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SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN THE COUNTY OF LOS ANGELES

ROSA ALVAREZ, an individual, on behalf of himself and on behalf of all persons similarly situated,

Plaintiff,

v.

BRITEWORKS, INC., a California corporation; and DOES 1-100, Inclusive,

Defendants.

Case No. 22STCV35169

CLASS ACTION

Assigned for all purposes to:
Hon. William F. Highberger, Dept. SSC-10

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

Date: October 27, 2026
Time 2:30 p.m.
Dept.: SSC-10

TABLE OF CONTENTS

I. INTRODUCTION…… 2

II. BACKGROUND/LITIGATION HISTORY…… 3

III. THE PROPOSED SETTLEMENT TERMS…… 4

A. Certification of the Settlement Class…… 4

B. The Benefit Conferred on the Settlement Class……... 4

C. Settlement Administration…… 5

D. Release of Claims……. 6

E. PAGA and Notice to the LWDA…….. 6

IV. ARGUMENT…… 6

A. Standards For Approval…….. 6

B. The Proposed Settlement Merits Final Approval…… 7

1. The Settlement Is the Product of Arm's-Length, Informed Negotiations …… 8

2. The Class Reacted Favorably to the Settlement…….. 8

C. The Settlement is Fair and Reasonable Based on the Strengths of Plaintiff's Case and the Risks and Costs of Further Litigation…….. 8

V. SETTLEMENT ADMINISTRATION COSTS…….. 13

VI. PLAINTIFF'S ENHANCEMENT AWARD……... 13

VII. THE REQUESTED ATTORNEY'S FEES AND COSTS ARE REASONABLE AND SHOULD BE APPROVED…… 14

A. The Requested Fee Award Is Reasonable and Appropriate……. 15

B. Class Counsel's Fees are Justified When Calculated as a Percentage of the Common Fund…….. 16

C. A Lodestar Cross-Check Also Supports Class Counsel's Fee Request… 18

D. The Award is Supported By 1) the Results Achieved; 2) the Risk, 3) the Skill Required, 4) the Contingent Nature of the Fee and 5) Awards in Similar Cases…… 19

1. The Results Achieved…….. 20

2. Class Counsel Bore Considerable Risk…… 20

3. The Skill Required and the Quality of Work…… 21

4. The Contingent Nature of the Fee and Risk Assumed …… 21
5. Awards in Other Cases…… 22
E. Class Counsel's Costs and Expenses are Reasonable…… 22
VIII. CONCLUSION…… 24

TABLE OF AUTHORITIES

Page(s)

Cases

7-Eleven Owners for Fair Franchising v. Southland Corp.
(2000) 85 Cal.App.4th 1135 12

Amaral v. Cintas Corp. No. 2
(2008) 163 Cal.App.4th 1157 11

In re: American Bank Note Holographics
(S.D.N.Y. 2001) 127 F.Supp.2d 418 8

Barbosa v. Cargill Meat Solutions Corp.
(E.D. Cal. 2013) 297 F.R.D. 431 18

Bell v. Farmers Ins. Exch.
(2004) 115 Cal. App. 4th 715 13

Bickley v. Schneider Nat'l Carriers, Inc.
(N.D.Cal. Oct. 13, 2016) 2016 WL 6910261 17

Blum v. Stenson
(1984) 465 U.S. 886 15

Boeing Co. v. Van Gernert
(1980) 444 U.S. 472 16

Carrington v. Starbucks Corp.
(2018) 30 Cal.App.5th 504 11

Cazares v. Saenz
(1989) 208 Cal.App.3d 279 22

In re Cellphone Fee Termination Cases
(2010) 186 Cal. App. 4th 1380 13

Chavez v. Netflix, Inc.
(2008) 162 Cal.App.4th 43 17

Class Plaintiffs v. City of Seattle
(9th Cir. 1992) 955 F.2d 1268, cert. denied, 506 U.S. 953 7

Deposit Guaranty Nat'l Bank, Jackson, Miss. v. Roper
(1980) 445 U.S. 326, rehg. den. 446 U.S. 947 14

Dunk v. Ford Motor Co.
(1996) 48 Cal.App.4th 1794 7

Evans v. Jeff D.
(1986) 475 U.S. 717 15

Garcia v. Gordo Trucking, Inc.
(E.D. Cal. Oct. 31, 2012) 2012 WL 5364575 18

Harris v. Marhoefer
(9th Cir. 1994) 24 F.3d 16 23

Hensley v. Eckerhart
(1983) 461 U.S. 424 15

Hernandez v. Restoration Hardware, Inc.
(2018) 4 Cal.5th 260 16

Jennings v. Open Door Mktg. Inc.
(N.D. Cal. Oct. 3, 2018) 2018 U.S. Dist. LEXIS 171356 12

Ketchum v. Moses
(2001) 24 Cal.4th 1122 21

Laffitte v. Robert Half Int'l., Inc.
(2016) 1 Cal.5th 480 ..... 16, 18, 20

Lane v. Facebook, Inc.
(9th Cir. 2012) 696 F.3d 811 13

Lealao v. Beneficial Cal., Inc.
(2000) 82 Cal.App.4th 19 ..... 14, 16

Levy v. Toyota Motor Sales, U.S.A.
(1992) 4 Cal.App.4th 807 14

Mandujano v. Basic Vegetable Prods., Inc.
(9th Cir. 1976) 541 F.2d 832 8

McKittrick v. Gardner
(4th Cir. 1967) 378 F.2d 872 21

In re Omnivision Techs., Inc.,
559 (N.D. Cal. 2008) 20

Paul, Johnson, Alston & Hunt v. Graulty
(9th Cir. 1989 886 F.2d 268, 272) 19

Potter v. Pacific Coast Lumber Co.
(1951) 37 Cal.2d 592 7

Powers v. Eichen
(9th Cir. 2000) 229 F.3d 1249 21

Rider v. County of San Diego
(1992) 11 Cal.App.4th 1410 23

Serrano v. Priest
(1977) 20 Cal.3d 25 ..... 16, 23

Slavkov v. First Water Heater Partners I
(N.D. Cal. July 25, 2017) 2017 U.S. Dist. LEXIS 116303 11

Smith v. CRST Van Expedited, Inc.
(S.D. Cal. 2013) 2013 WL 163293 17

Staton v. Boeing
(9th Cir. 2003) 327 F.3d 938 14

Stuart v. RadioShack Corp.
(N.D. Cal. 2010) 2010 WL 3155645 18

In re Taco Bell Wage and Hour Actions
(E.D. Cal. Apr. 8, 2016) 2016 U.S. Dist. LEXIS 48557 11

Van Bronkhorst v. Safeco Corp.
(9th Cir. 1976) 529 F.2d 943,950 7

Van Kempen v. Matheson Tri-Gas, Inc.
(N.D. Cal. Aug. 25, 2017) 2017 U.S. Dist. LEXIS 137182 11

Vasquez v. Coast Valley Roofing
(E.D. Cal. 2010) 266 F.R.D. 482 18

Vincent v. Hughes Air West, Inc.
(9th Cir. 1977) 557 F.2d 759 ..... 16, 17

In re Warner Communications Sec. Litig.
(S.D.N.Y. 1985) 618 F.Supp. 735 ..... 17, 22

Wershba v. Apple Computer
(2001) 91 Cal.App.4th 224 ..... 7, 12, 16

White v. Experian Information Solutions, Inc.
(C.D. Cal. 2011) 803 F.Supp.2d 1086 ..... 12, 13

White v. Starbucks Corp.
(N.D. Cal. 2007) 497 F.Supp.2d 1080 9

Statutes

Labor Code sections 11

Labor Code § 2699(e)(2) 11

Labor Code section 2699(s)(2) 6

Other Authorities

Cal. Rule of Court 3.769 ..... 7, 14

Conte, Attorney Fee Awards (2d ed. 1993) § 104 17

Federal Judicial Center, Managing Class Action Litigation: A Pocket Guide for Judges (3d ed. 2010), available at http://www.fjc.gov/sites/default/files/2012/ClassGd3.pdf 13

Newberg, Newberg on Class Actions (3d ed.) § 14.03 ..... 17, 22

I. INTRODUCTION

Plaintiff and Class Representative Rosa Alvarez seeks final approval of a non-reversionary class action settlement resolving wage and hour claims on behalf of 747 individuals who are all current and former non-exempt hourly employees employed by Defendant Briteworks, Inc. ("Briteworks" or "Defendant") in California during the Class Period of November 4, 2018 to January 9, 2024. The proposed $500,000 total settlement provides about $251,242 in cash payments to the Class, with an average award of about $353. The remaining balance will cover settlement administration costs, civil penalties to the state, and reasonable attorney's fees and costs. The parties and their counsel finalized the settlement after extensive and difficult arms-length negotiations overseen by an experienced and highly-regarded mediator. The Court conditionally certified the Class and preliminarily approved the settlement on April 8, 2026. The Court-approved notice form was mailed to the Class Members on May 11, 2026 and then remailed along with the Spanish translation on August 11, 2026, after the Parties determined the translation had been inadvertently omitted from the initial mailing. Over the course of both mailings, the Class reacted very favorably to the settlement. As of the date of this motion, only one class member has opted out of the settlement and there are no objections.

Further, Class Counsel secured an excellent settlement with Defendant after some four years of investigation, litigation, and settlement negotiation and administration, all without any compensation for services rendered or costs expended. The class notice duly informed the class members that Class Counsel would request attorney's fees not to exceed 1/3 of the Gross Settlement Amount, or $166,666.66, along with reimbursement of no more than $30,000 for actual costs incurred litigating this matter. As of the filing of this motion, *not one Class Member objected* to the proposed fee award. Consistent with the Settlement and Notice, Plaintiff now respectfully requests the Court award Class Counsel's fees in the amount of $166,666.66 and costs in the amount of $12,090.62, as described in the Declaration of Brandon Brouillette ("Brouillette Decl.") filed herewith. The requested attorney's fees are well within the range of reasonableness, especially considering the

complex and risky nature of this litigation, the contingent risk assumed, and the four year delay in payment and, when subjected to a lodestar crosscheck, results in fee request that is smaller than the base lodestar.

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

II. BACKGROUND/LITIGATION HISTORY

Briteworks provides turnkey janitorial services to offices, retail, warehouse industrial and other industries. Plaintiff was employed by Briteworks as a janitor/maintenance worker and assigned to Universal Waste and Coca-Cola in Los Angeles during the Class Period. [Brouillette Decl., ¶ 2.]

Plaintiff filed her class action lawsuit on November 4, 2022, alleging causes of action for unpaid minimum wages, unpaid overtime wages, failure to provide meal and rest breaks, wage statement violations, waiting time penalties, business expense reimbursements, and unfair competition. After notice to the LWDA and Defendant, and exhausting administrative remedies, Plaintiff filed a First Amended Complaint adding a cause of action under PAGA on April 28, 2023. [Brouillette Decl., ¶ 3.)

After the case was at issue, the Parties began meeting and conferring regarding discovery, law and motion, and other case management issues, and eventually agreed to attempt mediation. The Parties also agreed on a protocol for an exchange of substantial documents and information before the mediation to facilitate the settlement discussions. The Parties then engaged Henry Bongiovi, Esq., a respected professional neutral with substantial wage and hour and class action experience and, in January 2024 the Parties participated in a full day mediation with Mr. Bongiovi and ultimately were able to reach agreement on all major issues. [Brouillette Decl., ¶¶ 4-5.] The Court granted preliminary approval of the Settlement on April 8, 2026.

Class notices initially were mailed to class members on May 11, 2026, with a 60-day window (to June 26, 2026) for class members to opt out of or object to the proposed settlement. [Declaration of Ann Linton ("Linton Decl."), ¶¶ 6, 9.] As the Court is aware, in late July the

Parties learned that a Spanish language translation of the Notice had not been included in the initial mailing. Given the large number of Spanish speakers in the Class, the Parties agreed the Notice needed to be remailed with the Spanish translation and, after the Parties notified the Court of the issue via Case Anywhere, the Court issues its Order continuing the Final Approval Hearing to allow the Parties to remail the Notice. The Settlement Administrator remailed the Class Notices with the Spanish translation on August 11, 2026, and the Class Members had until September 24, 2026 to respond. [Linton Decl., ¶¶ 8-9.]

III. THE PROPOSED SETTLEMENT TERMS

Under the settlement, Defendant will pay $500,000 into a common fund, the Gross Settlement Amount ("GSA"). Attorney's fees of up to $166,666.66 (1/3 of the GSA), actual litigation costs of up to $30,000 (only $12,090.62 is requested), settlement administration costs of $10,000, a service award to Plaintiff of no more than $10,000, and PAGA civil penalties of $50,000 (divided 75%, or $37,500 to the LWDA and 25%, or $12,500, to the PAGA Aggrieved Employees), all will be paid from the GSA. The balance of around $251,242 will be allocated pro rata to the Class Members based on their weeks worked during the Class Period. No portion of the GSA will revert to Defendants. [Brouillette Decl., ¶ 6.]

A. Certification of the Settlement Class

The Court conditionally certified a settlement class defined to include all current and former non-exempt hourly employees employed by Defendant in California during the Class Period of November 4, 2018 to January 9, 2024. The Settlement Administrator ultimately mailed a total of 747 class notices on May 11, 2026 and remailed the class notices with Spanish translation on August 11, 2026. [Linton Decl., ¶¶ 6, 8.] Nothing has changed to require reconsideration of the Court's certification of the Settlement Class.

B. The Benefit Conferred on the Settlement Class

As noted, the settlement obligates Defendant to pay $500,000 to resolve the Settlement Class's claims, inclusive of attorney's fees and costs. At least $251,242 from the GSA will be distributed to the Participating Class Members. This is a cash settlement that does not require Participating Class Members to submit a claim form to receive their settlement share. Participating

Class Members will receive their settlement checks automatically via First Class U.S. Mail. Twenty percent of each settlement share will be allocated to wages and the remaining eighty percent will be allocated to expenses, penalties and interest, which allocation is consistent with Briteworks's potential liability. Defendant will pay any and all applicable employer-side payroll taxes separately and in addition to the GSA. Subject to the Court's approval, any amounts not claimed (because a class member does not cash their settlement check) will be forwarded to the State Controller's Unclaimed Property Fund. [Brouillette Decl., ¶ 7.]

Each Participating Class Member will receive a share of the Net Settlement Amount based on his or her total weeks worked in California as a non-exempt employee in a position that did not require a commercial driver's license. Thus, each Class Member's Individual Settlement Payment will be calculated using criteria typically used in determining appropriate amounts of unpaid wages, unpaid premium wages for missed meal and rest breaks, unreimbursed expenses, and potential statutory penalties under applicable law. These methods are intended to ensure each Class Member receives a settlement award corresponding to the relative value of their potential claims. The proposed allocation provides a reasonable way to compensate Class Members based on the amount of time they worked for Briteworks in California and the amount unpaid wages due, the number of missed meal breaks and/or rest breaks, etc. [Brouillette Decl., ¶ 8.]

The average class award will be approximately $336, and the awards will range from about $5.50 on the low end to about $1,490 on the high end. The average PAGA award will be about $29, and PAGA awards will range from $1.44 to about $64. [Linton Decl., ¶¶ 16-17.]

C. Settlement Administration

Atticus Class Action, LLC, as the Court-approved Settlement Administrator, mailed the Notice Packet to the Class Members after making all reasonable effort to ascertain the best mailing address, including running each address through the National Change of Address database and "skip-tracing" any Notice Packets returned as undeliverable. [Linton Decl., ¶¶ 2-9.] The Class Notice, previously approved by the Court, duly informed Class Members of the settlement terms, including the estimated relief each Class Member will receive, the amounts to be requested for attorney's fees and the class representative enhancement awards, and the

right to opt out of or object to the settlement. [Linton Decl., ¶ 6, Exh. A.] Atticus mailed 747 Notice Packets on May 11, 2026, and then remailed the Class Notices with a Spanish translation on August 11, 2026. [Linton Decl., ¶¶ 6, 9.] As of the filing of this motion, 44 Notice Packets were deemed undeliverable from the second mailing. [Linton Decl., ¶ 7.] The response window for opting out, objecting to the settlement, or submitting a dispute, expired on June 26, 2026 for the first mailing, and on September 24, 2026 for the second mailing. [Linton Decl., ¶¶ 7-8.] As of the filing of this motion, Atticus has received one request for exclusion in response to the first mailing and zero requests for exclusion in response to the second mailing (for a 99.96% participation rate). Atticus received zero objections to the settlement, and no disputes regarding the information used to calculate class member settlement shares, in response to either mailing. [Linton Decl., ¶¶ 12-14.]

D. Release of Claims

All Participating Class Members will release Defendant and the Released Parties from all claims alleged in the operative complaint, or that could have been brought based on the factual allegations in the complaint during the Class Period. The release is limited to the claims that were actually pleaded or could have been pleaded based on the alleged facts in the complaint. All PAGA Aggrieved Employees will release Defendants and the Released Parties from all claims for PAGA civil penalties alleged in the PAGA notice letter, or that could have been brought based on the factual allegations in the PAGA notice letter during the PAGA Period. [Brouillette Decl., ¶ 9.]

E. PAGA and Notice to the LWDA

As noted, the Parties allocated $50,000 to payment of alleged civil penalties under PAGA, and Plaintiff submits that amount is fair, reasonable and adequate, and consistent with PAGA's underlying purposes. As required by Labor Code section 2699(s)(2), Plaintiff gave notice of the settlement and the hearing to the LWDA via its online portal. [Brouillette Decl., ¶ 10; Exh. 1.]

IV. ARGUMENT

A. Standards For Approval

The law favors settlement, particularly in class actions where substantial resources can be conserved by avoiding the time, cost, and rigors of formal litigation. H. Newberg & A.

Conte, 4 Newberg on Class Actions (4th ed. 2002), § 11.41; Class Plaintiffs v. City of Seattle (9th Cir. 1992) 955 F.2d 1268, 1276, cert. denied, 506 U.S. 953; Van Bronkhorst v. Safeco Corp. (9th Cir. 1976) 529 F.2d 943,950; Potter v. Pacific Coast Lumber Co. (1951) 37 Cal.2d 592, 602. Nevertheless, to make certain the rights of absent parties are not unjustly compromised, the settlement of a class action requires court approval. Cal. Rule of Court 3.769; Dunk v. Ford Motor Co. (1996) 48 Cal.App.4th 1794, 1801; Wershba v. Apple Computer (2001) 91 Cal.App.4th 224, 245. The purpose of that judicial review is to protect against fraud or collusion, and to ensure fairness to absent class members. Dunk, 48 Cal.App.4th at 1800-01; Newberg, at §§ 11.22, *et seq.* Review is accomplished through a two-step process intended to determine whether, under the totality of circumstances, the settlement is fair, reasonable and adequate. Dunk, 48 Cal.App.4th at 1801; Wershba, 91 Cal.App.4th at 245.

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

B. The Proposed Settlement Merits Final Approval

The proposed settlement of this action warrants final approval under the standards summarized above. The settlement is fair, reasonable and adequate, and represents a favorable

resolution of highly disputed claims. Further, the settlement was overwhelmingly approved by the class members as there are no objections and no class member has requested exclusion.

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

The settlement is not the result of fraud or collusion. The proposed settlement resulted from serious, arms-length negotiations facilitated by respected mediator Henry Bongiovi, Esq., who has considerable experience mediating wage and hour class action cases. [Brouillette Decl., ¶ 5.] Plaintiff's counsel Brandon Brouillette and Zach Crosner, and Crosner Legal, P.C., have years of experience litigating wage and hour class actions, and are well-qualified to evaluate the risks and benefits of pursuing further litigation or settling the matter. [Brouillette Decl., ¶¶ 23-36.] Defendant likewise was represented by highly-qualified and experienced defense counsel. Both sides advocated vigorously for their clients and nothing was "left on the table."

2. The Class Reacted Favorably to the Settlement

The settlement was well-received by the class. As of the filing of this motion, no objections have been filed, and only one Class Member has requested exclusion, for a 99.96% participation rate. [Linton Decl., ¶¶ 12-13.] As many courts recognize, class member reaction to the settlement is one of the most important factors to consider in determining if final approval should be granted. Mandujano v. Basic Vegetable Prods., Inc. (9th Cir. 1976) 541 F.2d 832, 837 ; *see also* In re: American Bank Note Holographics (S.D.N.Y. 2001) 127 F.Supp.2d 418, 425 ("It is well-settled that the reaction of the class to the settlement is perhaps the most significant factor to be weighed in considering its adequacy") (internal quotation marks omitted).

C. The Settlement is Fair and Reasonable Based on the Strengths of Plaintiff's Case and the Risks and Costs of Further Litigation

Prior to the mediations, the parties engaged in both formal and informal discovery to facilitate settlement discussions. Plaintiff reviewed documents and information regarding Defendant's payroll practices, a random sampling of pay stubs and time records from class members, a class list, applicable compensation plans and expense reimbursement plans, meal and rest break policies, arbitration agreements, etc., and information from Defendants regarding class

size and breakdown, work weeks/pay periods, rates of pay, and other information used to formulate a damages model. Plaintiff then had that information analyzed by a consulting expert to assist in determining potential violation rates and other data used to formulate a damages model. Plaintiff's counsel are confident they obtained sufficient information to understand the law and facts of this case and make an informed decision regarding the proposed settlement and whether it is fair and reasonable. [Brouillette Decl., ¶¶ 4, 11.]

First, Plaintiff contends Defendant failed to pay all wages due because it paid employees based on their scheduled hours rather than their actual hours worked. Plaintiff alleges she and the class members regularly performed worked both before and after their scheduled times to, inter alia, gather and return cleaning supplies, and to report to their assigned locations within a facility, and that Defendant's written policies required class members to be at their "work location at the start of their scheduled shifts, ready to work," which resulted in having to perform "off the clock" work. Per Plaintiff, these practices systematically underpaid employees for both regular and overtime hours. On the other hand, Defendant contends it paid class members all wages due as required under applicable law, and that it accurately tracked and paid for all employee hours worked at the correct hourly rates. It further argued its policies strictly prohibited "off the clock" work, and if any employees worked off the clock it was done without the company's authorization or knowledge. White v. Starbucks Corp. (N.D. Cal. 2007) 497 F.Supp.2d 1080, 1083 (employer must have actual or constructive knowledge of the off the clock work). Finally, Briteworks argued that determining if any off the clock work occurred, and the reasons therefor, would require innumerable individualized inquiries and therefore class certification would be improper. Without taking into consideration any of Defendant's defenses to certification or on the merits, Plaintiff's expert calculated Defendant's maximum exposure for this claim **$676,660** in damages for unpaid wages based on a total of 6,149.6 uncompensated hours. [Brouillette Decl., ¶ 12.]

Plaintiff next contends Defendant failed to provide legally compliant meal and rest breaks. Specifically, as to meal breaks, Plaintiff contends class members did not receive legally compliant thirty (30) minute first and second meal periods, and consistently were unable to take timely, off duty, thirty-minute, uninterrupted meal periods. She alleges class members frequently had to work

through part or all their meal periods due to understaffing, pressure to complete their job duties before having a meal, and commentary from supervisors instructing them to take short meal periods or to skip meal periods completely, but were required to note a 30-minute meal period on time sheet for thirty minutes regardless of whether they received a lawful 30-minute meal period. Plaintiff also contends Briteworks failed to provide duty-free rest periods to Class Members for the same reasons, and that employees were pressured to complete their assigned tasks as quickly as possible and skip breaks as a consequence. [Brouillette Decl., ¶ 13.]

Defendant denies Plaintiff's contentions, claiming it made meal and rest breaks available to Class Members in compliance with California law. Defendant contends its meal and rest break policies are lawful and that Class Members were frequently reminded they were required to take all meal and rest breaks. Defendant also contends that time records demonstrate that Class Members took duty-free, timely meal and rest breaks. Defendant also contends its meal and rest break policies and practices comported with the flexibility the *Brinker* court held was integral to California's meal and rest period requirements. Finally, Defendant argues that Plaintiff's meal and rest break claims are not susceptible to common proof, as the claims would require individualized inquiry, including whether there was an unlawful companywide policy, whether employees had the opportunity to take meal and rest periods, whether they voluntarily chose to forego their meal and rest periods, and whether Defendant ever prevented them from taking meal and rest periods. Accordingly, Defendant contends these claims are vulnerable to a ruling that class treatment is not appropriate. Without taking into consideration any of Defendant's defenses to certification or on the merits, Plaintiff estimates Defendant faces around **$3,387,862.50** in damages for meal period violations assuming a 100% violation rate and after accounting for meal period premiums paid. On the rest period claims, Plaintiff estimates around **$3,387,862.50** in damages, again assuming a 100% violation rate. [Brouillette Decl., ¶ 14.]

For the expense reimbursement claims, Plaintiff argued Briteworks required Class Members to use their personal cell phones to communicate with supervisors and coworkers throughout their shifts without reimbursement. In response, Briteworks contended there was no need to use a personal cell phone in the performance of Class Member job duties, and if anyone did so it was

purely for personal convenience and not a job requirement. Without accounting for any potential defenses, Plaintiff estimates she and the Class Members are entitled to over **$237,425** in expense reimbursement. [Brouillette Decl., ¶ 15.]

As a result of the above alleged violations, Plaintiff also alleges Defendant failed to provide accurate wage statements and timely pay all wages that were due and owing upon separation of employment. Thus, should the primary claims fail, Plaintiff's claims for wage statement violations and waiting time penalties would also fail. Defendant also contends it would not be liable for waiting time penalties because a "good faith dispute" exists over the payment of past wages. Amaral v. Cintas Corp. No. 2 (2008) 163 Cal.App.4th 1157, 1201. Further, Defendant contends Plaintiff would have to prove Defendant "willfully" failed to pay Class Members appropriate wages due upon separation of employment. Without taking into consideration any of Defendant's defenses to certification or on the merits, Plaintiff calculated Defendant's maximum exposure for wage statement violations at about **$913,800** and exposure for waiting time penalties at about **$1,686,960**. [Brouillette Decl., ¶ 16.]

As far as potential PAGA liability, the theoretical civil penalties likely are around $1.4 million should Plaintiff prevail on all claims and establish violations of the multiple Labor Code sections at issue. [Brouillette Decl., ¶ 17.] As with the class claims, Plaintiff discounted the potential PAGA penalties based on Defendant's various defenses on the merits and also accounted for the Court's wide discretion to reduce such penalties, or to decline to award penalties at all. Labor Code § 2699(e)(2); Carrington v. Starbucks Corp. (2018) 30 Cal.App.5th 504 (trial court awarded penalties of $5 per pay period after a bench trial, which decision was upheld on appeal); In re Taco Bell Wage and Hour Actions (E.D. Cal. Apr. 8, 2016) 2016 U.S. Dist. LEXIS 48557 (PAGA penalties denied after trial). Accordingly, the Parties allocated $50,000 to PAGA penalties.

Plaintiff submits this amount is reasonable under the circumstances and in line with comparable settlements in other wage and hour class actions in California. *E.g.*, Van Kempen v. Matheson Tri-Gas, Inc. (N.D. Cal. Aug. 25, 2017) 2017 U.S. Dist. LEXIS 137182 (granting final approval of $5,000 PAGA penalty from $370,000 settlement, or 1.4 percent of total settlement); Slavkov v. First Water Heater Partners I (N.D. Cal. July 25, 2017) 2017 U.S. Dist. LEXIS 116303

(finding a $7,500 PAGA payment reasonable when measured against the overall settlement of $345,000 and the possible weaknesses in plaintiffs' case, or 2.2 percent of total settlement). Additionally, the LWDA has been informed of the terms of the PAGA portion of the settlement, and will be able to weigh in as necessary. Jennings v. Open Door Mktg. Inc. (N.D. Cal. Oct. 3, 2018) 2018 U.S. Dist. LEXIS 171356, at *27 (approving settlement with PAGA penalties of 0.6% where "[p]laintiffs [have] submitted the settlement agreement to the LWDA, and the LWDA has not objected to the settlement.

Thus, Plaintiff and her counsel discounted the value of the class claims consistent with the risks discussed above, and carefully weighed the likelihood of the class receiving substantially greater benefit if the litigation continued. Plaintiff and counsel concluded – in light of these very real and substantial risks – settlement on the proposed terms and without prolonged and costly litigation was in the best interests of the class. The overall $500,000 recovery represents a significant percentage of Defendant's potential exposure. Given Defendant's multi-layered defenses and all other potential risks of continued litigation, a total recovery for the class of $500,000, which will result in average award of at least $317 per class member, plus additional sums under PAGA, is a significant result well within the range of reasonableness considering all potential outcomes, and it will provide direct monetary awards to all Class Members without further delay. [Brouillette Decl., ¶ 18.]

Importantly, the mere fact that a settlement does not provide the same recovery as might be achieved at trial is not a proper indicator of whether the settlement is fair, reasonable, and adequate. Wershba, 91 Cal.App.4th at 246, 250 ("Compromise is inherent and necessary in the settlement process…even if the relief afforded by the proposed settlement is substantially narrower than it would be if the suits were to be successfully litigated, this is no bar to a class settlement because the public interest may indeed be served by a voluntary settlement in which each side gives ground in the interest of avoiding litigation"); 7-Eleven Owners for Fair Franchising v. Southland Corp. (2000) 85 Cal.App.4th 1135, 1150 ("The fact that a proposed settlement may amount to only a fraction of the potential recovery does not, in and of itself, mean that the proposed settlement is grossly inadequate and should be disapproved"); White v. Experian Information Solutions, Inc.

(C.D. Cal. 2011) 803 F.Supp.2d 1086, 1098 (rejecting contention settlement was not fair and reasonable even though it represented 99% discount off the maximum value of the claims); Lane v. Facebook, Inc. (9th Cir. 2012) 696 F.3d 811, 819 ("[T]he question whether a settlement is fundamentally fair . . . is different from the question whether the settlement is perfect in the estimation of the reviewing court"). Importantly as well, the proposed settlement is non-reversionary and will provide immediate benefits to the Class Members without a claims process. White, 803 F.Supp.2d at 1098; c.f., Federal Judicial Center, Managing Class Action Litigation: A Pocket Guide for Judges (3d ed. 2010) at 20, available at http://www.fjc.gov/sites/default/files/2012/ClassGd3.pdf (reversionary provisions and/or cumbersome claims process may indicate lack of fairness). Plaintiff and her counsel submit the settlement is within the "range of reasonableness," and is fair and adequate for the Class.

V. SETTLEMENT ADMINISTRATION COSTS

The settlement provides for a payment to Atticus for its services as the Settlement Administrator. As set forth in the Declaration of Ann Linton, Atticus performed and will continue to perform its required duties through final distribution of the settlement funds and incurred $10,000 in fees and expenses. [Linton Decl., ¶ 19.] Plaintiff accordingly requests the Court approve payment of $10,000 to Atticus from the GSA. [Brouillette Decl., ¶ 19.]

VI. PLAINTIFF'S ENHANCEMENT AWARD

The Settlement Agreement provides for a service payment not to exceed $10,000.00 to Plaintiff, and courts routinely approve service payments, or incentive awards, to compensate named plaintiffs for the services they provide and the risks they incur during class litigation. In re Cellphone Fee Termination Cases (2010) 186 Cal. App. 4th 1380, 1393 ("These awards are discretionary…and are intended to compensate class representatives for work done on behalf of the class, to make up for financial or reputational risk undertaken in bringing the action, and, sometimes, to recognize their willingness to act as a private attorney general."); Bell v. Farmers Ins. Exch. (2004) 115 Cal. App. 4th 715, 725-26 (upholding service payments to class representatives); Manual § 21.62 n. 971 (noting that service payments are warranted).

The requested service award is reasonable in light of the benefits Plaintiff conferred upon

the entire Class, resulting in a benefit to all Class Members and the State of California, the time spent assisting counsel with the investigation and prosecution of these claims, commitment to responding to discovery, and consenting to the proposed Agreement. Furthermore, by attaching her name to this lawsuit, Plaintiff also took on the reputational risk that future employers would learn of her participation in this case and would unfairly associate them with costly litigation, costing them future employment opportunities. Any future employer could easily perform a simple Google search and conclude that Plaintiff is not worth the risk of hiring given her prior involvement in a lawsuit against a former employer. This is the kind of reputational risk, borne only by Plaintiff, that the incentive award is meant to compensate. As set forth in more detail in her declaration filed with the preliminary approval motion, among taking many other actions assisting in the successful litigation of this case, Plaintiff provided substantial factual information and documents to counsel, attended numerous meetings/phone conferences with counsel to discuss the case, personally attended the all-day mediation along with counsel, and kept abreast of all significant developments. [Declaration of Rosa Alvarez, ¶¶ 2-9 (filed November 10, 2025); Brouillette Decl., ¶ 20.] Accordingly, the requested enhancement payment to Plaintiff is appropriate and justified as part of the settlement. Staton v. Boeing (9th Cir. 2003) 327 F.3d 938, 977 (collecting cases awarding class representatives service and incentive payments ranging from $2,000 to $25,000).

VII. THE REQUESTED ATTORNEY'S FEES AND COSTS ARE REASONABLE AND SHOULD BE APPROVED

This Court has discretion over the amount of attorneys' fees awarded and court approval is required for Class Counsel's fees. Cal. Rule of Court 3.769; Levy v. Toyota Motor Sales, U.S.A. (1992) 4 Cal.App.4th 807, 813; Lealao v. Beneficial Cal., Inc. (2000) 82 Cal.App.4th 19. In defining a reasonable fee, the Court should attempt to mimic the marketplace for cases involving significant contingent risk, such as this one. Deposit Guaranty Nat'l Bank, Jackson, Miss. v. Roper (1980) 445 U.S. 326, 338, rehg. den. 446 U.S. 947; Lealao, 82 Cal.App.4th at 49-50 (court should attempt "to award the fee that informed private bargaining, if it were truly possible, might have reached" in determining a reasonable fee, and a fee award should approximate a "range of fees freely negotiated in comparable litigation").

Here, Class Counsel's request for attorney's fees and costs is reasonable and justified by the work performed, the benefits obtained, and the contingent risk assumed. As addressed in detail above, at the time the parties reached the tentative settlement success for Plaintiff and the putative class was far from certain. Plaintiff faced a real risk that some or all the claims would not be certified for class treatment, as Defendant had strong arguments that its compensation policies were legal and properly compensated the class members. Even if Plaintiff certified some or all of the claims and ultimately prevailed on the merits, it undoubtedly would have taken several years to realize any recovery while he pursued class certification, trial, and an almost certain appeal. [Brouillette Decl., ¶¶ 12-17.]

Nonetheless, Plaintiff succeeded and expeditiously obtained the relief he set out to obtain, and the settlement provides substantial cash payments to Class Members, with an average award of about $336, and with a maximum award of over $1,490. Importantly as well, the Class Members have been overwhelmingly supportive of the Settlement – there are no objections and only one opt out to the settlement. [Linton Decl., ¶¶ 12-13.]

A. The Requested Fee Award Is Reasonable and Appropriate

The United States Supreme Court has ruled the parties to a class action properly may negotiate not only the settlement of the action itself but also the payment of attorney's fees. Evans v. Jeff D. (1986) 475 U.S. 717, 734-35, 738, fn. 30.) In Hensley v. Eckerhart (1983) 461 U.S. 424, 437, the Supreme Court explained that negotiated, agreed-upon attorney's fee provisions are the ideal towards which the parties should strive: "A request for attorney's fees should not result in a second major litigation. Ideally, of course, litigants will settle the amount of a fee." The United States Supreme Court has reemphasized this policy and further stressed trial courts have "a responsibility to encourage agreement" on fees. Blum v. Stenson (1984) 465 U.S. 886, 902 n.19.

As part of the Settlement, Defendant agreed not to object to an award of no more than 1/3 of the GSA for attorney's fees, or $166,666.66, and up to $30,000 in reimbursement for litigation costs and expenses (only $12,090.62, is requested). Such a fee is commensurate with what the market would provide for similar services and the Court therefore can most certainly

enforce the agreement. As California's Court of Appeal has instructed:

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

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

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

B. Class Counsel's Fees are Justified When Calculated as a Percentage of the Common Fund

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

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

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

Indeed, both California and federal courts have long recognized an appropriate method for determining the award of attorney's fees is based on a percentage of the total value of benefits afforded to class members by the settlement. Serrano v. Priest (1977) 20 Cal.3d 25, 34; Boeing Co. v. Van Gernert (1980) 444 U.S. 472, 478; Vincent v. Hughes Air West, Inc. (9th Cir. 1977) 557 F.2d 759, 769. Awarding a fee based on a percentage of the common fund

recovered operates to "spread litigation costs proportionately among all the beneficiaries so that the active beneficiary does not bear the entire burden alone." Vincent, 557 F.2d at 769.

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

Here, Class Counsel seek a fee award for their successful prosecution and resolution of this action of no more than 1/3 of the GSA, and specifically $166,666.66. The percentage requested is justified for the reasons set forth further below, and comports with fee awards calculated on a percentage-of-the-benefit basis. Indeed, review of class action settlements shows that courts have historically awarded fees in the range of 20 to 50 percent, depending upon the circumstances of the case. In re Warner Communications Sec. Litig. (S.D.N.Y. 1985) 618 F.Supp. 735, 749-50 (concluding that percentage fees in common fund cases range from 20 to 50 percent); Newberg, Newberg on Class Actions (3d ed.) § 14.03, pp. 13-14 ("Usually 50% of the fund is the upper limit on a reasonable fee award from a common fund in order to assure that the fees do not consume a disproportionate part of the recovery obtained for the class, although somewhat larger percentages are not unprecedented.").

Indeed, in addition to the California Supreme Court's approval of a 1/3 fee in Lafitte, other courts in California likewise routinely approve fees of 1/3 of the gross settlement. Chavez v. Netflix, Inc. (2008) 162 Cal.App.4th 43, 66 n.11 ("Empirical studies show that, regardless whether the percentage method or the lodestar method is used, fee awards in class actions average around one-third of the recovery"). "Under the percentage method, California has recognized that most fee awards based on either a lodestar or percentage calculation are 33 percent . . . ." Smith v. CRST Van Expedited, Inc. (S.D. Cal. 2013) 2013 WL 163293, at *5. *See also* Bickley v. Schneider Nat'l Carriers, Inc. (N.D.Cal. Oct. 13, 2016) 2016 WL 6910261, at *4 (awarding attorney's

fees of one-third of the recovery); Barbosa v. Cargill Meat Solutions Corp. (E.D. Cal. 2013) 297 F.R.D. 431, 449-450 (one-third of the settlement); Garcia v. Gordo Trucking, Inc. (E.D. Cal. Oct. 31, 2012) 2012 WL 5364575 (approving attorney's fees of one-third of the common fund); Vasquez v. Coast Valley Roofing (E.D. Cal. 2010) 266 F.R.D. 482 (approving award of attorney's fees of one-third of the amount recovered by the class); Stuart v. RadioShack Corp. (N.D. Cal. 2010) 2010 WL 3155645 (awarding attorney's fees of recovery and noting the one-third award was "well within the range of percentages which courts have upheld as reasonable in other class action lawsuits.").

C. A Lodestar Cross-Check Also Supports Class Counsel's Fee Request

To ensure the fairness of an attorney's fee award, courts frequently conduct a lodestar cross check of counsel's fees. "A lodestar cross-check thus provides a mechanism for bringing an objective measure of the work performed into the calculation of a reasonable attorney fee." Laffitte, 1 Cal.5th at 504. Here, Class Counsel spent 205.5 hours of time on this matter, resulting in a modest and very reasonable lodestar of $186,002.50.

Over the approximately four years this matter has been pending, Crosner Legal's efforts have included: (1) extensive pre-lawsuit investigation of the claims of Plaintiff and the putative class, including legal research, research into similar claims and claims against other employers in the same industry, and attempts to locate and contact other employees of the Defendant; (2) drafting a PAGA notice letter; (3) drafting the initial class complaint and related documents, and drafting the amended complaint (4) addressing the removal to federal court and successfully moving to remand; (5) case management, including communications with defense counsel, meeting and conferring/preparing case management statements, etc.; (6) drafting and filing a first amended complaint; (7) lengthy discussions with defense counsel regarding settlement/mediation and informal discovery needed for meaningful settlement discussions; (8) engaging in substantial informal discovery, including propounding informal discovery "requests" and reviewing documents and other information produced; (9) drafting a mediation brief and accompanying damages model after review and analysis of Defendant's informal discovery production; (10) attending an all-day mediation; (11) negotiating and drafting the settlement agreement and

related documents; (12) drafting motion for preliminary approval, and attending the hearing; (13) administration of the settlement, including communications with the Settlement Administrator and settlement class members; (14) final approval and attorney's fees, and attending the final approval hearing; and (15) extensive communications with the Plaintiff regarding case status, case investigation and document review, mediation, and settlement terms. [Brouillette Decl., ¶ 22, Exh. 2.] Additionally, Class Counsel will incur additional time following final approval to, inter alia, respond to class member inquiries, attend to distribution of settlement funds, and on the compliance hearing.

In pursuing this matter, Class Counsel incurred total attorney's fees of $186,002.50, and the lodestar is based on an eminently reasonable number of hours worked to litigate this matter to a successful conclusion (205.5 attorney hours). [Brouillette Decl., ¶¶ 23-41, Exh. 2.] The requested attorney hourly rates are reasonable and comport with hourly rates charged by other attorneys with similar experience in this practice area in California. On a lodestar basis, the fee request of $166,666.66 is actually less than the base lodestar and accordingly there is no request to apply a lodestar enhancement. This does, however, show the reasonableness of the requested fees, as the value of the fee request on a percentage basis is less than the value of the fees when valued via traditional hourly billing.

D. <u>The Award is Supported By 1) the Results Achieved; 2) the Risk, 3) the Skill Required, 4) the Contingent Nature of the Fee and 5) Awards in Similar Cases</u>.

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

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

1. The Results Achieved.

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

2. Class Counsel Bore Considerable Risk.

At the time of filing the initial complaints Class Counsel recognized that they would have to expend a substantial amount of time and advance significant costs to prosecute a statewide class action suit with no guarantee of compensation or reimbursement, in the hope of prevailing against a sophisticated company represented by first-rate attorneys. Despite their belief in the validity of Plaintiff's claims, they also knew they faced substantial risks of class certification and the ability to prove class-wide and individual damages. In light of the highly uncertain nature of this suit, Class Counsel also bore the risk that Defendant would dig in and attempt to bury their small firm in work. Given the small size of Class Counsel's firm,

not receiving any compensation for several years while simultaneously advancing litigation costs posed considerable risk and difficulty. [Brouillette Decl., ¶¶ 42-43.]

3. The Skill Required and the Quality of Work.

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

4. The Contingent Nature of the Fee and Risk Assumed

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

Counsel retained on a contingency fee basis, whether in private matters or in class action litigation, is entitled to a premium beyond their standard, hourly, non-contingent fee schedule to compensate for both the contingent risk assumed and the delay in payment. The simple fact is that despite the most vigorous and competent of efforts, success is never guaranteed. McKittrick v. Gardner (4th Cir. 1967) 378 F.2d 872, 875. Indeed, if counsel is not adequately compensated for the risks inherent in difficult class actions, competent attorneys will be discouraged from prosecuting similar cases. Ketchum v. Moses (2001)

24 Cal.4th 1122, 1132-33; Cazares v. Saenz (1989) 208 Cal.App.3d 279, 287.

Here, the contingent fee practices of Plaintiffs' counsel simply do not accommodate the investment of unnecessary time in a case, and the adverse resolution of any one of several difficult issues present in this matter could have doomed the entire effort. As discussed, the attorney's fees in this case were not only contingent but fairly risky, and there was always a distinct possibility Plaintiffs' counsel would receive nothing for any number of reasons. Indeed, Class Counsel has, on multiple occasions, ultimately recovered no fee in several wage and hour class action cases despite investing substantial attorney time and out-of pocket costs. [Brouillette Decl., ¶¶ 42-43.] Accordingly, the contingent nature of the fee and the financial burdens on Class Counsel also support the fee requested.

5. Awards in Other Cases

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

E. Class Counsel's Costs and Expenses are Reasonable

Plaintiff's counsel also requests reimbursement of actual out-of-pocket expenses incurred

to prosecute this action. These expenses were incidental and necessary to the effective representation of the employees, and Plaintiff's counsel is permitted to recover litigation costs and expenses under the common fund doctrine and the Settlement Agreement. Serrano, 20 Cal.3d at 35 (common fund doctrine permits recovery of fees and costs from the fund); Rider v. County of San Diego (1992) 11 Cal.App.4th 1410, 1424 n.6 (costs are recoverable from the common fund "[o]f necessity, and for precisely the same reasons discussed above with respect to the recovery of attorneys' fees by ... [Plaintiffs'] attorneys"). Plaintiff's counsel also is entitled to recover "those out-of-pocket expenses that would normally be charged to a fee-paying client." Harris v. Marhoefer (9th Cir. 1994) 24 F.3d 16, 19.

As explained in the Brouillette Declaration, Class Counsel incurred a total of $12,090.62 in expenses incurred in connection with this litigation. These expenses include the amounts paid for court filing fees, service of process, expert fees, postage, and mediation fees, all of which are costs normally billed to and paid by the client. These costs were reasonably incurred in the prosecution of this matter, and were necessary for the successful prosecution of the case and accordingly Plaintiff's counsel request reimbursement for costs in the amount of $12,090.62. [Brouillette Decl., ¶¶ 44-45.]

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VIII. CONCLUSION

For all the foregoing reasons, Plaintiff respectfully requests that the Court grant this motion and grant final approval of the proposed class action settlement and approve the payment of PAGA penalties to the State and PAGA Aggrieved Employees. Plaintiff further requests the Court approve payment of the Settlement Administrator's fees and expenses, approve the requested class representative enhancement payments, approve the award of attorney's fees and costs as requested, and enter judgment in this action. Finally, Plaintiff requests the Court set a hearing regarding settlement compliance for August 25, 2027, or a later date convenient for the Court.

CROSNER LEGAL, P.C.

Dated: October 2, 2026 By: 

Brandon Brouillette
Attorneys for Plaintiff
Rosa Alvarez