Arby Aiwazian (SBN 269827)
Joanna Ghosh (SBN 272479)
Yasmin Hosseini (SBN 326399)
**LAWYERS *for* JUSTICE, PC**
410 West Arden Avenue, Suite 203
Glendale, California 91203
Tel: (818) 265-1020 / Fax: (818) 265-1021

*Attorneys for* Plaintiff and the Class

**SUPERIOR COURT OF THE STATE OF CALIFORNIA**

**FOR THE COUNTY OF SAN BERNARDINO**

| | |
|---|---|
| KARINA SERRANO, individually, and on behalf of other members of the general public similarly situated, and on behalf of other aggrieved employees pursuant to the California Private Attorneys General Act,<br><br>Plaintiff,<br><br>vs.<br><br>ALASKA USA FEDERAL CREDIT UNION, an unknown business entity; and DOES 1 through 100, inclusive,<br><br>Defendants. | Case No. CIVDS2020498<br><br>Honorable Jessica L. Morgan<br>Department S26<br><br>**CLASS ACTION**<br><br>**PLAINTIFF'S NOTICE OF MOTION AND MOTION FOR FINAL APPROVAL OF ATTORNEYS' FEES AND COSTS AND ENHANCEMENT AWARD; MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT THEREOF**<br><br>[Declaration of Class Counsel (Joanna Ghosh); Declaration of Class Representative (Karina Serrano); Declaration of Settlement Administrator (Makenna Snow); and [Proposed] Final Approval Order and Judgment filed concurrently herein]<br><br>Date: August 14, 2024<br>Time: 8:30 a.m.<br>Department: S26<br><br>Complaint Filed: October 6, 2020<br>FAC Filed: August 31, 2023<br>Trial Date: None Set |

**PLEASE TAKE NOTICE** that on August 14, 2024, at 8:30 a.m., in Department S26 of the above-entitled Court, located at 247 West Third Street, San Bernardino, California 92415, Plaintiff Karina Serrano ("Plaintiff" or "Class Representative") will and hereby do move for an order granting final approval of:

1. The Joint Stipulation of Class Action and PAGA Settlement and Release ("Settlement," "Agreement," or "Settlement Agreement") on the grounds that the Settlement is fair, adequate, and reasonable because:

- A Net Settlement Amount of approximately **$379,041.01** will be fully distributed to all Class Members who do not submit a timely and valid Request for Exclusion ("Settlement Class Members");
- **No Notices of Objection or Requests for Exclusion** were submitted to the settlement administrator, ILYM Group, Inc. ("ILYM" or "Settlement Administrator");

2. Payment in the amount of **$231,666.67** to Lawyers *for* Justice, PC ("Class Counsel"), representing one-third (1/3) of the Maximum Settlement Amount, for the Attorneys' Fees, which is reasonable and justified on a percentage-basis;

3. Payment in the amount of **$9,292.32** to Class Counsel for litigation costs;

4. Payment in the amount of **$20,000.00** to the Settlement Administrator for Settlement Administration Costs;

5. Payment in the amount of **$10,000.00** to Plaintiff Karina Serrano as an Enhancement Award, for her time and effort in representing the Class; and

6. Allocation of the penalties under the Private Attorneys General Act of 2004, California Labor Code section 2698, *et seq*., in the amount of $45,000.00 ("PAGA Penalties"), of which seventy-five percent (75%), or **$33,750.00**, will be paid to the California Labor and Workforce Development Agency ("LWDA") ("LWDA Payment") and twenty-five percent (25%), or **$11,250.00**, ("PAGA Amount") will be distributed to PAGA Group Members on a *pro rata* basis, based on Workweeks during the PAGA Period ("Individual PAGA Payment").

**LAWYERS *for* JUSTICE, PC**
410 West Arden Avenue, Suite 203
Glendale, California 91203

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

This motion is based upon the following Memorandum of Points and Authorities; the Declarations of Class Counsel (Joanna Ghosh), Class Representative (Karina Serrano), Settlement Administrator (Makenna Snow of ILYM Group, Inc.) in support thereof; the pleadings and other records on file with the Court in this matter; and such evidence and oral argument as may be presented at the hearing on this Motion.

Dated: July 23, 2024

**LAWYERS *for* JUSTICE, PC**

By: ______________________________

Yasmin Hosseini
*Attorneys for* Plaintiff and the Class

**LAWYERS *for* JUSTICE, PC**
410 West Arden Avenue, Suite 203
Glendale, California 91203

## TABLE OF CONTENTS



LAWYERS *for* JUSTICE, PC
410 West Arden Avenue, Suite 203
Glendale, California 91203

**LAWYERS *for* JUSTICE, PC**
410 West Arden Avenue, Suite 203
Glendale, California 91203

## TABLE OF AUTHORITIES

**Cases**



**LAWYERS *for* JUSTICE, PC**
410 West Arden Avenue, Suite 203
Glendale, California 91203

**Statutes**



**Other Authorities**



**LAWYERS *for* JUSTICE, PC**
410 West Arden Avenue, Suite 203
Glendale, California 91203

LAWYERS *for* JUSTICE, PC
410 West Arden Avenue, Suite 203
Glendale, California 91203

# MEMORANDUM OF POINTS AND AUTHORITIES

## I. SUMMARY OF MOTION

Plaintiff Karina Serrano ("Plaintiff" or "Class Representative") seek final approval of: (1) the Maximum Settlement Amount of $695,000.00[1]; (2) attorneys' fees in the amount of $231,666.67 which is one-third (1/3) of the Maximum Settlement Amount[2], and reimbursement of litigation costs and expenses in the amount of $9,292.32 (together, referred to as the "Attorneys' Fees and Costs") to Lawyers *for* Justice, PC ("Class Counsel"); (3) Settlement Administration Costs in the amount of $20,000.00 to ILYM Group, Inc. ("ILYM" or "Settlement Administrator"); (4) Enhancement Award in the amount of $10,000.00 to Plaintiff Karina Serrano; and (5) allocation of $45,000.00 for penalties under the Private Attorneys General Act of 2004, California Labor Code § 2698, *et seq*. ("PAGA Penalties").

Plaintiff seeks relief on behalf of the following Class:

> All current and former hourly or non-exempt employees who worked for the Defendant within the State of California at any time during the period from October 6, 2016 through November 6, 2022, except those individuals who previously settled or released any of the Released Class Claims or any person who was previously paid or received awards through civil or administrative actions for the Released Class Claims ("Class" or "Class Members").[3]

This matter involved ongoing investigations, formal and informal discovery, review and analysis of a large volume of documents and data prior to and during the mediation conducted by the Hon. Rul A. Ramirez (Ret.), and settlement negotiations thereafter. This matter has required 316.90 hours of attorney time by Class Counsel. As will be demonstrated herein, the request for attorneys' fees, which represents one-third (1/3) of the Maximum Settlement Amount, is fully supported by the use of the percentage-fee method. Courts have historically awarded fees of up to fifty percent (50%) of the recovery. The requested attorneys' fees are also supported under the lodestar cross-check method.[4]

///

---

[1] Joint Stipulation of Class Action and PAGA Settlement and Release ("Settlement Agreement"), ¶ 8.u.
[2] *Id.*, ¶ 12.
[3] *Id.*, ¶ 8.c. "Class Period" is defined as the period from October 6, 2016 through November 6, 2022. *See id.*, ¶ 8.f.
[4] Applying a reasonable rate of $800 to 316.90 hours of work performed by Lawyers *for* Justice, PC would place a base lodestar value of $253,520.00 on Class Counsel's services, and Class Counsel seeks an attorneys' fees award of $231,666.67.

Plaintiff moves for final approval of the Enhancement Award in the amount of $10,000.00 to Plaintiff Karina Serrano, to compensate Plaintiff for the time and effort that she expended spearheading the lawsuit on behalf of the Class, PAGA Group Members, and the State of California. Plaintiff also moves for final approval of the payment to the Settlement Administrator in the amount of $20,000.00 for Settlement Administration Costs. Plaintiff also moves for final approval of the allocation of $45,000.00 for the PAGA Penalties, of which seventy-five percent (75%), i.e., $33,750.00, will be paid to the California Labor Workforce and Development Agency ("LWDA") for its portion of the PAGA Penalties ("LWDA Payment"), and twenty-five percent (25%), i.e., $11,250.00 ("PAGA Amount"), will be distributed to all current and former hourly non-exempt employees who worked for the Defendant within the State of California at any time during the period from April 3, 2022 to November 6, 2022 ("PAGA Group Members").

The requests for Attorneys' Fees and Costs, Enhancement Award, Settlement Administration Costs, and the allocation for PAGA Penalties were fully disclosed in the Court Approved Notice of Class Action Settlement ("Class Notice") that was mailed to the Class Members. Most importantly, as of the date of this Motion, *not a single Class Member has objected to any aspect of the Class Settlement, including the requested Attorneys' Fees and Costs, Enhancement Award, Settlement Administration Costs or the allocation for PAGA Penalties.*

The Settlement is fair, adequate, and reasonable, and is the product of arm's-length, good-faith negotiations by experienced counsel presided over by a highly-regarded mediator who is experienced in mediating wage-and-hour class action lawsuits. Accordingly, the Court should grant final approval of the Settlement, and award Attorneys' Fees and Costs, Enhancement Award, Settlement Administration Costs, and the allocation for PAGA Penalties in the amounts as fully disclosed to the Class and as requested herein.

In order to efficiently present the Court with adequate information to determine whether to grant final approval of the Settlement and award Attorneys' Fees and Costs, Enhancement Award, Settlement Administration Costs, and the allocation for PAGA Penalties, Plaintiff also moves for an order permitting the filing of this single consolidated memorandum, although it exceeds the

**LAWYERS *for* JUSTICE, PC**
410 West Arden Avenue, Suite 203
Glendale, California 91203

page limit established by California Rules of Court, Rule 3.1113(d), instead of filing several separate motions.

## II. PROCEDURAL HISTORY AND FACTUAL BACKGROUND

Defendant is a not-for-profit financial services cooperative offering checking and saving accounts, consumer loans, credit cards, business services, real estate loans and mortgage loans. Plaintiff Karina Serrano is a former employee of Defendant.

On October 6, 2020, Plaintiff filed a Class Action Complaint for Damages, in the San Bernardino County Superior Court ("Court"), thereby commencing the above-captioned lawsuit ("Action").

On April 3, 2023, Plaintiff submitted notice to the California Labor & Workforce Development Agency ("LWDA") and Defendant of her intent to pursue civil penalties under the Private Attorneys General Act, Cal. Labor Code § 2698, Et Seq.

On August 31, 2023, Plaintiff filed the First Amended Class Action Complaint for Damages & Enforcement Under the Private Attorneys General Act, California Labor Code § 2698, Et Seq. ("Operative Complaint"), adding a Private Attorneys General Act (Labor Code § 2698, et seq.) ("PAGA") cause of action.

Plaintiff's core allegation is that Defendant has violated the California Labor Code by engaging in a uniform practice and procedure, with respect to Plaintiff, the Class Members, and the PAGA Group Members of, *inter alia*, failing to pay all overtime and minimum wages, failing to provide compliant meal and rest periods and associated premium pay, failing to timely pay wages during employment and upon termination of employment, failing to provide compliant wage statements, failing to maintain requisite payroll records, and failing to reimburse necessary business expenses, and thereby engaged in unfair business practices in violation of California Business and Professions Code section 17200, *et seq.* and conduct that gives rise to penalties pursuant to PAGA. Plaintiff contends that they, and the Class Members and PAGA Group Members, are entitled to, *inter alia*, unpaid wages, penalties (including and not limited to, penalties pursuant to PAGA), and attorneys' fees.

**LAWYERS *for* JUSTICE, PC**
410 West Arden Avenue, Suite 203
Glendale, California 91203

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

The Parties have actively litigated the Action since the Action was commenced on October 6, 2020. On September 15, 2022, the Parties participated in a formal, full-day mediation conducted by Raul A. Ramirez (Ret.), a well-regarded mediator experienced in mediating complex labor and employment matters. With the aid of the mediator's evaluation, the Parties ultimately reached the Settlement described herein to resolve the Action in its entirety.

On February 2, 2024, Plaintiff filed a Motion for Preliminary Approval of Class Action Settlement and supporting documents ("Motion for Preliminary Approval").

On February 27, 2024, the Hearing on the Motion for Preliminary Approval occurred, and the Court issued an Order Granting Preliminary Approval of Class Action Settlement ("Preliminary Approval Order"), thereby preliminarily approving the terms of the Settlement, the Class Notice, and the proposed administration procedures and associated deadlines.

Plaintiff now moves for final approval of Attorneys' Fees and Costs, Enhancement Award, Settlement Administration Costs, and the allocation for PAGA Penalties.

## III. <u>SUMMARY OF THE SETTLEMENT TERMS AND PLAN OF DISTRIBUTION</u>

Under the terms of the Settlement Agreement, Defendant has agreed to pay a Maximum Settlement Amount of $695,000.00 by making a one-time deposit, along with any Employer Taxes, into a settlement account to be established by the Settlement Administrator.[5] Subject to approval by the Court, the Net Settlement Amount will be calculated by deducting the following amounts from the Maximum Settlement Amount: (1) Attorneys' Fees and Costs, consisting of attorneys' fees in the amount of $231,666.67 and reimbursement of litigation costs and expenses in the amount of $9,292.32, to Class Counsel; (2) Enhancement Award in the amount of $10,0000.00 to Plaintiff Karina Serrano; (3) Settlement Administration Costs in the amount of $20,000.00 to ILYM; and (4) PAGA Penalties in the amount of $45,000.00.[6] The Net Settlement Amount, which

---

[5] Settlement Agreement, ¶ 11.
[6] *Id.*, ¶¶ 12, 13, 14 and 15.

**LAWYERS *for* JUSTICE, PC**
410 West Arden Avenue, Suite 203
Glendale, California 91203

is estimated to be $379,041.01, will be distributed in accordance with the Settlement Agreement and there is no reversion to Defendant.[7]

The Settlement Administrator will determine each Settlement Class Member's *pro rata* share of the Net Settlement Amount ("Individual Settlement Share"), according to the following methodology: the Settlement Administrator will divide the final Net Settlement Amount by the Workweeks of all Settlement Class Members during the Class Period to yield the "Class Workweek Value," and multiply each Settlement Class Member's individual Workweeks during the Class Period by the Class Workweek Value to yield his or her Individual Settlement Share.[8]

The Settlement Administrator will determine each PAGA Group Member's *pro rata* share of 25% the PAGA Penalties ("Individual PAGA Payment"), according to the following methodology: the Settlement Administrator will divide the 25% portion of the PAGA Penalties allocated to PAGA Group Members, i.e., $11,250.00, by the total number of Workweeks worked by all PAGA Group Members during the PAGA Period ("Total PAGA Workweeks") resulting in the PAGA Workweek Value and then multiply each PAGA Group Member's individual Workweeks during the PAGA Period by the PAGA Workweek Value to yield his or her Individual PAGA Payment.[9]

Class Members had forty-five (45) calendar days from the initial mailing of the Class Notice ("Response Deadline") to submit a Request for Exclusion, Notice of Objection and/or dispute of the Workweeks.[10] The Response Deadline was May 18, 2024.[11] ***As of the date of this Motion, the Settlement Administrator has not received any written objections to the Class Settlement ("Notice of Objection") or requests to be excluded from the Class Settlement ("Requests for Exclusion") from Class Members.***[12]

---

[7] This amount is higher than the amount stated in Paragraph 15 of the accompanying Declaration of Makenna Snow of ILYM Group, Inc. Regarding Notice and Settlement Administration ("ILYM Declaration" or ILYM Decl.") because the Administrator's calculation assumes that Class Counsel will obtain attorneys' fees in the maximum amount of $243,250.00 and litigation costs and expenses in the maximum amount of $25,000.00, which is allocated under the Settlement. However, Class Counsel seeks the amount of only $231,666.67 for attorneys' fees and $9,292.32 for reimbursement of litigation costs and expenses, and the total difference of $27,291.01 will remain part of the Net Settlement Amount.
[8] Settlement Agreement, ¶ 16.a.
[9] *Id.*, ¶¶ 17.a.
[10] *Id.*, ¶ 8.kk.
[11] ILYM Decl., ¶¶ 11, 12, & 13.
[12] *Id.*, ¶¶ 11 & 12.

**LAWYERS *for* JUSTICE, PC**
410 West Arden Avenue, Suite 203
Glendale, California 91203

Each Individual Settlement Share will be allocated as follows: twenty percent (20%) as wages, which will be reported on an IRS Form W-2; and the remaining eighty percent (80%) as penalties, interest, and non-wage damages, which will be reported on an IRS Form 1099.[13] The Settlement Administrator will withhold the employee's share of taxes and withholdings with respect to the wages portion of the Individual Settlement Shares, and issue checks to Settlement Class Members for their Individual Settlement Payments (i.e., payment of their Individual Settlement Shares net of these taxes and withholdings).[14] The Employer Taxes of Individual Settlement Shares will be paid separately and in addition to the Maximum Settlement Amount.[15] Each Individual PAGA Payment will be allocated as one hundred percent (100%) penalties, and will not be subject to deductions of any taxes and withholdings for this payment, and will be reported on an IRS Form-1099 (if applicable) by the Settlement Administrator.[16]

Individual Settlement Payment and Individual PAGA Payment checks will be valid and negotiable for one-hundred eighty (180) calendar days from the date the checks are issued, and thereafter, shall be canceled.[17] All leftover funds associated with such canceled checks will be transmitted to the A Greater Hope Foundation for Children, Inc., in accordance with California Code of Civil Procedure Section 384, subd. (b).[18] All Settlement Class Members and PAGA Group Members shall be bound by the terms and conditions of this Settlement Agreement regardless of whether or not they cash or otherwise negotiate their Individual Settlement Payment check and/or Individual PAGA Payment check.[19]

## IV. THE SETTLEMENT ADMINISTRATION PROCESS

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

On March 19, 2024, Defendant's counsel provided ILYM the Class List containing each

[13] Settlement Agreement, ¶ 28.
[14] Ibid.
[15] Ibid.
[16] Ibid.
[17] *Id.*, ¶ 22.
[18] Ibid.
[19] Ibid.

LAWYERS *for* JUSTICE, PC
410 West Arden Avenue, Suite 203
Glendale, California 91203

Class Member's and PAGA Group Member's last-known full name, mailing address, Social Security Number, and number of Workweeks, ("Class List").[20] The Class List contained data for one hundred and ninety-four (194) Class Members who worked 21,135 Workweeks and fifty-six (56) PAGA Group Members who worked 1,705 Workweeks.[21] The mailing addresses contained in the Class List were processed and updated utilizing the National Change of Address Database ("NCOA") maintained by the U.S. Postal Service.[22] The NCOA contains requested changes of address filed with the U.S. Postal Service. In the event that any individual had filed a U.S. Postal Service change of address request, the address listed with the NCOA would be utilized in connection with the mailing of the Class Notice.[23]

On April 3, 2024, ILYM mailed the Class Notice via U.S. First Class Mail to all one hundred and ninety-four (194) individuals identified as Class Members and fifty-six (56) individuals identified as PAGA Group Members in the Class List.[24]

A total of thirteen (13) Class Notices were returned to ILYM.[25] Of these, none were returned with a forwarding address.[26] If a Class Member's Class Notice was returned by the USPS as undeliverable and without a forwarding address, ILYM performed an advanced address search (i.e. skip trace) on all of these addresses by using Accurint, a reputable research tool owned by Lexis-Nexis.[27] ILYM used the Class Member's name and previous address to locate a current address.[28] Through the advanced address searches, ILYM was able to locate thirteen (13) updated addresses and ILYM promptly mailed a Class Notice to those updated addresses.[29] Ultimately, there are zero (0) Class Notices that remain undeliverable.[30]

As of the date of this Motion, the Settlement Administrator has not received any Notices of Objection.[31] As of the date of this Motion, the Settlement Administrator has not received any

---

[20] ILYM Decl., ¶ 4.
[21] Ibid.
[22] *Id.*, ¶ 6.
[23] Ibid.
[24] *Id.*, ¶ 7.
[25] *Id.*, ¶ 8.
[26] Ibid.
[27] Ibid.
[28] Ibid.
[29] *Id.*, ¶ 9.
[30] *Id.*, ¶ 10.
[31] *Id.*, ¶ 12.



LAWYERS *for* JUSTICE, PC
410 West Arden Avenue, Suite 203
Glendale, California 91203

Requests for Exclusion from Class Members.[32]

To date, there are one hundred and ninety-four (194) Class Members who did not submit a timely and valid Request for Exclusion ("Settlement Class Members"), and who will be paid their portion of the Net Settlement Amount.[33] Pursuant to the terms of the Settlement, the Net Settlement Amount of approximately $379,041.01 will be distributed to Settlement Class Members in accordance with the terms of the Settlement.[34] The highest Individual Settlement Share is currently estimated to be $5,230.77 and the average Individual Settlement Share is currently estimated to be $1,813.14.[35] The highest Individual PAGA Payment is currently estimated to be $205.52 and the average Individual PAGA Payment is currently estimated to be $197.37.[36]

## V. <u>THE COURT SHOULD GRANT FINAL APPROVAL OF THE CLASS ACTION AND PAGA SETTLEMENT.</u>

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

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

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

**LAWYERS *for* JUSTICE, PC**
410 West Arden Avenue, Suite 203
Glendale, California 91203

---

[32] ILYM Decl., ¶ 11.
[33] *Id.*, ¶ 14.
[34] Ibid.
[35] *Id.*, ¶ 17. The actual average and highest Individual Settlement Payments will be larger than the amounts stated in the ILYM Declaration because the Net Settlement Amount is larger due to Class Counsel's request for attorneys' fees is less than $243,250.00 and the reimbursement of litigation costs and expenses is less than $25,000 (the difference between the amount sought and the amount authorized under the Settlement, $27,291.01, will be part of the Net Settlement Amount). See n.8, *supra*.
[36] *Id.*, ¶ 18.

The proponent of the settlement has the burden to show that it is fair and reasonable. *Wershba*, *supra*, 91 Cal.App.4th at 245. At the final approval stage, a presumption of fairness exists where, as here: "(1) the settlement is reached through arm's-length bargaining; (2) investigation and discovery are sufficient to allow counsel and the court to act intelligently; (3) counsel is experienced in similar litigation; and (4) the percentage of objectors is small." *Dunk*, *supra*, 48 Cal.App.4th at 1802. In reviewing a class settlement, the court need not reach any ultimate conclusions on the issues of fact and law that underlie the merits of the dispute. *7-Eleven Owners for Fair Franchising v. Southland Corp.* (2000) 85 Cal.App.4th 1135, 1146. The inquiry is not whether the settlement agreement is the best one that class members could have possibly obtained, but whether the settlement, taken as a whole, is "fair, adequate, and reasonable." *Chavez v. Netflix, Inc.* (2008) 162 Cal.App.4th 43, 55. A settlement need not obtain 100 percent of the damages sought in order to be fair, reasonable, and ultimately, meaningful. *Wershba*, *supra*, 91 Cal.App.4th at 251. Even if the proposed settlement affords relief that is substantially narrower than it would be if the cases were to be successfully litigated, that is no bar to a class settlement because the public interest may indeed be served by a voluntary settlement in which each side gives ground in the interest of avoiding prolonged litigation. *Id*.

### A. **<u>The Settlement Resulted from Arm's-Length Negotiations Based Upon Extensive Investigation and Informal Discovery.</u>**

The Parties actively litigated the case since the Action commenced on October 6, 2020. Class Counsel conducted significant investigation and formal and informal discovery into the facts of the case, to assess the veracity, strength, and scope of the claims, and was preparing for class certification and trial prior to reaching the Settlement.[37]

The Parties conducted significant formal and informal discovery and investigation into the facts of the case, and also formally and informally exchanged a large volume of information, documents, and data throughout the course of the litigation and in connection with the mediation and settlement negotiations.[38] The volume of data and documents that Class Counsel reviewed

[37] Ghosh Decl., ¶ 6.
[38] *Id*.



LAWYERS for JUSTICE, PC
410 West Arden Avenue, Suite 203
Glendale, California 91203

and analyzed by Class Counsel included, and were not limited to: employment records of Plaintiff, earning statements, new hire checklist, job description, Employee Handbook, company policy acknowledgements (Acknowledgement Statement), internal memoranda, among other information and documents.[39] Class Counsel had the opportunity to interview Plaintiff and other Class Members to gather facts and to identify potential witnesses.[40] Class Counsel developed liability, damages, and penalties valuation models in the course of litigation and in connection with the mediation and settlement negotiations, and met and conferred with Defendant's counsel on numerous occasions, e.g., to discuss issues relating to the pleadings, discovery, and the production of information, documents, and data in the course of litigation and the mediation and settlement negotiations.[41] Class Counsel reviewed and analyzed information, documents, and data obtained from Plaintiff, Defendant, and other sources.[42] Other work performed by Class Counsel included, and was not limited to, case strategy and analysis; drafting, reviewing, and revising the pleadings, motion-related papers, mediation brief, and settlement-related papers; and preparing for and attending court proceedings, settlement negotiations, and the mediation, among other tasks.[43]

After conducting formal and informal discovery and investigation into the facts of the cases, the Parties participated in a formal, full-day mediation conducted by Raul A. Ramirez, (Ret.), a well-regarded mediator experienced in mediating complex labor and employment matters.[44] In the course of mediation and settlement negotiations, the Parties exchanged class information, documents, and data, and discussed all aspects of the case, including and not limited to, the risks and delays of further litigation, the risks to the Parties of proceeding with class certification and trial, the law relating to class certification, off-the-clock theory, rounding, meal and rest periods, representative PAGA claims, and wage-and-hour enforcement, as well as the evidence produced and analyzed, and the possibility of appeals, among other things.[45] During all settlement discussions, the Parties conducted their negotiations at arm's length in an adversarial

**39** Ibid.
40 Ibid.
41 Ibid.
42 Ibid.
43 Ibid.
44 Ghosh Decl., ¶ 8.
45 Ibid.



**LAWYERS *for* JUSTICE, PC**
410 West Arden Avenue, Suite 203
Glendale, California 91203

position.[46] Arriving at a settlement that was acceptable to the Parties was not easy.[47] Defendant and its counsel felt very strongly about Defendant ability to prevail on the merits and to avoid class certification.[48] Defendant and its counsel felt strongly about Defendant's ability to avoid class certification and representative adjudication and prevail on the merits, while Plaintiff and Class Counsel believed that they would be able to obtain class certification and prevail at trial.[49] After conducting significant formal and informal discovery and investigations, settlement negotiations, and with the aid of the mediator's evaluation, the Parties agreed that the case was well-suited for settlement given the legal issues relating to Plaintiff's principal claims, as well as the costs and risks to the Parties that would attend further litigation.[50]

The Settlement takes into account the strengths and weaknesses of each side's position and the uncertainty of how the case might have concluded at certification, trial, and/or appeals. Class Counsel analyzed a large volume of information, documents, and data obtained from Defendant, Plaintiff, and other sources, and performed research regarding applicable law, which is evolving as it relates to certification, off-the-clock theory, meal and rest periods, representative PAGA claims, wage-and-hour enforcement, Plaintiff's claims, and Defendant's defenses thereto, as well as facts discovered.[51] The Settlement was based on this large volume of facts, evidence, and investigation.[52] Additionally, Class Counsel have extensive experience in handling complex wage-and-hour actions, including significant experience in employment class action litigation.[53]

### B. <u>The Risks Inherent in Continued Litigation Favor Final Approval of the Settlement.</u>

The Settlement, which provides for a Maximum Settlement Amount of $695,000.00, represents a fair, adequate, and reasonable resolution of the case, given the risks inherent in litigating class and representative claims through certification proceedings, trial, and/or appeals.[54]

---

[46] Ghosh Decl., ¶ 8.
[47] Ibid.
[48] Ibid.
[49] Ibid.
[50] Ibid.
[51] *Id.*, ¶ 7.
[52] *Id.*, ¶¶ 6-8.
[53] *Id.*, ¶¶ 13-18.
[54] *Id.*, ¶ 21.



LAWYERS *for* JUSTICE, PC
410 West Arden Avenue, Suite 203
Glendale, California 91203

The Settlement was calculated using information and data uncovered through extensive case investigation, formal and  informal discovery, and the exchange of information in the context of mediation and ongoing settlement negotiations.[55] Had the action not settled, Defendant would have vigorously challenged class certification, manageability of representative adjudication, and liability. Defendant contended that individualized questions of fact predominated over any common issues, and these issues would pose challenges to certification and representative adjudication. Defendant would have likely argued again at trial, if any, that Plaintiff's claims were not appropriate for class-wide and/or representative adjudication. On the other hand, Defendant also faced the risk of the Court certifying a class and allowing a jury to decide Plaintiff's claims on a class-wide or representative basis. Additionally, preparation for trial would have been expensive for all parties.

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

[55] *Id.*, ¶¶ 7-11.

LAWYERS *for* JUSTICE, PC
410 West Arden Avenue, Suite 203
Glendale, California 91203

significant benefits for the Class here and now, while avoiding the further expenses, risks, and delay of prolonged litigation with only the possibility of recovery.

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

### C. The Settlement Is Fair, Reasonable, and Adequate.

The Settlement, which provides for a Maximum Settlement Amount of $695,000.00, represents a fair, reasonable, and adequate resolution of the case. The Settlement was calculated using information and data uncovered through extensive case investigation, formal and informal discovery, and the exchange of information in the context of preparing for mediation and conducting ongoing settlement negotiations. The Settlement takes into account the potential risks and rewards inherent in any case and, in particular, in this matter. Moreover, considering all of the facts in the cases, the Maximum Settlement Amount represents a considerable recovery.

Even after deducting Attorneys' Fees in the amount of $231,666.67, costs and expenses in the amount of $9,292.32, Enhancement Award in the amount of $10,000.00, Settlement Administration Costs in the amount of $20,000.00, and the allocation of PAGA Penalties of $45,000.00 from the Maximum Settlement Amount of $695,000.00, the Net Settlement Amount is currently estimated to be $379,041.01.[56] Under the Settlement Agreement, the Maximum Settlement Amount will be fully paid out, in accordance with the terms of the Settlement. As discussed in Section III, *supra*, each Settlement Class Member will be paid a *pro rata* share of the Net Settlement Amount, based on the number of Workweeks credited to him or her, and each PAGA Group Member will be paid a *pro rata* share of 25% of the PAGA Penalties, based on the number of Workweeks during the PAGA Period credited to him or her.[57] To date, there are one

[56] ILYM Decl., ¶ 15.
[57] Settlement Agreement, ¶¶ 16 and 17.



LAWYERS *for* JUSTICE, PC
410 West Arden Avenue, Suite 203
Glendale, California 91203

hundred and ninety-four (194) Settlement Class Members, representing one hundred percent (100%) of the Class Members.[58] The highest Individual Settlement Share is currently estimated to be $5,230.77 and the average Individual Settlement Share is currently estimated to be $1,813.14.[59] The highest Individual PAGA Payment is currently estimated to be $205.52 and the average Individual PAGA Payment is currently estimated to be $197.37.[60] These are significant individual recoveries, particularly in light of the risks of litigation.

At the final approval stage, "[a]n allocation formula need only have a reasonable, rational basis [to warrant approval], particularly if recommended by experienced and competent class counsel." *In re American Bank Note Holographics, Inc., Securities Litigation* (S.D.N.Y. 2001) 127 F.Supp.2d 418, 429-30. The *pro rata* allocation here is a fair and reasonable way to distribute the Net Settlement Amount. In light of the above considerations, Class Counsel believes that the Settlement as a whole is fair, reasonable, and adequate, and in the best interest of the Class Members, the State of California, and PAGA Group Members.[61] Although the recommendations of Class Counsel are not conclusive, the Court can properly take the recommendations into account, particularly if Class Counsel appears to be competent, has experience with this type of litigation, and significant discovery and investigation have been completed, as is the case here. Conte & Newberg, *Newberg on Class Actions* (4th Ed., 2002) § 11.47. Accordingly, the Court should grant final approval of the Settlement.

**D. <u>The Class Was Represented by Competent Counsel.</u>**

Class Counsel has extensive experience in employment class action law and complex wage-and-hour litigation.[62] Lawyers *for* Justice, PC has been appointed class counsel in numerous complex wage-and-hour cases, and has recovered millions of dollars for individuals in California.[63] Both parties' counsel were capable of assessing the strengths and weaknesses of the Class Members' claims against Defendant and the benefits of the Settlement under the circumstances of the case and in the context of a private, consensual settlement agreement.

---

[58] ILYM Decl., ¶ 14.
[59] *Id.*, ¶ 17.
[60] *Id.*, ¶ 18.
[61] Ghosh Decl., ¶ 21.
[62] *Id.*, ¶¶ 13-18.
[63] Ibid.

**LAWYERS *for* JUSTICE, PC**
410 West Arden Avenue, Suite 203
Glendale, California 91203

LAWYERS *for* JUSTICE, PC
410 West Arden Avenue, Suite 203
Glendale, California 91203

### E. There Are No Notices of Objection to the Class Settlement.

The Settlement has been well received by the Class – ***not a single Class Member objected to the Class Settlement.***[64] Specifically, no objections have been made as to the Maximum Settlement Amount or requested Attorneys' Fees and Costs, Enhancement Award, Settlement Administration Costs, or the allocation for PAGA Penalties. California courts have consistently found that a small number of objectors indicates the class' support for a settlement and strongly favors final approval. *Wershba*, *supra*, 91 Cal.App.4th at 250-51 (final approval granted despite 20 objectors); *7-Eleven Owners*, *supra*, 85 Cal.App.4th at 1152-53 (final approval granted despite 9 objectors).

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

## VI. THE ATTORNEYS' FEES REQUESTED IS FAIR AND REASONABLE AND SHOULD BE APPROVED.

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

Trial courts have "wide latitude" in assessing the value of attorneys' fees and their decisions will "'not be disturbed on appeal absent a manifest abuse of discretion.'" *Lealao v. Beneficial Cal., Inc.* (2000) 82 Cal.App.4th 19, 41; *Ketchum v. Moses* (2001) 24 Cal.4th 1122, 1132 (The "experienced trial judge is the best judge of the value of professional services rendered in his court[.]"); *Cellphone Termination Fee Cases* (2009) 180 Cal.App.4th 1110, 1118. Where the amount of a settlement is a "certain easily calculable sum of money," California courts may calculate attorneys' fees as a reasonable percentage of the settlement. Weil and Brown, California Practice Guide, *Civil Procedure Before Trial*, Chapter 14, § 14:145; *see also Laffitte v. Robert Half Int'l Inc.* (2016) 1 Cal.5th 480, 503; *Dunk*, *supra*, 48 Cal.App.4th at 1808. The percentage-of-the-benefit approach is preferred in class and representative actions because "it better

---

[64] ILYM Decl., ¶ 12.

approximates the workings of the marketplace than the lodestar approach." *Lealao*, *supra*, 82 Cal.App.4th at 49.

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

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

Historically, courts have awarded fees as high as fifty percent (50%) of the settlement, depending on the circumstances of the case. Conte & Newberg, *Newberg on Class Actions* (4th Ed., 2002) § 14.03; *see also In re Ampicillin Antitrust Litig.* (D.D.C. 1981) 526 F.Supp. 494 (awarding attorneys' fees in the amount of 45% of the settlement amount of $7.3 million); *Beech Cinema, Inc. v. Twentieth-Century Fox Film Corp.* (S.D.N.Y. 1979) 480 F.Supp. 1195 (awarding approximately 53% of the settlement amount as attorneys' fees). California courts routinely approve class action attorneys' fees awards "averag[ing] around one-third of the recovery." *Chavez v. Netflix, Inc.* (2008) 162 Cal.App.4th 43, 66 n.11 (lower court found 20 to 40 percent range of contingency fee in marketplace was appropriate in class actions); *see also Laffitte*, 1





**LAWYERS *for* JUSTICE, PC**
410 West Arden Avenue, Suite 203
Glendale, California 91203

Cal.5th at 488 & 506 (approving fee award of 1/3 of common fund of $19 million).

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

California and federal courts have long recognized that an appropriate method for determining the award of attorneys' fees is based on a percentage of the total value of benefits made available to class members by the settlement. *Laffitte*, 1 Cal.5th at 503; *Boeing Co. v. Van Gemert* (1980) 444 U.S. 472, 478; *Paul, Johnson, Alston & Hunt v. Graulty* (9th Cir. 1989) 886 F.2d 268, 272; *Vincent v. Hughes Air West, Inc.* (9th Cir. 1977) 557 F.2d 759, 769; *Serrano v. Priest* (1977) 20 Cal.3d 25, 34.[65] The purpose of this equitable doctrine is to spread litigation costs proportionally among all the beneficiaries so that the active beneficiary does not bear the entire burden alone. See *Vincent, supra*, 557 F.2d at 769.

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

The propriety of calculating and awarding attorneys' fees as a percentage of a monetary settlement that has, by litigation, been preserved or recovered for the benefit of others, has been confirmed by the California Supreme Court. *Laffitte, supra*, 1 Cal.5th 480 at 486 & 506. The California Supreme Court has taken the position that "[t]rial courts have discretion to conduct a lodestar cross-check on a percentage fee," "they also retain the discretion to forgo a lodestar cross-check and use other means to evaluate the reasonableness of a requested percentage fee[,]" and "[t]he percentage […] method survives in California." *Id*. (internal quotes omitted).

Courts have consistently recognized that class and representative action litigation is increasingly necessary to protect the rights of individuals whose injuries and/or damages are too

---

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



**LAWYERS *for* JUSTICE, PC**
410 West Arden Avenue, Suite 203
Glendale, California 91203

small to economically justify legal action on an individual basis. Accordingly, in determining a reasonable fee award, courts award fees to serve as an economic incentive for lawyers to pursue such litigation in order to achieve increased access to the judicial system for meritorious claims and to enhance deterrents to wrongdoing. This is especially true in situations where multiple similar alleged wrongs would not be economically feasible to pursue individually, such as here. See A. Conte, *Attorney Fee Awards* (2d Ed., 1993) 104, at 6.

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

Under the terms of the Settlement Agreement, Defendants will pay a Maximum Settlement Amount of $695,000.00 on a non-reversionary basis. The requested attorneys' fees are one-third (1/3) of the total value of the monetary settlement. In light of Class Counsel's successful prosecution and resolution of the case, the requested attorneys' fees are appropriate and reasonable.

Compensating class counsel in class litigation on a percentage basis makes good sense because: (1) it is consistent with the private marketplace where contingent fee attorneys are customarily compensated on such a basis; (2) it aligns the interests of class counsel and absent class members in achieving the maximum possible resolution of the case; and (3) it encourages the most efficient and expeditious resolution of the litigation by providing an incentive for early, yet reasonable, settlement. The requested attorneys' fees in this matter satisfy all of those factors and should be approved on a percentage basis.

The percentage method is consistent with, and is intended to mirror, the practice in the private marketplace where contingent-fee attorneys typically negotiate percentage-fee arrangements with their clients. The named plaintiffs' agreement to pay a contingent fee is powerful evidence of a reasonable fee. One of the best ways to demonstrate the value of counsel's

**LAWYERS *for* JUSTICE, PC**
410 West Arden Avenue, Suite 203
Glendale, California 91203

work to the class is to review the consideration agreed to be paid by the named plaintiff. If the named plaintiff has employed counsel on a contingency-fee basis, it would indeed be inequitable for the members of the class, who will enjoy the benefits of the settlement without incurring the risks of bringing the claim, to pay less than the named plaintiff. In this case, Plaintiff has agreed to a contingency fee of at least one-third (1/3) of the recovery.[66]

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

In *Wershba v. Apple Computer, Inc.* (2001) 91 Cal.App.4th 224, in determining reasonable attorneys' fees, the Court of Appeal valued a settlement based on the total value of the settlement made available to class members by the efforts of counsel, decided in favor of granting fees as a percentage of the total value of the settlement, and rejected an objection that the fees be awarded based on the exact amount claimed by class members. *Id.* at 247.

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

///

///

[66] Ghosh Decl., ¶ 9.

**LAWYERS *for* JUSTICE, PC**
410 West Arden Avenue, Suite 203
Glendale, California 91203

### C. **The Attorneys' Fees Requested Is Reasonable Based on the Factors Considered in Determination of Fee Awards.**

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

Each and every one of these factors favors the attorneys' fees sought here; however, some of the most relevant factors to this Court's fee determination will be addressed herein. The Attorneys' Fees in the amount of $231,666.67 (which is 1/3 of the Maximum Settlement Amount) is commensurate with the time, effort, and expense dedicated to the case, the contingent nature of Class Counsel's fee and the risks taken in commencing the case, the skill and determination required, the results that Class Counsel have achieved, and the value of the settlement that Class Counsel have obtained for the Class Members.

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

Class Counsel used its experience and skills, and dedicated the full extent of resources, to litigate and bring this matter to a successful conclusion on behalf of the Class. Moreover, as demonstrated in the supporting declarations, Class Counsel have extensive experience in the handling of class actions and complex litigation cases.[67]

As outlined in the Declaration of Joanna Ghosh, Class Counsel has fully and actively participated in litigation of the case.[68] Prior to commencing the lawsuit, Class Counsel had conducted a significant amount of investigation into the factual and legal issues, Defendant's

[67] Ghosh Decl., ¶¶ 13-18.
[68] *Id.*, Exh. A.



LAWYERS *for* JUSTICE, PC
410 West Arden Avenue, Suite 203
Glendale, California 91203

business, and its operations and employment policies, practices, and procedures.[69] During the litigation of the action, Class Counsel had the opportunity to interview Plaintiff and other Class Members; reviewed and analyzed a large volume of pages of information, documents and data obtained from Defendant, Plaintiff, and other sources; and prepared liability, damages, penalties, and valuation calculations.[70] Class Counsel also met and conferred with Defendant's counsel over the issues relating to pleadings, discovery, and the production of information, documents and data, among other things; engaged in settlement negotiations with Defendant's counsel; and prepared for and attended court proceedings, mediation, and settlement negotiations.[71]

Class Counsel has dedicated staffing and monetary resources necessary to prosecute this matter diligently and with maximum efficiency and has fully and actively participated in the litigation process. The Task and Time Chart, which is attached as EXHIBIT A to the accompanying Declaration of Joanna Ghosh, sets forth in detail the hours that Lawyers *for* Justice, PC has spent performing tasks on behalf of Plaintiff and the Class.[72] The Task and Time Chart is thorough and comprehensive, and was prepared so that the Court can peruse it without having to set forth each and every task in the body of this Motion. The Court is respectfully referred to the chart, which sets forth the history of the work performed by Class Counsel, commencing with the pre-filing analysis and research, and continuing up to settlement and final approval. Class Counsel has spent 316.90 hours performing tasks and to obtain a significant recovery on behalf of Plaintiff, the Class, the PAGA Group Members, and the State of California.[73] These hours were required to bring this matter to its successful conclusion. In light of the value of time expended and the carrying of costs involved in litigating this case, the requested attorneys' fees are fair, adequate, and reasonable.

### *2. The Skill Required to Perform Legal Services Properly.*

The skill required to properly litigate the case is evident not only in the results achieved, but in the steps necessary to reach those results. Defendant retained well-respected counsel to

---

[69] Ghosh Decl.., ¶ 7.
[70] *Id.*, ¶¶ 6 and 7.
[71] *Id.*, 6..
[72] *Id.*, Exh. A.
[73] *Id.*, ¶¶ 11-12.



LAWYERS *for* JUSTICE, PC
410 West Arden Avenue, Suite 203
Glendale, California 91203

represent its defenses. More specifically, Defendant and its counsel felt very strongly about Defendant's ability to obtain a denial of certification and to prevail on the merits. Plaintiff and Class Counsel believed that they would have obtained class certification and prevailed at trial.

Class Counsel undertook significant investigation, analysis, and research prior to filing this case, during the litigation, and prior to mediation. Class Counsel took steps to prepare the matter for class certification and representative adjudication and had every intention of taking the case to trial on a class-wide basis if Defendant did not offer an appropriate class-wide settlement. Despite all of the obstacles that had to be overcome, as demonstrated in the Declaration of Joanna Ghosh, Class Counsel used its extensive experience in the handling of class actions and complex wage-and-hour litigation matters in order to obtain the Settlement with maximum efficiency.[74]

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

The Settlement represents an excellent resolution of the action, given the risks inherent in litigating the case through certification proceedings, trial, and/or appeals. Had the case not settled, Defendant would have vigorously challenged certifiability, manageability of representative adjudication, and liability. Defendant, however, faced risks if the Court certified a class and allowed a jury to decide the claims. Additionally, preparing the case for trial would have been expensive for the Parties.

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

As a result of this litigation and settlement negotiations, Defendant agreed to pay a Maximum Settlement Amount of $695,000.00 to settle the matter. After deducting the Attorneys;

[74] Ghosh Decl., ¶¶ 13-18.



LAWYERS *for* JUSTICE, PC
410 West Arden Avenue, Suite 203
Glendale, California 91203

Fees ($231,666.67), costs and expenses ($9,292.32), Enhancement Award ($10,000.00), Settlement Administration Costs ($20,000.00), and the allocation PAGA Penalties ($45,000.00) from the Maximum Settlement Amount, it is currently estimated that the Net Settlement Amount is approximately $379,041.01.[75] The Net Settlement Amount will be fully distributed in accordance with the terms of the Settlement. The highest Individual Settlement Share is currently estimated to be $5,230.77 and the average Individual Settlement Share is currently estimated to be $1,813.14.[76] The highest Individual PAGA Payment is currently estimated to be $205.22 and the average Individual PAGA Payment is currently estimated to be $197.37.[77] The Settlement offers significant monetary relief to the Settlement Class Members, the State of California, and PAGA Group Members.

#### *4. Whether the Fee Is Fixed or Contingent.*

Plaintiff entered into a contingency fee agreement with Class Counsel, and the representation of the Class provided by Class Counsel has been wholly contingent. Class Counsel took on the case without knowing whether any recovery would be obtained. Class Counsel has invested 316.90 hours of time to obtain relief on behalf of Plaintiff, Class Members, the State of California, and PAGA Group Members.[78] Class Counsel has also incurred litigation costs and expenses in the amount of $9,292.32.[79]

Class Counsel has borne all of the risks and costs of litigation and will not receive any compensation until recovery is obtained.[80] Class Counsel is well-experienced in wage-and-hour class action and complex litigation and used that experience to obtain a great result.[81] The skill and determination that Class Counsel has shown, along with the results obtained, justify the requested Attorneys' Fees and Costs. Considering the amounts requested, the work performed, and the risks incurred, the requested fees and costs are reasonable and should be awarded.

In determining the reasonableness of a fee award in a class action settlement, whether or

---

[75] ILYM Decl., ¶ 15.
[76] *Id.*, ¶ 17.
[77] *Id.*, ¶ 18.
[78] Ghosh Decl., ¶¶ 11 and Exh. A.
[79] *Id.*, ¶ 19.
[80] Ibid.
[81] *Id.*, ¶¶ 13-18.



LAWYERS *for* JUSTICE, PC
410 West Arden Avenue, Suite 203
Glendale, California 91203

not representation is provided on a contingency basis is an important factor:

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

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

***5. The Amount Involved and the Results Achieved.***

The results achieved, in light of the difficulties inherent in similar cases and the specific difficulties faced in this matter, are considerable. The Settlement has yielded a positive response from the Class Members—no Class Members objected to the Class Settlement.[82]

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

Here, the results achieved and obtained on behalf of Plaintiff and the Class are reasonable in light of the risks inherent in further litigating this matter. Class Counsel's efforts have resulted in a settlement that provides for a Maximum Settlement Amount of $695,000.00.[83] The Maximum Settlement Amount will be fully paid out, in accordance with the terms of the Settlement Agreement. The highest Individual Settlement Share is currently estimated to be $5,230.77 and the average Individual Settlement Share is currently estimated to be $1,813.14.[84] The highest

[82] ILYM Decl., ¶ 12.
[83] Ghosh Decl., ¶ 9.
[84] ILYM Decl., ¶ 17.



LAWYERS *for* JUSTICE, PC
410 West Arden Avenue, Suite 203
Glendale, California 91203

Individual PAGA Payment is currently estimated to be $205.52 and the average Individual PAGA Payment is currently estimated to be $197.37.[85]

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

Lawyers *for* Justice, PC is a recognized class action law firm that employed its attorneys' knowledge, skills, and experience in bringing this matter to a successful conclusion. Class Counsel has years of complex and class action litigation experience, has recovered millions of dollars on behalf of thousands of individuals in California, and has successfully handled numerous significant wage-and-hour class action and complex cases.[86]

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

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

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

///

///

---

[85] ILYM Decl., ¶ 18.
[86] Ghosh Decl., ¶¶ 13-18.



**LAWYERS *for* JUSTICE, PC**
410 West Arden Avenue, Suite 203
Glendale, California 91203

**LAWYERS *for* JUSTICE, PC**
410 West Arden Avenue, Suite 203
Glendale, California 91203

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

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

As discussed above, the case was highly contested and required a significant amount of time and labor. Defendant made it clear very early on that it disputed all of the allegations of the case and disputed that the matter was appropriate for class or representative treatment. Defendant raised affirmative defenses and denied liability, and the pursuit of this case involved gathering and analyzing data not only from Defendant but also from the Class Members. The handling of the cases involved a great amount of effort, and also required and involved the exercise of a high level of skill, which Class Counsel has as a result of its extensive experience in employment class actions and complex wage-and-hour litigation. Long and difficult battles would have followed as the cases moved toward certification and trial, including taking and defending depositions of Defendant's Person Most Knowledgeable designees, percipient witnesses, and experts, propounding additional discovery requests and conducting additional document production, and engaging in extensive motion practice. As Class Counsel geared up for these battles, Class Counsel undertook intense preparation in an attempt to resolve the entire matter through mediations.

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

As discussed above in Part VI.C.1, *infra*, attached to the Declaration of Joanna Ghosh is a task and time chart that sets forth in detail the numerous tasks that Class Counsel performed on behalf of Plaintiff and the Class, and the time required for completing those tasks.[87] The chart demonstrates that Class Counsel has spent a total of 316.90 hours litigating the case and finalizing the Settlement.[88] In light of the facts and circumstances of the case, as well as the results that Class

[87] Ghosh Decl., Exh. A.
[88] *Id.*, ¶¶ 11 and 12, Exh. A.

Counsel has achieved in these case, Class Counsel has spent a reasonable number of hours on this matter. In addition, Class Counsel will continue to perform work on this matter through the date of final approval and in connection with the implementation of the Settlement.

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

Both California and federal courts recognize that attorneys should be compensated for providing representation on a contingency basis and for taking on the risks associated with said representation, as well as being provided with financial incentives to enforce important rights and protections like those at issue in this action. See *Ketchum*, *supra*, 24 Cal.4th at 1132-33. In awarding attorneys' fees, the aim is to mirror "the established practice in the private legal market of rewarding attorneys for taking the risk of nonpayment by paying them a premium over their normal hourly rates for winning contingency cases." See *id*.

Class Counsel has been actively involved in this matter, prior to its commencement and all the way up to the present, and Class Counsel's dedication to providing representation in these cases has precluded other employment. Here, Class Counsel bore the risk that, despite all of its efforts and skills employed, there may be no recovery. Ultimately, Class Counsel was successful in reaching a settlement of $695,000.00.

As set forth in the Declaration of Joanna Ghosh, the professional backgrounds and experience of Class Counsel support reasonable rates of compensation at least $800 per hour for services provided by Class Counsel.[89] Lawyers *for* Justice, PC has been awarded attorneys' fees, compensating the firm at the blended rate of at least $800 per hour for legal service performed, by courts of this state.[90] While the circumstances of every case are unique, the fact remains that the work performed and efforts undertaken by Class Counsel on behalf of the Class Members justify the requested attorneys' fees.

Applying the rate of $800 per hour to 316.90 hours for services provided by Class Counsel would place a reasonable value of $253,520.00 based on lodestar, for the work performed by Class

[89] Ghosh Decl., ¶¶ 11 and 12.
[90] Ibid.



**LAWYERS *for* JUSTICE, PC**
410 West Arden Avenue, Suite 203
Glendale, California 91203

LAWYERS *for* JUSTICE, PC
410 West Arden Avenue, Suite 203
Glendale, California 91203

Counsel. However, Class Counsel only seeks attorneys' fees in the amount of $231,666.67, which is one-third (1/3) of the total recovery, as provided for by the Settlement Agreement.

It also bears noting that a court may apply a multiplier in consideration for risk, efficiency, and/or obtaining a substantial result, to enhance the lodestar for purpose of cross-check. See *Ketchum*, 24 Cal.4th at 1133-34 (holding that a risk multiplier may be applied to compensate contingency fee attorneys at a fair market rate). Such an enhancement "mirrors the established practice in the private legal market of rewarding attorneys for taking the risk of nonpayment by paying them a premium over their normal hourly rates for winning contingency cases." *Vizcaino*, 290 F.3d at 1051; *accord Ketchum, supra,* 24 Cal.4th 1122, 1132-34. A risk multiplier also serves to bring the financial incentives for enforcing important rights "into line with incentives [attorneys] have to undertake claims for which they are paid on a fee-for-services basis." *Ketchum*, 24 Cal.4th at 1132. Courts have also approved fee awards with multipliers of 2 and even higher. See, e.g., *City of Oakland v. Oakland Raiders* (1988) 203 Cal.App.3d 78 (affirming a 2.34 multiplier without remand); *Wershba*, *supra*, 91 Cal.App.4th at 255 ("Multipliers can range from 2 to 4 or even higher."); *Sutter Health Uninsured Pricing Cases* (2009) 171 Cal.App.4th 495, 512 (applying a 2.52 multiplier on a lodestar cross-check); *Chavez, supra*, 162 Cal.App.4th at 66 (applying a 2.5 multiplier in a consumer class action).

The lodestar method as a cross-check to the percentage figure sought strongly supports the reasonableness of the requested attorneys' fees. Accordingly, Plaintiff respectfully requests that the Court grant final approval of, and award, attorneys' fees in the amount of $231,666.67 to Class Counsel.

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

The Settlement provides for reimbursement of litigation costs and expenses of up to $25,000.00. As set forth in the Declaration of Joanna Ghosh, Class Counsel seeks reimbursement of $9,292.32 in litigation costs and expenses incurred in this case.[91] This amount was reasonable

[91] Ghosh Decl., ¶ 19.

and necessary in the prosecution of the case and to obtain the Settlement.[92] The cost savings of $15,707.68 will be part of the Net Settlement Amount, which will be distributed to Settlement Class Members in accordance with the Settlement.[93] Accordingly, Plaintiff request that the Court award litigation costs and expenses in the amount of $9,292.32 to Class Counsel.

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

As set forth in the accompanying ILYM Declaration, the total costs incurred and to be incurred by ILYM for the notice and settlement administration process are $20,000.00.[94] The costs incurred and to be incurred include, but are not limited to, (a) printing and mailing the Class Notice; (b) receiving and processing requests for exclusion and objections to the Class Settlement, if applicable; (c) resolving Class Members' disputes over the number of Workweeks Defendant has record of them working during the Class Period, which was pre-printed on their individualized Class Notice; (d) establishing a QSF account and calculating individual settlement award amounts; (e) processing and mailing settlement award checks; (f) handling tax withholdings as required by the Settlement and the law; (g) preparing, issuing and filing tax returns and other applicable tax forms; (h) handling the distribution of any unclaimed funds pursuant to the terms of the Settlement; and (i) performing other tasks as the Parties mutually agree to and/or the Court orders ILYM Group to perform.[95]

Accordingly, the Court should grant final approval of payment to ILYM, a necessary third-party administrator, for its handling of the notice and settlement process, in the amount of $20,000.00.

## IX. THE REQUESTED ENHANCEMENT AWARD IS FAIR AND REASONABLE AND SHOULD BE APPROVED.

The Settlement provides for an Enhancement Award in the amount of $10,000.00 to Plaintiff Karina Serrano to compensate Plaintiff for the time and effort that she expended on behalf

---

[92] Ibid.
[93] Ghosh Decl., ¶ 19.
[94] ILYM Decl., ¶ 19.
[95] *Id.*, ¶ 3.



LAWYERS *for* JUSTICE, PC
410 West Arden Avenue, Suite 203
Glendale, California 91203

of the Class. The requested Enhancement Award is both common and reasonable and should be awarded.

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

The requested Enhancement Award is fair and appropriate because Plaintiff spent a substantial amount of time and effort producing relevant documents and past employment records, as well as providing the facts and evidence to support the prosecution of the claims.[96] Plaintiff was available whenever Class Counsel needed her and actively tried to obtain, and gave, information to support the pursuit of the case.[97]

Accordingly, it is appropriate and just for Plaintiff Karina Serrano to receive $10,000.00, as reasonable Enhancement Award, in addition to their individual settlement payments.

## X. CONCLUSION

For the foregoing reasons, Plaintiff respectfully requests that the Court grant final approval of the Settlement, and award Attorneys' Fees and Costs, Enhancement Award, Settlement Administration Costs, and the allocation for PAGA Penalties, in their entirety, as sought herein; and permit the filing of a memorandum that exceeds the page limit.

Dated: July 23, 2024

**LAWYERS *for* JUSTICE, PC**

By: ______________________________

Yasmin Hosseini
*Attorneys for* Plaintiff and the Class

[96] Ghosh Decl., ¶ 20; Declaration of Karina Serrano ("Serrano Decl."), ¶¶ 3-5.
[97] Ghosh Decl., ¶ 20; Serrano Decl., ¶¶ 3-5.



LAWYERS *for* JUSTICE, PC
410 West Arden Avenue, Suite 203
Glendale, California 91203