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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SAN DIEGO

HEATHER BEGLEY, individually, and on behalf of all others similarly situated,

Plaintiff,

v.

GENEWIZ, LLC, a Delaware corporation; and DOES 1 through 10, inclusive,

Defendants.

Case No. 37-2022-00038762-CU-OE-CTL
Assigned to: Hon. Judy S. Bae, Dept. C-62

Complaint filed: September 28, 2022
FAC filed: February 10, 2025
Trial date: Not set

CLASS & REPRESENTATIVE ACTION

PLAINTIFF'S NOTICE OF MOTION AND MOTION FOR FINAL APPROVAL OF CLASS AND PAGA ACTION SETTLEMENT; MEMORANDUM OF POINTS AND AUTHORITIES

FINAL APPROVAL HEARING
Date: April 3, 2026
Time: 9:10 a.m.
Dept.: C-62

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NOTICE OF MOTION AND MOTION

TO ALL PARTIES AND THEIR COUNSEL OF RECORD:

PLEASE TAKE NOTICE that on April 3, 2026 at 9:10 a.m., in Department C-62 of the San Diego Superior Court, located at 330 W Broadway, San Diego, CA 92101, Plaintiff Heather Begley ("Plaintiff" or "Class Representative") will, and hereby does, move for an order as follows:

1. Certifying all persons who are employed or have been employed by Defendant Genewiz, LLC in the State of California as hourly and/or other non-exempt employees from September 28, 2018, through December 16, 2024 (the "Class Period") (each "Class Member(s)", collectively the "Class") for settlement purposes;
2. Approving the $343,200.00 settlement (the "Gross Settlement Amount") as memorialized in Joint Stipulation Of Class Action And Paga Settlement And Release (the "Settlement" or "Settlement Agreement") between the Plaintiffs and Defendant as fair, just, reasonable and adequate. A true and correct copy of the Settlement Agreement is attached as **Exhibit 1** to the Declaration Of Conor J.D. Gomez In Support Of Plaintiffs' Motion for Final Approval of Class Action Settlement ("Class Counsel Declaration") submitted concurrently with this Motion for Final Approval of Class Action Settlement (the "Motion");
3. Finding that Class Members were given adequate notice of the Settlement, and advised of their rights to participate in the Settlement, object to the Settlement, or exclude themselves from the Settlement, in a reasonable manner;
4. Appointing Plaintiff as Class Representative for settlement purposes, and approving a service award of up to $10,000.00 (the "Named Plaintiff's Enhancement And General Release Payment") to Plaintiff;
5. Appointing Plaintiff's Counsel, Tyler J. Woods, Alan A. Wilcox, Lucy Nguyen, and Conor Gomez of Wilshire Law Firm, PLC ("WLF") as "Class Counsel" for settlement purposes;
6. Approving payment to Class Counsel of $114,400.00 in attorneys' fees, which is one third (1/3) of the Gross Settlement Amount (the "Attorneys' Fees");
7. Approving payment to Class Counsel for litigation costs in the amount of $24,570.75 (the "Attorneys' Costs");

8. Approving payment of administrative expenses to ILYM Group, Inc. the settlement administrator (the "Settlement Administrator") as in the amount of $8,650.00 (the "Administration Fees and Costs");
9. Directing that the clerk of the Court to enter the Court's order as a final judgment; and,
10. Without affecting the finality of the final judgment, and pursuant to C.C.P. 664.6, reserving continuing jurisdiction over the Parties for the purposes of implementing, enforcing and/or administering the Settlement or enforcing the terms of the judgment.
11. This Motion will be based on the accompanying Memorandum of Points and Authorities, the Class Counsel Declaration, and such oral argument as may be heard by the Court, and all other papers on file in this action.

Dated: March 5, 2026

Respectfully submitted,

WILSHIRE LAW FIRM, PLC

By: ______________________________

Tyler J. Woods
Alan A. Wilcox
Lucy Nguyen
Conor Gomez

Attorneys for Plaintiff

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MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

Plaintiff seeks final approval of the Settlement with Defendant. The Settlement will provide substantial monetary payments to approximately 96 Class Members. And, as set forth more fully below, the Settlement satisfies all the criteria for settlement approval under California law.

Upon the Court's approval of the Settlement, Participating Class Members will receive an ***average estimated individual net settlement payment of approximately $1,724.78***, with the ***highest individual estimated net settlement payment to be paid of approximately $5,342.35***. (Declaration of Nathalie Hernandez Regarding Notice and Settlement Administration ["Hernandez Decl."], ¶ 14.) As of filing this Motion, there **no objections to the settlement** and **no requests for exclusion**. (*Id.* at ¶¶ 11-12.) The responsive deadline was December 15, 2025. (*Id.*) For the reasons set forth in this Motion, the Settlement is fair, just, reasonable, and adequate and is in the best interests of the Class Members.

Final approval of the Settlement is warranted as it satisfies all the criteria for approval under California law. As demonstrated in the Motion for Preliminary Approval of Class Action Settlement, the proposed Settlement provides excellent benefits to the Class, particularly considering the complexities and risks of the case. Accordingly, Plaintiff requests that the Court grant final approval of the proposed Settlement.

II. SUMMARY OF THE LITIGATION AND SETTLEMENT

A. Plaintiff's Claims

This is a wage and hour class and Private Attorneys General Act ("PAGA") (Lab. Code §§ 2699, *et seq.*) representative action. Plaintiff and the putative Class Members worked in California as hourly-paid or non-exempt employees for Defendant during the Class Period. Defendant is a leader in genetic coding and sequence modifications and has locations all over the nation. (Class Counsel Decl., ¶ 2.)

Plaintiff alleges that Defendant's payroll, timekeeping, and wage and hour practices resulted in Labor Code violations. (Class Counsel Decl., at ¶ 3.) Plaintiff alleges that Defendant

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failed to pay for all hours worked. (*Id.*) Plaintiff further alleges that Defendant failed to provide employees with legally compliant meal and rest periods, and Defendant failed to reimburse business expenses. (*Id.*) Based on these allegations, Plaintiff asserts related claims for failure to provide accurate wage statements, failure to pay all final wages at termination, unfair business practices, and civil penalties under the PAGA. (*Id.*)

On On September 28, 2022, Plaintiff filed a putative wage-and-hour class action complaint against Defendant for: (1) failure to pay minimum and straight time wages (Labor Code §§ 204, 1194, 1194.2, and 1197); (2) failure to pay overtime wages (Labor Code §§ 1194 and 1198); (3) failure to provide meal periods (Labor Code §§ 226.7 and 512); (4) failure to authorize and permit rest periods (Labor Code §§ 226.7 and 512); (5) failure to timely pay final wages at termination (Labor Code §§ 201-203); (6) failure to provide accurate itemized wage statements (Labor Code § 226); (7) failure to indemnify employees for expenditures (Labor Code § 2802); and (8) unfair business practices (Business and Professions Code 17200 et seq.). (Class Counsel Decl., at ¶ 4.) On February 10, 2025, Plaintiff filed a First Amended Complaint against Defendant adding claims for civil penalties under Private Attorneys General Act "PAGA" (Labor Code §§ 2698, *et seq*.) (*Id.*) Plaintiff sent a notice to Defendant and the California Labor & Workforce Development Agency ("LWDA") alleging similar wage and hour violations pursuant to the PAGA (Cal. Lab. Code §§ 2699, *et seq.*) on September 29, 2022. (*Id.*)

B. <u>Discovery and Investigation</u>

Following the filing of the Action, the Parties exchanged documents and information before mediating this Action. (Class Counsel Decl., ¶ 5.) Defendant produced a sample of time and pay records for the Class Members. (*Id.*) Defendant also provided documents of its wage and hour policies and practices during the Class Period, and information regarding the total number of current and former employees in its informal discovery responses (*Id.*)

After reviewing documents regarding Defendant's wage and hour policies and practices and analyzing Defendant's timekeeping and payroll records, Class Counsel was able to evaluate the probability of class certification, success on the merits, and Defendant's maximum monetary exposure for all claims. (Class Counsel Decl., at ¶ 6.) Class Counsel also investigated the

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applicable law regarding the claims and defenses asserted in the Action. (*Id.*) Class Counsel reviewed these records and prepared a damage analysis assessing Defendant's potential liability prior to mediation. (*Id.*)

C. Settlement Negotiations and Agreement

On December 15, 2023, the parties participated in private mediation with experienced class action mediator Mark Rudy, Esq. (Class Counsel Decl., ¶ 7.) The mediation was conducted via Zoom. (*Id.*) The settlement negotiations were at arm's length and, although conducted in a professional manner, were adversarial. (*Id.*) The Parties went into the mediation willing to explore the potential for a settlement of the Action, but each side was also prepared to litigate their position through trial and appeal if a settlement had not been reached. (*Id.*) After extensive negotiations and discussions regarding the strengths and weaknesses of Plaintiff's claims and Defendant's defenses, the Parties reached a settlement, the material terms of which are encompassed within the Settlement Agreement. (*Id.*)

1. Class Counsel has conducted a thorough investigation into the facts of this Action. (Class Counsel Decl., at ¶ 8.) Based on the foregoing discovery and their own independent investigation and evaluation, Class Counsel is of the opinion that the Settlement is fair, reasonable, and adequate and is in the best interests of the Settlement Class Members in light of all known facts and circumstances, the risk of significant delay, the defenses that could be asserted by Defendant both to certification and on the merits, trial risk, and appellate risk. (*Id.*)

D. Preliminary Approval and Overwhelming Support for the Settlement

Following the execution of the Settlement Agreement, the Court granted Plaintiff's Motion for Preliminary Approval of Class Action Settlement on September 25, 2025. (Class Counsel Decl., ¶ 9.) The deadline for Class Members to opt out or object to the Settlement was December 15, 2025. (*Id.*) The reaction of the Class to the Settlement so far has been overwhelmingly positive. (*Id.*) Indeed, as of the filing of the Motion, no Class Member has opted out of the Settlement, and no Class Member has objected to the Settlement. (*Id.*)

E. Key Terms of the Proposed Settlement

Under the Settlement Agreement, Defendants will pay the Gross Settlement Amount to

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resolve this Action. The key terms include:

1. Class Members: "means all persons who are employed or have been employed by GENEWIZ, LLC in the State of California as hourly and/or other non-exempt employees during the Class Period." (Settlement, ¶ 4.)

2. Settlement Class or Settlement Class Members "means all Class Members other than those who opt-out (see Paragraphs 21 and 57.d)." (Settlement, ¶ 4.)

3. Class Period: "means the period of time beginning on September 28, 2018, through December 16, 2024, subject to the Settlement Cap Provision in Paragraph 51g." (Settlement, ¶ 6.)

4. Gross Settlement Amount or GSA: "means a fixed total payment of Three Hundred Forty-Three Thousand Two Hundred Dollars and Zero Cents ($343,200.00), payable by Defendant under this Agreement, which shall satisfy all outstanding and awarded Settlement Payments, PAGA Payments, attorneys' fees and costs awarded to Class Counsel, the Named Plaintiff's enhancement awards as awarded by the Court, outstanding payments to the SA as approved by the Court for settlement administration costs, and the PAGA payment, including the payment to the LWDA, other than additional employer-side payroll taxes which shall be paid by Defendant as stated in this Agreement." (Settlement, ¶ 1.16.)

5. Uncashed Checks: "If such Settlement Class Members and/or PAGA Members do not cash their checks within that period, those checks will become void and a stop payment will be placed on the uncashed checks. Checks that are not cashed within one hundred and eighty (180) days of mailing shall, subject to Court approval, be distributed pursuant to the State Controller Unclaimed Property Fund, or as otherwise directed by California Code of Civil Procedure Section 384 and as ordered by the Court. The Parties agree that if the remaining funds are not able to be distributed to the State Controller Unclaimed Property Fund in the name of the Class Member or PAGA Member and if a *cy pres* fund is required, subject to Court instruction, that the SA shall forward the entire amount of anyamounts remaining from uncashed checks, plus any interest that has accrued thereon, to the California CASA Association (see https://www.californiacasa.org), unless not accepted by the Court in which case the Parties will

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meet and confer about an acceptable *cy pres*." (Settlement, ¶ 63.)

6. Release of Settled Claims: "As of the Effective Date, Named Plaintiff and all Settlement Class Members hereby do and shall be deemed to have fully, finally, and forever released, settled, compromised, relinquished and discharged any and all Settled Claims against any and all Released Parties. The Settlement includes a release of all Settled Claims that arose during the Class Period by Settlement Class Members employed at any time during the Class Period. The Parties agree for settlement purposes only that, because the Class Members are so numerous, it is impossible or impracticable to have each Class Member execute this Agreement. Accordingly, the Class Notice will advise all Class Members of the binding nature of the Agreement and such notice shall have the same force and effect as if the Agreement were executed by each Class Member. Named Plaintiff and Class Counsel represent, covenant, and warrant that they have not directly or indirectly assigned, transferred, encumbered or purported to assign, transfer, or encumber to any person or entity any portion of any liability, claim, demand, action, cause of action, or rights herein released and discharged, except as set forth herein." (Settlement, ¶ 48.)

7. Release of Settled PAGA Claims: "As of the Effective Date, Named Plaintiff, LWDA, the State of California, and any other representative, proxy, or agent thereof, including but not limited to any and all PAGA Members, hereby do and shall be deemed to have fully, finally, and forever released, settled, compromised, relinquished and discharged all "PAGA Claims" that arose during the PAGA Period against any and all of the Released Parties. Subject to Court approval, the Agreement includes a settlement of all Settled PAGA Claims during the PAGA Period by LWDA, the State of California, and PAGA Members to the fullest extent permitted under the law, including settlement contemplated in Labor Code section 2699(l)(2)." (Settlement, ¶ 49.)

8. Effective Date: "means the first business day following the last of the following occurrences: (i) if no Class Member and/or PAGA Member timely and properly intervenes, files a timely motion to vacate the Final Judgment under, or objects or otherwise challenges the Settlement, then sixty-one (61) days after the date the Court enters an Order Granting Final Approval of the Settlement and Final Judgment; or (ii) if a Class Member and/or PAGA Member

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timely intervenes or files a motion to vacate the Final Judgment, or objects or otherwise challenges the Settlement, and files a timely appeal or other challenge, then five (5) days after the Court receives the mandate reflecting the final resolution of that appeal (including any requests for rehearing and/or petitions for *certiorari*), resulting in final and complete judicial approval of the Settlement in its entirety without modification, with no further challenge to the Settlement being possible. Defendant shall deposit all sums necessary to fund the Settlement after the Effective Date based on the schedule explained in Paragraph 51 of this Agreement. In the event an appeal, writ, motion challenging the judgment or other collateral attack is made after the Effective Date, the funds shall not be distributed until all challenges are resolved in a manner that upholds the Settlement in its entirety and shall be returned if the Agreement is not finally and completely approved in all respects." (Settlement, ¶ 11.)

9. <u>PAGA Allocation</u>: Of the Gross Settlement Amount, $20,000 shall be paid for the PAGA claims. "PAGA Allocation" means the amounts distributed among PAGA Members and is the $5,000 amount (remaining from the $20,000.00 after subtracting the $15,000 allocated to the LWDA) divided by the total number of PAGA Workweeks Worked credited to all PAGA Members. Each PAGA Member's PAGA Payment is equal to the PAGA Workweek Rate multiplied by his or her individual PAGA Workweeks Worked pursuant to the records of Defendant, and will be paid to the PAGA Member even if they opt-out of the Class Settlement. (Settlement ¶ 25.) Class Counsel submitted the proposed settlement to the LWDA before filing the Motion for Preliminary Approval. (Class Counsel Decl., ¶ 11.)

10. <u>Net Settlement Amount or NSA:</u> "means "the Gross Settlement Amount less the amounts deducted pursuant to Paragraphs 51a through 51e of [the Settlement Agreement], including deductions of the amounts awarded to Class Counsel, the enhancement award to the Named Plaintiff, the payment to the LWDA to resolve claims under the PAGA, and the costs awarded for settlement administration owed pursuant to this Agreement." (Settlement, ¶ 1.19.)

11. <u>Distribution Formula:</u> "The NSA will be divided by the total Workweeks Worked by all Settlement Class Members during the Class Period as reflected in Defendant's records. All Settlement Class Members shall be paid an amount equal to their individual Workweeks

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Worked during the Class Period, multiplied by the Workweek Rate. Workweeks Worked shall be determined by the SA based on data to be provided by Defendant, as may be modified by the resolution of any challenges." (Settlement, ¶ 51h(i).) As to each PAGA Member's PAGA Payment: "The remaining Five Thousand Dollars and Zero Cents ($5,000.00) shall be paid to PAGA Members by multiplying the PAGA Workweek Rate by each individual PAGA Member's PAGA Workweeks Worked." (Settlement, ¶51e(i).)

12. Tax Allocation: "The Parties agree that the Settlement Payments will be allocated as follows: twenty percent (20%) for alleged unpaid wages, for which an IRS Form W-2 shall be issued, forty percent (40%) for alleged civil and statutory penalties, and forty percent (40%) for alleged interest on unpaid wages and any other non-wage related amount, if any. The PAGA Payments to PAGA Members will be designated as payments for alleged penalties and other nonwage amounts. The portions of the Settlement Payments allocated to penalties, interest or other non-wage amounts and the PAGA Payments will be paid without tax withholdings and will be reported as such to each Settlement Class Member and/or PAGA Member on an IRS Form 1099." (Settlement, ¶ 53a.)

13. Named Plaintiff's Enhancement and General Release Payment: "Class Counsel will apply to the Court for approval of an enhancement award in an amount not to exceed Ten Thousand Dollars and Zero Cents ($10,000.00) to be paid to Named Plaintiff, from which fifty percent (50%) shall be deemed consideration for a general release and from which fifty percent (50%) shall be for assuming the risks associated with this litigation (including for assuming the risks in the PAGA case). Defendant will not oppose such application. The enhancement award is included in, and shall be deducted from, the GSA. Should the Court approve a lesser amount, the difference shall be added to the NSA." (Settlement, ¶ 51.d.)

14. Attorneys' Fees and Costs: "Class Counsel will apply to the Court for an award of attorneys' fees of no more than one third (1/3) of the GSA or One Hundred Fourteen Thousand Four Hundred Dollars and Zero Cents ($114,400.00). The attorneys' fees shall come from and be deducted from the GSA and paid out as set forth herein. Defendant will not oppose such application." (Settlement, ¶ 51a.) "Named Plaintiff and Class Counsel shall request approval of

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payment of up to but not to exceed Thirty Thousand Dollars and Zero Cents ($30,000.00) in attorneys' costs, including any litigation costs, which will be deducted from the GSA and paid out as set forth herein. Defendant will not oppose such application." (Settlement, ¶ 51b.)

15. Notice of Proposed Class Action Settlement: The Notice of Class Action and PAGA Settlement (the "Class Notice") set forth in plain terms, a statement of the Action, the terms of the Settlement Agreement, the approximate amount of Attorneys' Fees, Attorneys' Costs, and the Named Plaintiff's Enhancement and General Release Payment being sought, and an explanation of how the Settlement allocations are calculated. (Settlement, Ex. A, Class Notice.) A true and correct copy of the Class Notice is attached as **Exhibit A** to the Settlement Agreement. Class Members were notified by first-class mail of the Settlement. (Hernandez Decl., ¶ 7.) The Settlement Administrator undertook its best efforts to ensure that the Class Notice was provided to the current addresses of Class Members, including conducting a national change of address search and re-mailing the notice to updated addresses. (*Id.* at ¶ 6.)

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III. THE SETTLEMENT MERITS FINAL APPROVAL

The law favors the settlement of lawsuits, particularly in class actions and other complex cases. (*See e.g., Neary v. Regents of Univ. of California* (1992) 3 Cal.4th 272, 277-81.) Factors to be considered in evaluating a class action settlement include "the strength of plaintiffs' case, the risk, expense, complexity and likely duration of further litigation, the risk of maintaining class action status through proceedings, the experience and views of counsel … and the reaction of the class members to the proposed settlement." (*Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th 116, 128.) The factual record must be sufficiently developed to withstand evaluation of plaintiffs' likelihood of success, with the most important factor being "the strength of the case for plaintiffs on the merits, balanced against the amount offered in settlement. (*Clark v. American Residential Services, LLC*, (2009) 175 Cal.App.4th 785, 799).

Whether a class action settlement should be approved is a question committed to the trial court's broad discretion. (*Wershba v. Apple Computers, Inc.* (2001) 91 Cal.App.4th 224, 234-35.) In exercising its discretion, the Court should give "[d]ue regard ...to what is otherwise a private consensual agreement between the parties." (*Dunk v. Ford Motor Co.* (1996) 48 Cal.App.4th 1794, 1801.) "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*. [internal citations omitted].)

A. <u>Plaintiff's Case and Risks of Further Litigation</u>

Plaintiff has established that their claims are based on viable causes of action. Through all of the informal discovery and investigation it became abundantly clear that both Parties were able to establish credible claims and viable defenses. While Plaintiffs are confident in the merits of their claims, a legitimate controversy exists as to each cause of action. (Class Counsel Decl. at ¶ 10.) Plaintiffs also recognize that proving the amount of wages due to each Class Member would be an expensive, time-consuming, and uncertain proposition. (*Id*.) Furthermore, even if Plaintiffs obtained certification of all or some of the claims, continued litigation would be expensive, involving a trial and possible appeals, and would substantially delay and reduce any recovery by the Class. (*Id.*)

Under *Clark*, the most important factor is the strength of the case for plaintiffs on the merits, balanced against the amount offered in settlement (*Clark* at 799). Indeed, the Plaintiffs have identified and provided a sufficient basis for bringing legitimate claims against Defendants, which could very well lead to a favorable judgment should litigation continue. However, the strengths of Plaintiffs' claims cannot be viewed in a vacuum. (Class Counsel Decl. at ¶ 10.) When considering the risks of litigation, the uncertainties involved in achieving class certification, the burdens of proof necessary to establish liability, and the probability of appeal of a favorable judgment compared to the relative strengths of Plaintiffs' claims, it is clear that the Gross Settlement Amount is within the "ballpark" of reasonableness, and approval of the Settlement is appropriate.

Because of the proposed Settlement, Class Members will receive timely, guaranteed relief and will avoid the risk of an unfavorable judgment. ***Indeed, each Settlement Class Member is eligible to receive an average benefit of approximately $1,724.78, and the highest estimated net payout is expected to be approximately $5,342.35.*** (Hernandez Decl., ¶ 14.)

A settlement is not judged against what the plaintiff might recover had he or she prevailed

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at trial, nor does the settlement have to provide 100% of the damages sought to be fair and reasonable. (*Wershba*, at 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."]).

B. <u>A Presumption of Fairness Over the Settlement Exists</u>

A presumption that a settlement is fair and reasonable exists where, as here, the following four factors are present: "(l) the settlement is reached through arm's length bargaining; (2) investigation and discovery are sufficient to allow counsel and the court to act intelligently; (3) counsel is experienced in similar litigation; and (4) the percentage of objectors is small." (*Wershba*, at 245.) A presumption of fairness exists here as the Settlement was reached through extensive, mediated arm's-length negotiations, sufficient investigation and discovery, which allowed Class Counsel to act intelligently, and Class Counsel is experienced in similar wage and hour litigation.

The Settlement was reached over the course of a full-day mediation with experienced employment mediator, Mark Rudy, Esq. (Class Counsel Decl., ¶ 7.) The settlement negotiations were at arm's length and, although conducted in a professional manner, were adversarial. (*Id.*) The Parties went into the mediation willing to explore the potential for a settlement of the Action, but each side was also prepared to litigate their position through trial and appeal if a settlement had not been reached. (*Id.*)

Prior to reaching this Settlement, Class Counsel conducted informal discovery concerning the claims set forth in the Action, such as a sample of Class Member time and pay records, Defendant's policies and procedures concerning the payment of wages, the provision of meal and rest breaks, issuance of wage statements, and providing all wages at separation, as well as information regarding the number of putative Class Members and the mix of current versus former employees, the wage rates in effect, and the amount of meal and rest period premium wages paid to Class Members. (*Id.* at ¶¶ 5-6.) In conjunction with their extensive factual investigation, Class

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Counsel investigated the applicable law regarding the claims and defenses asserted in the Action. (*Id.*) Thus, Plaintiff and Class Counsel were able to act intelligently and effectively in negotiating the Settlement. (*Id.*)

Class Counsel also has considerable experience and has demonstrated competence with litigating wage and hour class actions. (Class Counsel Decl., ¶¶ 27-48.) Class Counsel has substantial experience in all facets of litigation in state and federal court, including discovery, law and motion, trial, appeals, arbitration and mediation. Class Counsel have litigated numerous class actions on behalf of plaintiffs and have been lead counsel or otherwise exercised significant case handling responsibilities in numerous cases resulting in millions of dollars in class action settlements. (*Id.*)

Based on Class Counsel's experience as employment and class action attorneys, Class Counsel is eminently qualified to evaluate the strength of Plaintiff's claims, the strength of Defendant's defenses against certification, the strength of Defendant's defenses on the merits, and the fairness of the Settlement. Their opinion that final approval of the Settlement would be in the best interests of Class Members in light of the significant risks of litigation is entitled to great weight. (*See Kullar, supra,* 168 Cal.App.4th at p. 129 ["The court undoubtedly should give considerable weight to the competency and integrity of counsel and the involvement of a neutral mediator in assuring itself that a settlement agreement represents an arms' length transaction entered without self-dealing or other potential misconduct"].)

Lastly, as of the filing date of the Motion, no Class Member has objected to the Settlement, and no Class Member has requested exclusion from the Settlement. (Hernandez Decl., ¶¶ 11-12.) The overwhelmingly positive response of the Class strongly supports final approval of the Settlement. (*See, e.g., In re Lifelock, Inc. Marketing and Sales Practices Litigation* (D. Ariz. 2010) 2010 WL 3715138, *6 [relatively few objections and requests for exclusion support approval].)

Factors to be considered in evaluating a class action settlement include "the reaction of the class members to the proposed settlement." (*Kullar, supra,* 168 Cal.App.4th at p. 128.) The reaction here has been overwhelmingly positive. In fact, Courts have approved class action settlements in lesser circumstances. (*See, e.g., Hughes v. Microsoft Corp.* (W.D.Wash. 2001) 2001

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U.S. Dist. LEXIS 5976, 2001 WL 34089697, *8 [court found that the "class members overwhelmingly support[ed] the settlement" where there were over 37,000 notices sent out, 2,745 class members participated in the settlement, "only nine objections were submitted", and there were 86 timely opt-outs and over 20 additional defective or untimely opt-outs, "these indicia of the approval of the class of the terms of the settlement support a finding of fairness under Rule 23"], *citing Hanlon v. Chrysler Corp.* (9th Cir.1998) 150 F.3d 1011, 1027 [despite vigorous objections and appeal by objectors, the "fact that the overwhelming majority of the class willingly approved the offer and stayed in the class presents at least some objective positive commentary as to its fairness," and the court did not abuse its discretion in approving settlement].) Here, the percentage of objectors is small as there are **zero** objectors out of 96 Class Members. (Hernandez Decl., ¶ 12.)

Taken all together, a presumption that the Settlement is fair, just, adequate, and reasonable therefore exists, and the Settlement should be approved.

IV. THE ATTORNEYS' FEES, ATTORNEYS' COSTS, AND NAMED PLAINTIFF'S ENHANCEMENT AND GENERAL RELEASE PAYMENT ARE REASONABLE.

Under the Settlement, subject to the Court's approval, Defendant has agreed to pay Class Counsel the Attorneys' Fees and Attorneys' Costs, and Defendant agreed to pay the Named Plaintiff's Enhancement and General Release Payment to Plaintiff. Defendant has also agreed that it would not oppose an application for these payments addressed above, and no Class Member has objected to these amounts. (*See generally* Settlement; Hernandez Decl., ¶¶ 11-12.)

A. Class Counsel Fees Payment Is Reasonable

According to a leading treatise on class actions, "[n]o general rule can be articulated on what is a reasonable percentage of a common fund. Usually **50%** of the fund is the upper limit on a reasonable fee award from a common fund in order to assure that the fees do not consume a disproportionate part of the recovery obtained for the class, although somewhat larger percentages are not unprecedented." (*See* Conte & Newberg, *Newberg on Class Actions* (3rd Ed.) § 14.03.) Attorneys' fees at fifty percent of the fund are typically considered the upper limit, with ***thirty to forty percent*** commonly awarded in cases where the settlement is relatively small. (*Id.*; *see also*

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Van Vranken v. Atlantic Richfield Company (N.D. Cal. 1995) 901 F. Supp. 294 [stating that most cases where 30-50% was awarded involved "smaller" settlement funds of under $10 million].)

In common fund cases like this one, the primary method California courts use for calculating attorneys' fees is the percentage of the common fund method, which may be followed by a lodestar cross-check. In *Laffitte v. Robert Half Int'l Inc.* (2016) 1 Cal.5th 480, the California Supreme Court affirmed an award of 33 1/3% of a $19 million wage and hour class action settlement with a 2.03 to 2.13 multiplier. (*Id.* at p. 506.) In doing so, the California Supreme Court explained:

> As to the incentives a lodestar cross-check might create for class counsel, we emphasize the lodestar calculation, when used in this manner, ***does not override the trial court's primary determination of the fee as a percentage of the common fund*** and thus ***does not impose an absolute maximum or minimum on the potential fee award***. If the multiplier calculated by means of a lodestar cross-check is extraordinarily high or low, the trial court should consider whether the percentage used should be adjusted so as to bring the imputed multiplier within a justifiable range, but the court is not necessarily required to make such an adjustment. Courts using the percentage method have generally weighed the time counsel spent on the case as an important factor in choosing a reasonable percentage to apply.

(*Id.* at p. 505, emphasis added; *see also Beaver v. Tarsadia Hotels* (S.D. Cal. Sept. 28, 2017) 2017 WL 4310707, at *9 [applying *Laffitte* standard to fee request for 33 1/3% of common fund].)

The settled-for Attorneys' Fees are consistent with the average fee award in class actions. Indeed, as is requested here, the custom and practice in class actions is to award approximately one-third of a fund as a fee award. (*See Chavez v. Netflix, Inc.* (2008) 162 Cal.App.4th 43, 66, n.11 ["Empirical studies show that, regardless whether the percentage method or the lodestar method is used, fee awards in class actions average around one-third of the recovery."].)

Although California supports the common fund doctrine, the lodestar method can be used to cross-check fee awards. "It may be appropriate in some cases, assuming the class benefit can be monetized with a reasonable degree of certainty, to "cross-check" or adjust the lodestar in comparison to a percentage of the common fund to ensure that the fee awarded is reasonable and within the range of fees freely negotiated in the legal marketplace in comparable litigation." (*In re Consumer Privacy Cases* (2009) 175 Cal.App.4th 545, 557.)

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Applying the lodestar method requires a two-step process. The first step is to multiply the number of hours reasonably expended by a reasonable hourly rate. The second step is to apply a multiplier to the lodestar to take into account various factors. "The purpose of such adjustment is to fix a fee at the fair market value for the particular action. In effect, the court determines, retrospectively, whether the Action involved a contingent risk or required extraordinary legal skill justifying augmentation of the unadorned lodestar in order to approximate the fair market rate for such services." (*Id.* at pp. 556-57.) "Under certain circumstances, a lodestar calculation may be enhanced on the basis of a percentage-of-the-benefit analysis." (*Id.* at p. 557.)

Detailed timesheets are **not** necessary to a lodestar cross-check. "The law is clear … that an award of attorney fees may be based on counsel's declarations, without production of detailed time records." (*Raining Data Corp. v. Barrenechea* (2009) 175 Cal.App.4th 1363, 1375) (*see also United Steelworkers of America v. Phelps Dodge Corp.* (9th Cir. 1990) 896 F.2d 403, 407 "Affidavits of the plaintiffs' attorney and other attorneys regarding prevailing fees in the community, and rate determinations in other cases, particularly those setting a rate for the plaintiffs' attorney, are satisfactory evidence of the prevailing market rate.") Here, Class Counsel submits their declaration to support their lodestar hourly rates concurrently with this Motion.

Additionally, as the California Supreme Court explained in *Laffitte*:

> With regard to expenditure of judicial resources, we note that trial courts conducting lodestar cross-checks have generally not been required to closely scrutinize each claimed attorney-hour, but have instead used information on attorney time spent to "focus on the general question of whether the fee award appropriately reflects the degree of time and effort expended by the attorneys."
>
> (5 Newberg on Class Actions, *supra*, § 15:86, p. 331; *see, e.g., Goldberger v. Integrated Resources, Inc., supra*, 209 F.3d at p. 50 [2d Cir.; "where used as a mere cross-check, the hours documented by counsel need not be exhaustively scrutinized by the district court"]; *In re Prudential Ins. Co. America Sales Practice Action Agent Actions* (3d Cir.1998) 148 F.3d 283, 342 [agreeing with district court that "detailed time summaries were unnecessary where, as here, it was merely using the lodestar calculation to double check its fee award."]; *Barbosa v. Cargill Meat Solutions Corp.* (E.D.Cal.2013) 297 F.R.D. 431, 451 ["Where the lodestar method is used as a cross-check to the percentage method, it can be performed with a less exhaustive cataloguing and review of counsel's hours."].)

(*Laffitte, supra,* 1 Cal.5th at p. 505.)

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Class Counsel's lodestar is at least $89,280 based on over 97.2 hours of work performed thus far. (Class Counsel Decl., ¶¶ 17-21.) Accordingly, the Class Counsel Fees Award is reasonable and fair as it is based on an approximate multiplier of 1.28. To be sure, trial courts have substantial discretion in adjusting the lodestar to account for various factors. (*See Lealao v. Beneficial California, Inc.* (2000) 82 Cal.App.4th 19, 26, 39-45; *see also Serrano v. Priest* (1977) 20 Cal.3d 25, 49.) In addition, it has been held that "[m]ultipliers can range from 2 to 4 or even higher." (*See Wershba*, *supra,* 91 Cal.App.4th at p. 255; *see also Van Vranken*, *supra,* 901 F. Supp. At p. 298 ["[m]ultipliers in the 3-4 range are common in lodestar awards for lengthy and complex class action litigation."].)

Once this lodestar figure has been determined, the Court may take into account other "enhancement" factors to adjust the lodestar award. While Plaintiffs seek a positive multiplier of 1.28 here, the overall reasonableness of Plaintiffs' request is underscored by the fact that similar multipliers have been found to be reasonable for Class Counsel in other class actions. (*See, e.g., Moreno v. Pretium Packaging, L.L.C*. (C.D. Cal. Aug. 6, 2021) No. 8:19-cv-02500-SB, 2021 WL 3673845, *3 [finding WLF's multiplier of 2.57 reasonable "in light of the contingent nature of recovery, the complexity of the issues, and the result obtained"]; *Chavez, supra,* 162 Cal.App.4th at p. 60 [applying a 2.5 multiplier on a lodestar cross-check]; *Vizcaino v. Microsoft Corp.* (9th Cir. 2002) 290 F.3d 1043, 1051 n.6 ["most" common fund cases apply a multiplier of 1.0-4.0]; *Been v. O.K. Industries Inc.* (E.D. Okla. 2011) 2011 WL 4478766, *11, *citing* a study "reporting [an] average multiplier of 3.89 in survey of 1,120 class action cases" and finding that a multiplier of 2.43 would be "per se reasonable.")

By way of further example, the intermediate court in *Laffitte*, after finding that "2 to 4" is a reasonable range for multipliers on a cross-check, affirmed a 2.13 multiplier. (*Laffitte v. Robert Half Int'l* (2014) 231 Cal.App.4th 860, 881-82.) The intermediate court opinion was affirmed in full by the California Supreme Court in its new decision guiding lower courts on assessing fees.

Factors considered in determining whether a lodestar multiplier is appropriate generally include: (1) the risks presented by the contingent nature of the case; (2) the novelty and difficulty of the questions involved and the skill requisite to perform the legal service properly; (3) the nature of the opposition; (4) the preclusion of other employment by the attorney due to acceptance of the case; and (5) the result obtained and the importance of the lawsuit to the public. (*Serrano, supra,* 20 Cal.3d at pp. 48-49.) All these factors favor approval of a multiplier along the lines of those approved in the cases above.

The major consideration in determining the necessity of a multiplier is the contingent nature of the award. (*Ketchum v. Moses* (2001) 24 Cal.4th 1122, 1132-33.) Further, the possibility of no recovery is only one of the uncertainties involved in taking on such a case. Other uncertainties are the amount that will be recovered, uncertainty as to the cost, both in effort and expenses, and uncertainty about how much time will pass before the recovery is obtained. (*Id.* at pp. 1132-1133, 1138.)

Furthermore, contingency fees should be higher than fees for the same legal services paid concurrently with the provision of the services. (*Id.* "A lawyer who both bears the risk of not being paid and provides legal services is not receiving the fair market value of his work if he is paid only for the second of these functions. If he is paid no more, competent counsel will be reluctant to accept fee award cases.") Application of that rule is particularly appropriate where the case is brought to redress important rights of vulnerable persons. (*Id.*) A risk enhancement is "earned compensation; unlike a windfall, it is neither unexpected nor fortuitous. Rather it is intended to approximate market-level compensation for such services which typically pay a premium for the risk of nonpayment or delay in payment of attorney's fees." (*Id*. at p. 1138.)

Here, Class Counsel has been the only counsel to represent the Class Members in this Action and have borne the entire risk and costs of litigating this Action purely on a contingency basis. Class Counsel's outlay of time and money in this case has been significant. (Class Counsel Decl. ¶¶ 22-25.)

The other factors are also present here. As discussed, this Action represents complex questions of law and fact. Defendants' contentions compared to Plaintiffs' assertions underscore the risk of prevailing at class certification and trial, and any of these obstacles could have prevented recovery completely. (Class Counsel Decl. at ¶¶ 10.) Given the complexities of this

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Action, this Action required experienced and competent lawyers with expertise in the issues presented herein. Further, proceeding to trial would have added years to the resolution of this Action because of the difficult legal and factual issues raised and the likelihood of appeals. (*Id.*) Despite these risks, Class Counsel took this case on a contingency basis. (*Id.* at ¶ 25.) Further, there are only so many cases that Class Counsel can take at any one time. (*Id.*) As a direct result of litigating this Action, there were other meritorious cases that were presented to Class Counsel and that would have generated substantial fees but were nonetheless declined during the pendency of this Action in order to devote the attention necessary to achieve this favorable result. (*Id.*) Considered against the risks of continued litigation, and the importance of the employment rights and a speedy recovery, the relief provided under the Settlement represents a very strong result for the Class.

Thus, Plaintiff's request for the Class Counsel Fees Payment is in line with the prevailing guidelines established in California case law and academic literature and is consistent with awards in California. Accordingly, the Court should approve the Attorneys' Fees requested herein.

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B. <u>Class Counsel Litigation Expenses Payment Is Reasonable.</u>

As of the date of filing this Motion, Class Counsel has incurred around $24,570.75 in costs, and Defendant has agreed that they will not oppose the requested Attorneys' Costs up to $20,000.00. (Class Counsel Decl., ¶ 26.) Accordingly, Class Counsel respectfully requests reimbursement of up to $30,000.00 in costs. The categories of costs are set forth in the accompanying Class Counsel Declaration, and these costs are easily seen to be both reasonable and necessary.

Counsel can recover "out-of-pocket expenses that 'would normally be charged to a fee-paying client'" including costs for "service of summons and complaint, service of trial subpoenas, fee for defense expert at deposition, postage, investigator, copying costs, hotel bills, meals, messenger service and employment record reproduction." (*Harris v. Marhoefer* (9th Cir. 1994) 24 F.3d 16, 19.) Such costs are properly recoverable on motions for settlement approval. (*See Nunez v. BAE Sys. San Diego Ship Repair Inc.* (S.D. Cal. 2017) 292 F. Supp. 3d 1018, 1057; *Rutti v. Lojack Corp.* (C.D. Cal. July 31, 2012) No. CV 06–00350 DOC, 2012 WL

3151077, at *12 ["Expenses such as reimbursement for travel, meals, lodging, photocopying, long-distance telephone calls, computer legal research, postage, courier service, mediation, exhibits, documents scanning, and visual equipment are typically recoverable."].)

Therefore, the requested Attorneys' Costs should be approved.

C. <u>Attorneys' Costs Are Reasonable.</u>

As of the date of filing this Motion, Class Counsel has incurred around $24,570.75 in costs, and Defendant has agreed that they will not oppose any cost award request up to $30,000.00. (Class Counsel Decl., ¶ 27.) Accordingly, Class Counsel respectfully requests reimbursement of up to $30,000.00 in costs. The categories of costs are set forth in the accompanying Declaration of Alan A. Wilcox, and these costs are easily seen to be both reasonable and necessary.

Counsel can recover "out-of-pocket expenses that 'would normally be charged to a fee paying client'" including costs for "service of summons and complaint, service of trial subpoenas, fee for defense expert at deposition, postage, investigator, copying costs, hotel bills, meals, messenger service and employment record reproduction." (*Harris v. Marhoefer* (9th Cir. 1994) 24 F.3d 16, 19.) Such costs are properly recoverable on motions for settlement approval. (*See Nunez v. BAE Sys. San Diego Ship Repair Inc.* (S.D. Cal. 2017) 292 F. Supp. 3d 1018, 1057; *Rutti v. Lojack Corp.* (C.D. Cal. July 31, 2012) No. CV 06–00350 DOC, 2012 WL 3151077, at *12 ["Expenses such as reimbursement for travel, meals, lodging, photocopying, long-distance telephone calls, computer legal research, postage, courier service, mediation, exhibits, documents scanning, and visual equipment are typically recoverable."].)

D. <u>The Named Plaintiff's Enhancement and General Release Payment is Reasonable.</u>

Named plaintiffs in class action lawsuits "are eligible for reasonable incentive payments to compensate them for the expense or risk they have incurred in conferring a benefit on other members of the class." (*Munoz v. BCI Coca-Cola Bottling Co. of Los Angeles* (2010) 186 Cal.App.4th 399, 412.) Courts routinely grant approval of class action settlement agreements containing enhancements for the class representatives, which are necessary to provide incentive to represent the class, and are appropriate given the benefit the class representatives help to bring

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about for the class. (*See Rodriguez v. W. Publ'g Corp*. (9th Cir. 2009) 563 F.3d 948, 958-59.) The California Supreme Court has also noted that "retaliation against employees for asserting statutory rights under the Labor Code is widespread," despite anti-retaliation statutes designed to protect employees. (*Gentry v. Super. Ct.* (2007) 42 Cal.4th 443, 460-61.) Plaintiff should therefore be rewarded for assuming the risk of retaliation for the sake of class members. (*See Frank v. Eastman Kodak Co.* (W.D.N.Y. 2005) 228 F.R.D. 174, 187.)

Under the Settlement Agreement, subject to the Court's approval, Defendant agreed to pay a Class Representative Service Payment an amount up to $10,000.00 to Plaintiff Javier Alvarado. This amount is also in exchange for Plaintiff's general releases of all claims against Defendant. Plaintiff has submitted a declaration demonstrating his devotion to this case, including his efforts assisting counsel in the case, communicating with counsel frequently for litigation, preparing for mediation, and reviewing case-related documents. (*See, generally,* Declaration of Plaintiff submitted in support of Motion for Preliminary Approval.)

When compared with the amounts awarded in typical class action cases, the amount requested here is particularly reasonable. Indeed, a **2006** study examining the average incentive award given to class action plaintiffs from **1993 to 2002** found that the "average award per class representative was $15,992 and the median award per class representative was $4,357." (Theodore Eisenberg & Jeffrey P. Miller, "Incentive Awards to Class Action Plaintiffs: An Empirical Study", 53 UCLA L. Rev. 1303, 1308 (2006).) Courts routinely approve a $10,000 enhancement award for plaintiffs represented by Class Counsel. (*See, e.g., Moreno, supra,* 2021 WL 3673845 at *3 ["The Court concludes a $10,000 incentive award is appropriate."]; *Suarez, supra,* 2024 WL 150721 at p. *4 ["The court approves awards of $10,000 for each class representative."].)

"Since without a named plaintiff there can be no class action, such compensation as may be necessary to induce him to participate in the suit." (*Clark v. Am. Residential Services LLC* (2009) 175 Cal.App.4th 785, 804.) "[T]he rationale for making enhancement or incentive awards to named plaintiffs is that they should be compensated for the expense or risk they have incurred in conferring a benefit on other members of the class." (*Id.* at p. 806.) "An incentive award is appropriate 'if it is necessary to induce an individual to participate in the suit."'

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(*Cellphone Term. Fee Cases* (2010) 186 Cal.App.4th 1380, 1394, *quoting Clark*, 175 Cal.App.4th at p. 804.) The "criteria courts may consider in determining whether to make an incentive award include: (1) the risk to the class representative in commencing suit, both financial and otherwise; (2) the notoriety and personal difficulties encountered by the class representative; (3) the amount of time and effort spent by the class representative; (4) the duration of the litigation; and (5) the personal benefit (or lack thereof) enjoyed by the class representative as a result of the litigation." (*Id.* at pp. 1394–95.) Plaintiff's declaration describes how each of the five *Cellphone Termination* factors are present here.

E. Administration Fees and Costs Are Reasonable.

The Settlement Administrator's total fees and costs for services in connection with the administration of this Settlement, which includes fees and costs incurred to-date, as well as anticipated fees and costs for completion of the Settlement administration, are $8,650.00. (Hernandez Decl., ¶ 16.) These expenses are reasonable, based upon the size of the Class, claim and exclusion tracking, and Class Member payment processing.

V. CONCLUSION

For the foregoing reasons, Plaintiff respectfully requests that the Court grant final approval of the proposed Settlement.

Dated: March 5, 2026

Respectfully submitted,

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