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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF ORANGE

LEOBARDO CASTANADA, individually and on behalf of himself and all others similarly situated, Plaintiff, v. TUSCANY CHEESE, LLC, a California limited liability company' and DOES 1-50, inclusive, Defendants.	Case No.: 30-2023-01328407-CU-OE-CXC *Assigned for All Purposes To:* Hon. William Claster Dept. CX101 **MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF PLAINTIFFS' MOTION FOR FINAL APPROVAL OF CLASS ACTION SETTLEMENT AGREEMENT AND MOTION FOR AWARD OF ATTORNEYS' FEES, COSTS, AND CLASS REPRESENTATIVE SERVICE PAYMENT** Date: March 20, 2026 Time: 9:00 a.m. Dept: CX101 Complaint Filed: May 26, 2023

TABLE OF CONTENTS

TABLE OF AUTHORITIES

Rules **Page**

Other Authorities **Page**

I. INTRODUCTION

This motion seeks final approval of a common fund, non-reversionary wage and hour class action and PAGA settlement of $360,000.00 between Plaintiff Leobardo Castaneda ("Plaintiff," or "Class Representative"), on behalf of himself and the Class, and Defendant Tuscany Cheese, LLC, a California limited liability company ("Defendant" or "Tuscany Cheese") (collectively with Plaintiff, the "Parties").

The Class Action and PAGA Settlement Agreement and Release ("Settlement") was preliminarily approved on October 24, 2025. The Settlement Administrator, Apex Class Action Administration ("Apex" or "Settlement Administrator") carried out the notice and other procedures ordered by this Court. The court-approved Class Notice ("Notice") was mailed on December 15, 2025. The Class Members had until February 13, 2026 to request exclusion from or object to the Settlement or dispute their number of workweeks. No Class Members have objected to the Settlement, disputed their workweeks, or requested exclusion from the Settlement. Class Counsel and Defendant's Counsel are experienced in wage and hour class action litigation, and agree the Settlement is fair, reasonable, and adequate.

Plaintiff also requests the Court grant his Motion for Attorneys' Fees and Costs as follows: $120,000 for attorneys' fees and $13,286.44 for actual and anticipated costs. Plaintiff also requests that this Court award a $7,500 service award for his efforts in obtaining this result for the Class. The Settlement meets the criteria for final approval. Plaintiff requests this Court grant final approval and enter the proposed Order and Judgment filed concurrently herewith.

II. SUMMARY OF PRELIMINARILY APPROVED SETTLEMENT TERMS

The Preliminary Approved Settlement provides for the following monetary terms:

Gross Settlement Amount ("GSA")	**$360,000.00**
Net Settlement Amount ("NSA")	At least $192,223.56
Administration Fee	$9,000.00 ($8,990.00 actual)
Class Representative Service Payments	$7,500.00
Class Counsel's Attorneys' Fees	$120,000.00 (33-1/3% of the GSA)
Class Counsel's Costs	Up to $18,000 ($13,286.44 actual)

Participating Class Members will receive their corresponding share of the NSA without the need to submit a claim form. Individual Class Payments will be calculated by dividing the NSA by the total number of Workweeks worked by all Participating Class Members during the Class Period and multiplying the result by each Participating Class Member's Workweeks. (Settlement Agreement § 3.2.4). 15% of each Individual Class Payment will be allocated to wages, and 85% to the settlement of disputed claims for interest and penalties. (*Id*. § 3.2.4.1).

Effective upon entry of final judgment and contingent upon Defendant's full funding of the entire Gross Settlement Amount and all employer-side payroll taxes owed on the Wage Portion of the Individual Class Payments, Plaintiff, the Participating Class Members, and the Aggrieved Employees will release claims as stipulated in the Settlement Agreement. (*Id.* §§ 5.2, 5.3). Plaintiff will also provide a general release of all claims and a waiver of Section 1542 of the California Civil Code. (*Id*. §§ 5.1, 5.1.1).

III. THE SETTLEMENT ADMINISTRATOR MAILED THE NOTICE AND NO REQUESTS FOR EXCLUSION WERE SUBMITTED

On October 29, 2025, Apex received the Class List from Defendant's counsel including full names, social security numbers, last known mailing addresses, and the number of Class Period Workweeks and PAGA Pay Periods for each Settlement Class Member. Class Member addresses were then processed against the NCOA database to determine updated addresses. (Declaration of Madely Nava ("Nava Decl.") ¶¶ 5-6). On December 15, 2025, Apex mailed, via U.S. First Class mail, the Notice to 284 Class Members. (*Id*. ¶ 7). The Notice advised Class Members of their rights to request exclusion from or object to the Settlement, and how to dispute the number of workweeks, and the implications of each action. The Notice advised Class Members of applicable deadlines and other events, including the Final Approval Hearing, and how Class Members could obtain additional information, and provided a toll-free telephone number. The Notice also disclosed the claims that would be released upon final approval and each Class Member's estimated Individual Class Settlement Share and Individual PAGA Settlement Share. (*Id.*, Ex. A.)

Apex mailed a total of 284 Notices to Class Members and 31 were returned by the U.S. Postal Service. (*Id*. ¶ 8). After receiving the returned Notices, for those that did not include an updated mailing address, Apex performed an additional skip trace to locate a current address for purposes of re-mailing the Notices. (*Id*.). APEX obtained updated or forwarding addresses for 9 Class Members and the Notices were promptly re-mailed. (*Id*. ¶ 8-9). A total of 22 Notices were deemed undeliverable. (*Id*. ¶ 10). Apex successfully delivered Notices to 262 of the 284 Class Members, representing approximately 92.3% of the Settlement Class. (*Id*. ¶ 7-10.)

The deadline to object to or request exclusion from the Settlement was February 13, 2026 (*Id*. ¶ 11-12). Apex received no requests for exclusion, objections, or disputes as to workweeks. (*Id*. ¶ 11-13). Thus, 100% of Class Members will participate. (*Id*. ¶ 14).

Apex followed all the notice procedures delineated by this Court in the Preliminary Approval Order. Therefore, notice to the Class of the proposed Settlement was reasonably calculated, and has apprised the Class Members of the pendency of the action and afforded them an opportunity to opt out or present their objections or disputes.

IV. THE SETTLEMENT SATISFIES THE REQUIREMENTS FOR FINAL APPROVAL.

A. Legal Standard for Final Approval of Class Action Settlement.

"'[V]oluntary conciliation and settlement are the preferred means of dispute resolution. This is especially true in complex class action litigation . . ..'" (*7-Eleven Owners for Fair Franchising v. Southland Corp.* (2000) 85 Cal. App. 4th 1140, 1151 (internal citation omitted)). A class action may not be dismissed, compromised, or settled without the Court's approval. (Cal. Rules of Court ("CRC") 3.769 and 3.770). The Court's inquiry is limited to whether the proposed settlement is "fair, adequate, and reasonable." (*Wershba v. Apple Comp., Inc.* (2001) 91 Cal. App. 4th 224, 244-245). A settlement is "fair, adequate and reasonable" warranting final approval when "the interests of the class are better served by the settlement than by further litigation." (Manual for Complex Litigation (4th ed. 2008) § 21.61).

CRC 3.769 describes the procedure for final approval of a class action settlement in three distinct steps: (1) Preliminary approval; (2) Dissemination of mailed and/or published notice of the settlement to all Class Members; and (3) A "formal fairness hearing," or final settlement approval hearing, at which Class Members may be heard regarding the settlement, and at which matters concerning the fairness, adequacy, and reasonableness of the settlement may be presented.

In this case, the first step was completed on October 24, 2025 when the Court preliminarily approved the Settlement and determined that it was within the range reasonableness. The second step, dissemination of Notice to the Class, was completed on or about December 15, 2025. (Nava Decl., ¶ 7).

The third and final step in the settlement approval process is the Final Approval Hearing, at which the Court determines whether the Settlement is fair, adequate, and reasonable. A settlement is presumptively fair when it is (1) the product of arm's-length bargaining; (2) supported by sufficient investigation and/or discovery to allow assessment of Plaintiff's claims; (3) supported by experienced counsel; and (4) subject to only a small percentage of objections. (*In re Cellphone Fee Termination Cases* (2010) 186 Cal. App. 4th 1380, 1389 quoting *Dunk v. Ford Motor Co.,* (1996) 48 Cal. App. 4th 1801, 1802; *Chavez v. Netflix, Inc.* (2008) 162 Cal. App. 4th 43, 52).

Following the final approval hearing, the Court will decide whether to enter a final order approving the Settlement and enter judgment thereon. CRC 3.769(h). To do so, California courts consider several factors, including the strength of the Plaintiff's case; the risk, expense, complexity, and likely duration of further litigation; the risk of maintaining class action status through trial; the value of the settlement; the extent of discovery completed and the stage of the proceedings; the experience and views of counsel; and the reaction of the class members to the proposed settlement. (*Wershba*, 91 Cal. App. 4th at 244-45). "The list of factors is not exclusive and the court is free to engage in a balancing and weighing of factors depending on the circumstances of each case." (*Id*. at 245). Courts must also give "proper deference to the private consensual decision of the parties, [since] the court's intrusion upon what is otherwise a private consensual agreement negotiated between the parties to a lawsuit must be limited to the extent necessary to reach a reasoned judgment that the agreement is not the product of fraud or overreaching by, or collusion between, the negotiating parties, and the settlement, taken as a whole, is fair, reasonable and adequate to all concerned. (*Hanlon v. Chrysler Corp.* (9th Cir. 1998) 150 F.3d 1011, 1027). For the reasons set forth below, the Court should complete the third step, and grant final approval of the Settlement.

B. The Factors to be Considered Favor Final Approval

Settlement resolves inherent uncertainty and is therefore strongly favored by the courts, particularly in class actions. (*See Van Bronkhorst v. Safeco Corp.* (9th Cir. 1976) 529 F.2d 943, 950). Here, Plaintiff recognized several risks inherent in litigating this case: (1) the probability of certifying the action as a class action; (2) the probability of maintaining the class action status through trial; (3) the likelihood of class action recovery at trial after analyzing the merits of Defendants' legal defenses and potential evidentiary hurdles; and (4) the current state of the law regarding certification and establishing common questions of fact.

As discussed in detail in Plaintiff's previously filed Motion for Preliminary Approval and the Hawkins Declaration filed in support (see Exhibit 6, Hawkins Preliminary Approval Declaration), Defendant presented strong arguments against the merits of Plaintiff's claims and class certification. To summarize, Defendant argued that their timekeeping, meal, and rest period policies and practices were lawful, that they permitted its employees legally-required meal and rest periods, and that the waiting time claim was largely derivative of Plaintiff's other claims. Defendant also argued that its rounding policies were facially neutral and lawful. Defendant raised factual and legal challenges to each of the claims asserted. Defendant has denied and continues to deny all of Plaintiff's allegations and any liability. (See, Hawkins Preliminary Approval Declaration, ¶¶ 21-37.) While the Parties disagree over the scope of Defendant's exposure to the alleged claims and the merits of the claims themselves, counsel for the Parties agree that the Settlement reached is fair, reasonable, and adequate and is in the best interest of the Class in light of all known facts and circumstances. (Id. ¶ 62.)

Although the proposed Settlement may be less than the amount that the Class could potentially recover following trial, it is highly unlikely that Plaintiff and the Class would receive the full amount to which they believe they are entitled for the reasons discussed above. As such, the GSA, even if only a fraction of a total *potential* recovery, is a fair and adequate *real* recovery for Class Members. (*See In re Mego Fin. Corp. Sec. Litig.* (9th Cir. 2000) 213 F.3d 454, 459).

A. The Value and Fairness of the Settlement Favors Final Approval.

A court must consider whether the settlement is fair. (*See Hanlon*, 150 F. 3d 1027). The monetary relief provided by the Settlement is a meaningful recovery to the Class warranting final approval. In conjunction with Plaintiff's Motion for Preliminary Approval, Class Counsel provided the Court with a detailed description of the claims, defenses and Defendant's potential exposure on those claims, thereby providing the Court with a sufficient understanding of the amount in controversy and potential outcomes of the case, so that it can properly evaluate the sufficiency of the Settlement, as required by *Kullar v. Foot Locker Retail, Inc.*, 168 Cal. App. 4th 116, 129-30 (2008). (See, Ex. 6, Hawkins Preliminary Approval Declaration, generally.) At preliminary approval, the Court made a finding that the Settlement appeared to be fair, adequate and reasonable and presumptively valid. Since then, no Class Member objected to the Settlement or opted out of the Class to pursue their individual claims. (Nava Decl. ¶ 11-13.) Thus, nothing has changed since the time of preliminary approval to disturb the Court's initial determination that the Settlement appeared fair, reasonable, and adequate. This favors final approval.

Here, Plaintiff secured a common fund of $360,000.00 for the Settlement of the claims alleged in the class action. This is well within the ballpark of reasonableness and is submitted to be a meaningful benefit to the Class Members. The 284 Participating Class Members will be paid a pro-rata portion of the NSA based on workweeks. As such, the Settlement treats each Participating Class Member equally relative to others in the Class. While Class Counsel believes Plaintiff's claims are meritorious, Defendant has raised formidable factual and legal arguments in support of their defenses. Given these available grounds for defending against the asserted class claims and the risks of maintaining class certification through the trial and after any appeals, the Settlement is fair, reasonable, and adequate. (Declaration of James Hawkins in Support of Final Approval ("Hawkins Final Approval Decl.") ¶¶ 18-21, see also, Exhibit 6).

B. The Parties' Investigation Favors Final Approval

"[T]he extent of discovery completed and the stage of proceedings" are factors considered in assessing the fairness, adequacy, and reasonableness of a class action Settlement. (*Dunk, supra*). "This factor evaluates whether the parties have sufficient information to make an informed decision about settlement." (*In re LinkedIn User Privacy Litig.*, 309 F.R.D. 573, 588 (N.D. Cal. 2015) (citation omitted)).

Class Counsel previously provided the Court with a detailed description of the investigation conducted in this action in conjunction with the Motion for Preliminary Approval. The settlement negotiations between the Parties were extensive and occurred at arm's length. The Parties attended a full day mediation session with the experienced wage and hour mediator Kristin Rizzo. Thus, the Parties' investigation and discovery are sufficient to allow Class Counsel and the Court to act intelligently. (Hawkins Final Approval Decl. ¶ 17-20, see also Exhibit 6).

C. The Endorsement of the Parties' Counsel Favors Final Approval

The endorsement of experienced and well-informed counsel of a settlement as fair, reasonable, and adequate is entitled to significant weight. (*Dunk* at 1801-02). Here, counsel for both Parties have significant experience litigating wage and hour class actions and endorse the Settlement as being fair, adequate, and reasonable. (Hawkins Final Approval Decl. ¶¶ 28-36; see also Supplemental Declarations of Christina Lucio and Mitchell Murray at Preliminary Approval, previously filed herein). Class Counsel believes that the Settlement is in the best interest of the Class, and an excellent result for the Class. This endorsement of counsel is entitled to significant weight in favor of final approval.

V. THE ATTORNEYS' FEES REQUESTED ARE FAIR AND REASONABLE AND FAVOR APPROVAL

"When a fee is set by a court rather than by contract, the object is to set it at a level that will approximate what the market would set. . . . The judge, in other words, is trying to mimic the market in legal services." (*Gaskill v. Gordon* (7th Cir. 1998) 160 F.3d 361, 363). Given the unique reliance of our legal system on private litigants to enforce substantive provisions of law in class actions, attorneys providing these substantial benefits should be paid an award equal to the amount negotiated in private bargaining that takes place in the legal marketplace. (*Deposit Guaranty Nat. Bank, Jackson, Miss. v. Roper* (1980) 445 U.S. 326, 338, *rehg. denied*, 446 U.S. 947). The "percentage of the fund method more accurately reflects the results achieved." (*Laffitte v. Robert Half International, Inc.*, 1 Cal. 5th 480 (2016); see also *Lealao v. Beneficial California, Inc.* (2000) 82 Cal.App.4th 19, 50).

At the time this case was brought, the result was far from certain. Defendant's numerous defenses to the case created difficulties with proof and complex legal issues for Class Counsel to overcome. Furthermore, there was considerable risk that Plaintiff would not prevail on a motion for certification or that Defendant would prevail on its defenses, thus, defeating any and all recovery to the Class. Even if Plaintiff were to obtain class certification, liability is by no means a foregone conclusion. (Hawkins Final Approval Decl. ¶ 18). The Settlement was possible only because Class Counsel was able to persuade Defendant that Class Counsel could potentially prevail on the legal issues regarding liability and obtain and maintain class certification for the Class through trial and overcome difficulties in proof as to monetary relief. In successfully navigating these hurdles so as to persuade Defendant to settle, Class Counsel displayed skills consistent with those that might be expected of attorneys of comparable experience. (Id.)

To represent the Class on a contingent fee basis, Class Counsel had to devote the necessary time and resources to this contingent case. (Hawkins Final Decl. ¶¶ 41-50). Class Counsel gave up the hourly work that a firm can bank on for the risky contingent fee work in this case which could have paid Class Counsel nothing. (*Powers v. Eichen*, 229 F.3d 1249, 1256 (9th Cir. 2000)).

A. An Award of Attorneys' Fees and Costs is Appropriate and Should be Enforced

Parties to a class action may negotiate not only the settlement of the action itself, but also the payment of attorneys' fees. (See *Evans v. Jeff D.* (1980) 475 U.S. 717, 734-35, 738, n.30). "Ideally, of course, litigants will settle the amount of a fee." (*Hensley v. Eckerhart* (1983) 461 U.S. 424, 437). The trial court "has a responsibility to encourage agreement" on fees. (*Blum v. Stenson* (1984) 465 U.S. 886, 902 n.19). Here, as part of the Settlement, Defendant will not oppose an award of 33-1/3% of the GSA for attorneys' fees. This fee is in line with what the market would provide for similar services. The Court therefore can enforce the agreement. The United States Supreme Court instructed, ". . .attorneys providing the essential 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." (*Deposit Guaranty Nat. Bank, supra*, 445 U.S. at 338).

Here, the requested fee and cost award was negotiated during adversarial bargaining by counsel for each of the parties, after the substantive terms of the Settlement had been negotiated. The requested fee and cost award was a product of arms-length negotiations and fairly reflects the marketplace value of the services rendered by Class Counsel in this case. Thus, the fee agreed to by the parties should be approved.

B. Class Counsel's Fee Award is Properly Calculated as a Percentage of the Total Value Created for the Benefit of the Class

Class Counsel seeks an attorneys' fee award calculated as 33-1/3% of the value of the common fund created by the Settlement. 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 afforded to class members by the settlement. (*Laffitte*, 1 Cal. 5th at 494; *Boeing Co. v. Van Gemert* (1980) 444 U.S. 472, 478; *Paul, Johnson, Alston & Hunt v. Graulty* (9th Cir. 1989) 886 F.2d 268, 272; *Vincent v. Hughes Air West, Inc.* (9th Cir. 1977) 557 F.2d 759, 769). Awarding a fee based on a percentage of the common fund recovered will "spread litigation costs proportionately among all the beneficiaries so that the active beneficiary does not bear the entire burden alone." *Vincent, supra*, 557 F.2d at 769. Class Counsel requests $120,000 in attorneys' fees which is 33-1/3% of the common fund created for the benefit of the Class.

1. In a Common Fund Case, the Supreme Court Approves an Award Based Upon the Percentage of the Fund

California courts are expressly authorized to award attorneys' fees so as "to ensure that the fee awarded is within the range of fees freely negotiated in the legal marketplace in comparable litigation." (*Lealao v. Beneficial Cal., Inc*., *supra*, 82 Cal.App.4th at 50). As *Lealao* explained:

> attorneys providing the essential 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. It has therefore been urged (most persistently by Judge Richard Posner) that in defining a 'reasonable fee' in such representative actions the law should "mimic the market.

(*Id.* at 47).

In this case, the fees are being paid from the common fund, accordingly, the fee should be awarded to mimic fees freely negotiated in the legal marketplace for comparable common fund cases. As *Lealao* acknowledged, the percentage-of-the-benefit approach should be considered because here "it better approximates the workings of the marketplace than the lodestar approach." (*Id.* at 49; see also *Apple Computer, Inc. v. Superior Court* (2005) 126 Cal.App.4th 1253, 1270). In *Laffitte*, the California Supreme Court confirmed that the percentage of the fund method is properly used in a common fund case:

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

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

Moreover, the Supreme Court in *Laffitte* indicated that the trial courts may utilize a "lodestar cross-check" to double check the reasonableness of the percentage fee award. (*Id.*) The Supreme Court affirmed the propriety of a lodestar cross-check where the multiplier exceeded 2. Indeed, the Court explicitly held that the lodestar is a cross check that should not override the primary use of the percentage method in stating, "[W]e emphasize the lodestar calculation, when used in this manner, does not override the trial court's primary determination of the fee as a percentage of the common fund and thus does not impose an absolute maximum or minimum on the potential fee award . . . A lodestar cross-check is simply a quantitative method for bringing a measure of the time spent by counsel into the trial court's reasonableness determination; as such, it is not likely to radically alter the incentives created by a court's use of the percentage method." (*Id.* at 505).

Because the Settlement is a common fund, and the percentage of the fund is the comparable marketplace for fee awards in common fund cases, *Laffitte* and *Lealao* support an award based upon the percentage of the common fund. Here, as noted above, 33-1/3% is within the reasonable range of comparable awards for common fund cases, which establishes the requested award as reasonable. Moreover, as discussed below, the use of the lodestar cross-check in this case further supports the reasonableness of the percentage fee award as it falls squarely within the range approved in *Laffitte*.

2. The Percentage Fee Award is Supported by a Lodestar Cross-Check

The reasonableness of the requested attorneys' fee of $120,000 is established by reference to Class Counsel's lodestar cross-check in this matter. The lodestar for Class Counsel is significantly in excess of the requested amount, approximately $177,034, and therefore the requested fee would require a negative multiplier—the fee request is approximately 0.68 of the lodestar. (Hawkins Decl. ¶¶ 40-48.) As such, this Court should conclude that the award is justified and cross checks under California law.

3. The Percentage Award is Reasonable

Fee determinations in both common fund and statutory fee situations are incapable of mathematical precision because of the intangible factors that must be resolved in the court's discretion based on the circumstances of each particular case. (See, A. Conte, Attorney Fee Awards, 2nd Ed., 207, at 44). A court must decide, based on the unique posture of each case, what percentage of the common fund would most reasonably compensate Class Counsel given the nature of the litigation and the performance of counsel. (*Paul, Johnson, Alston & Hunt, supra*, 886 F.2d at 272). Courts apply a five-part test in reviewing a reasonable percentage fee in common fund cases: (1) the results achieved; (2) the risk of litigation; (3) the skill required and the quality of work; (4) the contingent nature of the fee and the financial burden carried by the Plaintiff; and (5) awards made in similar cases. (*In re Omnivision Technologies, Inc.* (N.D. Cal. 2007) 2007 WL 4293467 at *9). Here, each of the five factors are met and strongly support the award of a percentage fee (33-1/3%) requested in this case.

a. The Results Achieved

"The overall result and benefit to the class from the litigation is the most critical factor in granting a fee award." (*Id.*). Class Counsel obtained a very favorable result in this case for the Class Members. The Settlement provides significant monetary benefits to the Class Members that are comparable to or exceed those recovered in similar wage and hour class actions. (Nava Decl. ¶ 16-18). The Settlement is advantageous to the Class Members because the proceeds will be distributed shortly as opposed to waiting additional years for a similar, or possibly, less favorable result. There is little question that the result achieved in this litigation is favorable. The estimated Net Settlement Amount to be paid to the Class Members is $192,223.56 with an average estimated payment of $676.84 and the highest being $3,317.91. (Nava Decl., ¶ 16).

b. The Risks of Litigation

"The risk that further litigation might result in Plaintiff not recovering at all, particularly a case involving complicated legal issues, is a significant factor in the award of fees." (*Omnivision*, 2007 WL 4293467 at *9). As detailed above, the result was far from certain. Here, and as extensively detailed in Plaintiff's Motion for Preliminary Approval, a number of defenses asserted by Defendant present serious threats to the claims of Plaintiff and the other Class Members. (See, Exhibit 6.) There was considerable risk that Plaintiff would not prevail on a motion for class certification and/or Defendant would prevail on their defenses, thus, defeating any and all recovery to the class. Even if Plaintiff successfully obtained class certification of the wage and hour claims, proving class-wide liability was by no means a foregone conclusion. All of these were very substantial risks any of which could have resulted in the Class receiving nothing if the claims were litigated. (Hawkins Final Decl. ¶¶ 17-19).

c. The Skill Required and the Quality of Work

Practice in the narrow areas of wage and hour and class action litigation requires skill, knowledge and experience in two distinct subsets of the law, and class counsel must have expertise in both. The issues presented in this case required more than a general appreciation of wage and hour law and class action procedure as this area of practice is still developing as evidenced by the California Supreme Court's ruling in *Brinker Restaurant Corp. v. Superior Court* (2012) 53 Cal. 4th 1004 and the Court of Appeal's rulings in *Gonzales v. Downtown LA Motors, LP* (2013) 215 Cal.App.4th 36 and *Vaquero v. Stoneledge Furniture, LLC* (2017) 9 Cal.App.5th 98. The Settlement was possible only because Class Counsel was able to persuade Defendant that Plaintiffs could potentially prevail on the difficult legal issues regarding liability, maintain class certification, overcome difficulties in proof as to monetary relief and take the case to trial. (Hawkins Final Decl. ¶¶ 17-19).

In successfully navigating these hurdles Class Counsel displayed the necessary dual skill set. The high quality of the work in this case was mandated by the formidable defense presented by counsel for Defendants. Class Counsel was required to invest substantial time and resources in every stage of this action. (*Id.* at ¶¶ 40-49). The favorable result obtained by the settlement supports the skill and quality of work of Class Counsel.

d. The Contingent Nature of the Fee and Financial Burden

There is a substantial difference between the risk assumed by attorneys being paid by the hour and attorneys working on a contingent fee basis. (*Powers v. Eichen* (9th Cir. 2000) 229 F.3d 1249, 1256). An attorney working on a contingent basis can only log hours while working without pay in hopes of prevailing and earning a contingent fee, and assuming the inherent risk of receiving nothing. (*Id.* at 1257).

In this case, Class Counsel took the risk in this contingent fee case. The necessity and financial burden of private enforcement makes the requested award appropriate. Counsel retained on a contingency fee basis is entitled to a premium in order to compensate for both the risks and the delay in payment. (See e.g. *Stanger v. China Elec. Motor, Inc.* (9th Cir. 2016) 812 F.3d 734 (courts "must" apply a risk enhancement); *Stetson v. Grissom* (9th Cir. 2016) 821 F.3d 1157, 1166 (abuse of discretion not to apply risk multiplier). Despite the most vigorous and competent of efforts, success is never guaranteed. (*McKittrick v. Gardner* (4th Cir. 1967) 378 F.2d 872, 875)). If counsel is not adequately compensated for the risks inherent in difficult class actions, competent attorneys will be discouraged from prosecuting similar cases. (*Steiner v. BOC Financial Corp.* (S.D.N.Y. 1980) 1980 U.S. Dist. LEXIS 14561 at *6- *7). Here, a number of difficult issues, any one of which could have doomed the successful prosecution of the action, were present. As discussed above, attorneys' fees in this case were risky, with a real chance that Class Counsel would receive nothing for their efforts, having devoted a significant amount of time and advanced costs. In this type of litigation where the corporate defendants and their attorneys are well funded, this can prove to be very expensive and risky, and cost prohibitive to many attorneys. Class Counsel has advanced $13,286.44 in costs which could not have been recovered if this case had been lost. (Hawkins Decl., ¶ 49, Ex. 1).

e. Awards in Similar Cases

The attorneys' fees requested by Class Counsel are within the range of fees awarded in comparable cases. Courts have historically awarded fees in the range of 20% to 50%. (*In re Warner Communications Sec. Lit* (S.D. N.Y. 1985) 618 F.Supp. 735, 749-50). Class Counsels' requested fees are 33-1/3% of the total value of the case, a percentage well within the range of reasonableness given the excellent results obtained for the Class, the risks undertaken, and the skill of the prosecution. (*See Laffitte*, 1 Cal. 5th at 486, 506).

C. Class Counsel's Costs Were Reasonably Incurred

Class Counsel requests reimbursement for expenses and costs in the amount of $13,286.44.19, which less than the $18,000 preliminarily approved by this Court. These litigation expenses were reasonably incurred in the prosecution of this matter and are detailed in the Declarations of Class Counsel. (Hawkins Decl., ¶49; Ex. 1).

D. The Class Representative Should Receive the Requested Service Payment.

Plaintiff respectfully submits that he should be $7,500.00 as a Class Representative Service Payment for his service to the Class as the Class Representatives, and in exchange for his general release. Plaintiff has performed his duties to the Class admirably and without exception. The full extent of Plaintiff's participation is set forth in the Hawkins Final Declaration and the Declaration of Plaintiff filed concurrently herewith. Plaintiff assumed the risk that he might possibly be liable for costs incurred in connection with this case. Plaintiff also risked being "blacklisted" by other future employers for having sued Defendants in a class action. (See generally, Ex. 5, Declaration of Leobardo Castaneda ("Castanada Decl."); see also *Guippone v. BH S&B Holdings LLC* (S.D.N.Y. Oct. 28, 2011) 2011 U.S. Dist. LEXIS 126026, at **4, 20). Without Plaintiff's support, cooperation and information, no other employees would receive any benefit. The payment of the service award to a successful class representative is appropriate and the amount of $7,500.00 is a reasonable portion of the total Settlement secured on behalf of the Class. These payment is to compensate Plaintiff for his efforts and the risk incurred in bringing this case to benefit the other Class Members and secure a total settlement of $360,000.

VI. THE SETTLEMENT ADMINISTRATOR'S REQUESTED EXPENSES ARE REASONABLE AND APPROPRIATE.

The parties retained a neutral third-party administrator, Apex, to administer the notice process. Apex's duties include those set forth in the Declaration of Madely Nava, ¶ 3. Apex's expenses for administering the Settlement are $8,990.00, which Plaintiffs believe is appropriate and request the Court award to Apex. (*Id.* ¶ 19).

VII. CONCLUSION

The Settlement is the product of arm's length negotiations after significant investigation and discovery, mediation, and negotiation. It provides meaningful benefits to the Class Members that are discernibly fair when weighed against the significant potential risks, delays, and costs of further litigation. Thus, Plaintiff requests that the Court grant final approval to the Settlement.

In addition, Class Counsel's fee request is well within the realm of reasonableness approved by courts given the efforts expended in this case**.** Class Counsel undertook great risks on a contingent fee basis and achieved a favorable result for the benefit of Class Members. Class Counsel requests approval of the application for award of attorneys' fees of $120,000, reimbursement of litigations costs of $13,286.44 and a service award of $7,500 to Plaintiff as Class Representative.

Dated: February 26, 2026

JAMES HAWKINS, APLC

By:________________________

James R. Hawkins
Christina M. Lucio
Mitchell J. Murray

Attorneys for Plaintiff