uncertain prospects for class certification and trial. The Ninth Circuit has repeatedly emphasized the need for risk-based enhancements in such circumstances. See *Stanger v. China Elec. Motor, Inc.*, 812 F.3d 734, 741 (9th Cir. 2016); *Stetson v. Grissom*, 821 F.3d 1157, 1166 (9th Cir. 2016).

#### 5. AWARDS IN SIMILAR CASES

The attorneys' fees requested by Class Counsel are within the range of fees awarded in comparable cases. A review of class action settlements shows that the courts have historically awarded fees in the range of 20% to 50%, depending upon the circumstances of the case. *In re Warner Communications Sec. Lit,* 618 F.Supp. 735, 749-50 (S.D. N.Y. 1985). Class Counsel's requested fees are thirty-three and one-third percent of the total value of the case, a percentage well within the range of reasonableness given the excellent results obtained for the Class, the risks undertaken, and the skill of the prosecution. The following constitutes a non-exhaustive list of similar class action wage and hour cases wherein the fee and costs award was equivalent to one-third (1/3) of the total settlement value:

i. September 13, 2021; Smith v. California Protection and Investigation Services (Los Angeles Superior Court Case No. 19STCV14719).
ii. November 8, 2021; Securitas Wage and Hour Cases (Los Angeles Superior Court Case No. JCCP4837).
iii. November 17, 2021; Leon v. Sierra Aluminum Company (San Bernardino Superior Court Case No. CIVDS2010856).
iv. March 17, 2022; See's Candies Wage and Hour Cases (Los Angeles Superior Court Case No. JCCP5004).
v. April 12, 2022; O'Donnell v, Okta, Inc., (San Francisco Superior Court Case No. CGC-20-587665).
vi. May 23, 2022; Ettedgui v. WB Studio Enterprises Inc., (United States District Court, Central District of California Case No. 2:20-cv-08053-MCS-JDE).
vii. June 30, 2022; Armstrong, et al. v. Prometric LLC (Los Angeles Superior Court Case No. 20STCV29967).
viii. July 13, 2022; Crum v. S&D Carwash Management LLC, (Sacramento Superior Court Case No. 2019-00251338).
ix. August 10, 2022; Spears, et al. v. Health Net of California, Inc., (Sacramento Superior Court Case No. 34-2017- 00210560-CU-OE-GDS)

## VII. CLASS COUNSEL'S COSTS WERE REASONABLY INCURRED

As part of the Agreement, the parties agreed that Class Counsel may seek "a Class Counsel Litigation Expense Payment of not more than $35,000." (*Agreement Section 3.2.2*) Class Counsel requests reimbursement for incurred litigation expenses and costs in the amount of $26,308.03 based upon counsel's billing records, which evidence that counsel incurred total litigation expenses in the total amount of $26,308.03. (Decl. of Nevels ¶ 65). This requested award is the amount of the actual costs incurred. These litigation expenses include the expenses incurred for filing fees, mediation expenses, process server/attorney service charges, all of which are costs normally billed to and paid by the client. The details of the litigation expenses incurred are set forth the respective Declarations from each firm and were reasonably incurred in the prosecution of the Action. Because these costs were reasonable and necessary to the successful prosecution of these claims, the request is reasonable and should be granted.

## VIII. THE REQUESTED SERVICE AWARD IS REASONABLE

A $7,500 service award to Plaintiff Alexander Brick is fair and appropriate given his time, risk, and substantial efforts on behalf of the Class. The Settlement Agreement authorizes this amount, Defendant does not oppose it, and no Class Member objected to the request. (Settlement Agreement ¶ 3.2.1).

Courts evaluating service awards consider: (1) actions taken to benefit the class; (2) the class benefit resulting from those actions; (3) time and effort expended; (4) risks assumed, both financial and reputational; (5) any personal difficulties encountered; (6) the length of litigation; and (7) the absence of direct benefit to the representative. *See Clark v. American Residential Servs.*, 175 Cal.App.4th 785, 804–07 (2009); *Cook v. Niedert*, 142 F.3d 1004, 1016 (7th Cir. 1998); *Van Vranken v. Atl. Richfield Co.*, 901 F. Supp. 294, 299 (N.D. Cal. 1995).

Here, Plaintiff participated in discovery, reviewed case documents, maintained communication with Class Counsel, and assisted in preparing for settlement. He also undertook personal risk, including the potential for liability for costs and reputational harm from acting as a named plaintiff against his former employer. Plaintiff is also providing a broader release than the rest of the Class.

The Declaration of Brick details this involvement, and the Declaration of Nordrehaug lists numerous wage and hour class actions in which California courts have approved similar or greater awards. Courts regularly approve service awards in the $5,000–$10,000 range, and sometimes substantially higher. See *Mathein v. Pier 1 Imps.*, U.S. Dist. LEXIS 71386 (E.D. Cal. 2018) ($12,500); *Bellinghausen v. Tractor Supply Co.*, 306 F.R.D. 245, 268 (N.D. Cal. 2015) ($10,000); *Glass v. UBS Fin. Servs.*, U.S. Dist. LEXIS 8476, at *51–52 (N.D. Cal. 2007) ($25,000). Plaintiff's efforts directly enabled recovery for 118 Class Members and the resolution of complex claims. Accordingly, the requested $7,500 service award is well supported and should be approved.

## IX. CONCLUSION

Plaintiffs respectfully submit this brief in support of their proposition that the proposed settlement satisfies the standard of fairness established in California law and should therefore be finally approved as fair, reasonable, and adequate. Plaintiffs further request entry of the Final Approval Order and Judgment submitted herewith.

Date: August 4, 2025

**NEVELS NICHOLS, LLP**

By: /s/ Brooke B. Nevels

BROOKE B. NEVELS
CHRISTOPHER E. NICHOLS
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<u>**PROOF OF SERVICE**</u>

I, the undersigned, declare that I am over the age of eighteen years and not a party to the case. My business address is 10650 Treena Street, Suite 212, San Diego, California, 92131. On Monday, August 4, 2025, I served a copy of the following documents:

1) **MOTION FOR FINAL APPROVAL – NOTICE**
2) **MOTION FOR FINAL APPROVAL – MEMO OF P & A**
3) **MOTION FOR FINAL APPROVAL – DECLARATION OF NORDREHAUG**
4) **MOTION FOR FINAL APPROVAL – DECLARATION OF WEBB**
5) **MOTION FOR FINAL APPROVAL – DECLARATION OF NEVELS**
6) **MOTION FOR FINAL APPROVAL – DECLARTION OF PHOENIX**
7) **MOTION FOR FINAL APPROVAL – [PROPOSED] JUDGMENT**

[ **X** ] **By Electronic Service**: Based on a court order, Code of Civil Procedure Section 1010.6 and California Rules of Court Rule 2.251, or an agreement of the parties to accept electronic service. I caused the above documents to be sent to the person(s) at the e-mail address(es) set forth below.

[ ] **By Mail**: I placed the envelope for collection and mailing at the address(es) below, following our ordinary business practices. I am readily familiar with this firm's business practice for collecting and processing correspondence for mailing, on the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service, in a sealed envelope with postage fully prepaid. I am a resident or employed in the county where the mailing occurred. The envelope or package was placed in the mail at San Diego, California.

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**LABOR WORKFORCE DEVELOPMENT AGENCY**
Proposed Settlement of PAGA case online filing through: https://dir.govfa.net/432

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I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on Monday, August 4, 2025, at San Diego, California.

Noah Adams

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