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SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN BERNARDINO

ALEXIS STUART-DRINNEN, individually,
and on behalf of other members of the general
public similarly situated,

Plaintiffs,

vs.

DICARLO'S ITALIAN CAFE, LLC, a
California limited liability company; DD 29
ENTERPRISES, INC., a California
corporation; DOUGLAS AMBROSE, as an
individual; DAVID STEIN, as an individual;
TIEN LUNG CHEN, as an individual; and
DOES 6 through 25, inclusive,

Defendants.

Case No. CIVSB2313579

Honorable Kevin C. Lee
Department S26

**NOTICE OF MOTION AND MOTION FOR
FINAL APPROVAL OF CLASS ACTION
AND PAGA SETTLEMENT, ATTORNEYS'
FEES AND COSTS, ENHANCEMENT
PAYMENT, AND SETTLEMENT
ADMINISTRATION COSTS;
MEMORANDUM OF POINTS AND
AUTHORITIES IN SUPPORT THEREOF**

Date: June 9, 2026
Time: 8:30 a.m.
Dept: S26

Complaint Filed: June 12, 2023
FAC Filed: September 15, 2023
Trial Date: Not Set

1 **TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:**

2 **PLEASE TAKE NOTICE THAT** on **June 9, 2026 at 8:30 a.m.** in Department S26 of the
3 above-captioned Court located at 247 West Third Street, San Bernardino, California 92415, pursuant
4 to California Code of Civil Procedure section 382, Rule 3.769 of the California Rules of Court, and
5 California Labor Code section 2699(l), Alexis Stuart-Drinnen (“Plaintiff”) will and hereby does move
6 the Court for an Order granting final approval of the proposed class action and Labor Code Private
7 Attorneys General Act of 2004, California Labor Code sections 2698, *et seq.* (“PAGA”) settlement
8 between Plaintiff and Defendants DiCarlo’s Italian Cafe, LLC and Tien Lung Chen (together,
9 “Defendants”).

10 Plaintiff requests that the Court enter an Order:

- 11 1. Granting final approval of the class action and PAGA settlement;
- 12 2. Approving the settlement as fair, adequate, and reasonable, based upon the terms as set
13 forth in the Court-approved Joint Stipulation of Class Action and PAGA Settlement (“Settlement
14 Agreement” or “Settlement”), including payment by Defendants of the Gross Settlement Amount of
15 One Hundred Ten Thousand Dollars and Zero Cents (\$110,000.00) equal to the amounts to pay (1)
16 the Settlement Class Members and PAGA Employees pursuant to the terms of the Settlement; (2) the
17 Court-approved Attorneys’ Fees and Costs; (3) the Court-approved Enhancement Payment; (4) the
18 Court-approved Settlement Administration Costs; and (5) the Court-approved payment to the
19 California Labor and Workforce Development Agency (“LWDA”) pursuant to PAGA;
- 20 3. Approving Class Counsel’s request for thirty-five percent (35%) of the Gross
21 Settlement Amount, i.e., Thirty-Eight Thousand Five Hundred Dollars and Zero Cents (\$38,500.00)
22 in attorneys’ fees, plus reimbursement of actual costs and expenses in the amount of Eleven Thousand
23 Eight Hundred Fifty-One Dollars and Ninety-One Cents (\$11,851.91);
- 24 4. Approving the Enhancement Payment to Plaintiff in the amount of Seven Thousand
25 Five Hundred Dollars and Zero Cents (\$7,500.00) in recognition of her services to the Class Members;
- 26 5. Approving the Settlement Administration Costs to Apex Class Action LLC in the
27 amount of Six Thousand Two Hundred Fifty Dollars and Zero Cents (\$6,250.00); and

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6. Approving Four Thousand Five Hundred Dollars and Zero Cents (\$4,500.00) to be paid to the LWDA as seventy-five percent (75%) of the Six Thousand Dollars and Zero Cents (\$6,000.00) allocated to civil penalties under PAGA.

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

This Motion is based on the following Memorandum of Points and Authorities, the Settlement Agreement, the Declarations of Class Counsel (Alexandra Rose), the Class Representative (Alexis Stuart-Drinnen), and the Settlement Administrator (Norma Ayala on behalf of Apex Class Action LLC), the pleadings and other records on file with the Court in this matter, and such evidence or oral argument as may be presented at the hearing on this Motion.

Respectfully submitted,

Dated: May 26, 2026

BLACKSTONE LAW, APC

By: 
 Alexandra Rose
 Attorneys for Plaintiff Alexis Stuart-Drinnen
 and the Class

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1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. INTRODUCTION**

3 Plaintiff Alexis Stuart-Drinnen (“Plaintiff” or “Class Representative”) seeks final approval of
4 the class action settlement reached with Defendants DiCarlo’s Italian Cafe, LLC and Tien Lung Chen
5 (together, “Defendants”). Subject to Court approval, Plaintiff and Defendants (collectively, the
6 “Parties”) have settled the Released Class Claims and Released PAGA Claims as defined in the Joint
7 Stipulation of Class Action and PAGA Settlement (“Settlement Agreement” or “Settlement”) for a
8 total amount of One Hundred Ten Thousand Dollars and Zero Cents (\$110,000.00) (“Gross Settlement
9 Amount”). (See Declaration of Alexandra Rose in Support of Plaintiff’s Motion for Final Approval
10 of Class Action and PAGA Settlement, Attorneys’ Fees and Costs, Enhancement Payment, and
11 Settlement Administration Costs [“Rose Decl.”], ¶ 11, Exh. 1).

12 The Court conditionally certified, for settlement purposes only, the Class defined as: “All
13 current and former hourly-paid and/or non-exempt employees who worked for Defendants in the State
14 of California at any time during the Class Period” (“Class” or “Class Members”). (Settlement
15 Agreement, ¶ 9.b Rose Decl., ¶ 9). The “Class Period” is defined as the period from August 30, 2022
16 through July 31, 2023. (Settlement Agreement, ¶ 9.f; Rose Decl., ¶ 9). The “Settlement Class
17 Members” consist of all Class Members who did not submit a timely and valid Request for Exclusion.
18 (Settlement Agreement, ¶ 9.mm; Rose Decl., ¶ 9). The “PAGA Employees” consist of “all current
19 and former hourly-paid and/or non-exempt employees who worked for Defendants in the State of
20 California at any time during the PAGA Period.” (Settlement Agreement, ¶ 9.y; Rose Decl., ¶ 9). The
21 “PAGA Period” is defined as the period from August 30, 2022 through July 31, 2023. (Settlement
22 Agreement, ¶ 9.aa; Rose Decl., ¶ 9).

23 As discussed herein, the proposed Settlement satisfies all the criteria for final settlement
24 approval under California law because it is fair, adequate, and reasonable. (Rose Decl., Exh. 1; See
25 also, *Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th 116, 129-30; *Dunk v. Ford Motor*
26 *Company* (1996) 48 Cal.App.4th 1794, 180 1). The response of the Class to the Settlement confirms
27 that final settlement approval is appropriate. *There have been no objections to and no requests to opt-*
28 *out from the Class Settlement.* (Declaration of Norma Ayala of Apex Class Action LLC, Regarding

1 Notice and Settlement Administration [“Ayala Decl.”], ¶¶ 10 and 11).

2 Because the Settlement achieves outstanding results for the Settlement Class Members, the
3 PAGA Employees, and the State of California, Plaintiff respectfully requests, on behalf of the Class
4 and without opposition from Defendants, that the Court approve the Settlement as fair, adequate, and
5 reasonable, and enter judgment in accordance with the Settlement’s terms.

6 Plaintiff seeks the Court’s approval of an attorneys’ fee award of thirty-five percent (35%) of
7 the Gross Settlement Amount, equaling Thirty-Eight Thousand Five Hundred Dollars and Zero Cents
8 (\$38,500.00), plus reimbursement of actual litigation costs and expenses in the amount of Eleven
9 Thousand Eight Hundred Fifty-One Dollars and Ninety-One Cents (\$11,851.91) (together,
10 “Attorneys’ Fees and Costs”). Class Counsel’s request for an award of attorneys’ fees and costs is
11 reasonable and appropriate in light of the outstanding work performed by Class Counsel in the matter,
12 the contingent nature of this action, and the results achieved under the Settlement. (*See Lealao v.*
13 *Beneficial California, Inc.* (2000) 82 Cal.App.4th 19).

14 Plaintiff also requests the Court’s approval of the amount to be paid to Plaintiff in the amount
15 of Seven Thousand Five Hundred Dollars and Zero Cents (\$7,500.00) (“Enhancement Payment”) for
16 her services on behalf of the Class. This amount proposed to be awarded to Plaintiff is fair and
17 reasonable for the reasons Plaintiff provided in her declaration. (*See Declaration of Plaintiff Alexis*
18 *Stuart-Drinnen in Support of Motion for Final Approval of Class Action and PAGA Settlement,*
19 *Attorneys’ Fees and Costs, Enhancement Payment, and Settlement Administration Costs* [“*Stuart-*
20 *Drinnen Decl.*”] filed concurrently herewith). Courts approve incentive awards to plaintiffs when
21 justified and appropriate to compensate plaintiffs for their time, effort, and inconvenience. (*See e.g.,*
22 *Van Vranken v. Atlantic Richfield Co.* (N.D. Cal. 1995) 901 F. Supp. 294, 299).

23 Finally, Plaintiff requests that the Court approve the payment of Six Thousand Two Hundred
24 Fifty Dollars and Zero Cents (\$6,250.00) (“Settlement Administration Costs”) to Apex Class Action
25 LLC (“Apex” or “Settlement Administrator”) as compensation for its administration services it has
26 and will provide in connection with the Settlement. (*See, generally, Ayala Decl.*).

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

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

7 Defendants have been the owners of DiCarlo's Italian Restaurant since August 30, 2022 (i.e.,
8 the start of the Class Period), a local Italian restaurant located in Twentynine Palms, California, which
9 is on or near a military base. Defendants have not opened the restaurant since July 2023 (i.e., the end
10 of the Class Period) due to a contract dispute with the military base. Plaintiff started working at
11 DiCarlo's Italian Cafe in approximately July 2022 as an hourly-paid, non-exempt Assistant Manager.
12 (Stuart-Drinnen Decl, ¶ 2). Once the company was sold to the Defendants, she continued to work
13 there until approximately November 2022. (Ibid).

14 On June 7, 2023, Plaintiff provided written notice to the California Labor and Workforce
15 Development Agency ("LWDA") by online submission and to Defendants, pursuant to California
16 Labor Code Section 2699.3, of the specified provisions of the California Labor Code alleged to have
17 been violated by Defendants ("PAGA Letter"). (Rose Decl., ¶ 2).

18 On June 12, 2023, Plaintiff filed a Class Action Complaint for Damages in the action entitled
19 *Alexis Stuart-Drinnen v. DiCarlo's Italian Cafe, LLC, et al.*, San Bernardino County Superior Court
20 Case No. CIVSB2313579 ("Action"), thereby commencing a putative class action against Defendant
21 DiCarlo's Italian Cafe, LLC. (*Id.*, ¶ 3).

22 On September 15, 2023, Plaintiff filed a First Amended Complaint ("Operative Complaint")
23 in the Action, which added DD 29 Enterprises, Inc., Douglas Ambrose, David Stein¹, and Tien Lung
24 Chen as named defendants and causes of action under the Private Attorneys General Act of 2004
25 pursuant to California Labor Code Section 2698 *et seq.* ("PAGA") and for violations of California
26 Labor Code Section 204 and 210. (*Id.*, ¶ 4). The Operative Complaint alleges ten (10) causes of action
27

28

¹ DD 29 Enterprises, Inc., Douglas Ambrose, and David Stein are the former owners of DiCarlo's Italian Restaurant.

1 for violations of the California Labor Code for failure to pay minimum wages, failure to pay overtime
2 wages, failure to provide compliant meal periods and premium payments in lieu thereof, failure to
3 provide compliant rest periods and premium payments in lieu thereof, failure to timely pay wages
4 during employment, failure to provide accurate wage statements, failure to timely pay wages upon
5 termination, and failure to reimburse necessary business expenses, for violations of California
6 Business & Professions Code Section 17200, *et seq.* based on the California Labor Code violations,
7 and for civil penalties under PAGA based on the aforementioned California Labor Code violations.
8 (*Id.*, ¶ 4).

9 On August 1, 2025, the Parties participated in a formal mediation conducted by Gail Glick,
10 Esq. (“Mediator”), a neutral and respected mediator with extensive experience in complex wage and
11 hour matters, and with the assistance of the Mediator’s evaluations, the Parties were able to reach an
12 agreement to resolve this dispute on a class and representative basis as to Defendants and on an
13 individual basis as to DD 29 Enterprises, Inc., Douglas Allen Ambrose, and David Stein. (*Id.*, ¶ 5).
14 The Parties then worked diligently to negotiate and memorialize the terms in a long form settlement
15 agreement. (*Ibid.*).

16 On September 24, 2025, the Parties executed the Settlement Agreement. (*Id.*, ¶ 6 and Exh. 1).

17 On October 9, 2025, Plaintiff filed a Motion for Preliminary Approval of Class Action and
18 PAGA Settlement (“Motion for Preliminary Approval”) and supporting documents. (*Id.*, ¶ 7). On
19 December 11, 2025, the Court entered the Order Granting Preliminary Approval of Class Action and
20 PAGA Settlement (“Preliminary Approval Order”), thereby preliminary approving the terms of the
21 Settlement Agreement, the Notice of Class Action Settlement (“Class Notice”), and the proposed
22 administration procedures and associated deadlines. (*Id.*, ¶ 7 and Exh. 2).

23 On December 11, 2025, pursuant to Plaintiff’s request, the Court dismissed the claims against
24 DD 29 Enterprises, Inc., Douglas Ambrose, and David Stein. (*Id.*, ¶ 8).

25 The Parties agree that the Class described herein may be certified for settlement purposes only.
26 If for any reason the Settlement is not approved, the certification will have no force or effect and will
27 immediately be revoked. The Parties further agree that certification for purposes of approving the
28 Settlement Agreement is in no way an admission that class certification is proper under the more

1 stringent standard applied for litigation and that evidence of this limited stipulation for settlement
2 purposes only will not be admissible for any purpose in this or any other proceeding.

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

4 The Parties have agreed to settle the Class and PAGA claims at issue in the Operative
5 Complaint for a non-reversionary Gross Settlement Amount of One Hundred Ten Thousand Dollars
6 and Zero Cents (\$110,000.00), which is exclusive of employer-side payroll taxes. (Settlement
7 Agreement, ¶ 9.q; Rose Decl., ¶ 11). The Gross Settlement Amount includes: (1) Class Counsel’s fees
8 in the amount of thirty-five percent (35%) of the Gross Settlement Amount, equaling Thirty-Eight
9 Thousand Five Hundred Dollars and Zero Cents (\$38,500.00); (2) Class Counsel’s actual litigation
10 costs and expenses, in the amount of Eleven Thousand Eight Hundred Fifty-One Dollars and Ninety-
11 One Cents (\$11,851.91); (3) Settlement Administration Costs in the amount of Six Thousand Two
12 Hundred Fifty Dollars and Zero Cents (\$6,250.00); (4) Enhancement Payment in the amount of Seven
13 Thousand Five Hundred Dollars and Zero Cents (\$7,500.00); and (5) PAGA Amount in the amount
14 of Six Thousand Dollars and Zero Cents (\$6,000.00). (Settlement Agreement, ¶¶ 9.q, 12, 13, 14, and
15 15; Rose Decl., ¶ 11). After the above Court-approved amounts are deducted from the Gross
16 Settlement Amount, the Settlement Class Members will share in a Net Settlement Amount of
17 approximately Thirty-Nine Thousand Eight Hundred Ninety-Eight Dollars and Nine Cents
18 (\$39,898.09). (Settlement Agreement, ¶ 9.v; Rose Decl., ¶ 11).

19 The Settlement does not require Settlement Class Members to submit claims as a prerequisite
20 to receiving their *pro rata* share of the Net Settlement Amount (“Individual Settlement Share”) nor
21 does it require PAGA Employees to submit claims as a prerequisite to receiving their *pro rata* share
22 of twenty-five percent (25%) of the PAGA Amount (“Individual PAGA Payment”). (Settlement
23 Agreement, ¶¶ 9.t, 9.r, and 17; Rose Decl., ¶ 12). Individual Settlement Shares are calculated by the
24 Settlement Administrator by dividing the Net Settlement Amount by the total number of weeks worked
25 for Defendant by all Settlement Class Members as hourly-paid and/or non-exempt employees in
26 California during the Class Period (“Workweeks”) and multiplying the result by each Settlement Class
27 Member’s Workweeks worked during the Class Period. (Settlement Agreement, ¶¶ 9.nn and 17; Rose
28 Decl., ¶ 12). Individual PAGA Payments are calculated by the Settlement Administrator by dividing

1 the amount of the PAGA Employees' twenty-five percent (25%) share of the PAGA Amount
2 (\$1,500.00) by the total number of pay periods worked for Defendant by all PAGA Employees as
3 hourly-paid and/or non-exempt employees in California during the PAGA Period and multiplying the
4 result by each PAGA Employee's Pay Periods worked during the PAGA Period. (Settlement
5 Agreement, ¶¶ 9.cc and 18; Rose Decl., ¶ 12)

6 Each Individual Settlement Share will be allocated as twenty percent (20%) wages and eighty
7 percent (80%) penalties, interest, and non-wage damages. (Settlement Agreement, ¶ 19; Rose Decl.,
8 ¶ 14). The portion allocated to wages will be reported on an IRS Form W-2 and the portions allocated
9 to penalties, interest, and non-wage damages will be reported on an IRS Form 1099 (if applicable) by
10 the Settlement Administrator. (Settlement Agreement, ¶ 19; Rose Decl., ¶ 14). The Settlement
11 Administrator will withhold the employee's share of taxes and withholdings with respect to the wage
12 portion of the Individual Settlement Shares, and issue checks to Settlement Class Members for their
13 net payment of their Individual Settlement Share ("Individual Settlement Payment"). (Settlement
14 Agreement, ¶¶ 9.s and 19; Rose Decl., ¶ 14). The employers' share of taxes and contributions in
15 connection with the wages portion of Individual Settlement Shares will be paid separately and in
16 addition to the Gross Settlement Amount. (Settlement Agreement, ¶ 19; Rose Decl., ¶ 14). Each
17 Individual PAGA Payment will be allocated as one hundred percent (100%) penalties and will be
18 reported on an IRS Form 1099 (if applicable) by the Settlement Administrator. (Settlement
19 Agreement, ¶ 19; Rose Decl., ¶ 14).

20 Each Individual Settlement Payment and Individual PAGA Payment check will be valid and
21 negotiable for one hundred and eighty (180) calendar days from the date the checks are issued, and
22 thereafter, shall be canceled. (Settlement Agreement, ¶ 37; Rose Decl., ¶ 15). Any funds associated
23 with such canceled checks will be distributed by the Settlement Administrator to the State of
24 California's Unclaimed Property Division in the name of the Settlement Class Member and/or PAGA
25 Employee at issue. (Settlement Agreement, ¶ 37; Rose Decl., ¶ 15).

26 Upon the Effective Date and full funding of the Gross Settlement Amount, Plaintiff and all
27 Settlement Class Members will be deemed to have fully, finally, and forever released, settled,
28 compromised, relinquished, and discharged the Released Parties of any and all claims which were

1 alleged or which could have been reasonably alleged based on the factual allegations in the Operative
2 Complaint, arising during the Class Period, which shall specifically include claims for Defendants’
3 alleged failure to pay overtime and minimum wages, provide compliant meal and rest periods and
4 associated premium payments, timely pay wages during employment and upon termination, provide
5 accurate wage statements, and reimburse necessary business-related expenses in violation of
6 California Labor Code Sections 201, 202, 203, 204, 210, 226(a), 226.7, 510, 512(a), 1194, 1197,
7 1197.1, 1198, 2800, and 2802, the applicable Industrial Welfare Commission Wage Order, and
8 California Business and Professions Code sections 17200, *et seq.* (collectively, “Released Class
9 Claims”). (Settlement Agreement, ¶¶ 9.ff and 38).

10 Upon the Effective Date and full funding of the Gross Settlement Amount, Plaintiff, the State
11 of California with respect to all PAGA Employees, and all PAGA Employees will be deemed to have
12 fully, finally, and forever released, settled, compromised, relinquished, and discharged the Released
13 Parties of any and all claims arising from any of the factual allegations in the PAGA Letter and the
14 Operative Complaint, arising during the PAGA Period, for civil penalties under the Private Attorneys
15 General Act of 2004, California Labor Code Sections 2698 *et seq.*, which shall specifically include
16 claims for Defendants’ alleged failure to pay overtime and minimum wages, provide compliant meal
17 and rest periods and associated premium payments, timely pay wages during employment and upon
18 termination, provide compliant wage statements, maintain complete and accurate payroll records, and
19 reimburse necessary business-related expenses in violation of California Labor Code Sections 201,
20 202, 203, 204, 210, 226(a), 226.7, 510, 512(a), 1174(d), 1194, 1197, 1197.1, 1198, 2800, and 2802,
21 and the applicable Industrial Welfare Commission Wage Order (collectively, “Released PAGA
22 Claims”). (*Id.*, ¶¶ 9.gg and 39).

23 Upon the Effective Date and full funding of the Gross Settlement Amount, Plaintiff,
24 individually and on her own behalf, will be deemed to have fully, finally, and forever released, settled,
25 compromised, relinquished, and discharged the Released Parties from any and all claims, debts,
26 liabilities, demands, obligations, guarantees, costs, expenses, attorneys’ fees, damages, or causes of
27 action of any kind or nature whatsoever, known or unknown, suspected or unsuspected, asserted or
28 unasserted, arising out of, relating to, or resulting from her employment and/or separation of

1 employment with Defendants, which Plaintiff, at any time during the Class Period, had or claimed to
2 have or may have. (Settlement Agreement, ¶¶ 40). It is agreed that this is a general release and is to
3 be broadly construed as a release of all claims, provided that, notwithstanding the foregoing, this
4 Paragraph expressly does not include a release of any claims that cannot be released hereunder by law.
5 (Ibid). Any and all rights granted under any state or federal law or regulation limiting the effect of the
6 Settlement Agreement, including the provisions of Section 1542 of the California Civil Code, ARE
7 HEREBY EXPRESSLY WAIVED. (Ibid). Section 1542 of the California Civil Code reads as
8 follows:

9 A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE
10 CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO
11 EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE
12 AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY
13 AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED
14 PARTY.
15 (Ibid).

16 The “Released Parties” means Defendants and their current and former officers, directors,
17 members, insurers, shareholders, subsidiaries, affiliates, predecessors, successors, and assigns. (*Id.*,
18 ¶9.hh). The Released Parties do not include DD 29 Enterprises, Inc., Douglas Ambrose, and David
19 Stein. (Ibid).

18 IV. THE SETTLEMENT ADMINISTRATION PROCESS

19 Apex has taken all necessary steps to effectuate the notice and settlement administration
20 process, as set forth in the Preliminary Approval Order.

21 On December 11, 2025, Apex received the Court-approved text for the Class Notice from Class
22 Counsel. (Ayala Decl., ¶ 4).

23 On December 12, 2025, Apex received the class list from Defendants’ counsel, which
24 contained the full name, Social Security number, last known mailing address, dates worked during the
25 Class Period, and such other information as is necessary to calculate Workweeks and Pay Periods
26 (collectively, “Class List”). (*Id.*, ¶ 5). The Class List was uploaded to Apex’s database and checked
27 for duplicates and other possible discrepancies. (Ibid). The Class List contained 91 individuals
28 identified as Class Members who worked 1,703 Workweeks during the Class Period and 91 individuals
identified as PAGA Employees who worked 1,703 Pay Periods during the PAGA Period. (*Id.*, ¶¶ 5

1 and 16).

2 As part of the preparation for mailing, all 91 names and addresses contained in the Class List
3 were then processed against the National Change of Address (“NCOA”) database, maintained by the
4 United States Postal Service (“USPS”), for purposes of updating and confirming the mailing addresses
5 of the Class Members before mailing of the Class Notice. (*Id.*, ¶ 6). The NCOA contains requested
6 change of addresses filed with the USPS. (*Ibid.*). To the extent that an updated address was found in
7 the NCOA database, the updated address was used for the mailing of the Class Notice. (*Ibid.*). To the
8 extent that no updated address was found in the NCOA database, the original address provided by
9 Defendants’ counsel was used for the mailing of the Class Notice. (*Ibid.*).

10 On January 16, 2026, the Class Notice was mailed, via U.S. First Class Mail, to all 91
11 individuals contained in the Class List. (*Id.*, ¶ 7). 19 Class Notices were returned to Apex as
12 undeliverable. (*Id.*, ¶ 8). Apex performed a computerized skip trace on the 19 returned Class Notices
13 that did not have a forwarding address in an effort to obtain an updated address for the purpose of re-
14 mailing the Class Notice. (*Ibid.*). This skip trace effort resulted in obtaining 14 updated addresses and
15 the Class Notice was promptly re-mailed to those Class Members, via U.S First Class Mail. (*Ibid.*). A
16 total of 5 Class Notices have been deemed undeliverable as no updated address was found
17 notwithstanding the skip tracing. (*Id.*, ¶ 9).

18 Class Members had forty-five (45) calendar days after the Settlement Administrator mailed the
19 Class Notices to submit a Request for Exclusion, Notice of Objection, and/or Dispute (“Response
20 Deadline”). (Settlement Agreement, ¶ 9.jj). The Response Deadline was March 2, 2026 and the
21 extended Response Deadline was March 17, 2026. (Ayala Decl., ¶¶ 10-12). The Settlement
22 Administrator did not receive any Requests for Exclusion, Notice of Objections, and/or Disputes.
23 (*Ibid.*).

24 The estimated average gross Individual Settlement Share is \$348.90, the estimated highest
25 gross Individual Settlement Share is \$820.32, and the estimated lowest gross Individual Settlement
26 Share is \$18.64; the estimated average Individual PAGA Payment is \$16.48, the estimated highest
27 Individual PAGA Payment is \$38.76, and the estimated lowest Individual PAGA Payment is \$0.88.
28

(*Id.*, ¶¶ 15 and 17).²

V. COMPLIANCE WITH PROCEDURAL REQUIREMENTS OF PAGA

On October 9, 2025, Class Counsel submitted a copy of the Settlement Agreement to the LWDA through its online submission portal in compliance with California Labor Code § 2699(s)(2). (Rose Decl., ¶ 16). The LWDA has not objected or otherwise responded to the submissions. (*Ibid.*).

VI. EVALUATION OF SETTLEMENT FOR FINAL APPROVAL

A. The Legal Standard for Final Approval

Before granting final approval of a class action settlement, the Court must review the settlement for fairness. (Cal. Rules of Court, rule 3.769(g); *Dunk v. Ford Motor Co.* (1996) 48 Cal.App.4th 1794, 1801). A court must take into account relevant factors, including, for example, the strength of the plaintiff's case, the risk, expense, complexity and likely duration of further litigation, the amount offered in 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 v. Apple Computer, Inc.* (2001) 91 Cal.App.4th 224, 244-45; *Dunk*, 48 Cal.App.4th at 1801 ["The list of factors is not exhaustive and should be tailored to each case"]; *Officers for Justice v. Civil Serv. Comm'n* (9th Cir. 1982) 688 F.2d 615, 625). Considering such factors, a presumption of fairness exists where: (1) the settlement is reached through arm's-length bargaining; (2) investigation and discovery are sufficient to allow counsel and the court to act intelligently; (3) counsel is experienced in similar litigation; and (4) the percentage of objectors is small. (*Wershba*, 91 Cal.App.4th at 245; *Dunk*, 48 Cal.App.4th at 1802). "The settlement or fairness hearing is not to be turned into a trial or rehearsal for trial on the merits. [The trial court is not] to reach any ultimate conclusions on the contested issues of fact and law which underlie the merits of the dispute, for it is the very uncertainty of outcome in litigation and avoidance of wasteful and expensive litigation that induce consensual settlements." (*Officers for Justice*, *supra*, 688 F.2d at 625).

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² The actual average, highest, and lowest Individual Settlement Shares will be larger than the amounts stated in the Ayala Decl. because the Net Settlement Amount is larger due to Class Counsel's request for reimbursement of litigation costs and expenses in an amount that is less than \$20,000 (the difference between the amount sought and the amount authorized under the Settlement, i.e., \$8,148.09 will be part of the Net Settlement Amount).

1 **B. The Settlement Should be Finally Approved**

2 California courts recognize that “a presumption of fairness exists where . . . [a] settlement is
3 reached through arm’s-length bargaining.” (*Wershba*, 91 Cal.App.4th at 245; *see also Clark v. Am.*
4 *Residential Servs. LLC*, 175 Cal.App.4th 785, 799 (2009)). Here, the Parties’ settlement negotiations
5 were at all times made at arm’s-length and were adversarial. (Rose Decl., ¶ 17). The Parties engaged
6 in extensive informal discovery prior to reaching a settlement. (*Id.*, ¶ 18).

7 **C. The Settlement is Fair and Reasonable**

8 Courts typically assess the status of discovery in determining whether a class action settlement
9 agreement is fair, reasonable, and adequate. (*Dunk*, 48 Cal.App.4th at 1801). Prior to mediation,
10 Defendants produced all of the putative class members’ pay records as well as information regarding
11 the total number of putative class members, the total workweeks worked by the putative class
12 members, and the average rate of pay for the putative class members. (Rose Decl., ¶ 18). This allowed
13 Class Counsel to conduct an informed assessment and analysis of the strengths and weaknesses of the
14 claims and the potential class-wide damages. (*Ibid.*). Plaintiff’s investigation was sufficient to satisfy
15 the criteria for court approval set forth in *Dunk v. Foot Locker Retail, Inc.* (1996) 48 Cal.App.4th 1794,
16 1801 and *Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th 116, 129-130 (“Dunk/Kullar”).

17 Based on the information exchanged, the Parties extensively briefed issues regarding class
18 certification and liability and provided their analyses to the Mediator who helped the Parties debate
19 the strengths and weakness of their respective positions. (Rose Decl., ¶ 19). At all times, Plaintiff
20 was willing and prepared to litigate this matter through class certification and trial if the Parties had
21 been unable to reach a favorable resolution. (*Ibid.*). Additionally, settlement negotiations were
22 conducted by highly capable and experienced counsel. (*Ibid.*). Class Counsel are respected members
23 of the California State Bar with strong records of vigorous and effective advocacy and are experienced
24 in handling complex wage and hour class action litigation. (*Ibid.*). Accordingly, Class Counsel had
25 sufficient information and experience to act intelligently in negotiating the Settlement.

26 A settlement is not judged against what might have been recovered had a plaintiff prevailed at
27 trial, nor does the settlement have to obtain 100% of the damages sought to be fair and reasonable.
28 (*Wershba*, 91 Cal.App.4th at 246, 250). In evaluating the reasonableness of a settlement, a trial court

1 must consider “the strength of plaintiffs’ case, the risk, expense, complexity and likely duration of
2 further litigation, the risk of maintaining class action status through trial, the amount offered in
3 settlement, the extent of discovery completed and the stage of the proceedings, the experience and
4 views of counsel, the presence of a governmental participant, and the reaction of the class members to
5 the proposed settlement.” (*Kullar v. Foot Locker Retail, Inc.*, 168 Cal.App.4th 116, 128 (2008)).

6 Here, the reasonableness of the Settlement is underscored by the fact that Defendants have
7 legal and factual grounds for defending the Action. Based upon Class Counsel’s experience litigating
8 similar complex matters, Plaintiff reasonably expected a vigorous and lengthy defense to both class
9 certification and the merits of the Action absent a settlement.

10 Class Counsel is aware of Defendants’ defenses and arguments and has also taken into account
11 the uncertainty and risk of the outcome of further litigation, and the difficulties and delays inherent in
12 such litigation, including those involved in class and/or representative adjudication. (Rose Decl., ¶
13 21). Plaintiff further recognizes the burdens of proof necessary to establish liability for the claims
14 asserted in the Action, Defendants’ defenses, and the difficulties in establishing entitlement to
15 monetary recovery. (Ibid). Plaintiff has also considered the Parties’ settlement discussions, as well
16 as the evaluations of the Mediator, who is experienced and well-regarded in complex labor and
17 employment matters. (Ibid).

18 Defendants denied and continue to deny any liability and wrongdoing of any kind associated
19 with the claims alleged in the Action, and further deny that class certification is appropriate for any
20 purpose other than the Settlement. (*Id.*, ¶ 22). Defendants believe that they would ultimately prevail
21 in the Action. (Ibid). Defendants proffered defenses to both certification and to the merits of
22 Plaintiff’s claims. (Ibid). Defendants contended that Plaintiff’s claims are not suitable for class
23 certification because individual issues would predominate should this case go to trial. (Ibid). As with
24 all class actions, these complex cases raise difficult management and proof issues and, accordingly,
25 there is a significant risk that the Court may deny class certification. (Ibid).

26 Class Counsel also recognized that, even if Plaintiff prevailed at class certification, proving the
27 amount of wages due to each Class Member would be an expensive, time-consuming, and extremely
28 uncertain proposition. (*Id.*, ¶ 23). In order to prove liability and damages, Class Counsel would need

1 to request and analyze thousands of pages of documents, obtain the Class Members' contact
2 information, contact them, and obtain declarations at great expense. (Ibid). Moreover, even if Plaintiff
3 prevailed at class certification and trial, possible appeals would substantially delay any recovery by
4 the Class. (Ibid).

5 In light of the Parties' respective legal positions and the risks of continued litigation, the Gross
6 Settlement Amount for resolution of the Class and PAGA claims, is fair, adequate, and reasonable.
7 (*Id.*, ¶ 24).

8 **VII. THE REQUESTED ATTORNEYS' FEES AND COSTS ARE REASONABLE**
9 **AND SHOULD BE APPROVED**

10 Class Counsel seeks thirty-five percent (35%) of the Gross Settlement Amount (i.e.,
11 \$38,500.00) for fees for the time spent litigating this matter and reimbursement of actual costs and
12 expenses totaling Eleven Thousand Eight Hundred Fifty-One Dollars and Ninety-One Cents
13 (\$11,851.91) incurred in the prosecution of the Action. (Rose Decl., ¶ 25). The requested fees and
14 costs are fair compensation for undertaking complex, risky, expensive, and time-consuming litigation
15 on a contingent fee basis, especially in light of the substantial benefits achieved by Class Counsel for
16 the Class Members. (Ibid).

17 **A. Plaintiff's Fee Request of Thirty-Five Percent (35%) of the Gross**
18 **Settlement Amount is Proper Under the Common Fund Doctrine**

19 Courts have long recognized the "common fund" or "common benefit" doctrine, under which
20 attorneys who create a common fund or benefit for a group of persons may be awarded their fees and
21 costs to be paid out of the fund. (*See Serrano v. Priest* ("Serrano III") (1977) 20 Cal.3d 25, 34,
22 quoting *D'Amico v. Board of Medical Examiners* (1974) 11 Cal.3d 1; *Glendale City Employees'*
23 *Association v. City of Glendale* (1975) 15 Cal.3d 328, 341 fn.19; *Quinn v. State of California* (1995)
24 15 Cal.3d 162, 16 7; *see also Boeing Co. v. Van Gernert* (1980) 444 U.S. 472,478; *Mills v. Electric*
25 *Auto-Lite Co.* (1970) 396 U.S. 375, 391-392).

26 The California Supreme Court has held that, "when a number of persons are entitled in
27 common to a specific fund, and an action brought by a plaintiff or plaintiffs for the benefit of all results
28 in the creation or preservation of that fund, such plaintiff or plaintiffs may be awarded attorneys' fees

1 out of the fund.” (*Serrano III, supra*, 20 Cal.3d at 34, quoting *D’Amico*, 11 Cal.3d 1; *see also Boeing,*
2 *supra*, 444 U.S. at 478 (“[A] lawyer who recovers a common fund for the benefit of persons other than
3 himself or his client is entitled to a reasonable attorney’s fee from the fund as a whole.”); *Mills, supra*,
4 396 U.S. at 391-392 (United States Supreme Court endorsing the common fund approach in class
5 actions)). California Practice Guide: Civil Trials and Evidence (The Rutter Group) at § 17:172.3
6 explains the common fund doctrine as follows:

7 Where the lawsuit results in the recovery of a fund or property benefiting
8 others as well as plaintiff (e.g., a class action), the court has inherent
9 equitable power to order plaintiffs attorney fees paid out of the common
 fund or property [citations]. Such fee spreading assures that all of those
 benefited by the litigation pay their fair share of obtaining the recovery.

10 The percentage-of-the-fund approach appears to be the preferred method of awarding fees in
11 traditional common fund cases, such as this case. Where the settlement amount is a “certain or easily
12 calculable sum of money,” use of the percentage-of-the-fund method is appropriate. (*Serrano III*, 20
13 Cal. 3d at 35).

14 In *Quinn v. State of California* (1995) 15 Cal.3d 162, 167, the California Supreme Court stated:
15 “[O]ne who expends attorneys’ fees in winning a suit which creates a fund from which others derive
16 benefits may require those passive beneficiaries to bear a fair share of the litigation costs.” Similarly,
17 in *City and County of San Francisco v. Sweet* (1995) 12 Cal.4th 105, 110-111, the California Supreme
18 Court recognized that the common benefit doctrine has been applied “consistently in California when
19 an action brought by one party creates a fund in which other persons are entitled to share.”

20 Numerous appellate courts have similarly found. (*See e.g., Knoff v. City and County of San*
21 *Francisco* (1969) 1 Cal.App.3d 184, 203-204 (court upheld a “contingent percentage” award of
22 attorneys’ fees in a representative action as the proper exercise of the court’s broad equitable powers);
23 *Rider v. County of San Diego* (1992) 1 I Cal.App.4th 1410, 1423 (attorneys’ fees and expenses properly
24 awarded from common benefit composed of illegally imposed sales and use tax); *Bank of America v.*
25 *Cory* (1985) 164 Cal.App.3d 66, 89-92 (fees awarded from common benefit created by action
26 compelling state to claim dormant bank accounts)).

27 ///

28 ///

1 The Supreme Court noted that several courts have expressed frustration with the alternative
2 “lodestar” approach for deciding fee awards, which usually involves wading through voluminous and
3 often indecipherable time records. (*Laffitte v. Robert Half Int’l Inc.* (2016) 1 Cal.5th at 503; *see Lealao*
4 *v. Beneficial California, Inc.* (2000) 82 Cal.App.4th 19, 31 n.5 citing *In re Activision Sec. Litig.* (N.D.
5 Cal 1989) 723 F. Supp. 1373, 1375). The percentage approach is preferable to the lodestar because:
6 (1) it aligns the interests of class counsel and absent class members; (2) it encourages efficient
7 resolution of the litigation by providing an incentive for early, yet reasonable, settlement; and (3) it
8 reduces the demands on judicial resources. (*In re Activision Sec. Litig.*, 723 F. Supp. at 1378-79). The
9 Ninth Circuit now routinely uses the percentage of the common fund approach to determine the award
10 of attorney’s fees. (*Lealao*, 82 Cal.App.4th at 30-31; *see e.g., In re Pac. Enters. Sec. Litig.* (9th Cir.
11 1995) 47 F.3d 373, 378-79 (approving attorney’s fee of 33%)).

12 A fee of thirty-five percent (35%) of the Gross Settlement Amount (i.e., \$38,500.00) is easily
13 within the range of reasonableness. Historically, courts have awarded percentage fees in the range of
14 20% to 50%, depending on the circumstances of the case. (*See In re Activision Sec. Litig.*, 723 F.
15 Supp. at 1378). According to Professor Newberg: “No general rule can be articulated on what is a
16 reasonable percentage of a common fund...Usually 50 per cent of the fund is the upper limit on a
17 reasonable fee award from a common fund, in order to assure that fees do not consume a
18 disproportionate part of the recovery obtained for the class, though somewhat larger percentages are
19 not unprecedented.” (Newberg on Class Actions (4th Ed.), § 14.6). Class Counsel’s requested fee is
20 reasonable and falls well within the historical range of attorney’s fee awards under the common fund
21 theory. Based on Class Counsel’s showing of reasonableness, the Court should approve the requested
22 fees pursuant to the common fund approach.

23 **B. The Circumstances of this Case Support a Thirty-Five Percent (35%) Fee**
24 **Award**

25 Given the significant results achieved under the circumstances of this litigation, the requested
26 fee award is reasonable. As discussed in *Sumitomo Copper Litigation, supra*, 74 F. Supp. 2d at 396:

27 No one expects a lawyer whose compensation is contingent on the
28 success of his services to charge, when successful, as little as he
would charge a client who in advance of the litigation has agreed to
pay for his services, regardless of success. Nor, particularly in
complicated cases producing large recoveries, is it just to make a fee

1 depend solely on the reasonable amount of time expended.

2 In that vein, this Court should consider the contingent nature of this case, the uncertainty of
3 the outcome, the quality of the counsel, and the preclusion from other employment.

4 **C. The Contingent Nature of This Matter**

5 From the outset of the Action to the present, prosecution of this matter has involved significant
6 financial risk for Class Counsel. Class Counsel undertook this matter solely on a contingent basis,
7 with no guarantee of recovery. Class Counsel has placed its own resources at risk to prosecute this
8 matter with no guarantee of success. The risks of this matter are apparent in that class certification
9 would likely have been a hard-fought issue, especially given the uncertainty regarding certification of
10 cases such as this. Moreover, even if class certification were granted over Defendants' opposition,
11 there was no assurance that Plaintiff would succeed at trial. (Rose Decl., ¶¶ 22-24). Despite such
12 challenges, Class Counsel was able to persuade Defendants that they faced significant liability
13 exposure such that they were willing to pay \$110,000.00 to settle the Class Members' claims.

14 **D. The Experience, Reputation, Ability of Counsel, and Skill in Litigation**

15 Class Counsel has substantial experience in wage-and-hour and other class action litigation,
16 including litigation involving the legal issues in this matter. (Rose Decl., ¶¶ 28 and 29). Class
17 Counsel's skill in developing a factual record and convincing Defendants of their litigation exposure
18 under California law was essential to achieving the Settlement. Through its skill and reputation, Class
19 Counsel was able to obtain a settlement that provides an outstanding result for Class Members. (*See*
20 *generally* Rose Decl.).

21 **E. The Results Achieved**

22 The excellent results achieved by the Settlement support Class Counsel's request for attorneys'
23 fees. Class Members' support for the results achieved by Class Counsel is demonstrated by the
24 absence of any objections to either the Class Settlement or to Class Counsel's request for fees, both of
25 which were described clearly in the Class Notice. As of the date of this Motion, Settlement Class
26 Members will be paid, on average, approximately \$348.90 each, which is intended to compensate them
27 for the alleged wage and hour violations they suffered during their employment. (Rose Decl., ¶ 13).
28 This is a significant benefit for the Settlement Class Members here as it represents a recovery for

highly disputed claims. Equally important is the fact that the State of California will receive \$4,500.00 for enforcement of labor laws and education of employers. (*Id.*, ¶ 35).

Furthermore, the efficiency with which this litigation was conducted and resolved should be rewarded. After preparing and investigating the case prior to filing the Action, Class Counsel strongly litigated and then resolved the case in an efficient manner. The Class Members will directly benefit from the prompt and fair resolution of their claims. They will be receiving a significant award in a relatively short period of time, as opposed to waiting years to recover some undetermined amount if they succeeded at trial, which is an uncertainty in itself.

F. Preclusion of Other Employment

As California law recognizes, Class Counsel's commitment to this litigation should not be assessed in a vacuum. (*See Serrano, supra*, 20 Cal.3d at 49). A relevant factor in determining attorneys' fees is whether the litigation required Class Counsel to forego other employment. (*See ibid*). Class Counsel had to consider its workload during this litigation when considering taking on additional work that was available, and which Class Counsel had to forego in order to devote the time necessary to pursue this litigation. (Rose Decl., ¶ 27).

G. The Requested Fees Are Also Justified Under the Lodestar Method

Fee calculations under the lodestar method would result in a similar award, demonstrating the fairness of Class Counsel's percentage fee request. Under the lodestar method, a base fee amount is calculated from a compilation of time reasonably spent on the case and the reasonable hourly compensation of the attorney. The base amount is then adjusted by use of a multiplier in light of various factors. (*Serrano III, supra*, 20 Cal.3d at 48). Class Counsel's hourly rates are summarized in the Rose Decl. at ¶¶ 28-29.

One difficulty in determining the hourly rate of attorneys of similar skill and experience in the relevant community is the scarcity of hourly fee-paying clients in class action litigation. (Rose Decl., ¶ 29). As a practical matter, few if any employees or consumers pay attorneys' fees on an hourly basis for such extensive litigation, and thus retainer agreements in such cases are based on a stepped-up contingency fee (with the percentage increasing from one third to forty-five – and sometimes even fifty percent, which is on par with personal injury contingency fee agreements – if the case goes to

1 trial). (Ibid). Therefore, there is no customary hourly billing rate for work that is routinely based on
2 a contingent fee relationship, but the nature of class action work should be strongly considered by the
3 Court. (Ibid). Wage and hour work presents a specialized and challenging area of law that is not
4 within the knowledge of many lawyers. (Ibid). This kind of class action work requires specialized
5 learning and the willingness to take large risks. (Ibid).

6 Class Counsel has spent approximately 211.80 total hours litigating these claims to date.³
7 (Rose Decl., ¶ 29). Class Counsel expects to spend another 10 hours in connection with the final
8 approval process (including preparing for and attending the Final Approval Hearing, and managing
9 the Settlement through its conclusion, including anticipated communications with defense counsel, the
10 Settlement Administrator, our client, and Class Members). (*Id.*, ¶ 30). In addition to time spent during
11 litigation, reasonable hours also include the time spent before the Action was filed, including time
12 spent interviewing the client, investigating the facts and the law, preparing the initial pleadings, as
13 well as litigating the case. (*Webb v. Board of Educ.* (1985) 471 U.S. 234). Further, the fee award
14 should include fees incurred to establish and defend the attorneys' fee claim. (*Serrano v. Priest* (1982)
15 32 Cal .3d 621, 639 ("*Serrano IV*"). Based on the rates of Class Counsel, the total fees incurred to
16 date are \$179,850. (Rose Decl., ¶ 29). By the conclusion of this matter, the total fees are estimated
17 to be approximately \$187,350. (*Id.*, ¶ 30).

18 In cases where a common fund analysis is not used, once the court establishes the lodestar
19 amount, it should adjust the fee award by a multiplier in order to make an appropriate fee award.
20 (*Serrano III, supra*, 20 Cal.3d at 48). In applying the multiplier, *Newberg on Class Actions* states that
21 "[m]ultiples ranging from one to four frequently are awarded in common fund cases when the lodestar
22 method is applied. A large common fund award may warrant an even larger multiplier." (4 *Newberg*
23 *on Class Actions* 4th (4th ed. 2002) § 14.6). If the class members paid the fees that the market would
24 bear, they would pay a fee of anywhere from one-third to forty-five percent of any recovery. Since
25

26 ³ In *Martino v. Denevi* (1986) 182 Cal.App.3d 553, 559, the court addressed the issue of what evidence is required in
27 California to support a fee application. The court held: "Testimony of an attorney as to the number of hours worked on a
28 particular case is sufficient evidence to support an award of attorney fees, even in the absence of detailed time records."
Id. There is no need to attach the voluminous invoices prepared in a case as a basis for an award of fees and costs. *Id.*
Through Class Counsel's declaration in support of this application, however, Plaintiff presents a thorough breakdown of
the hours spent and costs incurred in prosecuting this class action. Pursuant to *Martino, supra*, this presentation is sufficient
to support the amount requested.

1 this is the market rate, the lodestar calculation should be enhanced to reflect what the class members
2 would pay on the open market. (*Lealao*, *supra*, 82 Cal.App.4th at 47-48).

3 In *Lealao*, the court held that trial courts should award lodestar fees by examining the
4 percentage-of-the-benefit and adjusting the lodestar calculation accordingly. (*Id.* at 49 and 53). The
5 court indicated that this is an upward adjustment and should be akin to a contingency fee recovery;
6 the court stated, “[a]n adjustment reflecting the amount of the class recovery is not significantly
7 different from an adjustment reflecting a percentage of that amount; and California courts have
8 evaluated a lodestar as a percentage of the benefit.” (*Id.* at 46). The *Lealao* method appears
9 particularly appropriate because class actions generally are contingency fee cases for plaintiffs - and
10 the class action clients do not expect to pay an hourly fee.

11 The rationale of *Lealao* comports with the purpose of the multiplier. The multiplier is
12 “primarily to compensate the attorney for the prevailing party at a rate reflecting the risk of
13 nonpayment in contingency cases.” (*Ketchum v. Moses* (2001) 24 Cal.4th 1122, 1138). The *Lealao*
14 court reasoned:

15 Given the unique reliance of our legal system on private litigants to enforce
16 substantive provisions of law through class and derivative actions, attorneys
17 providing the essential enforcement services must be provided incentives
18 roughly comparable to those negotiated in the private bargaining that takes
19 place in the legal marketplace, as it will otherwise be economic for
20 defendants to increase injurious behavior. It has therefore been urged (most
21 persistently by Judge Richard Posner) that in defining a reasonable fee in
22 such representative actions, the law should mimic the market.

23 In the class action context, that would mean attempting to award the fee that
24 informed private bargaining, if it were truly possible, might have reached.
25 The simplest way for the law to duplicate the bargain that informed parties
26 would reach if agency costs were low is to look to fee award levels in actions
27 brought by sophisticated private parties under the same or comparable
28 statutes.

(*Lealao*, 82 Cal.App.4th at 47-48 (internal citations and quotations omitted)). The court added:

24 [T]rial judges need the flexibility *Serrano III* provides, as it enables them to
25 relate fee awards to the economic realities that determine the efficacy of the
26 private enforcement contemplated by our civil justice system.
27 Accordingly, we hold that, in cases in which the value of the class recovery
28 can be monetized with a reasonable degree of certainty and it is not
otherwise inappropriate, a trial court has discretion to adjust the basic
lodestar through the application of a positive or negative multiplier where
necessary to ensure that the fee awarded is within the range of fees freely
negotiated in the legal marketplace in comparable litigation.

(*Id.* at 49-50).

1 In looking at similar cases, including those set forth above, Class Counsel's requested fee
2 comports to the market. Based on the reasonable hourly rates suggested by Class Counsel and the
3 collective hours worked in this matter, the requested fee award would represent a negative multiplier
4 of the current total fee lodestar. In this regard, Class Counsel's fee request is reasonable.

5 **H. No Class Member Objected to the Requested Attorneys' Fee Award**

6 Class Counsel's intention to request the Court's approval for payment of attorneys' fees was
7 clearly disclosed to each Class Member in the Court-approved Class Notice. (Rose Decl., ¶ 32; *See*
8 *also*, Ayala Decl., Exh. A). As of the filing of this Motion, there has not been a single objection to the
9 request for attorneys' fees. (Ayala Decl., ¶ 11). It is fair to conclude that the Class approves of/does
10 not take issue with the requested award of attorneys' fees. Based thereon, Class Counsel's request for
11 thirty-five percent (35%) of the Gross Settlement Amount, equaling Thirty-Eight Thousand Five
12 Hundred Dollars and Zero Cents (\$38,500.00), should be granted.

13 **I. Plaintiff's Cost Request is Reasonable**

14 Class Counsel seeks reimbursement of a total amount of Eleven Thousand Eight Hundred
15 Fifty-One Dollars and Ninety-One Cents (\$11,851.91) in costs and expenses in this matter, which
16 includes reasonable future costs for filing the Motion. (Rose Decl., ¶ 31 and Exh. 4). All costs and
17 expenses were reasonably incurred in prosecution of this matter.

18 **VIII. THE REQUESTED ENHANCEMENT PAYMENT TO PLAINTIFF IS**
19 **REASONABLE**

20 The named Plaintiff should be awarded an Enhancement Payment in the amount of Seven
21 Thousand Five Hundred Dollars and Zero Cents (\$7,500.00) for her services as the Class
22 Representative and the risks in connection with that role. (Rose Decl., ¶ 33). Enhancement awards in
23 wage and hour cases typically range from \$5,000.00 to \$20,000.00, although some awards are higher.
24 (Ibid). Often, multiple class representatives receive awards in the above range. (*See e.g., Munoz v.*
25 *BCI Coca-Cola Bottling Co. of Los Angeles* (2010) 186 Cal.App.4th 399, 412 [approving an
26 enhancement request of \$10,000.00 per named plaintiff in a 188 member class]; *Cook v. Niedert*, 142
27 F.3d 1004, 1016 (7th Cir. 1998); *Thornton v. East Texas Motor Freight*, 497 F.2d 416, 420 (6th Cir.
28 1974) ["We also think there is something to be said for rewarding those drivers who protect and help
to bring rights to a group of employees who have been the victims of discrimination."]). Here, the

1 requested Enhancement Payment is modest, reasonable, and should be approved.

2 Plaintiff's actions establish that: (1) she sought to protect the interests of the Class above her
3 own personal interests; (2) the Settlement Class Members will be benefitted from her actions by
4 receiving a payment without having to do anything; and (3) Plaintiff has put forth a significant amount
5 of time and effort pursuing the litigation and seeing it through to resolution. (*See, generally, Stuart-*
6 *Drinnen Decl.; see also Clark v. American Residential Services LLC* (2009) 175 Cal.App.4th 785, 804
7 (discussing the criteria for determining class representative enhancement awards in concluding that a
8 requested award of \$25,000 for two class representatives was too high)).

9 The requested award for Plaintiff is also reasonable given the financial and personal risk she
10 took in commencing the Action, and in light of the benefits that her actions have conferred upon the
11 Class. (*Stuart-Drinnen Decl., ¶ 7; See also Van Vranken v. Atl. Richfield Co.* (N.D.Cal. 1995) 901
12 F.Supp. 294, 299-300). Additionally, in considering a requested class representative enhancement
13 award, courts take into consideration a plaintiff's reasonable fear of retaliation. (*Staton v. Boeing Co.*
14 (9th Cir. 2003) 327 F.3d 938, 977). Here, it is easy to see that a potential future employer could expend
15 little effort to discover Plaintiff brought the lawsuit – and based thereon, decline to offer Plaintiff
16 employment.

17 In sum, Plaintiff has performed considerable services on behalf of the Class during the
18 litigation. (*See, generally, Stuart-Drinnen Decl.*). Class Counsel cannot understate the importance of
19 the role of an employee who is willing to search out an attorney and step forward to assume the risk
20 of litigation and retaliation in order to represent a class and put the interests of the class before their
21 own interests. Plaintiff has understood that this is a class action where she is serving as the Class
22 Representative and must protect the Class Members' interests. (*Id.*, ¶ 10). Plaintiff was the catalyst
23 to the benefit reached for the Class Members, and has actively protected the Class Members' interests
24 during the pendency of this matter and will continue to do so even if the case was required to go to
25 trial. (*Ibid.*).

26 In contrast, without having to take on any of the risk incurred by Plaintiff or time spent by
27 Plaintiff in litigating this matter, Settlement Class Members will automatically be issued a payment
28 for their claims. It appears that the Settlement Class Members recognize this enhancement was

1 justified because since the time the Class received notice of the requested Enhancement Payment, no
2 one has objected to the request. Thus, the Enhancement Payment to Plaintiff is warranted to
3 compensate her for her time and effort, the fear and stress associated with assuming the responsibility
4 of serving as the Class Representative, and the concrete risks she assumed as the Class Representative.

5 **IX. THE REQUESTED SETTLEMENT ADMINISTRATION COSTS ARE**
6 **REASONABLE**

7 In Plaintiff's Motion for Preliminary Approval, Plaintiff requested, and the Court approved,
8 Settlement Administration Costs not to exceed Six Thousand Two Hundred Fifty Dollars and Zero
9 Cents (\$6,250.00). (Rose Decl., ¶ 34). Apex Class Action LLC is the approved Settlement
10 Administrator. (Ibid). It is an experienced class administrator and has adequately performed the
11 administration tasks required by the Preliminary Approval Order. Apex Class Action LLC's *actual*
12 costs to administer the Settlement are indeed only Six Thousand Two Hundred Fifty Dollars and Zero
13 Cents (\$6,250.00). (Ayala Decl., ¶ 18 and Exh. B). Based thereon, the requested costs should be
14 approved.

15 **X. THE PROPOSED LWDA ALLOCATION IS REASONABLE**

16 Pursuant to California Labor Code Section 2699(s)(1), the Superior Court shall review and
17 approve the settlement of penalties sought under that California Labor Code Section. (Cal. Lab. Code
18 § 2699(s)(1)). For all of the reasons stated above, the Settlement is fair, reasonable, and adequate, and
19 should be approved. As part of the Settlement, Defendants have agreed to pay Six Thousand Dollars
20 and Zero Cents (\$6,000.00) to settle the claims of the PAGA Employees brought pursuant to PAGA,
21 of which the payment of Four Thousand Five Hundred Dollars and Zero Cents (\$4,500.00) (75% of
22 the PAGA Amount) will be paid to the LWDA for education and enforcement purposes. (Rose Decl.,
23 ¶ 35).

24 It is extremely common in approved wage and hour class action cases that settle that only a
25 small portion of the total settlement is paid to PAGA penalties "in order to maximize payments to
26 class members." (*Magadia v. Wal-Mart Assocs.* (N.D. Cal. May 31, 2019, No. 17-CV-00062-LHK)
27 2019 U.S. Dist. LEXIS 91732, *90-91, citing as examples *Ceja-Corona v. CVS Pharm., Inc.* (E.D.
28 Cal. Jan. 14, 2015) 2015 U.S. Dist. LEXIS 5118, 2015 WL 222500, at *2-3 [preliminarily approving
\$10,000 in PAGA penalties out of a total settlement amount of \$900,000]; *Thio v. Genji, LLC* (N.D.

1 Cal. 2014) 14 F. Supp. 3d 1324, 1330 [preliminarily approving \$10,000 in PAGA penalties out of a
2 total settlement amount of \$1,250,000]; *Franco v. Ruiz Food Prods.* (E.D. Cal. Nov. 27, 2012) 2012
3 U.S. Dist. LEXIS 169057, 2012 WL 5941801, at *14 [granting final approval of \$10,000 in PAGA
4 penalties out of a total settlement amount of \$2,500,000]; *Garcia v. Gordon Trucking, Inc.* (E.D. Cal.
5 Oct. 31, 2012) 2012 U.S. Dist. LEXIS 160052, 2012 WL 5364575, at *3 [granting final approval of
6 \$10,000 in PAGA penalties out of a total settlement amount of \$3,700,000]; *Chu v. Wells Fargo Invs.,*
7 *LLC* (N.D. Cal. Feb. 16, 2011) 2011 U.S. Dist. LEXIS 15821, 2011 WL 672645, at *1 [granting final
8 approval of \$10,000 in PAGA penalties out of a total settlement amount of \$6,900,000]). Like here,
9 in these approved settlements, the parties generally maximized statutory penalties and minimized
10 PAGA penalties to focus on claims to the class members, the persons who actually suffered the
11 California Labor Code violations. (Rose Decl., ¶ 36).

12 **XI. THE CLASS RECEIVED THE BEST PRACTICABLE NOTICE**

13 California law vests the Court with broad discretion in fashioning an appropriate notice
14 program. (See California Civil Code § 1781; *Cartt v. Superior Court* (1975) 50 Cal.App.3d 960, 973-
15 74). To protect the rights of absent class members, the parties must provide class members with the
16 best notice practicable of a potential class action settlement. (*Phillips Petroleum Co. v. Shutts* (1985)
17 472 U.S. 797, 811-12; *Eisen v. Carlisle & Jacquelin* (1974) 417 U.S. 156, 174-76 [individual notice
18 must be sent to all class members who can be identified through reasonable efforts]; *Mullane v. Central*
19 *Hanover Bank & Garretson Company* (1950) 339 U.S. 306, 314 [best practicable notice is that which
20 is "reasonably calculated, under all the circumstances, to apprise interested parties of the pendency of
21 the action and afford them an opportunity to present their objections"]). The content and method of
22 the notice should be designed to apprise the class members of the terms of the proposed settlement
23 and of the class members' rights regarding the settlement. (See *Mullane, supra*, 339 U.S. at 314;
24 *Philadelphia Housing Authority v. American Radiator & Standard Sanitary Corp.* (E.D. Pa. 1970) 323
25 F. Supp. 364, 378).

26 The Class Notice approved by the Court met these requirements: it identified the Parties and
27 described the Action, the Class, the Gross Settlement Amount, the proposed method for distribution
28 of the Gross Settlement Amount, the amounts proposed to be paid as the Enhancement Payment to

1 Plaintiff, the Settlement Administration Costs to the Settlement Administrator, and the Attorneys' Fees
2 and Costs to Class Counsel. (Rose Decl., ¶ 37; *see also* Ayala Decl., Exh. A thereto). The Class
3 Notice described the proposed Settlement with enough specificity to allow each Class Member to
4 make an informed choice whether to accept and participate in it. (Ibid). It also explained how and
5 when Class Members may object to or opt out of the Class Settlement. (Ibid). Finally, the Class
6 Notice provided the date for the hearing on final approval of the Settlement and informed Class
7 Members how to obtain additional information about the Settlement. (Ibid).

8 **XII. CONCLUSION**

9 For all of the foregoing reasons, Plaintiff respectfully requests that this Court grant Plaintiff's
10 Motion for Final Approval of Class Action and PAGA Settlement, and approve: (1) the requested
11 attorneys' fees to Class Counsel of \$38,500.00; (2) the requested reimbursement of actual costs and
12 expenses to Class Counsel of \$11,851.91; (3) the requested Enhancement Payment to Plaintiff of
13 \$7,500.00; and (4) the requested Settlement Administration Costs to the Settlement Administrator of
14 \$6,250.00; and permit the filing of a memorandum that exceeds the page limit.

15 Respectfully submitted,

16 Dated: May 26, 2026

BLACKSTONE LAW, APC

17 By: 
18 Alexandra Rose
19 Attorneys for Plaintiff Alexis Stuart-Drinnen
20 and the Class
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