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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES—SPRING STREET COURTHOUSE**

KEITH PENDER, individually, and on behalf
of other members of the general public
similarly situated and other aggrieved
employees pursuant to the California Private
Attorneys General Act,

Plaintiff,

v.

CONGREGATIONAL HOMES, INC., an
unknown business entity; and DOES 1 through
100, inclusive,

Defendant.

Case No.: 21STCV29229

Honorable William F. Highberger
Department SSC10

CLASS ACTION

**PLAINTIFFS' NOTICE OF MOTION
AND MOTION FOR FINAL APPROVAL
OF CLASS ACTION SETTLEMENT,
CLASS COUNSEL FEES PAYMENT,
CLASS COUNSEL LITIGATION
EXPENSES PAYMENT, AND CLASS
REPRESENTATIVE ENHANCEMENT
PAYMENT; MEMORANDUM OF
POINTS AND AUTHORITIES IN
SUPPORT THEREOF**

[Declaration of Class Counsel
(Edwin Aiwazian); Declaration of Class
Representative (Keith Pender); Declaration
of Settlement Administrator (Yami Burns);
and [Proposed] Final Approval Order and
Judgment filed concurrently herewith]

Date: December 1, 2023
Time: 10:00 a.m.
Department: SSC10

Complaint Filed: August 9, 2021
FAC Filed: April 19, 2023
Trial Date: None Set

1 **PLEASE TAKE NOTICE** that on December 1, 2023 at 10:00 a.m., in Department
2 SSC10 of the above-entitled Court, located at 312 North Spring Street, Los Angeles, California
3 90012, Plaintiff Keith Pender (“Plaintiff”) will and hereby does move for an order granting final
4 approval of:

5 1. The Joint Stipulation of Class Action and PAGA Settlement and Release of
6 Claims (“Settlement,” “Agreement,” or “Settlement Agreement”) on the grounds that the
7 Settlement is fair, adequate, and reasonable because:

- 8 • A Net Settlement Amount of approximately **\$1,003,096.44** will be fully distributed to
9 the Class Members who did not timely opt out of the Settlement (“Participating Class
10 Member”);
- 11 • **No Objections to the Settlement** were submitted to the settlement administrator,
12 Phoenix Settlement Administrators (“Settlement Administrator”);
- 13 • **No Requests for Exclusion** were submitted to the Settlement Administrator;

14 2. Payment in the amount of **\$584,933.33** to Lawyers *for* Justice, PC (“Class
15 Counsel”), representing one-third (1/3) of the Maximum Settlement Amount, for attorneys’ fees,
16 which is reasonable and justified on a percentage-basis and also based on a lodestar cross-check
17 with a multiplier of 1.20;

18 3. Payment in the amount of **\$12,770.23** to Class Counsel for reimbursement of
19 litigation costs and expenses;

20 4. Payment in the amount of **\$12,500.00** to the Settlement Administrator, Phoenix
21 Settlement Administrators (“Phoenix”), for Settlement Administrator Payment;

22 5. Payment in the amount of **\$10,000.00** to Plaintiff Keith Pender, as a Class
23 Representative Enhancement Payment, for his time and effort in representing the Class; and

24 6. Allocation of the penalties under the Private Attorneys General Act of 2004,
25 California Labor Code section 2698, *et seq.*, in the amount of \$130,000.00, of which seventy-five
26 percent (75%), or **\$97,500.00**, will be paid to the California Labor and Workforce Development
27
28

Agency and twenty-five percent (25%), and **\$32,500.00**, will be distributed to the PAGA Group Members.

This Motion is made pursuant to Rule 3.769 and Rule 3.1113(e) of the California Rules of Court, which require approval by the Court of a class action settlement and permit the Court to extend the page limit for memoranda.

This motion is based upon the following Memorandum of Points and Authorities; the Declarations of Class Counsel (Edwin Aiwasian), Class Representative (Keith Pender), and Settlement Administrator (Yami Burns of Phoenix) in support thereof; the pleadings and other records on file with the Court in this matter; and such evidence and oral argument as may be presented at the hearing on this Motion.

Dated: November 6, 2023

LAWYERS for JUSTICE, PC

By: _____



Brian J. St. John
Attorneys for Plaintiff and the Class

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MEMORANDUM OF POINTS AND AUTHORITIES

I. SUMMARY OF MOTION

Plaintiff Keith Pender (“Plaintiff”) seek final approval of: (1) the Maximum Settlement Amount of \$1,754,800.00; (2) attorneys’ fees in the amount of \$584,933.33 (“Class Counsel Fees Payment”), which is one-third (1/3) of the Maximum Settlement Amount¹, and reimbursement of litigation costs and expenses in the amount of \$12,770.23 (“Class Counsel Litigation Expenses Payment”) to Lawyers for Justice, PC (“Class Counsel”); (3) Settlement Administrator Payment in the amount of \$12,500.00 to Phoenix Settlement Administrators. (“Phoenix” or “Settlement Administrator”); (4) Class Representative Enhancement Payment in the amount of \$10,000.00 to Plaintiff Keith Pender; and (5) allocation of \$130,000.00 for penalties under the Private Attorneys General Act of 2004, California Labor Code § 2698, *et seq.* (“PAGA Penalties”).

Plaintiff seeks relief on behalf of the following Class:

Any and all current and former non-exempt employees who worked for Defendant in California at any time from August 9, 2017 through October 31, 2022 (“Class” or “Class Members”).²

This matter involved ongoing investigations, informal discovery, review and analysis of a large volume of information, documents, and data in the course of litigation, mediation conducted by Lynn Frank, Esq., and extensive settlement negotiations. This matter has required 577.20 hours of attorney time by Class Counsel. As will be demonstrated herein, the request for attorneys’ fees, which represents one-third (1/3) of the Maximum Settlement Amount, is fully supported by the use of the percentage-fee method. Courts have historically awarded fees of up to fifty percent (50%) of the recovery. The requested attorneys’ fees are also supported under the lodestar cross-check method.³

¹ The Joint Stipulation of Class Action and PAGA Settlement and Release of Claims (“Settlement Agreement”) and Notice of Class Action Settlement (“Class Notice”) provide that Class Counsel will seek an award of up to 35% of the Maximum Settlement Amount. However, Class Counsel only seeks attorneys’ fees equal to one-third of the Maximum Settlement Amount.

² Settlement Agreement, § I.2. “Class Period” is defined as the period of time from August 9, 2017 through October 31, 2022. *See id.*, § I.8.

³ Applying a reasonable rate of \$850 per hour to 577.20 hours of work performed by Lawyers for Justice, PC would place a base lodestar value of \$490,620.00. Applying a modest multiplier of 1.20, the total enhanced lodestar fees

Plaintiff moves for final approval of the Class Representative Enhancement Payment in the amount of \$10,000.00 to Plaintiff Keith Pender to compensate Plaintiff for the time and effort that they expended spearheading this lawsuit on behalf of the Class. Plaintiff also moves for final approval of the payment to the Settlement Administrator in the amount of \$12,500.00 for Settlement Administrator Payment. Plaintiff also move for final approval of the allocation of \$130,000.00 for the PAGA Penalties, of which \$97,500.00 will be paid to the California Labor Workforce and Development Agency (“LWDA”) for its portion of the PAGA Penalties (“LWDA Payment”), and \$32,500.00 (the “PAGA Employee Payment”) will be distributed to all current and former non-exempt employees who worked for Defendant in California during the PAGA Period (“PAGA Group Members”).⁴

The requests for Class Counsel Fees Payment and Class Counsel Litigation Expenses Payment, Class Representative Enhancement Payment, Settlement Administrator Payment, and allocation for the PAGA Penalties were fully disclosed in the Notice of Class Action Settlement (“Class Notice”) that was mailed to the Class Members. Most importantly, as of the date of this Motion, *not a single Class Member has objected to any aspect of the Settlement, including the requested Class Counsel Fees Payment and Class Counsel Litigation Expenses Payment, Class Representative Enhancement Payment, Settlement Administrator Payment, or PAGA Penalties.*

The Settlement is fair, adequate, and reasonable, and is the product of arm’s-length, good-faith negotiations by experienced counsel presided over by a highly-regarded mediator who is experienced in mediating wage-and-hour class action lawsuits. Accordingly, the Court should grant final approval of the Settlement, and award Class Counsel Fees Payment and Class Counsel Litigation Expenses Payment, Class Representative Enhancement Payment, Settlement Administrator Payment, and PAGA Penalties in the amounts as fully disclosed to the Class and as requested herein.

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are \$588,744.00, and Class Counsel seeks an attorneys’ fees award of \$584,933.33 (equal to 1/3 of the Maximum Settlement Amount).

⁴ Settlement Agreement, §§ I.26 & IV.70(c). “PAGA Period,” means the period of time from August 9, 2017 through October 31, 2022. *See id.*, § I.27.

1 In order to efficiently present the Court with adequate information to determine whether
2 to grant final approval of the Settlement and award Class Counsel Fees Payment, Class Counsel
3 Litigation Expenses Payment, Class Representative Enhancement Payment, Settlement
4 Administrator Payment, and PAGA Penalties, Plaintiff also move for an order permitting the
5 filing of this single consolidated memorandum, although it exceeds the page limit established by
6 California Rules of Court, Rule 3.1113(d), instead of filing several separate motions.

7 **II. PROCEDURAL HISTORY AND FACTUAL BACKGROUND**

8 Defendant is a “life care” community that offers on-campus independent, assisted living,
9 skilled nursing, and memory care communities. Plaintiff Keith Pender is a former employee of
10 Defendant.

11 On August 9, 2021, Plaintiff filed a Class Action Complaint for Damages in the Los
12 Angeles County Superior Court (“Court”), thereby commencing the above-captioned lawsuit
13 (“Action”).

14 On January 27, 2023, Plaintiff submitted notice to the California Labor & Workforce
15 Development Agency (“LWDA”) and Defendant of her intent to pursue civil penalties under the
16 Private Attorneys General Act, Cal. Labor Code § 2698, *Et Seq.* (“LWDA Exhaustion Letter”).

17 On April 19, 2023, Plaintiff filed a First Amended Class Action Complaint for Damages
18 & Enforcement Under the Private Attorneys General Act, California Labor Code § 2698, *Et Seq.*
19 (“Operative Complaint”).

20 Plaintiff’s core allegation is that Defendant has violated the California Labor Code by
21 engaging in a uniform practice and procedure, with respect to Plaintiff and the Class Members,
22 of, *inter alia*, failing to pay all overtime and minimum wages, failing to provide compliant meal
23 and rest periods and associated premium pay, failing to timely pay wages during employment
24 and upon termination of employment, failing to provide compliant wage statements, failing to
25 maintain requisite payroll records, and failing to reimburse necessary business expenses, and
26 thereby engaged in unfair business practices in violation of California Business and Professions
27 Code section 17200, *et seq.* and conduct that gives rise to penalties pursuant to PAGA. Plaintiff
28

1 contends that he, and the Class Members, are entitled to, *inter alia*, unpaid wages, penalties
2 (including and not limited to, penalties pursuant to PAGA), and attorneys' fees.

3 Defendant has denied, and continues to deny, any liability and wrongdoing of any kind
4 associated with any of the allegations in the Action, and further denies that the Action is
5 appropriate for class treatment or representative adjudication for any purpose other than for
6 settlement purposes only.

7 The Parties have actively litigated the Action since it was commenced on August 9, 2021.
8 On September 1, 2022, the Parties participated in a formal, full-day mediation conducted by
9 Lynn Frank, Esq., a well-regarded mediator experienced in mediating complex labor and
10 employment matters. With the aid of the mediator's evaluation, the Parties ultimately reached the
11 Settlement described herein to resolve the Action in its entirety.

12 On May 22, 2023, Plaintiff filed a Motion for Preliminary Approval of Class Action
13 Settlement ("Motion for Preliminary Approval") and supporting documents seeking approval of
14 the settlement entered into by Plaintiff and Defendant (together, the "Parties").

15 On July 6, 2023, the Court posted a message to the Caseanywhere Message Board
16 wherein the Court wherein the court raised certain points of inquiry regarding the Settlement. On
17 July 24, 2023, Plaintiff filed supplemental briefing in support of the Motion for Preliminary
18 Approval.

19 On July 27, 2023, the Court entered an Order Granting Preliminary Approval of Class
20 Action Settlement ("Preliminary Approval Order"), thereby preliminarily approving the terms
21 of the Settlement, the Class Notice, and the proposed administration procedures and associated
22 deadlines.

23 Plaintiff now moves for final approval of the Settlement, Class Counsel Fees Payment,
24 Class Counsel Litigation Expenses Payment, Class Representative Enhancement Payment,
25 Settlement Administrator Payment, and PAGA Penalties.

26 ///

27 ///

III. SUMMARY OF THE SETTLEMENT TERMS AND PLAN OF DISTRIBUTION

Under the terms of the Settlement Agreement, Defendant has agreed to pay a Maximum Settlement Amount of \$1,754,800.00 on a non-reversionary basis.⁵ Subject to approval by the Court, the Net Settlement Amount will be calculated by deducting the following amounts from the Maximum Settlement Amount: (1) Class Counsel Fees Payment and Class Counsel Litigation Expenses Payment, consisting of attorneys' fees in the amount of \$584,933.33 and reimbursement of litigation costs and expenses in the amount of \$12,770.23, to Class Counsel; (2) Class Representative Enhancement Payment in the combined amount of \$30,000.00 to Plaintiff Keith Pender; (3) Settlement Administrator Payment in the amount of \$12,500.00 to Phoenix; and (4) payment to the LWDA and PAGA Group Members in the amount of \$130,000.00.⁶ The Net Settlement Amount, which is estimated to be \$1,003,096.44, will be distributed in accordance with the Settlement Agreement, and there is no reversion to Defendant.⁷

The Settlement Administrator will calculate each Participating Class Member's share of the Net Settlement Amount ("Settlement Share"), by taking the Net Settlement Amount and dividing it by the sum of all weeks in which Class Members actually performed paid work for Defendant during the Class Period as non-exempt employees ("Workweeks") to yield the "Final Workweek Value", and multiplying each Participating Class Members' individual Workweeks by the Final Workweek Value to yield his or her Settlement Share.⁸

The Parties have agreed that the Settlement Administrator will determine each PAGA Group Member's *pro rata* share of the PAGA Employee Amount ("PAGA Payment Share"), by taking the PAGA Employee Amount and dividing it by the sum of all pay periods during the

⁵ Settlement Agreement; § I.19.

⁶ *Id.*, § I.20.

⁷ This amount is higher than the amount stated in Paragraph 12 of the accompanying Declaration of Yami Burns Regarding Notice and Settlement Administration ("Phoenix Declaration" or "Phoenix Decl.") because the Settlement Administrator's calculation assumes that Class Counsel will obtain litigation costs and expenses in the maximum amount of \$25,000.00 and attorneys' fee's equal to 35% of the Maximum Settlement Amount, which are allocated under the Settlement. However, Class Counsel seeks the amount of only \$12,770.23 for reimbursement of litigation costs and expenses (and the difference of \$12,229.77 will remain part of the Net Settlement Sum) and only one-third of the Maximum Settlement Amount in Attorneys' Fees.

⁸ Settlement Agreement, §§ I.36 & IV.65(a)-(c).

PAGA Period in which a PAGA Group Member actually received payment from Defendant as a non-exempt employee (“Pay Period”) to yield the “Pay Period Value”, and multiplying each PAGA Group Members’ individual Pay Periods by the Pay Period Value to yield his or her PAGA Payment Share.⁹

Class Members had forty-five (45) calendar days after the initial mailing of the Class Notice to Class Members to dispute the number of Workweeks and/or Pay Periods credited to each of them, opt out of the Class Settlement, and/or object to the Class Settlement (“Response Deadline”).¹⁰ The Response Deadline was July 24, 2023.¹¹ The Settlement Administrator has not received three (3) written requests for exclusion from the Class Settlement (“Requests for Exclusion”) or no written objections (“Objections”) to the Class Settlement from Class Members.¹²

Each Participating Class Member’s Settlement Share will be allocated as follows: ten percent (10%) as wages (the “wage portion”), which will be reported on an IRS Form W-2; and the remaining ninety percent (90%) as penalties, interest, and other non-wage damages, which will be reported on an IRS Form 1099.¹³ One hundred percent (100%) of each PAGA Payment Share shall represent civil penalties.¹⁴ The portion of the Settlement Share shall representing wages shall be paid to each Participating Class Member subject to the any applicable employee-side tax withholdings and deductions.¹⁵ Defendant’s payment of the Employer’s Payroll Taxes attributable to the Settlement Share payments constituting wages will be made separately, and shall not come from the Maximum Settlement Amount.¹⁶

The Settlement Administrator shall establish a settlement account (“Settlement Account”) within ten (10) days of the Effective Date and notify the Parties when the Settlement Account

⁹ Settlement Agreement, §§ I.30 & IV.66(a)-(c).

¹⁰ *Id.*, § 51(b).

¹¹ Phoenix Decl., ¶¶ 8-10, Exh. A.

¹² *Id.*, ¶¶ 8 & 9.

¹³ *Id.*, § IV.67.

¹⁴ *Id.*, § IV.68.

¹⁵ *Ibid.*

¹⁶ *Ibid.*

has been established.¹⁷ The Settlement Administrator shall also provide Defendant with an itemized statement for the total amount to be deposited into the Settlement Account, which shall equal the Maximum Settlement Amount and Employer's Payroll Taxes ("Settlement Account Deposit").¹⁸ Within ten (10) days after receiving notification of the Settlement Account and statement for the Settlement Account Deposit, Defendant shall pay into the Settlement Account an amount equal to the Settlement Account Deposit.¹⁹ Within fourteen (14) calendar days of its receipt of the Settlement Account Deposit, the Settlement Administrator will distribute: (1) the Settlement Shares to Participating Class Members; (2) the Court-approved Class Representative Enhancement Payment to Plaintiff; (3) the Court-approved Class Counsel Fees Payment and Class Counsel Litigation Expenses Payment to Class Counsel; (4) the PAGA Employee Payment to PAGA Group Members; (5) the LWDA Payment to the LWDA; and (6) the Court-approved Settlement Administrator Payment to itself.²⁰

All Settlement Share and/or PAGA Payment Share checks that are not cashed, deposited, or otherwise negotiated, will be cancelled after one hundred and eighty (180) calendar days after first issuance, or in the case of a re-mailed check, will be canceled within ninety (90) calendar days of re-issuance, and funds from such cancelled checks shall be transmitted by the Settlement Administrator to the Controller of the State of California to be held pursuant to the Unclaimed Property Law, California Civil Code Section 1500, *et seq.*²¹

IV. THE SETTLEMENT ADMINISTRATION PROCESS

The Court-appointed Settlement Administrator, Phoenix, has taken all necessary steps to effectuate the notice and settlement administration process, as set forth in the Court's July 27, 2023 Preliminary Approval Order.

On August 15, 2022, Phoenix received the Court-approved text for the Class Notice.

On August 17, 2023, Phoenix received a mailing list from Defendant's counsel that

¹⁷ Settlement Agreement, § III.58.

¹⁸ *Ibid.*

¹⁹ *Ibid.*

²⁰ *Id.*, §§ III.59, III.60, III.70(a), III.70(b).

²¹ *Id.*, § III.62.

1 contained the (i) each Class Member's last-known first and last name, (ii) the last-known mailing
2 address, (iii) the Class Member's Social Security number or Tax ID, (iv) the Class Member's
3 total number of individual Workweeks, and (v) the Class Member/PAGA Group Member's total
4 number of individual Pay Periods ("Class Members' Data").²² The Class Members' Data
5 contained information for seven hundred seventy-two (772) individuals identified as Class
6 Members.²³ Phoenix processed the names and addresses through the National Change of
7 Address Database ("NCOA") and updated the Class Members' Data with any updated addresses
8 located.²⁴

9 On May 24, 2023, Phoenix mailed the Class Notice via First Class Mail to seven hundred
10 seventy-two (772) individuals identified as Class Members in the Class Members' Data.²⁵

11 As of the date of this Motion, thirty-one (31) Class Notices were returned as
12 undeliverable.²⁶ Zero (0) Class Notices were returned with a forwarding address.²⁷ For those
13 without forwarding addresses, Phoenix attempted to find a forwarding address using Accurint, a
14 reputable research tool owned by Lexis-Nexis.²⁸ Phoenix used the Class Member's name and
15 previous address to locate a current address for twenty-four (24) addresses and promptly mailed
16 a Class Notice to those updated addresses.²⁹ Of the twenty-four (24) updated addresses that were
17 remailed, three (3) notices were returned a second time.³⁰ Ultimately, ten (10) Class Notices
18 remain undeliverable.³¹

19 As of the date of this Motion, the Settlement Administrator has received three (3)
20 Requests for Exclusion and has not received any written Objections or disputes regarding
21 Workweeks/Pay Periods from Class Members.³²

22 ²² Phoenix Decl., ¶ 3.

23 ²³ Ibid.

24 ²⁴ *Id.*, ¶ 4.

25 ²⁵ *Id.*, ¶ 5.

26 ²⁶ *Id.*, ¶ 6.

27 ²⁷ Ibid.

28 ²⁸ Ibid.

²⁹ *ibid.*

³⁰ Ibid.

³¹ *Id.*, ¶ 7.

³² *Id.*, ¶¶ 8-10.

To date, there are seven hundred sixty-nine (769) Class Members who did not submit a timely and valid Request for Exclusion, and are therefore, deemed to be Participating Class Members.³³

Pursuant to the terms of the Settlement, the Net Settlement Amount of approximately \$1,003,096.44 will be distributed to Participating Class Members in accordance with the terms of the Settlement.³⁴ The highest Settlement Share is currently estimated to be \$3,254.10 and the average Settlement Share is currently estimated to be \$1,252.43.³⁵ The highest PAGA Payment Share is currently estimated to be \$109.22 and the average PAGA Payment Share is currently estimated to be \$42.10.³⁶

V. THE COURT SHOULD GRANT FINAL APPROVAL OF THE CLASS ACTION SETTLEMENT.

The trial court has broad discretion to determine whether a class action settlement is fair and reasonable. *Chavez v. Netflix, Inc.* (2008) 162 Cal.App.4th 43, 52. To determine whether the settlement is fair and reasonable, courts consider relevant factors such as:

the strength of plaintiffs' case, the risk, expense, complexity and likely duration of further litigation, the risk of maintaining class action status through trial, the amount offered in settlement, the extent of discovery completed and the stage of the proceedings, the experience and views of counsel, the presence of a governmental participant, and the reaction of the class members to the proposed settlement.

Dunk v. Ford Motor Co. (1996) 48 Cal.App.4th 1794, 1801. "The list of factors is not exclusive and the court is free to engage in a balancing and weighing of the factors depending on the circumstances of each case." *Wershba v. Apple Computer, Inc.* (2001) 91 Cal.App.4th 224, 245. "Due regard should be given to what is otherwise a private consensual agreement between the parties." *Dunk, supra*, 48 Cal.App.4th at 1801.

³³ Phoenix Decl., ¶ 11.

³⁴ *Id.*, ¶ 12; see also, n.7, *supra*.

³⁵ *Id.*, ¶ 13. The actual average and highest Settlement Shares will be larger than the amounts stated in the Phoenix Declaration because the Net Settlement Amount is larger due to Class Counsel's request for reimbursement of litigation costs and expenses in an amount that is less than \$25,000.00 (the difference between the amount sought and the amount authorized under the Settlement, i.e., \$12,229.77, will be part of the Net Settlement Sum) and Class Counsel only seeks only one-third of the Net Settlement Sum for Attorneys' Fees. See n.7, *supra*.

³⁶ *Id.*, ¶ 14.

The proponent of the settlement has the burden to show that it is fair and reasonable. *Wershba, supra*, 91 Cal.App.4th at 245. At the final approval stage, a presumption of fairness exists where, as here: “(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, supra*, 48 Cal.App.4th at 1802. In reviewing a class settlement, the court need not reach any ultimate conclusions on the issues of fact and law that underlie the merits of the dispute. *7-Eleven Owners for Fair Franchising v. Southland Corp.* (2000) 85 Cal.App.4th 1135, 1146. The inquiry is not whether the settlement agreement is the best one that class members could have possibly obtained, but whether the settlement, taken as a whole, is “fair, adequate, and reasonable.” *Chavez v. Netflix, Inc.* (2008) 162 Cal.App.4th 43, 55. A settlement need not obtain 100 percent of the damages sought in order to be fair, reasonable, and ultimately, meaningful. *Wershba, supra*, 91 Cal.App.4th at 251. Even if the proposed settlement affords relief that is substantially narrower than it would be if the case were to be successfully litigated, that 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 prolonged litigation. *Id.*

A. The Settlement Resulted from Arm’s-Length Negotiations Based Upon Extensive Investigation and Discovery.

The parties actively litigated the case since it was commenced on August 9, 2021. Counsel for the parties used the pre-mediation time to investigate the veracity, strength, and scope of the claims, and Class Counsel was preparing the action for class certification and trial.³⁷ In the course of litigation, mediation, and settlement negotiations, Plaintiff conducted significant investigation and informal discovery regarding the facts of the case, including and not limited to, the exchange, review, and analysis of thousands of pages of information, documents, and data obtained from Defendant and other sources.³⁸ Class Counsel also interviewed and obtained

³⁷ Aiwazian Decl., ¶ 6.

³⁸ *Ibid.*

information from Plaintiff and other percipient witnesses to gather information regarding the facts and circumstances surrounding Plaintiff's and putative class members' employment and to analyze and assess class certification-related and trial-related issues, and reviewed and analyzed a large volume of information, documents, and data produced by Defendant and obtained through other sources.³⁹ The information, documents, and data reviewed and analyzed by Class Counsel included, and were not limited to: Plaintiff's employment records, a detailed sampling of Class Members' time and pay data, Defendant's Employee Handbooks operations and employment policies, practices, and procedures documents, among other information and documents.⁴⁰ Class Counsel interviewed Plaintiff and other Class Members to gather facts and to identify potential witnesses. Class Counsel researched applicable law, developed liability, damages, and penalties valuation models in preparation for mediation, and met and conferred with Defendant's counsel on numerous occasions, e.g., to discuss issues relating to the pleadings, case management, and the production of information, documents, and data in the course of litigation and mediation and settlement negotiations.⁴¹

After conducting investigations, informal discovery, and exchange of information, the parties participated in a formal, full-day mediation conducted by Lynn Frank, Esq., a well-respected mediator experienced in mediating complex labor and employment matters.⁴²

In the course of litigation and mediation and settlement negotiations, the Parties exchanged class information and engaged in an extensive discussion regarding their evaluations of the case and various aspects of the case, including but not limited to, the risks and delays of further litigation, the risks to the Parties of proceeding with class certification and/or representative adjudication, the law relating to off-the-clock theory, meal and rest periods, regular rate, rounding, PAGA representative actions, and wage-and-hour law and enforcement, as well as the evidence produced and analyzed, and the possibility of appeals, among other

³⁹ Aiwazian Decl., ¶ 6.

⁴⁰ Ibid.

⁴¹ Ibid.

⁴² *Id.*, ¶ 8.

things.⁴³ During all settlement discussions, the Parties conducted their negotiations at arm's length in an adversarial position.⁴⁴ Arriving at a settlement that was acceptable to all Parties was not easy.⁴⁵ Defendant and their counsel felt very strongly about Defendant's ability to prevail on the merits and to obtain a denial of class certification, while Plaintiff and Class Counsel disagreed with these contentions and believed that they would be able to obtain class certification and would prevail at trial.⁴⁶ After conducting investigations, informal discovery, and exchange of information, extensive settlement negotiations, and with the aid of the mediator's evaluation, the Parties have agreed that the matter is well-suited for settlement given the legal issues relating to Plaintiff's principal claims, as well as the costs and risks to both sides that would attend further litigation.⁴⁷

The Settlement takes into account the strengths and weaknesses of each side's position and the uncertainty of how the case might have concluded at certification, trial, and/or appeals. Class Counsel also performed significant research into the applicable law, which is constantly evolving as it relates to certification, representative PAGA claims, off-the-clock theory, meal and rest periods, wage-and-hour law and enforcement, Plaintiff's claims and allegations, Defendant's defenses thereto, as well as facts discovered.⁴⁸ The Settlement was based on this large volume of facts, evidence, and investigation.⁴⁹ Additionally, Class Counsel has extensive experience in handling complex wage-and-hour matters, including significant experience in employment class action litigation.⁵⁰

B. The Risks Inherent in Continued Litigation Favor Final Approval of the Settlement.

The Settlement, which provides for a Maximum Settlement Amount of \$1,754,800.00, represents a fair, adequate, and reasonable resolution of the case, given the risks inherent in

⁴³ Aiwazian Decl., ¶ 8.

⁴⁴ Ibid.

⁴⁵ Ibid.

⁴⁶ Ibid.

⁴⁷ Ibid.

⁴⁸ *Id.*, ¶ 7.

⁴⁹ *Id.*, ¶¶ 5-8.

⁵⁰ *Id.*, ¶¶ 16-17.

1 litigating class and representative claims through certification proceedings, trial, and/or appeals.⁵¹
2 The Settlement was calculated using information and data uncovered through extensive case
3 investigation, informal discovery, and the exchange of information in the context of mediation.⁵²
4 Had the action not settled, Defendant would have vigorously challenged class certification,
5 manageability of representative adjudication, and liability. Defendant contended that
6 individualized questions of fact predominate over any common issues, and these issues would
7 pose challenges to certification and representative adjudication. Defendant would have likely
8 argued again at trial, if any, that Plaintiff's claims were not appropriate for class-wide and/or
9 representative adjudication. On the other hand, Defendant also faced the risk of the Court
10 certifying a class and allowing a jury to decide Plaintiff's claims on a class-wide or
11 representative basis. Additionally, preparation for trial would have been expensive for all
12 parties.

13 It is preferable to reach an early resolution of a dispute because such resolutions save
14 time and money that would otherwise go to litigation. If this matter had settled after further
15 litigation, the settlement amount would have taken into account the additional costs incurred, and
16 there might have been less money available for Class Members after all was said and done. This
17 is not just an abstract contention. The risks and expenses of further litigation outweighed any
18 benefit that might have been gained otherwise. These risks of further litigation include a
19 determination that the claims were unsuitable for class treatment and/or representative
20 adjudication, failure to obtain certification, class de-certification after certification of a class,
21 allowing a jury to decide the claims asserted in the case, and the real possibility of no recovery
22 after years of litigation. Additionally, the parties were moving into the phase of the litigation
23 where they would have to conduct a significant amount of discovery, including and not limited
24 to, depositions of Defendant's Person Most Knowledgeable designees, expert witnesses, and
25 percipient witnesses, such as managers, supervisors, and other current and former employees
26 throughout the State of California. Discovery would have certainly arisen, which would have

27 ⁵¹ Aiwazian Decl., ¶¶ 9 & 21.

28 ⁵² *Id.*, ¶¶ 5-8.

1 cost the parties additional time and money. In contrast, the Settlement provides real and
2 significant benefits for the Class here and now, while avoiding the further expenses, risks, and
3 delay of prolonged litigation with only the possibility of recovery.

4 It would be grossly inefficient for such a large class of current and former employees to
5 bring individual actions to recover from Defendant for the alleged violations of wage-and-hour
6 laws. Moreover, the potential individual recovery that could be obtained by a Class Member
7 would not be significant enough to provide him or her with the incentive to sue. By granting
8 final approval of the Settlement, the Court can approve a resolution that provides a certain and
9 substantial recovery for Class Members.

10 **C. The Settlement Is Fair, Reasonable, and Adequate.**

11 The Settlement, which provides for a Maximum Settlement Amount of \$1,754,800.00,
12 represents a fair, reasonable, and adequate resolution of the case. The Settlement was calculated
13 using information and data uncovered through extensive case investigation, informal discovery,
14 and the exchange of information in the context of mediation. The Settlement takes into account
15 the potential risks and rewards inherent in any case and, in particular, in this matter. Moreover,
16 considering all of the facts in the case, the Maximum Settlement Amount represents a
17 considerable recovery.

18 Even after deducting attorneys' fees in the amount of \$584,933.33, litigation costs and
19 expenses in the amount of \$12,770.23, Class Representative Enhancement Payment in the
20 amount of \$10,000.00, Settlement Administrator Payment in the amount of \$12,500.00, and
21 PAGA Penalties in the amount of \$130,000.00 from the Maximum Settlement Amount of
22 \$1,754,800.00, the Net Settlement Amount is currently estimated to be \$1,003,096.44.⁵³ Under
23 the Settlement Agreement, the Maximum Settlement Amount will be fully paid out without any
24 reversion to Defendant, in accordance with the terms of the Settlement. As discussed in Section
25 III, *supra*, each Participating Class Member will be paid a *pro rata* share of the Net Settlement
26 Amount, based on the number of Workweeks credited to him or her. To date, there are seven
27

28 ⁵³ Phoenix Decl., ¶ 12; see n.7, *supra*.

hundred sixty-nine (769) individuals Participating Class Members, representing 99.61% of the Class Members.⁵⁴ The highest Settlement Share is currently estimated to be \$3,254.10 and the average Settlement Share is currently estimated to be \$1,252.43.⁵⁵ The highest PAGA Payment Share is currently estimated to be \$109.22 and the average PAGA Payment Share is currently estimated to be \$42.10.⁵⁶ These are significant individual recoveries, particularly in light of the risks of litigation.

At the final approval stage, “[a]n allocation formula need only have a reasonable, rational basis [to warrant approval], particularly if recommended by experienced and competent class counsel.” *In re American Bank Note Holographics, Inc., Securities Litigation* (S.D.N.Y. 2001) 127 F.Supp.2d 418, 429-30. The *pro rata* allocation here is a fair and reasonable way to distribute the Net Settlement Amount. In light of the above considerations, Class Counsel believes that the Settlement as a whole is fair, reasonable, and adequate, and in the best interest of the Class Members.⁵⁷ Although the recommendations of Class Counsel are not conclusive, the Court can properly take the recommendations into account, particularly if Class Counsel appears to be competent, has experience with this type of litigation, and significant discovery and investigation have been completed, as is the case here. Conte & Newberg, *Newberg on Class Actions* (4th Ed., 2002) § 11.47. Accordingly, the Court should grant final approval of the Settlement.

D. The Class Was Represented by Competent Counsel.

Class Counsel has extensive experience in employment class action law and complex wage-and-hour litigation.⁵⁸ Lawyers for Justice, PC has been appointed class counsel in numerous complex wage-and-hour cases, and has recovered millions of dollars for individuals in California.⁵⁹ Both parties’ counsel were capable of assessing the strengths and weaknesses of the

⁵⁴ Phoenix Decl., ¶ 11.

⁵⁵ *Id.*, ¶ 13; see n.35, *supra*.

⁵⁶ *Id.*, ¶ 14.

⁵⁷ Aiwasian Decl., ¶ 20.

⁵⁸ *Id.*, ¶¶ 16-17.

⁵⁹ *Ibid.*

Class Members’ claims against Defendant and the benefits of the Settlement under the circumstances of the case and in the context of a private, consensual settlement agreement.

E. There Are No Objections to the Settlement.

The Settlement has been well received by the Class – *not a single Class Member objected to the Settlement.*⁶⁰ Specifically, no objections have been made as to the Maximum Settlement Amount or requested Class Counsel Fees Payment and Class Counsel Litigation Expenses Payment, Class Representative Enhancement Payment, Settlement Administrator Payment, or the allocation for PAGA Penalties. California courts have consistently found that a small number of objectors indicates the class’s support for a settlement and strongly favors final approval. *Wershba, supra*, 91 Cal.App.4th at 250-51 (final approval granted despite 20 objectors); *7-Eleven Owners, supra*, 85 Cal.App.4th at 1152-53 (final approval granted despite 9 objectors).

Here, the lack of any objections speaks volumes about the fairness, reasonableness, and adequacy of this Settlement. Accordingly, the Settlement as a whole is presumed to be fair, reasonable, and adequate, and the Court should grant final approval of the Settlement in its entirety. *Dunk, supra*, 48 Cal.App.4th at 1802.

VI. THE ATTORNEYS’ FEES AWARD REQUESTED BY CLASS COUNSEL IS FAIR AND REASONABLE AND SHOULD BE APPROVED.

A. Legal Standard for Attorneys’ Fees in a Class Action Settlement.

Trial courts have “wide latitude” in assessing the value of attorneys’ fees and their decisions will “not be disturbed on appeal absent a manifest abuse of discretion.” *Lealao v. Beneficial Cal., Inc.* (2000) 82 Cal.App.4th 19, 41; *Ketchum v. Moses* (2001) 24 Cal.4th 1122, 1132 (The “experienced trial judge is the best judge of the value of professional services rendered in his court[.]”); *Cellphone Termination Fee Cases* (2009) 180 Cal.App.4th 1110, 1118. Where the amount of a settlement is a “certain easily calculable sum of money,” California courts may calculate attorneys’ fees as a reasonable percentage of the settlement. Weil and

⁶⁰ Phoenix Decl., ¶ 9.

Brown, California Practice Guide, *Civil Procedure Before Trial*, Chapter 14, § 14:145; *see also* *Laffitte v. Robert Half Int'l Inc.* (2016) 1 Cal.5th 480, 503; *Dunk, supra*, 48 Cal.App.4th at 1808. The percentage-of-the-benefit approach is preferred in class and representative actions because “it better approximates the workings of the marketplace than the lodestar approach.” *Lealao, supra*, 82 Cal.App.4th at 49.

California law provides that an attorneys’ fees award should be equivalent to fees paid in the legal marketplace for the result achieved and risk incurred. *Id.* at 47-50; *Laffitte v. Robert Half Int'l, Inc.* (2016) 1 Cal.5th 480, 503. In *Lealao*, the court held that when an action leads to a recovery that can be “monetized” with a reasonable degree of certainty, the trial court should “ensure that the fee awarded is within the range of fees freely negotiated in the legal marketplace in comparable litigation.” *Lealao, supra*, 82 Cal.App.4th at 50. Fee awards that are too small will “chill the private enforcement essential to the vindication of many legal rights and obstruct the representative actions that often relieve the courts of the need to separately adjudicate numerous claims.” *Lealao, supra*, 82 Cal.App.4th at 53.

“The ultimate goal . . . is the award of a ‘reasonable’ fee to compensate counsel for their efforts, irrespective of the method of calculation.” *Consumer Privacy Cases* (2009) 175 Cal.App.4th 545, 557-58 (quoting *Apple Computer, Inc. v. Superior Court, supra*, 126 Cal.App.4th at 1270). It is not an abuse of discretion to choose one method over another as long as the method chosen is applied consistently using percentage figures and/or rates that accurately reflect the marketplace. In cases where class members present claims against a settlement amount and the settlement agreement provides that the defendant agrees to paying the attorneys a percentage of the same, use of that percentage method is appropriate. *Lealao, supra*, 82 Cal.App.4th at 32.

Historically, courts have awarded fees as high as fifty percent (50%) of the settlement, depending on the circumstances of the case. Conte & Newberg, *Newberg on Class Actions* (4th Ed., 2002) § 14.03; *see also In re Ampicillin Antitrust Litig.* (D.D.C. 1981) 526 F.Supp. 494 (awarding attorneys’ fees in the amount of 45% of the settlement amount of \$7.3 million); *Beech*

Cinema, Inc. v. Twentieth-Century Fox Film Corp. (S.D.N.Y. 1979) 480 F.Supp. 1195 (awarding approximately 53% of the settlement amount as attorneys' fees). California courts routinely approve class action attorneys' fees awards "averag[ing] around one-third of the recovery." *Chavez v. Netflix, Inc.* (2008) 162 Cal.App.4th 43, 66 n.11 (lower court found 20 to 40 percent range of contingency fee in marketplace was appropriate in class actions); *see also Laffitte*, 1 Cal.5th at 488 & 506 (approving fee award of 1/3 of common fund of \$19 million).

B. A Fee Award of a Percentage of the Entire Fund Is Appropriate.

California and federal courts have long recognized that an appropriate method for determining the award of attorneys' fees is based on a percentage of the total value of benefits made available to class members by the settlement. *Laffitte*, 1 Cal.5th at 503; *Boeing Co. v. Van Gemert* (1980) 444 U.S. 472, 478; *Paul, Johnson, Alston & Hunt v. Gaulty* (9th Cir. 1989) 886 F.2d 268, 272; *Vincent v. Hughes Air West, Inc.* (9th Cir. 1977) 557 F.2d 759, 769; *Serrano v. Priest* (1977) 20 Cal.3d 25, 34.⁶¹ The purpose of this equitable doctrine is to spread litigation costs proportionally among all the beneficiaries so that the active beneficiary does not bear the entire burden alone. *See Vincent, supra*, 557 F.2d at 769.

When a litigant's efforts result in a settlement from which others may derive benefits, the litigant may require the passive beneficiaries to compensate those whose efforts brought about the settlement. *See*, R. Pearle, *California Attorney Fee Awards* (CEB, 1993) § 7A, p. 5-7 (permitting attorneys' fees and costs to be paid out of the settlement or directly on behalf of the other parties enjoying the benefit of the settlement). Both state and federal courts have embraced this doctrine. *See Serrano, supra*, 20 Cal.3d at 35; *Crampton v. Takegoshi* (1993) 17 Cal.App.4th 308, 317; *Vincent, supra*, 557 F.2d at 769.

The propriety of calculating and awarding attorneys' fees as a percentage of a monetary settlement that has, by litigation, been preserved or recovered for the benefit of others, has been confirmed by the California Supreme Court. *Laffitte, supra*, 1 Cal.5th 480 at 486 & 506. The California Supreme Court has taken the position that "[t]rial courts have discretion to conduct a

⁶¹ The California Supreme Court has urged trial courts to consider class action federal authority. *Green v. Obledo* (1981) 29 Cal.3d 126, 146; *Vasquez v. Superior Court* (1971) 4 Cal.3d 800, 821.

1 lodestar cross-check on a percentage fee,” “they also retain the discretion to forgo a lodestar
2 cross-check and use other means to evaluate the reasonableness of a requested percentage fee[.]”
3 and “[t]he percentage [...] method survives in California.” *Id.* (internal quotes omitted).

4 Courts have consistently recognized that class and representative action litigation is
5 increasingly necessary to protect the rights of individuals whose injuries and/or damages are too
6 small to economically justify legal action on an individual basis. Accordingly, in determining a
7 reasonable fee award, courts award fees to serve as an economic incentive for lawyers to pursue
8 such litigation in order to achieve increased access to the judicial system for meritorious claims
9 and to enhance deterrents to wrongdoing. This is especially true in situations where multiple
10 similar alleged wrongs would not be economically feasible to pursue individually, such as here.
11 See A. Conte, *Attorney Fee Awards* (2d Ed., 1993) 104, at 6.

12 When the case was originally filed, not only was it inescapably contingent, but the
13 prospect of a long, drawn-out battle with a defendant represented by experienced counsel, was
14 almost a certainty. By taking on this “battle” on a contingency basis, Class Counsel risked
15 substantial economic loss if the results were not successful. This substantial risk is the reason
16 that the courts approve the use of the percentage method when a settlement is obtained by the
17 efforts of class counsel. See *Vizcaino v. Microsoft* (9th Cir. 2002) 290 F.3d 1043, 1048-49
18 (discussing the risks of engaging in litigation without certainty of compensation).

19 Under the terms of the Settlement Agreement, Defendant will pay a Maximum
20 Settlement Amount of \$1,754,800.00 on a non-reversionary basis. The requested attorneys’ fees
21 are one-third (1/3) of the total value of the monetary settlement. In light of Class Counsel’s
22 successful prosecution and resolution of the case, the requested attorneys’ fees are appropriate
23 and reasonable.

24 Compensating class counsel in class litigation on a percentage basis makes good sense
25 because: (1) it is consistent with the private marketplace where contingent fee attorneys are
26 customarily compensated on such a basis; (2) it aligns the interests of class counsel and absent
27 class members in achieving the maximum possible resolution of the case; and (3) it encourages
28

the most efficient and expeditious resolution of the litigation by providing an incentive for early, yet reasonable, settlement. The requested attorneys' fees in this matter satisfy all of those factors and should be approved on a percentage basis.

The percentage method is consistent with, and is intended to mirror, the practice in the private marketplace where contingent-fee attorneys typically negotiate percentage-fee arrangements with their clients. A named plaintiff's agreement to pay a contingent fee is powerful evidence of a reasonable fee. One of the best ways to demonstrate the value of counsel's work to the class is to review the consideration agreed to be paid by the named plaintiff. If the named plaintiff has employed counsel on a contingency-fee basis, it would indeed be inequitable for the members of the class, who will enjoy the benefits of the settlement without incurring the risks of bringing the claim, to pay less than the named plaintiff. In this case, Plaintiff have agreed to contingency fee of at least one-third (1/3) of the recovery.⁶²

Furthermore, a percentage-fee award is not dependent on a determination of the actual amount claimed by those entitled—it is the creation of the settlement that is the crucial fact. In *Winslow v. Harold G. Ferguson Corp.*, the California Supreme Court expressly held that “it is equitable that [the attorney's] compensation and expenses should come from the entire fund saved for all classes concerned before it is distributed.” *Winslow v. Harold G. Ferguson Corp.* (1944) 25 Cal.2d 274, 284. Likewise, *Lealao* expressly held that a percentage-based fee “may be calculated on the basis of the total fund made available rather than the actual payments made to the class.” *Lealao, supra*, 82 Cal.App.4th at 51; *see also Boeing, supra*, 444 U.S. at 478 (“a litigant or a lawyer who recovers” a settlement “for the benefit of persons other than himself or his client is entitled to a reasonable attorneys' fee from the fund as a whole”).

In *Wershba v. Apple Computer, Inc.* (2001) 91 Cal.App.4th 224, in determining reasonable attorneys' fees, the Court of Appeal valued a settlement based on the total value of the settlement made available to class members by the efforts of counsel, decided in favor of

⁶² Aiwasian Decl., ¶ 9.

granting fees as a percentage of the total value of the settlement, and rejected an objection that the fees be awarded based on the exact amount claimed by class members. *Id.* at 247.

Class Counsel has obtained a substantial recovery on behalf of Plaintiff and the Class, and the results achieved justify an attorneys' fees award that is the equivalent of the standard market fee and that is consistent with the contingency-fee agreement entered into by and between Plaintiff and Class Counsel. Thus, the requested attorneys' fees are appropriate.

C. The Attorneys' Fees Award Requested by Class Counsel Is Reasonable Based on the Factors Considered in Determination of Fee Awards.

In *Camden I Condominium Association, Inc. v. Dunkel*, the court identified twelve factors to be considered in determining whether fee awards are reasonable: (1) the time and labor required; (2) the novelty and difficulty of the questions involved; (3) the skill required to perform the legal services properly; (4) the preclusion of other employment by the attorney due to the acceptance of the case; (5) the customary fee; (6) whether the fee is fixed or contingent; (7) time limitation imposed by the client or the circumstances; (8) the amount involved and results obtained; (9) the experience, reputation and ability of the attorney; (10) the undesirability of the case; (11) the nature and length of the professional relationship with the client; and (12) awards in similar cases. *Camden I Condominium Association, Inc. v. Dunkel* (11th Cir. 1991) 946 F.2d 768, 772.

Each and every one of these factors favors the attorneys' fees sought here; however, some of the most relevant factors to this Court's fee determination will be addressed herein. The award of attorneys' fees in the amount of \$584,933.33 (which is 1/3 of the Maximum Settlement Amount) is commensurate with the time, effort, and expense dedicated to the case, the contingent nature of Class Counsel's fee and the risks taken in commencing the case, the skill and determination required, the results that Class Counsel has achieved, and the value of the settlement that Class Counsel has obtained for the Class Members.

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1 **1. *Time & Labor.***

2 Class Counsel used its experience and skills, and dedicated the full extent of resources, to
3 litigate and bring this matter to a successful conclusion on behalf of the Class. Moreover, as
4 demonstrated in the supporting declaration, Class Counsel has extensive experience in the
5 handling of class actions and complex litigation matters.⁶³

6 As outlined in the Declaration of Edwin Aiwarzian, Class Counsel has fully and actively
7 participated in litigation of this case.⁶⁴ Prior to commencing the lawsuit and in the course of
8 litigation, mediation, and settlement negotiations, Class Counsel had conducted a significant
9 amount of investigation into the factual and legal issues, Defendant's business, and its operations
10 and employment policies, practices, and procedures.⁶⁵ During the litigation of the action, Class
11 Counsel interviewed Plaintiff and other percipient witnesses; reviewed and analyzed a large
12 volume of information, documents, and data produced by Defendant and obtained through other
13 sources; and prepared damages/valuation calculations.⁶⁶ Class Counsel also met and conferred
14 with Defendant's counsel over the issues relating to pleadings, contemplated motion practice,
15 case management, and production of information, documents, and data, among other things;
16 engaged in extensive settlement negotiations with Defendant's counsel; and prepared for and
17 attended court proceedings, mediation, and settlement negotiations.⁶⁷

18 Class Counsel has dedicated staffing and monetary resources necessary to prosecute this
19 matter diligently and with maximum efficiency and has fully and actively participated in the
20 litigation process. The Task and Time Chart, which is attached as **EXHIBIT A** to the
21 accompanying Declaration of Edwin Aiwarzian, sets forth in detail the hours that Class Counsel
22 has spent performing tasks on behalf of Plaintiff and the Class.⁶⁸ The Task and Time Chart is
23 thorough and comprehensive, and was prepared so that the Court can peruse it without having to
24 set forth each and every task in the body of this Motion. The Court is respectfully referred to the

25 _____
⁶³ Aiwarzian Decl., ¶¶ 16-17.

26 ⁶⁴ *Id.*, Exh. A.

27 ⁶⁵ *Id.*, ¶¶ 6-7 & Exh. A.

28 ⁶⁶ *Id.*, ¶¶ 6-7.

⁶⁷ *Ibid.*

⁶⁸ *Id.*, Exh. A.

chart, which sets forth the history of the work performed by Class Counsel, commencing with the pre-filing analysis and research, and continuing up to settlement and final approval. Class Counsel has spent 577.20 hours performing tasks and to obtain a significant recovery on behalf of Plaintiff, the Class, the State of California, and PAGA Group Members.⁶⁹ These hours were required to bring this matter to its successful conclusion. In light of the value of time expended and the carrying of costs involved in litigating this case, the requested attorneys' fees are fair, adequate, and reasonable.

2. The Skill Required to Perform Legal Services Properly.

The skill required to properly litigate the case is evident not only in the results achieved, but in the steps necessary to reach the same. Defendant retained well-respected counsel to represent its defenses. More specifically, Defendant and their counsel felt very strongly about Defendant's ability to prevail on the merits and to obtain a denial of class certification, while Plaintiff and Class Counsel disagreed with these contentions and believed that they would be able to obtain class certification and would prevail at trial.

Class Counsel undertook significant investigation, analysis, and research prior to filing this case, data in the course of litigation and mediation and settlement negotiations. Class Counsel took steps to prepare the matter for class certification and representative adjudication and had every intention of taking the case to trial on a class-wide basis if Defendant did not offer an appropriate class-wide settlement. Despite all of the obstacles that had to be overcome, as demonstrated in the Declaration of Edwin Aiwasian, Class Counsel used its extensive experience in the handling of class actions and complex wage-and-hour litigation matters in order to obtain the Settlement with maximum efficiency.⁷⁰

3. The Value of the Settlement for the Class Members.

The Settlement represents an excellent resolution of the action, given the risks inherent in litigating the case through certification proceedings, trial, and/or appeals. Had the case not settled, Defendant would have vigorously challenged certifiability, manageability of

⁶⁹ Aiwasian Decl., ¶ 11.

⁷⁰ *Id.*, ¶¶ 16-17.

representative adjudication, and liability. Defendant, however, faced risks if the Court certified a class and allowed a jury to decide the claims. Additionally, preparing the case for trial would have been expensive for the parties.

The Settlement at this stage is preferred over continued litigation because such resolutions save time and money that would otherwise go to litigation. The risks and expenses of further litigation outweighed any benefit that might have been gained otherwise. The Settlement provides an immediate recovery, as opposed to an uncertain result in the future after prolonged litigation involving expert discovery, trial preparation, class certification proceedings, and appellate review of those proceedings. The Settlement offers present relief and/or recovery to Participating Class Members while avoiding the further expense, risk, and delay in obtaining possible recovery at an unknown time in the future.

As a result of this litigation and extensive settlement negotiations, Defendant agreed to pay a Maximum Settlement Amount of \$1,754,800.00 to settle the matter. After deducting the attorneys' fees (\$584,933.33), litigation costs and expenses (\$12,770.23), Class Representative Enhancement Payment (\$30,000.00), Settlement Administrator Payment (\$12,500.00), and PAGA Penalties (\$130,000.00) from the Maximum Settlement Amount, it is currently estimated that the Net Settlement Amount is approximately \$1,003,096.44.⁷¹ The Net Settlement Amount will be fully distributed in accordance with the terms of the Settlement. The highest Settlement Share is currently estimated to be \$3,254.10 and the average Settlement Share is currently estimated to be \$1,252.43.⁷² The highest PAGA Payment Share is currently estimated to be \$109.22 and the average PAGA Payment Share is currently estimated to be \$42.10.⁷³ The Settlement offers significant monetary relief to the Participating Class Members.

4. Whether the Fee Is Fixed or Contingent.

Plaintiff entered into a contingency fee agreement with Class Counsel, and the representation of the Class provided by Class Counsel has been wholly contingent. Class

⁷¹ Phoenix Decl., ¶ 12; see n.7, *supra*.

⁷² *Id.*, ¶ 13; see n.35, *supra*.

⁷³ *Id.*, ¶ 14.

Counsel took on the case without knowing whether any recovery would be obtained. Class Counsel has invested 577.20 hours of time to obtain relief on behalf of Plaintiff and the Class.⁷⁴ Class Counsel has also incurred litigation costs and expenses in the amount of \$12,770.23.⁷⁵

Class Counsel has borne all of the risks and costs of litigation and will not receive any compensation until recovery is obtained.⁷⁶ Class Counsel is well-experienced in wage-and-hour class action and complex litigation and used that experience to obtain a great result.⁷⁷ The skill and determination that Class Counsel has shown, along with the results obtained, justify the requested Class Counsel Fees Payment and Class Counsel Litigation Expenses Payment. Considering the amounts requested, the work performed, and the risks incurred, the requested fees and costs are reasonable and should be awarded.

In determining the reasonableness of a fee award in a class action settlement, whether or not representation is provided on a contingency basis is an important factor:

A contingent fee must be higher than a fee for the same legal services paid as they are performed. The contingent fee compensates the lawyer not only for the legal services he renders but for the loan of those services. A lawyer who both bears the risk of not being paid and provides legal services is not receiving the fair market value of his work if he is paid only for the second of these functions. If he is paid no more, competent counsel will be reluctant to accept fee award cases.

Cates v. Chiang (2013) 213 Cal.App.4th 791, 823 (internal quotes and citations omitted). Class Counsel litigated the case on a contingent basis with all of the concomitant risk factors inherent in such an uncertain undertaking. Had Class Counsel not been successful, the time that Class Counsel has devoted to litigating the case would have been for naught, and would not have produced any fee or any reimbursement of costs or expenses.

5. The Amount Involved and the Results Achieved.

The results achieved, in light of the difficulties inherent in similar cases and the specific difficulties faced in this matter, are considerable. The Settlement has yielded a positive response

⁷⁴ Aiwazian Decl., ¶ 11, Exh. A.

⁷⁵ See Part VII, *infra*.

⁷⁶ Aiwazian Decl., ¶ 19.

⁷⁷ *Id.*, ¶¶ 15-17.

from the Class Members—no Class Members objected to the Settlement.⁷⁸

The court in *Camden* noted that, “a key element of the common fund case is that fees are [...] taken from the fund [...] and a common fund is itself the measure of success ... [and] represents the benchmark on which a reasonable fee will be awarded.” *Camden*, 946 F. 2d 768, fn. 28 (citing *Court Awarded Attorney Fees, Report of the Third Circuit Task Force* (October 8, 1985) 108 F.R.D. 237 and Newberg, *Attorney Fee Awards* § 2.07 (1986)).

Here, the results achieved and obtained on behalf of Plaintiff and the Class are reasonable in light of the risks inherent in further litigating this matter. Class Counsel’s efforts have resulted in a settlement that provides for a Maximum Settlement Amount of \$1,754,800.00.⁷⁹ The Maximum Settlement Amount will be fully paid out, in accordance with the terms of the Settlement Agreement. The highest Settlement Share is currently estimated to be \$3,254.10 and the average Settlement Share is currently estimated to be \$1,252.43.⁸⁰ The highest PAGA Payment Share is currently estimated to be \$109.22 and the average PAGA Payment Share is currently estimated to be \$42.10.⁸¹

6. *The Reputation and Ability of the Attorneys.*

Lawyers for Justice, PC is a recognized class action law firm that employed its attorneys’ knowledge, skills, and experience in bringing this case to a successful conclusion. Class Counsel has years of complex and class action litigation experience, has recovered millions of dollars on behalf of thousands of individuals in California, and has successfully handled numerous significant wage-and-hour class action and complex cases.⁸²

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⁷⁸ Phoenix Decl., ¶ 9.

⁷⁹ Aiwazian Decl., ¶¶ 6-8.

⁸⁰ Phoenix Decl., ¶ 13; see n.35, *supra*.

⁸¹ *Id.*, ¶ 14.

⁸² Aiwazian Decl., ¶¶ 15-17.

D. The Lodestar Methodology Also Justifies Approval of the Requested Fees, Because Class Counsel Has Performed Work That Is of Significant Value Based On Reasonable Hours and Prevailing Hourly Rates of Compensation.

While the percentage-of-the-benefit approach is endorsed as the better approximation of the workings of the marketplace than the lodestar approach, courts may also use the lodestar method to “cross-check” the results of the other. See *Laffitte, supra*, 1 Cal.5th at 505 (explaining that “[a] lodestar cross-check is simply a quantitative method for bringing a measure of the time spent by counsel into the trial court’s reasonableness determination”); see also, e.g., *Vizcaino*, 290 F.3d at 1050 (“[W]hile the primary basis of the fee award remains the percentage method, the lodestar may provide a useful perspective on the reasonableness of a given percentage award.”). Importantly, “the lodestar calculation . . . does not override the trial court’s primary determination of the fee as a percentage” of the settlement amount and “does not impose an absolute maximum or minimum on the potential fee award.” *Laffitte, supra*, 1 Cal.5th at 505.

The lodestar is calculated based on reasonable hours at reasonable prevailing hourly rates for the attorneys. *Ketchum, supra*, 24 Cal.4th at 1131-32. Under California law, counsel is entitled to compensation for every hour reasonably spent on the matter. *Id.* at 1133.

1. The Number of Hours Spent on the Litigation was Reasonable.

The reasonableness of hours is assessed by “the entire course of the litigation, including pretrial matters, settlement negotiations, discovery, litigation tactics, and the trial itself[.]” *Vo v. Las Virgenes Municipal Water Dist.* (2000) 79 Cal.App.4th 440, 447.

As discussed above, the case was highly contested and required a significant amount of time and labor. Defendant made it clear very early on that it disputed all of the allegations of the case and disputed that the matter was appropriate for class or representative treatment. Defendant raised affirmative defenses and denied liability, and the pursuit of this matter involved gathering and analyzing data not only from Defendant but also from the Class Members. The handling of the case involved a great amount of effort, and also required and involved the exercise of a high level of skill, which Class Counsel has as a result of its extensive experience in

employment class actions and complex wage-and-hour litigation. Long and difficult battles would have followed as the case moved toward certification and trial, including taking and defending depositions of Defendant's Person Most Knowledgeable designees, percipient witnesses, and experts, propounding discovery requests and conducting document production, and engaging in extensive motion practice. As Class Counsel geared up for these battles, Class Counsel undertook intense preparation in an attempt to resolve the entire matter through mediation.

Class Counsel had to bring together a large volume of data and documents that were produced by Defendant and obtained from Plaintiff and Class Members and through other sources. Class Counsel conducted extensive review and analysis of these information, documents, and data to strategize the action and to prepare for and attend mediation and engage in settlement discussions.

As discussed above in Part VI.C.1, *infra*, attached to the Declaration of Edwin Aiwazian is a task and time chart that sets forth in detail the numerous tasks that Class Counsel performed on behalf of Plaintiff and the Class, and the time required for completing those tasks.⁸³ The chart demonstrates that Class Counsel has spent a total of 577.20 hours litigating the case and finalizing the Settlement.⁸⁴ In light of the facts and circumstances of the case, as well as the results that Class Counsel has achieved on behalf of Plaintiff, the Class Members, and the PAGA Group Members, Class Counsel has spent a reasonable number of hours on this matter. In addition, Class Counsel will continue to perform work on this matter through the date of final approval and in connection with the implementation of the Settlement.

**2. The Fees Requested Represent a Reasonable Hourly Rate of Compensation
in Light of Class Counsel's Efforts and Experience.**

Both California and federal courts recognize that attorneys should be compensated for providing representation on a contingency basis and for taking on the risks associated with said representation, as well as being provided with financial incentives to enforce important rights

⁸³ See Aiwazian Decl., Exh. A.

⁸⁴ Aiwazian Decl., ¶ 11.

and protections like those at issue in this action. See *Ketchum, supra*, 24 Cal.4th at 1132-33. In awarding attorneys’ fees, the aim is to mirror “the established practice in the private legal market of rewarding attorneys for taking the risk of nonpayment by paying them a premium over their normal hourly rates for winning contingency cases.” See *id.*

Class Counsel has been actively involved in this case, prior to its commencement and all the way up to the present, and Class Counsel’s dedication to providing representation in this matter has precluded other employment. Here, Class Counsel bore the risk that, despite all of its efforts and skills employed, there may be no recovery. Ultimately, Class Counsel was successful in reaching a settlement of \$1,754,800.00.

As set forth in the Declaration of Edwin Aiwarzian, the professional backgrounds and experience of Class Counsel support a reasonable blended hourly rate of compensation of at least \$850 per hour for services provided by Class Counsel.⁸⁵ Lawyers for Justice, PC has been awarded attorneys’ fees, compensating the firm at the rate of at least \$850 for legal service performed, by courts of this state.⁸⁶ While the circumstances of every case is unique, the fact remains that the work performed and efforts undertaken by Class Counsel on behalf of the Class Members justify the requested attorneys’ fees.

3. The Risks Involved, Skill Required, Complexity of the Matter, and Results Obtained Warrant Upward Enhancement of the Lodestar.

Even when courts have opted to award fees in settlement fund cases based on time reasonably expended on the action, courts have generally awarded these fees based on the actual time expended (the lodestar) in conjunction with a multiplier of between 2 and 4. *Kerr v. Screen Extras Guild, Inc.* (9th Cir. 1975) 526 F.2d 67. Such a multiplier is warranted in this case.

⁸⁵ Aiwarzian Decl., ¶ 12.

⁸⁶ For example, final approval of the class and representative action settlement in *David Dugan v. TEC Equipment, Inc., et al.* (Los Angeles Superior Court Case No. 19STCV01591) was granted on July 8, 2021, and the award of attorneys’ fees involved compensation at the rate of \$936.47 per hour; final approval of the class and representative action settlement in *Larry Greenwood, et al. v. Scan Health Plan* (Los Angeles Superior Court Case No. BC715157) was granted on April 20, 2021, and the award of attorneys’ fees involved compensation at the rate of \$919.57 per hour; and final approval of the class and representative action settlement in *Seth Swan v. Pace Supply Corp.* (Sonoma County Superior Court Case No. SCV258764) was granted on February 6, 2019, and the award of attorneys’ fees involved compensation at the rate of \$855.96 per hour. Aiwarzian Decl., ¶ 12.

Courts frequently apply multipliers to enhance the lodestar to reflect the risks involved, the complexity of the litigation, and the other relevant facts. *Vizcaino*, 290 F.3d at 1051; *Graham v. DaimlerChrysler Corp.* (2004) 34 Cal.4th 553, 579 (“One of the most common fee enhancers [...] is for contingency risk.”). Such an enhancement “mirrors the established practice in the private legal market of rewarding attorneys for taking the risk of nonpayment by paying them a premium over their normal hourly rates for winning contingency cases.” *Vizcaino*, 290 F.3d at 1051; *accord Ketchum*, 24 Cal.4th at 1132-33. A risk multiplier also serves to bring the financial incentives for enforcing important rights “into line with incentives [attorneys] have to undertake claims for which they are paid on a fee-for-services basis.” *Ketchum*, 24 Cal. 4th at 1132.

In determining whether or not to enhance the lodestar, California courts take into account multiple factors, many of which were specifically addressed above in §§ VI.B-C, *infra*. See, *Cates* at 822-823. Multiple factors warrant enhancement in this case, including the following:

- The time and labor required
- The skill requisite to perform the legal services properly
- The preclusion of other employment by the attorney due to the acceptance of the case
- The contingent nature of the fee
- The amount involved and results obtained
- The experience, reputation, and ability of the attorney
- Awards in similar cases

Ketchum at 1134.

Adjustment of the base lodestar figure to compute an award of attorneys’ fees for a claim under the California Labor Code is appropriate. See *Id.*, at 1135-1136; *Serrano v. Priest* (1977) 20 Cal.3d 25, 48-49. “The lodestar is calculated by multiplying the reasonable hours expended by a reasonable hourly rate. The court may then enhance the lodestar with a multiplier, if appropriate.” *Wershba, supra*, 91 Cal.App.4th at 254. In the first stage of the lodestar adjustment method, the trial court determines the reasonable hourly rate of compensation for counsel, which

1 it then multiplies by the number of hours the court finds were reasonably spent preparing the
2 case, to obtain the lodestar figure. *Ketchum, supra*, 24 Cal.4th at 1131-1132. The lodestar figure
3 is the “basic fee for comparable legal services in the community” based upon the “hourly amount
4 to which attorneys of like skill in the area would typically be entitled.” *Id.*, at 1132-1133
5 (quotation marks and citation omitted).

6 As discussed above, this was a highly contested matter which required an extensive
7 amount of time and labor. Defendant raised defenses and denied liability, and the case involved
8 gathering and analyzing information, documents, and data not only from Defendant but also
9 from the Class Members. The handling of this matter involved a great amount of effort, and
10 required the exercise of high-level of skill, which Class Counsel has as a result of extensive
11 experience in employment class actions and wage-and-hour litigation. Class Counsel has been
12 actively involved in the prosecution of this matter, prior to its commencement and Class
13 Counsel’s work has continued all the way up to the present. Class Counsel’s dedication to the
14 representation of the Class Members has precluded other employment.

15 Most importantly, all services were performed by Class Counsel on a contingent basis.
16 Both California and federal courts recognize that attorneys should be compensated for taking on
17 such contingent risks and provided with financial incentives to enforce important rights and
18 protections like those at issue in the matter at hand. See, e.g., *Vizcaino*, 290 F.3d at 1051;
19 *Ketchum*, 24 Cal. 4th at 1132-33. Here, Class Counsel bore the risk that, despite all of its efforts
20 and the skill employed, there may be no recovery. Therefore, at a minimum, Class Counsel is
21 entitled to a risk multiplier. The results obtained by way of Class Counsel’s efforts are
22 significant here. Class Counsel was successful in achieving substantial results in the form of a
23 settlement of \$1,754,800.00. Also, Class Counsel’s efforts throughout the case demonstrate
24 dedication to the interests of the Class Members.

25 Class Counsel’s application for attorneys’ fees in light of the facts and circumstances
26 surrounding the matter is well within the range of reasonableness. While handling this matter,
27 Class Counsel devoted the hours in legal time summarized above and detailed in the Task and
28

Time Chart, which is attached as **EXHIBIT A** to the Declaration of Edwin Aiwasian.⁸⁷ As the chart indicates, Class Counsel has worked 577.20 hours in the pursuit of this matter. The attorney task and time chart presents the entire picture. Applying a reasonable rate of \$850 per hour to 577.20 hours of work performed by Lawyers for Justice, PC would place a base lodestar value of \$490,620.00 on Class Counsel's services, and applying a modest multiplier of 1.20, the total enhanced lodestar fees are \$588,744.00.⁸⁸ Class Counsel seeks an attorneys' fee award of \$584,933.33 (equal to 1/3 of the Maximum Settlement Amount based on the Settlement Agreement). Far greater multipliers have been awarded in similar cases, and the total amount of fees sought by Class Counsel is also reasonable compared to fees awarded in similar cases. Courts routinely enhance lodestar amounts based on multipliers that "range from **2 to 4 or even higher.**" *Wershba, supra*, 91 Cal.App.4th at 255 (emphasis added); *see also, e.g., Chavez v. Netflix, Inc.* (2008) 162 Cal.App.4th 43, 66 (approving **multiplier of 2.5**); *Vizcaino*, 290 F.3d at 1051 (approving **multiplier of 3.65**); *Wal-Mart Stores, Inc. v. Visa U.S.A., Inc.* (2d Cir. 2005) 396 F.3d 96, 123 (approving **multiplier of 3.5**); *Craft v. County of San Bernardino* (C.D. Cal. 2006) 624 F.Supp.2d 1113, 1125 (awarding **multiplier of 5.2** and referring to other cases with cross-check **multipliers ranging from 4.5 to 19.6**).

The nature of the work performed, skill exercised, and the outcome in this matter—which involves an outstanding monetary recovery involving a gross settlement of \$1,754,800.00, Net Settlement Amount of \$1,003,096.44 to be paid to Participating Class Members (with an average payment of approximately \$1,304.42 per Participating Class Member), payment of \$32,500.00 to PAGA Group Members (with an average payment of approximately \$42.04 per PAGA Group Member), and payment of \$97,500.00 to the State of California—support both the application of a lodestar multiplier and the percentage fee requested.⁸⁹

Therefore, application of a modest multiplier of 1.20 is warranted, and the lodestar as a cross-check to the percentage figure sought herein, strongly supports the reasonableness of the

⁸⁷ Aiwasian Decl., Exh. A.

⁸⁸ Aiwasian Decl., ¶ 11; *see n.3, supra*.

⁸⁹ Phoenix Decl., ¶¶ 12-14. *See n.7 & 35.*

requested attorneys' fees award. Plaintiff respectfully request that the Court grant final approval of, and award, attorneys' fees in the amount of \$584,933.33 to Class Counsel.

VII. COSTS TO BE REIMBURSED TO CLASS COUNSEL ARE FAIR AND REASONABLE, AND SHOULD BE APPROVED.

The Settlement provides for reimbursement of litigation costs and expenses of up to \$25,000.00. As set forth in the Declaration of Edwin Aiwazian, Lawyers for Justice, PC has incurred a total of \$12,770.23 in litigation costs and expenses.⁹⁰ This amount was reasonable and necessary in the prosecution of the case and to obtain the Settlement.⁹¹ The cost savings of \$12,229.77 will be part of the Net Settlement Amount, which will be distributed to the Participating Class Members in accordance with the Settlement.⁹² Accordingly, Plaintiff request that the Court award litigation costs and expenses in the amount of \$12,770.23 to Class Counsel.

VIII. THE SETTLEMENT ADMINISTRATION COSTS ARE FAIR AND REASONABLE AND SHOULD BE APPROVED.

As set forth in the accompanying Phoenix Declaration, the total costs incurred and to be incurred by Phoenix for the notice and settlement administration process are \$12,500.00.⁹³ The costs incurred and to be incurred include, but are not limited to, expenses for formatting, translating, printing, and mailing the Class Notice to the Class Members; performing skip-trace searches on Class Notices returned as undeliverable; re-mailing the Class Notices to any updated addresses located by skip-trace search; receiving, reviewing, and processing Requests for Exclusion, Objections, and Workweeks disputes (if any); handling inquiries from Class Members regarding the Settlement; calculating Settlement Shares and PAGA Payment Shares and preparing the associated tax forms; and transmitting payments, among other things.⁹⁴

Accordingly, the Court should grant final approval of payment to Phoenix, a necessary third-party for handling of the notice and settlement process, in the amount of \$12,500.00.

⁹⁰ Aiwazian Decl., ¶ 19.

⁹¹ Ibid.

⁹² See n.7., *supra*.

⁹³ Phoenix Decl., ¶ 16.

⁹⁴ *Id.*, ¶ 2.

**IX. THE REQUESTED SERVICE PAYMENTS ARE FAIR AND REASONABLE,
AND SHOULD BE APPROVED**

The Settlement provides for Class Representative Enhancement Payment in the amount of \$10,000.00 to Plaintiff Keith Pender to compensate Plaintiff for the time and effort that he expended on behalf of the Class. The requested Class Representative Enhancement Payment is both common and reasonable and should be awarded.

In determining whether to make service payments, courts consider the following factors: (1) the risk to the class representative in commencing suit, both financial and otherwise; (2) the notoriety and personal difficulties encountered by the class representatives; (3) the amount of time and efforts spent by the class representatives; (4) the duration of the litigation; and (5) the personal benefit (or lack thereof) enjoyed by the class representatives as a result of the litigation. *Vranken v. Atlantic Richfield Co.* (N.D. Cal. 1995) 901 F.Supp. 294, 299 (approving \$50,000 participation award to a single class representative).

The requested Class Representative Enhancement Payment is fair and appropriate because Plaintiff spent a substantial amount of time and effort producing relevant documents and past employment records, as well as providing the facts and evidence necessary to attempt to prove the allegations.⁹⁵ Plaintiff was available whenever Class Counsel needed him and actively tried to obtain, and gave, information that would benefit the pursuit of the Class and PAGA claims.⁹⁶ Plaintiff spent numerous hours speaking with Class Counsel about his claims, describing his work experiences with Defendant, and gathering and reviewing documents.⁹⁷ These services merit the requested Class Representative Enhancement Payment to Plaintiff, who has not received any compensation for his efforts on behalf of the Class Members to date.⁹⁸

The requested Class Representative Enhancement Payment was fully disclosed in the Class Notice that was mailed to the Class Members. No objections were made with regards to the requested Enhancement Payment. Accordingly, it is appropriate and just for Plaintiff Keith

⁹⁵ Aiwazian Decl., ¶ 19; Declaration of Keith Pender (“Pender Decl.”), ¶¶ 3-5.

⁹⁶ Aiwazian Decl., ¶ 19; Pender Decl., ¶¶ 3-5.

⁹⁷ Aiwazian Decl., ¶ 19; Pender Decl., ¶¶ 2-6.

⁹⁸ Pender Decl., ¶ 8.

Pender to receive \$10,000.00, as a reasonable Class Representative Enhancement Payment, in addition to his individual settlement payment, for their services on behalf of the Class, the State of California, and PAGA Group Members.

X. CONCLUSION

For the foregoing reasons, Plaintiff respectfully requests that the Court grant final approval of the Settlement, and award the Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, Class Representative Enhancement Payment, Settlement Administrator Payment, and PAGA Penalties, in their entirety, as sought herein; and permit the filing of a memorandum that exceeds the page limit.

Dated: November 6, 2023

LAWYERS for JUSTICE, PC

By: _____


Brian J. St. John
Attorneys for Plaintiff and the Class