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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF SANTA CLARA**

JAYMIE SALINAS and GLORIA
ZAMORA, individually, on behalf of
themselves and on behalf of all
persons similarly situated,

Plaintiff,

vs.

HOMEFIRST SERVICES OF
SANTA CLARA COUNTY, a
California Non-Profit Corporation; and
DOES 1 through 50, inclusive,

Defendants.

Case No. 23CV418047

**MEMORANDUM OF POINTS AND
AUTHORITIES IN SUPPORT OF MOTION
FOR FINAL APPROVAL OF CLASS
SETTLEMENT AND AWARD OF
ATTORNEYS' FEES, COSTS AND SERVICE
AWARDS**

Hearing Date: June 5, 2025
Hearing Time: 1:30 p.m.
[Hearing scheduled by Order dated December 13,
2024]

Judge: Hon. Charles F. Adams
Dept.: 7

Action Filed: June 27, 2023
Trial Date: Not set

TABLE OF CONTENTS

I.	INTRODUCTION.	-1-
II.	THE SETTLEMENT BEFORE THE COURT	-1-
III.	GENERAL STANDARDS APPLICABLE TO JUDICIAL REVIEW AND APPROVAL OF CLASS ACTION SETTLEMENTS	-2-
IV.	THE SETTLEMENT IS FAIR, REASONABLE, AND ADEQUATE	-3-
A.	The Settlement Satisfies the California Test for Fairness.	-4-
1.	The Investigation and Analysis of Documents are Sufficient to Allow Counsel and the Court to Act Intelligently	-4-
2.	The Settlement was Reached Through Arm's Length Bargaining	-4-
3.	Class Counsel Is Experienced in Similar Litigation	-5-
4.	There Are No Objections and Only Two (2) Requests for Exclusion	-5-
5.	The Strength of Plaintiffs' Case	-6-
6.	The Risk, Expense, Complexity, and Likely Duration of Further Litigation.	-8-
7.	The Amount Offered in Settlement.	-9-
V.	THE REQUESTED ATTORNEYS' FEES, COSTS AND SERVICE AWARD SHOULD BE APPROVED	-11-
A.	The Attorneys' Fees are Reasonable and Supported by the Percentage of the Fund Method.	-11-
B.	The Reimbursement of Litigation Expenses.	-14-
C.	The Service Award Is Reasonable and Should be Approved	-14-
VI.	CONCLUSION.	-15-

TABLE OF AUTHORITIES

Cases:	Page:
<i>7-Eleven Owners for Fair Fran. v. Southland Corp.</i> , 85 Cal. App. 4 th 1135 (2000)	2,3
<i>Alberto v. GMRI, Inc.</i> , 252 F.R.D. 652 (E.D. Cal. Jun 24, 2008)	5
<i>Andrews v. Plains All Am. Pipeline L.P.</i> , 2022 U.S. Dist. LEXIS 172183 (C.D. Cal. 2022).	15
<i>Barbosa v. Cargill Meat Solutions Corp.</i> , 297 F.R.D. 431 (E.D. Cal. 2013)	12
<i>Barcia v. Contain-A-Way, Inc.</i> , 2009 U.S. Dist. LEXIS 17118 (S. D. Cal. 2009)	8
<i>Boeing Co. v. Van Gemert</i> , 444 U.S. 472 (1980)	11
<i>Brinker v. Superior Court</i> , 53 Cal. 4th 1004 (2012)	7
<i>Browning v. Yahoo!, Inc.</i> , 2007 U.S. Dist. LEXIS 86266 (N.D. Cal. Nov. 16, 2007)	7
<i>Cacho v. Eurostar, Inc.</i> , 43 Cal.App.5th 885 (2019)	8
<i>Cellphone Termination Fee Cases</i> , 180 Cal. App. 4th 1110 (2009)	3
<i>Chavez v. Netflix, Inc.</i> , 162 Cal.App.4th 43 (2008)	14
<i>Dunk v. Ford Motor Co.</i> , 48 Cal. App. 4th 1794 (1996)	3
<i>Dunleavy v. Nadler (In re Mego Fin. Corp. Sec. Litig.)</i> , 213 F.3d 454, 459 (9th Cir. 2000)	11
<i>Duran v. U.S. Bank National Assn.</i> , 59 Cal. 4th 1 (2014)	8
<i>Gaskill v. Gordon</i> , 160 F.3d 361 (7th Cir. 1998)	12
<i>Glass v. UBS Fin. Servs.</i> , 2007 U.S. Dist. LEXIS 8476; 15 Wage & Hour Cas. 2d (BNA) 1330 (N.D. Cal. 2007); <i>aff'd</i> 2009 U.S. App. LEXIS 10328 (9 th Cir. May 14, 2009)	5, 9, 15
<i>Hanlon v. Chrysler Corp.</i> , 150 F.3d 1011 (9 th Cir. 1998)	6

1	<i>Hopson v. Hanesbrands Inc.</i> ,	
2	2009 U.S. Dist. LEXIS 33900 (N.D. Cal. 2009).....	7
3	<i>Huens v. Tatum</i> ,	
4	52 Cal. App. 4 th 259 (1997).....	2
5	<i>In re Austrian & German Bank Holocaust Litigation</i> ,	
6	80 F. Supp. 2d 164 (S.D.N.Y. 2000).....	6
7	<i>In re Sutter Health Uninsured Pricing Cases</i> ,	
8	171 Cal.App.4th 495 (2009).....	14
9	<i>Kullar v. Foot Locker Retail, Inc.</i> ,	
10	168 Cal. App. 4th 116 (2008).....	3
11	<i>Laffitte v. Robert Half Int'l</i> ,	
12	1 Cal. 5th 480 (2016)	12,13
13	<i>Laskey v. Int'l Union</i> ,	
14	638 F.2d 954 (6th Cir. 1981)	6
15	<i>Lockheed Martin Corp. v. Superior Ct.</i> ,	
16	29 Cal. 4th 1096, 1108 (2003)	7
17	<i>Louie v. Kaiser Foundation Health Plan, Inc.</i> ,	
18	2008 U.S. Dist. LEXIS 78314 (S.D. Cal. 2008)	8, 15
19	<i>Ma v. Covidien Holding, Inc.</i> ,	
20	2014 WL 2472316, (C.D. Cal. 2014)	11
21	<i>Mathein v. Pier 1 Imps.</i> ,	
22	2018 U.S. Dist. LEXIS 71386, 168 Lab. Cas. (CCH) P36,620 (E.D. Cal. 2018).....	15
23	<i>Munoz v. BCI Coca-Cola Bottling Co. of Los Angeles</i> ,	
24	186 Cal. App. 4th 399 (2010).	3
25	<i>Naranjo v. Spectrum Sec. Servs., Inc.</i> ,	
26	15 Cal. 5th 1056 (2024)	7, 11
27	<i>Nordstrom Commission Cases</i> ,	
28	186 Cal. App. 4th 576 (2010)	10
	<i>Officers for Justice v. Civil Service Com'n</i> ,	
	688 F.2d 615 (9th Cir. 1982)	3
	<i>Pellegrino v. Robert Half Intern., Inc.</i> ,	
	182 Cal.App.4th 278 (2010)	13
	<i>Reynolds v. Direct Flow Med., Inc.</i> ,	
	2019 U.S. Dist. LEXIS 149865 (N.D. Cal. 2019)	15
	<i>Salazar v. See's Candy Shops Inc.</i> ,	
	64 Cal.App.5th 85 (2021)	7
	//	

1	<i>Serrano v. Priest</i> ,	
	20 Cal. 3d 25 (1977)	11
2	<i>Stanger v. China Elec. Motor, Inc.</i> ,	
3	812 F.3d 734 (9th Cir. 2016)	13
4	<i>Stetson v. Grissom</i> ,	
	821 F.3d 1157 (9th Cir. 2016)	13
5	<i>Stoetzner v. U.S. Steel Corp.</i> ,	
6	897 F.2d 115 (3d. Cir. 1990).	6
7	<i>Stovall-Gusman v. W.W. Granger, Inc.</i> ,	
	2015 U.S. Dist. LEXIS 78671 (N.D. Cal. 2015).	11
8	<i>Swedish Hospital v. Shalala</i> ,	
9	1 F.3d 1261 (D.C. Cir. 1993)	13
10	<i>Taylor v. Fedex Freight, Inc.</i> ,	
	2016 U.S. Dist. LEXIS 142202 (E.D. Cal. 2016).	14
11	<i>Viceral v. Mistras Grp., Inc.</i> ,	
12	2016 WL 5907869 (N.D. Cal. 2016)	11
13	<i>Vincent v. Hughes Air West, Inc.</i> ,	
	557 F.2d 759 (9th Cir. 1997)	11
14	<i>Vizcaino v. Microsoft Corp.</i> ,	
15	290 F.3d 1043 (9th Cir. 2002)	13
16	<i>Wershba v. Apple Computer</i> ,	
	91 Cal. App. 4 th 224 (2001).	3,11,14

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1 **I. INTRODUCTION**

2 The parties to this action have reached a Settlement and the Court preliminarily approved the
3 Class Action and PAGA Settlement Agreement (the “Agreement”), a true and correct copy of which
4 is attached as Exhibit #2 to the Declaration of Norman Blumenthal (“Blumenthal Decl.”).¹ In
5 accordance with the Preliminary Approval Order dated August 26, 2024 (“Preliminary Approval
6 Order”), the approved Class Notice has been disseminated to the Class.²

7 The purpose of this hearing is to determine whether the proposed settlement of the litigation
8 should be finally approved. Plaintiffs Jaymie Salinas and Gloria Zamora (“Plaintiffs”) respectfully move
9 for final approval, including attorneys’ fees, costs and the service awards, and the proposed entry of the
10 Final Approval Order and Judgment, submitted herewith. The settlement represents an excellent result
11 for the Class and avoids the delays, risks, and costs of further litigation. After disseminating the Class
12 Notice to the 778 members of the Class, **to date there have been no objections and only two (2)**
13 **requests for exclusion** from the Class, which means that almost the entire Class (99.9 %) has elected
14 to participate in the Settlement. Blumenthal Decl. ¶4. This is a positive response from the Class
15 evidencing their collective approval of the settlement. As a result, Plaintiffs respectfully submit that
16 the settlement should be finally approved for the same reasons that the Court preliminarily approved
17 the settlement as fair, reasonable, and adequate.

18 **II. THE SETTLEMENT BEFORE THE COURT**

19 As consideration for this Settlement, the Gross Settlement Amount to be paid by Defendant
20 HomeFirst Services of Santa Clara County (“Defendant”) is Five Hundred Forty-Five Thousand Dollars
21 (\$545,000). (Agreement at ¶¶ 1.22 and 3.1.) Under the Settlement, the Gross Settlement Amount
22 consists of the following elements: (i) all Individual Class Payments and Individual PAGA Payments;
23 (ii) the LWDA PAGA Payment; (iii) the Class Counsel Fees Payment and the Class Counsel Litigation
24 Expenses Payment; (iv) the Class Representative Service Payments; and (v) the Administration

25
26 ¹ Capitalized terms are defined in the Agreement.

27 ² The “Class” is defined as “all current and former hourly employees employed by Defendant in
28 California who were classified as non-exempt during [June 27, 2019 to February 14, 2024]”
 (Preliminary Approval Order, at 6:6-8).

1 Expenses Payment. (Agreement at ¶ 1.22.) The Gross Settlement Amount does not include Defendant's
2 share of payroll taxes. (Agreement at ¶ 3.1.) The Gross Settlement Amount shall be all-in with no
3 reversion to Defendant. (Agreement at ¶ 3.1.) Blumenthal Decl. ¶3(b). The following is a table of the
4 key financial terms of the Settlement and the proposed deductions:

5 **\$545,000** (Gross Settlement Amount)

- 6 - \$20,000 (Plaintiffs' proposed service awards not to exceed \$10,000 each)
- 7 - \$25,000 (Class Counsel Litigation Expenses Payment - not to exceed amount)
- 8 - \$181,666 (Class Counsel Fees Payment - not to exceed one-third of settlement)
- 9 - \$12,000 (PAGA Penalties - 75% to LWDA / 25% to Aggrieved Employees)
- 10 - \$14,950 (Administration Expenses Payment)

11 **\$291,384** (Net Settlement Amount)

12 The specific details of the Settlement were discussed in the Motion for Preliminary Approval and are
13 set forth again in the Declaration of Blumenthal at ¶¶ 3(c)-3(i).

14 The Settlement is fair, adequate and reasonable to the class and should be finally approved for
15 the same reasons the Court granted preliminary approval of the Settlement, agreeing that the settlement
16 is "fair and reasonable" (Preliminary Approval Order at 8:1-3.) In sum, the Settlement valued at
17 \$545,000 is an excellent result for the Class. This result is particularly favorable in light of the fact that
18 liability and class certification in this case were far from certain in light of the defenses asserted by
19 Defendant. Given the complexities of this case, the defenses asserted, the uncertainty of class
20 certification, along with the uncertainties of proof at trial and appeal, the proposed settlement is fair,
21 reasonable and adequate, and should be finally approved. Blumenthal Decl. ¶3(j).

22 **III. GENERAL STANDARDS APPLICABLE TO JUDICIAL REVIEW AND APPROVAL** 23 **OF CLASS ACTION SETTLEMENTS**

24 Settlements of disputed claims are favored by the courts. *Huens v. Tatum*, 52 Cal.App.4th 259,
25 265 (1997). In evaluating settlements, the courts have long recognized that compromise is particularly
26 appropriate since such litigation is difficult and notoriously uncertain. *7-Eleven Owners for Fair Fran.*
27 *v. Southland Corp.*, 85 Cal.App.4th 1135, 1151 (2000) ("[V]oluntary conciliation and settlement are
28 the preferred means of dispute resolution. This is especially true in complex class action litigation.")

The court must decide whether the proposed settlement falls within the range of reasonable
settlements, taking into account that settlements are compromises between the parties reflecting
subjective, unquantifiable judgments concerning the risks and possible outcomes of litigation. *See*

1 *Wershba v. Apple Computer*, 91 Cal.App.4th 224, 246 (2001) (“The proposed settlement is not to be
2 judged against a hypothetical or speculative measure of what might have been achieved had plaintiffs
3 prevailed at trial.”) In *Wershba*, the Court explained that “the merits of the underlying class claims are
4 not a basis for upsetting the settlement of a class action.” *Id.*; see also *7-Eleven, supra*, at 1150.

5 In these cases, courts have repeatedly emphasized that there is a strong initial presumption that
6 the compromise is fair and reasonable. *Wershba*, 91 Cal.App.4th at 245. Courts should not substitute
7 their judgment for that of the parties who negotiated the settlement. *Id.* at 246. The presumption of
8 fairness exists where: (1) investigation and discovery are sufficient to allow counsel and the court to
9 act intelligently; (2) the settlement is reached through arm's-length bargaining; (3) counsel is
10 experienced in similar litigation; and (4) the percentage of objectors is small. *Dunk v. Ford Motor Co.*,
11 48 Cal.App.4th 1794, 1801 (1996). Here, the facts and circumstances compel the conclusion that the
12 proposed settlement satisfies that standard and the presumption applies.

13 **IV. THE SETTLEMENT IS FAIR, REASONABLE, AND ADEQUATE**

14 The Court must determine whether the settlement is fair, adequate, and reasonable. *Dunk v. Ford*
15 *Motor Co.*, 48 Cal.App.4th 1794, 1801 (1996); see also *Officers for Justice v. Civil Service Com'n*, 688
16 F.2d 615, 625 (9th Cir. 1982). The trial court has broad discretion to determine whether the settlement
17 is fair. *Cellphone Termination Fee Cases*, 180 Cal.App.4th 1110, 1117 (2009). “The well-recognized
18 factors that the trial court should consider in evaluating the reasonableness of a class action settlement
19 agreement include 'the strength of plaintiffs' case, the risk, expense, complexity and likely duration of
20 further litigation, the risk of maintaining class action status through trial, the amount offered in
21 settlement, the extent of discovery completed and the stage of the proceedings, the experience and views
22 of counsel, the presence of a governmental participant, and the reaction of the class members to the
23 proposed settlement.” *Kullar v. Foot Locker Retail, Inc.*, 168 Cal.App.4th 116, 128 (2008) (internal
24 citations omitted); see also *Munoz v. BCI Coca-Cola Bottling Co. of L. A.*, 186 Cal.App.4th 399, 408
25 (2010).

26 The list of factors is not exhaustive and should be tailored to each case. *Dunk, supra*, at 1801.
27 Due regard should be given to what is otherwise a private consensual agreement between the parties.
28 *Id.* The inquiry “must be limited to the extent necessary to reach a reasoned judgment that the agreement

1 is not the product of fraud or overreaching by, or collusion between, the negotiating parties, and that
2 the settlement, taken as a whole, is fair, reasonable and adequate to all concerned.” *Id.* “Ultimately, the
3 [trial] court’s determination is nothing more than ‘an amalgam of delicate balancing, gross
4 approximations and rough justice.’ [Citation omitted.]” *Id.*

5 These factors are analyzed seriatim below, and all support final approval of the class action
6 settlement before this Court, consistent with this Court’s Preliminary Approval Order.

7 **A. The Settlement Satisfies the California Test for Fairness**

8 1. The Investigation and Analysis of Documents are Sufficient to Allow Counsel
9 and the Court to Act Intelligently

10 Over the course of almost two years of litigation, the Parties engaged in the investigation of the
11 claims, including the production of documents, class data, and other information, allowing for the full
12 and complete analysis of liabilities and defenses to the claims in this Action. The procedural history and
13 investigation performed was detailed at length in support of the motion for preliminary approval. The
14 Settlement was the product of one arms-length mediation and contentious negotiations through an
15 all-day mediation presided over by Gig Kyriacou, Esq. The details of the litigation are set forth in the
16 Blumenthal Decl. at ¶¶ 6(a)-6(g).

17 2. The Settlement was Reached Through Arm’s Length Bargaining

18 This settlement is the result of extensive and hard-fought litigation as well as negotiations before
19 an experienced and well-respected mediator. Defendant has expressly denied and continue to deny any
20 wrongdoing or legal liability arising out of the conduct alleged in the Action. Plaintiffs and Class
21 Counsel have determined that it is desirable and beneficial to the Class to resolve the Released Class
22 Claims of the Class in accordance with this Settlement, based upon the experience of Class Counsel
23 who has previously litigated similar claims against other employers. Blumenthal Decl. ¶7(a).

24 The Parties attended an arms-length mediation session with Gig Kyriacou, Esq., a respected and
25 experienced mediator of wage and hour class actions, in order to reach this Settlement. In preparation
26 for the mediation, Defendant provided Class Counsel with necessary information, including a sampling
27 of payroll and timekeeping data. Plaintiff analyzed the data with the assistance of a damages expert,
28 Berger Consulting, and prepared and submitted a mediation brief and damage valuation to the Mediator.

1 Following the all-day mediation, the Parties agreed to the Settlement, which was memorialized in the
2 form of a Memorandum of Understanding. Blumenthal Decl. ¶7(b).

3 The fact that the settlement was negotiated with the assistance of an experienced mediator
4 supports approval. *Alberto v. GMRI, Inc.*, 252 F.R.D. 652, 666 (E.D. Cal. Jun 24, 2008); *Glass v. UBS*
5 *Fin. Servs.*, 2007 U.S. Dist. LEXIS 8476 at *15 (N.D. Cal. 2007) (where settlement was “negotiated
6 and approved by experienced counsel on both sides of the litigation, with the assistance of a
7 well-respected mediator” this factor supports approval of the settlement).

8 From April 2024 to October 2024, the settlement agreement and exhibits thereto were finalized
9 and executed. On December 13, 2024, the Court granted the Motion for Preliminary Approval, and
10 entered the Order granting preliminary approval of the settlement as fair and reasonable to the Class.
11 Blumenthal Decl. ¶7(c).

12 3. Class Counsel Is Experienced in Similar Litigation

13 Class Counsel in this matter has extensive class action experience and has represented thousands
14 of persons in class actions including employment litigation, wage and hour class actions, and complex
15 litigation. Class Counsel has previously litigated wage and hour class actions involving employees and
16 claims similar to this case and have been approved as experienced class counsel during contested
17 motions in state and federal courts throughout California. The experience of counsel and class action
18 cases managed and settled by the Class Counsel in this action is provided to the Court in the Blumenthal
19 Decl. at Exhibit #1. Class Counsel have participated in every aspect of the settlement discussions and
20 have concluded the settlement is fair, adequate, and reasonable and in the best interests of the Class.
21 Blumenthal Decl. ¶ 3(j).

22 4. There Are No Objections and Only Two (2) Requests for Exclusion

23 The reaction of the Class unequivocally supports approval of the Settlement. On January 14,
24 2025, the Administrator mailed the Court-approved Class Notice to the Class Members, which provided
25 each class member with the terms of the Settlement, including notice of the claims at issue and the
26 financial terms of the settlement, including the attorneys' fees, costs, and service award that were being
27 sought, how individual settlement awards would be calculated, and the specific, estimated payment
28 amount to that individual. See Declaration of Cassandra Polites (“Polites Decl.”) at ¶ 7, Exh. A. In

1 disseminating the notice, the Administrator followed the notice procedures authorized by the Court in
2 its Preliminary Approval Order. To date, the Administrator has not received any written objections and
3 has received only two (2) requests for exclusion. Polites Decl. at ¶¶ 11-12. As such, 99.7% of the Class
4 will participate in the Settlement and will be sent a settlement check. Polites Decl. at ¶ 15; Blumenthal
5 Decl. ¶4.

6 The absence of any objector strongly supports the fairness, reasonableness and adequacy of the
7 Settlement. *See In re Austrian & German Bank Holocaust Litigation*, 80 F.Supp.2d 164, 175 (S.D.N.Y.
8 2000) ("If only a small number of objections are received, that fact can be viewed as indicative of the
9 adequacy of the settlement."); *Stoetznier v. U.S. Steel Corp.*, 897 F.2d 115, 118-119 (3d. Cir. 1990) (29
10 objections out of 281 member class "strongly favors settlement"); *Laskey v. Int'l Union*, 638 F.2d 954
11 (6th Cir. 1981) (The fact that 7 out of 109 class members objected to the proposed settlement should
12 be considered when determining fairness of settlement). Here, where there are no objections, the
13 approval of the class is evident.

14 5. The Strength of Plaintiffs' Case

15 The Action generally alleges that Plaintiffs and other Class Members were not properly paid all
16 overtime wages for hours worked and at the correct rate, were not provided meal and rest periods, were
17 not timely paid earned wages, were not provided reimbursement for required expenses, were not
18 provided accurate itemized wage statements, were not paid all accrued and used sick pay at the correct
19 rate of pay, and were not paid all wages at the time of termination. The Action seeks unpaid wages,
20 penalties, attorney fees, litigation costs, and any other equitable or legal relief allegedly due and owing
21 to Plaintiffs and the other Class Members by virtue of the foregoing claims. Blumenthal Decl. ¶5.

22 Where both sides face significant uncertainty, the attendant risks favor settlement. *Hanlon v.*
23 *Chrysler Corp.*, 150 F.3d 1011, 1026 (9th Cir. 1998). Here, a number of issues and defenses asserted
24 by Defendant present serious threats to the claims of the Plaintiffs and the other Class Members. The
25 most important consideration here was Defendant's financial condition. Defendant is a nonprofit
26 organization, which operates with a very thin margin and has almost no cash on hand. Additionally,
27 almost all of HomeFirst's funding and assets are "use-restricted" and cannot be used for settlement
28 purposes. As a result, Defendant would be unable to pay any significant judgment. As to the merits,

1 Defendant maintains that its practices complied with all applicable wage and hour laws. Defendant
2 maintains that all Class Members' work time was properly recorded and compensated and that there was
3 no miscalculation of the regular rate. Defendant contends that its meal and rest period policies and
4 practices provide Class Members with meal and rest periods and that the payment of meal premiums
5 is evidence of Defendant's legal compliant practices. As to expense reimbursement, Defendant
6 maintains that it did not fail to provide reimbursement for necessary business expenses because, among
7 other things, employees are not required to use their personal cell phones to perform their work.
8 Defendant could argue that the decisions in *Brinker v. Superior Court*, 53 Cal. 4th 1004 (2012),
9 *Lockheed Martin Corp. v. Superior Ct.*, 29 Cal. 4th 1096, 1108 (2003), and *Salazar v. See's Candy*
10 *Shops Inc.*, 64 Cal.App.5th 85 (2021), weakened Plaintiffs' claims in terms of liability and value, and
11 preclude claims from proceeding on a class or representative basis. Defendant also maintains that a
12 good faith dispute and absence of willfulness would negate the claims for waiting time penalties and/or
13 failure to provide accurate itemized wage statements. See e.g. *Naranjo v. Spectrum Sec. Servs., Inc.*,
14 15 Cal. 5th 1056, 1065 (2024) ("if an employer reasonably and in good faith believed it was providing
15 a complete and accurate wage statement in compliance with the requirements of section 226, then it has
16 not knowingly and intentionally failed to comply with the wage statement law.") If successful,
17 Defendant's financial condition and defenses as to the merits could eliminate or substantially reduce
18 any recovery to the Class. Blumenthal Decl. ¶8(a).

19 In a similar wage and hour case, the federal district court in *Hopson v. Hanesbrands Inc.*, 2009
20 U.S. Dist. LEXIS 33900 (N.D. Cal. 2009), explained in approving an overtime class action settlement:

21 Plaintiffs may have a strong case, but the risks inherent in continued litigation are great.
22 Defendants strongly deny liability for Plaintiffs' principal claim... [...T]he gross
23 settlement amount and the Class Members' expected net recovery, after fees and other
costs are deducted, appear to be a reasonable compromise, in light of the risks of
litigation.

24 2009 U.S. Dist. LEXIS 33900 at *19-20 (N.D. Cal. 2009); see also *Browning v. Yahoo!, Inc.*, 2007
25 U.S. Dist. LEXIS 86266, at *30 (N.D. Cal. 2007) ("In considering the strength of Plaintiff's case, legal
26 uncertainties at the time of settlement - particularly those which go to fundamental legal issues - favor
27 approval."). As recognized in a federal decision approving settlement of an overtime wage class action:

28 The potential complexity and possible duration of trial also weigh in favor of granting

1 final approval. Plaintiffs acknowledge the difficulties of proving damages, recognize the
2 uncertainty of outcome, and believe defendant would appeal in the event of adverse
3 judgment. A post-judgment appeal would require many years to resolve and delay
4 payment to class members. Plaintiffs believe the benefits of a guaranteed recovery today
outweigh an uncertain future result. Accordingly, plaintiffs argue, and the Court agrees,
the actual recovery confers substantial benefits on the class that outweigh the potential
recovery through full adjudication.

5 *Barcia v. Contain-A-Way, Inc.*, 2009 U.S. Dist. LEXIS 17118, *9 (S.D. Cal. 2009); *see also Louie v.*
6 *Kaiser Foundation Health Plan, Inc.*, 2008 U.S. Dist. LEXIS 78314, *14 (S.D. Cal. 2008).

7 There was also a significant risk that, if the Action was not settled, Plaintiffs would be unable
8 to obtain class certification and thereby not recover on behalf of any employees other than themselves
9 Defendant argued that the individual experience of each putative class member varied with respect to
10 the claims, which would preclude the claims from proceeding on a class basis. For instance, Plaintiffs'
11 meal and rest period claims would require individualized inquiries into whether each employee took
12 a compliant meal or rest period on a given shift and, if not, why. Plaintiffs are aware of other cases
13 where class certification of similar claims was denied. *See e.g. Cacho v. Eurostar, Inc.*, 43 Cal. App.
14 5th 885 (2019) (denying certification of rest break claims). Finally, even if class certification was
15 successful, as demonstrated by the California Supreme Court decision in *Duran v. U.S. Bank National*
16 *Association*, 59 Cal. 4th 1 (2014), there are significant hurdles to overcome for a class-wide recovery
17 even where a class has been certified, including the solvency of Defendant in order to collect upon a
18 class-wide judgment. While other cases have approved class certification of wage and hour claims,
19 class certification in this Action would have been hotly disputed and was by no means a foregone
20 conclusion. Blumenthal Decl. ¶8(b).

21 In sum, the Settlement is a fair and reasonable result, and provides the Class with a significant
22 recovery, particularly when viewed in light of the fact that the Defendant asserted serious and
23 substantial defenses both to liability and to class certification. Currently, the maximum and average
24 class member allocation are \$1,239.75 and \$375.01, respectively. *See Polites Decl.* ¶ 16. Given the
25 complexities of this case, the defenses, along with the uncertainties of proof and appeal, the proposed
26 Settlement is fair, reasonable and adequate, and should be finally approved. Blumenthal Decl. at ¶8(e).

27 6. The Risk, Expense, Complexity, and Likely Duration of Further Litigation

28 As demonstrated by the decision in *Duran*, the complexities and duration of further litigation

1 cannot be overstated. There is little doubt that Defendant would post a bond and appeal in the event
2 of an adverse judgment. A post-judgment appeal by Defendant would have required many more years
3 to resolve, assuming the judgment was affirmed. If the judgment was not affirmed in total, then the case
4 could have dragged on for years after the appeal. The benefits of a guaranteed recovery today outweigh
5 an uncertain result three or more years in the future. Blumenthal Decl. ¶8(c).

6 Plaintiffs and Class Counsel recognize the expense and length of a trial against Defendant
7 through possible appeals which could take at least another two or three years. Class Counsel also have
8 taken into account the uncertain outcome, the risk of litigation, especially in complex actions such as
9 this one. Class Counsel are also mindful of and recognize the inherent problems of proof under, and
10 alleged defenses to, the claims asserted in the Action. Moreover, post-trial motions and appeals would
11 have been inevitable. Costs would have mounted and recovery would have been delayed if not denied,
12 thereby reducing the benefits of an ultimate victory. The Settlement confers substantial benefits upon
13 the Class. Based upon their evaluation, Plaintiffs and Class Counsel have determined that the
14 Settlement set forth in the Agreement is in the best interest of the Class. Blumenthal Decl. ¶8(c).

15 Although Plaintiffs and Class Counsel believe that their case has merit, which Defendant
16 continues to vigorously deny, they recognized the potential risks both sides would face if litigation of
17 the Action continued. As the federal court held in *Glass*, where the parties faced uncertainties similar
18 to those in this litigation:

19 In light of the above-referenced uncertainty in the law, the risk, expense, complexity,
20 and likely duration of further litigation likewise favors the settlement. Regardless of how
21 this Court might have ruled on the merits of the legal issues, the losing party likely
22 would have appealed, and the parties would have faced the expense and uncertainty of
23 litigating an appeal. "The expense and possible duration of the litigation should be
24 considered in evaluating the reasonableness of [a] settlement."

25 *Id.* at *12.

26 7. The Amount Offered in Settlement

27 The Settlement in this case is fair, reasonable and adequate considering Defendant's defenses
28 to Plaintiffs' claims. As set forth in the Declaration of Nordrehaug in support of preliminary approval
which discussed the value of the class claims in detail, the Gross Settlement Amount compares
favorably to the value of the claims. Based upon 776 Participating Class Members who collectively

1 worked 56,815 Workweeks, the Gross Settlement Amount provides a value of \$702 per Class Member
2 and \$9.59 per Workweek and, after deductions, the Net Settlement Amount provides an average
3 recovery of \$375.49 per Class Member and \$5.12 per Workweek. Blumenthal Decl. at ¶8(d).

4 The calculations to compensate for the amount due to the Class Members at the time the
5 Settlement was negotiated were calculated by Plaintiffs' expert, Berger Consulting, in advance of
6 mediation. Class Counsel analyzed the data for putative class members and determined the potential
7 maximum damages for the class claims. For the Class, the maximum value of the claim for unpaid
8 wages due to the alleged miscalculation of the regular rate applicable to overtime pay and sick pay was
9 \$58,831, the maximum value of the claim for unpaid wages due to alleged off-the-clock work was
10 \$1,807,672, the maximum potential damages for alleged meal period violations were estimated to be
11 \$2,838,834 based upon a 50% violation rate observed in the time records and after deduction of meal
12 premiums already paid by Defendant, the maximum potential damages for alleged rest period violations
13 were estimated to be \$2,801,753 based upon the same 50% potential violation rate observed for meal
14 periods, and the maximum potential damages for the alleged failure to reimburse business expenses
15 were calculated to be \$66,265 based upon \$5 per month. In total, the damages for the Class were
16 calculated to have a maximum potential total value of \$7,573,355. In addition, Plaintiff calculated that
17 the maximum value of the potential waiting time penalties was between \$1,836,753 and \$2,273,505,
18 depending on the predicate violations, and the maximum value of the potential wage statement penalties
19 was between \$889,400 and \$1,193,700, depending on the predicate violation.³ Defendant vigorously
20 disputed Plaintiffs' calculations and exposure theories. Blumenthal Decl. at ¶ 8(d).

21 Consequently, the Gross Settlement Amount represents more than 7% of Plaintiffs' calculation
22 of the potential maximum damages at issue for the Class in this case, assuming these amounts could
23

24
25 ³ While Plaintiffs alleged claims for statutory penalties pursuant to Labor Code Sections 203 and
26 226, at mediation Plaintiffs recognized that these claims were subject to additional, separate defenses
27 asserted by Defendant, including but not limited to, a good-faith dispute defense as to whether any
28 premium wages for meal or rest periods or other wages were owed given Defendant's position that
Plaintiffs and Class Members were properly compensated. *See Nordstrom Commission Cases*, 186 Cal.
App. 4th 576, 584 (2010) ("There is no willful failure to pay wages if the employer and employee have
a good faith dispute as to whether and when the wages were due.").

1 all be proven in full at trial.⁴ Importantly, the recent decision that good faith belief of compliance by
2 the employer in *Naranjo v. Spectrum Sec. Servs., Inc.*, 15 Cal. 5th 1056, 1065 (2024), could completely
3 negate the claims for waiting time and wage statement penalties, even if wages were owed to the class.
4 The maximum calculations should then be realistically risk rated in consideration for both the risk of
5 class certification and the risk of establishing class-wide liability on all claims. Given the amount of the
6 Settlement as compared to the potential value of the claims, the Settlement is most certainly fair and
7 reasonable.⁵ Clearly, the goal of this litigation has been met.

8 **V. THE REQUESTED ATTORNEYS' FEES, COSTS AND SERVICE AWARD SHOULD**
9 **BE APPROVED**

10 **A. The Attorneys' Fees are Reasonable and Supported by the Percentage of the Fund**
11 **Method**

12 Class Counsel seeks a fee award calculated at one-third (1/3) of the total value of the settlement
13 for the successful prosecution and resolution of this action. California state and federal courts have
14 recognized that an appropriate method for determining award of attorneys' fees is based on a percentage
15 of the total value of benefits to class members by the settlement. *Wershba v. Apple Computer, Inc.*, 91
16 Cal.App.4th 224, 254 (2001); *Serrano v. Priest*, 20 Cal.3d 25, 34 (1977); *Boeing Co. v. Van Gemert*, 444
17 U.S. 472, 478 (1980); *Vincent v. Hughes Air West, Inc.*, 557 F.2d 759, 769 (9th Cir. 1997). The purpose
18 of this equitable doctrine is to avoid unjust enrichment to the Class and to "spread litigation costs
19 proportionally among all the beneficiaries so that the active beneficiary does not bear the entire burden
20 alone." *Vincent*, 557 F.2d at 769.

21
22 ⁴ Because the PAGA claim does not provide a recovery to the Class, Plaintiffs did not include the
23 PAGA claim in this discussion of the class claim valuation. The PAGA claim was addressed in the
24 Motion for Preliminary Approval in the Declaration of Nordrehaug at ¶ 33.

25 ⁵ See *Dunleavy v. Nadler (In re Mego Fin. Corp. Sec. Litig.)*, 213 F.3d 454, 459 (9th Cir. 2000)
26 approving settlement which represented "roughly one-sixth of the potential recovery"; *Stovall-Gusman*
27 *v. W.W. Granger, Inc.*, 2015 U.S. Dist. LEXIS 78671, at *12 (N.D. Cal. 2015) (granting final approval
28 where "the proposed Total Settlement Amount represents approximately 10% of what class might have
been awarded had they succeeded at trial."); *Viceral v. Mistras Grp., Inc.*, 2016 WL 5907869 (N.D. Cal.
2016) (approving wage and hour class action settlement amounting to 8.1% of full verdict value); *Ma*
v. Covidien Holding, Inc., 2014 WL 2472316, (C.D. Cal. 2014) (approving wage and hour class action
settlement worth "somewhere between 9% and 18%" of full verdict value).

1 The California Supreme Court has provided guidance regarding the award of attorneys' fees in
2 wage and hour class action settlements. Under California law, the award of attorneys' fees in common
3 fund wage and hour class action settlements should start with the percentage method. See *Laffitte v.*
4 *Robert Half Int'l*, 1 Cal. 5th 480, 503 (2016) ("We join the overwhelming majority of federal and state
5 courts in holding that when class action litigation establishes a monetary fund for the benefit of the class
6 members, and the trial court in its equitable powers awards class counsel a fee out of that fund, the court
7 may determine the amount of a reasonable fee by choosing an appropriate percentage of the fund
8 created"). Under the percentage of the fund method, a court's objective remains to "mimic the market"
9 in fixing a reasonable fee. See *Gaskill v. Gordon*, 160 F.3d 361, 363 (7th Cir. 1998).

10 First, the fee award representing one-third of the fund clearly falls within that range and is
11 consistent with other rulings of other courts and comprehensive surveys of class action settlements and
12 fee awards. Attorneys' fees awards of one-third of the fund are within the expected range in the market
13 in legal services. In *Laffitte v. Robert Half Int'l*, 1 Cal.5th 480, 503 (2016), the California Supreme
14 Court both endorsed the award of a fee as a percentage of that fund, and expressly approved one-third
15 (1/3) as a reasonable percentage in a contingent common fund class settlement. Such similar awards by
16 other Courts are set forth in the Blumenthal Decl. ¶11.

17 Second, the results delivered by Class Counsel also support the requested percentage of the fund.
18 Here, Plaintiffs and their counsel secured a \$545,000 settlement for the benefit of the Class and only
19 one (1) of the Class Members elected to opt out. Similarly, not one Class Member objected. The
20 Settlement was possible only because Class Counsel was able to convince Defendant that Plaintiffs
21 could potentially prevail on the contested issues regarding liability, maintain class certification,
22 overcome difficulties in proof as to monetary relief and take the case to trial if need be. Blumenthal
23 Decl. ¶10(f). In successfully navigating these hurdles Class Counsel displayed the necessary skills in
24 both wage and hour and class action litigation. Moreover, as discussed above, there were significant
25 risks to the contingent litigation. See *Barbosa v. Cargill Meat Solutions Corp.*, 297 F.R.D. 431, 449
26 (E.D. Cal. 2013) ("**Like this case, where recovery is uncertain, an award of one-third of the**
27 **common fund as attorneys' fees has been found to be appropriate.**")

28 Third, "the response of the class members to attorneys' fee notice, though not decisive, is

1 relevant to the...reasonable determination” regarding fees. *Swedish Hospital v. Shalala*, 1 F.3d 1261,
2 1272 (D.C. Cir. 1993). A positive response rate tends to suggest that the court’s “approximation of the
3 market” for fees is well supported. *Id.* at 1269. Here, the Class Notice specifically notified the Class that
4 Class Counsel would be seeking a one-third fee award. Again, there were no objections.

5 Fourth, it is recognized that one of the primary factors justifying an enhanced attorney’s fees
6 reward is the attendant risks inherent in the litigation. For Class Counsel, the fees here were wholly
7 contingent in nature and the case presented far more risk than the usual contingent fee case. Among the
8 risks was the cost inherent in class action litigation, as well as a long battle with a corporate Defendant
9 who had retained a premier and highly experienced defense firm. **Counsel retained on a contingency**
10 **fee basis, whether in private matters or in class action litigation, is entitled to a premium above**
11 **their hourly rate in order to compensate for both the risks and the delay in payment.** *See e.g.*
12 *Stanger v. China Elec. Motor, Inc.*, 812 F.3d 734, 741 (9th Cir. 2016) (courts "must" apply a risk
13 enhancement); *Stetson v. Grissom*, 821 F.3d 1157, 1166 (9th Cir. 2016) (abuse of discretion not to apply
14 risk multiplier).

15 Fifth, the requested fee award is supported by the lodestar cross-check. The reasonableness of
16 the requested attorneys’ fee of one-third equal to \$181,666 is also established by reference to Class
17 Counsel’s lodestar in this matter. **The contemporaneous billing records for Class Counsel evidence**
18 **that through May 8, 2025, Class Counsel’s total lodestar is \$155,445, with significant additional**
19 **fees still to be incurred to complete final approval and the settlement process.** (Blumenthal Decl.
20 at ¶12 and Exhibit #3.) The requested fee award is therefore currently equivalent to Class Counsel’s
21 total lodestar with a reasonable multiplier of less than 1.2, and there will be additional lodestar incurred
22 by Class Counsel to complete the settlement process and manage the settlement distribution and reports.
23 (Blumenthal Decl. at ¶12.) Such a lodestar cross-check is below the range of positive multipliers
24 approved in other cases such as *Laffitte* and *Vizcaino v. Microsoft Corp.*, 290 F.3d 1043, 1051 (9th Cir.
25 2002).⁶ For such reasons, Class Counsel’s request for attorneys’ fees in the amount of one-third of the

26
27 ⁶ See *Laffitte, supra*, 1 Cal. 5th at 487 (approving 1/3 fee award with multiplier of 2.13); *Vizcaino*
28 *supra*, at 1051(3.65 multiplier approved); *Pellegrino v. Robert Half Intern., Inc.*, 182 Cal.App.4th 278
(2010) (in class actions reasonable multipliers of 2.0 to 4.0 are often applied); *Wershba*, 91 Cal. App.

1 common fund is reasonable and should be approved.

2 **B. The Reimbursement of Litigation Expenses**

3 The Agreement provides at paragraph 3.2(b), that Class Counsel may seek a “Class Counsel
4 Litigation Expenses Payment of not more than \$25,000.” Class Counsel requests reimbursement for
5 incurred litigation expenses and costs in the amount of \$21,904.22. Class Counsel have incurred
6 expenses of \$21,804.22 based upon counsel's billing records; therefore, this requested amount is less
7 than the allocation in the Agreement. These litigation expenses include the expenses incurred for filing
8 fees, mediation expenses, expert expenses (Berger Consulting), attorney service charges (OneLegal and
9 Knox), and research charges (LexisNexis), all of which are costs normally billed to and paid by the
10 client. The details of the litigation expenses incurred are set forth the Blumenthal Decl. at ¶13 and
11 Exhibit #3. These costs were reasonably incurred in the prosecution of the Action. (Blumenthal Decl.
12 at ¶13.) Because these costs were reasonable and necessary to the successful prosecution of these
13 claims, the request is reasonable and should be granted.

14 **C. The Service Award Is Reasonable and Should be Approved**

15 Plaintiffs respectfully submit that for their service as the class representatives, Plaintiffs should
16 be awarded the agreed service award of \$10,000 each, in accordance with the Agreement for their time,
17 risk and effort expended on behalf of the Class as the class representatives. (Agreement at ¶ 3.2(a).)
18 Defendant has agreed to this payment and there have been no objections to the requested service awards.
19 The Blumenthal Decl., at ¶14, provides a long list of equivalent service awards approved in California
20 in similar cases, which further supports the request in this case. The Plaintiffs’ Declarations in support
21 of these requests are attached as Exhibits #5 and 6 to the Blumenthal Decl.

22 As the representatives of the Class, Plaintiffs performed their duties to the Class admirably and
23 without exception. Plaintiffs worked extensively with Class Counsel during the course of the litigation,
24 responding to numerous requests, searching for documents, working with counsel, and reviewing the
25 settlement documentation. (Blumenthal Decl. at ¶ 14.) As set forth in the Agreement, Plaintiffs are also

26
27 4th at 255 ("multipliers can range from 2 to 4 or even higher."); *In re Sutter Health Uninsured Pricing*
28 *Cases*, 171 Cal.App.4th 495, 512 (2009) (affirming multiplier of 2.52 as “fair and reasonable”); *Chavez*
v. Netflix, Inc., 162 Cal.App.4th 43, 66 (2008) (affirming multiplier of 2.53); *Taylor v. Fedex Freight,*
Inc., 2016 U.S. Dist. LEXIS 142202 (E.D. Cal. 2016) (2.26 multiplier).

1 providing a comprehensive release as part of the Settlement, far beyond the class release. The Plaintiffs’
2 Declarations detail the involvement, stress and risks they undertook as a result of this Action. Plaintiffs
3 also assumed the serious risk that they might possibly be liable for costs and fees to Defendants, as well
4 as the reputational risk of being “blacklisted” by other future employers for having filed a class action
5 on behalf of employees. (Blumenthal Decl. at ¶15.) Without the Plaintiffs’ participation, cooperation
6 and information, no other employees would be receiving any benefit. (Blumenthal Decl. at ¶¶ 15-16).

7 The payment of service awards to successful class representatives is appropriate and the amount
8 is within the currently awarded range for similar settlements. *See, e.g., Andrews v. Plains All Am.*
9 *Pipeline L.P.*, 2022 U.S. Dist. LEXIS 172183, at *11 (C.D. Cal. 2022) (service awards of \$15,000 each
10 are appropriate); *Reynolds v. Direct Flow Med., Inc.*, 2019 U.S. Dist. LEXIS 149865, at *19 (N.D. Cal.
11 2019) (granting request for \$12,500 service award); *Mathein v. Pier 1 Imps. (U.S.), Inc.*, 2018 U.S. Dist.
12 LEXIS 71386 (E.D. Cal. 2018) (awarding \$12,500 where average class member payment was \$351);
13 *Louie, supra*, 2008 WL 4473183 at *7 (awarding \$25,000 service award to each of six plaintiffs in
14 overtime class action); *Glass, supra*, 2007 WL 221862 at *16-17 (awarding \$25,000 service award).
15 Accordingly, Class Counsel respectfully requests approval of the Class Representative Service
16 Payments in accordance with the Agreement.

17 **VI. CONCLUSION**

18 Plaintiffs respectfully submit that the proposed settlement satisfies the standard of fairness
19 established in California law and should therefore be finally approved as fair, reasonable and adequate
20 and requests entry of the Final Approval Order and Judgment.

21 Respectfully submitted,

22 Dated: May 8, 2025

BLUMENTHAL NORDREHAUG BHOWMIK DE BLOUW LLP

23 By: /s/ Kyle Nordrehaug
24 Kyle R. Nordrehaug, Attorneys for Plaintiffs
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