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SUPERIOR COURT OF CALIFORNIA

COUNTY OF ORANGE

GREGORY EDGAR SPENCER, an individual, on his own behalf and on behalf of all others similarly situated; JENNIFER LYNN WOODRUFF, an individual, on her on behalf and on behalf of all others similarly situated,

Plaintiffs,

vs.

BEL AIRE HOSPITALITY LLC dba MOTEL 6 STANTON, an Arizona limited liability company; and DOES 1 through 100, inclusive,

Defendants.

CASE NO.: 30-2023-01304470-CU-OE-CXC

PLAINTIFFS' NOTICE OF MOTION AND MOTION FOR CLASS COUNSEL'S FEES, COSTS AND CLASS REPRESENTATIVE SERVICE PAYMENTS TO PLAINTIFFS

Judge: Hon. David A. Hoffer
Date: December 7, 2026
Time: 1:30 p.m.
Dept.: CX103

Complaint Filed: January 25, 2023

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NOTICE OF MOTION

PLEASE TAKE NOTICE that, on December 7, 2026 at 1:30 p.m., or as soon thereafter as the matter may be heard, Plaintiffs Gregory Edgar Spencer and Jennifer Lynn Woodruff ("Plaintiffs" or "Class Representatives") on behalf of themselves and all others similarly situated, will move this Court, in Department CX103 of the Orange Superior Court of the State of California, 751 W. Santa Ana Blvd., Santa Ana, California 92701, before the Honorable David A. Hoffer, for an order awarding Class Counsel their attorneys' fees and litigation-related expenses incurred in the litigation of all issues pertaining to the above-captioned litigation. Plaintiffs seek attorneys' fees in the amount of $50,000.00[1], and costs in the amount of $21,207.75 which are unopposed by Defendant, as set forth in section 3.2.2 of the Class Action and PAGA Settlement Agreement and Class Notice and Amendment No. 1 thereto ("Settlement Agreement"), a true and correct copy of which was filed with the Motion for Preliminary Approval. Plaintiffs further move to obtain an order approving the Class Representative Service Awards to each of the named Plaintiffs in the amount of $2,500 ($5,000.00 total).

This motion will be based on this Notice, the Memorandum of Points and Authorities, the Settlement Agreement and all exhibits thereto, the concurrently filed Motion for Final Approval of Class Action Settlement, the Declaration of Kevin Lipeles, the Declaration of Gregory Edgar Spencer, the Declaration of Jennifer Woodruff, the Declaration of Taylor Mitzner, the [Proposed] Order Granting Final Approval of Class Action Settlement and Final Judgment and the documents and records on file in this matter, and such additional arguments, authorities, and evidence and other matters as may be presented by the parties hereafter.

[1] Pursuant to the Settlement Agreement Class Counsel will apply to the Court for an award of attorneys' fees in the amount of $50,000.00 and actual costs up to $22.000.00.

Dated: November 12, 2026

Respectfully submitted,

LIPELES LAW GROUP, APC



Kevin Lipeles, Esq.
Thomas Schelly, Esq.
Attorneys for Plaintiffs and the Class

MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

Concurrent with their Motion for Final Approval of Class Action Settlement (filed with the Court under separate cover), Plaintiffs Gregory Edgar Spencer and Jennifer Lynn Woodruff ("Plaintiffs" or "Class Representatives") further move the Court to recover: (1) Class Counsel Litigation Expenses Payment in the amount of $50,000.00; (2) actual costs in the amount of $21,207.75; and (3) Class Representative Service Payments for the named Plaintiffs in the amount of $2,500 each ($5,000.00 total). The amounts of each of these matters are provided for in sections 3.2.1 and 3.2.2 of the Settlement Agreement (previously filed in support of Plaintiffs' Motion for Preliminary Approval), which Defendant Bel Aire Hospitality LLC dba Motel 6 Stanton ("Defendant") does not oppose.

As set forth herein, the amounts sought all fall well within the range of reasonableness under the facts and circumstances of this case. Based thereon, Plaintiffs respectfully request that the Court approve these amounts in full.

II. ARGUMENT

A. The Court Should Approve Class Counsel's Requested Attorneys' Fees Which Are Fair and Reasonable.

California courts recognize two standard methods for calculating attorneys' fee awards in common fund class actions. The more prevalent "percentage of the fund" (also known as the "common fund") method calculates attorneys' fees based on a percentage of the common benefit bestowed upon the class. The "lodestar-plus-multiplier" method uses class counsel's "lodestar" as a basis - determined by multiplying the hours counsel expended by their hourly rates - which the Court may then enhance by a multiplier, considering a variety of factors.

The ultimate goal is the award of a "reasonable" fee to compensate counsel for their efforts, irrespective of the method of calculation. *Apple Computer, Inc. v. Superior Court,* (2005) 126 Cal. App. 4th 1253, 1270; *Consumer Privacy Cases,* (2009) 175 Cal. App. 4th 545, 557-58. Under both

methods, Plaintiffs' request for $50,000.00 in attorneys' fees, and $21,207.75 in costs in this case are fair and reasonable.

1. Class Counsel Is Entitled to Recover Their Reasonable Attorneys' Fees from the Common Fund.

Class Counsel seeks attorneys' fees of $50,000.00, representing 33.33% of the Gross Settlement Amount[2] ("GSA") under the common fund doctrine. The common fund doctrine refers to the trial courts' equitable power to award attorneys' fees and costs when a litigant proceeding in a representative capacity secures a substantial benefit for a group. *Serrano v. Priest (Serrano III)* (1977) 20 Cal.3d 25, 38; *Earley v. Superior Court* (2000) 79 Cal. App. 4th 1420, 1435-36.

The California Supreme Court specifically endorsed the use of the percentage of the fund method in class actions. In *Laffitte v. Robert Half International, Inc*., (2016) 1 Cal. 5th 480, 506, the California Supreme Court held that "[t]he percentage of the fund method survives in California class action cases…" Further, the *Laffitte* court held that trial courts possess discretion to conduct a lodestar cross-check on a percentage fee or to forgo a lodestar cross-check and use other means to evaluate the reasonableness of a requested percentage fee. *Id.*

In *Laffitte*, the trial court granted attorneys' fees in the amount of one-third of the settlement fund and also performed a lodestar cross-check. *Id.* at 487-88. Finding no abuse of discretion, the Court of Appeal affirmed the trial court's decision holding that *Serrano III* did not preclude an award of a percentage fee in a common fund case and that an award of one-third of the common fund was in the range of similar class actions. *Id.* at 488. In *Laffitte*, after an extensive historical review of the percentage of the fund and lodestar methods, the Supreme Court affirmed the decision of the Court of Appeal and clarified that *Serrano III* does not preclude an award of a percentage fee in common fund cases and California courts are free to primarily use the percentage method for the calculation of attorneys' fees in those cases. *Id.* at 499, 506.

Even prior to *Laffitte*, the common fund doctrine has been applied "consistently in

[2] All capitalized terms have the same meaning as in the Settlement Agreement.

California when an action brought by one party creates a fund in which other persons are entitled to share." *City and County of San Francisco v. Sweet*, (1995) 12 Cal. 4th 105, 110. Since *Serrano III*, there had been a "ground swell of support for mandating the percentage-of-the-fund approach in common fund cases." *Lealao v. Beneficial Cal. Inc*., (2000) 82 Cal. App. 4th 19, 27. The common fund doctrine is applicable where, as here, attorneys have been instrumental in creating a settlement fund that benefits all class members. *See Serrano III,* 20 Cal. 3d at 35. This method is used where the amount of the settlement is a certain or easily calculable sum of money. *Dunk v. Ford Motor Co*. (1996) 48 Cal. App. 4th 1794, 1808.

Under the common fund doctrine, a 33.33% fee award is properly based on the GSA of $150,000.00. Class Counsel commenced this action with the goa1 of, *inter alia*, recovering overtime/double time, minimum wages and premium pay for meal/rest breaks that were not afforded, and a uniform maintenance allowance, for a class of non-exempt hourly employees. This Settlement constitutes the achievement of that goal. Class Counsel has obtained a substantial recovery on behalf of Plaintiffs and the Class, and the results achieved justify the award of their requested fees.

2. Class Counsel Are Also Entitled to Reasonable Fees and Costs Pursuant to Statutory Law.

Here, there also exists a statutory basis for Class Counsel's fees. First, Class Counsel are entitled to recover fees and costs pursuant to, *inter alia*, Cal. Labor Code §1194 ("the employee is entitled to recover in a civil action the unpaid balance of the full amount of this minimum wage or overtime compensation, including interest thereon, reasonable attorney's fees, and costs of suit"). Second, Class Counsel are entitled to recover fees and costs under Labor Code §226(e)(1) which allows the recovery of reasonable attorneys' fees and costs. Further, Class Counsel are entitled to recover fees and costs pursuant to, California Code Civil Procedure §1021.5. *See Colgan v. Leatherman Tool Group, Inc.*, 135 Cal. App. 4th 663, 703 (2006) (holding that "[a]ttorney fees may be awarded under Code of Civil Procedure section 1021.5 for … class action suits benefiting a large number of people."). "The award of attorney fees is proper under Section 1021.5 if '(1)

Plaintiffs' action 'has resulted in the enforcement of an important right affecting the public interest,'; (2) 'a significant benefit, whether pecuniary or non-pecuniary, has been conferred on the general public or a large class of persons'; and (3) 'the necessity and financial burden of private enforcement are such as to make the award appropriate.'" *See Press v. Lucky Stores*, 34 Cal. 3d 311, 317-18 (1983). As shown below, each of these elements has been satisfied in the prosecution of this Action.

Here, the instant lawsuit has resulted in the enforcement of important rights affecting the overall public interest. Indeed, it is the codified "policy of this state to vigorously enforce minimum labor standards in order to ensure employees are not required or permitted to work under substandard unlawful conditions …, and to protect employers who comply with the law from those who attempt to gain a competitive advantage at the expense of their workers by failing to comply with minimum labor standards." *See* Cal. Lab. Code §90.5(a). Specific to the rights at issue in this case, the California Supreme Court has determined that meal/rest period premium pay is intended to achieve the important public policy objective of shaping employer behavior regarding the maximum hours an employee should work, which has significant "health and safety considerations…." *See Murphy v. Kenneth Cole Productions, Inc.*, 40 Cal. 4th 1094, 1110-14 (2007) (reasoning that "[e]mployees denied their rest and meal periods face greater risk of work-related accidents and increased stress, especially low-wage workers who often perform manual labor.").

Further, the instant Action also conferred a significant benefit on a sufficiently large class of current and former employees of Defendant. The resulting Settlement successfully enforced the above public policies by securing a monetary benefit which the Class members will enjoy.

Also, the necessity and financial burden of private enforcement render the award appropriate, as the amount of Class Counsel's lodestar (*see* below at pp. 5-7), clearly evidences that the litigation of the matter "imposed financial burden on Plaintiffs which was out of proportion to their individual stake in the matter." *See Baggett v. Gates*, 32 Cal. 3d 128, 142 (1982).

The ultimate goal of a statutory fee award is "to encourage suits effectuating a strong

[public] policy by awarding substantial attorney's fees...to those who successfully bring such suits." *Woodland Hills Residents Assn. v. City Council* (1979) 23 Cal. 3d 917, 933. To accomplish that purpose, the fee award must be large enough "to entice competent counsel to undertake difficult public interest cases." *San Bernardino Valley Audubon Soc. v. County of San Bernardino* (1985) 155 Cal. App. 3d 738, 755; *see also, Lealao*, 82 Cal. App. 4th at 53 (cautioning against fee awards that are too small and therefore "chill the private enforcement essential to the vindication of many rights ..."). As the First District recognized in *Thayer v. Wells Fargo Bank*, 92 Cal. App. 4th 819, 839 (2001): "Adequate fee awards are perhaps the most effective means of achieving [the] salutary goal [of encouraging 'private attorney general' actions and] [c]ourts should not be indifferent to the realities of the legal marketplace or unduly parsimonious in the calculation of such fees."

Unlike common fund fees, Plaintiffs' statutory fees must be determined by the lodestar/multiplier method set out in *Serrano III*, 20 Cal. 3d at 48; *see also, Ketchum v. Moses* (2001) 24 Cal. 4th 1122, 1134. California law provides that when a party is entitled to statutory fees, it must be compensated for all time reasonably spent seeking to accomplish the desired litigation result. *Serrano v. Unruh*, 32 Cal. 3d 621, 624 (1982).

Despite these differences in methodology, however, the goal of both the common fund and lodestar methods is the same: to award a fee that reflects market-place standards: "In defining a 'reasonable fee' in such representative actions the law should 'mimic the market.'" *Lealao*, 82 Cal. App. 4th at 47.

3. The Reasonableness of Class Counsel's Requested Fee Is Also Confirmed by a Lodestar Cross-Check.

Courts asked to decide or approve fee awards on a common fund percentage basis may perform a "lodestar cross-check" as a means of determining whether the result of applying the requested percentage is reasonable and proportionate to the amount and value of the time expended by counsel. *See Laffitte,* 1 Cal. 5th at 506; *Lealao*, 82 Cal. App. 4th at 47-50. The lodestar method

requires that a trial court first determine a "lodestar" figure based on a "careful compilation of time spent in reasonable hourly compensation for each attorney…involved in the presentation of the case. *Serrano III*, 20 Cal. 3d at 48.

The unadorned lodestar can then be enhanced by a multiplier to reward Class Counsel based on consideration of additional factors such as the contingent risk of the litigation, the skill displayed in presenting the issues, and exceptional results obtained. *Ketchum*, 24 Cal. 4th at 1132.

Here, the lodestar multiplier method more than justifies the award of attorneys' fees and costs that Class Counsel requests. Plaintiffs' Counsel is entitled to recover fees for all hours reasonably spent working on the case. As shown below, the total lodestar of Class Counsel and their staff on this case amounts to $96,020.00. *See* Declaration of Kevin Lipeles ("Lipeles Decl."), ¶¶ 40-49, 51. The amount of attorneys' fees Class Counsel seeks results in a negative functional multiplier of only 52.1%[3], of the actual total lodestar incurred. *Id.* at ¶ 51. Thus, the amount sought for attorneys' fees is well below the range approved in similar wage and hour class action cases litigated on a contingency basis and permissible under California law, supporting the requested attorneys' fees and cost award of $71,207.75 (comprised of $50,000.00 in fees, and $21,207.75 in costs). Plaintiffs' Counsel's total current lodestar is set forth in the lodestar chart in the Lipeles Declaration and in exhibit A thereto. Lipeles Decl., ¶¶ 49, 52, ex. A.

Class Counsel has expended 120.5 total hours in this litigation, for a total current lodestar of $96,020.00. Lipeles Decl., ¶¶ 49, 51. It should be noted that the rates reflected in the lodestar table are the regular hourly rates currently charged for cases in which Plaintiffs' Counsel perform legal services. *Id.* at ¶ 40. It should also be noted that the hourly rates of the primary timekeepers have been previously approved by other federal and state courts as being reasonable and appropriate.[4] *Id*. Here, consideration of Class Counsel's overall lodestar as a cross-check to the

[3] Calculated as follows: $50,000/96,020=52.1%.

[4] Calculating the lodestar using Plaintiffs' Counsel's current rates is appropriate given the deferred nature of counsel's compensation. *See In re Vitamin Cases*, No. 301803, 2004 WL 5137597, *13 (Cal. Super. Ct. April 12, 2004) (finding that use of current rates is reasonable and appropriate to account for delay in payment);

percentage figure strongly supports the reasonableness of the requested fee award because the amount of attorneys' fees Class Counsel seeks results in a negative functional multiplier. Accordingly, Plaintiffs seek attorneys' fees in an amount that is well below the zone of reasonable attorney fee awards for the quality of services rendered by Class Counsel.

4. The Requested Award Is Supported by the Factors California Courts Consider When Approving Requests for Attorneys' Fee Awards.

Under either the common fund or lodestar method for calculating attorneys' fees, trial courts consider several factors in determining whether the requested fee award is warranted. Those factors include: (1) the results achieved on behalf of the Class; (2) the novelty and difficulty of the questions involved and the skill displayed in presenting them; (3) the response of the Class to the settlement, including a lack of objections to the settlement terms, and particularly to the fee award; (4) counsel's experience, reputation, and ability; (5) the contingent nature of the fee award; and (6) awards made in similar cases. *See Serrano III,* 20 Cal. 3d at 49*; Glendora,* 155 Cal. App. 3d at 474. Application of each of the factors identified above strongly favors granting the attorneys' fees and costs award requested by Class Counsel in this case.

a. The High Quality of Work and Excellent Results Support the Requested Fees.

The fairness of the requested fee award of 33.33% of the common fund is supported by the high quality of work performed by Class Counsel and the excellent result obtained for the Class. The experience and ability of Class Counsel were essential to success in this litigation. Class Counsel's experience in prosecuting wage and hour actions such as this resulted in an expedited settlement. The proof of Plaintiffs' counsel's skills in this area of the law lies in the size of the settlement and the recoveries of individual Class Members.

Because of their experience and dedication to prosecuting wage and hour class actions, the quality of representation by Lipeles Law Group APC's seasoned attorneys likely far exceeds the

Ketchum, 24 Cal. 4th at 1138 (adjustment to lodestar may include premium for risk of delay in payment of fees).

quality of representation that would have been provided by attorneys billing at a similar hourly rate, but without such experience. Moreover, the reputation of Plaintiffs' counsel was crucial to securing a good recovery here. Class Counsel's skill in developing a factual record and convincing Defendant of their litigation exposure under California law were essential to achieving the Settlement.

Class Counsel diligently, efficiently, and creatively pursued this case to a successful settlement for the benefit of the entire class. Lipeles Decl., ¶ 31. Class Counsel avoided protracted litigation by conducting significant investigation of the class claims before and after filing the Complaint, through efficient communications and exchanging of information with defense counsel, including a list of all putative class members (160), rates of pay, estimated number of Class workweeks and PAGA Pay Periods and a random sampling of approximately 20% of the payroll and time records for the Class Members. Thus, the parties were able to successfully resolve this case after informal discovery, and a full day of mediation followed by months of negotiation over the drafting of the settlement, but before the parties had briefed and argued over class certification. *Id.* at ¶¶ 14-15, 24, 31.

Further, based on the current administration information, Class Members who participate in the settlement will receive, on average, approximately $342.45 each, with the highest payment of approximately $1,756.45, and the lowest payment of $7.60. Declaration of Taylor Mitzner ("Mitzner Decl."), ¶ 14. This is a significant benefit for the Class Members here and it represents a recovery for highly disputed claims. By delivering this substantial benefit to class members, Plaintiffs' Counsel has achieved excellent results by any measure, but particularly in comparison to the typical recovery in a wage-and-hour action. *See, e.g., Badami v. Grassroots Campaigns, Inc*., Case No. C07-03465 JSW (N.D. Cal. Sept. 15, 2008) (average net recovery of approximately $195); *Sandoval v. Nissho of Cal., Inc.*, Case No. 37-2009-00091861 (San Diego County Super. Ct. Dec. 3, 2010) (average net recovery of approximately $145); *Fukuchi v. Pizza Hut*, Case No. BC302589 (L.A. County Super. Ct. Sept. 29, 2006) (average net recovery of approximately $120); *Contreras v. United Food Group, LLC.*, Case No. BC389253 (LA. County Super. Ct. Sept. 10, 2009) (average net recovery of approximately $120); *Bercea v. AE Retail West*, Case No. 34-2012-

00123947 (Sacramento County Super. Ct.) (average net recovery of approximately $105); *Ressler v. Federated Department Stores, Inc*., Case No. BC335018 (L.A. County Super. Ct. Jan. 27, 2009) (average net recovery of approximately $90); *Palencia v. 99 Cents Only Stores*, Case No. 34-2010-00079619 (Sacramento County Super. Ct) (average net recovery of approximately $80); *Doty v. Costco Wholesale Corp*., Case No. CV05-3241 FMC-JWJx (C.D. Cal. May 14, 2007) (average net recovery of approximately $65); *Sorenson v. PetSmart, Inc*., Case No. 2:06-CV-02674-JAM-DAD (ED. Cal. Dec. 17, 2008) (average net recovery of approximately $60); *Lim v. Victoria's Secret Stores, Inc.*, Case No. 04CC00213 (Orange County Super. Ct. Jan. 20, 2006) (average net recovery of approximately $35); and *Gomez v. Amadeus Salon, Inc*., Case No. BC392297 (L.A. County Super. Ct. July 23, 2010) (average net recovery of approximately $20).

b. The Contingent Nature of Plaintiffs' Counsel's Representation Supports the Fee Award Since Class Counsel Should Be Compensated for the Risk of Non-Payment.

The risks associated with the contingent nature of this action further justify the requested fee. An award of enhanced fees is intended, among other things, to compensate for the risk of loss generally in class action contingency cases. *Ketchum*, 24 Cal. 4th at 1133. Class counsel not only must turn away other income-generating opportunities, but must take on a substantial risk of "never receiving compensation at all." *Amaral v. Cintas Corp*. (2008) 163 Cal. App. 4th 1157, 1217-18. In *Ketchum*, the California Supreme Court instructed courts to adjust fee compensation to ensure that the fees account for contingency risk: "A lawyer who both bears the risk of not being paid and provides legal services is not receiving the fair market value of his work if he is paid only for the second of these functions. If he is paid no more, competent counsel will be reluctant to accept fee award cases." *Ketchum*, 24 Cal. 4th at 1132-33.

Here, Plaintiffs' Counsel bore the entire risk of recovery. There was also the prospect of high costs inherent in class action litigation, as well as a battle with a corporation represented by a

well-respected law firm.[5]

Plaintiffs faced significant risks in pursuing the litigation. As explained in the Memorandum in Support of Final Approval (and as previously detailed in Plaintiffs' Memorandum In Support of Preliminary Approval) Plaintiffs' overtime/double time, minimum wage, meal/rest break and uniform maintenance allowance claims were all fraught with risk[6] due to decisions denying certification of those types of claims. A negative finding by the Court on any of the aforementioned issues would have severely impacted Plaintiffs' case.

Had the litigation continued, Defendant would undoubtedly have mounted an aggressive defense, both at the certification stage and at the merits stage. A defeat at any one of these stages would have foreclosed the possibility of Plaintiffs' Counsel recovering any remuneration for their time and effort. Yet, in spite these considerable challenges that enhanced the already-high contingency risk, Plaintiffs' Counsel skillfully navigated through it and was able to obtain $54,792.25 for the Class. Fees in the amount totaling 33.33% of the GSA are therefore fair and reasonable.

c. The Class's Acceptance of the Requested Attorneys' Fee Award Further Supports a Finding of Reasonableness.

Class Counsel achieved an excellent settlement that was embraced by the Class, as evidenced by the results of the notice dissemination process and the complete absence of objectors to both the settlement and Class Counsel's requested fees. Mitzner Decl., ¶ 9. The requested amount of attorneys' fees – including the specific dollar amount – was stated explicitly in the Class Notice, and class members were all advised they could object and appear at the final approval hearing. *Id*. ¶5, Ex. A. The absence of any objections thus supports the appropriateness and

[5] The financial risks undertaken by Class Counsel in this litigation also justify the requested fee award. Plaintiffs' Counsel agreed to represent Plaintiffs in this class action solely on a contingency fee basis. Lipeles Decl., ¶35. There was no guarantee that Plaintiffs' Counsel would recoup their fees or costs. Plaintiffs' Counsel has not received any payment for their time or expenses, which they began incurring in January 2023, and for which they will not be paid until *after* the settlement and this request for fees is given final approval by the Court. *Id*.

[6] These risks include, but are not limited to: (1) the risk of the Court not certifying the class because of Defendant's defenses and even if certified, Defendant's defenses would prevail over some or all of Plaintiffs' claims on the merits; and (2) the risk that a court may not award waiting time penalties or PAGA penalties.

reasonableness of the fee award. *In Re Heritage Bond Litig*., No. 02–ML–1475 DT, 2005 WL 1594403, at *21 (C.D. Cal. June 10, 2005) "The absence of objections or disapproval by class members to Class Counsels' fee further supports finding the fee request reasonable."); *7-Eleven Owners for Fair Franchising v. Southland Corp*., 85 Cal. App. 4th 1135, 1152-53 (2000) (a low number of objections is a strong indicator that a settlement is fair and reasonable).

d. Plaintiffs' Request for Attorneys' Fees Amounting to 33.33% of the Common Fund Is Within the Approved Range of Fees Awarded in Similar California Wage & Hour Cases.

California state courts routinely award attorneys' fees equaling one-third of the common fund. *See e.g., Chavez v. Netflix, Inc*. (2008) 162 Cal. App. 4th 43, 66 n. 11 ("Empirical studies show that, regardless whether the percentage method or the lodestar method is used, fee awards in class actions average around one-third of the recovery."); 4 *Newberg on Class Actions*, § 14:6 at 551 (same); *see also Chalmers v. Elecs. Boutique*, No. BC306571 (L.A. Super. Ct.) (33% award); *Boncore v. Four Points Hotel ITT Sheraton*, No. GIC807456 (San Diego Super. Ct.) (33% award); *Crandall v. U-Haul Intl., Inc.*, No. BC178775 (L.A. Super. Ct.) (40% award); *Albrecht v. Rite Aid Corp.*, No. 729219 (San Diego Super. Ct.) (35% award); *Marroquin v. Bed Bath & Beyond*, No. RG04145918 (Alameda Super. Ct.) (33% award); *In re Milk Antitrust Litig.*, No. BC070061 (L.A. Super. Ct.) (33% award); *Sandoval v. Nissho of California, Inc.*, No. 37-2009-00097861 (San Diego Super. Ct.) (33% award); *In re Liquid Carbon Dioxide Cases*, No. J.C.C.P. 3012 (San Diego Super. Ct.) (33% award). Because Plaintiffs' requested fees are in line with attorneys' fees routinely approved in similar class actions and since the amount of attorneys' fees Class Counsel seek results in a negative functional multiplier, Plaintiffs' request should be granted.

In this class action, Plaintiffs requested fee award of 33.33% of the fixed settlement amount is appropriate because it is within the approved range for an appropriate award of fees in similar wage-and-hour class actions in California. Because Plaintiffs requested fees are in line with attorneys' fees routinely approved in similar class actions, Plaintiffs' request should be granted.

In sum, the attorneys' fees sought on the basis of 33.33% of the common fund are comparable

to, or less than, typical fee awards granted final approval in similar cases; they represent the fair value of the services rendered by Plaintiffs' Counsel on behalf of the Class; they are reasonable under the circumstances of this case, under the common fund approach and the lodestar multiplier method; and no Class Member objected to this award after receiving notice thereof. For these reasons, this Court should find that Plaintiffs' request for attorneys' fees amounting to 33.33% of the common fund obtained is fair and reasonable.

B. Class Counsel Should be Reimbursed for Their Reasonable Litigation Costs of $21,207.75 Incurred for the Benefit of the Class.

Class Counsel is also entitled to reimbursement of their litigation costs. Cal. Lab. Code §§ 1194, 226(e). Class Counsel requests reimbursement from the common fund for $21,207.75 of out-of-pocket expenses incurred during this litigation. Reimbursement for these expenses from the common fund is appropriate for the same reason attorneys' fees should be paid out of the fund: all beneficiaries should bear their fair share of the costs of the litigation, and these are the normal costs of litigation that counsel traditionally bill their paying clients. Under the common fund method, Class Counsel is permitted to recover their litigation costs from the common fund. *See Serrano III*, 20 Cal. 3d at 35 (common fund doctrine permits recovery of fees and costs from the fund); *Melendres v. City of Los Angeles*, (1975) 45 Cal. App. 3d 267, 272 (quoting *In re Stauffer's Estate*, 53 Cal.2d 124, 132 (1959) (common fund may be charged with all expenses of recovery). Furthermore, whatever method is chosen by the Court to calculate attorneys' fees, Plaintiffs' Counsel is entitled to recover "those out-of-pocket expenses that would normally be charged to a fee paying client." *Harris v. Marhoefer*, 24 F.3d 16, 19 (9th Cir. 1994).

Class Counsel has incurred actual expenses of approximately $21,207.75 in litigation expenses. Lipeles Decl., ¶ 53, Ex. B. These litigation costs included filing fees, service fees, photocopying and mailing expenses, court call fees for hearings and other reasonable expenses. *Id.* All costs were reasonable and necessary to the prosecution of this matter and would have been billed to a paying client. *Id.* Therefore, the Court should also grant Plaintiffs' request for reimbursement of $21,207.75.

C. The Court Should Approve the Requested Class Representative Service Payments Because They Are Reasonable in View of Plaintiffs' Efforts and Risks That They Assumed on Behalf of the Class.

Courts routinely approve service awards to compensate named plaintiff for the services they provide and the risks they incur during class action litigation. *See, e.g., Bell,* 115 Cal. App. 4th at 726 (upholding "service payments" to named plaintiffs for their efforts in bringing the case); *see also Rodriguez v. West Publishing*, 563 F.3d 948, 958-59 (9th Cir. 2009) (Incentive awards are particularly appropriate in wage-and-hour actions where a plaintiff undertakes a significant "reputational risk" by bringing suit against their former employers). "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 could be thought the equivalent of the lawyers' nonlegal but essential case-specific expenses, such as long-distance phone calls, which are reimbursable." *Clark v. American Residential Services LLC* (2009) 175 Cal. App. 4th 785, 804.

Here, Plaintiffs have requested Class Representative Service Payments of $2,500 to each of the named plaintiffs ($5,000.00 total). The service payments, to which no Class member has objected, is intended to recognize the substantial time and effort that the Class Representatives undertook in bringing this case and helping to secure the relief obtained on behalf of the Class. The requested service payments are reasonable because the Class Representatives spent a significant amount of time providing invaluable assistance to Class Counsel and the Class in this case, including providing factual background for the Class Complaint; providing and explaining documents corroborating their allegations to Class Counsel; reviewing the Complaint and other pleadings filed with the Court by Plaintiffs and Defendant; providing crucial information in the settlement negotiations to rebut Defendant's arguments; participating in multiple conference calls to discuss litigation and settlement strategy, and remotely attending the all-day mediation. *See,* Declaration of Gregory Edgar Spencer ("Spencer Decl."), ¶10 and Declaration of Jennifer Lynn Woodruff ("Woodruff Decl."), ¶ 6.

Additionally, the requested service payments for the Class Representatives are significantly less than, those approved in similar wage-and-hour class actions that have been given final approval by courts in California. *See, e.g. Nickeson II v. Pacific Distributing, Inc.,* Fresno County Superior Court Case No. 15CECG00314*,* (April 22, 2016) (awarding a $15,000 enhancement award); *Wilkinson v. Halo Resorts,* San Bernardino County Superior Court *Case No. CIV DS 1114158,* 2016 WL 3208776 (February 23, 2016) (awarding two $20,000 enhancement awards to each representative plaintiff); *Alvidrez v. Unifirst Corp*., San Bernardino County Superior Court, Case No. CIVRS1308105, 2016 WL 3459602 (Feb. 4, 2016) (awarding two $25,000 enhancement payments to each representative plaintiff); *East v. Comprehensive Educational Services, Inc.*, Fresno County Superior Court Case No. 11CECG04226, 2015 WL 10663192 (November 5, 2015) (approving a service award of $15,000 where plaintiff was not deposed, and there was no formal discovery)*; Pavel v. ABC*, Ventura County Superior Court, 2014 WL 4488848 (August 7, 2014) (awarding a $20,000 enhancement payment); *Burgeson v. Raymond Handling Solutions, Inc*., Ventura County Superior Court Case No. 56-2012-00413654-cv-OE-VTA, 2013 WL 4792935 (July 29, 2013) (awarding a $15,000 enhancement); *Kenemixay v. Nordstrom, Inc*., Los Angeles County Superior Court Case No. BC318850, 2005 WL 6011575 (December 20, 2005) (awarding $15,000 enhancement); *Ross v. US Bank Nat'l Ass'n*, No. C 07–02951 SI, 2010 WL 3833922, at *2 (N.D. Cal. Sept. 29, 2010 (approving $20,000 service award to class representative); *Garner v. State Farm Mut. Auto. Ins. Co.*, No. CV 08 1365 CW (EMC), 2010 WL 1687832, at *17 n.8 (N.D. Cal. 2010) ("Numerous courts in the Ninth Circuit … have approved incentive awards of $20,000 or more where, as here, the class representative has demonstrated a strong commitment to the class").

Furthermore, while the Class Notice disclosed the amount of the proposed Class Representative Service Payments to Plaintiffs, **no Class member objected** to the proposed Service Payments. Mitzner Decl., ¶ 9. Also, the case involved risks for Plaintiffs, including the risk of having to pay Defendant's costs had they lost. *See* Spencer Decl. ¶ 12; Woodruff Decl., ¶ 7. Considering Plaintiffs have agreed to a general release of all claims, the requested $2,500 ($5,000 total) service payments to each of the Class Representatives is eminently reasonable. Further, the Class

Representative Service Payments are only 3.3% of the GSA. Accordingly, the requested service payments are warranted and justified as part of the settlement, and should be given final approval by the Court.

III. CONCLUSION

For the reasons stated herein, Plaintiffs' motion should be granted.

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Respectfully submitted,

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