

1 JAMIE K. SERB (SBN 289601)
jamie@crosnerlegal.com
2 NIKKI TRENNER (SBN 3160070)
nikki@crosnerlegal.com
3 ZACHARY M. CROSNER (SBN 272295)
zach@crosnerlegal.com
4 **CROSNER LEGAL, PC**
9440 Santa Monica Blvd., Ste. 301
5 Beverly Hills, CA 90210
Tel: (866) 276-7637
6 Fax: (310) 510-6429

7 Attorneys for Plaintiff
MARIA GUADALUPE HERNANDEZ
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10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
11 **FOR THE COUNTY OF ALAMEDA**

12 MARIA GUADALUPE HERNANDEZ, on
13 behalf of the State of California, and others
similarly situated,

14 Plaintiff,

15 vs.

16 YZER, LLC, a Florida limited liability
company; PEOPLEASE LLC, a South
17 Carolina limited liability company; and DOES
1-100, inclusive,

18 Defendant.
19
20
21
22

Case No. 23CV025345

Assigned For All Purposes To:
Hon. Michael Markman
Dept. 23

MEMORANDUM OF POINTS &
AUTHORITIES IN SUPPORT OF MOTION
FOR FINAL APPROVAL OF CLASS ACTION
SETTLEMENT AND REQUEST FOR
ATTORNEY'S FEES AND COSTS

Date: February 20, 2024
Time: 9:00 a.m.
Dept.: 23

Reservation ID: A-25345-001

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1 **I. INTRODUCTION**

2 Plaintiff and Class Representative Maria Guadalupe Hernandez seeks final approval of a
3 non-reversionary class action settlement resolving wage and hour claims on behalf of 562 current
4 and former non-exempt individuals who worked for Defendant YZER, LLC (“YZER”) in
5 California at any time within the Class Period of July 26, 2021 to April 17, 2024, and current and
6 former non-exempt individuals who worked for YZER and who were issued wage statements by
7 Defendant Peoplease, LLC (“Peoplease,” and together with YZER the “Defendants”) in
8 California at any time during the Class Period. The proposed \$1,096,542 total settlement (after
9 application of the Settlement’s escalator clause) provides about \$691,137 in cash payments to the
10 Class, with an average award of about \$1,230, plus additional amounts payable under PAGA.
11 The remaining balance will cover a modest service award to Plaintiff, settlement administration
12 costs, civil penalties to the state, and reasonable attorney’s fees and costs. The parties and their
13 counsel finalized the settlement after extensive and difficult arms-length negotiations overseen by
14 an experienced and highly-regarded mediator. The Court conditionally certified the Class and
15 preliminarily approved the settlement on October 8, 2024. Since then, the Court-approved notice
16 form was mailed to the Class Members on December 10, 2024, and they have reacted very
17 favorably to the settlement. As of the filing of this motion, there are no objections and only one
18 Class Member has requested exclusion.

19 Class Counsel secured an excellent settlement with Defendants after extensive
20 investigation, litigation, and settlement negotiation and administration, all without any
21 compensation for services rendered or costs expended. The class notice duly informed
22 the class members that Class Counsel would request attorney’s fees not to exceed one-
23 third of the Gross Settlement Amount, or \$333,333.33, along with reimbursement of no
24 more than \$20,000 for actual costs incurred litigating this matter. As of the filing of this
25 motion, *not one Class Member objected* to the proposed fee award. Consistent with the
26 Settlement and notice, Plaintiff now respectfully requests the Court award Class
27 Counsel's fees in the amount of \$333,333.33 and costs in the amount of \$13,571.70, as
28 described in the Declaration of Nikki Trenner (“Trenner Decl.”) filed herewith. The

1 requested attorney's fees are well within the range of reasonableness, especially
2 considering the complex and risky nature of this litigation, the contingent risk assumed,
3 the nearly two-plus year delay in payment and, when subjected to a lodestar crosscheck,
4 result in a base lodestar that is larger than the fees requested on a percentage of the
5 recovery basis.

6 Accordingly, on behalf of herself and the Settlement Class, Plaintiff respectfully
7 requests the Court grant this motion, give full and final approval to the settlement, grant
8 Class Counsel's request for attorney's fees and costs, and enter judgment accordingly.

9 **II. FACTUAL BACKGROUND AND PROCEDURAL POSTURE**

10 YZER is a logistics company that employs couriers for delivery of medical,
11 pharmaceutical, office, and auto-part supplies, as well as home deliveries. YZER has multiple
12 locations in California, including Bakersfield, Commerce, Carpinteria, Fresno, Ontario, Rancho
13 Cucamonga, Rancho Mirage, Sacramento, Salida, San Diego, San Francisco, Santa Fe Springs,
14 Union City, Ventura, and Yorba Linda. Defendant Peoplease provides payroll and human
15 resource services to YZER. [Trenner Decl., ¶ 2.]

16 Plaintiff Maria Hernandez worked for Defendants as a courier out of YZER's Santa Fe
17 Springs location, delivering pharmaceuticals and supplies to pharmacies and hospitals. She was
18 employed from July 2021 to August 2022. During her employment with Defendants, Plaintiff
19 contends Defendants did not pay all wages due, and essentially paid employees for 40 hours of
20 work each week regardless of the actual hours worked. She further alleges Defendants failed to
21 provide her and the class members with compliant meal periods or rest breaks and failed to
22 maintain any written meal period or rest break policy. Finally, she alleges employees had to use
23 their own cell phones for work purposes without reimbursement. [Trenner Decl., ¶ 3.]

24 Based on these allegations, on January 9, 2023, Plaintiff filed a class action lawsuit against
25 Defendants in Alameda County, alleging claims for: (1) failure to pay all wages due, including
26 minimum and overtime wages (2) failure to provide all required meal and rest breaks or
27 compensation in lieu thereof; (3) failure to reimburse business expenses; (4) failure to provide
28 accurate, itemized wage statements; (5) failure to pay all wages due upon termination of

1 employment, and (6) unfair competition. Plaintiff also alleged claims for unfair competition
2 premised on the same Labor Code violations. After notice to the LWDA and Defendants and after
3 exhausting her administrative remedies, on March 27, 2023, Plaintiff filed a separate PAGA lawsuit
4 in Alameda County. Plaintiff based her PAGA-only complaint on the same Labor Code violations
5 alleged in the class complaint. On May 23, 2023, Plaintiff amended her class action lawsuit to
6 include her PAGA claims and dismissed the separately filed PAGA action without prejudice.

7 [Trenner Decl., ¶ 4.]

8 Defendants have at all times denied Plaintiff's allegations and maintained their meal and
9 rest break and payroll policies and procedures comply with California law, that they paid the class
10 member all wages due, and provided them with required meal and rest breaks. Defendant also
11 contends there would be no need for any class member to use their own phone on company
12 business and therefore no reimbursement is owed. Additionally, Defendants strongly contend the
13 case cannot be maintained as a class action, arguing for example that to the extent class members
14 missed meal and/or rest breaks, or that such breaks were non-compliant, it was intermittent and
15 infrequent and evidence of such missed breaks would be anecdotal, and therefore individualized
16 issues would predominate. [Trenner Decl., ¶ 5.]

17 After Plaintiff filed her complaint, the Parties met and conferred on discovery, potential
18 law and motion, and other case management issues, and ultimately agreed to attempt early
19 mediation. The Parties also engaged in extensive informal discovery to facilitate an exchange of
20 information necessary to engage in a meaningful mediation. The Parties then engaged Michael
21 Young, Esq., a highly respected mediator with extensive wage and hour class action experience
22 and, in January 2024, participated in a full day mediation with Mr. Young. By the end of the day,
23 the Parties were able to reach agreement on all major issues. [Trenner Decl., ¶¶ 6-7.] The Court
24 granted preliminary approval to the settlement on October 8, 2024.

25 Class Notices were mailed to class members on December 10, 2024, with a 60-day
26 window (to February 8, 2025) for class members to opt out or object to the proposed
27 settlement. [Declaration of Bryn Bridley ("Bridley Decl."), ¶¶ 6, 10-12.]

28 /////

1 **III. THE PROPOSED SETTLEMENT TERMS**

2 Under the settlement, YZER will pay an escalated \$1,096,542 into a common fund, the
3 Gross Settlement Amount (“GSA”). [Bridley Decl., ¶ 4.] Attorney’s fees of up to \$333,333.33
4 (33.3% of the initial GSA, and 30.4% of the escalated GSA), litigation costs of up to \$20,000
5 (only \$13,571.70 is requested), settlement administration costs of \$13,500, a service award to
6 Plaintiff of no more than \$10,000, and \$35,000 for alleged PAGA civil penalties, all will be
7 deducted from the GSA. The balance of around \$691,137 will be allocated pro rata to the Class
8 Members based on their weeks worked during the Class Period. No portion of the GSA will revert
9 to Defendants. [Trenner Decl., ¶ 8.]

10 **A. Certification of the Settlement Class**

11 The Court conditionally certified a settlement class including all current and former non-
12 exempt individuals who worked for YZER in California at any time within Class Period of July
13 26, 2021 to April 17, 2024,¹ and all current and former non-exempt individuals who worked for
14 YZER and who were issued wage statements by Peoplease in California at any time during the
15 Class Period. The Settlement Administrator ultimately mailed class notices to 561 individuals
16 identified as members of the Class and for whom addresses were available. [Bridley Decl.,
17 ¶ 6.] Nothing has changed to require reconsideration of the Court’s certification of the
18 Settlement Class.

19 **B. The Benefit Conferred on the Settlement Class**

20 As noted, after application of the escalator clause, the settlement obligates Defendants to
21 pay \$1,096,542 to resolve the Settlement Class’s claims, inclusive of attorney’s fees and costs.
22 At least \$691,137 from the GSA will be distributed to the Participating Class Members. This is a
23 cash settlement that does not require Participating Class Members to submit a claim form to
24 receive their settlement share. Participating Class Members will receive their settlement checks
25 automatically via First Class U.S. Mail. Thirty three point three percent (33.3%) of each
26 settlement share will be allocated to wages and the remaining 66.7% will be allocated to
27

28 ¹ The Class Period begins on July 26, 2021, which is the date YZER began operating in California.

1 expenses, penalties and interest, which allocation is consistent with Defendants' potential
2 liability. Defendants will pay any and all applicable employer-side payroll taxes separately and in
3 addition to the GSA. Subject to the Court's approval, any amounts not claimed (because a class
4 member does not cash their settlement check) will be forwarded to the State Controller's
5 Unclaimed Property Fund. [Trenner Decl., ¶ 9.]

6 Each Participating Class Member will receive a share of the Net Settlement Amount based
7 on his or her total weeks worked in California as a Defendants during the Class Period while
8 employed in one of the specified positions. Thus, each Class Member's Individual Settlement
9 Payment will be calculated using criteria typically used in determining appropriate amounts of
10 unpaid wages, unpaid premium wages for missed meal and rest breaks, unreimbursed expenses,
11 and potential statutory penalties under applicable law. These methods are intended to ensure each
12 Class Member receives a settlement award corresponding to the relative value of their potential
13 claims. The proposed allocation provides a reasonable way to compensate Class Members based
14 on the amount of time they worked for Defendants in California and the amount unpaid overtime,
15 the number of missed meal breaks and/or rest breaks, etc. [Trenner Decl., ¶ 10.]

16 The average class award will be approximately \$1,230, and class awards will range from
17 about \$25 to over \$3,400. The average PAGA award will be about \$18. [Bridley Decl., ¶¶ 13-
18 15.]

19 **C. Settlement Administration**

20 Atticus Class Action Administration, as the Court-approved Settlement Administrator,
21 mailed the Notice Packet to the Class members after making all reasonable effort to ascertain
22 the best mailing address, including running each address through the National Change of
23 Address database and "skip-tracing" any Notice Packets returned as undeliverable. [Bridley
24 Decl., ¶¶ 4-7.] The Class Notice, previously approved by the Court, duly informed Class
25 Members of the settlement terms, including the estimated relief each Class Member will
26 receive, the amounts to be requested for attorney's fees and the class representative
27 enhancement awards, and the right to opt out of or object to the settlement. [Bridley Decl.,
28 ¶ 6, Exh. A.] Atticus mailed 561 Notice Packets on December 10, 2024. [Bridley Decl., ¶ 6.]

1 Ultimately, only five Notice Packets were deemed undeliverable, representing a 99.1%
2 success rate. [Bridley Decl., ¶ 7.] The 60-day response window for objecting to the
3 settlement will expire on February 8, 2025. [Bridley Decl., ¶¶ 10-12.] As of the filing of this
4 motion, Atticus has received one request for exclusion (for a 99.8% participation rate), and
5 zero objections to the settlement. No disputes have been submitted regarding the information
6 used to calculate class member settlement shares. [Bridley Decl., ¶¶ 10-12.] Once the notice
7 period expires, Atticus will submit a supplemental declaration to update the Court prior to
8 the hearing.

9 **D. Release of Claims**

10 All Participating Class Members will release Defendants from all claims alleged in the
11 operative complaint, or that could have been brought based on the factual allegations in the
12 operative complaint during the Class Period. The LWDA likewise will release all alleged claims
13 under PAGA alleged in the operative complaint, or that could have been brought based on the
14 factual allegations in the operative complaint during the PAGA Period. [Trenner Decl., ¶ 11.]

15 **E. PAGA Claims**

16 As noted, the Parties allocated \$35,000 to payment of alleged civil penalties under PAGA,
17 which amount Plaintiff submits is fair, reasonable, and adequate, and furthers PAGA's underlying
18 purposes. As required by Labor Code section 2699(l)(2), Plaintiff gave notice of the settlement
19 and the approval hearing to the LWDA via its online portal. [Trenner Decl., ¶ 12; Exh. 1.]

20 **IV. ARGUMENT**

21 **A. Standard of Review for a Class Action Settlement**

22 The law favors settlement, particularly in class actions where substantial resources
23 can be conserved by avoiding the time, cost, and rigors of formal litigation. H. Newberg &
24 A. Conte, 4 Newberg on Class Actions (4th ed. 2002), § 11.41; Class Plaintiffs v. City of
25 Seattle (9th Cir. 1992) 955 F.2d 1268, 1276, cert. denied, 506 U.S. 953; Van Bronkhorst v.
26 Safeco Corp. (9th Cir. 1976) 529 F.2d 943,950; Potter v. Pacific Coast Lumber Co. (1951) 37
27 Cal.2d 592, 602. Nevertheless, to make certain the rights of absent parties are not unjustly
28 compromised, the settlement of a class action requires court approval. Cal. Rule of Court

1 3.769; Dunk v. McCoy Motor Co. (1996) 48 Cal.App.4th 1794, 1801; Wershba v. Apple
2 Computer (2001) 91 Cal.App.4th 224, 245. The purpose of that judicial review is to protect
3 against fraud or collusion, and to ensure fairness to absent class members. Dunk, 48
4 Cal.App.4th at 1800-01; Newberg, at §§ 11.22, *et seq.* Review is accomplished through a
5 two-step process intended to determine whether, under the totality of circumstances, the
6 settlement is fair, reasonable and adequate. Dunk, 48 Cal.App.4th at 1801; Wershba, 91
7 Cal.App.4th at 245.

8 On a motion for final approval, the trial court is charged with determining whether, in
9 light of the total circumstances of the action and the response of the class members to the
10 proposed settlement, the settlement is fair, reasonable, and adequate. Dunk, 48 Cal.App.4th at
11 1801-02; Wershba, 91 Cal.App.4th at 244-45. The court has broad discretion in making that
12 determination and may consider a number of relevant factors, including: the strength of
13 plaintiff's case; the likelihood of potential recovery; the risk, expense and likely duration of
14 further litigation; the amount offered in settlement; the extent of discovery and stage of the
15 proceedings; the experience and opinion of counsel; and the reaction of class members to the
16 settlement. Id. In light of the strong judicial policy favoring the settlement of class actions,
17 courts generally apply a presumption of fairness to a proposed class action settlement when:
18 (1) the settlement is reached through arm's-length bargaining; (2) investigation and
19 discovery are sufficient to allow counsel and the court to act intelligently; (3) counsel is
20 experienced in similar litigation; and (4) the percentage of objectors is small. Dunk, 48
21 Cal.App.4th at 1802; Wershba, 91 Cal.App.4th at 245.

22 **B. The Proposed Settlement Merits Final Approval**

23 The proposed settlement of this action warrants final approval under the standards
24 summarized above. The settlement is fair, reasonable and adequate, and represents a
25 favorable resolution of highly disputed claims. Further, the settlement thus far has been
26 overwhelmingly approved by the class members, as there are no objections and no Class
27 Member requested exclusion.
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1. The Settlement Is the Product of Arm's-Length, Informed Negotiations

The settlement is not the result of fraud or collusion. Rather, the proposed settlement was reached following arm's-length negotiations presided over by Michael Young, Esq., a highly respected and well-known mediator with extensive experience mediating wage and hour class actions. [Trenner Decl., ¶ 7.] Moreover, Plaintiff and her counsel were well-informed about the facts and the law, and counsel Zachary Crosner, Jamie Serb, and Nikki Trenner have years of litigation experience, including litigating wage and hour class actions. Plaintiff's counsel are well-qualified to evaluate the risks and benefits of pursuing further litigation or settling the matter. [Trenner Decl., ¶¶ 26-31.] Defendants likewise were represented by highly-qualified and experienced defense counsel. Both sides advocated vigorously for their clients, and nothing was "left on the table."

2. The Class Reacted Favorably to the Settlement

The settlement was well-received by the class. As of the filing of this motion, no objections have been filed, and only one Class Member has requested exclusion out of 562 settlement class members. [Bridley Decl., ¶¶ 10-11.] As many courts recognize, class member reaction to the settlement is one of the most important factors to consider in determining if final approval should be granted. Mandujano v. Basic Vegetable Prods., Inc., 541 F.2d 832, 837 (9th Cir. 1976); see also In re: American Bank Note Holographics, 127 F.Supp.2d 418, 425 (S.D.N.Y. 2001) ("It is well-settled that the reaction of the class to the settlement is perhaps the most significant factor to be weighed in considering its adequacy") (internal quotation marks omitted).

3. The Proposed Settlement Meets the Dunk and Kullar Factors and is within the Range of Reasonableness

The proposed settlement involves a substantial sum of money that, when distributed, will confer meaningful monetary benefits on the Class members. As described above, each individual award will be based on an allocation consistent with the nature of the claims asserted and will fairly and equitably allocate the available funds in relation to the degree of damage each Class member incurred. While Class members who worked for only a short

1 period of time will receive relatively small sums, those with longer tenures and who worked
2 more hours and shifts, and earned more compensation throughout the class period, will
3 receive appropriately larger awards.

4 Prior to the mediations, the parties engaged in both formal and informal discovery to
5 facilitate settlement discussions. Plaintiff reviewed documents and information regarding
6 Defendants' payroll practices, a random sampling of pay stubs and time records from class
7 members, a class list, applicable compensation plans and expense reimbursement plans, meal and
8 rest break policies, arbitration agreements, etc., and information from Defendant regarding class
9 size and breakdown, work weeks/pay periods, rates of pay, and other information used to
10 formulate a damages model. Plaintiff then had that information analyzed by a consulting expert to
11 assist in determining potential violation rates and other data used to formulate a damages model.
12 Plaintiff's counsel are confident they obtained sufficient information to understand the law and
13 facts of this case and make an informed decision regarding the proposed settlement and whether it
14 is fair and reasonable. [Trenner Decl., ¶¶ 6, 13.]

15 Using this data, we estimated Defendants' maximum exposure at about \$6,024,000,
16 including about \$151,000 on the unpaid wage claims, about \$1,826,000 on the meal period
17 claims, about \$1,826,000 on the rest break claims, around \$120,000 on the expense
18 reimbursement claims, approximately \$978,000 on the wage statement claim, and about
19 \$1,123,000 on the waiting time penalties. Plaintiff significantly discounted these figures for
20 settlement purposes, however, after evaluating Defendants' counterarguments and defenses (of
21 which there are many) on both class certification and the merits. [Trenner Decl., ¶ 14.]

22 First, on the unpaid wage claims, Plaintiff first contends Defendants paid employees for
23 40 hours of work each week regardless of how many hours were reflected on employee time
24 punches. Per Plaintiff, she and other class members oftentimes worked over 8 hours on a shift
25 (for daily overtime) or over 40 hours in a week, but did not receive appropriate overtime
26 compensation. On the other hand, Defendants argued their policies captured and paid for all time
27 accurately and at the correct rate, and also emphasized employees frequently worked less than 8
28 hours per shift and actually were overpaid for their time in many instances. [Trenner Decl., ¶ 15.]

1 On the meal break claims, Plaintiff focused primarily on Defendants' alleged failure to
2 maintain a California-compliant break policy and to provide Plaintiff and the class members
3 employees with all required meal periods. Per Plaintiff, Defendants not only failed to maintain
4 any written policies, but also as a practical matter it was difficult if not impossible for employees
5 to take breaks because of their tight delivery schedules and a requirement that they remain with
6 the delivery vans and cargoes at all times. Defendants countered that in many instances actually
7 took their meal break (including second meal breaks) even if not reflected on the time sheets and,
8 accordingly, class certification is not appropriate because individual inquiries would be necessary
9 to determine this question. For the same reasons, Defendants contended the claim would fail on
10 the merits because it would be difficult for Plaintiff to show Defendants' actual or constructive
11 knowledge that a particular class member worked through a specific lunch period. Defendants
12 also contended it maintained a fully-compliant meal break policy at all times, and it always
13 provided the class members with the opportunity to take meal breaks and thus met the
14 requirements imposed by California law. Per Defendants, if individuals did not take a meal period
15 or rest period, it was in violation of company policy and, once again, a multitude of individual
16 inquiries would be necessary to determine if an individual may have missed a meal break by
17 personal choice or for some other reason. [Trenner Decl., ¶ 16.]

18 The claims for unreimbursed business expenses under Labor Code § 2802 revolved
19 around Plaintiff's allegations that Defendants required its non-exempt employees to use their
20 personal cell phones for business purposes and while driving their delivery routes without
21 reimbursement for these business expenses. Cochran v. Schwan's Home Services, Inc. (2014) 228
22 Cal. App. 4th 1137, 1144 (2014) ("[T]o be in compliance with section 2802, the employer must
23 pay some reasonable percentage of the employee's cell phone bill."). In response, Defendants
24 argued there was no need for employees to use personal phones for legitimate work purposes, and
25 that any such use would have been purely for personal convenience. Thus, per Defendants, use of
26 personal phones wasn't necessary and therefore not reimbursable. [Trenner Decl., ¶ 17.]

27 Plaintiff's claims for penalties under Labor Code §§ 203 and 226 are derivative of the
28 underlying unpaid minimum and overtime wage and meal/rest break claims and, accordingly,

1 they would essentially rise or fall with Plaintiff's success or failure on her primary claims.
2 Further, Plaintiff had to account for the discretionary nature of such awards and the "good faith"
3 and other defenses available to Defendant. For instance, as to Section 203 waiting time penalties,
4 Defendants raised a good faith defense to the waiting time penalties as it applies to both meal/rest
5 periods and underpaid overtime premiums. Amaral v. Cintas Corp. No. 2, 163 Cal.App.4th 1157,
6 1203-4 (2008) (employer did not willfully fail to pay wages under Labor Code § 203 even though
7 the class prevailed on the merits for failing to pay living wages). [Trenner Decl., ¶ 18.]

8 As far as potential PAGA liability, the alleged aggrieved employees theoretically are
9 entitled to penalties totaling about \$6 million should Plaintiff prevail on all claims, establish
10 violations of the multiple Labor Code sections at issue, and secure the maximum penalty on all
11 issues and all pay periods. [Trenner Decl., ¶ 19.] As with the class claims, Plaintiff discounted
12 the potential PAGA penalties based on Defendants' various defenses on the merits and also
13 accounted for the Court's wide discretion to reduce such penalties, or to decline to award
14 penalties at all. Labor Code § 2699(e)(2); Carrington v. Starbucks Corp. (2018) 30 Cal.App.5th
15 504 (trial court awarded penalties of \$5 per pay period after a bench trial, which decision was
16 upheld on appeal); In re Taco Bell Wage and Hour Actions (E.D. Cal. Apr. 8, 2016) 2016 U.S.
17 Dist. LEXIS 48557 (PAGA penalties denied after trial). Accordingly, the Parties allocated
18 \$35,000 to PAGA penalties.

19 Plaintiff submits this amount is reasonable under the circumstances and in line with
20 comparable settlements in other wage and hour class actions in California. *E.g.*, Van Kempen v.
21 Matheson Tri-Gas, Inc. (N.D. Cal. Aug. 25, 2017) 2017 U.S. Dist. LEXIS 137182 (granting final
22 approval of \$5,000 PAGA penalty from \$370,000 settlement, or 1.4 percent of total settlement);
23 Slavkov v. First Water Heater Partners I (N.D. Cal. July 25, 2017) 2017 U.S. Dist. LEXIS
24 116303 (finding a \$7,500 PAGA payment reasonable when measured against the overall
25 settlement of \$345,000 and the possible weaknesses in plaintiffs' case, or 2.2 percent of total
26 settlement). Additionally, the LWDA has been informed of the terms of the PAGA portion of the
27 settlement, and will be able to weigh in as necessary. Jennings v. Open Door Mktg. Inc. (N.D.
28 Cal. Oct. 3, 2018) 2018 U.S. Dist. LEXIS 171356, at *27 (approving settlement with PAGA

1 penalties of 0.6% where "[p]laintiffs [have] submitted the settlement agreement to the LWDA,
2 and the LWDA has not objected to the settlement.

3 Overall, Defendants raised various defenses to Plaintiff's claims on both class
4 certification and the merits that, if successful, could have negatively impacted Plaintiff's claims
5 or potentially reduced potential damages. Accordingly, Plaintiff faced significant risks going
6 forward with this litigation, and given the need to secure and maintain class certification, prevail
7 at trial, and deal with post-trial appeals, it would have taken years to realize any recovery in this
8 action. [Trenner Decl., ¶¶ 20-21.]

9 The settlement obviates the significant risk that this Court may find any kind of class
10 resolution unachievable or might deny certification of all or some of Plaintiff's claims.
11 Furthermore, even if Plaintiff obtained certification of all or some of the claims, continued
12 litigation would be expensive as the parties pursued merits discovery, a probable motion to
13 decertify, as well as trial and possible appeals, and would substantially delay any recovery by the
14 class with no assurance of recovering significantly more than the proposed settlement. Overall,
15 while Plaintiff is confident in the merits of her claims, a legitimate controversy exists as to each
16 cause of action. Plaintiff also recognizes proving the amount of wages and penalties due each
17 Class Member would be an expensive and uncertain proposition. [Trenner Decl., ¶¶ 20-21.]

18 Plaintiff and counsel discounted the value of the class claims consistent with the risks
19 discussed above, and carefully weighed the likelihood of the class receiving substantially greater
20 benefit if the litigation continued. Plaintiff and counsel concluded – in light of these very real
21 and substantial risks – settlement on the proposed terms and without prolonged and costly
22 litigation was in the best interests of the class. The overall \$1,096,542 recovery represents a
23 significant percentage of Defendants' potential exposure and, given the multiple litigation risks
24 addressed above, a total recovery for the class of \$1,096,542, with an average award of some
25 \$1,230 per class member, is a fair result within the range of reasonableness considering all
26 potential outcomes. [Trenner Decl., ¶¶ 20-21.]

27 Importantly, the mere fact that a settlement does not provide the same recovery as might
28 be achieved at trial is not a proper indicator of whether the settlement is fair, reasonable, and

adequate. Wershba, 91 Cal.App.4th at 246, 250 (“even if the relief afforded by the proposed settlement is substantially narrower than it would be if the suits were to be successfully litigated, this 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 litigation”); 7-Eleven Owners for Fair Franchising v. Southland Corp. (2000) 85 Cal.App.4th 1135, 1150 (“The fact that a proposed settlement may amount to only a fraction of the potential recovery does not, in and of itself, mean that the proposed settlement is grossly inadequate and should be disapproved”); Lane v. Facebook, Inc. (9th Cir. 2012) 696 F.3d 811, 819 (“[T]he question whether a settlement is fundamentally fair . . . is different from the question whether the settlement is perfect in the estimation of the reviewing court”). Importantly as well, the proposed settlement is non-reversionary and will provide benefits to the Class Members without a claims process. White, 803 F.Supp.2d at 1098; c.f., Federal Judicial Center, Managing Class Action Litigation: A Pocket Guide for Judges (3d ed. 2010) at 20, available at www.fjc.gov/sites/default/files/2012/ClassGd3.pdf (reversionary provisions and/or cumbersome claims process may indicate lack of fairness). Plaintiff and her counsel submit the settlement is within the “range of reasonableness,” and is fair and adequate for the Class.

V. PLAINTIFF’S ENHANCEMENT AWARD

The service payment provided to Plaintiff as the class representatives is typical in class action cases and reasonable. Rodriguez v. W Publ'g Corp. (9th Cir. 2009) 563 F.3d 948, 958-59 (incentive awards are “intended to compensate class representatives for work done on behalf of the class, to make up for financial or reputational risk undertaken in bringing the action, and, sometimes, to recognize their willingness to act as a private attorney general.”). She devoted time and resources to the litigation, provided documents, assisted Class Counsel with investigating the claims asserted and in preparing for mediation. The proposed \$10,000.00 enhancement is reasonable in recognition of her time spent on this matter, the risks she undertook on behalf of the class, and the benefit conferred to the class, as addressed in her declaration filed at preliminary approval. See Staton v. Boeing (9th Cir. 2003) 327 F.3d 938, 977 (collecting cases awarding class representatives service and incentive payments ranging from \$2,000 to \$25,000). If the Court

1 approves less than the above amount, the difference will remain in the Net Settlement Amount for
2 distribution to the Participating Class Members. [Trenner Decl., ¶ 22.]

3 **VI. SETTLEMENT ADMINISTRATION COSTS**

4 The settlement provides for a payment to Atticus for its services as the Settlement
5 Administrator. As set forth in the Declaration of Bryn Bridley, Atticus has performed and will
6 continue to perform its required duties through final distribution of the settlement funds and
7 incurred \$13,500 in fees and expenses. [Bridley Decl., ¶ 17.] Accordingly, Plaintiff respectfully
8 requests the Court approve payment of \$13,500 to Atticus from the GSA. [Trenner Decl., ¶ 23.]

9 **VII. ATTORNEY'S FEES AND COSTS**

10 **A. The Attorney's Fees Requested Are Fair and Reasonable and Should Be**
11 **Approved**

12 This Court has discretion over the amount of attorneys' fees awarded and court
13 approval is required for Class Counsel's fees. Cal. Rule of Court 3.769; Levy v. Toyota
14 Motor Sales, U.S.A. (1992) 4 Cal.App.4th 807, 813; Lealao v. Beneficial Cal., Inc. (2000) 82
15 Cal.App.4th 19. In defining a reasonable fee, the Court should attempt to mimic the
16 marketplace for cases involving significant contingent risk, such as this one. Deposit
17 Guaranty Nat'l Bank, Jackson, Miss. v. Roper (1980) 445 U.S. 326, 338, rehg. den. 446 U.S.
18 947; Lealao, 82 Cal.App.4th at 49-50 (court should attempt "to award the fee that informed
19 private bargaining, if it were truly possible, might have reached" in determining a reasonable
20 fee, and a fee award should approximate a "range of fees freely negotiated in comparable
21 litigation"). Here, Class Counsel's request for attorney's fees and costs is reasonable and
22 justified by the work performed, the benefits obtained, and the contingent risk assumed.

23 As addressed in detail above, at the time the parties reached the tentative settlement
24 success for Plaintiff and the putative class was far from certain. Plaintiff faced a real risk that
25 some or all the claims would not be certified for class treatment, as Defendant had strong
26 arguments that its compensation policies were legal and properly compensated the class
27 members. Even if Plaintiff certified some or all of the claims and ultimately prevailed on the
28 merits, it undoubtedly would have taken several years to realize any recovery while they

1 pursued class certification, trial, and an almost certain appeal. [Trenner Decl., ¶¶ 15-21.]

2 Nonetheless, Plaintiff succeeded and expeditiously obtained the relief she set out to
3 obtain, and the settlement provides substantial cash payments to Class Members, with an
4 average award of about \$1,230, and with a maximum award of over \$3,400. Importantly as
5 well, the Class Members have been overwhelmingly supportive of the Settlement – as of the
6 filing of this motion, there are no objections to the settlement and only one opt out. [Bridley
7 Decl., ¶¶ 10-11.]

8 **B. The Requested Fee Award Is Reasonable and Appropriate**

9 The United States Supreme Court has ruled the parties to a class action properly may
10 negotiate not only the settlement of the action itself but also the payment of attorney's fees.
11 Evans v. Jeff D. (1986) 475 U.S. 717, 734-35, 738, fn. 30.) In Hensley v. Eckerhart (1983)
12 461 U.S. 424, 437, the Supreme Court explained that negotiated, agreed-upon attorney's fee
13 provisions are the ideal towards which the parties should strive: "A request for attorney's fees
14 should not result in a second major litigation. Ideally, of course, litigants will settle the
15 amount of a fee." The United States Supreme Court has reemphasized this policy and further
16 stressed trial courts have "a responsibility to encourage agreement" on fees. Blum v. Stenson
17 (1984) 465 U.S. 886, 902 n.19.

18 As part of the Settlement, Defendants agreed not to object to an award of no more
19 than 1/3 of the initial GSA for attorney's fees, or \$333,333.33 (which amount is only 30.4%
20 of the escalated GSA), and up to \$20,000 in reimbursement for litigation costs and expenses
21 (only \$13,571.70 is requested). Such a fee is commensurate with what the market would
22 provide for similar services and the Court therefore can most certainly enforce the
23 agreement. As California's Court of Appeal has instructed:

24 Given the unique reliance of our legal system on private litigants to enforce substantive
25 provisions of law through class and derivative actions, attorneys providing the essential
26 enforcement services must be provided incentives roughly comparable to those negotiated
in the private bargaining that takes place in the legal marketplace, as it will otherwise be
economic for defendants to increase injurious behavior.

27 Lealao, 82 Cal.App.4th at 47.
28

1 Here, the parties did not negotiate the inclusion of attorney's fees until after extensive
2 arms-length bargaining regarding relief to the Class was completed. [Trenner Decl.,
3 ¶ 24.] The requested fee and cost award was a product of these arms-length negotiations and
4 fairly reflects the marketplace value of the services rendered by Class Counsel in this case.
5 As a result, the fee agreed to by the parties should be approved.

6 **C. Class Counsel's Fees are Justified When Calculated as a Percentage of**
7 **the Common Fund**

8 In approving fee applications, courts typically apply either a percentage-of-recovery
9 method or the lodestar method. Laffitte v. Robert Half Int'l., Inc. (2016) 1 Cal.5th 480, 489;
10 Wershba v. Apple Computer, Inc. (2001) 91 Cal.App.4th 224, 254, disapproved on other
11 grounds, Hernandez v. Restoration Hardware, Inc. (2018) 4 Cal.5th 260. The California
12 Supreme Court recently recognized the advantages and equities of calculating attorney's fees
13 using the percentage-of-the-common-fund method in another wage-and-hour case:

14 The recognized advantages of the percentage method-including relative ease of
15 calculation, alignment of incentives between counsel and the class, a better
16 approximation of market conditions in a contingency case, and the encouragement it
17 provides counsel to seek an early settlement and avoid unnecessarily prolonging the
18 litigation convince us the percentage method is a valuable tool that should not be
19 denied our trial courts.

20 Laffitte, 1 Cal.5th at 503 (citations omitted).

21 Indeed, both California and federal courts have long recognized an appropriate
22 method for determining the award of attorney's fees is based on a percentage of the total
23 value of benefits afforded to class members by the settlement. Serrano v. Priest (1977) 20
24 Cal.3d 25, 34; Boeing Co. v. Van Gernert (1980) 444 U.S. 472, 478; Vincent v. Hughes Air
25 West, Inc. (9th Cir. 1977) 557 F.2d 759, 769. Awarding a fee based on a percentage of the
26 common fund recovered operates to "spread litigation costs proportionately among all the
27 beneficiaries so that the active beneficiary does not bear the entire burden alone." Vincent,
28 557 F.2d at 769.

29 In determining a reasonable common fund fee award, courts should also consider the
30 fact that fees serve as an economic incentive for lawyers to bring class action litigation to
31 achieve increased access to the judicial system for meritorious claims and to enhance

1 deterrents to wrongdoing. Conte, Attorney Fee Awards (2d ed. 1993) § 104. Without
2 prosecution on a contingent basis and use of the class action mechanism, the courthouse door
3 would effectively be closed to most class members due to the relatively small size of their
4 individual claims in relation to the enormous time and cost associated with class action
5 litigation.

6 Here, Class Counsel seek a fee award for their successful prosecution and resolution
7 of this action that amounts to 30.4% of final, total amount recovered by the Class via the
8 lawsuit, or \$333,333.33. The percentage requested is justified for the reasons set forth
9 further below, comports with this Court's standard fee award as set forth in the Preliminary
10 Approval Order, and further is in line with fee awards calculated on a percentage-of-the-
11 benefit basis. Indeed, review of class action settlements shows that courts have historically
12 awarded fees in the range of 20 to 50 percent, depending upon the circumstances of the case.
13 In re Warner Communications Sec. Litig. (S.D.N.Y. 1985) 618 F.Supp. 735, 749-50
14 (concluding that percentage fees in common fund cases range from 20 to 50 percent);
15 Newberg, Newberg on Class Actions (3d ed.) § 14.03, pp. 13-14 ("Usually 50% of the fund
16 is the upper limit on a reasonable fee award from a common fund in order to assure that the
17 fees do not consume a disproportionate part of the recovery obtained for the class, although
18 somewhat larger percentages are not unprecedented.").

19 **D. A Lodestar Cross-Check Also Supports Class Counsel's Fee Request**

20 To ensure the fairness of an attorney's fee award, courts frequently conduct a lodestar
21 cross check of counsel's fees. "A lodestar cross-check thus provides a mechanism for
22 bringing an objective measure of the work performed into the calculation of a reasonable
23 attorney fee." Laffitte, 1 Cal.5th at 504. Here, Class Counsel spent 253.6 hours of time on
24 this matter, resulting in a modest and very reasonable lodestar of \$183,900.

25 As is fully detailed in the Trenner Declaration, Class Counsel's efforts included:
26 (1) extensive pre-lawsuit investigation of the claims of Plaintiff and the putative class, including
27 legal research, obtaining Plaintiff's employment records, research into similar claims and claims
28 against other employers in the same industry, and attempts to locate and contact other employees

1 of Defendants; (2) drafting a PAGA notice letter; (3) drafting the initial complaint and related
2 documents; (4) case management, including communications with defense counsel, meeting and
3 conferring/preparing case management statements, etc.; (5) lengthy discussions with defense
4 counsel regarding settlement/mediation and informal discovery needed for meaningful settlement
5 discussions; (6) engaging in substantial informal discovery, including propounding informal
6 discovery “requests” and reviewing documents and other information produced; (7) drafting a
7 mediation brief and accompanying damages model after review and analysis of defendant’s
8 informal discovery production; (8) attending an all-day mediation; (9) negotiating and drafting
9 the settlement agreement and related documents; (10) drafting the amended complaint;
10 (11) drafting the motion for preliminary approval and supplemental papers re: changing the notice
11 period; (12) administration of the settlement, communications with the Settlement Administrator
12 and settlement class members; (13) drafting the motion for final approval and motion for
13 attorney’s fees, and attending the final approval hearing; and (14) extensive communications with
14 the Plaintiff regarding case status, case investigation and document review, mediation, and
15 settlement terms. Additionally, Class Counsel will incur additional time to attend the final
16 approval hearing and following final approval to, inter alia, respond to class member inquiries,
17 work with the Settlement Administrator on the distribution of settlement funds, and on the
18 compliance hearing. [Trenner Decl., ¶ 25, Exh. 2.]

19 In pursuing this matter, Class Counsel incurred total attorney’s fees of \$183,900, and
20 the lodestar is based on a very reasonable number of hours worked to litigate this matter to a
21 successful conclusion (253.6 attorney hours), and the requested attorney hourly rates are
22 reasonable and comport with hourly rates charged by other attorneys with similar experience in
23 this practice area in California. [Trenner Decl., ¶¶ 26-41.] On a lodestar basis, the fee request of
24 \$333,333.33 results in a fee request representing a modest lodestar multiplier of 1.81, which is
25 justified, reasonable and appropriate. Indeed, California courts routinely approve multipliers in
26 the in the 2-4 range to compensate for the time and contingent risk of these types of cases.
27 Chavez v. Netflix, Inc. (2008) 162 Cal.App.4th 43, 66 (affirming attorney’s fee award
28 including an upward multiplier of 2.5); Wershba v. Apple Computer, Inc. (2001) 91

1 Cal.App.4th at 255 ("Multipliers can range from 2 to 4 or even higher"); City of Oakland v.
2 Oakland Raiders (1988) 203 Cal.App.3d 78, 85 (affirming a multiplier of 2.34).

3 It also is important to note this fact serves to highlight the reasonableness of the fees
4 requested on a percentage-of-the-recovery basis, as it shows the requested fees are within striking
5 distance of the market rate for the services rendered if those services are valued via traditional
6 hourly billing, and that the nominal enhancement requested adequately compensates counsel for
7 the contingent risk assumed and the delay in payment, and represents a fair return on the
8 contingency.

9 E. **The Award is Supported By 1) the Results Achieved; 2) the Risk, 3) the Skill**
10 **Required, 4) the Contingent Nature of the Fee and 5) Awards in Similar**
11 **Cases**

12 What has now emerged in most fee award decisions is the recognition that fee
13 determinations in both common fund and statutory fee situations are incapable of
14 mathematical precision because of the intangible factors that must be resolved in the court's
15 discretion based on the circumstances of each particular case. Conte, § 207, p. 44. In
16 determining an appropriate fee in a common fund case, a Court must decide, based on the
17 unique posture of each case, what percentage of the common fund would most reasonably
18 compensate Class Counsel given the nature of the litigation and the performance of counsel.
19 Paul, Johnson, Alston & Hunt v. Graulty (9th Cir. 1989 886 F.2d 268, 272) (the benchmark
percentage fee may be adjusted to account for the circumstances involved in a case).

20 Courts apply a five-part test in calculating a reasonable percentage fee in common
21 fund cases: (1) the results achieved; (2) the risk of litigation; (3) the skill required and the
22 quality of work; (4) the contingent nature of the fee and the financial burden carried by the
23 plaintiffs; and (5) awards made in similar cases. Laffitte, 1 Cal.5th at 489.

24 **1. The Results Achieved.**

25 Class Counsel obtained an excellent result in this case for the Class Members. The
26 Settlement provides real monetary benefits to the Class Members, and the Settlement is
27 particularly advantageous to the Class Member because the proceeds will be distributed
28 shortly as opposed to waiting additional years for a similar, or possibly, less favorable result.

1 Considering many individual claims would be very modest and would not be cost-effective
2 to pursue successfully, the Settlement provided them with fair compensation for their claims.
3 Moreover, the absence of any objection to either the Settlement or the attorney's fee request
4 bolsters the excellent results. Indeed, the approval of the Class is overwhelming as indicated
5 by the fact that only one class member opted out. Additionally, the settlement amounts to a
6 substantial percentage of the maximum value of the amount the Class might have obtained if
7 it had tried the case and recovered on all theories seeking recovery of wages and penalties.
8 "It is well-settled law that a cash settlement amounting to only a fraction of the potential
9 recovery does not per se render the settlement inadequate or unfair." In re Omnivision
10 Techs., Inc., 559 (N.D. Cal. 2008) F.Supp.2d 1036, 1042.

11 **2. Class Counsel Bore Considerable Risk.**

12 At the time of filing the complaint, Class Counsel recognized that they would have to
13 expend a substantial amount of time and advance significant costs to prosecute a statewide
14 class action suit with no guarantee of compensation or reimbursement, in the hope of
15 prevailing against a sophisticated company represented by first-rate attorneys. Despite
16 their belief in the merits of Plaintiff's claims, they also knew they faced substantial risks
17 of class certification and the ability to prove class-wide and individual damages. In light of
18 the highly uncertain nature of this suit, Class Counsel also bore the risk that Defendants
19 would dig in and attempt to bury their small firm in work. Given the small size of Class
20 Counsel's firm, not receiving any compensation for several years while simultaneously
21 advancing litigation costs posed considerable risk and difficulty. [Trenner Decl., ¶¶ 42-43.]

22 **3. The Skill Required and the Quality of Work.**

23 Practice in the narrow area of wage and hour litigation requires skill, knowledge and
24 experience. The issues presented in this case required more than just a general appreciation
25 of wage and hour law and class action procedure. This Settlement was possible only
26 because counsel persuaded Defendants that Plaintiff and the putative class had a realistic
27 chance of prevailing on their claims despite Defendants' contrary arguments, and that
28 the case would be pursued through class certification and trial if necessary. In

1 successfully navigating these hurdles, Class Counsel displayed appropriate skill while
2 pursuing a risky and difficult case.

3 **4. The Contingent Nature of the Fee and Risk Assumed**

4 There is a substantial difference between the risk assumed by attorneys being paid
5 by the hour and attorneys working on a contingent fee basis. The attorney being paid by
6 the hour can go to the bank with his fee. Powers v. Eichen (9th Cir. 2000) 229 F.3d
7 1249, 1256. The attorney working on a contingent basis can only log hours while
8 working without pay towards a result that will hopefully entitle him to a market fee
9 considering the risk and other factors of the undertaking. Id. at 1257. Otherwise, the
10 contingent fee attorney receives nothing. Id. In this case, Class Counsel subjected
11 themselves to this risk in this all or nothing contingent fee case wherein the necessity
12 and financial burden of private enforcement makes the requested award appropriate.

13 Counsel retained on a contingency fee basis, whether in private matters or in class
14 action litigation, is entitled to a premium beyond their standard, hourly, non-contingent
15 fee schedule to compensate for both the contingent risk assumed and the delay in
16 payment. The simple fact is that despite the most vigorous and competent of efforts,
17 success is never guaranteed. McKittrick v. Gardner (4th Cir. 1967) 378 F.2d 872, 875.
18 Indeed, if counsel is not adequately compensated for the risks inherent in difficult class
19 actions, competent attorneys will be discouraged from prosecuting similar cases.
20 Ketchum v. Moses (2001) 24 Cal.4th 1122, 1132-33; Cazares v. Saenz (1989) 208
21 Cal.App.3d 279, 287.

22 Here, the contingent fee practices of Plaintiff's counsel simply do not accommodate
23 the investment of unnecessary time in a case, and the adverse resolution of any one of several
24 difficult issues present in this matter could have doomed the entire effort. As discussed, the
25 attorney's fees in this case were not only contingent but fairly risky, and there was always a
26 chance Plaintiff's counsel would receive nothing for any number of reasons. [Trenner Decl.,
27 ¶¶ 42-43.] Accordingly, the contingent nature of the fee and the financial burdens on Class
28 Counsel and Plaintiff also support the fee requested.

1 **5. Awards in Other Cases**

2 As discussed, the attorney's fees requested by Class Counsel are within the range of
3 fees awarded in comparable cases, and review of class action settlements over the past 10
4 years shows that the courts have historically awarded fees in the range of 20 to 50 percent,
5 depending upon the circumstances of the case. In re Warner Communications Sec. Litig.
6 (S.D.N.Y. 1985) 618 F.Supp. 735, 749-50 (concluding that percentage fees in common fund
7 cases range from 20 to 50 percent); Newberg, Newberg on Class Actions (3d ed.) § 14.03,
8 pp. 13-14 ("Usually 50% of the fund is the upper limit on a reasonable fee award from a
9 common fund in order to assure that the fees do not consume a disproportionate part of the
10 recovery obtained for the class, although somewhat larger percentages are not
11 unprecedented."). Class Counsel's requested fees equal to 30.4% of the final gross amount
12 recovered on behalf of the class and are well within the range of reasonableness under either
13 the percentage of the recovery or the lodestar method in light of the contingent risk assumed,
14 the delay in payment, the result achieved, and the overall quality of the representation.

15 **F. Class Counsel's Costs and Expenses are Reasonable**

16 Plaintiff's counsel also requests reimbursement of actual out-of-pocket expenses incurred
17 to prosecute this action. These expenses were incidental and necessary to the effective
18 representation of the employees, and Plaintiff's counsel is permitted to recover litigation costs
19 and expenses under the common fund doctrine and the Settlement Agreement. Serrano, 20 Cal.3d
20 at 35 (common fund doctrine permits recovery of fees and costs from the fund); Rider v. County
21 of San Diego (1992) 11 Cal.App.4th 1410, 1424 n.6 (costs are recoverable from the common fund
22 "[o]f necessity, and for precisely the same reasons discussed above with respect to the recovery of
23 attorneys' fees by ... [Plaintiffs'] attorneys"). Plaintiff's counsel also is entitled to recover "those
24 out-of-pocket expenses that would normally be charged to a fee-paying client." Harris v.
25 Marhoefer (9th Cir. 1994) 24 F.3d 16, 19.

26 Per the Trenner Declaration, Class Counsel incurred a total of \$13,571.70 in
27 expenses in connection with this matter. These expenses include amounts paid for court
28 filing fees, service of process, postage, expert fees, and mediation fees, all of which are

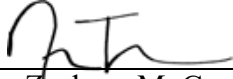
costs normally billed to and paid by the client. These costs were reasonably incurred in the prosecution of this matter, and should be reimbursed in full. Plaintiff respectfully requests that the Court authorize reimbursement of counsel's costs in the amount of \$13,571.70. [Trenner Decl., ¶¶ 44-45.]

VIII. CONCLUSION

For all the foregoing reasons, Plaintiff Maria Guadalupe Hernandez respectfully requests that the Court grant this motion and grant final approval of the proposed class action settlement and approve the payment of PAGA penalties to the State. Plaintiff further requests the Court approve payment of the Settlement Administrator's fees and expenses, approve the requested class representative enhancement payment, approve the award of attorney's fees and costs as requested, and enter judgment in this action. Finally, Plaintiff request the Court set a final compliance hearing for February 17, 2026, or a later date convenient for the Court.

Dated: January 27, 2025

CROSNER LEGAL, P.C.

By: 
Zachary M. Crosner
Jamie K. Serb
Nikki Trenner
Attorneys for Plaintiff Maria Guadalupe Hernandez