

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

ERIC CHAVEZ,
Plaintiff,
v.
CONVERSE, INC.,
Defendant.

Case No. 15-cv-03746-NC

**ORDER GRANTING
PLAINTIFFS' UNOPPOSED
MOTION FOR FINAL
APPROVAL OF CLASS
ACTION SETTLEMENT AND
GRANTING PLAINTIFFS'
MOTION FOR ATTORNEYS'
FEES**

Re: Dkt. No. 217

Following the Court's preliminary approval, notice to prospective class members, and a fairness hearing, the Court now considers Plaintiffs' unopposed motion for final approval of a proposed class action settlement. The proposed class settlement totals \$1,875,000.00, and includes all monetary benefits and payments to the Settlement Class, Service Awards, Class Counsel Award, Settlement Administrator Expenses, PAGA Payment, and all claims for interest, fees, and costs.¹ Also before the Court is Plaintiffs' unopposed motion for attorneys' fees totaling \$625,000.00 (one-third of the Total Settlement Amount), reimbursement of litigation costs totaling \$166,554.46, and Plaintiffs' class representative enhancement award totaling \$10,000.00. These amounts would be deducted from the \$1,875,000.00 settlement fund.

¹ Capitalized terms are defined in the Settlement Agreement.

1 Weighing the strength of the claims against the risk of continued litigation, the
2 Court finds that the proposed settlement is fair and reasonable. Accordingly, the Court
3 GRANTS the motion for final approval of the settlement agreement. The Court also
4 GRANTS the motion for attorneys' fees and awards the requested amounts in full.

5 **I. BACKGROUND**

6 **A. Pre-Settlement Procedural History**

7 This litigation arises from the alleged violation of seven wage-related causes of
8 action under the California Labor Code. Plaintiff Eric Chavez filed a class action against
9 Defendant Converse, Inc. on behalf of himself and a proposed class consisting of non-
10 exempt retail store employees who were employed by Converse. *See* Dkt. No. 210-9 ¶ 1.1
11 ("Settlement Agr."). On July 10, 2015, Chavez filed his original class action in the
12 Superior Court of California for the County of Santa Clara. *Id.* On August 17, 2015,
13 Converse, Inc. removed the action to the United States District Court for the Northern
14 District of California, and on December 4, 2015, Chavez filed an amended complaint. *Id.*;
15 Dkt. No. 28 ("FAC"). The central allegations of the complaint centered around Converse
16 Inc.'s exit security search policy for its employees. *See generally* FAC. Chavez alleged
17 that these practices resulted in violations of: (1) unpaid minimum wages; (2) unpaid
18 overtime wages; (3) failure to provide meal breaks; (4) failure to provide rest breaks; (5)
19 failure to provide accurate wage statements; (6) PAGA; and (7) unfair business practices.
20 *Id.*

21 On August 18, 2016, this Court granted Converse, Inc.'s Motion for Partial
22 Summary Judgment as to Chavez' second cause of action for failure to pay overtime
23 wages, and Chavez' fifth, sixth, and seventh causes of action to the extent those claims
24 were premised upon Converse, Inc.'s failure to pay overtime wages as a result of a
25 miscalculation of Chavez' regular rate of pay. *See* Dkt. No. 217 ("Mot. For Final
26 Approval") at 11; *see also* Dkt. 80. On September 22, 2016, this Court granted the Motion
27 for Class Certification. *See* Dkt. 89. Then, the parties each filed cross-motions for
28 summary judgment. This Court granted Converse, Inc.'s motion for summary judgment

1 based on the de minimis doctrine, *see* Dkt. Nos. 118, 144, and denied Chavez’ motion for
2 partial summary judgment as moot, *see* Dkt. Nos. 124, 144. Chavez appealed those rulings
3 to the Ninth Circuit, and on June 28, 2019, the Ninth Circuit issued its opinions in
4 *Rodriguez v. Nike Retail Servs.*, 928 F.3d 810, 818 (9th Cir. 2019), and *Chavez v.*
5 *Converse, Inc.*, 772 F. App’x 571, 572 (9th Cir. 2019), reversing this Court’s ruling on
6 Converse, Inc.’s motion for summary judgment on the de minimis doctrine. *See* Dkt. No.
7 168.

8 Following remand from the Ninth Circuit, the parties filed motions for summary
9 adjudication on liability over the exit security search policy. *See* Dkt. Nos. 169, 179. On
10 January 15, 2020, this Court granted Chavez’ motion for partial summary judgment,
11 finding that employees were subject to Converse, Inc.’s control as a result of being forced
12 to undergo the security inspections. *See* Dkt. No. 184. On March 13, 2020, this Court
13 granted in part Converse, Inc.’s motion for partial summary judgment as to Chavez’ claims
14 for wait time penalties, but denied the motion as to Chavez’ meal and rest break claims.
15 *See* Dkt. No. 202.

16 The parties engaged in extensive litigation and conducted multiple rounds of written
17 discovery, including interrogatories and requests for production of documents. *See* Dkt.
18 No. 217-1 (“Lee Decl.”) at ¶¶ 3–6. The parties also took over twenty-five depositions of
19 Converse, Inc.’s current and former employees located throughout California, and the
20 parties retained experts and conducted expert discovery. *Id.* at ¶¶ 4–6. On April 15, 2020,
21 the parties attended a full-day mediation which later resulted in a comprehensive
22 settlement agreement. *See* Dkt. No. 210 at 10.

23 **B. The Settlement Agreement**

24 The settlement agreement is docketed in full at ECF 210-9. The Court summarizes
25 its contents here.

26 The proposed settlement class is defined as “[a]ll individuals employed by
27 Converse, Inc. as non-exempt/hourly employees in California who worked at any time
28 during the Settlement Class Period (July 10, 2011, through and including November 19,

2019).” Settlement Agr. ¶ 2.30. Under the settlement terms, Converse, Inc. will pay a total Settlement Amount of \$1,875,000.00. *Id.* ¶ 2.34. This sum includes payments made to the settlement class members, settlement administration costs, awards of attorneys’ fees and costs, the class representative enhancement award, escrow costs and expenses, payment to LWDA, and taxes and tax expenses (excluding employer-side employment taxes). *Id.* Upon Court approval, the Net Settlement Amount will be the sum available for use as payments to class members after deducting the payments described above. *See id.* at ¶ 5.2.

Under the Plan of Allocation, the Settlement Administrator will use reasonable efforts to disburse the Individual Settlement Payments to the Class Members within sixty days after the Effective Date. *See id.* at ¶ 10.4. Class members were not required to submit claim forms to participate in the settlement, so any class member who does not opt-out in connection with the settlement will automatically receive their share of the settlement proceeds. *See* Mot. For Final Approval at 14. On average, each class member will receive a payment of approximately \$363.63, and the highest individual settlement payment will be approximately \$5,187.14. *See id.*; *see also* Dkt. No. 217-5 (“Kruckenberg Decl.”) ¶ 11.

If any portion included in the Individual Settlement Payments is not successfully distributed to Settlement Class Members after the initial Void Date, then the Settlement Administrator will void the check and direct the unclaimed funds to be redistributed to those Remaining Settlement Class Members who received and cashed their Individual Settlement Payment check. *See* Settlement Agr. ¶ 10.5. If any portion of the Total Settlement Amount is not successfully redistributed to Remaining Settlement Class Members, then after the Void Date for the redistributed checks, the Settlement Administrator will void the checks and direct such unclaimed funds to be paid to the *cy pres* beneficiary, Legal Aid at Work. *Id.*

This Settlement Agreement represents a compromise between the parties, and comes at the release of the following claims by the parties:

“any and all present and past claims under the wage and hour laws and regulations of the state of California that were or could have been asserted based on the facts pleaded in the Lawsuit or any amendments thereto, including but not limited to, all statutes mentioned in the Lawsuit and corresponding provisions of the relevant California Wage Order, including but not limited to California Labor Code sections 201–203, 226, 226.7, 510, 512, 558, 1194, 1197, 1197.1, the Private Attorneys General Act (“PAGA”) (Labor Code Sections 2698–2699.5) and California Business and Professions Code sections 17200, et seq., as related to claims for: overtime; minimum wage; meal period premiums; rest break premiums; wage statements; waiting time penalties; restitution; civil and statutory penalties; interest; injunctive relief; and attorneys’ fees, costs and expenses. The ‘Settlement Class Members’ Released Claims’ are released from July 10[,] 2011 through and including November 19, 2019.”

Settlement Agr. ¶ 2.32.

C. Preliminary Approval

On July 8, 2020, the Court issued an order (1) preliminarily approving the settlement agreement; (2) preliminarily certifying the proposed certification class; (3) approving the form of Notice of Class Action Settlement and directing the manner of delivery; (4) approving Larry W. Lee, Kristen M. Agnew, Nicholas Rosenthal, and Max W. Gavron of Diversity Law Group, William L. Marder of Polaris Law Group, and Dennis S. Hyun of Hyun Legal Services as Class Counsel, and Eric Chavez as Class Representative; and (5) scheduling a fairness hearing for November 20, 2020. Dkt. No. 215 (“Prelim. Approval Order”).

D. Class Notice and Reaction to Settlement

Pursuant to the Court’s Preliminary Approval Order, the Court appointed Phoenix Settlement Administrators as the Settlement Administrator. *See* Prelim. Approval Order ¶ 10. Phoenix Settlement Administrators mailed notice to the class of 2,677 individuals. *See* Kruckenberg Decl. ¶¶ 3–5. Out of those, 168 were mailed to updated addresses after performing a skip trace, pursuant to the Settlement Agreement. *See id.* As of the date of the final approval hearing, eleven Notice Packets were undeliverable; nine Notice Packets were undeliverable after sending to an updated address, and two Notice Packets were returned a second time. *See id.* at ¶¶ 6–7.

The period for class members to timely object to the settlement or opt-out expired

on September 21, 2020. *See* Prelim. Approval Order ¶¶ 18–23. As of the November 20, 2020, final approval hearing, the Court did not receive any objections from class members. Dkt. No. 218 (“Fairness Hearing (Nov. 20, 2020)”); *see also* Kruckenberg Decl. ¶¶ 8–9.

E. CAFA Notice

Pursuant to the Class Action Fairness Act, 29 U.S.C. § 1711, et seq., a separate notice of the settlement was provided to the appropriate federal and state agencies on or about September 16, 2020. *See* Mot. For Final Approval at 10. Accordingly, this Court’s order will be effective December 16, 2020, pursuant to 28 U.S.C. § 1715(d).

F. Fairness Hearing

The Court held a fairness hearing on November 20, 2020. *See* Dkt. No. 218. There, the parties confirmed that the process of notifying class members went smoothly, the settlement funds were being managed as contemplated in the settlement agreement, and that no objections to the settlement had been received from class members. Fairness Hearing (Nov. 20, 2020). Neither party raised objections nor concerns with the settlement agreement moving forward. *See id.* No class members or non-parties appeared at the hearing. *See id.*

In response to the Court’s inquiries about Legal Aid at Work as the *cy pres* beneficiary, the parties noted that they chose Legal Aid at Work because of its purpose of helping low-wage workers with wage claims. *See id.* Regarding the requested \$10,000.00 Class Representative Service Award, counsel for Plaintiffs explained that the payment is justified because Mr. Chavez sat for depositions, met with attorneys and coworkers throughout the life of the case, withstood five years of litigation, and was in the unique position of still being employed by Converse, Inc. at the commencement of the lawsuit against his employer. *See id.* Plaintiffs’ counsel also assured the court that there was no cross-billing between this case and counsel’s similar case, *Rodriguez v. Nike Retail Servs., Inc.*, 928 F.3d 810, 818 (9th Cir. 2019).

G. Motion for Final Approval

Plaintiffs now move for final approval of the settlement. *See* Mot. For Final

Approval. In conjunction with the final approval motion, and as authorized by the settlement terms, Plaintiffs also move to recover attorneys' fees, costs, and expenses. *Id.* Both motions are unopposed.

II. DISCUSSION

As a threshold matter, this Court has subject matter jurisdiction over Plaintiffs' claims pursuant to 28 U.S.C. sections 1332(d)(2) and 1453. All parties have consented to magistrate judge jurisdiction under 28 U.S.C. § 636(c). Dkt. Nos. 12, 14.

The Court first discusses Plaintiffs' motion for final approval of the class action settlement, and then discusses Plaintiffs' motion for attorneys' fees and other expenses.

A. The Court Finally Approves the Class Action Settlement.

The settlement agreement contemplates a settlement class, which the Court preliminarily certified under Federal Rule of Civil Procedure 23(b)(1). *See* Prelim. Approval Order at 2. The Court now confirms its findings and finally certifies the following non-opt-out class:

"[a]ll individuals employed by Converse, Inc. as non-exempt/hourly employees in California who worked at any time during the Settlement Class Period (July 10, 2011, through and including November 19, 2019)." Settlement Agr. ¶ 2.30.

Any settlement agreement that will bind absent class members requires judicial approval. Fed. R. Civ. P. 23(e). In deciding whether approval is appropriate, "the universally applied standard is whether the settlement is fundamentally fair, adequate and reasonable." *Officers for Justice v. Civil Serv. Comm'n of City & Cty. of San Francisco*, 688 F.2d 615, 625 (9th Cir. 1982). To make this evaluation, courts in the Ninth Circuit look to the eight *Churchill* factors:

"(1) the strength of the plaintiffs' case; (2) the risk, expense, complexity, and likely duration of further litigation; (3) the risk of maintaining class action status throughout the trial; (4) the amount offered in settlement; (5) the extent of discovery completed and the stage of the proceedings; (6) the experience and view of counsel; (7) the presence of a governmental participant; and (8) the reaction of the class members to the proposed settlement."

1 *Churchill Vill., L.L.C. v. Gen. Elec.*, 361 F.3d 566, 575 (9th Cir. 2004); *see In re Online*
 2 *DVD-Rental Antitrust Litig.*, 779 F.3d 934, 944 (9th Cir. 2015). However, the “relative
 3 degree of importance to be attached to any particular factor will depend upon and be
 4 dictated by the nature of the claim(s) advanced, the type(s) of relief sought, and the unique
 5 facts and circumstances presented by each individual case.” *Officers for Justice*, 688 F.2d
 6 at 625. The determination of whether a proposed settlement is fair falls within the sound
 7 discretion of the district court. *See Class Plaintiffs v. City of Seattle*, 955 F.2d 1268, 1276
 8 (9th Cir. 1992).

9 Here, considering the *Churchill* factors, the Court is persuaded that the settlement
 10 agreement merits approval. After five years of vigorous litigation, experienced class
 11 counsel negotiated a substantial settlement that balances the strength of Plaintiffs’ claims
 12 against the risk, expense, complexity, and likely duration of further litigation. Even after
 13 this Court ruled on numerous cross motions for summary judgment, there are still a wide
 14 range of issues left to be decided regarding liability with respect to the security check
 15 claims. But the parties avoided that risk by agreeing to a \$1,875,000.00 settlement which
 16 is in the best interest of the settlement class. The extent of discovery over years of
 17 litigation favors settlement here; the parties took depositions of Mr. Chavez, several FRCP
 18 30(b)(6) witnesses, numerous class members and experts, as well as interviews of class
 19 members, production of class data and time records, and extensive expert discovery. *See*
 20 *Lee Decl.* ¶ 6. The extent of discovery here gave the parties a sufficient understanding of
 21 the issues involved in the case. This conclusion is supported by the fact that no class
 22 members filed objections in response to the settlement notices. Fairness Hearing (Nov. 20,
 23 2020).

24 In sum, the Court finds that, viewed as a whole, the settlement is sufficiently “fair,
 25 adequate, and reasonable” to warrant approval. *See Officers for Justice*, 688 F.2d at 625.
 26 The Court therefore approves the settlement agreement.

27 **B. The Motion for Attorneys’ Fees and Other Expenses Is Granted in Full.**

28 In conjunction with seeking final approval of the class action settlement, and as

1 contemplated by the settlement agreement, Plaintiffs move for attorneys' fees, certain
 2 costs, expenses, and a class representative service award, all to be paid from the negotiated
 3 gross settlement amount of \$1,875,000.00. Specifically, Plaintiffs seek \$625,000.00 in
 4 attorneys' fees (one-third of the Total Settlement Amount); \$166,554.46 in litigation costs
 5 and expenses; and \$10,000.00 in class representative service payments. *See id.* The Court
 6 finds that each of these figures is reasonable and awards the amounts in full.

7 **1. Attorneys' Fees**

8 The Court finds that \$625,000.00 (one-third of the Total Settlement Amount) is a
 9 reasonable fee award given the facts of this case.

10 In an unopposed motion, Plaintiffs move for fees under a California common fund
 11 doctrine. Because plaintiffs asserted claims under California law, "California law governs
 12 plaintiffs' motion for fees." *Ridgeway v. Wal-Mart Stores Inc.*, 269 F. Supp. 3d 975, 982
 13 (N.D. Cal. 2017); *see Klein v. City of Laguna Beach*, 810 F.3d 693, 701 (9th Cir. 2016)
 14 ("federal courts apply state law for attorneys' fees to state claims because of the *Erie*
 15 doctrine" (internal footnote omitted)); *see also Vizcaino v. Microsoft Corp.*, 290 F.3d
 16 1043, 1047 (9th Cir. 2002). "Nevertheless, the Court may still look to federal authority for
 17 guidance in awarding attorneys' fees." *Ridgeway*, 269 F. Supp. 3d at 982 (citing
 18 *MacDonald v. Ford Motor Co.*, No. 13-cv-2988-JST, 2016 WL 3055643, at *2 (N.D. Cal.
 19 May 31, 2016)).

20 In common fund cases like this one, the Ninth Circuit has endorsed calculating
 21 attorneys' fees using a benchmark of 25% of the common fund amount. *In re Bluetooth*
 22 *Headset Prod. Liab. Litig.*, 654 F.3d 935, 942 (9th Cir. 2011) (citing *Six (6) Mexican*
 23 *Workers v. Ariz. Citrus Growers*, 904 F.2d 1301, 1311 (9th Cir. 1990)). "Notably, while
 24 the California Supreme Court recognized the Ninth Circuit's 25 percent benchmark for
 25 percentage awards in common fund cases, it did not adopt such a benchmark for California
 26 cases." *Ridgeway*, 269 F. Supp. 3d at 982 (internal citations omitted) (citing *Laffitte v.*
 27 *Robert Half Int'l Inc.*, 205 Cal.Rptr.3d 555, 566 (2016)). "The goal under either the
 28 percentage or lodestar approach [is] the award of a reasonable fee to compensate counsel

1 for their efforts.” *Laffitte*, 205 Cal.Rptr.3d at 575.

2 Whether awarding the benchmark amount or some other figure, the Court must
3 support an attorneys’ fee award with “findings that take into account all of the
4 circumstances of the case.” *Vizcaino*, 290 F.3d at 1048. In particular, district courts
5 should consider: “(1) the results achieved; (2) the risk of litigation; (3) the skill required
6 and the quality of work; (4) the contingent nature of the fee and the financial burden
7 carried by the plaintiffs; and (5) awards made in similar cases.” *Hopkins v. Stryker Sales*
8 *Corp.*, No. 11-cv-02786-LHK, 2013 WL 496358, at *1 (N.D. Cal. Feb. 6, 2013) (citing
9 *Vizcaino*, 290 F.3d at 1048–50). Additionally, district courts may cross-check the
10 reasonableness of a percentage award by comparing it to a lodestar calculation and risk
11 multiplier. *Vizcaino*, 290 F.3d at 1050.

12 Plaintiffs here argue that counsel should receive one-third of the common fund.
13 The Court finds that \$625,000.00, or 33.33% of the gross settlement amount, is a
14 reasonable fee award given the facts of this case. Here, as noted above, class counsel
15 achieved a strong result through skillful litigation and settlement negotiation. After
16 zealously litigating the case over several years, bringing numerous motions for summary
17 judgment, working through a substantial discovery process, successfully appealing
18 dismissal to the Ninth Circuit Court of Appeals, and undergoing settlement discussions
19 upon remand, class counsel obtained a settlement of \$1,875,000.00. This result will help
20 avoid risky litigation, where the parties have substantial disagreements on the facts and law
21 at issue in the case. *See* Mot. For Final Approval at 14–15.

22 Regarding quality of representation, the litigation and settlement appear to be the
23 work of skillful and experienced attorneys with significant expertise in the labor law
24 context. Plaintiffs’ counsel heavily and aggressively litigate numerous wage and hour
25 class actions on behalf of workers throughout the state of California. *See* Mot. For Final
26 Approval at 25. Plaintiffs’ counsel assumed numerous risks in litigating this case,
27 including taking its cases on a contingency fee basis. *See id.* Therefore, an award of
28 33.33% of the gross settlement is reasonable and comparable to similar cases. *See e.g. Lao*

1 v. *H&M Hennes & Mauritz*, No. 16-cv-0033-EJD (N.D. Cal. Oct. 15, 2020) (Dkt. No.
2 166); *Villalpando v. Exel Direct Inc.*, No. 12-cv-04137-JCS, 2016 WL 7740854, *1, *2
3 (N.D. Cal. Dec. 12, 2016).

4 A lodestar cross-check confirms the fee award's reasonableness. After reviewing
5 the reasonable billing rates for Plaintiffs' attorneys, the lodestar calculation
6 amounts to \$1,325,475.00 for work spent through the final approval of settlement. *See*
7 *Mot. For Final Approval* at 27. This amount requires a risk multiplier of negative 0.47 to
8 reach the \$625,000.00 Plaintiffs seek. In this district, courts have denied class counsel's
9 33.33% attorneys' fee request in diversity cases where a cross-check of the lodestar
10 multiplier could result in a windfall for attorneys' fees. *See Ridgeway*, 269 F. Supp. at
11 1000 (the court denied counsel's request for one-third of the common fund because,
12 although not exactly a windfall, a lodestar cross-check showed that one-third would equate
13 to a 3.0 multiplier, which was slightly high in light of the results achieved, work
14 performed, and the nature of the case).

15 By contrast, other courts in this district have granted attorneys' fees where the
16 requested percentage results in a negative multiplier compared to the lodestar cross-check.
17 *See Pierce v. Rosetta Stone, Ltd.*, No. 11-cv-01283-SBA, 2013 WL 5402120, at *6 (N.D.
18 Cal. Sept. 26, 2013) ("the requested fee award results in a so-called negative multiplier,
19 which suggests that the percentage of the fund amount is reasonable and fair."). Here, the
20 results achieved, and work performed warrant an award of one-third of the common fund.
21 Additionally, there is no risk of a windfall because the requested amount indicates that
22 Plaintiffs' counsel ultimately recovers less than the lodestar calculation. Therefore, the
23 requested amount falls within the range of reasonableness.

24 **2. Litigation Costs and Expenses**

25 Next, Plaintiffs seek \$166,554.46 in out-of-pocket costs for ordinary case-related
26 expenses. Plaintiffs provide these expenses in an itemized breakdown. *See Lee Decl.* ¶
27 19, Ex. B; *see also* Dkt. No. 217-6 ("Hyun Decl.") ¶ 13, Ex. B; *see also* Dkt. No. 217-7
28 ("Marder Decl.") ¶ 7, Ex. B. Pursuant to the Settlement Agreement, Defendant agreed to

any request for reimbursement of costs up to \$200,000.00. *See* Settlement Agr. §§ 2.2, 4.4. The Court finds Plaintiffs’ requested litigation costs and expenses are reasonable and were necessary for effective representation of the class. *See* Fed. R. Civ. P. 23(h); *Theriot v. Celtic Ins. Co.*, No. 10-cv-04462-LB, 2011 WL 1522385, at *7 (N.D. Cal. Apr. 21, 2011) (“Class counsel are entitled to reimbursement of reasonable out-of-pocket expenses.”).

3. Settlement Administration Expenses

Next, Plaintiffs also seek to recover settlement administration expenses totaling \$25,000.00. Phoenix Settlement Administrators dutifully administered the settlement and incurred out-of-pocket costs in the amount of \$25,094.21. *See* Kruckenberg Decl. ¶ 12, Ex. B. The Settlement Agreement authorizes up to \$25,000.00 for reimbursement of Phoenix’s costs. *See* Settlement Agr. § 2.29. The Court finds that \$25,000.00 is a fair and reasonable expense to administer the settlement.

4. Service Awards

Finally, Plaintiffs ask the Court to award Mr. Chavez \$10,000.00 for his service as a class representative. *See* Mot. For Final Approval at 29. Class representative 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 their willingness to act as private attorney general.” *Rodriguez v. West Publishing Corp.*, 563 F.3d 948, 958–959 (9th Cir. 2009). In making the discretionary determination whether to grant such an award, the district court considers relevant factors including “the actions the plaintiff has taken to protect the interests of the class, the degree to which the class has benefitted from those actions, . . . [and] the amount of time and effort the plaintiff expended in pursuing the litigation[.]” *Staton v. Boeing Co.*, 327 F.3d 938, 977 (9th Cir. 2003). “In this district, a \$5,000 payment is presumptively reasonable.” *Pierce*, 2013 WL 5402120, at *6.

Here, Mr. Chavez submitted a declaration describing his involvement in the case. *See* Dkt. No. 217-8 (“Chavez Decl.”) As discussed above, class counsel described Mr.

Chavez' involvement at length at the Fairness Hearing. *See* Fairness Hearing (Nov. 20, 2020). Mr. Chavez devoted a high level of involvement, requiring significant time and effort, and he undertook a significant "reputational risk" by bringing this wage-and-hour action against his employer. *See Bellinghausen v. Tractor Supply Co.*, 306 F.R.D. 245, 267 (N.D.Cal. 2015). Based on the work performed in this case, the Court finds it appropriate to GRANT Plaintiffs' requested \$10,000.00 service award.

III. CONCLUSION

For the reasons stated above, the Court CERTIFIES the proposed settlement class and GRANTS Plaintiffs' unopposed motion for final approval of the class action settlement on the terms set forth in the settlement agreement. *See generally* Settlement Agr.

The Court GRANTS Plaintiffs' unopposed motion for attorneys' fees and other expenses, to be paid from the Net Settlement Amount. The Court awards \$625,000.00 in attorneys' fees; \$166,554.46 in out-of-pocket litigation expenses; \$25,000.00 in settlement administration expenses; and \$10,000.00 in class representative service awards. The total award is \$826,554.46.

This Court will retain jurisdiction of the matter through the conclusion of the post-distribution accounting. Within forty-five (45) days of the settlement administrator completing the dispersal of funds to class members, Plaintiffs must submit to the Court a status report on: (1) the amount of money dispersed and the amount of money left in the common fund; (2) the number of class members that received a payment, and the number that did not; and (3) any other updates that might assist the Court in overseeing the fair and just administration of the settlement.

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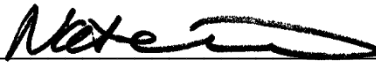
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1 This order shall be effective **December 16, 2020**.² The Court will issue a separate
2 judgment on December 16, 2020. The Clerk of Court is directed to administratively close
3 the case.

4 **IT IS SO ORDERED.**

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6 Dated: November 25, 2020

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NATHANAEL M. COUSINS
United States Magistrate Judge

United States District Court
Northern District of California

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27 ² Section 1751(d) states that “[a]n order giving final approval of a proposed settlement may
28 not be issued earlier than 90 days after the later of the dates on which the appropriate
Federal official and the appropriate State official are served with the notice required under
subsection (b).” The parties served the appropriate officials on September 16, 2020. *See*
Mot. For Final Approval at 10.