

David Mara, Esq. (230498)
Jill Vecchi, Esq. (299333)
MARA LAW FIRM, PC
2650 Camino Del Rio North, Suite 302
San Diego, California 92108
Telephone: (619) 234-2833
Facsimile: (619) 234-4048
Email: dmara@maralawfirm.com
jvecchi@maralawfirm.com

Peter Horton, Esq. (227678)
LAWYERS FOR EMPLOYEE AND CONSUMER RIGHTS, APC
4100 West Alameda Avenue, Third Floor
Burbank, California 91505
Telephone: (323) 486-5101
Facsimile: (323) 306-5571
Email: phorton@lfecr.com

Jonathan Melmed, Esq. (SBN 290218)
Laura Supanich, Esq. (SBN 314805)
Michiko Vartanian, Esq. (SBN 323979)
Maria Burciaga, Esq. (SBN 334545)
MELMED LAW GROUP P.C.
1801 Century Park East, Suite 850
Los Angeles, California 90067
Telephone: (310) 824-3828
Facsimile: (310) 862-6851
Email: jm@melmedlaw.com
lms@melmedlaw.com
mv@melmedlaw.com
mb@melmedlaw.com

Attorneys for MANUEL BALUX OCH and PEDRO GARCIA ALFEREZ, on behalf of
themselves, all others similarly situated, and on behalf of the general public

SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF ALAMEDA

MANUEL BALUX OCH and PEDRO
GARCIA ALFEREZ on behalf of
themselves, all others similarly situated, and
on behalf of the general public,

Plaintiffs,

v.

SAC PROFLOORS; and DOES 1-100,

Defendants.

Case No. 23CV031860
(Consolidated with Case No. 23CV039543)

*[Assigned for All Purposes to the
Hon. Michael Markman; Dept. 23]*

**PLAINTIFFS' MOTION FOR FINAL
APPROVAL OF CLASS AND PAGA
ACTION SETTLEMENT**

Date: September 12, 2024
Time: 10:30 a.m.
Reservation ID: A-31860-001

Action File: April 25, 2023
Trial Date: None Set

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1 **I. INTRODUCTION**

2 This motion seeks final approval of a non-reversionary \$942,500 Gross Settlement Amount
3 reached between Plaintiffs Manuel Balux Och and Pedro Garcia Alferez (hereinafter “Plaintiffs”)
4 and Defendant Sac ProFloors (hereinafter “Defendant”) (hereinafter Plaintiffs and Defendant are
5 collectively referred to as the “Parties”).¹ This settlement is on behalf of Plaintiffs and a Class
6 comprised of all non-exempt, hourly employees of Defendant in the State of California from April
7 25, 2019, through December 15, 2023.² This motion also seeks an order entering judgment.

8 On June 5, 2024, the Settlement Administrator mailed the Court-approved Notice of Class
9 Action Settlement (“Class Notice”) to all 319 Class Members.³ These Class Members had until
10 August 5, 2024, to request to be excluded from the settlement or to object to it. To date, the
11 Settlement Administrator has not received any disputes regarding the number of workweeks that
12 Class Members were credited to have worked.⁴ Currently, the Settlement Administrator has not
13 received any objections to the settlement or requests for exclusion from the settlement.⁵

14 To date, this matter has required 298.7 hours of attorney time from Class Counsel. This
15 litigation involved investigations into the claims asserted, discovery, the production and review of
16 documents from Defendant, a full day of mediation, and evaluation of continuing litigation.

17 As will be demonstrated herein, the attorneys’ fee request of \$314,135 (“Attorney Fee
18 Award”), which represents 33 1/3% of the Gross Settlement Amount (“GSA”), is fully supported
19 using the percentage fee method. The Attorney Fee Award is also supported under the lodestar
20 cross-check method. Plaintiffs further move for reimbursement of litigation costs and expenses in
21 the amount of \$19,053.55 (“Cost Award”), originally estimated not to exceed \$20,000, for costs
22 incurred in litigating this matter. Plaintiffs also move for final approval of the payment in the
23 amount of \$7,500 each to Plaintiffs (a total of \$15,000) (these payments are referred to as the

24 ¹ The Parties’ Joint Stipulation and Settlement Agreement (hereinafter “Agreement”) is attached
25 to the Declaration of David Mara, Esq. (“Mara Dec.”) as Exhibit 1. “Exhibit 1” herein refers to the
Parties’ Agreement.

26 ² Exhibit 1 at Section I, Paragraph 5, Page 1.

27 ³ Declaration of Madely Nava of APEX Class Action, LLC, in Support of Motion for Final
Approval of Class Action Settlement (“Nava Dec.”) ¶ 6.

28 ⁴ Nava Dec. ¶ 13.

⁵ Nava Dec. ¶¶ 11-12.

1 “Class Representative Enhancement Payments”) to compensate them for agreeing to a general
2 release of their claims against Defendant and their vital role in representing the Class Members
3 and spearheading the case to seek actual and substantial monetary relief for the Class. Additionally,
4 Plaintiffs move for final approval of Administration Costs in the amount of \$8,500, originally
5 estimated not to exceed \$10,000, to the Settlement Administrator APEX Class Action
6 Administration (hereinafter “APEX”) for the costs and fees of administering settlement
7 (“Administration Costs”).

8 The requested Attorney Fee Award, Cost Award, Class Representative Enhancement
9 Payments, and Administration Costs were fully disclosed to the Class Members when the Class
10 Notice was mailed to them. **Most importantly, to date, the settlement and all of its terms have**
11 **received support from Class Members as not a single Class Member has objected to the**
12 **settlement or requested to be excluded from it.** With a currently estimated average and high
13 payout to Participating Class Members of \$1,676.69 and \$7,287.98, respectively, the settlement is
14 fair, adequate, and reasonable. The Court is, therefore, respectfully requested to consider the Class
15 Members’ endorsement of the settlement and grant final approval of the settlement, and approve
16 of the Attorney Fee Award, Cost Award, Class Representative Enhancement Payments, and
17 Administration Costs in the amounts as preliminarily approved of by this Court and disclosed to
18 the Class Members, and as requested herein.

19 Class Counsel is convinced that the proposed settlement is in the best interest of the Class
20 based on the negotiations and a detailed knowledge of the issues present in this matter. The length
21 and risks of trial and perils of litigation that affect the value of the claims were all carefully weighed
22 by Class Counsel. In addition, the affirmative defenses asserted by Defendant, Defendant’s
23 contentions that Class Members were compensated for all wages due and provided lawful meal
24 and rest breaks, the uncertainty of class certification, the difficulties of complex litigation, the
25 lengthy process of establishing specific damages, and various possible delays and appeals were all
26 carefully considered by Class Counsel in arriving at the proposed settlement.

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II. BACKGROUND, INVESTIGATION, AND LITIGATION HISTORY

a. Litigation History

Defendant provides services to multi-family residences including flooring installation and repairs in both their residential and communal areas. Defendant's services include extended hours, same day installations, and weekend installations. In furtherance of these services, Defendant employs hourly, non-exempt employees, such as Plaintiffs in California.

A class action complaint was filed by Plaintiff Och on April 25, 2023, in Alameda County Superior Court (Case No. 23CV031860). The complaint alleges the following causes of action against Defendant: (1) Failure to Pay All Straight Time Wages; (2) Failure to Pay Overtime; (3) Failure to Provide Meal Periods; (4) Failure to Authorize and Permit Rest Periods; (5) Failure to Adopt a Compliant Sick Pay/Paid Time Off Policy; (6) Knowing and Intentional Failure to Comply with Itemized Employee Wage Statement Provisions; (7) Failure to Pay all Wages Due at the Time of Termination; and (8) Violation of Unfair Competition Law. (Mara Dec. ¶ 12).

Plaintiff Manuel Balux Och submitted a Notice of Labor Code Violations to the Labor and Workforce Development Agency ("LWDA") on April 13, 2023. Thereafter, a PAGA representative action complaint against Defendant was filed by Plaintiff Och in the Alameda County Superior Court on July 27, 2023 (Case No. 23CV039543). The complaint sought civil penalties under the PAGA. Plaintiff Och's PAGA complaint alleged the same underlying violations as his class complaint. On August 12, 2023, the Court granted the Parties' stipulation to consolidate both the class and PAGA matters filed by Plaintiff Och, with Case No. 23CV031860 serving as the lead case. (Mara Dec. ¶ 13).

Plaintiff Pedro Garcia Alferez filed a class action complaint on May 12, 2023, in Yolo County Superior Court. The complaint alleged substantially the same class action allegations as Plaintiff Och's class action complaint. On March 14, 2024, the Parties filed a stipulation to allow Plaintiff Och to file a First Amended Complaint adding Plaintiff Pedro Garcia Alferez as a plaintiff and class representative as well as his counsel. On March 18, 2024, the Court granted the Parties' stipulation and Plaintiff Och filed his First Amended Complaint on March 20, 2024. (Mara Dec. ¶ 14).

1 **b. Discovery and Investigation**

2 After filing, the Parties engaged in informal discovery. These discovery efforts led to
3 Defendant producing policy documents that covered employees’ employment with Defendant,
4 such as employee handbooks, and time and wage records. Included within these documents were
5 Defendant’s wage and hour policies, including its meal and rest period policies. Defendant also
6 produced time and wage records to a mutually agreed upon mediation expert for the expert to pull
7 a random 20% sampling of Class Members. The records for these Class Members were then
8 analyzed by the expert. Defendant further produced a Class List that contained the hire and
9 termination dates of all Class Members which allowed Plaintiffs to determine the number of
10 workweeks worked by Class Members during the relevant time period. From this discovery,
11 Plaintiffs and their Counsel were able to analyze Defendant’s liability in this action and prepare a
12 realistic damage model. (Mara Dec. ¶ 15).

13 **c. Settlement Negotiations**

14 The Parties attended an all-day mediation presided over by wage and hour mediator
15 Brandon McKelvey on December 15, 2023. This mediation was successful. The Parties then met
16 and conferred over all the terms of the settlement and finalized their settlement in the Parties’
17 Agreement. (*See* Mara Dec. ¶ 16; *see also* Exhibit 1 attached thereto). On May 2, 2024, the Parties
18 entered into an Addendum to Joint Stipulation and Settlement Agreement (“Addendum”). (*See*
19 Exhibit 2 to the Mara Dec.). The Parties seek final approval of the Agreement and Addendum in
20 the instant motion.

21 **III. TERMS OF THE PROPOSED SETTLEMENT**

22 Under the terms of the settlement, Defendant will create a settlement fund of \$942,500.

23 **a. Deductions from the Settlement**

24 The Parties have agreed (subject to and contingent upon the Court’s approval) that this
25 action be settled and compromised for the non-reversionary total sum of \$942,500 (“Gross
26 Settlement Amount” or “GSA”), which includes, subject to Court approval: (a) attorneys’ fees of
27 \$314,135 (33 1/3 % of the GSA) to compensate Class Counsel for work already performed and all
28 work remaining to be performed in documenting the settlement, administrating the settlement, and

1 securing Court approval; (b) litigation costs of \$19,053.55 (originally estimated not to exceed
2 \$20,000); (c) a Class Representative Enhancement Payment to each named class representative in
3 a sum of \$7,500 (\$15,000 total) in consideration for prosecuting this class action, serving as Class
4 Representatives, work performed, and risks undertaken for the payment of attorneys' fees and
5 costs in the event they had been unsuccessful in the matter; (d) settlement administration fees and
6 expenses to APEX in the amount of \$8,500 (originally estimated not to exceed \$10,000); and (e)
7 \$50,000 allocated to Plaintiffs' claims under the PAGA. Of this payment, 75%, or \$37,500 will be
8 provided to the LWDA, and 25%, or \$12,500, will be available for distribution to Aggrieved
9 Employees.⁶

10 **b. Calculation of the Settlement Payments to Class Members**

11 After all Court-approved deductions from the GSA, it is estimated that \$535,811.45 ("Net
12 Settlement Amount" or "NSA"), less employee taxes on the "wage portion" of the settlement
13 payment, will be distributed to Participating Class Members.⁷ Subject to the terms and conditions
14 of the settlement, each Participating Class Member will receive a proportionate share of the Net
15 Settlement Amount that is equal to (i) the number of weeks he or she worked for Defendant, based
16 on the Class Data provided by Defendant, divided by (ii) the total number of weeks worked by all
17 Participating Class Members based on the same Class Data, which is then multiplied by the Net
18 Settlement Amount. One day worked in a given week will be credited as a work week for purposes
19 of this calculation. Therefore, the value of each Class Member's Individual Settlement Share ties
20 directly to the amount of weeks that he or she worked. (Exhibit 1 at Section III, Paragraph 49(A)(i),
21 Pages 9-10). This payment will be divided into a "wage portion" to compensate Participating Class
22 Members for alleged unpaid wages and a "non-wage portion" to compensate Participating Class
23 Members for alleged interest and penalties. The wage portion will make up 40% of each
24 Participating Class Members' individual settlement payment, and the non-wage portion will make
25 up 60% of each Participating Class Members' individual settlement payment. (Exhibit 1 at Section

26 ⁶ Aggrieved Employees are all non-exempt, hourly employees of Defendant in the State of
27 California from April 13, 2022, through December 15, 2023. (Exhibit 1 at Section I, Paragraph 3,
Page 1).

28 ⁷ Participating Class Members are all Class Members who do not submit a valid and timely request
to exclude themselves from this Settlement. (Exhibit 1 at Section I, Paragraph 34, Page 5).

1 III, Paragraph 59(B), Page 10).

2 In addition, each Aggrieved Employee will receive a proportionate share of the Net PAGA
3 Settlement Amount that is equal to (i) the number of pay periods he or she worked for Defendant,
4 based on the PAGA Data provided by Defendant, divided by (ii) the total number of pay periods
5 worked by all Aggrieved Employees based on the same PAGA data, which is then multiplied by
6 the Net PAGA Settlement Amount. One day worked in a given pay period will be credited as a
7 pay period for purposes of this calculation. Therefore, the value of each Aggrieved Employee's
8 Individual PAGA Settlement Share ties directly to the amount of pay periods that he or she worked
9 during the PAGA Period. (Exhibit 1 at Section III, Paragraph 60(A)(i), Page 10). This payment
10 will be treated as 100% penalties. (Exhibit 1 at Section III, Paragraph 60(B), Pages 10-11).

11 Under no circumstances will any portion of the \$942,500 settlement revert to Defendant
12 and 100% of the NSA will be paid out to Participating Class Members. In addition, the employer's
13 share of taxes will be paid in addition to and outside of the GSA. (See Exhibit 1 at Section I,
14 Paragraph 19, Page 3).

15 **c. Release of Claims**

16 In exchange for an Individual Class Payment, Participating Class Members will agree to
17 the following release:

18 The Released Class Claims include, for the entire Class Period, all claims that were
19 pled or that could have been pled in the operative class complaint based upon the
20 facts alleged in the Lawsuits including: (1) Failure to Pay All Straight Time Wages;
21 (2) Failure to Pay All Overtime Wages; (3) Failure to Authorize and Permit Rest
22 Periods and pay for missed rest periods; (4) Failure to Provide Meal Periods and
23 pay for missed meal periods; (5) Failure to Provide Accurate and Complete Wage
24 Statements; (6) Failure to Adopt A Compliant Sick Pay/Paid Time Off Policy; (7)
Waiting Time Penalties; (8) Failure to Reimburse Business Expenses; (9) Failure
to Timely Pay Wages During Employment; and (10) Violation of Unfair
Competition Law based upon violations of the California Labor Code sections set
forth herein.

25 (Exhibit 1 at Section I, Paragraph 37, Page 5).

26 In addition, all Aggrieved Employees will agree to the following release in exchange for
27 an Individual PAGA Payment:

28 The Released PAGA Claims include, for the entire PAGA Period, any and all

1 claims belonging to the State of California, the LWDA, and Plaintiff (as
2 representative of the State of California, the LWDA, and the general public) under
3 the California Private Attorney General Act (“PAGA”), Cal. Lab. Code § 2698, *et*
4 *seq.* to the extent such claims are predicated on claims that were or reasonably could
5 have been alleged based on the claims, facts and/or allegations that were contained
6 in Plaintiff’s PAGA Letters.

(Exhibit 1 at Section I, Paragraph 38, Pages 5-6).

7 In addition, Plaintiffs have agreed to a general release of their claims. (*See* Exhibit 1 at
8 Section III, Paragraph 66, Page 22).

d. Notice to the Class

9 On May 22, 2024, APEX received a data file from Defense Counsel that contained the
10 names, social security numbers, last known mailing addresses, and the total number of relevant
11 workweeks worked by each Class Member (“Class List”). (Nava Dec. ¶ 5). The Class List
12 contained 319 individuals identified as Class Members. (*Id.*). In preparation for the mailing
13 process, all 319 names and addresses listed in the Class List underwent verification and updating
14 against the National Change of Address (NCOA) database maintained by the United States Postal
15 Service (USPS). (Nava Dec. ¶ 6). A search of this database provides updated addresses for any
16 individual who has moved in the previous four (4) years and notified the U.S. Postal Service of
17 their change of address. On June 5, 2024, APEX mailed the Notice via U.S. first class mail to all
18 319 Class Members on the Class List. (Nava Dec. ¶ 7).

19 After mailing, 44 Notices were returned to APEX. (Nava Dec. ¶ 8). Of the 44 returned
20 Class Notices, none were returned with a forwarding address. (*Id.*). Therefore, Apex conducted a
21 computerized skip trace on the 44 returned Class Notices in order to acquire updated addresses for
22 the purpose of re-mailing the Class Notices. (*Id.*). This skip trace effort resulted in obtaining 18
23 updated addresses, to which we promptly re-mailed the Class Notice via U.S First Class Mail.
24 (*Id.*). In addition, APEX attempted to call Class Members who had returned notices and which no
25 forwarding address was found to obtain a current address. (Nava Dec. ¶ 10). APEX obtained one
26 updated address through these efforts. (*Id.*). Twenty-five (25) Class Notices remain undeliverable
27 since an updated address could not be obtained. (*Id.*).

28 Class Members had until August 5, 2024, to respond to the settlement. To date, APEX has

1 not received any workweek disputes from Class Members. (Nava Dec. ¶ 13). In addition, to date,
2 the settlement has received support from the Class Members. Not a single Class Member has
3 submitted an objection or request for exclusion from the settlement. (Nava Dec. ¶¶ 11, 12).
4 Therefore, all 319 Class Members are participating in the settlement, meaning 100% of the Class
5 Members are Participating Class Members. (Nava Dec. ¶ 14).

6 **e. Distribution of Funds**

7 Defendant shall wire or otherwise provide to the Settlement Administrator the Gross
8 Settlement Amount no later than ten (10) business days after the Effective Final Settlement Date.⁸
9 (See Exhibit 2 attached to the Mara Dec.). Within ten (10) business days after the Settlement
10 Administrator's receipt of the Gross Settlement Amount, the Settlement Administrator shall
11 disburse: (1) the Net Settlement Amount to be paid to Participating Class Members; (2) the Net
12 PAGA Settlement Amount to Aggrieved Employees; (3) the Attorney Fee Award and Cost Award
13 to Class Counsel for attorneys' fees and costs, as approved by the Court; (4) the Class
14 Representative Enhancement Payments paid to the Class Representatives, as approved by the
15 Court; (5) the Administration Costs, as approved by the Court; and (6) the LWDA Payment to the
16 LWDA. (Exhibit 1 at Section I, Paragraph 17, Page 3; Section III, Paragraph 63(M)(ii), Page 20).

17 Participating Class Members and Aggrieved Employees must cash or deposit their
18 Individual Settlement Share checks within one hundred and eighty (180) calendar days after the
19 checks are mailed to them. If any checks are not redeemed or deposited within ninety (90) calendar
20 days after mailing, the Settlement Administrator will send a reminder postcard indicating that
21 unless the check is redeemed or deposited in the next ninety (90) days, it will expire and become
22 non-negotiable, and offer to replace the check if it was lost or misplaced. If any checks remain
23 uncashed or not deposited by the expiration of the 90-day period after mailing the reminder notice,
24 the Settlement Administrator will, within two hundred (200) calendar days after the checks are
25 mailed, cancel the checks. All funds associated with the Individual Settlement Share checks

26 _____
27 ⁸ The Effective Final Settlement Date is the date when the final approval of the settlement can no
28 longer be appealed, or, if there are no objectors and no plaintiffs in intervention at the time the
court grants final approval of the settlement, the date the court enters judgment granting final
approval of the settlement. (Section I, Paragraph 18, Page 3).

1 returned as undeliverable and funds associated with those checks remaining un-cashed shall be
2 tendered to Legal Aid at Work. (Exhibit 1 at Section III, Paragraph 63(O), Pages 20-21).

3 Legal Aid at Work is a nonprofit legal services organization that has been assisting low-
4 income, working families for more than 100 years. Legal Aid at Work's Wage Protection Program
5 represents low-wage workers who are the victims of wage violations. The wage claims made by
6 Legal Aid at Work's clients are often the same type of claims made in wage-and-hour class actions
7 brought by workers under the federal Fair Labor Standards Act and under California wage-and-
8 hour laws. (Exhibit 1 at Section III, Paragraph 63(O), Pages 20-21). In addition, Legal Aid at Work
9 has also advised Class Counsel that it has instituted a policy where, upon request, Legal Aid at
10 Work will remit funds to a Class Member who did not cash their settlement check after Legal Aid
11 at Work confirms that the claimant was a Class Member in the case, did not cash their settlement
12 check, and the funds from their check were remitted to Legal Aid at Work. This allows Class
13 Members with uncashed checks to obtain their settlement funds even after the check cashing
14 deadline.

15 **f. Final Judgment**

16 Pursuant to Cal. Rules of Court, Rule 3.771(b), notice of the final judgment will be posted
17 on the settlement website.

18 **IV. ARGUMENT**

19 **a. The Settlement is Fair, Reasonable, and Adequate and Satisfies the Standard 20 for Final Approval**

21 California Rule of Court, Rule 3.769, requires court approval for class action settlements.
22 Cal. R. Ct. 3.769(g). California courts favor settlement. *Stambaugh v. Superior Court* (1976) 62
23 Cal. App. 3d 231, 236, *Potter v. Pacific Coast Lumber Co. of Cal.* (1951) 37 Cal. 2d 592, 602
24 ("[T]he law wisely favors settlements"). Accordingly, the Court must give "[due] regard to what
25 is otherwise a private consensual agreement between the parties." *Wershba v. Apple Computer,*
26 *Inc.* (2001) 91 Cal. App. 4th 224, 245.

26 In deciding whether to approve a class settlement, a court evaluates whether the proposed
27 settlement is "fair, adequate, and reasonable." *Dunk v. Ford Motor Co.* (1996) 48 Cal. App. 4th
28 1794, 1801 (citing *Officers for Justice v. Civil Serv. Comm'n of City & Cnty. of S.F.* (9th Cir. 1982))

688 F.2d 615, 625); *Cho v. Seagate Tech. Holdings, Inc.* (2009) 177 Cal. App. 4th 734, 742 43. A court enjoys broad discretion to make its fairness determination. *Dunk*, 48 Cal. App. 4th at 1801. However, “a presumption of fairness exists where: (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*, 48 Cal. App. 4th at 1802; accord *Wershba*, 91 Cal. App. 4th at 245. In addition, a court should consider additional relevant factors, including the strength of the plaintiff’s case compared to the settlement amount; the risk, expenses, complexity, and likely duration of further litigation; and the fair treatment of class members in relation to each other. *Dunk*, 48 Cal. App. 4th at 1802; see also *In re Microsoft I-V Cases* (2006) 135 Cal. App. 4th 706, 723; see also *Boyd v. Bechtel Corp.* (N.D. Cal. 1979) 485 F. Supp. 610, 617.

At the time of preliminary approval, the Court was provided with sufficient information to satisfy three of the four *Dunk* factors, leaving the fourth factor, the number of objectors, unknown until after the Class had an opportunity to respond to the settlement.⁹ Subject only to the Class’s reaction to the settlement, the Court preliminarily presumed the settlement was fair, adequate and reasonable. To date, not a single objection to the settlement has been submitted by any Class Member to the Settlement Administrator. Thus, the settlement is entitled to the presumption that it is fair and in all other respects proper and should be finally approved.

b. The Court Should Approve the Requested Fees and Costs

i. The Requested Fee Award is Fair and Reasonable, Calculated as a Percentage of a Common Fund

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.

⁹ See Memorandum of Points and Authorities in Support of Motion for Preliminary Approval, pages 20-25. In addition to the *Dunk* factors, Class Counsel also detailed the other factors such as the strengths of Plaintiff’s case, risks and costs of further litigation, as well as the reasonableness of the GSA amount in light of *Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th 116.

1 California law provides that an attorneys' fee award should be equivalent to fees paid in
2 the legal marketplace for the result achieved and risk incurred. *Id.* at 47-50; *Laffitte v. Robert Half*
3 *Int'l, Inc.* (2016) 1 Cal.5th 480, 503. In *Lealao*, the court held that when an action leads to a
4 recovery that can be "monetized" with a reasonable degree of certainty, the trial court should
5 "ensure that the fee awarded is within the range of fees freely negotiated in the legal marketplace
6 in comparable litigation." *Lealao, supra*, 82 Cal.App.4th at 50. Fee awards that are too small will
7 "chill the private enforcement essential to the vindication of many legal rights and obstruct the
8 representative actions that often relieve the courts of the need to separately adjudicate numerous
9 claims." *Lealao, supra*, 82 Cal.App.4th at 53. Therefore, fees in class and representative actions
10 should approximate the probable terms of a contingent fee contract negotiated by a sophisticated
11 attorney and client in comparable litigation. *Id.* at 48.

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

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

1 that “percentage of the fund method more accurately reflects the results achieved.” *Laffitte*, 1 Cal.
2 5th at 439. In a similar wage and hour class action, *Laffitte v. Robert Half International, Inc.*
3 (2016) 1 Cal. 5th 480, the California Supreme Court affirmed an award of attorneys’ fees equal to
4 1/3 of the common fund. Here, the requested fee is at this same percentage, and evidences all of
5 the same considerations which warranted the one-third fee in *Laffitte*.

6 In short, Class Counsel’s fee request of \$314,135 (which represents 33 1/3% of the GSA)
7 is in line with awards in similar cases in California and nationwide and demonstrates that Class
8 Counsel’s fee request is consistent with market rates and is reasonable.

9 **ii. The Requested Attorneys’ Fee and Cost Award is Within the Range of**
10 **Fees Approved in Comparable Common Fund Cases**

11 Class Counsel applies for an award of attorneys’ fees in the sum of \$314,135 (33 1/3% of
12 the GSA), and litigation costs of \$19,053.55. (Mara Dec. ¶ 17). California state and federal courts
13 have recognized that an appropriate method for determining an award of attorneys’ fees is based
14 on a percentage of the total value of benefits made available to Class Members by the settlement,
15 also known as the “common fund” method. *Serrano v. Priest* (1977) 20 Cal.3d 25, 34 (*Serrano*
16 *III*); *Boeing Co. v. Van Gemert* (1980) 444 U.S. 472, 478; *Vincent v. Hughes Air West, Inc.* (9th
17 Cir. 1977) 557 F.2d 759, 769.¹⁰ Where the amount of a settlement is a “certain easily calculable
18 sum of money,” California courts may calculate attorneys’ fees as a reasonable percentage of the
19 settlement. Weil and Brown, *California Practice Guide, Civil Procedure Before Trial*, Chapter 14,
20 § 14:145; *Dunk, supra*, 48 Cal.App.4th at 1808. The percentage-of-the-benefit approach is
21 preferred in class and representative actions because “it better approximates the workings of the
22 marketplace than the lodestar approach.” *Lealao, supra*, 82 Cal.App.4th at 49. The purpose of
23 the common fund/percentage approach is to “spread litigation costs proportionally among all the
24 beneficiaries so that the active beneficiary does not bear the entire burden alone.” *Vincent, supra*,
25 557 F.2d at 769.

26 *In Quinn v. State of California* (1995) 15 Cal.3d 162, 167, the Court stated: “[O]ne who
27 expends attorneys’ fees in winning a suit which creates a fund from which others derive benefits

28 ¹⁰ The California Supreme Court has urged trial courts to consider class action federal authority.
Green v. Obledo (1981) 29 Cal.3d 126, 146; *Vasquez v. Superior Court* (1971) 4 Cal.3d 800, 821.

1 may require those passive beneficiaries to bear a fair share of the litigation costs.” Similarly, in
2 *City and County of San Francisco v. Sweet* (1995) 12 Cal.4th 105, 110, the California Supreme
3 Court recognized that the percentage-of-the-benefit approach has been applied “consistently in
4 California when an action brought by one party creates a fund in which other persons are entitled
5 to share.” The reasons for applying this equitable doctrine include: “...fairness to the successful
6 litigant, who might otherwise receive no benefit because his recovery might be consumed by the
7 expenses; correlative prevention of an unfair advantage to the others who are entitled to share in
8 the fund and who should bear their share of the burden of its recovery; encouragement of the
9 attorney for the successful litigant, who will be more willing to undertake and diligently prosecute
10 proper litigation for the protection or recovery of the fund if he is assured that he will be properly
11 and directly compensated should his efforts be successful.” *Id.*

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

19 When the lawsuit was originally filed, the prospect of a long, drawn-out battle with a
20 defendant represented by experienced counsel, was almost a certainty. By taking on this “battle”
21 on a contingency basis, Class Counsel risked substantial economic loss if the results were not
22 successful. This substantial risk is the reason that the courts approve the use of the percentage
23 method when a settlement is obtained by the efforts of class counsel. *See Vizcaino v. Microsoft*
24 (9th Cir. 2002) 290 F.3d 1043, 1048-49 (quotations omitted) (discussing the risks of engaging in
25 litigation without certainty of compensation).

26 Under the terms of the Agreement, Defendant will pay a Gross Settlement Amount of
27 \$942,500. An award of attorneys’ fees is to be calculated as a percentage of the total value of
28 benefits made available to the Class Members under the settlement. In light of Class Counsel’s

1 prosecution and resolution of the case, the requested Attorneys' Fees are appropriate and
2 reasonable.

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

10 Class Counsel have obtained a substantial recovery on behalf of Plaintiffs and the Class.
11 Thus, the requested Attorney Fee Award is appropriate.

12 **iii. A Lodestar Cross-Check with a Modest Multiplier Confirms the Reasonableness of the Requested Fee**

13 Class Counsel's fee request is reasonable when calculated using the lodestar method. Under
14 the lodestar method, a base fee amount is calculated from a compilation of time reasonably spent
15 on the case and the reasonable hourly compensation of the attorney. *Serrano v. Priest* (1977) 20
16 Cal. 3d 25, 48. The court then enhances this lodestar figure by a "multiplier" to account for a range
17 of factors, such as the novelty and difficulty of the case, its contingent nature, and the degree of
18 success achieved. *Id.* at 49; see also *Ketchum v. Moses* (2001) Cal.4th 1122, 1132-36; *PLCM*
19 *Group, Inc. v. Drexler* (2000) 22 Cal.4th 1084, 1096; *Thayer v. Wells Fargo Bank* (2001) 92
20 Cal.App.4th 819, 834, ("[t]here is no ... rule limiting the factors that may justify an exercise of
21 judicial discretion to [adjust the] lodestar").

22 Courts "routinely enhance[] the lodestar to reflect the risk of non-payment in common fund
23 cases." *Vizcaino v. Microsoft Corp.* (9th Cir. 2002) 290 F.3d 1043, 1051; *Graham v.*
24 *DaimlerChrysler Corp.* (2004) 34 Cal.4th 553, 579 ("One of the most common fee enhancers [...] is for contingency risk."). Such an enhancement "mirrors the established practice in the private
25 legal market of rewarding attorneys' fees for taking the risk of nonpayment by paying them a
26 premium over their normal hourly rates for winning contingency cases." *Vizcaino*, 220 F.3d at
27 1051. A risk multiplier also serves to bring the financial incentives for enforcing important rights
28

1 “into line with incentives [attorneys] have to undertake claims for which they are paid on a fee-
2 for-service basis.” *Ketchum*, 24 Cal.4th at 1132. In determining whether or not to enhance or
3 reduce the lodestar, California courts take into account multiple factors, including: the time and
4 labor required; the skill requisite to perform the legal services properly; the preclusion of other
5 employment by the attorney due to the acceptance of the case; the contingent nature of the fee; the
6 amount involved and results obtained; the experience, reputation, and ability of the attorney; and
7 awards in similar cases. *Cates v. Chiang* (2013) 213 Cal. App. 4th 791, 822.

8 Class Counsel has worked 298.7 hours to date on this case and have calculated the lodestar
9 fee on those hours at \$207,330.10 at rates reflecting those currently earned in the marketplace.
10 (Mara Dec. ¶ 18, Exhibit 6; Melmed Dec. ¶ 28; Horton Dec. ¶ 6). Class Counsel respectfully
11 request attorneys’ fees in the amount of \$314,135 (33 1/3% of the GSA). All of the work and tasks
12 performed by Class Counsel were reasonable and necessary to the prosecution of this case and are
13 reflected in the result achieved. (Mara Dec. ¶ 19).

14 This was a highly contested matter which required a significant amount of time and labor.
15 Class Counsel had to investigate and analyze documents and data. In addition, as part of the above
16 investigation and analysis, Class Counsel had to marshal the evidence in a manner in which it
17 could be adjudicated on a class-wide basis. So often, lawyers unskilled in the class action aspect
18 of wage and hour cases do not pay attention to or put the work into how the evidence must be
19 presented for class-wide adjudication. Strong class-wide cases perish in the hands of inexperienced
20 counsel because the case has not been worked up to succeed at certification. Class Counsel here
21 has considerable experience in class litigation and, from the beginning of the case, is marshalling
22 the evidence with a sharp focus on class-wide proof needed for the matter to get certified. This
23 case was no different. This filtering of voluminous evidence into class-wide proof while keeping
24 an eye on the merits of the litigation required a considerable amount of attorney time and skill.
25 (Mara Decl. ¶ 20).

26 Most importantly, all services were performed by Class Counsel on a contingent basis.
27 (Mara Dec. ¶ 21). Both California and federal courts recognize that attorneys should be
28 compensated for taking on such contingent risks and provided with financial incentives to enforce

1 important rights and protections like those at issue in this case. See, e.g., *Vizcaino*, 290 F.3d at
2 1051; *Ketchum*, 24 Cal.4th at 1132-33. Here, Class Counsel bore the risk that, in spite of all of
3 their efforts and skill employed, there may be no recovery.

4 Class Counsel respectfully requests a fee of \$314,135, which, based on the total attorney
5 hours expended and rates, would require a modest 1.52 multiplier to raise the generated fees of
6 \$207,330.10 to the requested amount. Far greater multipliers have been awarded in similar cases,
7 and the total amount of fees sought by Class Counsel is also reasonable compared to fees awarded
8 in like cases. Courts routinely enhance lodestar amounts based on multipliers that “range from 2
9 to 4 or even higher.”¹¹ Thus, consideration of the lodestar method as a cross-check to the
10 percentage figure sought strongly supports the reasonableness of the requested fee award. Class
11 Counsel moves for and respectfully requests that the Court grant attorneys’ fees in the amount of
12 \$314,135.

13 **iv. Class Counsel’s Hourly Rates Are Reasonable**

14 Class Counsel’s hourly rates are between \$437 and \$800 and are in line with rates typically
15 approved in wage and hour class action litigation and which rates have been approved by Courts
16 in California in the Los Angeles, Sacramento, San Francisco, Alameda, Orange and San Diego
17 County Superior Courts. (Mara Dec. ¶ 22; Exhibit 3, Westlaw Court Express’s Legal Billing
18 Report, Volume 14, Number 3, California Region for December 2012; Exhibit 4, 2014 Declaration
19 of Richard M. Pearl in *Hohnbaum v. Brinker Restaurant Corp.* SDSC GIC834348; Exhibit 5, 2012
20 National Law Journal Survey of Hourly Billing Rates for Partners and Associates).

21 A reasonable hourly rate is the prevailing rate charged by attorneys of similar skill and
22 experience in the relevant community. *PLCM Group, Inc* (2000) 22 Cal. 4th 1084, 1095; *Hopson*
23 *v. Hanesbrands Inc.* (N.D. Cal. Apr. 3, 2009) 2009 U.S. Dist. LEXIS 33900. When determining a
24 reasonable hourly rate, courts may consider factors such as the attorney’s skill and experience, the

25 ¹¹ *Wershba v. Apple Computer, Inc.*, 91 Cal.App.4th 224, 255 (2001); see, e.g., *Vizcaino*, 290 F.3d
26 at 1051 (approving multiplier of 3.65); *Wal-Mart Stores, Inc. v. Visa U.S.A., Inc.*, 396 F.3d 96, 123
27 (2d Cir. 2005) (approving multiplier of 3.5); *Craft v. County of San Bernardino*, 624 F. Supp. 2d
28 1113, 1125 (C.D. Cal. 2008) (awarding multiplier of 5.2 and collecting cases with cross-check
multipliers ranging from 4.5 to 19.6); *Glendora Community Redevelopment Agency v. Demeter*,
155 Cal.App.3d 465, 479-80 (1984) (approving fee award with multiplier of 12).

1 nature of the work performed, the relevant area of expertise and the attorney's customary billing
2 rates. *Flannery v. California Highway Patro* (1998) 61 Cal. App. 4th 629, 632.

3 Class Counsel's skill and experience support their hourly rates. Their practice is limited
4 exclusively to litigation, focusing on the representation of employees in wage and hour and
5 consumer class action matters. (Mara Dec. ¶¶ 2-11; Melmed Dec. ¶¶ 7-12; Horton Dec. ¶¶ 2-5).
6 As leading attorneys in the field of wage and hour class action litigation, Plaintiffs' counsel
7 continually monitors the prevailing market rates charged by both defense and plaintiff law firms
8 and set the billing rates of their attorneys and paralegals/law clerks to be consistent with the
9 prevailing market rates in the private sector for attorneys and staff of comparable skill,
10 qualifications and experience. Other wage and hour attorneys working as class counsel before
11 California courts charge comparable if not higher rates. (Mara Dec., Exhibit 3, Westlaw Court
12 Express's Legal Billing Report, Volume 14, Number 3, California Region for December 2012;
13 Exhibit 4, 2014 Declaration of Richard M. Pearl in *Hohnbaum v. Brinker Restaurant Corp.* SDSC
14 GIC834348; Exhibit 5, 2012 National Law Journal Survey of Hourly Billing Rates for Partners
15 and Associates). Therefore, as they are in line with those of the relevant community, Class
16 Counsel's hourly rates are reasonable.

17 **v. Class Counsels' Total Hours are Reasonable**

18 In determining a lodestar fee, reasonable hours include, in addition to time spent during
19 litigation, the time spent before the action was filed, including time spent interviewing clients,
20 investigating the facts and law, and preparing the pleadings. See *New York Gaslight Club, Inc. v.*
21 *Carey* (1980) 447 U.S. 54, 62; *Vo v. Las Virgenes Municipal Water Dist.* (2000) 79 Cal.App.4th
22 440, 447. Further, the fee award should include fees incurred to establish and defend the attorneys'
23 fee claim. *Serrano v. Priest* (1982) 32 Cal.3d 621, 639 ("*Serrano IV*"). Under California law,
24 counsel is entitled to compensation for every hour reasonably spent on the matter. *Id.* at 1133.

25 Class Counsel has expended a total of 298.7 hours on this case. The work performed by
26 Class Counsel in order to achieve a settlement that will provide valuable consideration to the Class,
27 averaging a \$1,676.69 settlement payment per Class Member, with the highest estimated award
28 being \$7,287.98, is outlined by Class Counsel in the declaration submitted herewith. (Mara Dec.

¶¶ 23, 28; Melmed Dec. ¶ 30; Horton Dec. ¶ 12). Class Counsel have been actively involved in this case, prior to the commencement of this action and all the way up to the present, and Class Counsel's dedication to providing representation in the case has precluded other employment. Here, Class Counsel's many tasks, in summary form, included the following: pre-filing investigation and legal research; communicating with the Class Representatives; discussions with Class Members; researching and investigating California's ever-evolving wage and hour laws regarding compensation, overtime, meal and rest periods, itemized wage statements, waiting time penalties, and California's Unfair Competition Law; conducting investigation into Defendant's pay-structures, policies for its non-exempt employees; drafting and filing pleadings; engaging in numerous conferences with Defense Counsel regarding a variety of issues throughout the litigation and settlement; analyzing records produced by Defendant; drafting the mediation brief and performing mediation damages and exposure models; preparing for and attending mediation; drafting and revising the settlement agreement and the Notice to the Class; drafting preliminary approval papers; working with Settlement Administrator on the notice process; reviewing, revising, and proofing Notice papers from the Settlement Administrator; reviewing settlement website; reviewing weekly status reports from the Settlement Administrator regarding Class participation; reviewing and editing the Settlement Administrator's declaration; drafting final approval papers, and preparing for and appearing at the Final Approval Hearing. (Mara Dec. ¶¶ 23, 28; Melmed Dec. ¶ 30; Horton Dec. ¶ 12).

Class Counsel bore the risk that, despite all of their efforts and skills employed, there may be no recovery. All of the work performed was reasonable and necessary to the prosecution of this case. The work performed was particularly justified, in light of the extraordinary result achieved.

vi. Costs of Litigation

Class Counsel seeks reimbursement of the litigation costs and expenses of \$19,053.55. (Mara Dec. ¶ 30; Melmed Dec. ¶ 16). These costs were all reasonable and necessary to the prosecution of this case and the results achieved and are fair and reasonable.

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1 **c. The Class Representative Enhancement Payments are Reasonable**

2 Class Counsel seeks approval of a Class Representative Enhancement Payments to the
3 named Plaintiffs in the sum of \$7,500 each (\$15,000 total). In agreeing to the settlement, Plaintiffs
4 has agreed to a general release of their claims against Defendant. This general release is far greater
5 than the release being given by other Class Members. These payments not only compensate
6 Plaintiffs for the work they undertook in this case, but also for the claims and potential claims they
7 may have against Defendant that they are releasing. Since the inception of this case, Plaintiffs have
8 put the Class's interests ahead of their own.

9 There are also other factors supporting the request that Plaintiffs receive \$7,500 each. The
10 requested Class Representative Enhancement Payments are reasonable in light of the benefits
11 Plaintiffs have conferred upon the entire Class, resulting in payments averaging at \$1,676.69 with
12 a high payment of \$7,287.98. The requested award is appropriate and reasonable based upon
13 Plaintiffs' time and effort expended on this case, the risks they faced, and the outcome of this case.
14 Plaintiffs have submitted declarations detailing the efforts and time they expended on behalf of the
15 Class in order to advance this case to its successful conclusion. There is no question that this case
16 would not have reached the same result but for Plaintiffs' involvement and input at all stages of
17 the litigation.

18 It should be noted that service awards are particularly important to plaintiffs in wage and hour
19 cases because they promote the important public policies underlying the wage and hour laws. This
20 strong policy is codified in California Labor Code section 90.5, which provides that "[i]t is the
21 policy of this state to vigorously enforce minimum labor standards in order to ensure employees
22 are not required or permitted to work under substandard unlawful conditions . . ." Cal. Lab. Code
23 § 90.5. Nonetheless, the California Supreme Court has noted that "retaliation against employees
24 for asserting statutory rights under the Labor Code is widespread," despite anti-retaliation statutes
25 designed to protect employees. *Gentry v. Super. Ct.* (2007) 42 Cal.4th 443, 460–61. In this context,
26 class representatives should be rewarded for assuming the risk of retaliation for the sake of class
27 members. *See Frank v. Eastman Kodak Co.* (W.D.N.Y. 2005) 228 F.R.D. 174, 187.

28 In addition, there are few individuals that are willing to act as a class representative and

1 provide the work, diligence, and willingness to assume a substantial financial risk should
2 Defendant have prevailed in this case. Plaintiffs' willingness to assume the financial risk is
3 significant. Plaintiffs risked a potential judgment taken against them for attorneys' fees and costs
4 if this matter had not been successfully concluded. Case law holds that a losing party is liable for
5 the prevailing party's costs, *Early v. Superior Court*, 79 Cal.App.4th 1420, 1433 (2000), and in
6 some wage and hour actions, such as this case, pursuant to California Labor Code § 218.5, for
7 attorneys' fees as well. Though the fee agreement provides that Class Counsel would pay such
8 costs, Plaintiffs would nevertheless have had a cost bill entered against them leaving them
9 ultimately liable for potentially hundreds of thousands of dollars in the unexpected possibility that
10 Class Counsel did not meet their obligation to cover those costs. Unfortunately, there have been
11 several judgments entered against class representatives, e.g. *Koehl v. Verio, Inc.* 142 Cal.App.4th
12 1313, 1328 (2006) (a wage and hour class action where Defendant prevailed at trial, the named
13 plaintiffs were held liable, jointly and severally for the Defendant's attorneys' fees); *Whiteway v.*
14 *Fedex Kinkos Office & Print Services, Inc.*, 2007 U.S. Dist. LEXIS 95398 (N.D. Cal. 2007) (a
15 wage and hour misclassification case lost on summary judgment, after the case was certified, the
16 named Plaintiff was assessed costs in the sum of \$56,788.). The risk of payment of Defendant's
17 costs, in itself alone, is a sufficient basis for an award of the requested enhancement sum. Few
18 individuals are willing to take this risk, and it is clear that Plaintiffs, here, championed a cause on
19 behalf of others with potentially huge monetary risks.

20 Courts routinely approve service payments, or incentive awards, to compensate named
21 plaintiffs for the services they provide and the risks they incur during class litigation. See *In re*
22 *Cellphone Fee Termination Cases* (2010) 186 Cal. App. 4th 1380, 1393; see also *Bell v. Farmers*
23 *Ins. Exch.* (2004) 115 Cal. App. 4th 715, 725-26 (upholding service payments to class
24 representatives); Manual § 21.62 n.971 (noting that service payments are warranted); *Cook v.*
25 *Niedert*, 142 F.3d 1004, 1015 (7th Cir. 1998); *Roberts v. Texaco*, 979 F. Supp. 185 (S.D.N.Y.
26 1997) ("present or past employee whose present position or employment credentials or
27 recommendation may be at risk by reason of having prosecuted the suit, who therefore lends his
28 or her name and efforts to the prosecution of litigation at some personal peril, a substantial

enhancement award is justified”); *Thornton v. East Texas Motor Freight*, 497 F.2d 416, 420 (6th Cir. 1974) (“We also think there is something to be said for rewarding those drivers who protect and help to bring rights to a group of employees who have been the victims of discrimination.”).

Moreover, the modern-day work force is mobile, with employees holding several jobs over the span of their career. It is also true that prospective employers in this computer, high-tech age “Google” and/or do extensive background checks and have access to court databases to see if applicants have ever filed a lawsuit or have ever been sued. Here, Plaintiffs’ conduct will not be lost on a prospective employer who has to choose between an applicant who has never sued an employer and one who has done so. The requested award far from compensates Plaintiffs for opportunities they may lose in the future because of the exercise of a Constitutional right to Petition the Courts for redress of a grievance.

Based on the foregoing, the \$7,500 Class Representative Enhancement Payments to the named Class Representatives are fair, appropriate, and justified in light of the work performed, risks undertaken for payment of fees and costs if this case had not been successfully concluded, stigma on future employment opportunities, and the benefits all Class Members.

d. The Administration Costs are Reasonable

The Court-approved Settlement Administrator was responsible for formatting, printing and mailing the Class Notices. The Settlement Administrator was responsible for responding to Class Member inquiries, providing weekly status reports, answering questions from Counsel for the Parties, and providing a declaration to document its duties and responsibilities under the settlement. Plaintiffs now request that the Court finally approve the Settlement Administration Costs in the amount of \$8,500 to APEX for services rendered and to be rendered for the notice and settlement administration process.

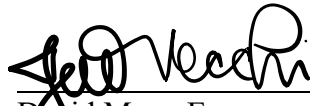
Following the grant of final approval, the Settlement Administrator’s duties will continue in order to calculate and mail the individual settlement payments to Participating Class Members, perform tax reporting obligations, disburse other payments as ordered by the Court, and perform such other duties as set forth in the Agreement. Administration Costs in the amount of \$8,500 to APEX for services rendered and to be rendered is fair and reasonable and should be granted.

1 **V. CONCLUSION**

2 Based on the foregoing, Class Counsel respectfully requests the Court grant final approval
3 of the settlement, and award Class Counsel attorneys' fees in the sum of \$314,135 and litigation
4 expenses of \$19,053.55 to Class Counsel, Class Representative Enhancement Payments in the sum
5 of \$7,500 each to Plaintiffs, Administration Costs in the amount of \$8,500 to APEX, and a payment
6 to the LWDA in the amount of \$37,500 (which is 75% of \$50,000 allocated to Plaintiffs' claims
7 under PAGA).

8
9 Dated: August 19, 2024

MARA LAW FIRM, PC

10 
11 _____
12 David Mara, Esq.

13 Jill Vecchi, Esq.

14 Attorneys for Plaintiffs MANUEL BALUX OCH
15 and PEDRO GARCIA ALFEREZ, on behalf of
16 themselves, all others similarly situated, and on
17 behalf of the general public
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