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8

9 **SUPERIOR COURT OF CALIFORNIA**
10 **IN AND FOR THE COUNTY OF SANTA CRUZ**
11

12 JEFFREY HOXSIE, as an individual and on
13 behalf of all others similarly situated and
14 aggrieved,

15 Plaintiff,

16 v.

17 HOUSING MATTERS, a California Nonprofit
18 Corporation; and DOES 1 to 100, inclusive,

19 Defendants.
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Case No.: 22CV01797

**MEMORANDUM OF POINTS AND
AUTHORITIES IN SUPPORT OF
MOTION FOR FINAL APPROVAL OF
CLASS ACTION SETTLEMENT AND
REQUET FOR ATTORNEY'S FEES
AND COSTS**

[Filed concurrently with Notice of Motion
and Motion; Declarations of Michael Jones
and Christina Fowler; [Proposed] Order

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1 **I. INTRODUCTION**

2 Plaintiff and Class Representative Jeffrey Hoxsie seeks final approval of a non-
3 reversionary class action settlement resolving wage and hour claims on behalf of 210 individuals
4 who worked for Defendant Housing Matters (“HM” or “Defendant”) as non-exempt employees in
5 California during the period of August 19, 2018 through June 28, 2023. The proposed
6 \$238,821.80 total settlement provides about \$136,800 in cash payments to the Class, with an
7 average award of about \$465, plus additional amounts payable under PAGA. The remaining
8 balance will cover a modest service award to Plaintiff, settlement administration costs, civil
9 penalties to the state, and reasonable attorney’s fees and costs. The parties and their counsel
10 finalized the settlement after extensive and difficult arms-length negotiations overseen by an
11 experienced and highly-regarded mediator. The Court conditionally certified the Class and
12 preliminarily approved the settlement on October 27, 2023. Since then, the Court-approved notice
13 form was mailed to the Class Members on December 4, 2023, and they reacted very favorably to
14 the settlement. As of the filing of this motion, there are no objections, and no class member has
15 requested exclusion.

16 As the Court will recall, the settlement initially contemplated a \$180,000 gross settlement
17 on behalf of an estimated 125 class members; however, the final number of class members and
18 work weeks at issue, as determined by the neutral settlement administer from Defendant’s
19 records, triggered the Settlement Agreement’s “escalator clause” and resulted in a substantial
20 increase in the gross settlement amount as noted above. Despite the increase in class size from
21 125 to 210 class members, the average class award actually is larger now than the amount
22 estimated at preliminary approval. Thus, the escalator clause functioned exactly as intended, and
23 the settlement remains fully fair, reasonable, and adequate, and should receive final approval
24 from the Court.

25 Class Counsel secured an excellent settlement with Defendant after some two
26 years of investigation, litigation, and settlement negotiation and administration, all
27 without any compensation for services rendered or costs expended. The class notice duly
28 informed the class members that Class Counsel would request attorney’s fees not to

1 exceed 33.33% of the initial Gross Settlement Amount, along with reimbursement of no
2 more than \$20,000 for actual costs incurred litigating this matter. As of the filing of this
3 motion, *not one Class Member objected* to the proposed fee award. Consistent with the
4 Settlement and notice, Plaintiff now respectfully requests the Court award Class
5 Counsel's fees in the amount of \$60,000.00 and costs in the amount of \$11,340.76, as
6 described in the Declaration of Michael Jones ("Jones Decl.") filed herewith. The
7 requested attorney's fees are well within the range of reasonableness, especially
8 considering the complex and risky nature of this litigation, the contingent risk assumed,
9 the three-plus year delay in payment and, when subjected to a lodestar crosscheck,
10 results in a base lodestar that is slightly higher than the actual fee request.

11 Accordingly, on behalf of himself and the Settlement Class, Plaintiff respectfully
12 requests the Court grant this motion, give full and final approval to the settlement, grant
13 Class Counsel's request for attorney's fees and costs, and enter judgment accordingly.

14 **II. BACKGROUND/LITIGATION HISTORY**

15 The details of the procedural and factual background of this matter were outlined in
16 the Plaintiffs' Motion for Preliminary Approval of Class Action Settlement (filed on or about
17 August 16, 2023). To refresh the Court's recollection, Defendant HM is the largest nonprofit
18 in Santa Cruz County dedicated exclusively to the issue of homelessness. Defendant operates
19 three emergency shelters on its campus located in Santa Cruz, where it can provide temporary
20 housing to nearly 200 individuals. Further, Defendant operates another 57-bed, low-barrier shelter
21 called The Loft, a 12-individual capacity medical respite program named the Recuperative Care
22 Center, and the Rebele Family Center, which can house up to 28 households, or approximately 90
23 individuals. In addition to offering shelter to individuals experiencing homelessness (and medical
24 care through the Recuperative Care Center), Defendant offers numerous programs to aid clients in
25 obtaining employment, receiving various support services, and obtaining more permanent
26 housing. Plaintiff worked for Defendant at Santa Cruz campus from approximately March 2020
27 to August 2021. He started as a janitor, and then became a cook. At all times HM classified him
28 as a non-exempt employee and paid him an hourly wage for time counted by HM as hours

1 worked. [Jones Decl., ¶ 2.]

2 Plaintiff alleges a number of wage and hour violations by Defendant and filed his class
3 lawsuit on August 19, 2022, alleging claims for unpaid minimum wages, unpaid overtime wages,
4 failure to provide meal and rest breaks, wage statement violations, waiting time penalties, failure
5 to reimburse business expenses, and unfair competition., and civil penalties under the Private
6 Attorneys General Act (“PAGA”). After exhausting the required administrative remedies under
7 PAGA, On October 20, 2022, Plaintiff amended his Complaint to a cause of action for penalties
8 under the PAGA based on the alleged Labor Code violations. [Jones Decl., ¶ 3.]

9 HM has at all times denied Plaintiff’s allegations and maintained its meal break and
10 payroll policies and procedures comply with California law, that it provided its employees with
11 required meal and rest breaks, that it properly tracked employee time and paid Plaintiff and all
12 other employees all wages due, and that any use of personal cell phones was for the employee’s
13 own convenience and not reimbursable as a necessary business expense. Additionally, Defendant
14 strongly contends the case cannot be maintained as any kind of class or representative action,
15 arguing that to the extent class members missed meal breaks, that such breaks were non-
16 compliant, or that any unpaid “off the clock” work occurred, whether by rounding our otherwise,
17 it was intermittent and infrequent, against company policy, and done without the company’s
18 knowledge. Thus, per HM, evidence of such violations would be purely anecdotal and therefore
19 individualized issues predominate and trial would be unmanageable. [Jones Decl., ¶ 4.]

20 After Plaintiff filed his complaint, the Parties engaged in numerous meet and confer
21 discussions regarding discovery, potential law and motion, and potential ADR. Ultimately, the
22 Parties agreed to mediation and also agreed to an informal exchange of information to facilitate
23 meaningful settlement discussions. The Parties then retained the Hon. Brian Walsh (Ret.), a well-
24 respected neutral with extensive experience mediating wage and hour class actions. In June 2023,
25 Plaintiff and HM participated in a mediation with Judge Walsh and, after a full day of
26 negotiations, the Parties reached agreement on all major issues. The Court preliminarily approved
27 the settlement on October 27, 2023. (Jones Decl., ¶¶ 5-6.)

28 After the Parties dealt with the increase in class size/work weeks and activation of the

1 escalator clause, Class Notices were mailed to class members on December 4, 2024, and
2 Class Members had until January 19, 2024 to opt out or object to the proposed settlement.
3 [Declaration of Christina Fowler (“Fowler Decl.”), ¶¶ 5, 7, 11-13.]

4 **III. THE PROPOSED SETTLEMENT TERMS**

5 Under the proposed settlement, HM will pay \$238,821.80 into a common fund, the Total
6 Maximum Settlement Amount (“TMSA”). Reasonable attorney’s fees of up to one-third of the
7 TMSA, or \$60,000, actual litigation costs of up to \$20,000 (only \$11,340.76 is requested), a
8 Named Plaintiff Award of up to \$10,000 for plaintiff, an Administration Payment to the
9 Settlement Administrator of 5,500, and \$15,000 PAGA Payment for alleged civil penalties under
10 PAGA,¹ all will be paid from the TMSA. The remainder of approximately \$136,800 will be
11 allocated among the Participating Class Members based on their total weeks worked during the
12 Class Period. No portion of the TMSA will revert to Defendant. [Jones Decl., ¶ 7.]

13 **A. Certification of the Settlement Class**

14 The Court conditionally certified a settlement class including all individuals employed by
15 Defendant in California as an hourly-paid, non-exempt employee during the Class Period, which
16 runs from August 19, 2018 through June 28, 2023. The Settlement Administrator ultimately
17 mailed class notices to 210 individuals identified as members of the Class. [Fowler Decl., ¶
18 7.] Nothing has changed to require reconsideration of the Court’s certification of the
19 Settlement Class, despite the increase in class size given the effects of the escalator clause.

20 **B. The Benefit Conferred on the Settlement Class**

21 As noted, after activation of the escalator clause, the settlement obligates HM to pay
22 \$238,821.80 to resolve the Settlement Class’s claims, inclusive of attorney’s fees and costs.
23 About \$136,800 from the TMSA will be distributed to the Participating Class Members. This is a
24 cash settlement that does not require Participating Class Members to submit a claim form to
25 receive their settlement share. Participating Class Members will receive their settlement checks

26 _____
27 ¹ Consistent with PAGA, \$11,250 of that amount will go the LWDA for the State’s share of the civil
28 penalties, and the remaining \$3,750 will be distributed pro rata to the PAGA Group (defined as all
individuals employed by HM as non-exempt employees during the PAGA Period of August 16, 2020 to
June 28, 2023).

1 automatically via First Class U.S. Mail. One-third of each settlement share will be allocated to
2 wages and the remaining two-thirds will be allocated to penalties, unreimbursed expenses, and
3 interest. HM will pay any and all applicable employer-side payroll taxes separately and in
4 addition to the TMSA. Subject to the Court's approval, any amounts not claimed (because a class
5 member does not cash his or her settlement check) will be forwarded to the California State
6 Controller's Unclaimed Property Fund. [Jones Decl., ¶ 8.]

7 Each Participating Class Member will receive a share of the Net Settlement Sum based on
8 his or her position held and total weeks worked for HM during the Class Period while employed
9 as a non-exempt employee. Thus, each Class Member's Individual Settlement Payment will be
10 calculated using criteria typically used in determining appropriate amounts of alleged unpaid
11 wages, unpaid premium wages for missed meal breaks, and potential statutory penalties under
12 applicable law. These methods are intended to ensure each Class Member receives a portion of
13 the available settlement funds corresponding to the relative value of his or her potential claims.
14 The proposed allocation provides a reasonable way to compensate Class Members based on the
15 amount of time they worked for Defendant, and the number of instances they missed a break,
16 were not provided compensation in lieu of such missed breaks, or lost wages due to Defendant's
17 alleged improper payroll practices. [Jones Decl., ¶ 9.]

18 The average class settlement award will be around \$465, and the awards will range from
19 about \$2.00 to over \$3,400 on the high end. The 114 Aggrieved Employees will receive an
20 average PAGA award of about \$33. [Fowler Decl., ¶¶ 16-17.]

21 **C. Settlement Administration**

22 ILYM Group, Inc., as the Court-approved Settlement Administrator, mailed the Notice
23 Packet to the Class members after making all reasonable effort to ascertain the best mailing
24 address, including running each address through the National Change of Address database
25 and "skip-tracing" any Notice Packets returned as undeliverable. [Fowler Decl., ¶¶ 3-9.] The
26 Class Notice, previously approved by the Court, duly informed Class Members of the
27 settlement terms, including the estimated relief each Class Member will receive, the amounts
28 to be requested for attorney's fees and the class representative enhancement awards, and the

1 right to opt out of or object to the settlement. [Fowler Decl., ¶ 7; Exh. A.] ILYM mailed 210
2 Notice Packets on December 4, 2023. [Fowler Decl., ¶ 7.] Ultimately, only 9 Notice Packets
3 were deemed undeliverable, representing a 95.7% success rate. [Fowler Decl., ¶ 10.] The
4 response window for opting out of or objecting to the settlement expired on January 19,
5 2024. As of the filing of this motion, ILYM has received zero requests for exclusion (for a
6 100% participation rate), and zero objections to the settlement. No disputes have been
7 submitted regarding the information used to calculate class member settlement shares.
8 [Fowler Decl., ¶¶ 11-13.]

9 **D. Release of Claims**

10 All Participating Class Members will be deemed to release Defendant from all class
11 claims alleged in the operative complaint, or that could have been brought based on the
12 allegations in the operative complaint from August 19, 2018 to June 28, 2023, and the PAGA
13 Group will release all claims under PAGA for the PAGA Period of August 16, 2021 to June, 28.
14 2023. The releases are limited to the claims that were actually pleaded or could have been pleaded
15 based on the alleged facts in the operative complaint. [Jones Decl., ¶ 10.]

16 **E. PAGA Claims and Notice to the LWDA**

17 The Parties allocated \$15,000 to payment of civil penalties under PAGA for such claims
18 against HM, and Plaintiff requests the Court approve that amount as fair, reasonable, and
19 adequate, as addressed in more detail below. As required by Labor Code section 2699(l)(2),
20 Plaintiff gave notice of the settlement and final approval hearing to the LWDA via its online
21 portal. [Jones Decl., ¶ 11; Exh. 1.]

22 **IV. ARGUMENT**

23 The law favors settlement, particularly in class actions where substantial resources
24 can be conserved by avoiding the time, cost, and rigors of formal litigation. H. Newberg &
25 A. Conte, 4 Newberg on Class Actions (4th ed. 2002), § 11.41; Class Plaintiffs v. City of
26 Seattle (9th Cir. 1992) 955 F.2d 1268, 1276, cert. denied, 506 U.S. 953; Van Bronkhorst v.
27 Safeco Corp. (9th Cir. 1976) 529 F.2d 943,950; Potter v. Pacific Coast Lumber Co. (1951) 37
28 Cal.2d 592, 602. Nevertheless, to make certain the rights of absent parties are not unjustly

1 compromised, the settlement of a class action requires court approval. Cal. Rule of Court
2 3.769; Dunk v. Ford Motor Co. (1996) 48 Cal.App.4th 1794, 1801; Wershba v. Apple
3 Computer (2001) 91 Cal.App.4th 224, 245. The purpose of that judicial review is to protect
4 against fraud or collusion, and to ensure fairness to absent class members. Dunk, 48
5 Cal.App.4th at 1800-01; Newberg, at §§ 11.22, *et seq.* Review is accomplished through a
6 two-step process intended to determine whether, under the totality of circumstances, the
7 settlement is fair, reasonable and adequate. Dunk, 48 Cal.App.4th at 1801; Wershba, 91
8 Cal.App.4th at 245.

9 On a motion for final approval, the trial court is charged with determining whether, in
10 light of the total circumstances of the action and the response of the class members to the
11 proposed settlement, the settlement is fair, reasonable, and adequate. Dunk, 48 Cal.App.4th at
12 1801-02; Wershba, 91 Cal.App.4th at 244-45. The court has broad discretion in making that
13 determination and may consider a number of relevant factors, including: the strength of
14 plaintiff's case; the likelihood of potential recovery; the risk, expense and likely duration of
15 further litigation; the amount offered in settlement; the extent of discovery and stage of the
16 proceedings; the experience and opinion of counsel; and the reaction of class members to the
17 settlement. Id. In light of the strong judicial policy favoring the settlement of class actions,
18 courts generally apply a presumption of fairness to a proposed class action settlement when:
19 (1) the settlement is reached through arm's-length bargaining; (2) investigation and
20 discovery are sufficient to allow counsel and the court to act intelligently; (3) counsel is
21 experienced in similar litigation; and (4) the percentage of objectors is small. Dunk, 48
22 Cal.App.4th at 1802; Wershba, 91 Cal.App.4th at 245.

23 **A. The Proposed Settlement Merits Final Approval**

24 The proposed settlement of this action warrants final approval under the standards
25 summarized above. The settlement is fair, reasonable and adequate, and represents a
26 favorable resolution of highly disputed claims. Further, the settlement was overwhelmingly
27 approved by the class members, as there were no objections and no class members opted out.
28

1 **1. The Settlement Is the Product of Arm's-Length, Informed Negotiations**

2 The settlement is not the result of fraud or collusion. Rather, the proposed settlement
3 was reached following arm's-length negotiations presided over by Bryan Walsh, Esq., a
4 highly respected and well-known mediator with extensive experience mediating wage and
5 hour class actions. [Jones Decl., ¶ 6.] Moreover, Plaintiff and his counsel were well-informed
6 about the facts and the law, and counsel Zachary M. Crosner, Jamie Serb, and Michael Jones,
7 have years of litigation experience, including litigating wage and hour class actions. Plaintiff's
8 counsel are well-qualified to evaluate the risks and benefits of pursuing further litigation or
9 settling the matter. [Jones Decl., ¶¶ 26-32.] Defendant likewise was represented by highly-
10 qualified and experienced defense counsel. Both sides advocated vigorously for their clients,
11 and nothing was "left on the table."

12 **2. The Class Reacted Favorably to the Settlement**

13 The settlement was well-received by the class. As of the filing of this motion, no
14 objections have been filed, and zero Class Members requested exclusion. [Fowler Decl., ¶¶ 11-
15 12.] As many courts recognize, class member reaction to the settlement is one of the most
16 important factors to consider in determining if final approval should be granted. Mandujano v.
17 Basic Vegetable Prods., Inc., 541 F.2d 832, 837 (9th Cir. 1976); see also In re: American Bank
18 Note Holographics, 127 F.Supp.2d 418, 425 (S.D.N.Y. 2001) ("It is well-settled that the reaction
19 of the class to the settlement is perhaps the most significant factor to be weighed in considering
20 its adequacy") (internal quotation marks omitted).

21 **3. The Settlement Is Fair and Reasonable Considering the Benefits Conferred,**
22 **the Case Value, and Significant Litigation Risks**

23 Prior to mediation, the parties engaged in extensive formal and informal discovery to
24 facilitate settlement discussions. As a result, Plaintiff reviewed documents and information
25 regarding HM's payroll practices, pay stubs and time records for a sampling of class members,
26 meal and rest break policies, etc., and information from Defendant regarding class size and
27 breakdown of job positions, work weeks, rates of pay, and other information used to formulate a
28 damages model. This extensive information then was analyzed by a consulting expert to look for

1 meal and rest break violation rates, time lost due to alleged rounding, and other issues relevant to
2 liability and damages. Plaintiff's counsel are confident they obtained sufficient information to
3 enable them to understand the law and facts of this case and make an informed decision regarding
4 the proposed settlement and whether it is in the best interests of the class. [Jones Decl., ¶¶ 5, 12.]

5 Next, the proposed settlement falls within the range of reasonableness warranting
6 preliminary approval. The proposed settlement involves a significant sum that, when distributed,
7 will confer direct monetary benefits on the class members. As described above, each class
8 member will be entitled to a monetary payment without having to file a claim and each payment
9 will be relative to the value of his or her potential claims.

10 Plaintiff's analysis was supported by the pre-mediation production described above, which
11 permitted Plaintiff's counsel to estimate potential damages on various theories of liability. Using
12 that data, Plaintiff ran various calculations and estimated HM's likely maximum exposure on the
13 class claims at approximately \$3,648,000, including \$355,000 on the unpaid wage claims,
14 \$1,000,000 on the meal break claims, \$1,190,000 on the rest break claims, \$46,000 on the
15 expense reimbursement claim, \$286,000 on the wage statement claims, and \$771,000 on the
16 waiting time penalty claims. [Jones Decl., ¶ 13.] Plaintiff and his counsel substantially discounted
17 the value of these claims, however, in light of Defendant's multi-layered defenses on both class
18 certification and on the merits, and the multiple and considerable risks posed by proceeding with
19 the litigation.

20 The unpaid wage claims focus primarily on HM's alleged policy of rounding employee
21 time punches off to the nearest quarter-hour. Per Plaintiff, this policy unduly favored HM as the
22 majority of time punches were rounded down and resulted in class members losing compensable
23 hours worked. In response, HM argued its payroll policies are fully compliant, that it properly
24 tracked and paid for all hours worked at the appropriate hourly wage. Defendant also emphasized
25 time rounding is permissible under California law so long it has an overall neutral effect on
26 employee time and compensation. See's Candy Shops, Inc. v. Superior Court (2012) 210
27 Cal.App.4th 889. Finally, Defendant argued the issue would not be certifiable since it would
28 require individualized inquiries whether any compensable "off the clock" work occurred if an

1 employee clocked in a few minutes early or late, and why it was or was not documented and paid
2 for. [Jones Decl., ¶ 14.]

3 On the meal and rest break claims, Plaintiff contends HM's written policies are not fully
4 compliant, and Plaintiff's review of the time and payroll records provided suggested these
5 deficiencies in the written policies affected employee breaks and resulted in substantial "de facto"
6 violations. For example, Plaintiffs' analysis showed an overall 32% violation rate for meal
7 periods with a least one unique violation, and an 88% violation for second meal periods. Per
8 Plaintiff, even minor violations such as meal period being just a few minutes short, resulted in a
9 violation and required payment of the necessary premium wage. Kaanaana v. Barret Business
10 Services, Inc. (2018) 29 Cal.App.5th 778. Plaintiff also contends she and the class members were
11 consistently required to work in excess of four hours without receiving lawful ten minute rest
12 periods. Even when they were provided an opportunity to take such a break within each four hour
13 period, they were consistently denied compliant rest periods because such rest periods were
14 interrupted and/or cut short by management and other employees requiring assistance, and
15 management would insist the work be done immediately rather than after the rest period or they
16 would be required to perform more work than could possibly performed in their allotted time
17 order to take such breaks. [Jones Decl., ¶ 15.]

18 In response, HM argued its written meal and rest break policies are fully compliant, that
19 it provided employees with the opportunity to receive all required breaks, and that many class
20 members waived their second meal periods. Defendant further maintained that, in light of its
21 compliant policies, whether a class member missed a meal period, received a late meal period, or
22 missed a rest break would have been aberrational and against company policy. Thus, per HM,
23 these issues are not amenable to class treatment since their resolution would require
24 individualized inquiries as to why a break was missed or non-compliant. [Jones Decl., ¶ 16.]

25 On the expense reimbursement claim, Plaintiff alleges use of personal cellular phones was
26 necessary and consequential to employment duties for purposes of group messaging, and
27 receiving work-related calls and texts while on duty. Per Plaintiff, HM was obligated to
28 reimburse for such use of personal phones. Cochran v. Schwan's Home Services, Inc. (2014) 228

1 Cal.App.4th 1137, 1144. In response, HM argued it provided employees with all tools and
2 equipment necessary to perform their job duties and, to the extent employees used their own
3 phones, it was purely for personal convenience, was not necessary to their employment, and
4 therefore was not reimbursable. [Jones Decl., ¶ 17.]

5 The claims under Labor Code sections 203 and 226 are derivative of the primary unpaid
6 wage claims, and accordingly are subject to the same risks and uncertainties plus additional risks
7 posed by the need to take into account the discretionary nature of such awards and the “good
8 faith” and other defenses available to Defendant. Amaral v. Cintas Corp. No. 2 (2008) 163
9 Cal.App.4th 1157, 1203-4 (employer did not willfully fail to pay wages under Labor Code § 203
10 even though class prevailed on underlying claim for failure to pay living wages). Thus, while
11 these claims largely are derivative of the unpaid wage claim, they also are subject to additional
12 defenses. [Jones Decl., ¶ 18.]

13 As far as potential PAGA liability, the allegedly aggrieved employees theoretically are
14 entitled to penalties totaling over \$676,000 in civil penalties should Plaintiff prevail on all claims
15 and establish violations of the multiple Labor Code sections at issue. [Jones Decl., ¶ 19.] As with
16 the class claims, Plaintiff discounted the potential PAGA penalties based on Defendant’s various
17 defenses on the merits and also accounted for the Court’s wide discretion to reduce such
18 penalties, or to decline to award penalties at all. Labor Code § 2699(e)(2); Carrington v.
19 Starbucks Corp. (2018) 30 Cal.App.5th 504 (trial court awarded penalties of \$5 per pay period
20 after a bench trial, which decision was upheld on appeal); In re Taco Bell Wage and Hour
21 Actions (E.D. Cal. Apr. 8, 2016) 2016 U.S. Dist. LEXIS 48557 (PAGA penalties denied after
22 trial). Accordingly, the Parties allocated \$45,000 to PAGA penalties, and Plaintiffs submit this
23 amount is reasonable under the circumstances and in line with comparable settlements in other
24 wage and hour class actions in California. *E.g.*, Van Kempen v. Matheson Tri-Gas, Inc. (N.D.
25 Cal. Aug. 25, 2017) 2017 U.S. Dist. LEXIS 137182 (granting final approval of \$5,000 PAGA
26 penalty from \$370,000 settlement, or 1.4 percent of total settlement); Slavkov v. First Water
27 Heater Partners I (N.D. Cal. July 25, 2017) 2017 U.S. Dist. LEXIS 116303 (finding a \$7,500
28 PAGA payment reasonable when measured against the overall settlement of \$345,000 and the

1 possible weaknesses in Plaintiffs' case, or 2.2 percent of total settlement). Additionally, the
2 LWDA has been informed of the terms of the PAGA portion of the settlement, and will be able to
3 weigh in as necessary. Jennings v. Open Door Mktg. Inc. (N.D. Cal. Oct. 3, 2018) 2018 U.S. Dist.
4 LEXIS 171356, at *27 (approving settlement with PAGA penalties of 0.6% where "[p]laintiffs
5 [have] submitted the settlement agreement to the LWDA, and the LWDA has not objected to the
6 settlement.

7 The settlement obviates the significant risk that this Court may find any kind of class or
8 representative resolution unachievable or deny certification of all or some of Plaintiff's claims.
9 Furthermore, even if Plaintiff obtained certification of all or some of the claims, continued
10 litigation would be lengthy and expensive as the parties pursued merits discovery, a probable
11 motion to decertify, as well as trial and possible appeals, and would further and substantially
12 delay any recovery by the class with no assurance of recovering significantly more than the
13 proposed settlement. While Plaintiff is confident in the merits of these claims, legitimate
14 controversies exist regarding each one of them. Plaintiff also recognizes proving the amount of
15 wages and penalties due each Class Member would be an expensive, time-consuming, and
16 uncertain proposition. [Jones Decl., ¶¶ 20-22.]

17 Plaintiff and his counsel discounted the value of the class claims consistent with the risks
18 discussed above, and carefully weighed the likelihood of the class receiving substantially greater
19 benefit if the litigation continued. Plaintiff and counsel concluded – in light of these very real and
20 substantial risks – settlement on the proposed terms and without prolonged and costly litigation
21 was in the best interests of the class, and the overall \$238,821.80 recovery represents a significant
22 percentage of Defendant's potential exposure. Given these risks, a total recovery for the class of
23 \$238,821.80, which will result in average award of some \$465 per class member, plus additional
24 amounts under PAGA, is a significant result well within the range of reasonableness considering
25 all potential outcomes, and it will provide direct monetary awards to all Class Members without
26 further delay. [Jones Decl., ¶ 22.]

27 Importantly, the mere fact that a settlement does not provide the same recovery as might
28 be achieved at trial is not a proper indicator of whether the settlement is fair, reasonable, and

adequate. Wershba, 91 Cal.App.4th at 246, 250 (“Compromise is inherent and necessary in the settlement process...even if the relief afforded by the proposed settlement is substantially narrower than it would be if the suits were to be successfully litigated, this is no bar to a class settlement because the public interest may indeed be served by a voluntary settlement in which each side gives ground in the interest of avoiding litigation”); Lane v. Facebook, Inc. (9th Cir. 2012) 696 F.3d 811, 819 (“[T]he question whether a settlement is fundamentally fair . . . is different from the question whether the settlement is perfect in the estimation of the reviewing court”); 7-Eleven Owners for Fair Franchising v. Southland Corp. (2000) 85 Cal.App.4th 1135, 1150 (“The fact that a proposed settlement may amount to only a fraction of the potential recovery does not, in and of itself, mean that the proposed settlement is grossly inadequate and should be disapproved”); White v. Experian Information Solutions, Inc. (C.D. Cal. 2011) 803 F.Supp.2d 1086, 1098 (rejecting contention settlement was not fair and reasonable even though it represented 99% discount off the maximum value of the claims). Importantly as well, the proposed settlement is non-reversionary and will provide timely benefits to the Class Members without a claims process. White, 803 F.Supp.2d at 1098; c.f., Federal Judicial Center, Managing Class Action Litigation: A Pocket Guide for Judges (3d ed. 2010) at 20, available at <http://www.fjc.gov/sites/default/files/2012/ClassGd3.pdf> (reversionary provisions and/or cumbersome claims process may indicate lack of fairness). Plaintiffs and their counsel submit the settlement is within the “range of reasonableness,” and is fair and adequate for the Class.

B. The Class Representative Service Award Is Justified Given the Risks and Should be Approved

The Agreement provides for a service payment not to exceed \$10,000.00 to Plaintiff. Courts routinely approve service payments, or incentive awards, to compensate named plaintiffs for the services they provide and the risks they incur during class litigation. In re Cellphone Fee Termination Cases (2010) 186 Cal. App. 4th 1380, 1393 (“These awards are discretionary . . . and are intended to compensate class representatives for work done on behalf of the class, to make up for financial or reputational risk undertaken in bringing the action, and, sometimes, to recognize

1 their willingness to act as a private attorney general.”); Bell v. Farmers Ins. Exch. (2004) 115 Cal.
2 App. 4th 715, 725-26 (upholding service payments to class representatives).

3 The requested service awards are reasonable in light of the benefits Plaintiff conferred
4 upon the entire Class, resulting in a benefit to all Class Members and the State of California, the
5 time spent assisting counsel with the investigation and prosecution of these claims, commitment
6 to responding to discovery, and consenting to the proposed Agreement. Furthermore, by
7 attaching his name to a lawsuit, Plaintiff also took on the reputational risk that future employers
8 would learn of his participation in this case and unfairly associate them with costly litigation,
9 costing them future employment opportunities. Any future employer could easily perform a
10 simple Google search – an unauthorized simple background check unknown to Plaintiff that can
11 still provide a plethora of information – and conclude Plaintiff isn’t worth the risk of hiring.
12 This kind of reputational risk, borne only by Plaintiff alone and no other Class Member, that an
13 incentive award is meant to compensate. Furthermore, in pursuing this action on behalf of the
14 Class, Plaintiff risked a judgment for attorney’s fees and costs in the event this matter had been
15 lost. [Jones Decl., ¶ 23; Declaration of Jeffrey Hoxsie, ¶¶ 2-9.] For these reasons, at final
16 approval, Plaintiff requests an enhancement payment of 10,000. Staton v. Boeing (9th Cir.
17 2003) 327 F.3d 938, 977 (collecting cases awarding class representatives service and incentive
18 payments ranging from \$2,000 to \$25,000).

19 **VI. SETTLEMENT ADMINISTRATION COSTS**

20 The settlement provides for a payment to ILYM for its services as the Settlement
21 Administrator. As set forth in the Declaration of Christina Fowler, ILYM has performed and will
22 continue to perform its required duties through final distribution of the settlement funds and
23 incurred \$5,500 in fees and expenses. [Fowler Decl., ¶ 16.] Plaintiff accordingly requests the
24 Court approve payment of \$5,500 to ILYM from the TMSA. [Jones Decl., ¶ 24.]

25 **VII. ATTORNEY’S FEES AND COSTS**

26 **A. The Attorney's Fees Requested Are Fair and Reasonable and Should Be** 27 **Approved**

28 This Court has discretion over the amount of attorneys' fees awarded and court

1 approval is required for Class Counsel's fees. Cal. Rule of Court 3.769; Levy v. Toyota
2 Motor Sales, U.S.A. (1992) 4 Cal.App.4th 807, 813; Lealao v. Beneficial Cal., Inc. (2000) 82
3 Cal.App.4th 19. In defining a reasonable fee, the Court should attempt to mimic the
4 marketplace for cases involving significant contingent risk, such as this one. Deposit
5 Guaranty Nat'l Bank, Jackson, Miss. v. Roper (1980) 445 U.S. 326, 338, rehg. den. 446 U.S.
6 947; Lealao, 82 Cal.App.4th at 49-50 (court should attempt "to award the fee that informed
7 private bargaining, if it were truly possible, might have reached" in determining a reasonable
8 fee, and a fee award should approximate a "range of fees freely negotiated in comparable
9 litigation"). Here, Class Counsel's request for attorney's fees and costs is reasonable and
10 justified by the work performed, the benefits obtained, and the contingent risk assumed.

11 As addressed in detail above, at the time the parties reached the tentative settlement
12 success for Plaintiff and the putative class was far from certain. Plaintiff faced a real risk that
13 some or all the claims would not be certified for class treatment, as Defendants had strong
14 arguments that its compensation policies were legal and properly compensated the class
15 members. Even if Plaintiff certified some or all of the claims and ultimately prevailed on the
16 merits, it undoubtedly would have taken several years to realize any recovery while she
17 pursued class certification, trial, and an almost certain appeal. [Jones Decl., ¶¶ 14-21.]

18 Nonetheless, Plaintiff succeeded and expeditiously obtained the relief she set out to
19 obtain, and the settlement provides substantial cash payments to Class Members, with an
20 average award of about \$465, and with a maximum award of over \$3,400. Importantly as
21 well, the Class Members have been overwhelmingly supportive of the Settlement as there
22 are no objections and no opt outs to the settlement. [Fowler Decl., ¶¶ 11-12.]

23 **B. The Requested Fee Award Is Reasonable and Appropriate**

24 The United States Supreme Court has ruled the parties to a class action properly may
25 negotiate not only the settlement of the action itself but also the payment of attorney's fees.
26 Evans v. Jeff D. (1986) 475 U.S. 717, 734-35, 738, fn. 30.) In Hensley v. Eckerhart (1983)
27 461 U.S. 424, 437, the Supreme Court explained that negotiated, agreed-upon attorney's fee
28 provisions are the ideal towards which the parties should strive: "A request for attorney's fees

1 should not result in a second major litigation. Ideally, of course, litigants will settle the
2 amount of a fee." The United States Supreme Court has reemphasized this policy and further
3 stressed trial courts have "a responsibility to encourage agreement" on fees. Blum v. Stenson
4 (1984) 465 U.S. 886, 902 n.19.

5 As part of the Settlement, HM agreed not to object to an award of no more than
6 33.33% of the initial TMSA for attorney's fees, or \$60,000.00, and up to \$14,000 in
7 reimbursement for litigation costs and expenses. Such a fee is commensurate with what the
8 market would provide for similar services and the Court therefore can most certainly enforce
9 the agreement. As California's Court of Appeal has instructed:

10 Given the unique reliance of our legal system on private litigants to enforce
11 substantive provisions of law through class and derivative actions, attorneys
12 providing the essential enforcement services must be provided incentives roughly
13 comparable to those negotiated in the private bargaining that takes place in the
14 legal marketplace, as it will otherwise be economic for defendants to increase
15 injurious behavior.

16 Lealao, 82 Cal.App.4th at 47.

17 Here, the parties did not negotiate the inclusion of attorney's fees until after extensive
18 arms-length bargaining regarding relief to the Class was completed. [Jones Decl., ¶ 25.]
19 The requested fee and cost award was a product of these arms-length negotiations and fairly
20 reflects the marketplace value of the services rendered by Class Counsel in this case. As a
21 result, the fee agreed to by the parties should be approved.

22 **C. Class Counsel's Fees are Justified When Calculated as a Percentage of the**
23 **Common Fund**

24 In approving fee applications, courts typically apply either a percentage-of-recovery
25 method or the lodestar method. Laffitte v. Robert Half Int'l, Inc. (2016) 1 Cal.5th 480, 489;
26 Wershba v. Apple Computer, Inc. (2001) 91 Cal.App.4th 224, 254, disapproved on other
27 grounds, Hernandez v. Restoration Hardware, Inc. (2018) 4 Cal.5th 260. The California
28 Supreme Court recently recognized the advantages and equities of calculating attorney's fees
using the percentage-of-the-common-fund method in another wage-and-hour case:

The recognized advantages of the percentage method-including relative ease of

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

4 Laffitte, 1 Cal.5th at 503 (citations omitted).

5 Indeed, both California and federal courts have long recognized an appropriate
6 method for determining the award of attorney's fees is based on a percentage of the total
7 value of benefits afforded to class members by the settlement. Serrano v. Priest (1977) 20
8 Cal.3d 25, 34; Boeing Co. v. Van Gernert (1980) 444 U.S. 472, 478; Vincent v. Hughes Air
9 West, Inc. (9th Cir. 1977) 557 F.2d 759, 769. Awarding a fee based on a percentage of the
10 common fund recovered operates to "spread litigation costs proportionately among all the
11 beneficiaries so that the active beneficiary does not bear the entire burden alone." Vincent,
12 557 F.2d at 769.

13 In determining a reasonable common fund fee award, courts should also consider the
14 fact that fees serve as an economic incentive for lawyers to bring class action litigation to
15 achieve increased access to the judicial system for meritorious claims and to enhance
16 deterrents to wrongdoing. Conte, Attorney Fee Awards (2d ed. 1993) § 104. Without
17 prosecution on a contingent basis and use of the class action mechanism, the courthouse door
18 would effectively be closed to most class members due to the relatively small size of their
19 individual claims in relation to the time and cost associated with class action litigation.

20 Here, Class Counsel seek a fee award for their successful prosecution and resolution
21 of this action of no more than 33.33% of the original TMSA, and specifically \$60,000.00.
22 The percentage requested is justified for the reasons set forth further below, and comports
23 with fee awards calculated on a percentage-of-the-benefit basis. Indeed, review of class
24 action settlements shows that courts have historically awarded fees in the range of 20 to 50
25 percent, depending upon the circumstances of the case. In re Warner Communications Sec.
26 Litig. (S.D.N.Y. 1985) 618 F.Supp. 735, 749-50 (concluding that percentage fees in common
27 fund cases range from 20 to 50 percent); Newberg, Newberg on Class Actions (3d ed.) §
28 14.03, pp. 13-14 ("Usually 50% of the fund is the upper limit on a reasonable fee award from

1 a common fund in order to assure that the fees do not consume a disproportionate part of the
2 recovery obtained for the class, although somewhat larger percentages are not
3 unprecedented.").

4 **D. A Lodestar Cross-Check Also Supports Class Counsel's Fee Request**

5 To ensure the fairness of an attorney's fee award, courts frequently conduct a lodestar
6 cross check of counsel's fees. "A lodestar cross-check thus provides a mechanism for
7 bringing an objective measure of the work performed into the calculation of a reasonable
8 attorney fee." Laffitte, 1 Cal.5th at 504. Here, Class Counsel spent 164.5 hours of time on
9 this matter, resulting in a modest and very reasonable lodestar of \$114,490.

10 As is fully detailed in the Jones Declaration, Class Counsel's efforts included: (1)
11 extensive pre-lawsuit investigation of the claims of Plaintiff and the putative class, including legal
12 research, research into similar claims and claims against other employers in the same industry,
13 and attempts to locate and contact other employees of the Defendant; (2) drafting a PAGA notice
14 letter; (3) drafting the initial complaint and related documents; (4) case management, including
15 communications with defense counsel, meeting and conferring/preparing case management
16 statements, etc.; (5) lengthy discussions with defense counsel regarding settlement/mediation and
17 informal discovery needed for meaningful settlement discussions; (6) engaging in substantial
18 informal discovery, including propounding informal discovery "requests" and reviewing
19 documents and other information produced; (7) working with a consulting expert on the analysis
20 of Defendant's production; (8) drafting a mediation brief and accompanying damages model after
21 review and analysis of defendant's formal and informal discovery production; (9) attending an
22 all-day mediation; (10) negotiating and drafting the settlement agreement and related documents;
23 (11) drafting the motion for preliminary approval, and attending the hearing; (12) administration
24 of the settlement, including communications with the Settlement Administrator and settlement
25 class members; (13) drafting the motion for reconsideration as to the enhancement award, (14)
26 final approval and attorney's fees, and attending the final approval hearing; and (15) extensive
27 communications with the Plaintiff regarding case status, case investigation and document review,
28 mediation, and settlement terms. Additionally, Class Counsel will incur additional time following

1 final approval to, inter alia, respond to class member inquiries, work with the Settlement
2 Administrator on the distribution of settlement funds, and on the compliance hearing. [Jones
3 Decl., ¶ 26, Exh. 2.]

4 In pursuing this matter, Class Counsel incurred total attorney's fees of \$114,490.00,
5 and the lodestar is based on an eminently reasonable number of hours worked to litigate this
6 matter to a successful conclusion (164.5) attorney hours, and the requested attorney hourly rates
7 are reasonable and comport with hourly rates charged by other attorneys with similar experience
8 in this practice area in California. [Jones Decl., ¶¶ 27-38.] On a lodestar basis, the fee request
9 of \$60,000.00 results in a base lodestar that is higher than the fees requested on a percentage
10 of the recovery basis, and accordingly there is no request for a lodestar multiplier. In fact,
11 the lodestar crosscheck effectively operates to show that the percentage fee request is
12 reasonable since it is smaller than the actual value of the services rendered when valued via
13 traditional hourly billing.

14 E. **The Award is Supported By 1) the Results Achieved; 2) the Risk, 3) the Skill**
15 **Required, 4) the Contingent Nature of the Fee and 5) Awards in Similar**
16 **Cases.**

17 What has now emerged in most fee award decisions is the recognition that fee
18 determinations in both common fund and statutory fee situations are incapable of
19 mathematical precision because of the intangible factors that must be resolved in the court's
20 discretion based on the circumstances of each particular case. Conte, § 207, p. 44. In
21 determining an appropriate fee in a common fund case, a Court must decide, based on the
22 unique posture of each case, what percentage of the common fund would most reasonably
23 compensate Class Counsel given the nature of the litigation and the performance of counsel.
24 Paul, Johnson, Alston & Hunt v. Gaulty (9th Cir. 1989 886 F.2d 268, 272) (the Islasmark
percentage fee may be adjusted to account for the circumstances involved in a case).

25 Courts apply a five-part test in calculating a reasonable percentage fee in common
26 fund cases: (1) the results achieved; (2) the risk of litigation; (3) the skill required and the
27 quality of work; (4) the contingent nature of the fee and the financial burden carried by the
28 plaintiffs; and (5) awards made in similar cases. Laffitte, 1 Cal.5th at 489.

1 **1. The Results Achieved.**

2 Class Counsel obtained an excellent result in this case for the Class Members. The
3 Settlement provides real monetary benefits to the Class Members, and the Settlement is
4 particularly advantageous to the Class Member because the proceeds will be distributed
5 shortly as opposed to waiting additional years for a similar, or possibly, less favorable result.
6 Considering many individual claims would be very modest and would not be cost-effective
7 to pursue successfully, the Settlement provided them with fair compensation for their claims.
8 Moreover, the absence of any objection to either the Settlement or the attorney's fee request
9 bolsters the excellent results. Indeed, the approval of the Class is overwhelming as indicated
10 by the fact that not only one class member opted out. Additionally, the settlement amounts to
11 a substantial percentage of the maximum value of the amount the Class might have obtained
12 if it had tried the case and recovered on all theories seeking recovery of wages and penalties.
13 "It is well-settled law that a cash settlement amounting to only a fraction of the potential
14 recovery does not per se render the settlement inadequate or unfair." In re Omnivision
15 Techs., Inc., 559 (N.D. Cal. 2008) F.Supp.2d 1036, 1042.

16 **2. Class Counsel Bore Considerable Risk.**

17 At the time of filing the complaint, Class Counsel recognized that they would have to
18 expend a substantial amount of time and advance significant costs to prosecute a statewide
19 class action suit with no guarantee of compensation or reimbursement, in the hope of
20 prevailing against a sophisticated company represented by first-rate attorneys. Despite
21 their belief in the validity of Plaintiff's claims, they also knew they faced substantial risks
22 of class certification and the ability to prove class-wide and individual damages. In light of
23 the highly uncertain nature of this suit, Class Counsel also bore the risk that Defendant
24 would dig in and attempt to bury their small firm in work. Given the small size of Class
25 Counsel's firm, not receiving any compensation for several years while simultaneously
26 advancing litigation costs posed considerable risk and difficulty. [Jones Decl., ¶¶ 39-40.]

27 **3. The Skill Required and the Quality of Work.**

28 Practice in the narrow area of wage and hour litigation requires skill, knowledge and

1 experience. The issues presented in this case required more than just a general appreciation
2 of wage and hour law and class action procedure. This Settlement was possible only
3 because counsel persuaded Defendant that Plaintiff and the putative class had a realistic
4 chance of prevailing on their claims despite Defendant's contrary arguments, and that
5 the case would be pursued through class certification and trial if necessary. In
6 successfully navigating these hurdles, Class Counsel displayed appropriate skill while
7 pursuing a risky and difficult case.

8 **4. The Contingent Nature of the Fee and Risk Assumed**

9 There is a substantial difference between the risk assumed by attorneys being paid
10 by the hour and attorneys working on a contingent fee basis. The attorney being paid by
11 the hour can go to the bank with his fee. Powers v. Eichen (9th Cir. 2000) 229 F.3d
12 1249, 1256. The attorney working on a contingent basis can only log hours while
13 working without pay towards a result that will hopefully entitle him to a market fee
14 considering the risk and other factors of the undertaking. Id. at 1257. Otherwise, the
15 contingent fee attorney receives nothing. Id. In this case, Class Counsel subjected
16 themselves to this risk in this all or nothing contingent fee case wherein the necessity
17 and financial burden of private enforcement makes the requested award appropriate.

18 Counsel retained on a contingency fee basis, whether in private matters or in class
19 action litigation, is entitled to a premium beyond their standard, hourly, non-contingent
20 fee schedule to compensate for both the contingent risk assumed and the delay in
21 payment. The simple fact is that despite the most vigorous and competent of efforts,
22 success is never guaranteed. McKittrick v. Gardner (4th Cir. 1967) 378 F.2d 872, 875.
23 Indeed, if counsel is not adequately compensated for the risks inherent in difficult class
24 actions, competent attorneys will be discouraged from prosecuting similar cases.
25 Ketchum v. Moses (2001) 24 Cal.4th 1122, 1132-33; Cazares v. Saenz (1989) 208
26 Cal.App.3d 279, 287.

27 Here, the contingent fee practices of Plaintiff's counsel simply do not accommodate
28 the investment of unnecessary time in a case, and the adverse resolution of any one of several

1 difficult issues present in this matter could have doomed the entire effort. As discussed, the
2 attorney's fees in this case were not only contingent but fairly risky, and there was always a
3 distinct possibility Plaintiff's counsel would receive nothing for any number of reasons.
4 [Jones Decl., ¶¶ 39-40.] Accordingly, the contingent nature of the fee and the financial
5 burdens on Class Counsel also support the fee requested.

6 **5. Awards in Other Cases**

7 As discussed, the attorney's fees requested by Class Counsel are within the range of
8 fees awarded in comparable cases, as California courts regularly approve class action fee
9 awards amounting to 1/3 of a common fund, as approved by the California Supreme Court in
10 Lafitte. Additionally, review of class action settlements over the past 10 years shows that the
11 courts have historically awarded fees in the range of 20 to 50 percent, depending upon the
12 circumstances of the case. In re Warner Communications Sec. Litig. (S.D.N.Y. 1985) 618
13 F.Supp. 735, 749-50 (concluding that percentage fees in common fund cases range from 20
14 to 50 percent); Newberg, Newberg on Class Actions (3d ed.) § 14.03, pp. 13-14 ("Usually
15 50% of the fund is the upper limit on a reasonable fee award from a common fund in order to
16 assure that the fees do not consume a disproportionate part of the recovery obtained for the
17 class, although somewhat larger percentages are not unprecedented."). Class Counsel's
18 requested fees equal to 1/3 the gross amount recovered on behalf of the class and are well
19 within the range of reasonableness under either the percentage of the recovery or the lodestar
20 method in light of the contingent risk assumed, the delay in payment, the result achieved, and
21 the overall quality of the representation.

22 **F. Class Counsel's Costs and Expenses are Reasonable**

23 Plaintiff's counsel also requests reimbursement of actual out-of-pocket expenses incurred
24 to prosecute this action. These expenses were incidental and necessary to the effective
25 representation of the employees, and Plaintiffs' counsel is permitted to recover litigation costs
26 and expenses under the common fund doctrine and the Settlement Agreement. Serrano, 20 Cal.3d
27 at 35 (common fund doctrine permits recovery of fees and costs from the fund); Rider v. County
28 of San Diego (1992) 11 Cal.App.4th 1410, 1424 n.6 (costs are recoverable from the common fund

1 “[o]f necessity, and for precisely the same reasons discussed above with respect to the recovery of
2 attorneys’ fees by ... [Plaintiffs’] attorneys”). Plaintiff’s counsel also is entitled to recover “those
3 out-of-pocket expenses that would normally be charged to a fee-paying client.” Harris v.
4 Marhoefer (9th Cir. 1994) 24 F.3d 16, 19.

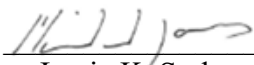
5 As explained in the Jones Declaration, Class Counsel incurred a total of
6 \$11,340.76 in expenses incurred in connection with this litigation. These expenses
7 include the amounts paid for court filing fees, service of process, expert fees, postage,
8 and mediation fees, all of which are costs normally billed to and paid by the client. These
9 costs were reasonably incurred in the prosecution of this matter. These costs were
10 necessary for the successful prosecution of the case and are in reasonable in amount, and
11 Class Counsel accordingly requests they be reimbursed in full. [Jones Decl., ¶¶ 41-42.]

12 **VIII. CONCLUSION**

13 For all the foregoing reasons, Plaintiff Cristina Catalano respectfully requests that the
14 Court grant this motion and grant final approval of the proposed class action settlement and
15 approve the payment of PAGA penalties to the State. Plaintiff further requests the Court approve
16 payment of the Settlement Administrator’s fees and expenses, approve the requested class
17 representative enhancement payment, approve the award of attorney’s fees and costs as requested,
18 and enter judgment in this action. Finally, Plaintiff request the Court set a final compliance
19 hearing for April 16, 2025, or a later date convenient for the Court.

20
21 Dated: March 1, 2024

CROSNER LEGAL, PC

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