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SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF CONTRA COSTA

MARYAMA ALHARK, as an individual on behalf of herself and on behalf of all others similarly situated,

Plaintiff,

v.

CORTEVA AGRISCIENCE LLC, a Delaware limited liability company; HUNTER INTERNATIONAL, INC., an Ohio corporation; and DOES 1-100, inclusive,

Defendants.

Case No.: C22-02772

[Assigned For All Purposes to:
Hon. Edward Weil
Dept. 39

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

Date: January 29, 2026
Time: 9:00 a.m.
Dept.: 39

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I. INTRODUCTION

Plaintiff and Class Representative Maryama Alhark seeks final approval of a non-reversionary class action settlement resolving wage and hour claims on behalf of 419 individuals who worked for Defendant Corteva Agriscience LLC ("Corteva" or "Defendant") in California and classified as a non-exempt hourly employee who worked for Defendant during the Class Period of December 20, 2018 to June 24, 2024. The proposed $1,750,000 total settlement provides about $974,700 in cash payments to the Class, with an average award of at least $2,331, plus additional amounts payable under PAGA. The remaining balance will cover a modest service award to Plaintiff, 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 August 20, 2025. Since then, the Court-approved notice form was mailed to the Class Members on September 25, 2025, and they reacted very favorably to the settlement. As of the filing of this motion, there are no objections, and only one class member requested exclusion.

Class Counsel secured an excellent settlement with Defendant after some two 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 33.33% of the Gross Settlement Amount, along with reimbursement of no more than $25,000 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 $583,333.33 and costs in the amount of $21,165.90, 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, the three-plus year delay in payment and, when subjected to a lodestar crosscheck, results in fee request equal to the base lodestar with a reasonable 3.72 upward modifier.

Accordingly, on behalf of himself 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. FACTUAL BACKGROUND AND PROCEDURAL POSTURE

Defendant Corteva, previously part of global conglomerate DowDuPont, became a wholly-separate company in 2019 and provides agri-science services to the agricultural industry around the world. Plaintiff Alhark worked for Corteva for about six weeks in 2022, and her position was Document Maintenance Administrator. She was placed with Corteva via staffing company Hunter International, and worked at the Corteva facility in Pittsburg, California. [Brouillette Decl., ¶ 2.]

Plaintiff alleged that Corteva violated the Labor Code in several ways. First, she alleged Defendant failed to pay the class all wages due by failing paying employees based on their scheduled hours rather than by their actual hours worked, and by using an "auto deduct" policy whereby ½ hour of time was deducted from employee hours worked regardless of whether they took a meal period or how long it lasted. Plaintiff further alleged Defendant failed to include non-hourly pay such as shift differentials and bonuses in them class members' "regular rate of pay" and accordingly underpaid employees for their overtime. Next, Plaintiff claimed Corteva failed to provide all required meal and rest breaks on a fully compliant basis, and that class members never received an extra hour of premium pay in lieu of a missed or non-compliant meal or rest break. Finally, she alleged class members had to use their personal cell phones on company business without any reimbursement. [Brouillette Decl., ¶ 3.]

Based on these allegations, on December 20, 2022, Plaintiff filed a class action complaint alleging causes of action against Defendant for unpaid minimum wages, unpaid overtime wages, failure to provide meal periods, failure to provide rest periods, violations of Labor Code Section 226, failure to timely pay all wages due upon separation of employment, failure to reimburse for business expenses, and unfair competition. On February 28, 2023, Plaintiff filed a separate PAGA-only action, and filed a First Amended Complaint in the PAGA-only action on April 4, 2023. [Brouillette Decl., ¶ 4.]

Corteva has at all times denied Plaintiff's allegations and maintained its meal and rest break and payroll policies and procedures comply with California law, and that it provided the class members with required meal and rest breaks. Corteva also argued it accurately tracked and paid for all hours worked by its employees, including overtime hours, at the correct hourly rates. Additionally, Corteva strongly contends the case cannot be maintained as any kind of class or representative action, arguing that to the extent class members worked "off the clock," or missed meal and/or rest breaks, it was intermittent and infrequent and evidence of such missed breaks or off the clock work would be purely anecdotal, and therefore individualized issues would predominate and trial would be unmanageable. [Brouillette Decl., ¶ 5.]

After Plaintiff filed the initial complaint, the Parties initiated discovery and also engaged in numerous meet and confer discussions regarding discovery, potential law and motion, and potential ADR. Ultimately, the Parties agreed to mediation and also agreed to an informal exchange of information to facilitate meaningful settlement discussions. The Parties then retained Steve Serratore, Esq., a respected neutral with experience mediating wage and hour class actions. In April 2024, the Parties participated in a mediation with Mr. Serratore that ultimately resulted in this settlement. [Brouillette Decl., ¶¶ 6-7.]

The Court preliminarily approved the settlement on August 20, 2025. Class Notices were mailed to class members on September 25, 2025, with a forty-five day window (to November 10, 2025) for class members to opt out or object to the proposed settlement. [Declaration of Stacey Shim ("Shim Decl."), ¶¶ 7, 11-13.]

III. <u>THE PROPOSED SETTLEMENT TERMS</u>

Under the settlement, Corteva will pay $1,750,000.00 into a common fund, the Gross Settlement Amount. Reasonable attorney's fees of up to 33.33% of the GSA, or $583,333.33, litigation costs of up to $25,000 (only $21,165.90 is requested), an enhancement award of up to $10,000 to Plaintiff, settlement administration costs of $10,800, and $150,000 for PAGA civil penalties,[1] all will be paid from the Gross Settlement Amount. The remainder of approximately $974,700 will be allocated pro rata among the Participating Class Members based on the weeks worked during the Class Period. No portion of the Gross Settlement Amount will revert to Corteva. [Brouillette Decl., ¶ 8.]

A. Certification of the Settlement Class

The Court conditionally certified a settlement class including all persons employed by Defendant in California and classified as a non-exempt hourly employee who worked for Defendant during the Class Period of December 20, 2018 to June 24, 2024. The Settlement Administrator ultimately mailed class notices to 417 individuals identified as members of the Class. Subsequently 2 additional individuals contacted the administrator and were determined to be class members as well, for a final count of 419. [Shim Decl., ¶¶ 7, 14.] 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, Plaintiff estimates at least $974,700 from the Gross Settlement Amount 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 Corteva's potential liability as discussed below. Corteva will pay all applicable employer-side payroll taxes separately from the GSA. Subject to the Court's approval, any amounts not claimed (because a class member does not cash his or her settlement check) will be forwarded to the California State Controller's Unclaimed Property Fund. [Brouillette Decl., ¶ 9.]

Each Participating Class Member will receive a pro rata share of the Net Settlement

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[1] Per PAGA, $112,500 of this amount will got the Labor & Workforce Development Agency as the State's share of the civil penalties, and the remaining $37,500 will be distributed pro rata to the Aggrieved Employees.

Amount based on their total weeks worked for Corteva as a non-exempt employee during the Class Period. Thus, each Individual Settlement Payment will be calculated using formulaic criteria equally applied to all Class Members in order to proportionately compensate them for the actual value of their claims relative to fellow class members. Similarly, each Class Member's Individual Settlement Payment will be calculated using criteria that would typically be used in determining appropriate amounts of unpaid wages and damages in wage and hour litigation under applicable law. These methods are intended to ensure each Class Member receives a portion of the available settlement funds corresponding to the relative value of his or her potential claims. The proposed allocation provides the most reasonable way to compensate Class Members based on the amount of time they worked for Corteva and the number of instances they were not compensated properly or may have been denied required breaks. [Brouillette Decl., ¶ 10.]

The average class award will be about $2,331, and class awards will range from $17 to $4,836, while the average PAGA award will be about $118. [Shim Decl., ¶¶ 17, 19.]

C. Settlement Administration

Apex Class Action, 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. [Shim Decl., ¶¶ 3-10.] 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. [Shim Decl., ¶ 7; Exh. A.] Apex mailed 417 Notice Packets on September 25, 2025. [Shim Decl., ¶ 7.] Ultimately, 3 Notice Packets were deemed undeliverable, representing a 99% success rate. [Shim Decl., ¶ 10.] The response window for opting out of or objecting to the settlement expired on November 10, 2025. [Shim Decl., ¶¶ 11-13.] Apex has received one request for exclusion (for a 99.7% participation rate), and zero objections to the settlement. Two disputes were submitted regarding the information used to calculate class member settlement shares, which disputes have been resolved. [Shim Decl., ¶¶ 11-13.] Finally, during the notice period, three individuals contacted the Administrator claiming to be class members and, after review of Defendant's records, it was determined that two of them were in fact members of the class. [Shim Decl., ¶ 14.]

D. Release of Claims

All Participating Class Members will be deemed to release Defendant and the Released Parties from all claims alleged in the operative complaint, or that could have been brought based on the facts asserted in the operative complaint, including PAGA claims, during the applicable Class Period and PAGA 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. Only Plaintiff Alhark is providing a full general release of claims and waiver of Civil Code section 1542. [Brouillette Decl., ¶ 11.]

E. PAGA and Notice to the LWDA

As noted, the Parties allocated $150,000 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(*l*)(2), Plaintiff gave notice of the settlement and the final approval hearing to the LWDA via its online portal. [Brouillette Decl., ¶ 12; Exh. 1.]

IV. ARGUMENT

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.

A. 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 were no objections and no class members opted out.

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

The settlement is not the result of fraud or collusion. Rather, the proposed settlement was reached following arm's-length negotiations presided over by Steve Serratore, Esq., a highly respected and well-known mediator with extensive experience mediating wage and hour class actions. [Brouillette Decl., ¶ 7.] Moreover, Plaintiff and her counsel were well-informed about the facts and the law, and counsel Zachary M. Crosner and Brandon Brouillette have years of litigation experience, including litigating wage and hour class actions. Plaintiff's counsel are well-qualified to evaluate the risks and benefits of pursuing further litigation or settling the matter. [Brouillette Decl., ¶¶ 28-41.] 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 there is only one opt out. [Shim Decl., ¶¶ 11-12.] 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., 541 F.2d 832, 837 (9th Cir. 1976); see also In re: American Bank Note Holographics, 127 F.Supp.2d 418, 425 (S.D.N.Y. 2001) ("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).

B. The Proposed Settlement Meets the Kullar Factors and is within the Range of Reasonableness

Prior to mediation, the parties engaged in formal and informal discovery to facilitate settlement discussions. Thus, Plaintiff reviewed documents and information regarding Kruger's payroll practices, a random sampling of pay stubs and time records for sampling of class members, applicable compensation plans, documents related to implementing the AWS, etc., and information from Defendant regarding class size and breakdown, work weeks/pay periods, rates of pay, and other relevant information. 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., ¶¶ 6, 13.]

Using that data, Plaintiff ran various calculations under different theories of liability and estimated Corteva's maximum exposure on the class claims at approximately $21,570,150, including about $798,000 on the unpaid minimum wage claims, $377,000 on the underpaid wage/regular rate claim, $5,051,100 on the meal break claims, about $11,262,400 on the rest break claims, $280,000 on the expense reimbursement claim, $1,272,550 on the wage statement claim, and $2,529,100 on the waiting time penalty claim. [Brouillette Decl., ¶ 14.] Plaintiff substantially discounted the value of these claims, however, in light of the multiple and considerable risks posed by proceeding with the litigation.

First, on the unpaid wage claims, Plaintiff alleged that Defendant failed to pay employees for all hours worked in multiple ways. First, she alleged that employees swiped an ID card at the security gate, which swipes were used account for hours worked. Per Plaintiff, however, review of the payroll records produced does not correlate with the electronic records and suggests employees were paid according to their scheduled hours rather than their actual hours worked. She further alleges Defendant "auto deducted" 30 minutes of employee time each shift for their meal periods even though meal periods could be missed or cut short. As a result of these issues, Plaintiff alleges employees lost an hour or more of "off the clock" time per week. Under the California Supreme Court's decision in <u>Troester v. Starbucks Corporation</u> (2018) 5 Cal.5th 829, Corteva violated minimum wage and overtime laws each shift it failed to compensate employees for all hours worked, even when the lost time is nominal. "[A]n employer that requires its employees to work minutes off the clock on a regular basis or as a regular feature of the job may not evade the obligation to compensate the employee for that time by invoking the de minimis doctrine. A few extra minutes of work each day can add up." [Brouillette Decl., ¶ 15.]

Plaintiff also argued class members were not paid all wages due because Corteva did not include certain forms of compensation, primarily shift differential pay and bonuses, in the "regular rate of pay" used to calculate the correct rates for meal/rest period premiums and sick pay. In Ferra v. Loews Hollywood Hotel, LLC (2021) 11 Cal.5th 858 (2021), the California Supreme Court held “that the term ‘regular rate of compensation’ in section 226.7(c) has the same meaning as ‘regular rate of pay’ in section 510(a) and encompasses not only hourly wages but all nondiscretionary payments for work performed by the employee” such as meal period premium payments. Id. at 878. Similarly, Labor Code section 246 likewise requires that sick pay must be paid at the “regular rate” of pay. Labor Code. § 246(l)(1)-(2). As a result, Plaintiff contends Corteva underpaid the Class Members for their sick pay as well those occasions Corteva paid a meal period penalty premium. [Brouillette Decl., ¶ 16.]

Plaintiff also contended Defendant failed to provide all required meal and rest breaks on a fully compliant basis. Here, as noted Plaintiff claims Defendant used an “auto deduct” policy for meal periods whereby 30 minutes of time were deducted from employee time each shift regardless of whether a meal period occurred and regardless of how long the break lasted. In fact, per Plaintiff, there were numerous “de facto” violations where employee did in fact not receive a lunch break, a lunch break was cut short, or was untimely and started after the fifth hour or work. Under California law, "[i]f time records show missed, short, or delayed meal periods with no indication of proper compensation, then a rebuttable presumption [of meal period violations] arises" against the employer, including at the summary judgment stage. Donohue v. AMN Servs. LLC (2021) 11 Cal.5th 58, 77. Per Plaintiff’s experts, the time and pay records reviewed suggest around 96% of shifts eligible for a meal period reflect an exact 30 minute deduction, even though Plaintiff’s experts also believe that 71% of shifts also reflect a unique violation, including missed, untimely, and short meal periods. Plaintiff further alleges the same issues plagued unpaid rest breaks, and that breaks either were not provided, cut short, or interrupted by work. [Brouillette Decl., ¶ 17.]

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, and that they in fact took all required breaks on a compliant basis as reflected in Corteva’s contemporaneous time records. 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. [Brouillette Decl., ¶ 18.]

For her expense reimbursement claims, Plaintiff claims employees were required to use her personal cell phone to log into her work station, and had to download an app on to their phones and receive two-factor authentication codes from Corteva's security software. [Brouillette Decl., ¶ 19.] Under California law an employee does not have to request reimbursement to trigger an employer's reimbursement obligation, and if an employer "knows or has reason to know that the employee has incurred a reimbursable expense. . . it has the duty to exercise due diligence and take any and all reasonable steps to ensure that the employee is paid for the expense." Stuart v RadioShack (N.D. Cal. 2009) 641 F.Supp.2d 901, 903-04.

Plaintiff also alleged derivatively that, as a result of the above alleged violations, Defendant failed to provide accurate wage statements and failed to timely pay all wages that were due and owing upon separation of employment. Thus, should the primary claims fail, Plaintiff's derivative claims 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 that Defendant "willfully" failed to pay Class Members appropriate wages due upon separation of employment. Defendant contends that any failure to pay wages upon separation was not willful. [Brouillette Decl., ¶ 20.]

As far as potential PAGA liability, the PAGA Members theoretically are entitled to penalties totaling upwards of $5.15 million should Plaintiff prevail on all claims and establish violations of the multiple Labor Code sections at issue. [Brouillette Decl., ¶ 21.] As with the class claims, Plaintiff discounted the potential PAGA penalties since the Court possesses 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 $20,000 to PAGA penalties, which amount Plaintiff submits 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.

The settlement obviates the significant risk that this Court may find any kind of class resolution unachievable or might deny certification of all or some of Plaintiff's claims. Furthermore, even if Plaintiffs obtained certification of all or some of the claims, continued litigation would be expensive as the parties pursued merits discovery, a probable motion to decertify, as well as trial and possible appeals, and would substantially delay any recovery by the class with no assurance of recovering significantly more than the proposed settlement. Overall, while Plaintiff is confident in the merits of his claims, a legitimate controversy exists as to each cause of action. Plaintiff also recognizes proving the amount of wages and penalties due each Class Member would be an expensive and uncertain proposition. [Brouillette Decl., ¶ 22.]

Plaintiff and 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 $1,750,000 recovery represents a significant percentage of Defendant's potential exposure and, given the risks addressed above, a total recovery for the class of $1,750,000, which will result in average award of over $2,100 per class member, 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., ¶ 23.]

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"); Lane v. Facebook, Inc., 696 F.3d 811, 819 (9th Cir. 2012) ("[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"); 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). 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 his 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 Apex for its services as the Settlement Administrator. As set forth in the Declaration of Madely Shim, Apex performed and will continue to perform its required duties through final distribution of the settlement funds and incurred $10,800 in fees and expenses. [Shim Decl., ¶ 20.] Plaintiff accordingly requests the Court approve payment of $10,800 to Apex from the GSA. [Brouillette Decl., ¶ 24.]

VI. PLAINTIFF'S ENHANCEMENT AWARD

Pursuant to the terms of the settlement, Plaintiff seeks a modest incentive award of $10,000 for her service in bringing these claims on behalf of the Class. The request is reasonable given the risks she undertook on behalf of the Class Members, and by contacting and retaining counsel to pursue these claims, Plaintiff helped make this settlement possible for the absent Class Members, while shouldering the risk of being liable for Defendant's litigation costs. Plaintiff also exposed herself to unwanted notoriety related to filing a public lawsuit (discoverable even through a simple google search) for the benefit of other employees, placing herself at risk of discrimination by future prospective employers. 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, and kept abreast of all significant developments. [Declaration of Maryana Alhark, ¶¶ 2-9; Brouillette Decl., ¶ 25.] 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

A. The Attorney's Fees Requested Are Fair and 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., ¶¶ 15-21.]

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 $2,331, and with a maximum award of over $4,800. 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. [Shim Decl., ¶¶ 11-12.]

B. 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 33.33% of the GSA for attorney's fees, or $583,333.33, and up to $25,000 in reimbursement for litigation costs and expenses (only $12,165.90 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., ¶ 26.] 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.

C. 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 33.33% of the GSA, and specifically $583,333.33. 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. 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.").

D. 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 195.9 hours of time on this matter, resulting in a modest and very reasonable lodestar of $156,780.

Over the two plus 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 complaint and related documents; (4) case management, including communications with defense counsel, meeting and conferring/preparing case management statements, etc.; (5) lengthy discussions with defense counsel regarding settlement/mediation and informal discovery needed for meaningful settlement discussions; (6) engaging in substantial informal discovery, including propounding informal discovery "requests" and reviewing documents and other information produced; (7) working with a consulting expert on the analysis of Defendant's informal production; (8) drafting a mediation brief and accompanying damages model after review and analysis of defendant's formal and informal discovery production; (9) attending an all-day mediation; (10) negotiating and drafting the settlement agreement and related documents; (11) drafting the consolidated amended complaint to effectuate the settlement; (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., ¶ 27, 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 $156,780, and the lodestar is based on an eminently reasonable number of hours worked to litigate this matter to a successful conclusion (195.9 attorney hours). 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 $583,33.33 represents the base lodestar with a reasonable upward modifier of 3.72, which is entirely in line with California precedent. [Brouillette Decl., ¶¶ 28-46.] Indeed, California courts routinely approve multipliers in the in the 2-4 range to compensate for the time and risk of class action cases. Indeed, courts in California and elsewhere routinely approve multipliers at or even in excess of the modifier here. Wershba, 91 Cal.App.4th at 255 ("Multipliers can range from 2 to 4 or even higher."); In Re IDB Communication Group, Inc. Sec. Litig. (C.D. Cal. Jan. 17, 1997) (common fund award with lodestar crosscheck and 6.2 multiplier); Kraft v. County of San Bernardino (C.D. Cal. 2008) 624 F.Supp.2d 1113, 1125 (common fund award with lodestar crosscheck and 5.2 multiplier in civil rights litigation, and collecting cases with modifiers up to 19.6); In re Rite Aid Corp. Sec. Litig., (E.D. Pa. 2001) 146 F.Supp.2d 706 (common fund award with lodestar crosscheck and a multiplier of 4.5-8.5, which the court described as "handsome" but "unquestionably reasonable"); In re Beverly Hills Fire Litig. (E.D. Ky. 1986) 639 F. Supp. 915 (multiplier of 5 for lead counsel). Class Counsel submits that the requested 3.72 multiplier, while "handsome," effectively operates to show that the percentage fee request is reasonable considering the challenges presented in this contingency fee matter, the excellent result and substantial average payout to the class members, and appropriately compensates Class Counsel for the contingent risk assumed and delay in payment during the 2.5+ years counsel have been representing Plaintiff. Thus, the multiplier results in a fee constituting a fair return on the contingency.

E. 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.

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. Paul, Johnson, Alston & Hunt v. Graulty (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 complaint, 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., ¶¶ 47-48.]

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 Plaintiff 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, noncontingent 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 Plaintiff's 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 Plaintiff's 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., ¶¶ 47-48.] 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 amounting to 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 33.33% 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.

F. 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 $21,165.90 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 requests reimbursement for costs in the amount of $21,165.90, consistent with the cap imposed under the Settlement Agreement. [Brouillette Decl., ¶¶ 49-50.]

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. Plaintiff further requests the Court approve payment of the Settlement Administrator's fees and expenses, approve the requested class representative enhancement payment, approve the award of attorney's fees and costs as requested, and enter judgment in this action. Finally, Plaintiff requests the Court set a final compliance hearing for January __, 2027, or a later date convenient for the Court.

Dated: January 6, 2026

CROSNER LEGAL, P.C.

By: ______________________

Brandon Brouillette

Attorneys for Plaintiff