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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF MONTEREY**

ERIKA PEREZ PAREDES, on behalf of
herself and all similarly aggrieved
employees,

Plaintiff,

v.

CONSTANT STAFFING, LLC; DEL
MONTE FRESH PRODUCE N.A., INC.;
MANN PACKING CO., INC.; and DOES
1 through 50, inclusive,

Defendants.

Case No. 23CV002616

(Assigned to the Honorable Ian A. Rivamonte,
Dept. 14)

**PLAINTIFF’S NOTICE OF MOTION AND
MOTION FOR FINAL APPROVAL OF
CLASS ACTION SETTLEMENT; AND
MEMORANDUM OF POINTS AND
AUTHORITIES IN SUPPORT**

Date: February 20, 2026

Time: 8:30 A.M.

Dept.: 14

Action Filed: July 20, 2023

Trial Date: None Set

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

2 **PLEASE TAKE NOTICE** that on February 20, 2026, at 8:30 a.m., or as soon thereafter
3 as the matter may be heard, before the Honorable Ian A. Rivamonte, judge presiding, in
4 Department 14 of the above referenced Court, located at 1200 Aguajito Road, Monterey,
5 California 93940, Plaintiff Erika Perez Paredes (“Plaintiff”) will and hereby moves this Court for
6 an Order:

7 1. Granting final approval to the Joint Stipulation of Class and PAGA Settlement
8 (“Stipulation” or “Agreement”) in this action;

9 2. Approving the revised Gross Settlement Amount of \$1,287,666.67 based on the
10 Settlement Agreement’s Escalator Clause;

11 3. Approving distribution of the settlement funds to Class Members pursuant to the
12 terms of the Stipulation;

13 4. Approving Plaintiff’s request for an award of the Class Representative Incentive
14 Payment of \$5,000.00 to Plaintiff pursuant to the terms of the Stipulation;

15 5. Approving Plaintiff’s request for an award of attorneys’ fees of one-third of the
16 revised Gross Settlement Amount of \$429,222.22, and reimbursement of actual litigation costs
17 of \$29,191.67, pursuant to the terms of the Stipulation;

18 6. Approving Plaintiff’s request for payment of the Settlement Administration Costs
19 to Phoenix Settlement Administrators in the amount of \$26,950.00 pursuant to the terms of the
20 Stipulation; and

21 7. Entering final judgment as to all members of the Class in this action.

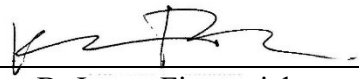
22 This Motion is made pursuant to Rule 3.769 of the California Rules of Court, which
23 provides for court approval of the settlement of a purported class action and allows the Court to
24 grant final certification of a class for settlement purposes. The basis for this unopposed Motion is
25 that the proposed settlement is fair, adequate, and reasonable, and the procedures proposed by
26 the Parties are adequate to ensure the opportunity of Class Members to participate in, opt out of,
27 or object to the settlement. In light of the overwhelmingly positive response, as shown by the
28 lack of objections and disputes to the settlement and zero opt outs, resulting in 100% of Class

Members participating in the settlement, there is no question that the settlement is fair, reasonable, and adequate and thus should be granted final approval.

This Motion is based on the Memorandum of Points and Authorities and the supporting Declarations of B. James Fitzpatrick, Alison L. Baker, Larry W. Lee, Mai Tulyathan, and Plaintiff Erika Perez Paredes, upon the oral arguments of counsel (should there be any), and on the complete records and file herein.

Dated: January 27, 2026

FITZPATRICK & SWANSTON
DIVERSITY LAW GROUP, P.C.

By: 

B. James Fitzpatrick
Alison L. Baker
Larry W. Lee
Max W. Gavron
Kwanporn "Mai" Tulyathan
Attorneys for Plaintiff and the Class

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1 **I. INTRODUCTION**

2 Plaintiff Erika Perez Paredes (“Plaintiff”) now seeks the Court’s final approval of the
3 Joint Stipulation of Class and PAGA Settlement (“Stipulation,” “Settlement Agreement,” or
4 “Agreement”) with Defendants Constant Staffing, LLC (“Constant”), Del Monte Fresh Produce
5 N.A., Inc. (“Del Monte”), and Mann Packing Co., Inc.’s (“Mann Packing”) (collectively with
6 Constant and Del Monte, “Defendants”) and the revised Gross Settlement Amount of
7 \$1,287,666.67.

8 As preliminarily approved by the Court, the Stipulation provides for a \$1,250,000.00
9 **non-reversionary** fund to be created for the benefit of the Class, from which attorneys’ fees,
10 litigation costs, incentive payment to the Class Representative, payment of PAGA penalties, and
11 costs of settlement administration are to be paid. Due to an increase in the number of workweeks
12 worked during the Class Period¹, and pursuant to the Stipulation’s Escalator Clause, the
13 Settlement Administrator calculated a \$37,666.67 increase in the Gross Settlement Amount over
14 the initial \$1,250,000.00 amount. Taking into account the Escalator Clause, this brings the Gross
15 Settlement Amount to **\$1,287,666.67**. The entire Net Settlement Amount, after the above
16 deductions, will be paid to all Class Members who did not opt out of the settlement
17 (“Participating Class Members”). Further, the Gross Settlement Amount includes a \$50,000.00
18 payment pursuant to the PAGA, of which 75% will go to the LWDA, and 25% of which will be
19 distributed to PAGA Group Members.

20 The history of this litigation was previously detailed in Plaintiff’s Motion for Preliminary
21 Approval of Class Action Settlement. The Court preliminarily approved this settlement on August
22 18, 2025, directing distribution of Notice of Pendency of Class Action and Proposed Settlement
23 (“Class Notice”) and scheduling the hearing for final approval of the settlement (the
24 “Preliminary Approval Order”).

25
26
27 ¹ Following the receipt of the Class List from Defendants, on September 12, 2025, the Settlement
28 Administrator informed the Parties of the increase in the number of actual workweeks worked during the
Class Period from the estimated 100,000 workweeks to 108,164 workweeks. Based on the actual number
of workweeks, the Settlement Administrator calculated a \$37,666.67 increase in the Gross Settlement
Amount. (Declaration of Kevin Lee (“Phoenix Decl.”) at ¶ 11.)

1 As directed by the Court, the Settlement Administrator selected by the Parties – Phoenix
2 Settlement Administrators – distributed the Class Notice to 3,130 Class Members. (Phoenix
3 Decl. ¶ 5.) **There have been no requests for exclusions and/or objections to the settlement**
4 **submitted by any Class Member.** (*Id.* at ¶¶ 7-8.) Finally, there were no disputes submitted by
5 Class Members to the Settlement Administrator, and as such, there are no outstanding disputes
6 from Class Members. (*Id.* at ¶ 9.) As such, the settlement has a 100 percent participation rate. In
7 light of this positive response from Class Members, an inference can be made that the Class
8 supports the Court’s Preliminary Approval Order finding that the Stipulation is fair and
9 reasonable. (Declaration of B. James Fitzpatrick (“Fitzpatrick Decl.”) ¶ 12.)

10 In addition to the results of the notice process, for the same reasons as set forth in
11 Plaintiff’s Motion for Preliminary Approval of Class Action Settlement, the following represent
12 the basic points supporting final approval of the settlement:

13 ▪ The settlement provides a total settlement sum of **\$1,287,666.67**, which is **non-**
14 **reversionary**;

15 ▪ The settlement is fair given that participating Class Members will receive (*after*
16 *deductions for attorneys’ fees, costs, etc.*) a monetary share of the Net Settlement Amount—on
17 average, approximately \$238.75 to each Participating Class Member, with the estimated highest
18 Individual Settlement Payment being \$1,768.70, and the lowest being \$6.91 (*see* Phoenix Decl. ¶
19 14);

20 ▪ Class Members did **not** need to submit claim forms to participate in the
21 settlement, but will automatically receive a check for their individual share of the settlement;

22 ▪ The allocation reflects that payment of Individual Settlement Payment amounts
23 will be paid to Class Members on a *pro rata* basis, based on the number of workweeks worked
24 by each respective Class Member during the Class Period, as compared to the total number of
25 workweeks worked by all Class Members during the Class Period;

26 ▪ The Settlement also provides for a \$50,000.00 payment attributable to the
27 satisfaction of PAGA claims (the “PAGA Payment”), of which 75%, or \$37,500.00, will go to
28 the State of California’s LWDA as a beneficiary of this Settlement pursuant to the PAGA, and

25%, or \$12,500.00, will be distributed among PAGA Group Members on a *pro rata* basis;

▪ Plaintiff's counsel conducted significant investigation in this case, including conducting formal and informal discovery, a review of Defendants' policies and practices, sampling of time and pay records, and engaging an expert to run the analysis of time and pay records and exposure, which was necessary for Plaintiff to fully evaluate this case; and

▪ A highly regarded settlement administrator, Phoenix Settlement Administrators, was retained to administer the settlement for approximately \$26,950.00 (*see* Phoenix Decl. ¶ 17).

Accordingly, the Court should grant Final Approval consistent with the Preliminary Approval Order.

II. CLASS MEMBERS WERE PROVIDED PROPER NOTICE OF THE SETTLEMENT

The notice procedures required by the Preliminary Approval Order have been followed and satisfy all due process rights of Class Members. Specifically, the Preliminary Approval Order contemplated that the Class Notice, as approved in the Preliminary Approval Order, be sent to all Class Members by first class mail, as specified in the Stipulation. Further, the Preliminary Approval Order contemplated that Phoenix Settlement Administrators would serve as the Settlement Administrator.

After the Settlement Administrator received the Class List from Defendants, the Parties were informed of the increase in the number of actual workweeks worked from the estimated 100,000 workweeks to 108,164 workweeks, which triggered the Settlement Agreement's Escalator Clause. (Fitzpatrick Decl. at ¶ 7.) On September 17, 2025, the Settlement Administrator received confirmation from Defendants that Defendants elected to fund the additional amount resulting from the Escalator Clause being triggered. (Phoenix Decl. at ¶ 11.) Specifically, the Settlement Administrator calculated a \$37,666.67 increase in the Gross Settlement Amount as a result of the Escalator Clause. (Phoenix Decl. at ¶ 11; Fitzpatrick Decl. at ¶ 8.) Taking this into account, this brings the Gross Settlement Amount to \$1,287,666.67. (Fitzpatrick Decl. at ¶ 8.) The Parties made slight modifications to the Class Notice to reflect the revised Gross Settlement Amount, which includes revising the initial \$1,250,000.00 amount to reflect the revised Gross Settlement Amount of \$1,287,666.67, and the attorneys' fees from

1 \$416,666.67 to an amount not to exceed \$429,222.22, to reflect one-third of the revised Gross
2 Settlement Amount. (*Id.* at ¶ 10.) No other substantive changes were made to the Class Notice.
3 (*Id.*)

4 The Settlement Administrator completed the notice dissemination process as
5 contemplated by the Settlement Agreement. As stated in the Declaration of Kevin Lee, notice
6 was provided to all Class Members. On September 9, 2025, the Settlement Administrator
7 received a Class List from Defendants’ counsel that included 3,130 Class Members. (Phoenix
8 Decl. ¶ 3.) Prior to mailing the Class Notice, the Settlement Administrator conducted a National
9 Change of Address (NCOA) search to correct and/or update the Class List in case of any address
10 changes. (*Id.* ¶ 4.) On September 23, 2025, the Settlement Administrator mailed the Class
11 Notice to all Class Members on the mailing list via U.S. first class mail. (*Id.* ¶ 5.) The Class
12 Notice was mailed in English and Spanish. (*Id.*)

13 From the date of mailing, twelve (12) Class Notices were returned to the Settlement
14 Administrator due to incorrect addresses. None were returned with forwarding addresses. (*Id.* ¶
15 6.) The Settlement Administrator then conducted a skip trace to determine appropriate addresses
16 for the returned Class Notices and subsequently remailed all twelve (12) Class Notices. (*Id.*)
17 Further, the Class Notice provided Class Members with Class Counsel’s and the Settlement
18 Administrator’s contact information, where they could further seek information regarding the
19 settlement, ask questions, review pleadings in the case, and update their address. (Phoenix Decl.
20 Ex. A.)

21 The provision of sending the notice to Class Members as described above meets the
22 requirements for the “best notice practicable” in this case as necessary to protect the due process
23 rights of Class Members. (*See, Phillips Petroleum Co. v. Shutts* (1985) 472 U.S. 797, 811-12
24 (provision of “best notice practicable” with description of the litigation and explanation of opt-
25 out rights satisfies due process); *Eisen v. Carlisle & Jacquelin* (1974) 417 U.S. 156, 174-75
26 (individual notice must be sent to class members who can be identified through reasonable
27 means); *Mullane v. Central Hanover Bank & Trust Co.* (1950) 339 U.S. 306, 314 (best
28 practicable notice is that which is “reasonably calculated, under all the circumstances, to apprise

interested parties of the pendency of the action and afford them an opportunity to present their objections”).)

Here, Class Members were provided with a mailing that explained the settlement and allowed Class Members to seek information, ask questions, and exclude themselves and/or object to the settlement, if so desired. As such, proper notice has been given to the Class. Thus, the Court may determine the fairness and adequacy of the settlement and enter its Order granting final approval, secure in the knowledge that all absent Class Members have been given the opportunity to participate fully in the settlement, exclusion, and the approval process.

III. THE SETTLEMENT TERMS ARE FAIR, ADEQUATE, AND REASONABLE, AND THE SETTLEMENT SHOULD BE GIVEN FINAL APPROVAL

A. Strength of Plaintiff’s Case and Likelihood of Certifying the Class

In order to proceed as a class, there are two requirements which must be met – ascertainability and community of interest. (*See Daar v. Yellow Cab Co.* (1967) 67 Cal. 2d 695, 704; *Vasquez v. Superior Court* (1971) 4 Cal. 3d 800, 809 (there are two basic requirements which must exist to sustain a class action: “[t]he first is existence of an ascertainable class, and the second is a well-defined community of interest in the questions of law and fact involved.”).) “The community of interest requirement embodies three factors: (1) predominant common questions of law or fact; (2) class representatives with claims or defenses typical of the class; and (3) class representatives who can adequately represent the class.” (*Richmond v. Dart Industries* (1981) 29 Cal. 3d 462, 470.)

1. The Class is Ascertainable

Whether a class is “ascertainable” within the meaning of Code of Civil Procedure section 382 “is determined by examining (1) class definition, (2) the size of the class, and (3) the means available for identifying the class members.” (*Reyes v. San Diego County Board of Supervisors* (1987) 196 Cal.App.3d 1263, 1271.)

Here, the Class consists of: (1) All current and former non-exempt unionized employees that were employed directly by Mann in California at any time between August 11, 2019 through preliminary approval, excluding the period of time covered and released by the prior settlement

1 in *Anguiano v. Mann Packing Co., Inc.*, Monterey County Superior Court Case No.
2 19CV001178, for the individuals covered by that prior settlement, and (2) all current and former
3 non-exempt employees of Constant that were assigned to work at Mann or Del Monte in
4 California at any time during the Class Period. Based on Defendants' records, there are 3,130
5 individuals that comprise the Class. (Phoenix Decl. at ¶ 3.) This is more than the minimum
6 required to certify a class.

7 Within the context of manageability, the issue is whether there exists sufficient means for
8 identifying class members at the remedial stage. (*Reyes*, 196 Cal.App.3d at pp. 1274-75.) Class
9 Members have already been identified by Defendants and notice has been provided to all of the
10 above Class Members. (Phoenix Decl. at ¶¶ 3, 5.)

11 **2. There is a Community of Interest**

12 The "community of interest" requirement embodies three separate factors: (1)
13 predominant common questions of law or fact; (2) class representatives whose claims are typical
14 of the class; and (3) class representatives who can adequately represent the class. (*Richmond*, 29
15 Cal.3d at p. 470; *Reese v. Wal-Mart Stores, Inc.* (1999) 73 Cal.App.4th 1225, 1234.)

16 **a. There are Predominant Common Questions of Law and Fact**

17 "The ultimate question in every case of this type [class actions] is whether...the issues
18 which may be jointly tried, when compared with those requiring separate adjudication, are so
19 numerous and substantial that the maintenance of a class action would be advantageous to the
20 judicial process and to the litigants." (*Lockheed Martin Corp. v. Superior Court* (2003) 29
21 Cal.4th 1096, 1104-05.)

22 In the present case, Plaintiff alleges that Defendants, as a matter of their corporate
23 policy, practice, or procedure, failed to pay all wages owed, including minimum, regular,
24 overtime wages, and reporting time pay, failed to provide off-duty meal and rest breaks and pay
25 premiums for missed meal and rest breaks, failed to timely pay all wages at separation of
26 employment, failed to reimburse work-related expenses, and failed to provide accurate wage
27 statements and keep accurate records, in violation of Labor Code §§ 201-203, 204, 216, 218,
28 226, 226.7, 510, 512, 558, 1174, 1175, 1194, 1198, and 2802, and Business and Professions

1 Code § 17200, *et seq.* Specifically, for Plaintiff’s meal break claims, Plaintiff alleges that
2 Plaintiff and Class Members were provided with non-compliant meal breaks that were shortened,
3 missed, and/or late. Plaintiff also alleges rest break claims, alleging that Defendants required the
4 employees to remain on work premises throughout the entirety of the rest breaks.

5 Additionally, Plaintiff also alleges that employees were required to call in and/or respond
6 to texts prior to their work shifts to report to work and to determine whether they would actually
7 need to report to work. Whenever employees reported to work by calling in, but were not
8 permitted to work or were permitted to work for less than half of the scheduled shift, Plaintiff
9 alleges that Defendants failed to pay Plaintiff and Class Members reporting time pay. Plaintiff
10 also brings off-the-clock and expense reimbursement claims associated with this call-in practice.
11 In this regard, Plaintiff alleges that Defendants failed to reimburse employees for the cost of
12 using personal cellphones for work calls and text messages. In addition, Plaintiff alleges that
13 employees were required to undergo temperature checks that were conducted off-the-clock, prior
14 to their shift start time. Lastly, Plaintiff also alleges that Defendants violated Labor Code §
15 226(a) by failing to provide accurate itemized wage statements. As these are all uniform
16 corporate policies, practices, and procedures of Defendants, the claims can be jointly tried and
17 thus the predominance requirement is satisfied.

18 Defendants deny all of these claims, deny that liability could be established on a class-
19 wide basis, and contend that liability and damages, if any, would need to be conducted on a case-
20 by-case basis.

21 **b. Plaintiff’s Claims are Typical of the Class Claims**

22 The purported class representative’s claim must be “typical” but not necessarily identical
23 to the claims of other class members; it is sufficient that the representative is similarly situated so
24 that he or she will have the motive to litigate on behalf of the class. (*Classen v. Weller* (1983)
25 145 Cal.App.3d 27, 45.) Courts look to whether class members have similar injuries, “whether
26 the action is based on conduct which is not unique to the named Plaintiff,” and whether other
27 class members were injured by the same conduct. *Hanon v. Dataproducts Corp.* (9th Cir. 1992)
28 976 F.2d 497, 508.) The purpose of the typicality requirement “is to assure that the interest of

1 the named representative aligns with the interests of the class.” (*Id.* at p. 508.)

2 Plaintiff asserts that she was subjected to the same payroll policies and practices as all
3 other Class Members. In this regard, Plaintiff was employed by Defendants as a non-exempt,
4 hourly employee, working at a food processing plant beginning on or about May 30, 2023.
5 (Declaration of Erika Perez Paredes (“Paredes Decl.”) at ¶¶ 2-3.) Like other members of the
6 Class, Plaintiff alleges that she was required to undergo Covid-19 temperature checks prior to
7 clocking in for work. Plaintiff was not paid for the time spent waiting for and undergoing these
8 checks. In addition, Plaintiff was required to call in to work and/or respond to text messages
9 prior to her shift to see whether she was required to report to work. Plaintiff was not paid for the
10 time spent communicating with Defendants during her personal time, nor was she reimbursed for
11 the costs of using her personal cell phone for work purposes. Occasionally, Plaintiff would
12 arrive at work for her scheduled shift, but was not assigned work, or was assigned less than half
13 of the scheduled shift, and did not receive reporting time pay. Additionally, Plaintiff was not
14 provided with proper off-duty meal and rest breaks, or paid premiums in lieu of receiving proper
15 off-duty meal and rest breaks. As a result of the above, Plaintiff did not receive accurate wage
16 statements. Finally, Plaintiff was not timely paid all wages due upon separation of employment.
17 (*Id.* at ¶¶ 4-7.) Based on the above, Plaintiff contends that she was subjected to the same policies
18 and practices as other Class Members. Accordingly, typicality is satisfied.

19 **c. Plaintiff Adequately Represented the Class**

20 The class representative, through qualified counsel, must be capable of “vigorously and
21 tenaciously” protecting the interests of the class members. (*Simons v. Horowitz* (1984) 151
22 Cal.App.3d 834, 846.)

23 Here, Plaintiff does not have any interests adverse to the Class, nor have any such issues
24 been raised or presented. (Paredes Decl. at ¶ 10.) Plaintiff has taken all necessary steps to
25 represent the interests of the Class, including providing information and documents to her
26 counsel, discussing the lawsuit with her counsel on multiple occasions, and reviewing the
27 various pleadings including the complaints, Stipulation, and declarations submitted in this case.
28 (*Id.* at ¶ 9.) For such reasons, Plaintiff has adequately represented the Class and will continue to

1 do so.

2 **B. Risks, Expenses, and Complexity of Further Litigation**

3 Plaintiff believes that a class can be certified; however, Plaintiff also believes in the
4 fairness of the settlement that is based on factoring in the uncertainty and risks to Plaintiff
5 involved in not prevailing on one or more of the causes of action or theories alleged in his
6 Complaint, the possibility of non-certification, and potential for appeals. These risks on class
7 certification are compounded by the California Supreme Court's holding in *Duran v. U.S. Bank*
8 *Nat'l Ass'n* (2014) 59 Cal.4th 1.

9 As stated above, Defendants allege that Plaintiff would not be able to obtain class
10 certification. Based on the foregoing, there were risks that Plaintiff would not have obtained the
11 total amount of damages and penalties alleged on behalf of the Class, and a substantial number
12 of complex issues that would have necessitated significant expenditure of time and expenses.
13 Therefore, the risks, expenses, and complexity of further litigation warrant granting of this
14 Motion.

15 **C. The Terms of the Settlement, Negotiation of Settlement, and Reception of the**
16 **Settlement by Class Members All Strongly Support the Conclusion that the**
Settlement is Fair, Adequate, and Reasonable

17 Without reiterating the Parties' showing that the Stipulation and the negotiation process
18 that led up to it was fair and adequate, as set forth in detail in the Motion for Preliminary
19 Approval of Class Action Settlement, the Parties highlight the following facts. The Stipulation
20 was the product of negotiations between highly able and experienced attorneys on both sides
21 who possessed the relevant data and extensive legal research which they had carefully analyzed.
22 (Fitzpatrick Decl. at ¶ 4.) The Parties participated in three mediation sessions. The Parties
23 engaged in arm's length negotiations with an experienced neutral that resulted in the settlement.
24 (*Id.* at ¶ 5.)

25 The results after dissemination of the Class Notice support confirmation of the Court's
26 preliminary approval of the settlement with final approval of the settlement, as evidenced by the
27 fact that **no Class Members opted out and/or submitted any objections to the settlement.**
28 (Phoenix Decl. at ¶¶ 7-8.) The Court may appropriately infer that the class action settlement is

1 fair, adequate, and reasonable, given that no class member has submitted a request for exclusion
2 and/or an objection. (*See Class Plaintiffs v. City of Seattle* (9th Cir. 1992) 955 F.2d 1268, 1291.)

3 **D. Under Well-Established Legal Principles, the Court Should Grant Final**
4 **Approval of the Settlement**
5 **1. Standard of Review**

6 On a motion for final approval of a class action settlement under California Code of Civil
7 Procedure Section 382 and California Rule of Court 3.769, a court's inquiry is whether the
8 settlement is "fair, adequate and reasonable." (*Officers for Justice v. Civil Serv. Comm'n* (9th
9 Cir. 1982) 688 F.2d 615, 625, *cert. denied subnom.*, *Byrd v. Civil Serv. Comm'n* (1983) 459 U.S.
10 1217.) A settlement is fair, adequate, and reasonable, and therefore merits final approval, when
11 "the interests of the class are better served by the settlement than by further litigation." (*See*
12 *Manual for Complex Litigation, Fourth* § 21.6 at 309 (Fed. Jud. Ctr., 4th ed. 2004) ("MCL").)
13 The law favors settlement, particularly in class actions and other complex cases, where
14 substantial resources can be conserved by avoiding the time, cost, and rigors of formal litigation.
15 (*See Alba Conte & Herbert B. Newberg, 4 Newberg on Class Actions* § 11.41 (4th ed. 2002);
16 *Class Plaintiffs v. City of Seattle* (9th Cir. 1992) 955 F.2d 1268, 1276; *Van Bronkhorst v. Safeco*
17 *Corp.* (9th Cir. 1976) 529 F.2d 943, 950.)

18 Although the Court possesses "broad discretion" in determining that a proposed class
19 action settlement is fair, the Court's role must be limited to the extent necessary to reach a
20 reasoned judgment that the agreement is not the product of fraud or overreaching by, or collusion
21 between, the negotiating parties, and that the settlement, taken as a whole, is fair, reasonable, and
22 adequate to all concerned. (*See Officers for Justice*, 688 F.2d at p. 625.) Accordingly, the Court
23 should give due regard to what is otherwise a "private consensual agreement" between the
24 parties. (*Id.*; *see also Church v. Consolidated Freightways, Inc.* (N.D. Cal. 1993) 1993 WL
25 149840; *In re Wash. Pub. Power Supply Sys. Sec. Litig.* (D. Ariz. 1989) 720 F.Supp. 1379, *aff'd*
26 *sub nom.*; *City of Seattle*, 955 F.2d 1268; MCL § 21.6 at 309 ("The judicial role in reviewing a
27 proposed settlement is critical, but limited to approving the proposed settlement, disapproving it,
28 or imposing conditions on it. The judge cannot rewrite the agreement").)

A court's approval of a class action settlement will only be reversed for a clear abuse of

discretion. (See *Dunk v. Ford Motor Co.* (1996) 48 Cal.App.4th 1794, 1801; *Officers for Justice*, 688 F.2d at p. 626 (“reverse only upon a strong showing that the district court’s decision was a clear abuse of discretion”); *City of Seattle*, 955 F.2d at p. 1276; *Ackerman v. Kassar* (9th Cir. 1993) 1993 WL 326453; *Linney v. Cellular Alaska P’ship* (9th Cir. 1998) 151 F.3d 1234, 1238.)

As the court cautioned in *7-Eleven Owners for Fair Franchising v. Southland Corp.*:

It cannot be overemphasized that neither the trial court in approving the settlement nor this Court in reviewing that approval have the right or duty to reach any ultimate conclusions on the issues of fact and law which underlie the merits of the dispute. It is well settled that in the judicial consideration of proposed settlements, ‘the [trial] judge does not try out or attempt to decide the merits of the controversy,’ [citation] and the appellate court ‘need not and should not reach any dispositive conclusions on the admittedly unsettled legal issue.

(*7-Eleven Owners for Fair Franchising v. Southland Corp* (2000) 85 Cal.App.4th 1135, 1146.)

2. The Settlement is Presumed to Be Fair

The court should begin its analysis with the presumption that the settlement is fair and should be approved:

[A] presumption of fairness exists where: (1) the settlement is reached through arm’s-length bargaining; (2) investigation and discovery are sufficient to allow counsel and the court to act intelligently; (3) counsel is experienced in similar litigation; and (4) the percentage of objectors is small.

(*Dunk*, 48 Cal.App.4th at p. 1802; accord, *Ellis v. Naval Air Rework Facility* (N.D. Cal. 1980) 87 F.R.D. 15, 18; *In re Wash. Pub Power Supply*, 720 F.Supp. at p. 1387.)

The settlement in the case at bar warrants approval and carries a presumption of fairness. As previously noted in the application for Preliminary Approval, this current settlement was negotiated at arm’s length over two mediation sessions with Judge Peter H. Kirwan (Ret.). (Fitzpatrick Decl. at ¶ 5.)

Second, Class Counsel engaged in extensive factual investigation before settling, including the exchange of formal and informal discovery. Specifically, Class Counsel analyzed Defendants’ production of relevant policies and practices, class data, and a 20% sample of time

1 and pay records of class members. (*Id.* at ¶ 4.) Class Counsel also engaged an expert in the
2 analysis of the time and pay records. (*Id.*)

3 Further, Class Counsel are highly experienced in this type of litigation. As shown in the
4 supporting declarations, Class Counsel have significant experience in class actions and
5 employment wage and hour matters. (Fitzpatrick Decl. at ¶ 20; Declaration of Alison L. Baker
6 (“Baker Decl.”) at ¶¶ 8-9; Declaration of Larry W. Lee (“Lee Decl.”) at ¶¶ 15-16; Declaration of
7 Mai Tulyathan (“Tulyathan Decl.”) at ¶¶ 8-12.)

8 **3. Two-Way Costs and Other Risks Inherent in Continued Litigation** 9 **Favor Final Approval**

10 To assess the fairness, adequacy, and reasonableness of a class action settlement, the
11 Court also should weigh the immediacy and certainty of substantial settlement proceeds against
12 the risks inherent in continued litigation. (*See also In re General Motors Corp.* (3d Cir. 1995) 55
13 F.3d 768, 806 (“present value of the damages plaintiffs would likely recover if successful,
14 appropriately discounted for the risk of not prevailing, should be compared with the amount of
15 the proposed settlement”) (internal citations omitted); *Girsh v. Jepson* (3d Cir. 1975) 521 F.2d 1
16 53, 157; *Boyd v. Bechtel Corp.* (N.D. Cal. 1979) 485 F.Supp. 610, 616-17.)

17 If Plaintiff pursued this case without settlement and failed to prevail, Plaintiff would have
18 been potentially responsible for Defendants’ costs. (Paredes Decl. at ¶ 14.) As such, should
19 individual current or former employees of Defendants bring individual claims on the same
20 causes of action, they would each face the uncertainty of prevailing and the possibility of paying
21 costs to Defendants. Accordingly, such claims likely would not be brought by many of these
22 current and former employees – thus, this lawsuit achieves a true benefit for the Class that they
23 might not otherwise get or seek as individuals. Here, given that a fair and reasonable settlement
24 has been reached, neither Plaintiff nor any of the Class Members will be required to pay for
25 Defendants’ litigation costs.

26 The risks of this case were weighed by Class Counsel and should be considered a
27 significant factor by the Court in its determination of final approval. Class Counsel obtained a
28 significant settlement for the Class that resulted in a fair recovery which at the same time
provides for finality and no risk of costs by the Class Members or Class Representative.

1 The Stipulation also affords the Class prompt, fair relief while avoiding significant legal
2 and factual battles that otherwise may have prevented the Class from obtaining any recovery at
3 all. While Class Counsel believe that Class Members' claims are meritorious and can be
4 successfully litigated, they are experienced and fully understand the inherent risks and
5 uncertainty involved with such matters as the resolution of class certification, the outcome of a
6 potential trial, and the outcome of any appeals that would inevitably follow should the Class
7 prevail at trial. Class Counsel have also assessed the same risks in connection with the current
8 settlement. Because the settlement provides immediate and substantial relief, without the
9 attendant risks and delay of continued litigation – not to mention the threat of litigation fees and
10 costs – Class Counsel believe that the settlement warrants the Court's final approval.

11 **4. The Complexity, Expense, and Likely Duration of Continued** 12 **Litigation Against Defendant Favor Final Approval**

13 Another factor considered by courts in approving a settlement is the complexity, expense,
14 and likely duration of the litigation. (*See Officers for Justice*, 688 F.2d at p. 625; *Girsh*, 521 F.2d
15 at p. 157.) In applying this factor, the Court must weigh the benefits of the settlement against the
16 expense and delay involved in achieving an equivalent or more favorable result at trial. (*Young*
17 *v. Katz* (5th Cir. 1971) 447 F.2d 431, 433-34.)

18 Here, the settlement that was reached provides to all Class Members – regardless of their
19 means – fair relief in a prompt and efficient manner. Were the Court to deny final approval, the
20 Class Members would be left without a remedy as a practical matter and courts across the State
21 would have to address the issues presented here in a piecemeal, costly, and time-consuming
22 manner. The settlement in this case is therefore consistent with the “overriding public interest in
23 settling and quieting litigation” that is “particularly true in class action suits.” (*See Van*
24 *Bronkhorst*, 529 F.2d at p. 950 (footnote omitted); *see also 4 Newberg* at § 11.41.) Here, this
25 case could have involved years of further litigation.

26 **5. The Opinion of Experienced Counsel Favors Final Approval**

27 Class Counsel support the settlement as fair, reasonable, and adequate, and in the best
28 interest of the Class Members as a whole. (Fitzpatrick Decl. at ¶ 3; Baker Decl. at ¶ 2; Lee Decl.
at ¶ 5; Tulyathan Decl. at ¶ 5.)

1 Similarly, counsel for Defendants are in favor of this settlement. The endorsement of
2 qualified and well-informed counsel of a settlement as fair, reasonable, and adequate is entitled
3 to significant weight by the Court in its final approval determination. (*See Officers for Justice*,
4 688 F.2d at p. 625; *Ellis*, 87 F.R.D. at p. 18; *Boyd*, 485 F.Supp. at p. 617; *Linney*, 151 F.3d at p.
5 1242.)

6 **IV. THE PROPOSED PROCEDURE FOR UNCASHED SETTLEMENT CHECKS**
7 **SHOULD BE APPROVED**

8 As referenced in the Motion for Preliminary Approval, to the extent any uncashed
9 settlement funds remain after 180 days of the mailing of the Individual Settlement Payment
10 checks, the Parties have agreed that all such uncashed settlement funds shall be distributed to the
11 *cy pres* recipient California Rural Legal Assistance, Inc., in accordance with Code of Civil
12 Procedure § 384. Class Counsel do not have a conflict of interest with California Rural Legal
13 Assistance, Inc. (Fitzpatrick Decl. at ¶ 13; Baker Decl. at ¶ 12; Lee Decl. at ¶ 6; Tulyathan Decl.
14 at ¶ 6.)

15 **V. THE REQUESTED CLASS REPRESENTATIVE ENHANCEMENT SHOULD BE**
16 **APPROVED**

17 The Stipulation authorizes Class Representative Erika Perez Paredes to request an
18 incentive payment of \$5,000.00. Plaintiff provided significant assistance with the lawsuit,
19 including meeting and discussing the case with Class Counsel on multiple occasions, searching
20 for and providing documents and information regarding Defendants' employment practices at
21 issue in the case, reviewing the various files and pleadings submitted in this case, and remaining
22 available during the multiple mediation sessions. (Paredes Decl. at ¶ 9.) Accordingly, Plaintiff
23 provided invaluable information, evidence, and documents that resulted in this settlement.

24 In addition to the invaluable services that she provided, Plaintiff also took significant
25 risks, both professionally and monetarily, in acting as the Class Representative, seeking benefits
26 on behalf of the Class. (Paredes Decl. at ¶¶ 11, 14.) Because the claims alleged by the Class
27 Representative involved the payment of costs to the prevailing party, Plaintiff could have
28 possibly faced paying the costs of Defendants, had she not prevailed in this action. (*Id.* at ¶ 14.)
Despite this, however, Plaintiff agreed to pursue this case on behalf of the Class.

1 Also, given that future employers are much less likely to hire individuals who have filed
2 employment-related lawsuits, particularly cases of this nature, the Class Representative also
3 faces significant risk in not being able to find suitable employment and/or face retaliation from
4 prospective employers, all as a result of filing this case against Defendants. Plaintiff took these
5 risks upon herself to the benefit of the Class. (*Id.*) Class Members did not have to file individual
6 lawsuits and bear the risks of payment of costs if they did not prevail, nor did they have to face
7 the potential for retaliation and not getting future employment had they filed a lawsuit which is a
8 public record. These are significant benefits that weigh in favor of granting the requested
9 enhancement. Moreover, this litigation has resulted in a significantly valuable benefit to the
10 Class (*i.e.*, an average award to Class Members in the amount of \$238.75, with the highest
11 Individual Settlement Payment of \$1,768.70), and Plaintiff took on substantial risks in helping to
12 get this financial benefit to the Class. As such, the incentive payment should be awarded to
13 Plaintiff for her commitment, dedication, and risks taken for this litigation.

14 Courts have routinely granted approval of settlements containing such enhancements.
15 (*See Van Vranken v. Atlantic Richfield Co.* (N.D. Cal. 1995) 901 F.Supp. 294, 299-300
16 (incentive award of \$50,000); *In re Dun & Bradstreet Credit Servs. Customer Litig.* (S.D. Ohio
17 1990) 130 F.R.D. 366, 374 (two incentive awards of \$ 55,000, and three incentive awards of
18 \$35,000); *Brotherton v. Cleveland* (S.D. Ohio 2001) 141 F.Supp.2d 907, 913-14 (granting a
19 \$50,000 incentive award); *Enter. Energy Corp. v. Columbia Gas Transmission Corp.* (S.D. Ohio
20 1991) 137 F.R.D. 240, 251-52 (\$50,000 awarded to each class representative); *Glass v. UBS Fin.*
21 *Servs.* (N.D. Cal. Jan. 27, 2007) No. C-06-4068, 2007 U.S. Dist. LEXIS 8476, at *51-52
22 (awarding \$25,000 incentive award in FLSA overtime wages class action); *Cook v. Niedert* (7th
23 Cir. 1998) 142 F.3d 1004, 1016 (affirming \$25,000 Incentive award to class representative in
24 ERISA case).

25 **VI. THE REQUESTED ATTORNEYS' FEES SHOULD BE APPROVED**

26 Class Counsel seeks a fee award calculated as one-third (1/3) of the revised Gross
27 Settlement Amount, or \$429,222.22, for the successful prosecution and resolution of this action.
28 California state and federal courts have recognized that an appropriate method for determining

1 award of attorneys' fees is based on a percentage of the total value of benefits to Class Members
2 by the settlement. (*Wershba v. Apple Computer, Inc.* (2001) 91 Cal.App.4th 224, 254; *Serrano*
3 *v. Priest* (1977) 20 Cal.3d 25, 34 [*Serrano III*]; *Boeing Co. v. Van Gemert* (1980) 444 U.S. 472,
4 478; *Vincent v. Hughes Air West, Inc.* (9th Cir. 1997) 557 F.2d 759, 769.) The purpose of this
5 equitable doctrine is to avoid unjust enrichment to the Class and to "spread litigation costs
6 proportionally among all the beneficiaries so that the active beneficiary does not bear the entire
7 burden alone." (*Vincent v. Hughes Air West, Inc.*, *supra*, 557 F.2d at p. 769.)

8 The California Supreme Court issued its ruling regarding the award of attorney's fees in
9 wage and hour class action settlements in *Laffitte*. Under California law, the award of attorneys'
10 fees in common fund wage and hour class action settlements is proper under the percentage
11 method. (*See Laffitte v. Robert Half Int'l* (2016) 1 Cal.5th 480, 503 ("We join the overwhelming
12 majority of federal and state courts in holding that when class action litigation establishes a
13 monetary fund for the benefit of the class members, and the trial court in its equitable powers
14 awards class counsel a fee out of that fund, the court may determine the amount of a reasonable
15 fee by choosing an appropriate percentage of the fund created").) Under the percentage of the
16 fund method, the Court's objective remains to "mimic the market" in fixing a reasonable fee.
17 (*See Gaskill v. Gordon* (7th Cir. 1998) 160 F.3d 361, 363 (J. Posner) ("When a fee is set by a
18 court rather than by contract, the object is to set it at a level that will approximate what the
19 market will set....The judge, in other words, is trying to mimic the market in legal services.").)

20 Here, the fee award representing one-third of the revised Gross Settlement Amount falls
21 within that range and is consistent with other rulings of other courts and comprehensive surveys
22 of class action settlements and fee awards. (*See Martin v. AmeriPride Servs.* (S.D. Cal. 2011)
23 2011 U.S. Dist. LEXIS 61796, 23 (recognizing that "courts may award attorney's fees in the 30-
24 40% range in wage and hour class actions that result in recovery of a common fund under \$10
25 million"); *see also* Eisenberg & Miller, *Attorney Fees in Class Action Settlements: An Empirical*
26 *Study: 1993-2008*, 7 J. of Empirical Leg. Stud. 248, 262, fn.16 (2010) (independent studies of
27 class action litigation nationwide conclude that fees in the range sought here are consistent with
28 market rates).)

1 The results delivered by Class Counsel also support the requested percentage of the fund.
2 Here, Plaintiff and her counsel secured a \$1,287,666.67 non-reversionary common fund
3 settlement.

4 Finally, “the response of the class members to attorneys’ fee notice, though not decisive,
5 is relevant to the... reasonable determination” regarding fees. (*Swedish Hospital v. Shalala* (D.C.
6 Cir. 1993) 1 F.3d 1261, 1272.) A positive response rate tends to suggest that the court’s
7 “approximation of the market” for fees is well supported. (*Id.* at p. 1269.) In this case, the Class
8 Notice specifically notified Class Members that Class Counsel would be seeking up to
9 \$429,222.22 in attorneys’ fees. To date, no Class Member has objected to the settlement. This
10 strong favorable response also supports the requested fees.

11 In addition, it is recognized that one of the primary factors justifying an enhanced
12 attorney’s fees reward is the attendant risks inherent in the litigation. As observed in *City of*
13 *Detroit v. Grinnell Corp.*:

14 No one expects a lawyer whose compensation is contingent upon his
15 success to charge, when successful, as little as he would charge a
16 client who had agreed to pay for his services, regardless of success.
17 Nor, particularly in complicated cases producing large recoveries, is
it just to make a fee depend solely on the reasonable amount of time
expended.

18 (*City of Detroit v. Grinnell Corp* (2d Cir. 1974) 495 F.2d 448, 470.) For Class Counsel, the fees
19 here were wholly contingent in nature and the case presented far more risk than the usual
20 contingent fee case. Among the risks was the cost inherent in class action litigation, as well as a
21 potentially drawn-out battle with corporate defendants.

22 As secondary support for the percentage of the fund method, courts have discretion to
23 “cross-check” the fees awarded through the lodestar method. However, the *Laffitte* Court
24 “emphasize[d] [that] the lodestar calculation, when used in this manner, does not override the
25 trial court’s primary determination of the fee as a percentage of the common fund and thus does
26 not impose an absolute maximum or minimum on the potential fee award.” (*Laffitte*, 1 Cal.5th at
27 p. 505; *In re Rite Aid Corp. Secs. Litig.* (3d Cir. 2005) 396 F.3d 294, 306-307 (“[The lodestar
28 cross-check does not trump the primary reliance on the percentage of common fund method”).)

1 The Supreme Court in *Laffitte* stated: “If the multiplier calculated by means of a lodestar
2 cross-check is extraordinarily high or low, the trial court should consider whether the percentage
3 used should be adjusted so as to bring the imputed multiplier within a justifiable range, but the
4 court is not necessarily required to make such an adjustment.” (*Id.*) Thus, a lodestar cross-check
5 is aimed at astronomical multipliers. Indeed, cross-checks are not required; in many cases,
6 performing a cross-check “undermines” one of the primary reasons for using the percentage
7 method: aligning counsel’s incentives with the benefits delivered to the class and discouraging
8 protracted litigation. (*Id.* at p. 506 (finding trial courts “retain the discretion to forgo a lodestar
9 cross-check”); *Report of the Third Circuit Task Force, Court Awarded Attorney Fees* (1985) 108
10 F.R.D. 237, 258; *Lealao v. Beneficial California, Inc.* (2000) 82 Cal.App.4th 19, 29-30 (citing
11 the recommendations of the Third Circuit Task Force with approval and observing that “[t]he
12 criticisms of the lodestar approach set forth in this Report are now echoed by many authorities,
13 who have been most vocal about the manner in which it exacerbates the problem of ‘cheap
14 settlements’ and burdens already overworked trial judge”).)

15 Courts have defined reasonable multipliers on a lodestar cross-check to “range from 2 to
16 4 or even higher.” (*Wershba v. Apple Computer, Inc.* (2001) 91 Cal.App.4th 224, 255; *see also*,
17 *e.g.*, *Sutter Health Uninsured Pricing Cases* (2009) 171 Cal.App.4th 495, 512 (applying a 2.52
18 multiplier on a cross-check in an antitrust class action); *Chavez*, 162 Cal.App.4th at p. 60
19 (applying a 2.5 multiplier on a lodestar cross-check); *City of Oakland v. Oakland Raiders*, 203
20 Cal.App.3d 78 (1988) (affirming a 2.34 multiplier without remand).) The intermediate court in
21 *Laffitte*, after finding that “2 to 4” is a reasonable range for multipliers on a cross-check, affirmed
22 a 2.13 multiplier. (*Laffitte*, 231 Cal.App.4th at pp. 881-82.) The intermediate court opinion was
23 affirmed in full by the California Supreme Court in its new decision guiding lower courts on
24 assessing fees.

25 Moreover, the Ninth Circuit has cited with approval a comprehensive study of fees
26 awarded by the percentage method showing that the majority of multipliers awarded are “in the
27 1.5-3.0” range. (*See Vizcaino v. Microsoft Corp.* (9th Cir. 2002) 290 F.3d 1043, 1051 (affirming
28 a multiplier of 3.65 in an employment class action case and analyzing the multiplier awarded in

over 30 cases).) Federal district courts applying California law have likewise routinely approved cross-check multipliers between 2 and 3 in employment cases. (*See, e.g., Willner v. Manpower Inc.* (N.D. Cal. June 22, 2015) 2015 WL 3863625, at *7 (affirming a 2.10 multiplier on settlement of California Labor Code violations); *Dyer v. Wells Fargo Bank, N.A.* (N.D. Cal. 2014) 303 F.R.D. 326, 334 (approving attorneys’ fees that resulted in lodestar multiplier of 2.83); *Hopkins v. Stryker Sales Corp.* (N.D. Cal. Feb. 6, 2013) 2013 WL 496358, at *5 (approving a multiplier of 2.76 in settlement of Labor Code violations).) Other courts have found even higher multipliers to be reasonable by comparison to other cases. (*See Craft v. County of San Bernardino* (C.D. Cal. 2008) 624 F. Supp. 2d 1113, 1125-26 (approving a 5.2 multiplier on a cross-check after surveying a large body of cases affirming a higher multiplier).)

With respect to Class Counsel’s lodestar, Class Counsel and their support staff will have expended approximately 585.6 hours litigating this case, which does not include approximately 20 hours of anticipated time spent to finalize the settlement in this matter, including handling any post-approval matters and settlement issues that may arise. (Fitzpatrick Decl. ¶ 14, Ex. A; Lee Decl. ¶ 8, Ex. A; Tulyathan Decl. ¶ 13, Ex. A. Thus, the total number of hours expected to be invested in this case through resolution is expected to be approximately 605.6. Class Counsel requests a reduced hourly rate of \$595.00 per hour, which contemplates a rate commensurate with the jurisdiction in which this action was litigated. (Fitzpatrick Decl. at ¶ 16; Lee Decl. at ¶ 13; Tulyathan Decl. at ¶ 19.) The courts are quite liberal in the evidence required to prove an attorney’s hours. Detailed time records are not required. An attorney’s testimony alone may suffice: “Testimony of an attorney as to the number of hours worked on a particular case is sufficient evidence to support an award of attorney fees, even in the absence of detailed time records.” (*Martino v. Denevi* (1986) 182 Cal.App.3d 553, 559.)

Reasonable hours include, in addition to time spent during litigation, the time spent before the action is filed, including time spent interviewing the clients, investigating the facts and the law, and preparing the initial pleadings. (*New York Gaslight Club, Inc. v. Carey* (1980) 447 U.S. 54, 62.) Further, the fee award should include fees incurred to establish and defend the attorneys’ fee claim. (*Serrano v. Unruh* (1982) 32 Cal.3d 621, 639 [*Serrano IV*].) Thus, Class

1 Counsel requests that the court find that these hours were reasonable in this litigation.

2 A reasonable hourly rate is the prevailing rate charged by attorneys of similar skill and
3 experience in the relevant community. (*PLCM Group, Inc. v. Drexler* (2000) 22 Cal.4th 1084,
4 1095.) The court may consider other factors when determining a reasonable hourly rate, *e.g.*, the
5 attorney's skill and experience, the nature of the work performed, the relevant area of expertise
6 and the attorney's customary billing rates. (*Flannery v. California Highway Patrol* (1998) 61
7 Cal.App.4th 629, 632-33.)

8 Class Counsel's skill and experience justify the requested rates. As shown in the
9 supporting declarations, Class Counsel have significant experience in the area of employment
10 and wage and hour class actions. Specifically, Class Counsel's practice focuses on representing
11 employees in employment matters, particularly wage and hour cases. (Fitzpatrick Decl. at ¶ 20;
12 Lee Decl. at ¶¶ 15-16; Tulyathan Decl. at ¶¶ 8-9.) As such, based on the hours and applicable
13 reduced rate, Class Counsel's lodestar amount through the finalization of this settlement –
14 without a multiplier – will be approximately **\$346,885.00**. (Fitzpatrick Decl. at ¶ 16; Lee Decl.
15 at ¶ 13; Tulyathan Decl. at ¶ 19.)

16 Once the court establishes the lodestar amount, it may enhance the fee award by a
17 multiplier in order to make an appropriate fee award. (*Serrano III*, 20 Cal.3d at p. 48.) The
18 pertinent factors include the difficulty of the questions involved and the skill in presenting them,
19 the contingent nature of the fee award, the extent to which the litigation precluded other
20 employment, and the percentage-of-the-fund the attorney would have received on the fair
21 market. (*Id.*, *Lealao*, 82 Cal.App.4th at p. 49.) However, this list is not exhaustive and the court
22 can consider other factors it deems important in setting the multiplier. (*Ketchum v. Moses* (2001)
23 24 Cal.4th 1122, 1139.)

24 *Lealao* contains several factors justifying an enhancement based on the percentage-of-
25 the-benefit; namely, no objections by class members, commendable conduct by counsel, and
26 significant recoveries by class members, all of which were previously detailed above. (*Lealao*,
27 82 Cal. App. 4th at pp. 51-53.) As in *Lealao*, the Class was notified of the settlement and
28 attorneys' fee with no objections. The extreme effort undertaken by counsel, as shown by their

1 hours and the significantly high number of claims being paid out, shows commendable conduct.

2 The multiplier should be enhanced because of the contingent nature of counsel's fee
3 recovery. The risks in taking on a class action case are enormous, not the least of which is time
4 and effort. As this Court very well knows, not only do these cases require substantial work, but
5 there exist significant risks.

6 Finally, based upon Class Counsel's lodestar of \$346,885.00. Plaintiff's request for a
7 modest multiplier of 1.24 ($\$429,222.22 \div \$346,885.00$) is reasonable and fair, particularly based
8 on the factors described above. (*Wershba v. Apple Computer, Inc.* (Ct. App. 2001) 91 Cal. App.
9 4th 224 (noting that courts using the lodestar method to calculate attorney fees awards in class
10 actions typically apply multipliers in the range of 2 to 4); *Boyd v. Bank of Am. Corp.* (C.D. Cal.
11 Nov. 18, 2014) 2014 U.S. Dist. LEXIS 162880 (awarding 33% of the common fund, based on a
12 multiplier of 2.58, in a wage and hour class action settlement); *Vandervort v. Balboa Capital*
13 *Corp.* (C.D. Cal. 2014) 8 F. Supp. 3d 1200, 1210 (awarding 33% of the common fund, based on
14 a multiplier of 2.52).) As such, the requested fee award is fair and reasonable, and should be
15 awarded in its entirety. Class Counsel risked not only a great deal of time, but also a great deal
16 of expense to ensure the successful litigation of this action on behalf of all Class Members. For
17 these reasons, Class Counsel's request for attorneys' fees in the amount of \$429,222.22 should
18 be approved as fair, reasonable, and adequate.

19 **VII. THE COURT SHOULD APPROVE THE REQUEST FOR REIMBURSEMENT**
20 **OF COSTS**

21 The request for reimbursement of litigation costs, in the amount of \$29,191.67 is fair and
22 reasonable, especially in light of the fact that the Parties agreed that Class Counsel may seek up
23 to \$50,000.00 as reimbursement for litigation costs under the Stipulation. As set forth in Class
24 Counsel's declaration, the costs were all directly incurred in the prosecution of this action,
25 including but not limited to filing fees, service of process costs, postage costs, and mediation
26 fees. (Fitzpatrick Decl. at ¶ 19, Ex. B; Tulyathan Decl. ¶ 20, Ex. B.) As such, the requested
27 costs should be approved as fair and reasonable.

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1 **VIII. THE SETTLEMENT ADMINISTRATOR’S FEES AND COSTS SHOULD BE**
2 **APPROVED**

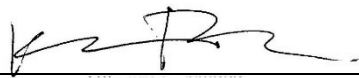
3 Pursuant to the terms of the Stipulation, the fees and costs of the Settlement
4 Administrator, Phoenix Settlement Administrators, are to be paid out of the class settlement
5 funds. As shown on the Declaration of Kevin Lee, the settlement administration fees expended
6 in this matter amount to a total of \$26,950.00, which is the amount that was agreed upon by the
7 Parties and preliminarily approved by the Court. (Phoenix Decl. ¶ 17, Ex. B.) For such reasons,
8 it is requested that the Settlement Administrator’s fees be approved.

9 **IX. CONCLUSION**

10 For all the foregoing reasons, and on the basis of the authorities cited herein, Plaintiff
11 respectfully submits that the standards for final approval have been met and the terms of the
12 Stipulation are fair, adequate, and reasonable. Accordingly, Plaintiff respectfully requests that
13 the Court grant this Motion and enter an Order in the form proposed and submitted.

14 Dated: January 27, 2026

FITZPATRICK & SWANSTON
DIVERSITY LAW GROUP, P.C.

16 By: _____

17 B. James Fitzpatrick
18 Alison L. Baker
19 Larry W. Lee
20 Max W. Gavron
21 Kwanporn “Mai” Tulyathan
22 Attorneys for Plaintiff and the Class
23
24
25
26
27
28

1 **PROOF OF SERVICE**

2 **(Code of Civil Procedure Sections 1013a, 2015.5)**

3
4 STATE OF CALIFORNIA]
5]ss.
6 COUNTY OF LOS ANGELES]

7 I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action; my business address is 515 S. Figueroa Street, Suite 1250, Los Angeles, California 90071.

8 On January 27, 2026, I served the following document(s) described as:

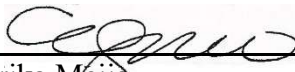
- 9 **1. PLAINTIFF’S NOTICE OF MOTION AND MOTION FOR FINAL APPROVAL**
10 **OF CLASS ACTION SETTLEMENT; AND MEMORANDUM OF POINTS AND**
11 **AUTHORITIES IN SUPPORT**
12 **2. DECLARATION OF B. JAMES FITZPATRICK IN SUPPORT OF**
13 **PLAINTIFF’S FINAL APPROVAL OF CLASS ACTION SETTLEMENT AND**
14 **JUDGMENT**
15 **3. DECLARATION OF KWANPORN “MAI” TULYATHAN IN SUPPORT OF**
16 **PLAINTIFF’S MOTION FOR FINAL APPROVAL OF CLASS ACTION**
17 **SETTLEMENT**
18 **4. DECLARATION OF LARRY W. LEE IN SUPPORT OF PLAINTIFF’S**
19 **MOTION FOR FINAL APPROVAL OF CLASS ACTION SETTLEMENT**
20 **5. DECLARATION OF KEVIN LEE ON BEHALF OF PHOENIX SETTLEMENT**
21 **ADMINISTRATORS REGARDING NOTICE AND SETTLEMENT**
22 **ADMINISTRATION**
23 **6. DECLARATION OF ERIKA PEREZ PAREDES IN SUPPORT OF**
24 **PLAINTIFF’S MOTION FOR FINAL APPROVAL OF CLASS ACTION**
25 **SETTLEMENT**
26 **7. DECLARATION OF ALISON L. BAKER IN SUPPORT OF PLAINTIFF’S**
27 **FINAL APPROVAL OF CLASS ACTION SETTLEMENT AND JUDGMENT**
28 **8. [PROPOSED] ORDER GRANTING FINAL APPROVAL OF CLASS ACTION**
SETTLEMENT AND JUDGMENT

on the interested parties in this action as follows:

Koree B. Wooley Jones Day 4655 Executive Drive, Suite 1500 San Diego, California 92121	<i>Attorneys for Defendant Del Monte Fresh Produce N.A., Inc., and Mann Packing Co., Inc.</i> kbwooley@jonesday.com
Megan A. Childress Elizabeth M. Martin O’HAGAN MEYER LLP 550 S. Hope Street, Suite 2400 Los Angeles, California 90071	<i>Attorneys for Defendant Defendants Constant Staffing, LLC</i> mchildress@ohaganmeyer.com emartin@ohaganmeyer.com

1 X BY ELECTRONIC SERVICE: Based on a court order I caused the above-
2 entitled document(s) to be served through the ACE E-Filing System at the website
3 www.efile.acelegal.com, addressed to all parties appearing on the electronic service list for the
4 above-entitled case. The service transmission was reported as complete and a copy of the filing
5 receipt/confirmation will be filed, deposited, or maintained with the original document(s) in this
6 office.

7 I declare under penalty of perjury under the laws of the State of California that the above
8 is true and correct. Executed on January 27, 2026, at Los Angeles, California.

9 
10 Erika Mejia