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[Additional Counsel Listed after Caption]

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES – SPRING STREET COURTHOUSE

EDUARDO MORALES, JOSE OLIVA, individually and on behalf of other persons similarly situated and similarly aggrieved employees, Plaintiffs, v. PHENIX ENTERPRISES, INC.; SATELLITE BODY, INC.; VEHICLE SYSTEMS, INC.; and DOES 1 through 25, Defendants.	Case No.: 23STCV06594 (related to 24STCV05558) CLASS AND REPRESENTATIVE ACTION [*Assigned to Hon. Laura A. Seigle in Dept. SS-17*] **PLAINTIFFS' NOTICE OF MOTION AND MOTION FOR FINAL APPROVAL OF CLASS ACTION SETTLEMENT, CLASS REPRESENTATIVES' ENHANCEMENT AWARDS, CLASS COUNSEL ATTORNEYS' FEES AND COSTS, SETTLEMENT ADMINISTRATION COSTS, AND LWDA PAYMENT** [FILED CONCURRENTLY WITH THE COMPENDIUM OF DECLARATIONS BY: (1) LLUVIA ISLAS; (2) HAIK HACOPIAN, (3) ZORIK MOORADIAN, (4) MEHRDAD BOKHOUR, (5) JOSHUA FALAKASSA; (6) EDUARDO MORALES, (7) JOSE OLIVA, AND [PROPOSED] ORDER] Date: January 13, 2026 Time: 9:00 a.m. Dept.: SS-17

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PLEASE TAKE NOTICE that, pursuant to Cal. Rules of Court, rule 3.769, on January 13, 2026 at 9:00 a.m. or as soon thereafter as the matter may be heard in Department SS-17 of the above-entitled Court located at 312 North Spring Street, Los Angeles, California 90012, Plaintiff Eduardo Morales and Plaintiff Jose Oliva ("Plaintiffs"), individually and on behalf of a similarly-situated class of individuals, will and hereby do move this Court for entry of an Order pursuant to California Code of Civil Procedure § 382 and California Rules of Court, rule 3.769:

1. Confirming the certification of the Settlement Class for settlement purposes under Section 382 of the California Code of Civil Procedure, defined as follows:

> All persons who worked for Defendants and/or Phenix Truck Body Management as a non-exempt, hourly employee in California at any time from March 24, 2019 through February 23, 2025 (“Class Period”);

2. Confirming the appointment of Plaintiff Eduardo Morales and Plaintiff Jose Oliva as Class Representatives;

3. Confirming the appointment of Zorik Mooradian and Haik Hacopian Mooradian Law, APC, Mehrdad Bokhour of Bokhour Law Group, P.C., and Joshua S. Falakassa of Falakassa Law, P.C. as Class Counsel;

4. Granting final approval of the Amended Joint Stipulation of Settlement (“Settlement Agreement” or “S.A.”);

5. Approving an award of $407,160 in Attorneys’ Fees to Class Counsel;

6. Approving an award of $30,981.25 in litigation costs and expenses to Class Counsel;

7. Approving an award of $9,250.00 in Settlement Administration Costs to Phoenix Settlement Administrators;

8. Approving an allocation of $50,000 for Private Attorneys General Act (“PAGA”) claims with respective division and payments as follows: 75% ($37,500) to the California Labor and Workforce Development Agency (“LWDA”) and 25% ($12,500) to

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PAGA Group Members, defined as: "all persons who, during the PAGA Period (from March 27, 2022 through February 23, 2025), have previously been or currently are employed in California by Defendants as an hourly-paid, non-exempt employee."; and

9. Approving an Enhancement Awards of $10,000 to each Plaintiff, or $20,000 total, for their services as the Class Representatives.

This Motion is made on the following grounds: (l) the Class continues to meet the requirements for class certification for settlement purposes only under Code of Civil Procedure § 382; (2) Plaintiffs and previously appointed Class Counsel continue to be adequate representatives of the Class; (3) the Settlement is a fair, adequate, and reasonable compromise of disputed wage and hour claims; (4) the requested awards of Class Counsel Attorneys' Fees, Class Counsel Costs, Enhancement Awards, and Settlement Administration Costs, are all fair, adequate, and reasonable; and (5) in light of the foregoing, the [Proposed] Order Granting Final Approval of Class Action Settlement submitted herewith should be entered so as to give finality to, and allow for disbursements from, the Settlement.

This Motion is based on this Notice of Motion, the accompanying Memorandum of Points and Authorities, the Declaration of Lluvia Islas, the Declaration of Haik Hacopian, the Declaration of Zorik Mooradian, the Declaration of Mehrdad Bokhour, the Declaration of Joshua Falakassa, the Declaration of Eduardo Morales, the Declaration of Jose Oliva, the pleadings and other papers filed in this action, and on any further oral or documentary evidence or argument presented at the time of hearing.

Dated: Dec. 18, 2025

MOORADIAN LAW, APC
FALAKASSA LAW, APC
BOKHOUR LAW GROUP, P.C.

By: */s/Haik Hacopian*
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MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

Plaintiffs, Eduardo Morales and Jose Oliva (hereinafter "Plaintiffs" or "Class Representatives"), hereby request final approval of the non-reversionary class action settlement entered into with Defendants Phenix Enterprises, Inc., Satellite Body, Inc., and Safe Vehicle Systems, Inc. (hereinafter "Defendants") which resolves the subject class and representative action on behalf of the Class defined as follows:

> All persons who worked for Defendants and/or Phenix Truck Body Management as a non-exempt, hourly employee in California at any time from March 24, 2019 through February 23, 2025 ("Class Period").

This settlement has been received positively by the Class with a 99.3% participation rate by 296 Class Members. There are zero objections, zero disputes, and only two exclusion requests.

This settlement, if approved, will pay an average of $2,378.68 to Participating Class Members. Defendants will pay a gross settlement of $1,221,480 to fund the settlement, plus the employer's share of payroll taxes on the portion of the net settlement that is allocated to wages.

As explained below, the Court should grant Plaintiffs' Motion in its entirety because: (1) the Class continues to meet the requirements for class certification for settlement purposes only under Code of Civil Procedure § 382; (2) the Settlement warrants final approval because it is a fair, adequate, and reasonable compromise of the disputed claims in this case; and (3) the amounts requested for Class Counsel's Attorneys' Fees, Class Counsel's Costs, Plaintiffs' Enhancement Awards, and Settlement Administration Costs are all fair, adequate, and reasonable. In light of the foregoing, this Court should enter the [Proposed] Order Granting Final Approval of Class Action Settlement submitted concurrently herewith.

Given the risks of this litigation and the amount of the settlement, the result here is laudable. As detailed below, the work performed by Plaintiffs and Class Counsel was significant. Among other things, Class Counsel:

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- Conducted initial investigations and developed the theories and facts to support Plaintiffs' claims;
- Conducted formal and informal discovery including review and analysis of significant document and wage related electronic records including employee time and payroll records;
- Prepared a detailed mediation brief and damages analysis in connection with the first mediation session with Hon. Amy D. Hogue (ret.) and the second mediation session with Mr. Jeffrey P. Fuchsman;
- Engaged in arm's length settlement negotiations with Defendants at the mediations which resulted in this settlement;
- Worked with Defendants to further perfect the Settlement, to prepare the Settlement Agreement, related forms, and approval motions; and
- Incurred a minimum of $30,981.25 in costs pursuing this case on behalf of the Settlement Class that would not have been recoverable had Plaintiffs lost.

Moreover, in pursuing this case against Defendants, Plaintiffs and Class Counsel faced serious risks, including but not limited to:

- The risk of being unable to establish class-wide liability on the meal and rest period claims in light of the defense that all breaks were properly provided under *Brinker Restaurant Corp. v. Superior Court* (2012) 53 Cal.4th 1004;
- The necessity of significant individualized inquiry with respect to any unpaid wage claims and/or meal/rest break claims making certification unlikely and decertification likely;
- The risk of being unable to establish class-wide liability on the wage statement and waiting time claims on primarily a derivative basis;
- The risk of being denied the ability to proceed on a class basis in view of the U.S. Supreme Court's decisions in *Wal-Mart Stores, Inc. v. Dukes* (2011) 131 S.Ct. 2541, and

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Comcast Corp. v. Behrend (2013) 133 S.Ct. 1426, and the California Supreme Court's decision in *Duran v. U.S. Bank* (2014) 59 Cal.4th 1;

- The risk of a potentially prolonged and expensive trial;
- The risk of Plaintiffs being held liable for Defendants' attorneys' fees and/or costs if this case had been unsuccessful;
- The risk of lengthy appeals; and
- The risk that Plaintiffs' future employment prospects would be adversely affected by filing their lawsuits.

Despite the many risks faced by Plaintiffs and Class Counsel, and the difficulty in prosecuting such a complex case, they nevertheless achieved a positive result for the Settlement Class. Accordingly, Class Counsel's request for attorneys' fees of $407,160, or one-third (33 1/3%) of the Maximum Settlement Amount, is fair, adequate and reasonable. This amount is well-earned, supported by controlling case law, and is squarely within the range awarded by California courts in similar complex cases. Such an award is reasonable and supported by the California Supreme Court's ruling in *Laffitte v. Robert Half Intern., Inc.* (2016) 1 Cal 5th 480. Class Counsel's collective lodestar is $205,612.50, and the application of a modest 1.98 multiplier would result in the requested fee award. To the extent Laffey Matrix rates are used, the lodestar would calculate to $341,055 and necessitate a 1.19 multiplier. The expenses incurred totaling $30,981.25 were reasonable and necessary to the prosecution of this action and the administration of this Settlement and are significantly less than the $50,000 maximum contemplated by the Settlement Agreement.

Likewise, it is fair that the Settlement Administrator be paid its reasonable fee of $9,250.00 and a payment for $37,500.00 to the LWDA, for its 75% share of PAGA penalties, be approved.

Finally, Plaintiffs' requested Enhancement Award of $10,000.00 to each Plaintiff also warrants approval because it is fair and reasonable in view of Plaintiffs' efforts in their case and the risks they have undertaken, especially considering that they jeopardized their future

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job prospects and exposed themselves to the risk of awards for attorneys' fees and costs against them (which could have potentially totaled several hundred thousand dollars).

Accordingly, this Court should grant this Motion in its entirety and finally approve the settlement.

II. FACTUAL AND PROCEDURAL BACKGROUND

A. Plaintiffs' Lawsuits

On March 24, 2023, Plaintiff Eduardo Morales filed the instant class action lawsuit against Defendants. S.A. ¶1. On July 7, 2023, Plaintiff Morales filed a First Amended Complaint to add an additional representative cause of action for civil penalties under the Private Attorneys General Act ("PAGA") pursuant to the notice letter sent to Defendants and to the Labor and Workforce Development Agency ("LWDA") on March 27, 2023 (LWDA-CM-944716-23). S.A. ¶5.

On April 28, 2023, Oliva filed a Class Action Complaint in Los Angeles County Superior Court (23STCV09529). S.A. ¶4. On August 21, 2023, Plaintiff Oliva filed a First Amended Complaint adding an additional representative cause of action for civil penalties under PAGA pursuant to the written notice provided notice to the LWDA and Defendants on April 26, 2023 (LWDA-CM-951101-23). S.A. ¶¶3&5.

On June 17, 2024, Plaintiffs filed the operative Consolidated Complaint – Class and Representative Action asserting causes of action for (1) Failure to Provide Meal Periods; (2) Failure to Provide Rest Periods; (3) Failure to Pay Wages; (4) Failure to Timely Pay Wages at Termination/Separation; (5) Failure to Timely Pay Vacation Wages at Termination; (6) Failure to Provide Accurate Wage Statements; (7) Failure to Reimburse Business Expenses; (8) Violation of Unfair Business Practices Act – Bus. & Prof. Code §§ 17200, et seq.; and (9) Penalties Pursuant to Private Attorneys General Act (the "Action"). S.A. ¶7. Plaintiff Oliva's separate lawsuit was also dismissed.

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B. Discovery and Mediation

The Parties have conducted investigation of the operative facts and applicable law during the pendency of the case through formal and informal discovery. Plaintiffs have reviewed and examined class data and has retained the services of an expert who has analyzed the damages and evaluated the potential class wide exposure. Prior to the first mediation, Defendants produced a random sample time and payroll records for 59 of 289 class members (the total at the time), approximately 20%, as well as relevant policies. HH Decl. ¶7.

On April 12, 2024, Plaintiffs and Defendants participated in a full-day mediation before Hon. Amy D. Hogue (ret.) but were unable to reach a resolution. Thereafter, the Parties resumed litigation and agreed to a second mediation session. Prior to this session, as additional information was unraveled as to the asserted claims, Plaintiffs' exposure analysis was refined with expert assistance. At their second mediation session on November 25, 2024 with Mr. Jeffrey P. Fuchsman, the Parties were able to reach a resolution through a mediator's proposal. They subsequently entered into their Joint Stipulation of Settlement, a true and correct copy of which was included as part of Plaintiffs' Preliminary Approval filing. HH Decl. ¶8.

C. Grant of Preliminary Approval

This Court entered the Preliminary Approval Order on September 16, 2025. Prior to the hearing, on August 12, 2025, Plaintiffs filed their Motion for Preliminary Approval and supporting papers. On September 10, 2025, the Court granted the Motion subject to: (1) a report as to whether the escalator had been triggered, and (2) a revision to the PAGA release at Paragraph 70. On September 12, 2025, Plaintiffs filed a supplemental brief in response which also included the operative Settlement Agreement which reflected the requested changes to the PAGA release. At the hearing on September 16, 2025, the Parties reported that the escalator clause had not been triggered, after which the Preliminary Approval Order was entered. A true and correct copy of the September 17, 2025 Notice of Entry of Order Granting Preliminary Approval of Class Action Settlement is attached as **Exhibit "1"** to the Declaration of Haik Hacopian. HH Decl. ¶9, Exh. 1.

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Preliminary Approval Motion filings were submitted to the LWDA online, proofs for which were provided with each respective filing. These submissions were in addition to the PAGA Notice Letters communicated by Plaintiffs to Defendants and the LWDA.

III. SUMMARY OF THE SETTLEMENT AND NOTICE PROCESS

A. Monetary Terms

This Settlement provides for Defendants to pay the non-reversionary settlement amount of $1,221,480 ("Maximum Settlement Amount"), in addition to the employer share of payroll taxes on the wage component of this Settlement. S.A. ¶¶32, 50. The Net Settlement Amount is the amount remaining from the Maximum Settlement Amount after deducting Class Counsel fees ($407,160 or one-third of the Maximum Settlement Amount), Class Counsel costs ($30,981.25), the Enhancement Awards to named Plaintiffs ($20,000.00), settlement administration costs ($9,250.00), the LWDA's 75% share of the PAGA allocation ($37,500.00), and aggrieved employees 25% share of same ($12,500.00). S.A. ¶¶33, 51. The foregoing deductions from the Maximum Settlement Amount result in an estimated Net Settlement Amount of $704,088.75. The simple average class settlement payment calculates to $2,378.68 ($704,088.75 ÷ 296). HH Decl. ¶10.

"Settlement Share" refers to the value of the Net Settlement Amount which an individual Class Member is entitled to receive. S.A. ¶47. The Individual Class Workweeks worked during the Class Period by each Participating Class Member will be divided by the total Workweeks worked by all Participating Class Members during the Class Period, resulting in a payment ratio for each Participating Class Member. Each Participating Class Member's payment ratio is then multiplied by the portion of the Net Settlement Amount allocated to the Class to determine his or her individual Participating Class Member Settlement Share. At 41,208 workweeks, the net settlement value for each workweek comes to $17.09 ($704,088.75 ÷ 41,208). HH Decl. ¶10.

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"PAGA Payment Share" shall mean the value of each PAGA Group Member's share of the PAGA Payment. S.A. ¶36. The Individual PAGA Pay Periods worked during the PAGA Period by each PAGA Group Member will be divided by the total PAGA Pay Periods worked by all PAGA Group Members during the PAGA Period, resulting in a payment ratio for each PAGA Group Member. Each PAGA Group Member's payment ratio is then multiplied by the $12,500 allocated to the PAGA Group Members to determine his or her PAGA Payment Share. Each PAGA Group Member's PAGA Payment Share shall be paid in addition to any Participating Class Member payment to which the PAGA Group Member may be entitled. 64(ii). At 11,426 pay periods, the net settlement value for each PAGA workweek comes to $1.09 ($12,500 ÷ 11,426). HH Decl. ¶10.

The average Individual Settlement Payment per the administrator (which assumes a maximum $40,000 award for costs) is $2,348.22, the highest is $5,249.34, the lowest is $16.99. Declaration of Lluvia Islas (hereinafter "Islas Decl.") ¶14. Individual Settlement Payments will be allocated ten percent (20%) to wages and eighty percent (80%) to interest and penalties. Individual PAGA Payments will be reported on 1099 Forms. S.A. ¶57.

B. Summary of Notice Process and Response from the Settlement Class

On September 29, 2025, Phoenix received a data file from Defense Counsel that contained names, last known mailing addresses, Social Security numbers, and workweeks for each Class Member ("Class List") during the Class Period. Islas Decl. at ¶3.

On October 10, 2025, the Notices were mailed via U.S. first class mail, in English and Spanish, to all 298 Class Members on the Class List after conducting a National Change of Address (NCOA) search to update addresses. *Id.* at ¶¶4 & 5 (See Exhibit "A" – Class Notice). Ultimately, only six (6) Class Notices were undeliverable after a skip trace. *Id.* at ¶¶6 & 7.

Class Members had until November 24, 2025 to submit objections, disputes, and/or requests for exclusion. *Id.* at ¶¶8-10. As of December 17, 2025, Phoenix has not received any objections or disputes to the settlement. *Id.* at ¶¶9-10. Phoenix has received two (2) requests for exclusion from Carlos Chavarria Barrera and Jose M. Martinez. *Id*. at ¶8.

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The average payment, per the administrator, to each Participating Class Member is estimated at $2,348.21, the highest payment is estimated at $5,249.34, and the lowest at $16.99. *Id*. at ¶14. The average individual PAGA Payment is estimated to be $52.08 and the highest at $83.14. *Id*. at ¶15. On account of Class Counsel seeking less than the maximum of $40,000 allotted for costs, the final payments will be higher with the average class payment at $2,378.68. HH Decl. ¶13.

C. Timing of Payments and Uncashed Checks

If no timely objections are filed or if all objections are withdrawn, funding of the settlement shall be within sixty (60) calendar days after the date upon which the Court enters an Order granting Final Approval of the Settlement. S.A. at ¶24. The Settlement Administrator shall make distributions fourteen (14) calendar days after it receives the Maximum Settlement Amount from Defendants, or within fourteen (14) calendar days of the Effective Date, whichever is later. S.A. at ¶¶54-56, 64.

In the event that any checks mailed to Participating Class Members or PAGA Group Members remain uncashed after the expiration of 180 days, or an envelope mailed to a Participating Class Member or PAGA Group Member is returned and no forwarding address can be located for the Participating Class Member or PAGA Group Member after reasonable efforts have been made (including but not limited to skip tracing), the Settlement Administrator shall transmit the funds represented by such checks to the California Controller's Unclaimed Property Fund in the name of the Participating Class Member or PAGA Group Member thereby leaving no "unpaid residue" subject to the requirements of California Code of Civil Procedure Section 384, subd. (b). S.A. ¶59.

IV. THIS COURT SHOULD CONFIRM ITS CONDITIONAL CERTIFICATION OF THE SETTLEMENT CLASS FOR SETTLEMENT PURPOSES BECAUSE IT MEETS ALL OF THE REQUIREMENTS FOR CLASS CERTIFICATION UNDER CODE OF CIVIL PROCEDURE § 382

Under Code of Civil Procedure § 382, a class may be certified if: (1) it is ascertainable and its members are too numerous for joinder to be practical; (2) the representative(s) and

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absent class members share a community of interest and questions of law and fact common to the class predominate over questions unique to individual class members; (3) the representative's claims are typical of the class's claims; and (4) the representatives will fairly and adequately represent the class's interests. See *Richmond v. Dart Industries, Inc.* (1981) 29 Cal.3d 462, 470. Here, this Court found that the Class meets all the requirements for class certification for settlement purposes when it granted preliminary approval of the Settlement on September 16, 2025. No new circumstances have cast any doubt on the propriety of the preliminary approval determination. HH Decl. ¶11. In fact, the reaction of the Class Members to the notice of the Settlement to date has been entirely in support of the Settlement, with not a single Class Member objecting and only two (2) requesting exclusion. Islas Decl. ¶¶8 & 9. Accordingly, this Court should confirm its conditional certification of the Settlement Class.

A. This Court Should Finally Approve the Settlement Because It Is a Fair, Adequate, and Reasonable Compromise of Disputed Wage and Hour Claims

California courts have a strong policy in favor of settlement. See e.g., *Stambaugh v. Superior Court* (1976) 62 Cal.App.3d 231, 236. Unlike individual settlements, class action settlements involve a court approval process that exists to prevent fraud, collusion, and unfairness to class members. *Malibu Outrigger Bd. of Governors v. Superior Court* (1980) 103 Cal.App.3d 573, 578-79. This approval process consists of preliminary settlement approval, notice being given to class members, and a final fairness and approval hearing at which class members have the opportunity to be heard with respect to the settlement. *Id*. Now that notice has been provided to the Settlement Class Members, and the notice process is complete, Plaintiffs respectfully request that the Court finally approve the Settlement as fair, adequate, and reasonable.

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1. The Settlement Was Reached Via Arm's-Length Bargaining Through Experienced Counsel and Experienced Mediators and Was Based on Sufficient Information to Intelligently Negotiate a Fair Settlement in Light of the Claims Asserted and Risks of Continued Litigation

A settlement is presumptively fair where it is reached through arm's-length bargaining, based on sufficient discovery and investigation to allow counsel and the court to act intelligently, counsel is experienced in similar litigation, and the percentage of objectors to the settlement is small. *Dunk v. Ford Motor Co.* (1996) 48 Cal.App.4th 1794, 1802. In deciding whether to approve a proposed settlement, a trial court has broad powers to determine if the proposed settlement is fair under the circumstances of the case. *Mallick v. Superior Court* (1979) 89 Cal.App.3d 434, 438. In exercising these powers, the overriding concern is to ensure that a proposed settlement is "fair, adequate, and reasonable." *Dunk*, *supra*, 48 Cal.App.4th at 1801 (internal quotations omitted). Relevant factors for the Court to consider include, but are not limited to:

> [T]he strength of Plaintiff's case, the risk, expense, complexity and likely duration of further litigation, the risk of maintaining class action status through trial, the amount offered in settlement, the extent of discovery completed and the stage of the proceedings, the experience and views of counsel, the presence of a governmental participant, and the reaction of the class members to the proposed settlement.

Id. These factors require balancing, are non-exhaustive and, as such, trial courts should tailor the factors to each case and give due regard to "what is otherwise a private consensual agreement between the parties." *Id*.

"In the context of a settlement agreement, the test is not the maximum amount Plaintiff might have obtained at trial on the complaint, but rather whether the settlement is reasonable under all of the circumstances." *Wershba v. Apple Computer, Inc.* (2001) 91 Cal.App.4th 224, 250. Because settlements inherently involve compromise, even settlements providing for substantially narrower relief than likely would be obtained if the suit were successfully litigated can be reasonable because "the public interest may indeed be served by a voluntary settlement in which each side gives ground in the interest of avoiding litigation." *Id*. (quoting

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Air Line Stewards, etc., Local 550 v. American Airlines, Inc. (7th Cir. 1972) 455 F.2d 101, 109). In addition, courts review the discovery process and information received through it to aid them in assessing whether the parties sufficiently developed the claims and their supporting factual bases before reaching settlement. See *Kullar v. Foot Locker Retail Inc.* (2008) 168 Cal.App.4th 116, 129-31. Information is sufficient where it allows the parties and the court to form "an understanding of the amount that is in controversy and the realistic range of outcomes of the litigation." See *Clark v. American Residential Services LLC* (2009) 175 Cal.App.4th 785, 801. This requirement exists so that the parties can provide the court with "a meaningful and substantiated explanation of the manner in which the factual and legal issues have been evaluated." *Kullar, supra,* 168 Cal.App.4th at 132.

Here, the Settlement resulted from extensive arm's-length settlement negotiations between and among qualified and experienced counsel, with the assistance of well-respected mediators, and is fair, adequate, and reasonable for all Settlement Class Members. As discussed, the parties participated in mediation sessions before Hon. Amy D. Hogue (ret.) and Mr. Jeffrey P. Fuchsman before agreeing to their Settlement. HH Decl. ¶8. While Plaintiffs steadfastly maintain that their claims are meritorious, they also appreciate that there are tremendous risks that continued litigation would entail thereby resulting in a loss in value under the maximum exposure analysis, as extensively briefed in Plaintiffs' papers in support of Preliminary Approval.

First, there are risks with respect to obtaining, and maintaining, class certification for trial purposes that support the fairness of the Settlement. For example, in the case of *Koval v. Pacific Bell Telephone Co.* (2014) 232 Cal.App.4th 1050, the plaintiffs were unable to certify claims for failure to provide meal and rest periods due to their inability to show that managers applied allegedly illegal policies consistently on a class-wide basis. See also *Ali v. U.S.A. Cab, Ltd.* (2009) 176 Cal.App.4th 1333, 1350. Moreover, the California Supreme Court's decision in *Duran v. U.S. Bank* (2014) 59 Cal.4th 1, makes class certification even less certain given its antipathy towards using "sampling" as a basis for ascertaining class-wide liability and/or damages. Accordingly, Plaintiffs would likely encounter extreme difficulty in certifying most

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of the claims in this case because, while they may present substantial common liability issues, they also give rise to individual damages issues. HH Decl. ¶12. Thus, there is a significant risk that this case would not proceed to completion as a class action absent the Settlement.

Second, there are substantial risks with respect to establishing the merits of Plaintiffs' claims. As explained in the briefing in support of the Motion for Preliminary Approval, the primary claim for unpaid wages required determinations at the individual level as to "why" any off-the-clock work was performed, a major impediment to class certification. Defendants contended that they satisfied their obligations under *Brinker*. Moreover, engaging in the inquiry of whether any late, short, or missed break was a result of employee choice or employer coercion would entail significant individualized inquiries affecting class treatment of the claims. Defendants vehemently denied that they engaged in any unlawful activity, failed to comply with the law in any respect, or have any liability to any person or entity under the claims asserted in the lawsuit. HH Decl. ¶12.

Third, Defendants' defenses and the uncertainty surrounding the merits of Plaintiffs' underlying claims could potentially preclude most of the penalties sought in this case. For instance, Labor Code § 203 requires proof of "willful" or "knowing and intentional" Labor Code violations for liability to be imposed. Thus, the existence of a good faith dispute that could preclude any recovery of wages (even if the plaintiff ultimately prevails) can preclude such penalties from being awarded. 8 Cal. Code Regs. §13520(a); *Road Sprinkler Fitters Local Union No. 669 v. G&G Fire Sprinklers, Inc.* (2002) 102 Cal.App.4th 765, 782; see also *Choate v. Celite Corp.* (2013) 215 Cal.App.4th 1460 (reversing award of waiting time penalties based on employer's good faith defense notwithstanding that the plaintiffs prevailed on the underlying wage claims). Additionally, gross wages earned (as unpaid hourly and premium wages are potentially here) are not included in the list of faults for which an employee is deemed to suffer injury under Lab. Code. Sec. 226(e)(2)(B).

Each of these considerations bore heavily on the negotiations allowing for the Settlement, and furthermore confirm that the Settlement is a fair, adequate, and reasonable compromise in view of the risks of further litigation. HH Decl. ¶13. As detailed in the papers

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supporting the Motion for Preliminary Approval, Plaintiffs carefully vetted the claims at issue by reviewing policies, records and data regarding the size and makeup of the class. Thus, while the risks discussed herein are far from exhaustive, they demonstrate that the Settlement is fair, adequate, and reasonable in view of them.

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

The Net Settlement Amount will be paid to all Participating Settlement Class Members based on the number of workweeks worked during the Class Period. S.A. ¶47. Such an allocation method is fair, adequate, and reasonable because it correlates to the extent of harm allegedly suffered based on the asserted claims. HH Decl. ¶14. All checks not cashed within 180 days shall escheat to the State Treasury as unclaimed property pursuant to the Unclaimed Property Law (UPL). S.A. ¶59.

3. The Absence of Any Objections and Only Two Exclusion Requests Further Confirms That the Settlement Is a Fair, Adequate, and Reasonable Compromise of the Disputed Claims at Issue

The response of class members to a settlement is relevant in evaluating whether it merits final approval. *Dunk, supra,* 48 Cal.App.4th at 1801. Notably, the absence of objections or exclusion requests supports a fairness presumption. In *7-Eleven Owners for Fair Franchising v. Southland Corp.*, it was found that 9 objections and 80 opt-outs, from a class of 5,454, showed a "particularly impressive" favorable response from class members supporting final approval. (2000) 85 Cal.App.4th 1135, 1152-53. Here, only two of the 298 Class Members opted out of the settlement. Islas Decl. ¶8. Notably, not even a single member of the Class filed an objection to the Settlement. *Id*. at ¶9. Thus, the favorable response of the Class is completely positive and further confirms that the Settlement is fair, adequate, and reasonable and merits final approval.

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V. AN AWARD OF ATTORNEYS' FEES SHOULD BE APPROVED

A. Class Counsel's Fees Should be Approved as a Percentage of the Total Common Fund Created for the Class

Class Counsel seeks a fee award calculated as a percentage of the total value of the settlement for successful prosecution and resolution of all existing claims. Both California State and Federal Courts have recognized that an appropriate method in determining an attorney fee award may be based on the percentage on the total value of the benefits the class members receive from the settlement. *Serrano v. Priest* (1997) 20 Cal. 3d 25-34 [*Serrano III*]; *Boeing Company v. Van Gemert* (1980) 344 U.S. 472, 478; *Vincent v. Hughes Airwest, Inc.* (9th Cir. 1977) 557 F.2d 759, 769. The purpose of this equitable doctrine is to avoid unjust enrichment and to "spread litigation costs proportionately among all the beneficiaries so that the active beneficiary does not bear the entire burden alone." *Id.* at 768. The monetary benefits will then be paid from a common fund.

The California Supreme Court endorsed a fee award as a percentage of the common fund; the Court clarified "that when an attorney fee is awarded out of a common fund preserved or recovered by means of litigation (internal citation omitted), the award is not per se unreasonable merely because it is calculated as a percentage of the common fund." *Laffitte v. Robert Half Int'l. Inc.* (2016) 1 Cal. 5th 480, 486. Also "[t]hat the recognized advantages of the percentage method…convince us that the percentage method is a valuable tool that should not be denied in our trial courts." *Id*. at 503.

The Common Fund Doctrine is predicated on the principle of preventing unjust enrichment. When a litigant's efforts create or preserves, or generates a fund from which others derive benefits, he may require the passive beneficiaries to compensate those who created the fund. Both California State and Federal Courts have embraced this Doctrine. *Serrano III*, *supra*, at 35; *Vincent*, *supra*, at 769.

Since *Serrano III*, *supra*, there has been a ground swell of support for mandating the percentage of the fund approach in common fund cases. Both State and Federal courts have found the percentage approach preferable to the Lodestar because; (1) it aligns the interest of

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class counsel and absent class members; (2) it encourages efficient resolution of the litigation by providing an incentive for early, yet reasonable, settlement; and (3) it reduces the demand on judicial resources. *In re Activision Sec. Litig.* (N.D. Cal. 1989) 723 F Supp. at 1378-79. The Ninth Circuit now routinely uses the percentage of the common fund approach to determine the award of attorney fees. *Lealao v. Benefitcial Calif., Inc.* (2000) 82 Cal.App.4th 19, 30-31.

Collectively, Plaintiffs' counsel seeks $407,160 which is one-third (33 1/3%) of the $1,221,480 Maximum Settlement Amount. Class Counsel's request for one-third of the monetary fund recovered is well within the range customarily approved by California courts in comparable class actions and other class actions as well as with contingency contracts negotiated by plaintiff and their counsel. "Empirical studies show that regardless of whether or not the percentage method or Lodestar method is used, fee awards in class actions average around one-third of the recovery." See e.g., *Chavez v. Netflix, Inc.* (2008) 162 Cal.App.4th 66, fn. 11; *In re California Indirect Purchases* (October 22, 1998) WL1031494 at *9 (*citing In re Milk Antitrust Litigation* (L.A. Sup. Ct. 1998) Civ. Case No. BC070061 (33 1/3% award); *In re Facsimile Paper Antitrust Litigation* (San Francisco Sup. Ct. 1997) Civ. Case No. BC 0070061 (33 1/3% award); *In re Liquid Carbon Dioxide Cases* (San Diego Sup. Ct. 1996) J.C.C.P. 3012 (33 1/3% award); *Romero v. Producers Dairy Foods, Inc.* (E.D. Cal. November 14, 2007) WL 3492841 at *4 ("fee awards in class actions average around one-third of the recovery." (*Quoting* <u>Newberg on Class Actions</u> § 14.6 (4th ed. 2007).

In *Lealao*, *supra*, at 46-47, the Court indicated that in defining a "reasonable" fee in representative actions, the law should "mimic the market." The Court went on to state:

> "Given the unique reliance of our legal system on private litigants to enforce substantive provisions of law through class and derivative actions, attorneys providing the essential enforcement services must be provided incentives roughly comparable to those negotiated in the private bargaining that takes place in the legal marketplace as it will otherwise be economic for Defendant's to increase injurious behavior. *Lealao*, *supra*, 82 Cal.App.4th at 46-47, and *Graciano v. Robinson Ford Sales, Inc.* (2006) 144 Cal. App.4th 140, 163.

For the following reasons, awarding one-third of the gross settlement for attorney fees is fair, reasonable and appropriate.

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B. <u>Factors Supporting the Fee Award</u>

1. The Amount of the Settlement

In Class Counsel's experience, a gross non-reversionary settlement of $1,221,480 in a wage and hour case for a class size of 296 is a fair, reasonable, and adequate settlement in light of the asserted claims, Defendants' defenses, and the strong possibility that the class would not recover anything without this settlement. HH Decl. ¶6, Declaration of Zorik Mooradian (hereinafter "ZM Decl.") ¶7, Declaration of Mehrdad Bohour (hereinafter "MB Decl.") ¶¶13-14, Declaration of Joshua Falakassa (hereinafter "JF Decl.") ¶¶11-12.

The fact that there presently are no objections, only two exclusion requests, no disputes, and Participating Class Members are expected to be paid 100% of the value of their individual claims shows that the settlement has been well received by the Class Members. Islas Decl. ¶¶8-10. The average amount expected to be paid amongst the 296 Participating Settlement Class Members is $2,348.21 and the highest estimated settlement payment is $5,249.34. *Id.* at ¶14.

2. The Named Plaintiff Signed a Retainer Agreement

Plaintiff Morales signed a single retainer with Mooradian Law, APC. The Retainer Agreement had language providing a maximum of forty-five percent (45%) in attorneys' fees, of course, subject to court approval of class wide issues. The Retainer Agreement also had a provision for recovery of costs in relation to the representation. ZM Decl. ¶8.

In *Lealao*, *supra*, 82 Cal.App.4th at 46-47, the court indicated that in defining a "reasonable" fee in representative actions, the law should "mimic the market." Here, as for the representation of the individual rights of Mr. Morales, a proposed retainer agreement for recovery of fees could be one-third of the gross recovery. That would be consistent with the market rate, and there is no reason to believe that, if any of the other 296 class members had signed an individual retainer, it would be any different. ZM Decl. ¶9.

In, *In re Cont'l Ill. Secs. Litig.*, Judge Posner endorsed a market-based approach to evaluating fee requests, stating that the function of judges in fee litigation "is to determine what the lawyer would receive if he were selling his services in the market rather than being paid by court order." (7th Cir. 1992) 962 F.2d 566, 568. In a law review article (Silver) entitled

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"A Restitutionary Theory of Attorneys' Fees in Class Actions (1991) 76 Cornell L.Rev. 656, 702-703 (it stated that the goal "is to pay attorneys on terms they would probably accept in an ex ante bargain, before the outcome of litigation is known").

3. Defendants and the Class Do Not Object to the Attorney Fee Agreement

In almost all the mediations that Mr. Mooradian has attended, a one-third to 35% attorney fee percentage is generally agreed upon by the defendant and the plaintiff subject to court approval. In this matter, the Parties agreed that Class Counsel may request up to one third and Defendants would not oppose same. ZM Decl. ¶10.

Of most importance, notice was provided to each of the Class Members that the attorneys would be seeking attorney fees in the amount of $407,160 or one-third of the settlement. The fact that no Class Members had any objection to the settlement or any of its terms, speaks pretty strongly to the notion that class members are extremely happy with the settlement. ZM Decl. ¶11.

Here, it is beyond any reasonable dispute that, if class counsel had been able to negotiate directly with the class members, the class would have found that a one-third fee arrangement was eminently reasonable. ZM Decl. ¶12.

4. The Contingent Risk Factor

For Class Counsel, the fees in this case are entirely contingent in nature. As the 9th Circuit noted, class counsel who take a case on a contingency basis bears a "double contingency: first they must prevail on the class claims, and then they must find some way to collect what they win." *Torrisi v. Tucson Elec. Power Co.* (9th Cir. 1993) 8 F.3d 1370, 1377. The fees received from one case, are often used to finance and move forward other cases that have failed and bring in revenue for counsel. ZM Decl. ¶13, MB Decl. ¶¶18-19, JF Decl. ¶¶13-14.

C. <u>The Lodestar/Multiplier Cross-Check</u>

Even though class counsel is requesting fees with the percentage of the benefit approach, some courts nevertheless use a Lodestar/Multiplier cross check to confirm the fees' reasonableness. *Lealao v. Beneficial California, Inc.*, *supra*, 82 Cal.App.4th 19-45; *Vizcaino*

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v. Microsoft Corp. (9th Cir. 2002) 290 F.3d 1043, 1051. The Lodestar Analysis (Lodestar-Multiplied Method) begins with a calculation of time spent in reasonable hourly compensation of each attorney and paralegal who worked on the case and then to compensation counsel for risk, quality and result, courts commonly apply a "multiplier" to the Lodestar in awarding attorney fees.

The first step is to determine the Lodestar individually for each attorney and/or paralegal that has worked on the case and is claiming fees. The Lodestar analysis for each attorney appears in their own Declaration(s), summarized below:

Attorney(s)	Billable Rate(s)	Hours	Lodestar	Laffey Rate	Laffey Lodestar
MOORADIAN LAW, APC					
Zorik Mooradian ZM Decl. ¶15	$650	120	$78,000	$1,141	$136,920
Haik Hacopian ZM Decl. ¶15	$450	153	$68,850	$878	$134,334
		273	**$146,850**		**$271,254**
BOKHOUR LAW GROUP, P.C.					
Mehrdad Bokhour MB Decl. ¶20	$750	45	$33,750	$878	$39,510
FALAKASSA LAW, P.C.					
Joshua Falakassa JF Decl. ¶15	$725	34.5	$25,012.50	$878	$30,291
Total Class Counsel Lodestar		**939.9**	**$205,612.50**		**$341,055**

In this matter, the total present and anticipated lodestar tallies to $205,612.50 and results in the requested $407,160 fee award after the application of a modest 1.98 multiplier. HH Decl. ¶17. To the extent higher Laffey Matrix Rates are applied, the lodestar would total $341,055 and only a 1.19 multiplier would be needed. HH Decl. ¶18.

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D. A Lodestar Multiplier of 1.19 to 1.98 is Reasonable

"It is an established practice in the private legal market to reward attorneys for taking the risk of non-payment by paying them a premium over their normal hourly rates for winning contingency cases." *Fischell v. Equitable Life Assur. Society of U.S.* (9th Cir. 2002) 307 F.3d 997, 1008. In the Ninth Circuit, a lodestar amount is "routinely enhanced…to reflect the risk of non-payment in common fund cases." *Craft v. County of San Bernardino* (C.D. Cal. 2008) 624 F.Supp.2d 1113, 1125 (awarding multiplier of 5.2 and collecting cases with cross-check multipliers ranging from 4.5 to 19.6); *Morgret v. Applus Tech., Inc.* (E.D. Cal. Jun. 1, 2015) Case No. 1:13-cv-01801-JLT, 2015 WL 3466389 at *17 (awarding multiplier of 3.9, "which is within the range typically awarded in the Ninth Circuit."); *Torchia v. W.W. Grainger, Inc.* (C.D. Cal. Dec. 29, 2014) 304 F.R.D. 256, 277 (Thurston, J.) (awarding multiplier of about 3.6).

Here, the lodestar multiplier of in the range of 1.19 to 1.98 is well within the range of reasonableness, as has been held by numerous courts, especially in light of the significant work performed in this case and the efficiency with which it was done.

E. Attorneys Fees v. Class Benefit

While it's generally true that the greater the attorney fees, the less funds there will be for distribution to class members as damages, nevertheless, a balance must be achieved. In the instant matter, the class got a very balanced and fair settlement. Given the strengths and weaknesses of the case, they will be receiving a fair sum of money. The results and the case law support that the settlement was fair, reasonable and adequate. The class had an affirmative response to the settlement, where there was not a single objection and only two exclusion requests. In light of the favorable settlement, giving more money to the class after an excellent settlement had been achieved punishes the attorneys without whom such a settlement would not have been attained but for the efforts of good lawyering. Punishing lawyers when they do well is potentially sending the wrong message and serves as a disincentive and unjustly

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enriches the class that has already received a fair and adequate amount of benefits. ZM Decl. ¶14.

VI. PAYMENT OF COSTS TO CLASS COUNSEL SHOULD BE APPROVED

Class Counsel has incurred $30,981.25 in total costs which is significantly less than the $50,000 maximum contemplated per the Settlement Agreement and is the amount that Plaintiffs are requesting the Court approve. S.A. ¶56. All costs are necessary and reasonable, as reflected by the declarations submitted by counsel. ZM Decl. ¶16 ($16,068.10); HH Decl. ¶16 ($874.90); MB Decl. ¶25 ($14,038.25).

VII. THIS COURT SHOULD FINALLY APPROVE PLAINTIFFS' REQUESTED ENHANCEMENT AWARDS BECAUSE THEY ARE FAIR, ADEQUATE, AND REASONABLE IN VIEW OF PLAINTIFFS' EFFORTS AND THE RISKS THAT THEY ASSUMED IN THIS LITIGATION ON BEHALF OF THE CLASS

Courts routinely approve enhancement awards to compensate named Plaintiff(s) for the services they provide and the risks they incur during class action litigation. See, e.g., *Bell v. Farmers Ins. Exchange* (2004) 115 Cal.App.4th 715, 726 (upholding "service payments" to named Plaintiff for their efforts in bringing the case); see also *Van Vranken v. Atlantic Richfield Co*. (N.D. Cal. 1995) 901 F. Supp. 294 (approving a $50,000 incentive payment).

Here, pursuant to the Settlement, Plaintiffs seek Enhancement Awards totaling $10,000 each. S.A. ¶55. This request is a reasonable portion of the Maximum Settlement Amount given Plaintiffs' efforts in litigating this case and the risks they undertook on behalf of the Class. See, e.g., *Staton v. Boeing Co*. (9th Cir.2003) 327 F.3d 938, 977 (affirming that courts should consider "the actions the plaintiff has taken to protect the interests of the class, the degree to which the class has benefitted from those actions, the amount of time and effort the plaintiff expended in pursuing the litigation and reasonable fear[s of] workplace retaliation").

Plaintiffs' proposed Enhancement Awards in proportion to the Maximum Settlement Amount and standing alone are well within the range of reasonable. The requested

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Enhancement Awards represent only 1.6% of the Maximum Settlement Amount. ($20,000 ÷ $1,221,480). See, e.g*., Bond v. Ferguson Enters., Inc.* (E.D.Cal. June 30, 2011) Civ. No. 1:09–1662 OWW MJS, 2011 WL 2648879, at *2, 15 (approving an $11,250 incentive award to each of the two named Plaintiffs); *Ross v. U.S. Bank Nat'l Ass'n* (N.D. Cal. Sept. 29, 2010) Civ. No. 3:07–2951 SI, 2010 WL 3833922, at *3 (approving an award of $20,000 to each of four named Plaintiffs based on their contributions to litigation and the risk that being a class representative would harm their reputation); *Glass v. UBS Fin. Servs.* (N.D. Cal. Jan. 26, 2017) No. C-06-4068 MMC, 2007 WL 221862, at *17 (finding "requested payment of $25,000 to each of the named plaintiffs is appropriate" in wage and hour settlement); *Garner v. State Farm Mut. Auto. Ins. Co.* (N.D. Cal. Apr. 22, 2010) No. CV 08 1365 CW (EMC), 2010 WL 1687832, at *17 n.8 ("Numerous Court in the Ninth Circuit and elsewhere have approved Enhancement Awards of $20,000 or more where, as here, the class representative has demonstrated a strong commitment to the class").

Plaintiffs have also spent time assisting in the prosecution of this action, which deserves compensation. See e.g*., In re Cont'l Ill. Sec. Litig*. (7th Cir.1992) 962 F.2d 566, 571 ("Since without a named plaintiff there can be no class action, such compensation as may be necessary to induce him to participate in the suit…"). It is important that all four Plaintiffs are paid a fair amount for their services to the class and out of 298 employees, they were the only ones that stepped forward stuck with the case for over a two-year and half year period. If it was not for them, the $1,221,480 settlement would not have been obtained for the class. ZM Decl. ¶17.

Plaintiffs have put a significant amount of time into this case spanning a period of over two and half years. Plaintiff Morales estimates that he has spent 12-13 hours participating in his case. Declaration of Eduardo Morales (hereinafter "Morales Decl.") ¶7. Plaintiff Oliva has spent approximately 25-30 hours in this litigation. Declaration of Jose Oliva (hereinafter "Oliva Decl.") ¶16. MB Decl., ¶16.

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Moreover, by the filing of this lawsuit, Plaintiffs subjected themselves to the risk of retaliation both by current and potential future employers who may learn of the lawsuit. Oliva Decl. ¶13. See, e.g., *Marlo v. United Parcel Service, Inc.* (9th Cir. 2015) 600 Fed.Appx. 551 (awarding significant verdict to a former UPS employee who terminated in retaliation for filing a class action lawsuit against his employer, UPS).

Significantly, after receiving Class Notice, including notice of the proposed Enhancement Awards to Plaintiffs, not a single Class Member has objected to these proposed awards of $10,000 to each Plaintiff, or $20,000 total. Islas Decl. ¶9. Also, Plaintiffs are agreeing to general release of all claims which must be assigned additional value. Accordingly, the $10,000 Enhancement Award to each Plaintiff is appropriate and justified as part of the Settlement.

VIII. THE PAGA ALLOCATION AND PAYMENTS SHOULD BE APPROVED

Pursuant to the terms of the Settlement Agreement, $50,000.00 of the Settlement Amount, is to be allocated for the PAGA claim with $37,500 (75%) payable to the LWDA and $12,500 (25%) payable to Aggrieved Employees. S.A. ¶¶31 and 51. This is a fair amount given the nature of the claims and the strengths and weaknesses advanced by the parties regarding this claim, as elaborated upon in the Preliminary Approval Motion and supporting papers. Plaintiffs have also provided notice of the proposed PAGA settlement to the LWDA. A total of 227 PAGA Group Members will receive a PAGA Payment. The average payment is estimated to be $52.08, the highest is $83.14. Islas Decl. ¶15.

IX. THE ADMINISTRATION FEE SHOULD BE APPROVED

The administration fee is fair. Phoenix's charge for services rendered to perform its duties and responsibilities pursuant to the terms of the settlement is $9,250.00 which is to be paid from the Settlement Amount. This is slightly less than the $10,000 maximum under the Settlement Agreement. S.A. ¶51. This includes all costs incurred to date, as well as estimated

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costs for completing the administration and disbursement of the settlement. Islas Decl. ¶17, Exhibit B (invoice).

X. CONCLUSION

For the reasons stated herein, this Court should grant Plaintiffs' Motion in its entirety and adopt the [Proposed] Order Granting Final Approval of Class Action Settlement submitted concurrently herewith.

Dated: Dec. 18, 2025

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