LIDMAN LAW, APC
Scott M. Lidman (SBN 199433)
slidman@lidmanlaw.com
Milan Moore (SBN 308095)
mmoore@lidmanlaw.com
Tiara Gose-Hardy (SBN 323823)
tgose@lidmanlaw.com
2155 Campus Drive, Suite 150
El Segundo, California 90245
Tel: (424) 322-4772
Fax: (424) 322-4775

Attorneys for Plaintiffs
REMBER GUILLEN and JUAN SALAS

HAINES LAW GROUP, APC
Paul K. Haines (SBN 248226)
phaines@haineslawgroup.com
2155 Campus Drive, Suite 180
El Segundo, California 90245
Tel: (424) 292-2350
Fax: (424) 292-2355

Attorneys for Plaintiffs
REMBER GUILLEN and JUAN SALAS

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF LOS ANGELES

REMBER GUILLEN and JUAN SALAS, as individuals and on behalf of all others similarly situated,

Plaintiffs,

vs.

MOBILE CLEAR SHIELD, LLC, a California limited liability company; and DOES 1 through 100, inclusive,

Defendants.

Case No.: 22STCV31784
Related to Case No.: 22STCV31788

[*Assigned for all purposes to the Hon. David S. Cunningham III, Dept. SSC-11*]

PLAINTIFFS' NOTICE OF MOTION AND MOTION FOR FINAL APPROVAL OF CLASS ACTION SETTLEMENT, CLASS REPRESENTATIVES' SERVICE AWARD, AND ATTORNEYS' FEES AND COSTS; MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT THEREOF

Date: January 13, 2026
Time: 9:00 a.m.
Dept.: SSC-11

Complaint Filed: September 28, 2022
Trial Date: None Set

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

PLEASE TAKE NOTICE that pursuant to Rule 3.769 of the California Rules of Court, on January 13, 2026 at 9:00 a.m. in Department SSC-11 of the above-entitled Court, located at 312 N. Spring Street, Los Angeles, California 90012, Plaintiffs Rember Guillen and Juan Salas ("Plaintiffs"), individually and on behalf of a class of similarly situated individuals, will and hereby do move this Court for:

1. Confirmation of the certification of the Settlement Class for settlement purposes under Section 382 of the California Code of Civil Procedure;
2. Confirmation of the appointment of Plaintiffs Rember Guillen and Juan Salas as Class Representatives for settlement purposes;
3. Confirmation of the appointment of Scott M. Lidman and Milan Moore of Lidman Law, APC, and Paul Haines of Haines Law Group, APC, as Class Counsel for settlement purposes;
4. The granting of final approval of the Class Action and PAGA Settlement Agreement and Class Notice ("Settlement");
5. Approval of an award of $116,666.67 in attorneys' fees to Class Counsel;
6. Approval of an award of $9,712.52 in costs to Class Counsel;
7. Approval of an award of $5,750.00 in costs to Phoenix Settlement Administrators ("Phoenix") for its settlement administration services;
8. Approval of service awards of $7,500.00 ($15,000.00 total) to each Plaintiff, Rember Guillen and Juan Salas, for their services as Class Representatives;
9. Approval of an award of $15,000.00 to the Labor & Workforce Development Agency ("LWDA"); and
10. The entering of final judgment in the form of the [Proposed] Order of Final Approval of Class Action Settlement and Final Judgment filed concurrently herewith.

This Motion is based on this notice of motion, the attached memorandum of points and authorities attached hereto, the declarations of Scott M. Lidman, Paul K. Haines, Milan Moore, Tiara Gose-Hardy, Plaintiffs Rember Guillen and Juan Salas,[1] and Mayra Gonzalez of Phoenix Settlement Administrators,

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[1] The declarations of Plaintiffs Rember Guillen and Juan Salas were originally filed with this Court on February 20, 2024 in connection with the Motion for Preliminary Approval. For the convenience of the Court, Plaintiffs have re-filed their declarations with the instant Motion.

and the exhibits attached thereto, the pleadings and other papers filed in this action, and on any further oral or documentary evidence or argument presented at the time of hearing.

Respectfully submitted,
LIDMAN LAW, APC

Dated: October 20, 2025

By: ______________________
Scott M. Lidman

Attorney for Plaintiffs
REMBER GUILLEN and JUAN SALAS

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MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

Plaintiffs Rember Guillen and Juan Salas (collectively referred to as "Plaintiffs") submit this memorandum of points and authorities in support of their motion for final approval of the class action settlement ("Settlement") with Defendant Mobile Clear Shield, LLC ("Defendant"). The Settlement Class is defined as: "All individuals whom Defendant Mobile Clear Shield, LLC classified as independent contractors and who worked for Defendant in California at any time during the Class Period." Settlement, ¶ 1.5. The "Class Period" is the period of time starting on September 28, 2018 and ending on January 31, 2020. Settlement, ¶ 1.12.

In this non-reversionary Settlement, the average settlement payment to each Settlement Class Member is approximately **$3,585.70**. Declaration of Mayra Gonzalez ("Gonzalez Decl."), ¶ 16. This is a favorable resolution of the highly disputed wage and hour claims in this case and the significant litigation risks that Plaintiffs faced. Since this Court granted preliminary approval on February 27, 2025, nothing has changed to impact the propriety, fairness, adequacy and reasonableness of the Settlement. In addition, after receiving notice of the Settlement and of their projected Settlement payments, no one has opted-out or submitted a written objection to the Settlement. Gonzalez Decl., ¶¶ 11-13.

As explained below, the Court should grant Plaintiffs' motion in its entirety because: (1) the Class continues to meet the requirements for class certification for settlement purposes under Code of Civil Procedure section 382; (2) the Settlement warrants final approval because it is a fair, adequate, and reasonable compromise of the disputed claims in this case; and (3) the amounts requested for Class Counsel's attorneys' fees and costs, Plaintiffs' Class Service Awards, payment to the Labor Workforce Development Agency ("LWDA"), and settlement administration costs are all fair, adequate, and reasonable. For these reasons, Plaintiffs respectfully request that this Court enter the [Proposed] Order of Final Approval of Class Action Settlement and Final Judgment submitted concurrently herewith.

II. FACTUAL AND PROCEDURAL BACKGROUND

On September 28, 2022, Plaintiffs filed a putative class action complaint against Defendant in Los Angeles County Superior Court. *See* Declaration of Scott M. Lidman ("Lidman Decl."), ¶ 10. On November 21, 2023, pursuant to a stipulation between the Parties and with approval by the Court, Plaintiffs filed a First Amended Class and Representative Action Complaint adding a cause of action for civil penalties under the California Private Attorneys General Act of 2004 ("PAGA"). *Id.*

The primary allegations are that Defendant misclassified the class members as independent contractors and, as a result: (1) failed to pay all overtime wages owed; (2) failed to pay all minimum wages owed; (3) failed to provide meal periods; (4) failed to authorize and permit all paid rest periods; (5) unlawfully deducted from wages; (6) failed to provide accurate, itemized wage statements; (7) failed to pay all wages upon termination; (8) failed to reimburse necessary business expenses; (9) engaged in unfair competition; and (10) is liable for civil penalties under the PAGA. Lidman Decl., ¶ 10.

A. <u>Plaintiffs' Claims</u>

As explained in detail in the Motion for Preliminary Approval, Plaintiffs allege that they and other Class Members were not fully compensated for all of their time worked because Defendant misclassified them as independent contractors and paid them solely on a piece-rate basis. Lidman Decl., ¶ 17. Additionally, Plaintiffs allege that Defendant failed to pay them overtime and failed to include bonuses in the regular rate for purposes of calculating overtime, resulting in an underpayment of overtime wages. *Id.* As a result of being paid solely by piece-rate, Plaintiffs allege that they and other Class Members were underpaid 1 hour of pay for tasks including, waiting for work and/or customers, driving between jobs, fueling their vehicles, performing administrative tasks such as completing paperwork, and taking rest periods. *Id.*

Plaintiffs allege that because they and the Class Members were misclassified as independent contractors, Defendant did not have any meal period policies applying to them and, thus, failed to provide all legally-compliant first meal periods beginning before the end of the fifth hour of work. Lidman Decl., ¶ 19. Specifically, Plaintiffs allege that due to the work demands imposed by Defendant, their meal periods were often late, short, or missed in violation of California law. *Id.* Additionally, Plaintiffs allege Defendant failed to record the start and stop times of meal periods. *Id.*

Plaintiffs allege that because they and Class Members were misclassified as independent contractors, they were not authorized and permitted to take all required paid rest periods due to a lack of Defendant's rest period policies and practices. Lidman Decl., ¶ 21. Specifically, Plaintiffs allege that due to work demands, independent contractors were not authorized and permitted to take duty-free net

10 minute rest periods. Additionally, Plaintiffs allege that as a result of being paid on a piece-rate basis, they did not receive paid rest breaks. Thus, Plaintiffs allege that they and other independent contractors experienced at least one rest period violation on every shift worked in excess of 3.5 hours. *Id*.

Plaintiffs allege that Defendant failed to reimburse them and Class Members for necessary business expenditures, including the use of their personal vehicle, phone, and tools for work purposes, as required under Labor Code section 2802. Lidman Decl., ¶ 23.

Plaintiffs further allege that Defendant failed to issue accurate wage statements due to the misclassification as independent contractors in violation of Labor Code § 226, and also as a result of the alleged unpaid minimum wages and overtime wages, and meal and rest period premium wages described above. Lidman Decl., ¶ 25. Additionally, Plaintiffs contend that the wage statements issued by Defendant independently violated Labor Code sections 226 and 226.2 in that they fail to show: (i) total hours worked during the pay period; (ii) the number of piece-rate units earned and any applicable piece rate; (iii) the total hours of compensable rest periods, the rate of compensation, and the gross wages paid for those periods during the pay period; (iv) list of deductions; and (v) the total hours of other nonproductive time, the rate of compensation, and the gross wages paid for that time during the pay period. *Id*.

Plaintiffs allege that Defendant is also liable for waiting time penalties under Labor Code section 203 as a result of its failure to timely pay all wages upon separation. Lidman Decl., ¶ 27.

Plaintiffs also seek civil penalties under the PAGA as a result of the foregoing alleged Labor Code violations. Lidman Decl., ¶ 29.

As explained *infra* and in Plaintiffs' Motion for Preliminary Approval, Defendant denies Plaintiffs' claims and asserts several affirmative defenses, both on the merits and with respect to class certification.

B. Investigation, Mediation and Settlement

In advance of mediation, Defendant produced timekeeping and payroll data for the putative class, as well as its wage and hour policies and other relevant documents and information relevant to the claims alleged. Lidman Decl., ¶ 11. Plaintiffs contend that the records produced were representative of the entire Settlement Class and are statistically significant and reliable for purposes of evaluating a potential settlement. *Id*.; *See e.g., Tyson Foods, Inc. v. Bouaphakeo*, 136 S. Ct. 1036 (2016). Indeed, from the time and payroll data, Plaintiffs were able to determine that the class members were indeed classified as independent contractors and paid solely on a piece-rate basis through December 2019. *Id*. Additionally, Plaintiffs were able to assess meal period violations because the class members were not required to record them. *Id*. Further, if all Settlement Class members brought lawsuits for unpaid wages and other wage and hour violations due to being misclassified as independent contractors, they would rely on timekeeping records similar to the ones in the mediation production which also supports a finding that it is statistically reliable. *Id*.

Defendant also provided a class list for Plaintiffs to calculate the necessary metrics, including without limitation, class size and total number of workweeks and pay periods for the relevant time period. Lidman Decl., ¶ 11. The key data points coupled with the representative data sampling enabled Plaintiffs to extrapolate to the entire class and aided in Plaintiffs' creation of a class-wide exposure model for all the claims at issue, including unpaid wages and penalties potentially owed for alleged minimum and overtime wages, meal and rest period premiums, and unpaid wages violations for the former individuals classified as independent contractors. *Id*.

After the detailed review of the documents and data produced by Defendant, Class Counsel drew on their extensive experience in similar cases to assess the strengths and weaknesses of Plaintiffs' case. Lidman Decl., ¶ 11. This discovery allowed the parties to assess the merits and value of Plaintiffs' claims and Defendant's defenses. *Id*.

On July 14, 2023, a full-day mediation was held with Steve Pearl, Esq., a well-respected wage and hour class action mediator. Lidman Decl., ¶ 12. During mediation, the parties vigorously debated their opposing legal positions, the likelihood of certification of Plaintiffs' claims, and the legal basis for the claims and defenses. *Id*. Ultimately, through acceptance of a mediator's proposal, the Parties agreed in principle on a class-wide resolution. *Id*.

C. <u>Preliminary Approval of Settlement</u>

Plaintiffs submitted the Class Action and PAGA Settlement Agreement and Class Notice to the Court with their Motion for Preliminary Approval on February 20, 2024. Lidman Decl., ¶ 13. On October 22, 2024, after a hearing on the Motion for Preliminary Approval, the Court issued a minute order ordering Plaintiffs to address several issues and submit supplemental briefing. *Id*. On January 27, 2025, Plaintiffs submitted supplemental briefing to address the issues raised in the Court's minute order. *Id*. On February 27, 2025, the Court issued an Order Granting Preliminary Approval of the Settlement. *Id*.; Exh. A.

Plaintiffs submitted the Court's Order Granting Preliminary Approval of the Settlement to the LWDA via the LWDA's website on March 31, 2025. *See* Lidman Decl., ¶ 14; Exh. B. Plaintiffs will also provide the LWDA with a copy of the instant motion for final approval and supporting documents after the instant motion is filed and will file a supplemental proof of service prior to the hearing. Lidman Decl., ¶ 43.

On April 7, 2025, the Settlement Administrator mailed the Court-approved Notice of Proposed Class Action Settlement and Hearing Date for Final Court Approval in both English and Spanish to the 51 Settlement Class Members, who had until June 6, 2025 to submit disputes, objections, and/or requests for exclusion. *See* Declaration of Mayra Gonzalez of Phoenix Settlement Administrators ("Gonzalez Decl."), ¶ 5.

On or about June 11, 2025, Plaintiffs discovered that the original Class Notice, which did not include the attorney fee split, was mailed to Settlement Class Members. Lidman Decl., ¶ 42. The Parties revised the Class Notice and, on June 24, 2025, the Court ordered the Settlement Administrator to mail the revised Class Notice within 10 days. *Id*.

On June 30, 2025, the Settlement Administrator mailed the revised Court Approved Notice of Class Action Settlement and Hearing Date for Final Court Approval in English and Spanish to the 51 Settlement Class Members, who had until August 29, 2025 to submit disputes, objections, and/or requests for exclusion. Gonzalez Decl., ¶¶ 8, 11-13.

As of the date of this filing, there have been **<u>no objections</u>**, **<u>no disputes</u>**, and **<u>no opt-outs</u>** received. Gonzalez Decl., ¶¶ 11-13. Plaintiffs now respectfully submit the Settlement for this Court's final approval.

III. <u>SUMMARY OF THE SETTLEMENT AND NOTICE PROCESS</u>

A. <u>Settlement Class Definition</u>

The Settlement Class encompasses "all individuals whom Defendant Mobile Clear Shield, LLC classified as independent contractors and who worked for Defendant in California at any time during the

Class Period," which is between September 28, 2018 and January 31, 2020. Settlement, ¶¶ 1.5, 1.12; Lidman Decl., ¶ 15.

B. Monetary Terms of the Settlement

The Settlement provides that Defendant will pay a Gross Settlement Amount ("GSA") of $350,000.00. Settlement, ¶ 3.1. The Net Settlement Amount is the amount remaining from the GSA after deducting requested attorneys' fees ($116,666.67) and verified costs ($9,712.52), proposed Class Representative Service Awards to each Plaintiff in the amount of $7,500.00 each (totaling $15,000.00), Settlement Administration costs ($5,750.00), and PAGA Penalties ($20,000.00). Gonzalez Decl., ¶ 12. Based on these requested amounts, the Net Settlement Amount is calculated to be approximately **$182,870.81**. Gonzalez Decl., ¶ 15.

Payment to Settlement Class Members will be distributed as follows:

The Net Settlement Amount shall be allocated to Settlement Class members who worked during the Class Period by (a) dividing the Net Settlement Amount by the total number of Workweeks worked by all Participating Class Members during the Class Period and (b) multiplying the result by each Participating Class Member's Workweeks. Settlement, ¶ 3.2.4.

For purposes of calculating applicable taxes and withholdings, each Settlement Award shall be allocated as follows:

a. Twenty percent (20%) of the Individual Class Payment shall be designated as unpaid wages, including unpaid meal and rest period premiums, for which IRS W-2 Forms will be issued.

b. Eighty percent (80%) of the Individual Class Payment shall be designated as interest and penalties.

Settlement, ¶ 3.2.5.

The Settlement provides that Defendant's payroll taxes shall be paid separately from, and in addition to, the Gross Settlement Amount. Settlement ¶ 3.1. Within sixty (60) days after the Effective Date, Defendant shall provide its share of payroll taxes to the Settlement Administrator. Settlement ¶ 4.3.

C. Summary of Notice Process

1. Mailing of Notice Packets

On March 14, 2025, Defendant provided Phoenix with data files with the following information: the name, last-known mailing address, Social Security number, and workweeks worked during the Class Period. Gonzalez Decl., ¶ 3. After performing address updates and verifications, Phoenix mailed the Notice of Proposed Class Action Settlement ("Class Notice") to the 51 Settlement Class Members on April 7, 2025 in English and Spanish. *Id*. at ¶¶ 4-5.

On or about June 11, 2025, Plaintiffs discovered that the original Class Notice, which did not include the attorney fee split, was mailed to Settlement Class Members. Lidman Decl., ¶ 42. The Parties revised the Class Notice and, on June 24, 2025, the Court ordered the Settlement Administrator to mail the revised Class Notice within 10 days. *Id*.

On June 30, 2025, the Settlement Administrator mailed the revised Court Approved Notice of Class Action Settlement and Hearing Date for Final Court Approval in English and Spanish to the 51 Settlement Class Members, who had until August 29, 2025 to submit disputes, objections, and/or requests for exclusion. Gonzalez Decl., ¶¶ 8, 11-13. Following the mailing, eight (8) Class Notices were returned to Phoenix by the Post Office. *Id*. at ¶ 9. After Phoenix performed a Skip Trace seven (7) Class Notices were re-mailed. *Id*. As of the date of filing this final approval motion, one (1) Class Notice remains undeliverable because no forwarding address was provided and/or no new address could be located through Skip Trace. *Id*. at ¶ 10.

The deadline for Settlement Class Members to submit objections, requests for exclusion, or disputes was August 29, 2025. Gonzalez Decl., ¶¶ 11-13. As of the date of this filing, there were no objections, no disputes, and no opt-outs. *Id*. Accordingly, as of the date of this Motion, the participation rate amongst the Settlement Class Members is 100 percent and the average estimated payment is $3,585.70, with the highest estimated payment to a Settlement Class Member being $6,712.07 and the lowest estimated payment to a Settlement Class Member being $58.75. Gonzalez Decl, ¶ 16.

D. Timing of Payments

The Settlement Amount of $350,000.00 will be paid by Defendant no later than sixty (60) days after the Effective Date. Settlement, ¶ 4.3. The Effective Date is the date by when both of the following have occurred: (a) the Court enters a Judgment on its Order Granting Final Approval of the Settlement; and (b) the Judgment is final. Settlement, ¶ 1.18. The Judgment is final as of the latest of the following occurrences: (a) if no Participating Class Member objects to the Settlement, the day the Court enters Judgment; or (b) if one or more Participating Class Members objects to the Settlement, the day after the deadline for filing a notice of appeal from the Judgment; or if a timely appeal from the Judgment is filed, the day after the appellate court affirms the Judgment and issues a remittitur. *Id*.

The Administrator will mail checks for all Individual Class Payments and Individual PAGA Payments within 14 days after Defendant funds the GSA. Settlement ¶ 4.4. After disbursement, Settlement Class Members will have 180 days to cash their checks. Settlement ¶ 4.4.1. Funds remaining unclaimed will be distributed to the California State Controller's Office – Unclaimed Property Fund in the name of the Settlement Class Member. Settlement ¶ 4.4.3.

E. <u>Notice of Judgment</u>

As stated on the Notice of Pendency to Class Action and Proposed Settlement mailed to class members, the final judgment entered by the Court and any changes to the Final Approval hearing date or location will be posted on the Settlement Administrator's website at Guillen-v-mobile-clear-shield.phoenixcases.com. *See* Lidman Decl., Exh A.

IV. <u>ARGUMENT</u>

A. <u>This Court Should Confirm its Conditional Certification of the Class for Settlement Purposes Because It Meets All of the Requirements for Class Certification Under Code of Civil Procedure § 382.</u>

Under Code of Civil Procedure section 382, a class may be certified if: (1) it is ascertainable and its members are too numerous for joinder to be practical; (2) the representative and absent class members share a community of interest, and questions of law and fact common to the class predominate over questions unique to individual class members; (3) the representative's claims are typical of the class's claims; and (4) the representative will fairly and adequately represent the class's interests. *See Richmond v. Dart Industries, Inc*. (1981) 29 Cal.3d 462, 470.

Here, this Court found that the Class meets all the requirements for class certification for settlement purposes when it granted preliminary approval of the Settlement on February 27, 2025. *See*

Lidman Decl., ¶ 13; Exh. A. After the Court entered an order granting preliminary approval, no events have occurred to cast doubt on the propriety of this determination. In fact, the reaction of the Settlement Class Members thus far to the Settlement has been strongly in support of the Settlement. No Settlement Class Members have objected to any portion of the Settlement and no Settlement Class Members have elected to opt-out of the Settlement. *See* Gonzalez Decl., ¶¶ 11-13. This Court should therefore confirm its conditional certification of the Settlement Class.

B. <u>This Court Should Finally Approve the Settlement Because it is a Fair, Adequate, and Reasonable Compromise of Disputed Wage and Hour Claims.</u>

California courts have a strong policy in favor of settlement. *See, e.g., Stambaugh v. Superior Court*, 62 Cal.App.3d 231, 236 (1976). Unlike individual settlements, class action settlements involve a court approval process that exists to prevent fraud, collusion, and unfairness to class members. *Malibu Outrigger Bd. of Governors v. Superior Court*, 103 Cal.App.3d 573, 578-79 (1980). This approval process consists of preliminary settlement approval, notice being given to class members, and a final fairness and approval hearing being held, at which class members have the opportunity to be heard with respect to the settlement. *Id*. Now that notice has been provided to the Settlement Class, Plaintiffs respectfully request that the Court finally approve the Settlement as fair, adequate, and reasonable.

1. The Settlement was Reached at Arm's Length, Through Experienced Counsel and An Experienced Mediator, and Was Based on Sufficient Information to Intelligently Negotiate a Fair Settlement in Light of the Claims Asserted and Risks of Continued Litigation

A settlement is presumptively fair where it is reached through arm's length bargaining, based on sufficient discovery and investigation to allow counsel and the court to act intelligently, counsel is experienced in similar litigation, and the percentage of objectors to the settlement is small. *Dunk v. Ford Motor Co.,* 48 Cal.App.4th 1794, 1802 (1996). In deciding whether to approve a proposed settlement, a trial court has broad powers to determine if the proposed settlement is fair under the circumstances of the case. *Mallick v. Superior Court,* 89 Cal.App.3d 434 (1979). In exercising these powers, the overriding concern is to ensure that a proposed settlement is "fair, adequate, and reasonable." *Dunk*, *supra*, 48 Cal.App.4th at 1801 (internal quotations omitted). Relevant factors for the Court to consider include, but are not limited:

> [T]he strength of plaintiffs' case, the risk, expense, complexity and likely duration of further litigation, the risk of maintaining class action status through trial, the amount offered in settlement, the extent of discovery completed and the stage of the proceedings, the experience and views of counsel, the presence of a governmental participant, and the reaction of the class members to the proposed settlement.

Id. These factors require balancing, are non-exhaustive and, as such, trial courts should tailor the factors to each case. *Id*. "In the context of a settlement agreement, the test is not the maximum amount plaintiffs might have obtained at trial on the complaint, but rather whether the settlement is reasonable under all of the circumstances." *Wershba v. Apple Computer, Inc.,* 91 Cal.App.4th 224, 250 (2001). Because settlements inherently involve compromise, even settlements providing for substantially narrower relief than likely would be obtained if the suit were successfully litigated can be reasonable because, "the public interest may indeed be served by a voluntary settlement in which each side gives ground in the interest of avoiding litigation." *Id*. (quoting *Air Lines Stewards, etc., Local 550 v. American Airlines, Inc.*, 455 F.2d 101, 109 (7th Cir. 1972)).

Here, the Settlement resulted from extensive arm's length settlement negotiations between qualified and experienced counsel, with the assistance of a well-respected mediator, and is fair, adequate, and reasonable for all Settlement Class Members. While Plaintiffs maintain that their claims are meritorious, Plaintiffs acknowledge that their position includes substantial risks and uncertainty, which justifies a downward departure from the maximum exposure that Plaintiffs calculated each claim carried.

As detailed in Plaintiffs' Preliminary Approval Motion, there is significant risk of non-certification and/or not prevailing on the merits with respect to each of Plaintiffs' claims. For example, with respect to Plaintiffs' unpaid wages claim, Defendant contends that it compensated Class Members for all of their time worked. Lidman Decl., ¶ 18. Moreover, Defendant contends that it properly calculated and paid Class Members all overtime wages owed. *Id*. Defendant further asserts that, given that a number of the Class Members signed arbitration agreements, Plaintiffs would be unable to certify given the individualized inquiries that would be required, and also that Defendant's rounding policy/mechanism was, according to it, neutral on its face and in its application. *Id*.

As for Plaintiffs' meal period claims, Defendant counters that it has always maintained a lawful meal period policy and the independent contractors made their own schedules such that they had an opportunity to take legally compliant meal periods. Lidman Decl., ¶ 20. Defendant points out that under *Brinker Restaurant Corp. v. Superior Court* (2012) 53 Cal. 4th 1004, it is only required to "provide" the opportunity to take meal periods, not "ensure" meal periods are taken, and that they have always done so. *Id*.; *Brinker*, *supra*, 53 Cal.4th at 1038 (rejecting "ensure" standard). Finally, Defendant contends Plaintiffs' meal period claim is not suited for class certification, given that a number of the Class Members signed arbitration agreements, and given that individual inquiries would be required to assess which employees took non-compliant meal periods, how many meal periods were non-compliant or missed, and the reasons why a particular employee took a non-compliant meal period or missed a meal period during a particular shift. Lidman Decl., ¶ 20.

Defendant contends it has always maintained and enforced lawful rest period policies and practices, and that Class Members were authorized and permitted to take all off-duty rest periods in compliance with California law. Lidman Decl., ¶ 22. Defendant also argues that Plaintiffs' rest period claim is inherently unsuited for class treatment as it requires an individualized inquiry into whether each Class Member was in fact authorized and permitted to take a compliant rest period, which would devolve into an unmanageable series of mini-trials. *Id*.

In regard to Plaintiffs' claim for failure to reimburse for business expenses, Defendant contends that any purportedly necessary expenses incurred by employees were minimal. Lidman Decl., ¶ 24. Defendant also argues that this claim is not suitable for class treatment, as it maintained a lawful expense reimbursement policy, and individualized determinations would be required as to how often each independent contractor used their personal vehicle and how many miles driven, how often they used their personal cellular phone and for how long, and the price of the individual tools used. *Id*.

Defendant argues that its alleged wage statement violations could not be shown to be "knowing and intentional," and that Plaintiffs cannot show that they or any other former independent contractor "suffer[ed] injury" as a result of the alleged wage statement violations, as required by Lab. Code § 226(e) for imposition of penalties. Lidman Decl., ¶ 26. Additionally, Defendant contends Plaintiffs are outside the statute of limitations for this claim. *Id*.

Defendant asserts it has strong defenses to the waiting time claim because there exist good-faith disputes as to Plaintiffs' underlying claims, precluding imposition of penalties. Lidman Decl., ¶ 28*; See* *also* 8 Cal. Code Regs. § 13520 (a "good faith dispute that any wages are due will preclude imposition of waiting time penalties"); *Kao v. Joy Holiday*, 12 Cal.App.5th 947, 963 (2017) (holding that "good faith dispute" over whether employee was exempt precluded imposition of waiting time penalties over contested wages owed). Moreover, Defendant contends that a number of the independent contractors were reclassified to employees and are employed by the company currently, such that there was never a separation of employment. *Id*.

Lastly, since Plaintiffs' PAGA claim is a derivative claim based on the underlying claims, Defendant argues that Plaintiffs' PAGA claim will fail for the same reasons that their underlying claims will fail. Lidman Decl., ¶ 30. Defendant also maintains that, given its good faith defenses, this Court would exercise its discretion to substantially reduce any PAGA penalties if it were to find Defendant liable for any of Plaintiffs' claims. *Id*.

These considerations, not only bore heavily on the negotiations leading to the Settlement, but also confirm that the Settlement is fair, adequate, and reasonable compromise in view of the risks of further litigation. As detailed in the Preliminary Approval Motion, Plaintiffs carefully vetted the claims at issue and conducted a detailed liability analysis of class-wide data to calculate the damages figures. Thus, while these risks are far from exhaustive, they demonstrate that the Settlement is fair, adequate, and reasonable in view of them.

2. The Settlement Fairly, Reasonably, and Adequately Compensates Class Members Because Each Participating Class Member Will Be Paid Based on the Extent of His or Her Injury

Individual settlement payments will be calculated based on the number of workweeks worked by each Settlement Class Member during the Class Period. *See* Settlement, ¶ 3.2.4. This method of distribution compensates Settlement Class Members based on the estimated extent of their injuries, as Settlement Class Members who worked more workweeks, would have been subject to more of the alleged wage and hour violations than those who worked fewer weeks. Thus, the formula for compensating Settlement Class Members is fair, adequate, and reasonable, as it is tethered to the damages and penalties that could be recovered by them.

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3. The 100% Participation Rate and Absence of Any Objections Further Confirms That the Settlement is Fair, Adequate, and Reasonable

Class members' response to a settlement is relevant in evaluating whether it merits final approval. *Dunk*, *supra*, 48 Cal.App.4th at 1801. The lack of objections and requests for exclusion supports a fairness presumption. *See 7-Eleven Owners for Fair Franchising v. Southland Corp.* (2000) 85 Cal.App.4th 1135, 1152-53 (finding 9 objections and 80 opt-outs from a class of 5,454 showed a "particularly impressive" favorable response from class members). Here, as of the filing of this Motion, not a single Settlement Class Member has objected to the Settlement and no Settlement Class Member has elected to opt-out of the Settlement. Gonzalez Decl., ¶¶ 11-13. In addition, only one (1) of the 51 Class Notices were returned undeliverable. Gonzalez Decl., ¶ 10. The extremely favorable response of the Settlement Class further confirms that the Settlement is fair, adequate, and reasonable.

C. <u>The Requested Award of Attorneys' Fees is Reasonable as a Percentage of the Common Fund Confirmed by a Lodestar Cross-Check</u>

Plaintiffs and the Settlement Class, as the prevailing parties in settlement, are entitled to recover their attorneys' fees and costs for their wage claims. *See* Lab. Code §§ 218.5, 226(e) and 2699(g). A fee award is justified where the legal action has produced its benefits by way of a voluntary settlement. *See*, *e.g.*, *Maria P. v. Riles*, 43 Cal.3d 1281, 1290-91 (1987); *Westside Community for Independent Living, Inc. v. Obledo*, 33 Cal.3d 348, 352-53 (1983). When a settlement results in a common fund for the benefit of a class, class counsel may be awarded fees as a percentage of the common fund. *See Wershba*, *supra*, 91 Cal.App.4th at 254 (recognizing the "percentage of recovery" method).

Plaintiffs have provided written approval of the split of attorneys' fees in this action. Lidman Decl., ¶ 41.

The California Supreme Court confirmed in *Laffitte v. Robert Half Int'l, Inc.*, 1 Cal.5th 480, 506 (2016), that "[t]he percentage of fund method survives in California class action cases." Specifically, the *Laffitte* Court held:

> The recognized advantages of the percentage method—including relative ease of calculation, alignment of incentives between counsel and the class, a better approximation of market conditions in a contingency case, and the 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.

Id. at 503 (internal citation omitted); *see also, e.g.*, *Serrano v. Priest*, 20 Cal.3d 25, 34 (1977) ("when a number of persons are entitled in common to a specific fund, and an action brought by a plaintiff or plaintiffs for the benefit of all results in the creation or preservation of that fund, such plaintiff or plaintiffs may be awarded attorney's fees out of the fund."); *Serrano v. Unruh*, 32 Cal.3d 621, 627 (1982) (in awarding a fee from the common fund obtained for the benefit of all parties, the trial court acts within its equitable power to prevent the other parties' unjust enrichment.); *Rawlings v. Prudential-Bache Properties, Inc.*, 9 F.3d 513, 516 (6th Cir. 1993) (the percentage of the fund method for calculating attorneys' fees more accurately reflects the results achieved for the putative class than the lodestar method and "establishes reasonable expectations on the part of plaintiffs' attorneys as to their expected recovery; and it encourages early settlement, which avoids protracted litigation."); *In re Rite Aid Corp. Securities Litigation*, 396 F.3d 294, 300 (3rd Cir. 2005) ("The percentage-of-recovery method is generally favored in common fund cases because it allows courts to award fees from the fund 'in a manner that rewards counsel for success and penalizes it for failure.") (citation omitted).

Laffitte also held that trial courts have discretion to assess reasonableness of fee awards with tools such as the "lodestar cross-check," whereby the trial court calculates class counsel's lodestar (hours worked multiplied by hourly rate) and determines whether the "lodestar multiplier" needed to bring the lodestar on par with the percentage of recovery is reasonable. *Laffitte* at 503-06. While a trial court may utilize the lodestar cross-check, it need not do so. *Id.* at 506 ("[w]e hold further that trial courts have discretion to conduct a lodestar cross-check on a percentage fee, as the court did here; they also retain the discretion to forgo a lodestar cross-check and use other means to evaluate the reasonableness of a requested percentage fee.")

Here, Class Counsel's fee request of $116,666.67 is fair and reasonable based on a percentage of the recovery confirmed with a lodestar cross-check. First, "regardless of whether the percentage method or the lodestar method is used, fee awards in class actions average around one-third of the recovery." *Chavez v. Netflix, Inc.*, 162 Cal.App.4th 43, 66, n.11 (2008); *see also*, *e.g.*, *Cicero v. DirectTV, Inc.*, No. EDCV 07-1182, 2010 WL 2991486 at * 7 (C.D. Cal. July 27, 2010) (observing that "30-50% [is] commonly awarded in cases in which the common fund is relatively small" and that in California, "courts usually award attorneys' fees in the 30-40% range in wage and hour class actions…"); *Williams v. Costco*

Wholesale Corp., No. 02-cv-2003 IEG (AJB), 2010 WL 2721452 at * 6 (S.D. Cal. July 7, 2010) (collecting cases where courts awarded between 33.33% and 40% in attorneys' fees in wage and hour class actions). This is also consistent with Class Counsel's experience in similar wage and hour class action matters. *See* Lidman Decl., ¶ 36. Thus, the percentage sought by Class Counsel here (the same percentage sought by class counsel in *Laffitte*) is reasonable.

Next, as stated, under the lodestar method the court computes the "lodestar" amount by multiplying the number of hours reasonably expended by each attorney or legal staff member by their reasonable hourly rates. *See, e.g., Serrano v. Priest* 20 Cal.3d 25, 48 (1977). The court then enhances this lodestar figure by a "multiplier" to account for a range of factors, such as the novelty and difficulty of the case, its contingent nature, and the degree of success achieved. *Id.* at 49; *Ketchum v. Moses*, 24 Cal.4th 1122, 1132-36 (2001); *Thayer v. Wells Fargo Bank,* 92 Cal.App.4th 819, 834 (2001) ("There is no hard-and-fast rule limiting the factors that may justify an exercise of judicial discretion to increase or decrease a lodestar calculation").

Under California law, lodestar multipliers can range from 2 to 4 or even higher. *See, e.g., Chavez*, *supra*, 162 Cal.App.4th at 49-50 (approving multiplier of approximately 2.5); *City of Oakland v. Oakland Raiders*, 203 Cal.App.3d 78 (1988) (approving multiplier of ~2.34); *Coalition for L. County Planning etc. Interest v. Bd. of Supervisors*, 76 Cal.App.3d 241, 251 (1977) (approving multiplier of ~2.04). In class actions such as this one, where the value of the benefit conferred to the class "can be monetized with a reasonable degree of certainty," a court may "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." *Consumer Privacy Cases*, 175 Cal.App.4th 545, 557 (2009). In doing so, "the court determines, retrospectively, whether the litigation involved a contingent risk or required extraordinary legal skill justifying augmentation of the unadorned lodestar in order to approximate the fair market for such services." *Id.* at 556; *see also Laffitte*, 1 Cal.5th at 503-05.

In this case, Class Counsel have a lodestar of $185,810.00 which is approximately 1.59 times ***more*** than the $116,666.67 fee request. *See* Lidman Decl., ¶ 35. A general summary showing the number of hours of work performed by each attorney and paralegals is set forth below. The billing rates used are reasonable especially in light of the hourly rates identified based on years of experience in the *Laffey*

Matrix, submitted concurrently herewith. Lidman Decl., ¶¶ 35-36, Exh. D. Based on the *Laffey* Matrix, the hourly rate for a 20+ year attorney is $1,141, the hourly rate for an 18th year attorney is $948, the hourly rate for a 9th year attorney is $839, and the hourly rate for a 6th year attorney is $581. *Id.*

Name	**Rate**	**Hours**	**Pre-Multiplier Lodestar**
Scott M. Lidman (27th Year Attorney)	$900	97.6	$87,840.00
Paul K. Haines (18th Year Attorney)	$800	18.2	$14,560.00
Milan Moore (9th Year Attorney)	$650	88.4	$57,460.00
Tiara Gose-Hardy (6th Year Attorney)	$525	42	$22,050.00
Paralegals	$200	19.5	$3,900.00
Total Lodestar			**$185,810.00**

The fee award requested here is justified because Class Counsel achieved a significant monetary recovery for the Settlement Class in an uncertain and risky case, while bearing the substantial burdens of representation on a contingency basis, and the fees requested are in line with the market rate. *Vizcaino v. Microsoft Corp.*, 290 F.3d 1043, 1048-51 (9th Cir. 2002) (finding that exceptional results in a contingency case, significant risk and the absence of supporting precedents, are proper considerations in awarding attorneys' fees).

First, Class Counsel negotiated a substantial recovery for the Settlement Class, resulting in a current participation rate of 100 percent, and not a single Settlement Class Member has objected to the Settlement or to Class Counsel's requested fees as of the date of this filing. *See* Gonzalez Decl., ¶¶ 11-13. Additionally, the *average* settlement payment in this case of approximately **$3,585.70** is well above settlement payments in similar wage and hour class action settlements. *See*, *e.g.*, *Sorenson v. PetSmart, Inc.*, Case No. 2:06-CV-02674-JAM-DAD (E.D. Cal. 2008) (wage and hour class action settlement approved where average class member recovery was approximately $60); *Schiller v. David's Bridal, Inc.*, No. 1:10-cv-00616-AWI-SKO, 2012 WL 2117001, at *18 (E.D. Cal. 2012) (finding that average payment to class members of less than $200 was a "good" result); *Williams v. Centerplate, Inc.*, Nos. 11-CV-2159-H-KSC, 12-CV-0008-H-KSC, 2013 WL 4525428, at *4 (S.D. Cal. 2013) (granting final approval of class action settlement where average recovery for each class member was approximately $108). The fact that

Class Counsel achieved these results without engaging in a protracted legal battle, in the face of serious defense challenges and an uncertain legal landscape, confirms the strength of the results achieved.

Further, Class Counsel submits that the request for attorneys' fees is reasonable when viewed as an overall percentage of the settlement in light of the substantial risks, significant work undertaken, the extremely positive results obtained for the class, and the efficiency with which the Parties conducted the litigation.

As discussed above, this case presented significant risk as to both class certification and merits considerations. Accordingly, it is fair and reasonable to account for these risks in compensating Class Counsel. Class Counsel should also be compensated for the risks involved in undertaking this litigation and expending considerable effort, all while working on a pure contingency basis. Since undertaking representation of Plaintiffs, Class Counsel have borne all the costs of litigation without receiving any compensation for nearly three years. Lidman Decl., ¶ 35. During this time, Class Counsel have expended a total of $9,262.52 in actual costs and have devoted substantial time to this litigation and expect to incur approximately $450.00 in future costs for filing the instant motion, filing the final declaration regarding distribution of settlement, service and messenger fees, postage fees, and/or court costs for future court appearances.[2] Lidman Decl., ¶ 33; Exh. C. Class Counsel's efforts have included conducting pre-filing investigation, analyzing Plaintiffs' claims, conducting legal research, reviewing approximately hundreds of pages of Defendant's documents and policies, analyzing Settlement Class members' timekeeping data and payroll records, drafting a mediation brief, preparing for and attending mediation, negotiating and revising the long-form Settlement, preparing the Motion for Preliminary Approval and supplemental briefing, preparing the Motion for Final Approval, overseeing the settlement administration process, communicating with Settlement Class Members, and otherwise litigating this case. *See* Lidman Decl., ¶ 32. Moreover, Class Counsel have expended time, effort, and money that they could have expended on less risky cases instead. Given the considerable potential for adverse outcomes in this case, including, but not limited to losing on class certification and/or merits issues, the contingent risk borne by Class Counsel was great. Lidman Decl., ¶ 35.

[2] This includes total costs incurred by both law firms.

Class Counsel's previous experience in litigating wage and hour class actions also supports the reasonableness of the fee request. Class Counsel are well-versed in plaintiff- and defense-side wage and hour class action litigation and related penalties. *See* Lidman Decl., ¶¶ 3-8; Declaration of Paul K. Haines ("Haines Decl."), ¶¶ 3-8; Declaration of Milan Moore ("Moore Decl."), ¶¶ 2-5; Declaration of Tiara Gose-Hardy ("Gose-Hardy Decl."), ¶¶ 2-4. They have been certified as class counsel in numerous other cases. *Id*. Their experience in similar matters was integral in evaluating the strengths and weaknesses of the case against Defendant and the reasonableness of the Settlement. *See* Lidman Decl., ¶ 34. Practice in the narrow field of wage and hour litigation requires skill and knowledge concerning the rapidly evolving substantive state and federal law, as well as the procedural law of class action litigation. *Id*. Because it is reasonable to compensate Class Counsel commensurate with their skill, reputation, and experience, a fee award of one-third of the Gross Settlement Amount is reasonable.

Other factors also show that the fee amount requested in this case is reasonable under the circumstances. This case involved nuanced legal issues including questions surrounding the propriety of statutory penalties and Defendant's requirement to "provide" meal periods and "authorize and permit" rest periods, to name just a few. Lidman Decl., ¶ 34. Thus, Class Counsel's requested fee award is fair, reasonable, and adequate and should be approved.

D. <u>The Requested Cost Amount Warrants Final Approval as Fair, Adequate, and Reasonable</u>

Class Counsel seek to be reimbursed a total of $9,712.52[3] in litigation costs. Class Counsel's request is fair, adequate, and reasonable, as all of these costs are documented and reasonably incurred. *See* Lidman Decl., ¶¶ 33, 35; Exh. C. Moreover, the costs Plaintiffs seek are the types of costs routinely approved by courts. *See, e.g.*, *Harris v. Marhoefer*, 24 F.3d 16, 19 (9th Cir. 1994) (counsel should recover "those out-of-pocket expenses that would normally be charged to a fee paying client"); *Ashker v. Sayre*, No. 05-03759 CW, 2011 WL 825713, at * 3 (N.D. Cal. 2011)("costs of reproducing pleadings, motions and exhibits are typically billed by attorneys to their fee-paying clients" and are reimbursable); *Trustees of Const. Industry & Laborers Health and Welfare Trust v. Redland Ins. Co.*, 460 F.3d 1253, 1258-59

[3] Class Counsel have expended a total of $9,262.52 in actual costs and anticipates incurring costs in the amount of $450.00 for filing fees, messenger fees, postage fees, and/or court costs for future court appearances.

(9th Cir. 2006) (legal research costs are reimbursable); *In re Immune Response Securities Litigation*, 497 F. Supp. 2d 1166, 1177-78 (S.D. Cal. 2007) (mediation expenses, consultant and expert fees, legal research, copies, postage, filing fees, messenger and overnight delivery costs are reimbursable). Because the expense reimbursements requested by Class Counsel were reasonably incurred, and no Settlement Class Member has objected to them, Plaintiffs respectfully request the Court should grant the request for actual costs incurred.

E. <u>The Court Should Finally Approve the Requested Administration Costs</u>

Plaintiffs also request that the Court approve $5,750.00 in administration costs to the Settlement Administrator, Phoenix Settlement Administrators ("Phoenix"). As detailed in the declaration of Mayra Gonzalez on behalf of Phoenix submitted herewith, Phoenix performed duties in connection with this Settlement that were integral in effectuating the Settlement and the Notice process. Among other things, Phoenix calculated each Settlement Class Member's individual settlement payment, updated addresses contained in the class data supplied by Defendant, formatted Class Notices for mailing, mailed Class Notices to all 51 Settlement Class Members in English and Spanish, kept the parties informed of any objections or requests for exclusion, and have otherwise administered the Settlement. *See* Gonzalez Decl., ¶¶ 2-17. For these reasons, Phoenix's requested costs are fair, reasonable, and adequate, and should be finally approved.

F. <u>Plaintiffs' Requested Enhancement Payments Are Fair, Adequate, and Reasonable in View of Plaintiffs' Efforts and the Risks that They Assumed on Behalf of the Class</u>

Courts routinely approve service payments to compensate named plaintiffs for the services they provide and the risks they incur during class action litigation. *See*, *e.g.*, *Bell v. Farmers Ins. Exchange*, 115 Cal.App.4th 715, 726 (2004) (upholding "service payments" to named plaintiffs for their efforts in bringing the case); *Van Vranken v. Atlantic Richfield Co*., 901 F. Supp. 294 (N.D. Cal. 1995) (approving $50,000 service payment). In analyzing the requested service payment, courts consider the following factors: the risk, both financial and otherwise, the class representative faced in bringing the suit; the notoriety and personal difficulties encountered by the class representative; 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. *See Golba v. Dick's*

Sporting Goods, Inc. (2015) 238 Cal.App.4th 1251, 1272; *Clark v. Am. Residential Servs. LLC* (2009) 175 Cal.App.4th 785, 804.

Here, analyzing those factors weigh in favor of approving Plaintiffs' requested service awards of $7,500.00 each because the request is reasonable given Plaintiffs' efforts in this case and the risks they undertook on behalf of Settlement Class Members. Lidman Decl., ¶ 40; Declaration of Rember Guillen ("Guillen Decl."), ¶¶ 7-12; Declaration of Juan Salas ("Salas Decl."), ¶¶ 7-12. Plaintiffs gathered documents for use in the lawsuit, and worked with Class Counsel on the case, including preparing for mediation and discussing the case, the merits, the defenses, and settlement. *Id*. The Class has benefited from Plaintiffs' actions as the average settlement amount is **$3,585.70**.

Further, Plaintiffs understood that the lawsuit is a matter of public record and being part of the lawsuit could stigmatize them and potentially affect future employment. Guillen Decl., ¶ 8; Salas Decl., ¶ 8. Plaintiffs also understood the risk that they could be liable for Defendant's costs if they lost the case. *Id*. Plaintiffs accepted these risks and burdens because they wanted Defendant to compensate its current and former employees for unpaid wages. *Id*. Plaintiff Guillen estimates he spent approximately 10-15 hours on activities related to this case, and Plaintiff Salas estimates he spent approximately 13-18 hours on activities related to this case. Guillen Decl., ¶¶ 9-10; Salas Decl., ¶¶ 9-10.

Moreover, Plaintiffs have agreed to release all claims, in addition to the released claims included within the Settlement, whether known or unknown, under federal, state, or local law against Defendant and the Released Parties. Guillen Decl., ¶ 11; Salas Decl., ¶ 11. Plaintiffs' releases include all unknown claims and as a result, Plaintiffs are waiving all rights and benefits afforded by Section 1542 of the California Civil Code.

Moreover, after receiving notice of the proposed Class Representative Service Award for Plaintiffs, no Settlement Class Member has objected to the proposed awards, as of the date of this filing. *See* Gonzalez Decl., ¶¶ 11-13. Thus, the service awards to Plaintiffs are appropriate and justified as part of the Settlement and should be finally approved.

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V. CONCLUSION

For the reasons stated herein, Plaintiffs respectfully submit that this Court should grant Plaintiffs' motion in its entirety and adopt the [Proposed] Order of Final Approval of Class Action Settlement and Final Judgment submitted herewith.

Dated: October 20, 2025

Respectfully submitted,
LIDMAN LAW, APC

By: Scott M.
Scott M. Lidman

Attorney for Plaintiffs
REMBER GUILLEN and JUAN SALAS