

Joanna Ghosh (SBN 272479)
Brian J. St. John (SBN 304112)
Matthew Richard Soto (353499)
LAWYERS for JUSTICE, PC
410 West Arden Avenue, Suite 203
Glendale, California 91203
Tel: (818) 265-1020 / Fax: (818) 265-1021

Attorneys for Plaintiff Socorro Gamboa and the Class

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES - SPRING STREET COURTHOUSE

SHANNON BOSTIC, SOCORRO
GAMBOA, 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,

Plaintiffs,

vs.

LAMP COMMUNITY, an unknown business
entity; LAMP, INC., a California
corporation; THE PEOPLE CONCERN, a
California corporation; and DOES 1 through
100, inclusive,

Defendants.

Case Nos.: 21STCV07381

Honorable Laura A. Seigle
Department SSC17

CLASS ACTION

**PLAINTIFF'S NOTICE OF MOTION
AND MOTION FOR FINAL APPROVAL
OF CLASS ACTION AND PAGA
SETTLEMENT, ATTORNEYS' FEES AND
COSTS, AND ENHANCEMENT
PAYMENT; MEMORANDUM OF POINTS
AND AUTHORITIES**

[Declaration of Class Counsel
(Brian J. St. John); Declaration of Class
Representative (Socorro Gamboa); Declaration
of Settlement Administrator (Bryn Bridley);
and [Proposed] Final Approval Order and
Judgment filed concurrently herewith

Date: October 2, 2024
Time: 9:00 a.m.
Department: SSC17

Complaint Filed: February 24, 2021
FAC Filed: May 12, 2022
SAC Filed: June 20, 2023
Trial Date: None Set

1 **PLEASE TAKE NOTICE** that on October 2, 2024, at 9:00 a.m., in Department SSC17
2 of the above-entitled Court, located at 312 N Spring St, Los Angeles, California 90012, Plaintiff
3 Socorro Gamboa (“Plaintiff”) will and hereby does move for an order granting final approval of:

4 1. The Second Amended Joint Stipulation of Class Action and PAGA Settlement
5 and Amendment No. 1 to Second Amended Joint Stipulation of Class Action and PAGA
6 Settlement (together, the “Settlement,” “Agreement,” or “Settlement Agreement”) entered into
7 between Plaintiff and Defendant The People Concern’s, successor by merger to Lamp, Inc., dba
8 Lamp Community (“Defendant”) (together, the “Parties”), on the grounds that the Settlement is
9 fair, adequate, and reasonable because:

- 10 • A Net Settlement Amount of approximately **\$726,363.03** will be fully distributed to
11 the Class Members who do not timely opt out of the Class Settlement (“Settlement
12 Class Member”);
- 13 • **No Notice of Objections** have been submitted to the settlement administrator,
14 Atticus Administration, LLC (“Atticus” or “Settlement Administrator”);
- 15 • **No Request for Exclusions** were submitted to the Settlement Administrator;

16 2. Payment in the amount of **\$500,000.00** to Lawyers for Justice, PC (“Class
17 Counsel”), representing one-third (1/3) of the Total Settlement Amount, for attorneys’ fees,
18 which is reasonable and justified on a percentage-basis and also based on a lodestar cross-check;

19 3. Payment in the amount of **\$16,136.97** to Class Counsel for reimbursement of
20 litigation costs and expenses;

21 4. Payment in the amount of **\$15,000.00** to the Settlement Administrator, Atticus
22 Administration, LLC (“Atticus”), for Settlement Administration Costs;

23 5. Payment in the amount of \$7,500.00 to Plaintiff Socorro Gamboa, as an
24 Enhancement Payment, for her time and effort in representing the Class; and

25 6. Allocation of the penalties under the Private Attorneys General Act of 2004,
26 California Labor Code section 2698, *et seq.*, in the amount of **\$235,000.00**, of which seventy-five
27 percent (75%), or **\$176,250.00**, will be paid to the California Labor and Workforce Development
28 Agency (“LWDA Payment”), and twenty-five percent (25%), or **\$58,750.00** (“PAGA Employee

Amount"), will be distributed on a *pro rata* basis to all current and former hourly-paid or non-exempt employees of Defendant within the State of California at any time during the PAGA Period ("PAGA Employees").

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 Declaration of Class Counsel (Brian J. St. John), Class Representative (Socorro Gamboa), and Settlement Administrator (Bryn Bridley of Atticus) 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: September 9, 2024

LAWYERS for JUSTICE, PC

By:



Brian J. St. John
Attorneys for Plaintiff and the Class

TABLE OF CONTENTS

I.	SUMMARY OF MOTION	1
II.	PROCEDURAL HISTORY AND FACTUAL BACKGROUND.....	3
III.	SUMMARY OF THE SETTLEMENT TERMS AND PLAN OF DISTRIBUTION	6
IV.	THE SETTLEMENT ADMINISTRATION PROCESS	10
V.	THE COURT SHOULD GRANT FINAL APPROVAL OF THE CLASS ACTION SETTLEMENT.....	12
A.	The Settlement Resulted from Arm’s-Length Negotiations Based Upon Extensive Investigation and Discovery.	13
B.	The Risks Inherent in Continued Litigation Favor Final Approval of the Settlement.	15
C.	The Settlement Is Fair, Reasonable, and Adequate.	17
D.	The Class Was Represented by Competent Counsel.....	18
E.	There Are No Objections to the Settlement.....	19
VI.	THE ATTORNEYS’ FEES AWARD REQUESTED BY CLASS COUNSEL IS FAIR AND REASONABLE AND SHOULD BE APPROVED.....	19
A.	Legal Standard for Attorneys’ Fees in a Class Action Settlement.....	19
B.	A Fee Award of a Percentage of the Entire Fund Is Appropriate.	21
C.	The Attorneys’ Fees Award Requested by Class Counsel Is Reasonable Based on the Factors Considered in Determination of Fee Awards.	24
1.	<i>Time & Labor.....</i>	25
2.	<i>The Skill Required to Perform Legal Services Properly.....</i>	26
3.	<i>The Value of the Settlement for the Class Members.</i>	26
4.	<i>Whether the Fee Is Fixed or Contingent.....</i>	28
5.	<i>The Amount Involved and the Results Achieved.</i>	29
6.	<i>The Reputation and Ability of the Attorneys.</i>	29
D.	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.....	30
1.	<i>The Number of Hours Spent on the Litigation was Reasonable.</i>	30

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

2.	<i>The Fees Requested Represent a Reasonable Hourly Rate of Compensation in Light of Class Counsel’s Efforts and Experience.</i>	32
VII.	COSTS TO BE REIMBURSED TO CLASS COUNSEL ARE FAIR AND REASONABLE, AND SHOULD BE APPROVED.	34
VIII.	THE SETTLEMENT ADMINISTRATION COSTS ARE FAIR AND REASONABLE AND SHOULD BE APPROVED.	34
IX.	THE REQUESTED SERVICE PAYMENT IS FAIR AND REASONABLE, AND SHOULD BE APPROVED.	35
X.	CONCLUSION	36

TABLE OF AUTHORITIES

Cases

<i>7-Eleven Owners for Fair Franchising v. Southland Corp.</i> (2000) 85 Cal.App.4th 1135.....	13, 19
<i>Beech Cinema, Inc. v. Twentieth-Century Fox Film Corp.</i> (S.D.N.Y. 1979) 480 F.Supp. 1195..	21
<i>Boeing Co. v. Van Gemert</i> (1980) 444 U.S. 472.....	21, 23
<i>Cates v. Chiang</i> (2013) 213 Cal.App.4th 791.....	28
<i>Cellphone Termination Fee Cases</i> (2009) 180 Cal.App.4th 1110.....	19
<i>Chavez v. Netflix, Inc.</i> (2008) 162 Cal.App.4th 43	12, 13, 21
<i>City of Oakland v. Oakland Raiders</i> (1988) 203 Cal.App.3d 78	33
<i>Consumer Privacy Cases</i> (2009) 175 Cal.App.4th 545.....	20
<i>Crampton v. Takegoshi</i> (1993) 17 Cal.App.4th 308	21
<i>Dunk v. Ford Motor Co.</i> (1996) 48 Cal.App.4th 1794.....	12, 19, 20
<i>Green v. Obledo</i> (1981) 29 Cal.3d 126.....	21
<i>In re American Bank Note Holographics, Inc., Securities Litigation</i> (S.D.N.Y. 2001) 127 F.Supp.2d 418	18
<i>In re Ampicillin Antitrust Litigation</i> (D. D.C. 1981) 526 F.Supp. 494	20
<i>Ketchum v. Moses</i> (2001) 24 Cal.4th 1122.....	19, 30, 32, 33
<i>Laffitte v. Robert Half Int’l, Inc.</i> (2016) 1 Cal.5th 480.....	20, 21, 30
<i>Lealao v. Beneficial Cal., Inc.</i> (2000) 82 Cal.App.4th 19	19, 20, 23
<i>Paul, Johnson, Alston & Hunt v. Graulty</i> (1989) 886 F.2d 268	21
<i>Serrano v. Priest</i> (1977) 20 Cal.3d 25.....	21
<i>Sutter Health Uninsured Pricing Cases</i> (2009) 171 Cal.App.4th 495.....	33
<i>Vasquez v. Superior Court</i> (1971) 4 Cal.3d 800	21
<i>Vincent v. Hughes Air West, Inc.</i> (9th Cir. 1977) 557 F.2d 759	21
<i>Vizcaino v. Microsoft</i> (9th Cir. 2002) 290 F.3d 1043.....	22
<i>Vo v. Las Virgenes Municipal Water Dist.</i> (2000) 79 Cal.App.4th 440.....	30
<i>Wershba v. Apple Computer, Inc.</i> (2001) 91 Cal.App.4th 224.....	12, 13, 19, 23, 24, 33

Winslow v. Harold G. Ferguson Corp. (1944) 25 Cal.2d 274.....	23
Statutes	
Cal. Lab. Code § 2698	1
Other Authorities	
A. Conte, <i>Attorney Fee Awards</i> (2d Ed., 1993)	22
<u>California Practice Guide</u> , <i>Civil Procedure Before Trial</i> , Chapter 14	20
Conte & Newberg, <i>Newberg on Class Actions</i> (4th Ed., 2002) § 11.47.....	18, 29
Conte & Newberg, <i>Newberg on Class Actions</i> (4th Ed., 2002) § 14.03	20
<i>Court Awarded Attorney Fees, Report of the Third Circuit Task Force</i> (October 8, 1985) 108 F.R.D. 237	29
R. Pearle, <i>California Attorney Fee Awards</i> (CEB, 1993) § 7A	21

MEMORANDUM OF POINTS AND AUTHORITIES

I. SUMMARY OF MOTION

Plaintiff Socorro Gamboa (“Plaintiff”) seeks final approval of: (1) the Total Settlement Amount of \$1,500,000.00;¹ (2) attorneys’ fees in the amount of \$500,000.00, which is one-third (1/3) of the Total Settlement Amount, and reimbursement of litigation costs and expenses in the amount of \$16,136.97 (“Attorneys’ Fees and Costs”) to Lawyers for Justice PC (“Class Counsel”); (3) Settlement Administration Costs in the amount of \$15,000.00 to Atticus Administration, LLC (“Atticus” or “Settlement Administrator”); (4) Enhancement Payment in the amount of \$7,500.00 to Plaintiff Socorro Gamboa; and (5) allocation of \$235,000.00 for penalties under the Private Attorneys General Act of 2004, California Labor Code § 2698, *et seq.* (“PAGA Amount”).

Plaintiff seeks relief on behalf of the following Class:

All current and former hourly-paid or non-exempt employees of Defendant within the State of California at any time during the Class Period (“Class” or “Class Members”).²

This matter involved ongoing investigations, informal discovery, review and analysis of a large volume of documents and data in the course of litigation and mediation sessions, and extensive settlement negotiations and mediation sessions conducted by Lynn Frank, Esq. This case has required 631.80 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 Total 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.

///

///

¹ Second Amended Joint Stipulation of Class Action and PAGA Settlement and Amendment No. 1 to Second Amended Joint Stipulation of Class Action and PAGA Settlement (together, the “Settlement Agreement”), ¶ 10.mm; Declaration of Bryn Bridley (“Atticus Decl.”) ¶ 12.

² Settlement Agreement, ¶ 10.D; “Class Period” is defined as the period of time from February 24, 2017, through January 28, 2022. *Id.* ¶ 10.f.

Plaintiff moves for final approval of the Enhancement Payment in the total amount of \$7,500.00, to compensate Plaintiff for the time and effort that she expended spearheading this lawsuit on behalf of the Class, PAGA Employees, and the State of California. Plaintiff also moves for final approval of the payment to the Settlement Administrator in the amount of \$15,000.00 for Settlement Administration Costs. Plaintiff also moves for final approval of the PAGA Amount, i.e., the amount of \$235,000.00 allocated to penalties under the Private Attorneys General Act ("PAGA"), of which seventy-five percent (75%), or \$176,250.00 ("LWDA Payment"), will be paid to the California Labor Workforce and Development Agency ("LWDA"), and twenty-five percent (25%), or \$58,750.00 ("PAGA Employee Amount"), will be distributed on a *pro rata* basis to all current and former hourly-paid or non-exempt employees of Defendant within the State of California at any time during the PAGA Period ("PAGA Employees").³

The requests for Attorneys' Fees and Costs, Enhancement Payment, Settlement Administration Costs, and allocation for the PAGA Amount were fully disclosed in the 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 or requested exclusion from any aspect of the Settlement, including the requested Attorneys' Fees and Costs, Enhancement Payment, Settlement Administration Costs, or allocation for PAGA Amount.*

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 the Attorneys' Fees and Costs, Enhancement Payment, Settlement Administration Costs, and allocation for the PAGA Amount in the full amounts requested herein.

///

³ Settlement Agreement, ¶¶ 10.t, 10.y, & 10.x. "PAGA Period" is defined as the period from February 19, 2020 through January 28, 2022. *Id.* ¶ 10.z.

1 In order to efficiently present the Court with adequate information to determine whether
2 to grant final approval of the Settlement and award Attorneys' Fees and Costs, Enhancement
3 Payment, Settlement Administration Costs, and allocation for the PAGA Amount, Plaintiff also
4 moves for an order permitting the filing of this single consolidated memorandum, although it
5 exceeds the page limit established by California Rules of Court, Rule 3.1113(d), instead of filing
6 several separate motions.

7 **II. PROCEDURAL HISTORY AND FACTUAL BACKGROUND**

8 Defendant The People Concern, successor by merger to Lamp, Inc., dba Lamp
9 Community ("Defendant"), is a social service agency that was formed as a result of a merger
10 between two long standing social service organizations based in Los Angeles County: Ocean
11 Park Community Center and The Lamp Community. Headquartered in Los Angeles, Defendant
12 is a 501(c)(3) non-profit organization that provides an integrated system of care to homeless
13 individuals, domestic violence survivors, and challenged youth. Defendant's services include
14 outreach, interim housing, mental and medical health care, and domestic violence services.
15 Defendant employees over 100 employees including case managers, accounts receivable
16 specialists, certified nursing assistants, client services specialists, counselor advocates, and
17 maintenance technicians. Socorro Gamboa is a former employee of Defendant.

18 On February 19, 2021, Shannon Bostic ("Former Plaintiff Bostic") provided written
19 notice to the Labor and Workforce Development Agency by online submission and to Defendant
20 by certified mail, of the specific provisions of the California Labor Code that Defendant violated
21 ("PAGA Letter"). On February 24, 2021, Former Plaintiff Bostic filed a Class Action Complaint
22 for Damages in the Los Angeles County Superior Court ("Court"), thereby commencing the
23 above-captioned lawsuit ("Action"). On April 27, 2021, Former Plaintiff Bostic filed a
24 Complaint for Enforcement Under the Private Attorneys General Act, California Labor Code §
25 2698, Et Seq. entitled Shannon Bostic v. Lamp Community, et al. in the Superior Court of
26 California for the County of Los Angeles, Case No. 21CMCV00097 ("Bostic PAGA Action").

27 ///

28 ///

On May 28, 2021, Defendant filed an Answer to Former Plaintiff Bostic’s PAGA Complaint.

On July 7, 2021, Defendant filed an Answer to Former Plaintiff Bostic’s Class Action Complaint.

On May 12, 2022, Former Plaintiff Bostic filed a First Amended Consolidated Class Action Complaint for Damages & Enforcement Under the Private Attorneys General Act, California Labor Code § 2698, Et Seq. in the Action, which added the PAGA claims alleged in the Bostic PAGA Action.

Together, the Action and Bostic PAGA Action are referred to as the “Actions”.

On June 1, 2022, Defendant filed an Answer to Plaintiff’s First Amended Consolidated Complaint.

On September 29, 2022 Former Plaintiff Bostic filed a Motion for Preliminary Approval of Class Action Settlement (“Original Motion for Preliminary Approval”) and supporting documents seeking preliminary approval of the Joint Stipulation of Class Action and PAGA Settlement (“Original Agreement”) entered into by Former Plaintiff Bostic and Defendant.

On May 31, 2023, Plaintiff Gamboa provided written notice to the LWDA by online submission and to Defendant by Certified Mail, of her intent to seek civil penalties for Defendant’s alleged violations of the California Labor Code (“Gamboa PAGA Letter”). Together, the Bostic PAGA Letter and the Gamboa PAGA Letter are referred to as the “PAGA Letters.”

On June 20, 2023, Former Plaintiff Bostic and Plaintiff Gamboa filed a Second Amended Consolidated Class Action Complaint for Damages & Enforcement Under the Private Attorneys General Act, California Labor Code § 2698, Et Esq. (“Operative Complaint”) in the Bostic Class Action, which added Plaintiff Gamboa as a named plaintiff, and as a proposed representative for the putative class claims and as a representative for the PAGA claim in the Bostic Class Action.

On June 30, 2023, Former Plaintiff Bostic and Plaintiff Gamboa filed supplemental briefing in support of the Original Motion for Preliminary Approval. On October 11, 2023, the Court denied the Original Motion for Preliminary Approval without prejudice. On November 1,

2023, Former Plaintiff Bostic and Plaintiff Gamboa filed a Request for Dismissal of Plaintiff Bostic's Individual Claims Without Prejudice Pursuant to California Rules of Court, Rule 3,770 in the Action. On November 9, 2023, the Court dismissed Former Plaintiff Bostic's individual claims in the Action without prejudice and ordered that Former Plaintiff Bostic no longer be a plaintiff, proposed class representative, PAGA representative, or party in the Action.

On November 1, 2023, Plaintiff Gamboa and Former Plaintiff Bostic requested dismissal of the Bostic PAGA Action without prejudice, and the dismissal was entered by the Bostic PAGA Action court on November 1, 2023.

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 and the Class 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 contend that she, and the Class Members, are entitled to, inter alia, unpaid wages, penalties (including and not limited to, penalties pursuant to PAGA), and attorneys' fees.

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

The Parties have actively litigated the Actions since the above-captioned Action was commenced on February 24, 2021. On January 18, 2022, the Former Plaintiff Bostic and Defendant participated in a formal, full-day mediation conducted by Lynn S. Frank, Esq., a well-regarded mediator experienced in mediating complex labor and employment matters. With the aid of the mediator's evaluation, the Former Plaintiff Bostic and Defendant reached the settlement described in the Original Agreement. On November 29, 2023, the Parties participated

1 in a second mediation conducted by Lynn S. Frank, Esq. With the further aid of the mediator's
2 evaluation, the Parties ultimately reached the Settlement described herein to resolve the Actions
3 in their entirety.

4 On January 16, 2024, Plaintiff filed a Renewed Motion for Preliminary Approval of Class
5 Action Settlement ("Renewed Motion for Preliminary Approval") and supporting documents. On
6 April 9, 2024, a hearing was held on Plaintiff's Renewed Motion for Preliminary Approval
7 wherein the Court raised certain points of inquiry regarding the Renewed Motion for Preliminary
8 Approval and, subsequently, the Court issued a minute order detailing the points of inquiry.
9 Based on the Court's points of inquiry, on April 23, 2024, Plaintiff submitted supplemental
10 briefing in support of the Renewed Motion for Preliminary Approval of Class Action Settlement.
11 On April 30, 2024, the Court entered an Order Granting Plaintiff's Renewed Motion for
12 Preliminary Approval of Class Action Settlement ("Preliminary Approval Order"), thereby
13 preliminarily approving the terms of the Settlement, the Class Notice, and the proposed
14 administration procedures and associated deadlines.

15 Plaintiff now moves for final approval of the Settlement, Attorneys' Fees and Costs,
16 Enhancement Payment, Settlement Administration Costs, and allocation for the PAGA Amount.

17 **III. SUMMARY OF THE SETTLEMENT TERMS AND PLAN OF DISTRIBUTION**

18 Under the terms of the Settlement Agreement, Defendant has agreed to pay a Total
19 Settlement Amount of \$1,500,000.00 on a non-reversionary basis,⁴ and separately the amounts
20 necessary to pay its Employer Taxes, via three (3) installment payments – an initial payment of
21 one-third of the Total Settlement Amount (i.e., \$500,000.00) and half the employer's share of
22 payroll taxes and contributions with respect to the wage portion of Individual Settlement Shares
23 (together, the "First Installment"), a second payment of one-third of the Total Settlement
24 Amount (i.e., \$500,000.00) and the remaining half of the employer's share of payroll taxes and
25 contributions with respect to the wage portion of Individual Settlement Shares (together, the
26 "Second Installment"), and a third payment of the remaining one-third of the Total Settlement

27
28 ⁴ Settlement Agreement, ¶ 10.mm.

Amount (i.e., \$500,000.00) plus the employer's share of payroll taxes and contributions with respect to the wage portion of Individual Settlement Shares ("Third Installment").⁵ Within five (5) business days of the date the Court grants final approval of the Settlement, Defendant shall transmit the First Installment to the Settlement Administrator.⁶ No later than one (1) year after the Defendant funds the First Installment, Defendant shall transmit the Second Installment to the Settlement Administrator.⁷ No later than one (1) year after Defendant funds the Second Installment, Defendant shall transmit the Third Installment to the Settlement Administrator.⁸

Subject to approval by the Court, the Net Settlement Amount will be calculated by deducting the following amounts from the Total Settlement Amount: (1) Attorneys' Fees and Costs, consisting of attorneys' fees in the amount of \$500,000.00 and reimbursement of litigation costs and expenses in the amount of \$16,136.97, to Class Counsel; (2) Enhancement Payment in the amount of \$7,500.00 to Plaintiff Socorro Gamboa; (3) Settlement Administration Costs in the amount of \$15,000.00 to Atticus; and (4) PAGA Amount in the amount of \$235,000.00.⁹ The PAGA Amount in the amount of \$235,000.00 will be distributed 75% (i.e., \$176,250.00) to the State of California and 25% (i.e., \$58,750.00) will be distributed on a *pro rata* basis to the PAGA Employees.¹⁰ The Net Settlement Amount, which is estimated to be \$726,363.03, will be distributed to Settlement Class Members in accordance with the Settlement Agreement, and there is no reversion to Defendant.¹¹

The Settlement Administrator will calculate each Settlement Class Member's (i.e., Class Members who did not timely opt out of the Class Settlement) *pro rata* share of the Net

⁵ Settlement Agreement, ¶¶ 13.b.i-iii.

⁶ *Id.*, ¶ 13.d.i

⁷ *Id.*, ¶ 13.d.ii

⁸ *Id.* ¶¶ 13.d.iii

⁹ *Id.* ¶¶ 14-17.

¹⁰ *Id.* ¶ 17.

¹¹ This amount is higher than the amount stated in Paragraph 12 of the accompanying Atticus Declaration, because the Settlement Administrator's calculation assumes that Class Counsel will obtain litigation costs and expenses in the maximum amount of \$25,000.00, which is allocated under the Settlement and that the Settlement Administrator will obtain Settlement Administration Costs in the maximum amount of \$17,000.00. However, Class Counsel seeks the amount of only \$16,136.97 for reimbursement of litigation costs and expenses, and the difference of \$8,863.03 will remain part of the Net Settlement Amount. Additionally, as stated in Paragraph 17 of the accompanying Atticus Declaration, Atticus seeks the amount of only \$15,000.00 for reimbursement of settlement administration costs and the difference of \$2,000.00 will remain part of the Net Settlement Amount.

Settlement Amount (“Individual Settlement Share”)¹², in accordance with the Settlement Agreement and as follows:

- a. After Final Approval of the Settlement, the Settlement Administrator will divide the final Net Settlement Amount by the Workweeks of all Settlement Class Member during the Class Period to yield the “Final Workweek Value,” and multiply each Settlement Class Member’s individual Workweeks by the Final Workweek Value to yield his or her Individual Settlement Share.¹³

The Settlement Administrator will calculate each PAGA Group Member’s *pro rata* share of the PAGA Group Member Amount (“Individual PAGA Payment”)¹⁴ as follows:

- b. The Settlement Administrator will divide the PAGA Employee Amount by the total number of PAGA Workweeks of all PAGA Employees to yield the “PAGA Workweek Value,” and multiply each PAGA Employee’s individual PAGA Workweeks by the PAGA Workweek Value to yield his or her Individual PAGA Payment.¹⁵

Class Members had sixty (60) calendar days after the Settlement Administrator mails the Class Notice to Class Members to dispute the number of Workweeks credited to each of them, opt out of the Class Settlement, and/or object to the Class Settlement (“Response Deadline”).¹⁶ The Response Deadline was August 5, 2024, which was then extended by fifteen (15) calendar days, to August 20, 2024, for Class Members who were re-mailed the Class Notice.¹⁷ The Settlement Administrator has received zero (0) written requests for exclusion from the Class Settlement (“Request for Exclusion”) and zero (0) written objections to the Class Settlement (“Notice of Objection”) from Class Members.¹⁸

Each Individual Settlement Share will be allocated as follows: twenty percent (20%) wages (the “wages portion”) and eighty percent (80%) interest, penalties, and non-wage damages (the “non-wages portion”).¹⁹ The Wage Portion will be reported on an IRS Form W-2 and the

¹² Settlement Agreement, ¶ 10.s.

¹³ *Id.*, ¶ 18.b.

¹⁴ *Id.*, ¶ 10.q.

¹⁵ *Id.*, ¶ 19.b.

¹⁶ *Id.*, ¶ 10.ii.

¹⁷ Atticus Decl., ¶¶ 9-10.

¹⁸ *Ibid.*

¹⁹ Settlement Agreement, ¶ 29.

1 Non-Wage Portion will be reported on an IRS Form 1099 (if applicable) by the Settlement
2 Administrator.²⁰ The Individual PAGA Payments will be allocated as one hundred percent
3 (100%) penalties, will not be subject to taxes or withholdings, and will be reported on an IRS
4 Form-1099, if necessary.²¹ The Settlement Administrator will withhold the employee's share of
5 taxes and withholdings with respect to the wages portion of the Individual Settlement Share, and
6 issue checks to Settlement Class Members for their Individual Settlement Payments (i.e.,
7 payment of their Individual Settlement Share net of these taxes and withholdings).²² The
8 Settlement Administrator will not undertake any withholding with respect to the Non-Wage
9 Portion of Individual Settlement Share.²³ Defendant will pay the employer's share of payroll
10 taxes and contributions with respect to the wages portion of Individual Settlement Shares
11 ("Employer Taxes") in addition to the Total Settlement Amount.²⁴

12 The Settlement Administrator shall, within seven (7) calendar days of the funding of the
13 First Installment, distribute one-half (1/2) of the Individual Settlement Payments to Settlement
14 Class Members ("First Class Payment").²⁵ Within seven (7) calendar days of the funding of the
15 Second Installment, the Settlement Administrator shall distribute the remaining one-half (1/2) of
16 the Individual Settlement Payments to Settlement Class Members ("Second Class Payment"),
17 Individual PAGA Payment to PAGA Employees, the Enhancement Payment to Plaintiff, and the
18 LWDA Payment to the LWDA.²⁶ Finally, within seven (7) calendar days of the funding of the
19 Third Installment, the Settlement Administrator shall distribute the Attorneys' Fees and Costs to
20 Class Counsel, and the Settlement Administration Costs to the Settlement Administrator.²⁷

21 Each First Class Payment and Second Class Payment check issued to a Settlement Class
22 Member for their Individual Settlement Payment and/or each Individual PAGA Payment check
23 issued to a PAGA Employee shall be valid for a period of one hundred eighty (180) calendar

24 ²⁰ Settlement Agreement, ¶ 29..

25 ²¹ Ibid.

26 ²² Ibid.

27 ²³ Ibid.

28 ²⁴ *Id.*, ¶ 10.m.

²⁵ *Id.*, ¶ 13.d.i.

²⁶ *Id.*, ¶ 13.d.ii.

²⁷ *Id.*, ¶ 13.d.iii.

days from the date of issuance of the check, and after this time period, the check(s) shall be cancelled.²⁸ The funds associated with checks issued to Settlement Class Members and PAGA Employees that have not been cashed or deposited within the 180-day period shall be transmitted within ten (10) calendar days of the cancelation of each set of checks to Defendant as a *cy pres* recipient pursuant to California Code of Civil Procedure 384.²⁹ Defendant shall hold all funds associated with the above-referenced cancelled checks until the date that is one hundred and eighty (180) calendar days after the issuance of the Second Class Payment, to pay the Settlement Class Members and/or PAGA Employees whose checks were canceled and who come forward to request payment from The People Concern.³⁰ Thereafter, all remaining funds associated with the above-referenced cancelled checks used by Defendant, as *cy pres* funds, for the sole purpose of financing the \$250 per person training fee usually charged to each volunteer by Defendant to administer to volunteers, the domestic violence counselor training program that must be completed per California Evidence Code section 1037.1 in order for said volunteer to participate in Defendant's domestic violence program "Sojourn," to finance Sojourn's legal department's offering referrals, assistance with restraining orders, support navigating the domestic violence-related housing environment, and court accompaniment, among other things, to individuals receiving Defendant's services, and to finance Sojourn's outreach and education department's providing trainings, technical assistance, advocacy events, and educational resources to clients, their families, Sojourn staff, organizational partners, and the community at-large.³¹

IV. THE SETTLEMENT ADMINISTRATION PROCESS

The Court-appointed Settlement Administrator, Atticus, has taken all necessary steps to effectuate the notice and settlement administration process, as set forth in the Court's April 30, 2024 Preliminary Approval Order.

On May 28, 2024, Atticus received a mailing list from Defendant's counsel that contained each Class Members's full name, last known mailing address, Social Security Number,

²⁸ Settlement Agreement, ¶ 24.

²⁹ Ibid.

³⁰ Ibid.

³¹ Ibid.

1 start and end dates worked for Defendant during the Class Period and during the PAGA Period,
2 and such other information as is necessary for the Settlement Administrator to calculate
3 Workweeks and PAGA Workweeks (“Class List”).³²

4 The Class List contained information for one thousand three hundred five (1,305)
5 individuals identified as Class Members.³³ Atticus processed the names and addresses through
6 the National Change of Address Database (“NCOA”) and updated the Class List with any
7 updated addresses located.³⁴

8 On June 4, 2024, Atticus mailed the Class Notice via U.S. first class mail to one thousand
9 three hundred five (1,305) individuals identified as Class Members in the Class List.³⁵

10 Six (6) Class Notices were returned with a forwarding address.³⁶ Atticus performed a
11 skip-trace search on one hundred forty (140) Class Notices that were returned to Atticus without
12 forwarding addresses, located an updated address for one hundred thirty-one (131) Class
13 Members, and promptly re-mailed the Class Notice to the updated addresses.³⁷ Ultimately, there
14 are twenty-five (25) Class Notices that remain undeliverable.³⁸

15 The Settlement Administrator has received zero (0) Notice of Objections and zero (0)
16 Request for Exclusion from Class Members.³⁹

17 To date, there are one thousand three hundred five (1,305) Class Members who did not
18 submit a timely and valid Request for Exclusion, and are therefore, deemed to be Settlement
19 Class Members, representing 100% of the class.⁴⁰ Pursuant to the terms of the Settlement, the
20 Net Settlement Amount of approximately \$726,363.03 will be distributed to Settlement Class
21 Members in accordance with the terms of the Settlement.⁴¹ The highest Individual Settlement
22 Payment is currently estimated to be at least \$2,025.96 and the average Individual Settlement

23 ³² Atticus Decl., ¶ 4.

24 ³³ Ibid.

25 ³⁴ *Id.*, ¶ 5.

26 ³⁵ *Id.*, ¶ 6.

27 ³⁶ *Id.*, ¶ 6.

28 ³⁷ Ibid.

³⁸ Ibid.

³⁹ *Id.*, ¶¶ 9-10.

⁴⁰ Ibid; Settlement Agreement ¶ 10.11.

⁴¹ Atticus Decl., ¶ 12; See n.11, *supra*.

1 Payment is currently estimated to be at least \$548.28.⁴² The highest Individual PAGA Payment is
2 currently estimated to be \$124.98, and the average Individual PAGA Payment is currently
3 estimated to be \$63.51.⁴³

4 **V. THE COURT SHOULD GRANT FINAL APPROVAL OF THE CLASS ACTION**
5 **SETTLEMENT.**

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

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

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

20 The proponent of the settlement has the burden to show that it is fair and reasonable.
21 *Wershba, supra*, 91 Cal.App.4th at 245. At the final approval stage, a presumption of fairness
22 exists where, as here: "(1) the settlement is reached through arm's-length bargaining; (2)
23 investigation and discovery are sufficient to allow counsel and the court to act intelligently; (3)
24 counsel is experienced in similar litigation; and (4) the percentage of objectors is small." *Dunk,*
25 *supra*, 48 Cal.App.4th at 1802. In reviewing a class settlement, the court need not reach any
26 ultimate conclusions on the issues of fact and law that underlie the merits of the dispute.

27 ⁴² Atticus Decl., ¶ 14. The actual average and highest Individual Settlement Share will be larger than the amounts
28 stated in the Atticus Declaration because the Net Settlement Amount is larger due to Class Counsel's request for
reimbursement of litigation costs and expenses is less than \$25,000 (the difference between the amount sought and
the amount authorized under the Settlement, \$8,863.03, will be part of the Net Settlement Amount). See n.11,
supra.

⁴³ *Id.*, ¶ 15.

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 case 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. Ibid.

A. **The Settlement Resulted from Arm’s-Length Negotiations Based Upon Extensive Investigation and Discovery.**

Prior to reaching the Settlement, the Parties investigated the veracity, strength, and scope of the claims, and were preparing for class certification and trial prior to reaching the Settlement.⁴⁴ The parties conducted significant investigation and extensive informal discovery regarding the facts of the case, exchanging a large volume of information, documents, and data obtained from Former Plaintiff Bostic, Plaintiff, Defendant, and other sources.⁴⁵ The volume of information, documents, and data reviewed and analyzed by Class Counsel included, and were not limited to: Plaintiff Socorro Gamboa and Former Plaintiff Shannon Bostic’s employment records, a detailed sampling of Former Plaintiff Bostic’s, Plaintiff’s, Class Members’, and PAGA Employees’ timekeeping and payroll records, multiple iterations of Defendant’s Employee Handbook and wage and hour policies, earning statements, company policy acknowledgements (including, but not limited to, Defendant’s Acknowledgment of Receipt of Handbook), forms, new hire checklist, Defendant’s operations and employment practices, forms, procedures, and policies (including, not limited to, Defendant’s policies regarding Workweek, Work Day, and Work Schedule, Meal and Rest Periods, Dress Code, Compensation,

⁴⁴ Declaration of Brian J. St. John (“St. John Decl.”), ¶ 6.

⁴⁵ Ibid.

Overtime Pay, Payroll, Paychecks, and Deductions, and Expenses and Vehicle Use), among other information and documents.⁴⁶ Class Counsel also developed damages, violation, and penalties valuation models in connection with the mediation sessions and settlement negotiations, and met and conferred with Defendant's counsel on numerous occasions, e.g., to discuss issues relating to the pleadings, case management, informal discovery, mediation, and production of documents and data in the course of litigation and the mediation sessions and settlement negotiations.⁴⁷ Class Counsel also engaged in case strategy and analysis, drafted the pleadings, mediation briefs, and settlement-related papers, and prepared for and attended court proceedings and the mediation sessions and settlement negotiations, among other tasks.⁴⁸

After conducting significant informal discovery and investigation into the facts of the case, the Parties participated in a formal, full-day mediation, and a follow-up mediation session, conducted by Lynn Frank, Esq., a well-regarded mediator experienced in mediating complex labor and employment matters.⁴⁹ Prior to and during the mediation sessions and settlement negotiations, the Parties exchanged information, data, and documents, and discussed various aspects of the case, including and not limited to, the risks and delays of further litigation, the risks and expenses to the Parties of proceeding with class certification, representative adjudication, and trial; the law relating to class certification, manageability, off-the-clock theory, meal and rest periods, expense reimbursements, recordkeeping and wage statement requirements, representative PAGA claims and penalties, and wage-and-hour law and enforcement; Defendant's financial condition; the evidence produced and analyzed; and the possibility of appeals, among other things.⁵⁰ During all settlement discussions, the parties conducted their negotiations at arm's length in an adversarial position.⁵¹ Arriving at a settlement that was acceptable to the parties was not easy.⁵² Defendant and its counsel felt very strongly about

⁴⁶ St. John Decl., ¶ 6.

⁴⁷ Ibid.

⁴⁸ Ibid.

⁴⁹ *Id.*, ¶ 8.

⁵⁰ Ibid.

⁵¹ Ibid.

⁵² Ibid.

1 Defendant's ability to prevail on the merits and to avoid class certification and representative
2 adjudication.⁵³ Meanwhile, Plaintiff and Class Counsel disagreed with these contentions and
3 believed that they would be able to obtain class certification and prevail at trial.⁵⁴ After
4 conducting significant informal discovery and investigations, extensive settlement negotiations,
5 and with the aid of the mediator's evaluation, the parties agreed that the matter was well-suited
6 for settlement given the legal issues relating to Plaintiff's principal claims, as well as the costs
7 and risks to the parties that would attend further litigation.⁵⁵

8 The Settlement takes into account the strengths and weaknesses of each side's position
9 and the uncertainty of how the case might have concluded at certification, trial, and/or appeals.
10 Class Counsel also reviewed and analyzed documents obtained from Defendant, Plaintiff, and
11 other sources, and performed significant research into the applicable law, which is constantly
12 evolving as it relates to class certification, representative adjudication, and trial; the law relating
13 to class certification, manageability, off-the-clock theory, meal and rest periods, expense
14 reimbursements, recordkeeping and wage statement requirements, representative PAGA claims
15 and penalties, and wage-and-hour law and enforcement, Plaintiff's claims and damages, and
16 Defendant's defenses, as well as facts discovered.⁵⁶ The Settlement was based on this large
17 volume of facts, evidence, and investigation.⁵⁷ Additionally, Class Counsel has extensive
18 experience in handling complex wage-and-hour cases, including significant experience in
19 employment class action litigation.⁵⁸

20 **B. The Risks Inherent in Continued Litigation Favor Final Approval of the**
21 **Settlement.**

22 The Settlement, which provides for a Total Settlement Amount of \$1,500,000.00,
23 represents a fair, adequate, and reasonable resolution of the case, given the risks inherent in
24

25 ⁵³ St. John Decl., ¶ 8.

26 ⁵⁴ Ibid.

26 ⁵⁵ Ibid.

27 ⁵⁶ *Id.*, ¶ 7.

27 ⁵⁷ *Id.*, ¶¶ 6 & 8.

28 ⁵⁸ *Id.*, ¶¶ 15-17.

1 litigating the claims through certification proceedings, trial, and/or appeals.⁵⁹ The Settlement
2 was calculated using information, data, and documents uncovered through extensive case
3 investigation, informal discovery, and the exchange of information in the context of preparing
4 for the mediation sessions and conducting ongoing settlement negotiations.⁶⁰ Had the action not
5 settled, Defendant would have vigorously challenged class certification, manageability of
6 representative adjudication, and liability. Defendant contended that individualized questions of
7 fact predominate over any common issues, and these issues would pose challenges to
8 certification and representative adjudication. Defendant would have likely argued again at trial,
9 if any, that Plaintiff's claims were not appropriate for class-wide and/or representative
10 adjudication. On the other hand, Defendant also faced the risk of the Court certifying a class and
11 allowing a jury to decide Plaintiff's claims on a class-wide or representative basis. Additionally,
12 preparation for trial would have been expensive for all parties.

13 It is preferable to reach an early resolution of a dispute because such resolutions save
14 time and money that would otherwise go to litigation. If this matter had settled after further
15 litigation, the settlement amount would have taken into account the additional costs incurred, and
16 there might have been less money available for Class Members after all was said and done. This
17 is not just an abstract contention. The risks and expenses of further litigation outweighed any
18 benefit that might have been gained otherwise. The risks of further litigation include a
19 determination that the claims are unsuitable for class treatment and/or representative
20 adjudication, failure to obtain certification, class de-certification after certification of a class,
21 allowing a jury to decide the claims asserted in the case, and the real possibility of no recovery
22 after years of litigation, especially in light of Defendant's financial condition. Additionally, the
23 parties were moving into the phase of the litigation where they would have to conduct a
24 significant amount of discovery, including and not limited to, depositions of Defendant's Person
25 Most Knowledgeable designees, expert witnesses, and percipient witnesses, such as managers,
26 supervisors, and other current and former employees throughout the State of California. Formal

27 ⁵⁹ St. John Decl., ¶¶ 9 & 20.

28 ⁶⁰ *Id.*, ¶¶ 5-8.

discovery, and disputes in connection with formal discovery, would have cost the parties additional time and money. In contrast, the Settlement provides real and significant benefits for the Class, PAGA Employees, and the State of California 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 the members of the Class (consisting of approximately 1,305 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 Total Settlement Amount of \$1,500,000.00, represents a fair, reasonable, and adequate resolution of the case. The Settlement was calculated using information, data, and documents uncovered through extensive case investigation, informal discovery, and the exchange of information in the course of litigation, the mediation sessions, and 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 case, the Total Settlement Amount represents a considerable recovery.

Even after deducting attorneys' fees in the amount of \$500,000.00, litigation costs and expenses in the amount of \$16,136.97, Enhancement Payment in the total amount of \$7,500.00, Settlement Administration Costs in the amount of \$15,000.00, and PAGA Amount in the amount of \$235,000.00 from the Total Settlement Amount of \$1,500,000.00, the Net Settlement Amount is currently estimated to be \$726,363.03.⁶¹ Under the Settlement Agreement, the Total Settlement Amount will be fully paid out without any reversion to Defendant, 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

⁶¹ Atticus Decl., ¶ 12; see n.11, *supra*.

1 credited to them and each PAGA Employee will be paid a *pro rata* share of the 25% share of the
2 PAGA Amount, based on the number of PAGA Workweeks during the PAGA Period credited to
3 them. To date, there are one thousand three hundred five (1,305) Settlement Class Members,
4 representing 100% of the Class.⁶² The highest Individual Settlement Payment to a Settlement
5 Class Member is currently estimated to be \$2,025.96 and the average Individual Settlement
6 Payment is currently estimated to be \$548.28.⁶³ The highest Individual PAGA Payment to a
7 PAGA Employee is current estimated to be \$124.98 and the average Individual PAGA Payment
8 is currently estimated to be \$63.51.⁶⁴ These are significant individual recoveries, particularly in
9 light of the risks of litigation.

10 At the final approval stage, “[a]n allocation formula need only have a reasonable, rational
11 basis [to warrant approval], particularly if recommended by experienced and competent class
12 counsel.” *In re American Bank Note Holographics, Inc., Securities Litigation* (S.D.N.Y. 2001)
13 127 F.Supp.2d 418, 429-30. The *pro rata* allocation here is a fair and reasonable way to
14 distribute the Net Settlement Amount. In light of the above considerations, Class Counsel
15 believes that the Settlement as a whole is fair, reasonable, and adequate, and in the best interest
16 of the Class Members, PAGA Employees, and the State of California.⁶⁵ Although the
17 recommendations of Class Counsel is not conclusive, the Court can properly take the
18 recommendations into account, particularly if Class Counsel appears to be competent, has
19 experience with this type of litigation, and significant discovery and investigation have been
20 completed, as is the case here. Conte & Newberg, *Newberg on Class Actions* (4th Ed., 2002) §
21 11.47. Accordingly, the Court should grant final approval of the Settlement.

22 **D. The Class Was Represented by Competent Counsel.**

23 Class Counsel has extensive experience in employment class action law and complex
24 wage-and-hour litigation.⁶⁶ Lawyers for Justice, PC has been appointed class counsel in
25

26 ⁶² Atticus Decl., ¶¶ 4 & 9-10.

27 ⁶³ *Id.*, ¶ 14; See n.42, *supra*.

28 ⁶⁴ *Id.*, ¶ 15.

⁶⁵ St. John Decl., ¶ 20.

⁶⁶ *Ibid.*

1 numerous complex wage-and-hour cases, and has recovered millions of dollars for individuals in
2 California.⁶⁷ Both parties' counsel were capable of assessing the strengths and weaknesses of the
3 claims against Defendant and the benefits of the Settlement under the circumstances of the case
4 and in the context of a private, consensual settlement agreement.

5 **E. There Are No Objections to the Settlement.**

6 The Settlement has been well received by the Class – *not a single Class Member*
7 *objected to or opted out of the Settlement.*⁶⁸ Specifically, no objections have been made as to
8 the Total Settlement Amount or requested Attorneys' Fees and Costs, Enhancement Payment,
9 Settlement Administration Costs, and allocation for the PAGA Amount. California courts have
10 consistently found that a small number of objectors indicates the class' support for a settlement
11 and strongly favors final approval. *Wershba, supra*, 91 Cal.App.4th at 250-51 (final approval
12 granted despite 20 objectors); *7-Eleven Owners, supra*, 85 Cal.App.4th at 1152-53 (final
13 approval granted despite 9 objectors).

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

18 **VI. THE ATTORNEYS' FEES AWARD REQUESTED BY CLASS COUNSEL IS**
19 **FAIR AND REASONABLE AND SHOULD BE APPROVED.**

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

21 Trial courts have "wide latitude" in assessing the value of attorneys' fees and their
22 decisions will "not be disturbed on appeal absent a manifest abuse of discretion." *Lealao v.*
23 *Beneficial Cal., Inc.* (2000) 82 Cal.App.4th 19, 41; *Ketchum v. Moses* (2001) 24 Cal.4th 1122,
24 1132 (The "experienced trial judge is the best judge of the value of professional services
25 rendered in his court[.]"); *Cellphone Termination Fee Cases* (2009) 180 Cal.App.4th 1110, 1118.
26 Where the amount of a settlement is a "certain easily calculable sum of money," California

27 ⁶⁷ St. John Decl., ¶¶ 15-17.

28 ⁶⁸ Atticus Decl., ¶¶ 9-10.

1 courts may calculate attorneys' fees as a reasonable percentage of the settlement. Weil and
2 Brown, California Practice Guide, Civil Procedure Before Trial, Chapter 14, § 14:145; *see also*
3 *Laffitte v. Robert Half Int'l Inc.* (2016) 1 Cal.5th 480, 503; *Dunk, supra*, 48 Cal.App.4th at 1808.
4 The percentage-of-the-benefit approach is preferred in class and representative actions because
5 "it better approximates the workings of the marketplace than the lodestar approach." *Lealao*,
6 *supra*, 82 Cal.App.4th at 49.

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

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

25 Historically, courts have awarded fees as high as fifty percent (50%) of the settlement,
26 depending on the circumstances of the case. Conte & Newberg, *Newberg on Class Actions* (4th
27 Ed., 2002) § 14.03; *see also In re Ampicillin Antitrust Litig.* (D.D.C. 1981) 526 F.Supp. 494
28 (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 contingency fees in a range, up to 40 percent, in marketplace was appropriate in class actions); *see also Laffitte*, 1 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. Gaulty* (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, 34.⁶⁹ 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

⁶⁹ 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 lodestar cross-check on a percentage fee,” “they also retain the discretion to forgo a lodestar
2 cross-check and use other means to evaluate the reasonableness of a requested percentage fee[.]”
3 and “[t]he percentage [...] method survives in California.” *Id.* (internal quotes omitted).

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

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

19 Under the terms of the Amended Settlement Agreement, Defendant will pay a Total
20 Settlement Amount of \$1,500,000.00 on a non-reversionary basis. The requested attorneys’ fees
21 are one-third (1/3) of the total value of the monetary settlement. In light of Class Counsel’s
22 successful prosecution and resolution of the case, the requested attorneys’ fees are appropriate
23 and reasonable.

24 Compensating class counsel in class litigation on a percentage basis makes good sense
25 because: (1) it is consistent with the private marketplace where contingent fee attorneys are
26 customarily compensated on such a basis; (2) it aligns the interests of class counsel and absent
27 class members in achieving the maximum possible resolution of the case; and (3) it encourages
28 the most efficient and expeditious resolution of the litigation by providing an incentive for early,

1 yet reasonable, settlement. The requested attorneys’ fees in this matter satisfy all of those factors
2 such and should be approved on a percentage basis.

3 The percentage method is consistent with, and is intended to mirror, the practice in the
4 private marketplace where contingent-fee attorneys typically negotiate percentage-fee
5 arrangements with their clients. A named plaintiff’s agreement to pay a contingent fee is
6 powerful evidence of a reasonable fee. One of the best ways to demonstrate the value of
7 counsel’s work to the class is to review the consideration agreed to be paid by the named
8 plaintiff. If the named plaintiff has employed counsel on a contingency-fee basis, it would
9 indeed be inequitable for the members of the class, who will enjoy the benefits of the settlement
10 without incurring the risks of bringing the claim, to pay less than the named plaintiff. In this
11 case, Plaintiff has agreed to a contingency fee agreement of at least one-third (1/3) of the
12 recovery.⁷⁰

13 Furthermore, a percentage-fee award is not dependent on a determination of the actual
14 amount claimed by those entitled—it is the creation of the settlement that is the crucial fact. In
15 *Winslow v. Harold G. Ferguson Corp.*, the California Supreme Court expressly held that “it is
16 equitable that [the attorney’s] compensation and expenses should come from the entire fund
17 saved for all classes concerned before it is distributed.” *Winslow v. Harold G. Ferguson Corp.*
18 (1944) 25 Cal.2d 274, 284. Likewise, *Lealao* expressly held that a percentage-based fee “may be
19 calculated on the basis of the total fund made available rather than the actual payments made to
20 the class.” *Lealao, supra*, 82 Cal.App.4th at 51; *see also Boeing, supra*, 444 U.S. at 478 (“a
21 litigant or a lawyer who recovers” a settlement “for the benefit of persons other than himself or
22 his client is entitled to a reasonable attorneys’ fee from the fund as a whole”).

23 In *Wershba v. Apple Computer, Inc.* (2001) 91 Cal.App.4th 224, in determining
24 reasonable attorneys’ fees, the Court of Appeal valued a settlement based on the total value of
25 the settlement made available to class members by the efforts of counsel, decided in favor of
26

27
28 ⁷⁰ St. John Decl., ¶ 9.

1 granting fees as a percentage of the total value of the settlement, and rejected an objection that
2 the fees be awarded based on the exact amount claimed by class members. *Id.* at 247.

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

8 **C. The Attorneys' Fees Award Requested by Class Counsel Is Reasonable**
9 **Based on the Factors Considered in Determination of Fee Awards.**

10 In *Camden I Condominium Association, Inc. v. Dunkel*, the court identified twelve factors
11 to be considered in determining whether fee awards are reasonable: (1) the time and labor
12 required; (2) the novelty and difficulty of the questions involved; (3) the skill required to perform
13 the legal services properly; (4) the preclusion of other employment by the attorney due to the
14 acceptance of the case; (5) the customary fee; (6) whether the fee is fixed or contingent; (7) time
15 limitation imposed by the client or the circumstances; (8) the amount involved and results
16 obtained; (9) the experience, reputation and ability of the attorney; (10) the undesirability of the
17 case; (11) the nature and length of the professional relationship with the client; and (12) awards
18 in similar cases. *Camden I Condominium Association, Inc. v. Dunkel* (11th Cir. 1991) 946 F.2d
19 768, 772.

20 Each and every one of these factors favors the attorneys' fees sought here; however,
21 some of the most relevant factors to this Court's fee determination will be addressed herein. The
22 award of attorneys' fees in the amount of \$500,000.00 (which is 1/3 of the Total Settlement
23 Amount) is commensurate with the time, effort, and expense dedicated to the case, the
24 contingent nature of Class Counsel's fee and the risks taken in commencing the case, the skill
25 and determination required, the results that Class Counsel has achieved, and the value of the
26 settlement that Class Counsel has obtained for the Class Members.

27 ///

28 ///

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 declaration, Class Counsel has extensive experience in the handling of class actions and complex litigation matters.⁷¹

As outlined in the Declaration of Brian J. St. John, Class Counsel has fully and actively participated in litigation of this matter.⁷² Prior to commencing the lawsuit, Class Counsel had conducted a significant amount of investigation informal discovery into the factual and legal issues, Defendant's business and its operations, and employment policies, practices, and procedures. Class Counsel engaged in the review and analysis of a large volume of information, documents, and data obtained from Defendant, Plaintiff, and other sources.⁷³ Class Counsel also researched applicable law, developed damages, violation, and penalties valuation models, and met and conferred with Defendant's counsel on numerous occasions e.g., to discuss issues relating to the pleadings, case management, informal discovery, the mediation sessions, and production of documents and data in the course of litigation and the mediation sessions and settlement negotiations.⁷⁴ Class Counsel also drafted the pleadings, mediation briefs, and settlement-related papers, and prepared for and attended court proceedings and the mediation sessions and settlement negotiations, among other tasks.⁷⁵

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 Attorney Task and Time Chart, which is attached as "**EXHIBIT A**" to the accompanying Declaration of Brian J. St. John, sets forth in detail the hours that attorneys at Lawyers for Justice, PC have spent performing tasks on behalf of Plaintiff, the Class, the PAGA Employees, and the State of California.⁷⁶ The Attorney Task and Time Chart is thorough and

⁷¹ St. John Decl., ¶¶ 15-17.

⁷² *Id.*, Exh. A.

⁷³ *Ibid.*

⁷⁴ *Ibid.*

⁷⁵ *Ibid.*

⁷⁶ *Ibid.*

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 Task and Time 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. Attorneys at Lawyers for Justice, PC have spent **631.80 hours** performing tasks and to obtain a significant recovery on behalf of Plaintiff, the Class, the PAGA Employees, and the State of California.⁷⁷ 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 the same. Defendant retained well-respected counsel to 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 in connection with during the mediation sessions and settlement negotiations. 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 Brian J. St. John, Class Counsel used its extensive experience in the handling of class actions and complex wage-and-hour litigation cases in order to obtain the Settlement with maximum efficiency.⁷⁸

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

⁷⁷ St. John Decl., ¶ 11.

⁷⁸ *Id.*, ¶¶ 15-17.

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, PAGA Employees, and the State of California 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 extensive settlement negotiations, Defendant agreed to pay a Total Settlement Amount of \$1,500,000.00 to settle the matter. After deducting the attorneys' fees (\$500,000.00), litigation costs and expenses (\$16,136.97), Total Enhancement Payment (\$7,500.00), Settlement Administration Costs (\$15,000.00), and PAGA Amount (\$235,000.00) from the Total Settlement Amount, it is currently estimated that the Net Settlement Amount is approximately \$726,363.03.⁷⁹ The Net Settlement Amount will be fully distributed to in accordance with the terms of the Settlement. The highest Individual Settlement Payment to a Settlement Class Member is currently estimated to be \$2,025.96 and the average Individual Settlement Payment is currently estimated to be \$548.28.⁸⁰ The highest Individual PAGA Payment is currently estimated to be \$124.98, and the average Individual PAGA Payment is currently estimated to be \$63.51.⁸¹ The Settlement offers significant monetary relief to the Settlement Class Members, PAGA Employees, and the State of California.

///

⁷⁹ Atticus Decl., ¶ 12; see n.11, *supra*.

⁸⁰ *Id.*, ¶ 14; see n.42, *supra*.

⁸¹ *Id.*, ¶ 15.

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

2 Plaintiff entered into a contingency fee agreement with Class Counsel, and the
3 representation of the Class provided by Class Counsel has been wholly contingent. Class
4 Counsel took on the case without knowing whether any recovery would be obtained. Class
5 Counsel has invested **631.80 hours** of time to obtain relief on behalf of Plaintiff, the Class, the
6 PAGA Employees, and the State of California.⁸² Class Counsel has also incurred litigation costs
7 and expenses in the amount of \$16,136.97.⁸³

8 Class Counsel has borne all of the risks and costs of litigation and will not receive any
9 compensation until recovery is obtained.⁸⁴ Class Counsel is well-experienced in wage-and-hour
10 class action and complex litigation and used that experience to obtain a great result.⁸⁵ The skill
11 and determination that Class Counsel has shown, along with the results obtained, justify the
12 requested Attorneys' Fees and Costs. Considering the amounts requested, the work performed,
13 and the risks incurred, the requested fees and costs are reasonable and should be awarded.

14 In determining the reasonableness of a fee award in a class action settlement, whether or
15 not representation is provided on a contingency basis is an important factor:

16 A contingent fee must be higher than a fee for the same legal services paid as they
17 are performed. The contingent fee compensates the lawyer not only for the legal
18 services he renders but for the loan of those services. A lawyer who both bears the
19 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.

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

25 ///

26

⁸² St. John Decl., ¶ 11, Exh. A.

27 ⁸³ See Part VII, *infra*.

28 ⁸⁴ St. John Decl., ¶ 19.

⁸⁵ See *id.*, ¶¶ 15-17.

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

2 The results achieved, in light of the difficulties inherent in similar cases and the specific
3 difficulties faced in this matter, are considerable. The Settlement has yielded a positive response
4 from the Class Members—not a single Class Member objected to or opted out of the Class
5 Settlement.⁸⁶

6 The court in *Camden* noted that, “a key element of the common fund case is that fees are
7 [...] taken from the fund [...] and a common fund is itself the measure of success ... [and]
8 represents the benchmark on which a reasonable fee will be awarded.” *Camden*, 946 F. 2d 768,
9 fn. 28 (citing *Court Awarded Attorney Fees, Report of the Third Circuit Task Force* (October 8,
10 1985) 108 F.R.D. 237 and Newberg, *Attorney Fee Awards* § 2.07 (1986)).

11 Here, the results achieved and obtained on behalf of Plaintiff, the Class, the PAGA
12 Employees, and the State of California are reasonable in light of the risks inherent in further
13 litigating this matter. Class Counsel’s efforts have resulted in a settlement that provides for a
14 Total Settlement Amount of \$1,500,000.00.⁸⁷ The Total Settlement Amount will be fully paid
15 out, in accordance with the terms of the Settlement Agreement. The highest Individual
16 Settlement Payment to a Settlement Class Member is currently estimated to be \$2,025.96 and the
17 average Individual Settlement Payment is currently estimated to be \$548.28.⁸⁸ The highest
18 Individual PAGA Payment is currently estimated to be \$124.98, and the average Individual
19 PAGA Payment is currently estimated to be \$63.51.⁸⁹

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

21 Lawyers for Justice, PC is a recognized class action law firm that employed its attorneys’
22 knowledge, skills, and experience in bringing this case to a successful conclusion. Class Counsel
23 has years of complex and class action litigation experience, has recovered millions of dollars on
24
25

26 ⁸⁶ Atticus Decl., ¶¶ 12 & 13.

27 ⁸⁷ St. John Decl., ¶¶ 5-8.

28 ⁸⁸ Atticus Decl., ¶ 14; see n.42, *supra*.

⁸⁹ *Id.*, ¶ 15.

1 behalf of thousands of individuals in California, and has successfully handled numerous
2 significant wage-and-hour class action and complex cases.⁹⁰

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

6 While the percentage-of-the-benefit approach is endorsed as the better approximation of
7 the workings of the marketplace than the lodestar approach, courts may also use the lodestar
8 method to “cross-check” the results of the other. See *Laffitte, supra*, 1 Cal.5th at 505 (explaining
9 that “[a] lodestar cross-check is simply a quantitative method for bringing a measure of the time
10 spent by counsel into the trial court’s reasonableness determination”); see also, e.g., *Vizcaino*,
11 290 F.3d at 1050 (“[W]hile the primary basis of the fee award remains the percentage method,
12 the lodestar may provide a useful perspective on the reasonableness of a given percentage
13 award.”). Importantly, “the lodestar calculation . . . does not override the trial court’s primary
14 determination of the fee as a percentage” of the settlement amount and “does not impose an
15 absolute maximum or minimum on the potential fee award.” *Laffitte, supra*, 1 Cal.5th at 505.

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

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

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

23 As discussed above, the case was highly contested and required a significant amount of
24 time and labor. Defendant made it clear very early on that it disputed all of the allegations of the
25 case and disputed that the matter was appropriate for class or representative treatment.
26 Defendant raised affirmative defenses and denied liability, and the pursuit of this matter involved

27
28 ⁹⁰ St. John Decl., ¶¶ 15-17.

1 gathering and analyzing data from Plaintiff, Defendant, and other sources. The handling of the
2 case involved a great amount of effort, and also required and involved the exercise of a high
3 level of skill, which Class Counsel has as a result of its extensive experience in employment
4 class actions and complex wage-and-hour litigation. Long and difficult battles would have
5 followed as the case moved toward certification and trial, including taking and defending
6 depositions of Defendant's Person Most Knowledgeable designees, percipient witnesses, and
7 experts, propounding discovery requests and conducting additional document production, and
8 engaging in extensive motion practice. As Class Counsel geared up for these battles, Class
9 Counsel undertook intense preparation in an attempt to resolve the entire matter through
10 mediation.

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

15 As discussed above in Part VI.C.1, *infra*, attached to the Declaration of Brian J. St. John
16 is a task and time chart that sets forth in detail the numerous tasks that attorneys at Lawyers for
17 Justice PC performed on behalf of Plaintiff, the Class, the PAGA Employees, and the State of
18 California and the time required for completing those tasks.⁹¹ The chart demonstrates that
19 attorneys at Lawyers for Justice PC have spent a total of **631.80 hours** litigating the case and
20 finalizing the Settlement.⁹² In light of the facts and circumstances of the case, as well as the
21 results that Class Counsel has achieved on behalf of Plaintiff, the Class, the PAGA Employees,
22 and the State of California, Class Counsel has spent a reasonable number of hours on this matter.
23 In addition, Class Counsel will continue to perform work on this matter through the date of final
24 approval and in connection with the implementation of the Settlement.

25 ///

26 ///

27 ⁹¹ See St. John Decl., Exh. A.

28 ⁹² *Id.*, ¶ 11.

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 case, prior to its commencement and all the way up to the present, and Class Counsel's dedication to providing representation in this case 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 \$1,500,000.00.

As set forth in the Declaration of Brian J. St. John, the work performed in this matter, the background of Lawyers for Justice, PC, as well as the individual backgrounds, training, and experience of the attorneys who worked on this matter, support a reasonable hourly rate of compensation of at least \$850 per hour for services provided by Class Counsel.⁹³ Lawyers for Justice, PC has been awarded attorneys' fees, compensating the firm at the rate of at least \$850 per hour for legal service performed, by courts of this state.⁹⁴ While the circumstances of every case is 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 blended hourly rate of \$850 per hour to 631.80 hours would place a reasonable value of \$537,030.00 as Class Counsel's base lodestar, for the work performed in this matter. Taking into consideration the attorneys who performed work in this matter, and their hours and hourly rates, results in a reasonable value of \$537,030.00 as Class Counsel's base

⁹³ St. John Decl., ¶ 12.

⁹⁴ *Ibid.*

1 lodestar for the work performed in this matter. However, Class Counsel only seeks attorneys’
2 fees in the amount of \$500,000.00, which is one-third (1/3) of the total recovery, as provided for
3 by the Settlement Agreement.

4 It also bears noting that a court may apply a multiplier in consideration for risk,
5 efficiency, and/or obtaining a substantial result, to enhance the lodestar for purpose of cross-
6 check. See *Ketchum*, 24 Cal.4th at 1133-34 (holding that a risk multiplier may be applied to
7 compensate contingency fee attorneys at a fair market rate). Such an enhancement “mirrors the
8 established practice in the private legal market of rewarding attorneys for taking the risk of
9 nonpayment by paying them a premium over their normal hourly rates for winning contingency
10 cases.” *Vizcaino*, 290 F.3d at 1051; accord *Ketchum*, *supra*, 24 Cal.4th 1122, 1132-34. A risk
11 multiplier also serves to bring the financial incentives for enforcing important rights “into line
12 with incentives [attorneys] have to undertake claims for which they are paid on a fee-for-services
13 basis.” *Ketchum*, 24 Cal.4th at 1132. Courts have also approved fee awards with multipliers of 2
14 and even higher. See, e.g., *City of Oakland v. Oakland Raiders* (1988) 203 Cal.App.3d 78
15 (affirming a 2.34 multiplier without remand); *Wershba*, *supra*, 91 Cal.App.4th at 255
16 (“Multipliers can range from 2 to 4 or even higher.”); *Sutter Health Uninsured Pricing Cases*
17 (2009) 171 Cal.App.4th 495, 512 (applying a 2.52 multiplier on a lodestar cross-check); *Chavez*,
18 *supra*, 162 Cal.App.4th at 66 (applying a 2.5 multiplier in a consumer class action).

19 The lodestar method as a cross-check to the percentage figure sought strongly supports
20 the reasonableness of the requested attorneys’ fees. Accordingly, Plaintiff respectfully requests
21 that the Court grant final approval of, and award, attorneys’ fees in the amount of \$500,000.00 to
22 Class Counsel.

23 ///

24 ///

25 ///

26 ///

27 ///

28 ///

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. However, Class Counsel only seeks reimbursement of \$16,136.97 in litigation costs and expenses incurred in this matter.⁹⁵ This amount was reasonable and necessary in the prosecution of the case and to obtain the Settlement, and is less than the maximum amount allocated under the Settlement Agreement.⁹⁶ The cost savings of \$8,863.03 will be part of the Net Settlement Amount, which will be distributed to Settlement Class Members in accordance with the Settlement.⁹⁷ Accordingly, Plaintiff requests that the Court award litigation costs and expenses in the amount of \$16,136.97 to Class Counsel.

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

As set forth in the accompanying Atticus Declaration, the total costs incurred and to be incurred by Atticus for the notice and settlement administration process are \$15,000.00.⁹⁸ The costs incurred and to be incurred include, but are not limited to, expenses for formatting, printing, translating, and mailing the Class Notice to the Class Members in both English and Spanish; performing skip-trace searches on Class Notices returned as undeliverable; re-mailing the Class Notices to any updated addresses located by skip-trace search; receiving, reviewing, and processing Request for Exclusion, Notice of Objection, and Workweek Dispute (if any); handling inquiries from Class Members regarding the Settlement; calculating Individual Settlement Shares and Individual PAGA Payment and preparing the associated tax forms; and transmitting payments, among other things.⁹⁹

Accordingly, the Court should grant final approval of payment to Atticus, a necessary third-party for handling of the notice and settlement process, in the amount of \$15,000.00.

⁹⁵ St. John Decl., ¶ 19 and Exh. B.

⁹⁶ Ibid.

⁹⁷ Ibid.

⁹⁸ Atticus Decl., ¶ 17.

⁹⁹ *Id.*, ¶¶ 4-7.

IX. THE REQUESTED SERVICE PAYMENT IS FAIR AND REASONABLE, AND SHOULD BE APPROVED.

The Settlement provides for a Enhancement Payment in the amount of \$7,500.00 to Plaintiff Socorro Gamboa to compensate Plaintiff for the time and effort that she expended on behalf of the Class, PAGA Employees, and the State of California. The requested Enhancement Payment is both common and reasonable and should be awarded.

In determining whether to make an Enhancement Payment, 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 Payment 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 necessary to attempt to prove the allegations.¹⁰⁰ Plaintiff was available whenever Class Counsel needed her and actively tried to obtain, and gave, information to support the pursuit of the claims.¹⁰¹ Plaintiff spent numerous hours speaking with Class Counsel about her claims, describing her work experiences with Defendant, and gathering and reviewing documents.¹⁰² These services merit the requested Enhancement Payment to Plaintiff, who has not received any compensation for her efforts on behalf of the Class Members to date.¹⁰³

The requested Enhancement Payment was fully disclosed in the Class Notice that was mailed to the Class Members. No objections were made with regards to the requested Service Payment. Accordingly, it is appropriate and just for Plaintiff Socorro Gamboa to receive

¹⁰⁰ St. John Decl., ¶ 20; Declaration of Socorro Gamboa (“Gamboa Decl.”), ¶¶ 3-5.

¹⁰¹ Ibid.

¹⁰² Ibid.

¹⁰³ Gamboa Decl., ¶ 8.

\$7,500.00 as a reasonable Enhancement Payment for her services on behalf of the Class, PAGA Employees, and the State of California, in addition to her Individual Settlement Payment.

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 Payment, Settlement Administration Costs, and allocation for the PAGA Amount, in their entirety, as sought herein; and permit the filing of a memorandum that exceeds the page limit.

Dated: September 9, 2024

LAWYERS for JUSTICE, PC

By: _____



Brian J. St. John
Attorneys for Plaintiff and the Class