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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF ORANGE

MARIO ALVARADO, an individual and on behalf of all others similarly situated, Plaintiff, vs. RED POINTE ROOFING, L.P., a California Limited Partnership; and DOES 1 through 100, Defendants.	CASE NO. 30-2022-01286100-CU-OE-CXC [*Case assigned for all purposes to the Hon. Melissa R. McCormick, Dept. CX104*] **PLAINTIFF'S NOTICE OF MOTION AND MOTION FOR FINAL APPROVAL OF CLASS ACTION SETTLEMENT, ATTORNEYS' FEES AND COSTS, AND CLASS REPRESENTATIVE ENHANCEMENT PAYMENT** Date: July 10, 2025 Time: 2:00 p.m. Dept.: CX104 Action Filed: October 12, 2022 Trial Date: None Set

PLEASE TAKE NOTICE that on July 10, 2025, at 2:00 p.m., or as soon thereafter as the matter may be heard in Department CX104 of the Orange County Superior Court, located at 751 West Santa Ana Blvd., Santa Ana, CA 92701, Plaintiff Mario Alvarado ("Plaintiff"), as an individual and on behalf of a class of similarly situated individuals, will and hereby does move this Court for an order pursuant to California Code of Civil Procedure § 382 and Rule 3.769 of the California Rules of Court:

1. Confirming the certification of the Settlement Class for settlement purposes under California Code of Civil Procedure § 382;
2. Confirming the appointment of Plaintiff Mario Alvarado as the Class Representative for settlement purposes;
3. Confirming the appointment of Paul K. Haines, Fletcher W. Schmidt, and Andrew J. Rowbotham of Haines Law Group, APC, as Class Counsel for settlement purposes;
4. Granting final approval of the proposed Stipulation of Settlement ("Settlement" or "Settlement Agreement");
5. Approving an award of $237,139.62 in attorneys' fees to Class Counsel;
6. Approving an award of $11,609.64 in reimbursement of actual litigation costs to Class Counsel;
7. Approving an award of $10,000.00 in costs to CPT Group, Inc. ("CPT") for its settlement administration services;
8. Approving a Class Representative Enhancement Payment of $7,500.00 to Plaintiff Mario Alvarado for his service as Class Representative; and
9. Entering final judgment in the form of the [Proposed] Judgment and Order Granting Plaintiff's Motion for Final Approval of Class Action Settlement, Attorneys' Fees and Costs, and Class Representative Enhancement Payment (the "[Proposed] Judgment and Order") submitted herewith.

This Motion is made on the following grounds: (1) the Settlement Class continues to meet the requirements for class certification for settlement purposes only under Code of Civil Procedure § 382; (2) Plaintiff and Class Counsel continue to be adequate representatives of the

Settlement Class; (3) the Settlement is a fair, adequate, and reasonable compromise of disputed wage and hour claims; (4) the requested awards of attorneys' fees and costs, Class Representative Enhancement Payment, and settlement administration costs are all fair, adequate, and reasonable; and (5) in light of the foregoing, the [Proposed] Judgment and Order, submitted concurrently herewith, should be entered to give finality to, and allow for disbursements from, the Settlement.

This Motion is based on this Notice of Motion; the attached Memorandum of Points and Authorities; the supporting declarations of Andrew J. Rowbotham, Paul K. Haines, Fletcher W. Schmidt, Plaintiff Mario Alvarado, and Tanner Nicodemus of CPT; the exhibits attached thereto; the Settlement Agreement; all other pleadings and papers on file in this action; and any further oral or documentary evidence or argument presented at the time of hearing.

Dated: June 16, 2025

Respectfully submitted,
HAINES LAW GROUP, APC

By: ______________________
Andrew J. Rowbotham
Attorneys for Plaintiff

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MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

Plaintiff Mario Alvarado ("Plaintiff") hereby submits this Memorandum of Points and Authorities in support of his Motion for Final Approval of the Class Action Settlement (the "Settlement") on behalf of all current and former non-exempt employees who worked for Defendant Red Pointe Roofing, L.P. ("Defendant") in California between October 12, 2018, and November 5, 2025 (the "Class Period"). Plaintiff and Defendant are referred to collectively as the "Parties."

This is a $711,490.00 non-reversionary Settlement, under which all participating Settlement Class members will automatically receive payments without the need to submit a claim form.[1] This results in average Individual Settlement Payments of approximately $978.32 to each of the 404 participating Settlement Class members, with the highest Individual Settlement Payment expected to be approximately $4,301.26. Further, the Settlement provides additional consideration to the State of California and 263 PAGA Members for resolution of the Private Attorneys General Act, Labor Code § 2698 *et seq*. ("PAGA") claims. After receiving notice of the proposed Settlement and the estimated Individual Settlement Payments, no Settlement Class members objected to the Settlement or opted out, resulting in a 100% participation rate.

As explained below, the Court should grant Plaintiff's Motion in its entirety because: (1) the Settlement Class continues to meet the requirements for class certification for settlement purposes under Code of Civil Procedure § 382; (2) the Settlement is a fair, adequate, and reasonable compromise of the disputed claims; and (3) the amounts requested for Class Counsel's attorneys' fees and costs, Plaintiff's Class Representative Enhancement Payment, payment to the LWDA, and settlement administration costs are all fair, adequate, and reasonable. Accordingly,

[1] The original Maximum Settlement Amount was $650,000.00. However, the Settlement Agreement includes an "escalator" provision requiring Defendant to increase the Maximum Settlement Amount if the total number of workweeks worked during the Class Period exceeded Defendant's estimate of 23,000 workweeks by more than 10% (i.e., more than 25,300 workweeks). The final workweek total as reported by the Settlement Administrator was 27,475. As a result, the escalator clause was triggered, and the Maximum Settlement Amount was increased to $711,490.00.

the Court should enter the [Proposed] Judgment and Order Granting Plaintiff's Motion for Final Approval of Class Action Settlement, Attorneys' Fees and Costs, and Class Representative Enhancement Payment (the "[Proposed] Judgment and Order"), submitted concurrently herewith.

II. FACTUAL AND PROCEDURAL BACKGROUND

Defendant is a Southern California commercial roofing provider specializing in roof construction and repair. Declaration of Andrew J. Rowbotham ("Rowbotham Decl."), ¶ 10. Plaintiff was employed by Defendant as a non-exempt Roofer from approximately October 4, 2021, to July 31, 2022. *Id.*; Declaration of Mario Alvarado ("Alvarado Decl."), ¶ 2. Plaintiff's job duties included repairing roof leaks and installing roof tile and shingles. Rowbotham Decl., ¶ 10. Like all Settlement Class members, Plaintiff was subject to Defendant's wage and hour policies and practices. *Id*.

On October 12, 2022, Plaintiff filed the initial Complaint in this action, alleging that Defendant failed to: (i) pay all minimum wages owed; (ii) pay all overtime wages owed; (iii) provide all lawful meal periods; (iv) authorize and permit all lawful rest periods; (v) reimburse necessary business expenses; (vi) issue accurate and itemized wage statements; (vii) timely pay all final wages upon separation; and (viii) comply with California's Unfair Competition Law. Rowbotham Decl., ¶ 11. On December 19, 2022, Plaintiff filed the operative First Amended Complaint ("FAC"), adding a cause of action for civil penalties under the PAGA, based on the underlying Labor Code violations alleged in the FAC. *Id.*

In anticipation of mediation, Defendant provided Plaintiff with handwritten timekeeping records and corresponding payroll records for 31% of the months during the relevant time period, as well as the employee handbooks in effect during that period. Rowbotham Decl., ¶ 12. Plaintiff's counsel conducted a comprehensive, class-wide analysis of the data to estimate Defendant's maximum potential exposure on all claims at issue. *Id*. On September 5, 2023, following extensive legal research and analysis and review of the data, the Parties participated in a mediation session with Steven G. Mehta, Esq., which resulted in a class-wide resolution of all claims. *Id*. In the months that followed, the Parties negotiated and executed the long-form

Settlement Agreement which was granted preliminary approval by this Court on November 5, 2025. *Id.*, Exhibit 1 (Preliminary Approval Order).[2]

III. SUMMARY OF THE SETTLEMENT AND NOTICE PROCESS

A. Settlement Class Definition

The Settlement Class includes: "All current and former non-exempt employees of Defendant in California who worked at any time between October 12, 2018, and November 5, 2025." *See* Rowbotham Decl., Exhibit 1.

B. Monetary Terms

Defendant will pay a non-reversionary Maximum Settlement Amount ("MSA") of $711,490.00. *See* Settlement, ¶ 4. The Net Settlement Amount ("NSA") is the amount remaining from the MSA after deducting Court-approved amounts for attorneys' fees ($237,139.62) and verified costs reimbursement ($11,609.64), the Class Representative Enhancement Payment ($7,500.00), settlement administration costs ($10,000.00), and payment to the LWDA for its share of PAGA penalties ($37,500.00). *See id.*, ¶ 4.C; Rowbotham Decl., ¶¶ 14.[3] Based on these requested amounts, the NSA is calculated to be approximately $407,740.74. *See* Declaration of Tanner Nicodemus ("Nicodemus Decl."), ¶ 16; Settlement, ¶ 5.A.

CPT will calculate and apportion Individual Settlement Payments based on the proportionate number of workweeks worked by each participating Settlement Class Member during the Class Period, as well as eligibility for specific subcategories of relief. Settlement, ¶ 5.B.i–iv. In addition, 25% of the PAGA Amount ($12,500.00) will be paid to all PAGA Members, defined as individuals employed in California between October 12, 2021, and November 5, 2025 (the "PAGA Period"), regardless of whether they opt out of the class portion of the Settlement, based on the number of pay periods worked during the PAGA Period. *Id.*,

[2] On January 13, 2025, Plaintiff submitted the Settlement Agreement to the LWDA in connection with the filing of the Motion for Preliminary Approval. *See* Rowbotham Decl., ¶ 13, Exhibit 2.

[3] Plaintiff's Counsel's cost records identify total out-of-pocket expenses incurred to date as $11,479.04. Rowbotham Decl. ¶ 15, Exhibit 3 (Cost Records). The total amount Plaintiff's Counsel now seeks for reimbursement, $11,609.64, includes an additional $130.60 in anticipated future costs, which are expected to be incurred in connection with the filing and service of the Motion for Final Approval and the Settlement Administrator's final accounting declaration. *Id.*

¶ 5.B.i.

Each Individual Settlement Payment will be allocated as 1/3 wages (subject to withholding and reported on IRS Form W-2) and 2/3 penalties and interest (not subject to withholding and reported on IRS Form 1099). Settlement, ¶ 5.D. Payments to PAGA Members will be attributed 100% to penalties and reported on IRS Form 1099. *Id.* Defendant will pay the employer's share of payroll taxes separately and in addition to the Maximum Settlement Amount. *Id.*, ¶ 4.F.

C. Summary of Notice Process

On April 10, 2025, the Court-approved Notice of Class Action Settlement ("Class Notice") and the Notice of Individual Settlement Payment (collectively, the "Notice Packet") were mailed via U.S. First Class Mail to all 404 potential Settlement Class members. See Nicodemus Decl., ¶¶ 7, 14, Exhibit A (Notice Packet). Settlement Class members had until June 9, 2025, to submit disputes, objections, and/or requests for exclusion (the "Response Deadline"). *Id.*, ¶ 7. After the Response Deadline passed, no Settlement Class members objected to the Settlement or opted out, resulting in a 100% participation rate. *Id.*, ¶¶ 10-12, 14.

D. Timing of Payments

Defendant will deposit the Maximum Settlement Amount with the Settlement Administrator within thirty (30) calendar days after the Effective Date.[4] Within ten (10) business days following the full funding of the MSA, the Settlement Administrator will calculate each Individual Settlement Payment and mail the payments to participating Settlement Class Members. Settlement., ¶ 5.C. Settlement Class Members will have 180 days from the date of mailing to cash their checks. *Id.*, ¶ 5.E. Any checks not negotiated within 180 days will be voided, and any remaining funds will be transferred by the Settlement Administrator to Community Legal Aid SoCal, the Parties' agreed-upon cy pres designee. *Id*.

The Parties submit that the distribution method outlined in the Settlement Agreement is

[4] The "Effective Date" is defined in the Settlement Agreement as the later of: (a) the Court's final approval of the settlement if no objections by or on behalf of Class Members have been filed; (b) the time for appeal has expired if an objection has been filed and no appeal has been filed or has been withdrawn; (c) the final resolution of any appeal that has been filed; and (d) Defendant's deposit of the entire Maximum Settlement Amount with the mutually selected third-party administrator. *See* Settlement, ¶ 3.D.

proper as a party-selected distribution, subject to this Court's approval. Because all uncashed funds will be distributed to a designated nonprofit, no portion of the MSA will be "unpaid, unclaimed, or abandoned" within the meaning of Code of Civil Procedure § 384.

IV. <u>ARGUMENT</u>

A. <u>This Court Should Confirm its Conditional Certification of the Settlement 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 § 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' claims; and (4) the representative will fairly and adequately represent the class' interests. *See Richmond v. Dart Industries, Inc.* (1981) 29 Cal.3d 462, 470. Here, the Court found that the Settlement Class meets all the requirements for class certification for settlement purposes when it granted preliminary approval of the Settlement on November 5, 2024. *See* Rowbotham Decl., Exhibit 1. Since then, no events have cast doubt on the propriety of this determination, and in fact, the reaction of the Settlement Class members has been overwhelmingly supportive of the Settlement, with not a single Settlement Class member objecting to the Settlement or opting out from participation, resulting in a 100% participation rate. *See* Nicodemus Decl., ¶¶ 11-12, 14. The 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 Stambaugh v. Superior Court* (1976) 62 Cal.App.3d 231, 236. Unlike individual settlements, class action settlements involve a court approval process that exists to prevent fraud, collusion, and unfairness to class members. *See Malibu Outrigger Bd. of Governors v. Superior Court* (1980) 103 Cal.App.3d 573, 578-79. 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 can be heard with respect to the settlement. *Id*. Now that the settlement administrator has provided notice to the Settlement Class members, Plaintiff respectfully requests 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 Considering 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.* (1996) 48 Cal.App.4th 1794, 1802. 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* (1979) 89 Cal.App.3d 434, 438. 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 to:

> [T]he strength of plaintiff's 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 and give due regard to "what is otherwise a private consensual agreement between the parties." *Id*.

"In the context of a settlement agreement, the test is not the maximum amount plaintiff 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.* (2001) 91 Cal.App.4th 224, 250. Because settlements inherently involve compromise, even settlements providing for substantially narrower relief than what may 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 aid of a well-respected and experienced neutral third-party mediator. The Settlement is fair, adequate, and reasonable for all Settlement Class members. While Plaintiff steadfastly maintains that his claims are meritorious, Defendant vigorously contests liability and the appropriateness of class treatment and, correspondingly, Plaintiff acknowledges the substantial risks and uncertainty in proceeding with class certification and eventually trial, which justify a reasonable compromise of the maximum potential recovery that Plaintiff calculated each claim carried.

As detailed in Plaintiff's Motion for Preliminary Approval, Defendant maintains that it properly paid all minimum and overtime wages for all hours worked by Settlement Class Members. Rowbotham Decl., ¶ 16. Defendant further asserts that this claim is not suitable for class treatment, as it allegedly requires individualized inquiries into how much time each employee purportedly worked off the clock each day, resulting in an unmanageable series of mini-trials. *Id.*

Defendant also contends that it provided all legally compliant meal periods, and that any missed or non-compliant meal periods were the result of employee choice, not Defendant's policies or practices. Rowbotham Decl., ¶ 17. Defendant asserts that Plaintiff and other non-exempt employees were not required to perform unpaid work before their shifts, and therefore its time records accurately reflect timely first meal periods. *Id*. Defendant further claims that employees waived their second meal periods on shifts in excess of 10 hours. *Id*. According to Defendant, Plaintiff's meal period claims are not suitable for class treatment because individualized inquiries would be required to determine whether second meal periods were waived and to assess the reason for any missed or non-compliant meal periods recorded on particular shifts. *Id.*

With respect to Plaintiff's rest period claim, Defendant argues that it has maintained a facially compliant written rest period policy and has always authorized and permitted rest periods in accordance with that policy. Rowbotham Decl., ¶ 18. Defendant contends that this claim, too, is not amenable to class treatment, as individual inquiries would be necessary to determine whether rest periods were authorized on particular shifts. *Id*. Defendant further argues that this manageability concern is particularly problematic because rest periods are not recorded. *Id*.

In response to Plaintiff's allegations that Defendant failed to reimburse necessary business expenses, Defendant asserts that it maintains a policy to reimburse all reasonable and necessary business expenditures and that, to the extent any expenses were not reimbursed, they were not reasonably incurred. Rowbotham Decl., ¶ 19. Defendant also argues that this claim faces the same certification barriers as Plaintiff's other claims, as it would allegedly require mini-trials to determine which employees were required to use personal cell phones for business purposes and in which pay periods such expenses were incurred. *Id*.

Defendant disputes any derivative wage statement violations, waiting time penalties, and civil penalties under PAGA. Defendant argues that any alleged wage statement violations were not "knowing and intentional," and that Plaintiff cannot show he "suffer[ed] injury" as required under Labor Code § 226(e). *See Amaral v. Cintas Corp*. (2008) 163 Cal.App.4th 1157, 1201. Defendant also contends that it has strong, good faith defenses to Plaintiff's underlying claims, which preclude the imposition of waiting time penalties under Labor Code § 203. *See* 8 Cal. Code Regs. § 13520 ("A good faith dispute that any wages are due will preclude imposition of waiting time penalties under Section 203…A good-faith dispute that any wages are due occurs when an employer presents a defense, based in law or fact, which, if successful, would preclude any recovery on the part of the employee."). Defendant further maintains that, in light of these good faith defenses, the Court would be within its discretion to substantially reduce any PAGA penalties even if liability were found. Rowbotham Decl., ¶ 20.

These considerations not only weighed heavily in the negotiations leading to the Settlement, but also demonstrate that the Settlement is a fair, adequate, and reasonable compromise in light of the risks of continued litigation. As detailed in Plaintiff's Motion for Preliminary Approval, Plaintiff and Class Counsel thoroughly evaluated the claims at issue and conducted an in-depth analysis of Defendant's data to calculate potential damages. Only after completing this comprehensive assessment did the Parties participate in a mediation session and ultimately accept the mediator's proposal for the Settlement now before the Court. Although the risks summarized above are not exhaustive, they underscore that the Settlement is fair, adequate, and reasonable under the circumstances.

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

CPT will calculate each Individual Settlement Payment based on the proportionate number of workweeks worked by each participating Settlement Class Member during the Class Period, divided by the total number of workweeks worked by all participating Settlement Class Members. *See* Settlement, ¶ 5.B.iv. This method of distribution compensates Settlement Class Members in proportion to the estimated extent of their injuries, as those who worked more workweeks during the relevant period were exposed to a greater number of the alleged wage and hour violations than those who worked fewer workweeks. Moreover, only Settlement Class Members with standing to pursue wage statement violations, waiting time penalties, and/or PAGA penalties would have been eligible to recover those specific penalties. Accordingly, the allocation formula is directly tethered to the damages and penalties that Settlement Class Members could have recovered in litigation and is therefore fair, adequate, and reasonable.

3. *The 100% Participation Rate and No Opt-Outs Further Confirm That the Settlement is Fair, Adequate, and Reasonable*

The Settlement Class members' response to the Settlement is relevant in evaluating whether it merits final approval. *Dunk*, *supra*, 48 Cal.App.4th at 1801. Further, the absence of objections and requests for exclusion support 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, zero Settlement Class members objected to the Settlement or opted out from participation, resulting in a 100% participation rate. *See* Nicodemus Decl., ¶¶ 11-12, 14. This extremely positive reaction from the Settlement Class members further confirms that the Settlement is fair, adequate, and reasonable.

C. **The Requested Award of Attorneys' Fees is Reasonable as a Percentage of the Maximum Settlement Amount**

Plaintiff and the Settlement Class members are entitled to recover their attorneys' fees and costs for their wage claims. *See* Labor Code §§ 226(e), 1194, 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* (1987) 43 Cal.3d 1281, 1290-91; *Westside Community for Independent Living, Inc. v. Obledo* (1983) 33 Cal.3d 348, 352-53; *Serrano v. Priest* (1977) 20 Cal.3d 25, 34 (finding that "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.").

California state and federal courts routinely award fee awards of one-third of the settlement fund in class actions. *Chavez v. Netflix, Inc.* (2008) 162 Cal.App.4th 43, 66, fn. 11; *see also Wershba*, *supra*, 91 Cal.App.4th at 254 (recognizing the "percentage of recovery" method); *In re Pacific Enterprises Securities Litig*., 47 F.3d 373, 379 (9th Cir. 1995) (affirming 33% fee award). Indeed, the California Supreme Court approved the use of the "percentage of fund" method in California. *See Laffitte v. Robert Half Int'l, Inc.* (2016) 1 Cal.5th 480, 506 ("the 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 Rawlings v. Prudential-Bache Properties, Inc.,* 9 F.3d 513, 516 (6th Cir. 1993) (holding that the percentage of the fund method more accurately reflects the results achieved 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 (3d 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."). This is consistent with Class Counsel's experience in similar wage-and-hour class action matters. *See* Rowbotham Decl., ¶ 21.

Here, Class Counsel's fee request of $237,139.62, representing one-third of the MSA, is the same percentage sought in *Laffitte*, and is fair and reasonable based on the percentage of the recovery method. Rowbotham Decl., ¶ 21. As discussed above, this case presented significant risks with respect to both class certification and the merits. Accordingly, it is fair and reasonable to account for those risks in compensating Class Counsel. Since undertaking representation of Plaintiff, Class Counsel has devoted substantial time and resources to this litigation on a pure contingency basis, without any guarantee of compensation. Class Counsel's efforts include conducting a pre-filing investigation; analyzing Plaintiff's claims; conducting legal research; engaging in substantial informal discovery; reviewing classwide documents and data produced by Defendant; extensively analyzing timekeeping and payroll records to construct a comprehensive damages model; preparing for and attending mediation; negotiating and drafting the Memorandum of Understanding, long-form Settlement Agreement, and Notice Packet documents; engaging in significant further meet-and-confer efforts and supplemental briefing following preliminary approval; preparing the Motions for Preliminary and Final Approval; overseeing the notice process; responding to Settlement Class Member inquiries; and otherwise litigating the case. Rowbotham Decl., ¶ 21.

Class Counsel's extensive experience in wage-and-hour class litigation also justifies the requested award. Collectively, Class Counsel has over 42 years of experience in both plaintiff- and defense-side wage-and-hour class and representative actions. *See* Rowbotham Decl., ¶¶ 2-8; see also Haines and Schmidt Decls. They have been appointed class counsel in numerous state and federal cases and possess the specialized knowledge necessary to navigate this complex and evolving area of law. Their experience was essential in assessing the strengths and weaknesses of the claims and negotiating a reasonable settlement.

In light of the risks involved, the quality of representation, the result achieved, and the contingency nature of this case, the requested attorneys' fee, one-third of the Maximum Settlement Amount, is fair, reasonable, and should be approved.

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

Class Counsel incurred and respectfully requests reimbursement of $11,609.64 in actual litigation costs, which is substantially less than the $20,000.00 in costs preliminarily approved by the Court. *See* Rowbotham Decl., ¶ 22, Exhibits 1 and 3; *see also* Settlement, ¶¶ 4.C(4). The unclaimed portion of the cost allocation will be added to the Net Settlement Amount and distributed to participating Settlement Class Members. Class Counsel's request is fair, adequate, and reasonable, as the incurred costs are fully documented and were necessary to the litigation. Moreover, the categories of costs for which reimbursement is sought, mediation costs, court filing fees, and mailing expenses, are routinely approved by courts in class action litigation. *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 (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, legal research, copies, postage, filing fees, messenger and overnight delivery costs are reimbursable).

Notably, not a single Settlement Class Member objected to the Settlement, including to Class Counsel's request for reimbursement of up to $20,000.00 in verified litigation costs. *See* Nicodemus Decl., ¶ 11. Because the requested costs were reasonably incurred and fully documented, and no Settlement Class Member objected, the Court should approve Class Counsel's request for $11,609.64 in actual litigation cost reimbursement.

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

Plaintiff also requests that the Court approve $10,000.00 in administration costs to CPT Group, Inc. ("CPT"), the Court-approved Settlement Administrator. *See* Settlement, ¶ 4.C.2; Nicodemus Decl., ¶ 20, Exhibit B (Admin Bid). As detailed in the declaration of Tanner Nicodemus submitted concurrently with this Motion, CPT performed numerous tasks integral to implementing the Settlement and executing the Notice process. Among other things, CPT calculated each Settlement Class Member's Individual Settlement Payment, updated addresses from the class data provided by Defendant, formatted and mailed Notice Packets to all 404 eligible individuals, and kept the Parties informed of mailing status through weekly reports. CPT also handled other aspects of Settlement administration in accordance with the Court's Preliminary Approval Order. *See generally* Nicodemus Decl. For these reasons, CPT's requested costs are fair, reasonable, and adequate, and should be finally approved.

F. **The Court Should Finally Approve Plaintiff's Requested Class Representative Enhancement Payment Because the Requested Amount Is Fair, Adequate, and Reasonable in Light of Plaintiff's Efforts and the Risks Undertaken on Behalf of the Class**

Courts routinely approve service awards 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* (2004) 115 Cal.App.4th 715, 726 (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 $50,000.00 service payment). The Court may award service awards "to compensate [Plaintiffs] for work done on behalf of the class, to make up for financial or reputational risk undertaken in bringing the action. *Id*. at 958-59. The common law in both California state and federal courts has long recognized the important function of enhancement payments to incentivize plaintiffs to bring class actions to vindicate others' rights. *See Cellphone Termination Fee Cases* (2010) 186 Cal.App.5th 1380, 1394 (stating that the question of whether a class representative was entitled to a service award was answered in the affirmative in *Clark v. American Residential Services, LLC*, (2009) 175 Cal.App.4th 785).

Here, Plaintiff seeks a Class Representative Enhancement Payment of $7,500.00 and believes that this request is reasonable given Plaintiff's considerable efforts in this case, the risks undertaken on behalf of the Settlement Class Members, and the general release of all claims against Defendant, including a waiver of rights under California Civil Code § 1542. *See* Settlement, ¶ 3.C. The amount requested is well within the range of enhancement awards regularly approved by courts throughout California. *See, e.g., Target Wage and Hour Cases*, Case No. JCCP 5259, Lead Case No. CIVSB2209126, San Bernardino County Superior Court (awarding $10,000 enhancement awards to each of fourteen (14) named plaintiffs); *Fidelina Rangel v. Forest River, Inc.*, Case No. CIVD1706616, San Bernardino County Superior Court, Hon. David Cohn, presiding (awarding $10,000 enhancement award to the named plaintiff); *Anthony Controulis, et al. v. Anheuser-Busch, LLC*, Case No. BC518518, Los Angeles County Superior Court (awarding $10,000 enhancement awards to each of two named plaintiffs); *Damontae Levinston, et al. v. Commerce Distribution Company LLC, et al.*, Case No. 22STCV05730, Los Angeles County Superior Court (awarding $10,000 enhancement awards to each of four named plaintiffs); *Torres Dawson, et al. v. Wonderful Pistachios and Almonds, LLC*, Kern County Superior Court, Case No. BCV-17-100848 (same); *Koreisz v. On Q Financial Inc.*, Ventura County Superior Court, Case No. 56-2018-00517126-CU-OE-VTA (same).

Plaintiff's requested Enhancement Payment is intended to recognize the significant time and effort he expended on behalf of the Settlement Class throughout the course of this litigation. Among other things, Plaintiff searched for relevant documents, provided factual information to counsel, participated in numerous calls to discuss the claims and Defendant's policies and practices, assisted in preparing for mediation, made himself available during mediation to respond to factual questions, reviewed and provided input regarding the settlement terms, and otherwise assisted counsel in advancing the case toward resolution. Rowbotham Decl., ¶ 24.

Plaintiff has invested considerable time and effort in pursuing this case, and the Settlement Class, who would not be receiving any recovery but for Plaintiff's decision to move forward with these claims, will directly benefit from his participation. Rowbotham Decl., ¶ 24. Plaintiff not only attached his name to the lawsuit for the benefit of the class but also agreed to a broader release than that applicable to other Settlement Class Members, including a waiver of Civil Code § 1542. Settlement, ¶ 3.C. Plaintiff is entitled to be compensated for these unique risks and his broad release of claims, which were not required of other class members. Plaintiff estimates that he spent approximately 15 to 20 hours performing these duties on behalf of the class. *See* Alvarado Decl., ¶ 24.

Moreover, after receiving notice of the proposed Enhancement Payment, not a single Settlement Class Member objected or opted out. *See* Nicodemus Decl., ¶¶ 11-12. In light of Plaintiff's substantial contributions, the risks he undertook, and the complete absence of objection, the requested Enhancement Payment is fair, justified, and should be finally approved.

V. CONCLUSION

For the reasons stated herein, Plaintiff respectfully submits that the Court should grant Plaintiff's Motion in its entirety and enter the [Proposed] Judgment and Order Granting Plaintiff's Motion for Final Approval of Class Action Settlement, Attorneys' Fees and Costs, and Class Representative Enhancement Payment, submitted herewith.

Dated: June 16, 2025

Respectfully submitted,
HAINES LAW GROUP, APC

By: ______________________
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