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

LESLEY MUNOZ, individually, and on
behalf of other members of the general public
similarly situated and on behalf of other
aggrieved employees pursuant to the
California Private Attorneys General Act;
GIOVANI ESTRELLA, individually, and on
behalf of other members of the general public
similarly situated;

Plaintiffs,

vs.

UKA'S BIG SAVER FOODS, INC., a
California corporation; and DOES 1 through
100, inclusive,

Defendants.

Case No. 19STCV24268

Honorable Carolyn Kuhl
Department SSC-12

CLASS ACTION

**PLAINTIFF'S NOTICE OF MOTION
AND MOTION FOR FINAL APPROVAL
OF CLASS ACTION SETTLEMENT,
CLASS COUNSEL FEES PAYMENT,
CLASS COUNSEL LITIGATION
EXPENSES PAYMENT, AND CLASS
REPRESENTATIVE SERVICE
PAYMENT; MEMORANDUM OF
POINTS AND AUTHORITIES IN
SUPPORT THEREOF**

[Declaration of Class Counsel
(Brian J. St. John); Declaration of Class
Representative (Lesley Munoz); Declaration
of Settlement Administrator (Abigail
Schwartz); and [Proposed] Final Approval
Order and Judgment filed concurrently
herewith]

Date: April 15, 2025
Time: 10:30 a.m.
Department: SSC-12

Complaint Filed: July 12, 2019
FAC Filed: October 26, 2020
SAC Filed: October 30, 2024
Trial Date: None Set

1 **PLEASE TAKE NOTICE** that on April 15, 2025 at 10:30 a.m., in Department SSC-12
2 of the above-entitled Court, located at 312 North Spring Street, Los Angeles, California 90012,
3 Plaintiff Lesley Munoz (“Plaintiff”) will and hereby does move for an order granting final
4 approval of:

5 1. The Class Action and PAGA Settlement Agreement, Amendment No.1 to Class
6 Action and PAGA Settlement Agreement, and Amendment No.2 to Class Action and PAGA
7 Settlement Agreement (together, “Settlement,” “Agreement,” or “Settlement Agreement”), on
8 the grounds that the Settlement is fair, adequate, and reasonable because:

- 9 • A Net Settlement Amount of approximately **\$196,021.25** will be fully distributed to
10 the Class Members who did not submit a valid and timely Request for Exclusion
11 Settlement (“Participating Class Member”);
12 • **No Notices of Objection** have been submitted to the Administrator, Rust Consulting,
13 Inc., (“Administrator”);
14 • **No Requests for Exclusion** were submitted to the Administrator;

15 2. Payment in the amount of **\$147,500.00** to Lawyers *for* Justice, PC (“Class
16 Counsel”), representing one-third (1/3) of the Gross Settlement Amount, for attorneys’ fees,
17 which is reasonable and justified on a percentage-basis and also based on a lodestar cross-check;

18 3. Payment in the amount of **\$22,384.75** to Class Counsel for reimbursement of
19 litigation costs and expenses;

20 4. Payment in the amount of **\$19,094.00** to the Administrator, Rust Consulting, Inc.,
21 (“Rust”), for Administration Expenses Payment; and

22 5. Payment in the amount of **\$7,500.00** to Plaintiff Lesley Munoz, as Class
23 Representative Service Payment, for her time and effort in representing the Class.

24 6. Allocation of the penalties under the Private Attorneys General Act of 2004,
25 California Labor Code section 2698, *et seq.*, in the amount of \$50,000.00, of which seventy-five
26 percent (75%), or **\$37,500.00**, will be paid to the California Labor and Workforce Development
27 Agency (“LWDA PAGA Payment”) and twenty-five percent (25%), or **\$12,500.00** (“PAGA
28 Employee Amount”), will be distributed to all hourly-paid or non-exempt employees who

1 performed work in California for Defendant at any time from July 12, 2015 through the date the
2 Court grants preliminary approval of the settlement (“Aggrieved Employees”).

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

6 This motion is based upon the following Memorandum of Points and Authorities; the
7 Declaration of Class Counsel (Brian J. St. John), Class Representative (Lesley Munoz), and
8 Administrator (Abigail Schwartz of Rust) in support thereof; the pleadings and other records on
9 file with the Court in this matter; and such evidence and oral argument as may be presented at
10 the hearing on this Motion.

11 Dated: March 21, 2025

LAWYERS for JUSTICE, PC

12
13 By:



14 Brian J. St. John
15 *Attorneys for Plaintiff and the Class*
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MEMORANDUM OF POINTS AND AUTHORITIES

I. SUMMARY OF MOTION

Plaintiff Lesley Munoz (“Plaintiff”) seeks final approval of: (1) the Gross Settlement Amount of \$442,500.00; (2) attorneys’ fees in the amount of \$147,500.00, which is one-third (1/3) of the Gross Settlement Amount¹, and reimbursement of litigation costs and expenses in the amount of \$22,384.75 (together, “Class Counsel Fees Payment” and “Class Counsel Litigation Expenses Payment”) to Lawyers for Justice, PC (“Class Counsel”); (3) Administration Expenses Payment in the amount of \$19,094.00 to Rust Consulting, Inc., (“Rust” or “Administrator”); (4) Class Representative Service Payment in the amount of \$7,500.00 to Plaintiff Lesley Munoz; and (5) allocation of \$50,000.00 for penalties under the Private Attorneys General Act of 2004, California Labor Code § 2698, *et seq.* (“PAGA Penalties”).

Plaintiff seeks relief on behalf of the following Class:

All hourly-paid or non-exempt employees who performed work in California for Defendant at any time from July 12, 2015 through April 17, 2024, but not including any hourly-paid or non-exempt employees who have previously entered into a separate individual settlement agreement with Defendant in relation to the Released Class Claims and did not work any Workweeks after signing any such separate individual settlement agreement (“Class” or “Class Members”)²

This matter involved ongoing investigations, formal and informal discovery, review and analysis of information, documents, and data in the course of litigation and in connection with mediation conducted by Eve Wagner, Esq., and settlement negotiations. This matter has required 425.80 of attorney time by Class Counsel. As will be demonstrated herein, the request for attorneys’ fees, which represents one-third (1/3) of the Gross Settlement Amount, is fully supported by the use of the percentage-fee method. Courts have historically awarded fees of up

¹ The Class Action and PAGA Settlement Agreement, Amendment No.1 to Class Action and PAGA Settlement Agreement, and Amendment No.2 to Class Action and PAGA Settlement Agreement (together, “Settlement,” “Agreement,” or “Settlement Agreement”) provide that Class Counsel will seek an award of up to 35% of the Gross Settlement Amount. However, Class Counsel only seeks attorneys’ fees equal to one-third of the Gross Settlement Amount.

² Settlement Agreement, § 1.5; *see* Amendment No.2 § 1.5. “Class Period” is defined as the period of time from July 12, 2015 through April 17, 2024. *See id.*, § 1.12. Pursuant to the escalator clause in section 4.1 of the Settlement Agreement, Defendant elected to end the Class Period on April 17, 2024.

1 to fifty percent (50%) of the recovery. The requested attorneys' fees are also supported under
2 the lodestar cross-check method.

3 Plaintiff moves for final approval of the Class Representative Service Payment in the
4 amount of \$7,500.00, to compensate Plaintiff for the time and effort that she expended
5 spearheading this lawsuit on behalf of the Class, Aggrieved Employees, and the State of
6 California. Plaintiff also moves for final approval of the payment to the Administrator in the
7 amount of \$19,094.00 for Administration Expenses Payment.

8 The requests for Class Counsel Fees Payment, Class Counsel Litigation Expenses
9 Payment, Class Representative Service Payment, Administration Expenses Payment, and
10 allocation for the PAGA Penalties were fully disclosed in the Notice of Class Action Settlement
11 and Hearing Date for Final Court Approval ("Class Notice") that was mailed to the Class
12 Members. Most importantly, as of the date of this Motion, *not a single Class Member has*
13 *objected to any aspect of the Settlement, including the requested Class Counsel Fees Payment,*
14 *Class Counsel Litigation Expenses Payment, Class Representative Service Payment,*
15 *Administration Expenses Payment, or allocation for PAGA Penalties.*

16 The Settlement is fair, adequate, and reasonable, and is the product of arm's-length,
17 good-faith negotiations by experienced counsel presided over by a highly-regarded mediator who
18 is experienced in mediating wage-and-hour class action lawsuits. Accordingly, the Court should
19 grant final approval of the Settlement, and award Class Counsel Fees Payment, Class Counsel
20 Litigation Expenses Payment, Class Representative Service Payment, Administration Expenses
21 Payment, and allocation for the PAGA Penalties, in the amounts as fully disclosed to the Class
22 and as requested herein.

23 In order to efficiently present the Court with adequate information to determine whether
24 to grant final approval of the Settlement and award Class Counsel Fees Payment, Class Counsel
25 Litigation Expenses Payment, Class Representative Service Payment, Administration Expenses
26 Payment, and allocation for PAGA Penalties, Plaintiff also moves for an order permitting the
27 filing of this single consolidated memorandum, although it exceeds the page limit established by
28 California Rules of Court, Rule 3.1113(d), instead of filing several separate motions.

II. PROCEDURAL HISTORY AND FACTUAL BACKGROUND

Defendant Uka’s Big Saver Foods, Inc., operates 14 full-service supermarket locations in the Los Angeles, Orange County, and Riverside areas with many including delis, tortillerias, and bakeries. Plaintiff Lesley Munoz is a former employee of Defendant.

On July 12, 2019, Plaintiff and Giovani Estrella filed a Class Action Complaint for Damages against alleging causes of action against Defendant for (1) failure to pay overtime; (2) failure to provide meal periods; (3) failure to provide rest periods; (4) failure to pay minimum wages; (5) failure to pay all wages due upon termination; (6) failure to timely pay wages during employment; (7) failure to furnish accurate itemized wage statement; (8) failure to maintain required payroll records; (9) failure to reimburse employees for necessary business expenses incurred in the discharge of their duties; and (10) unfair business practices (“Original Complaint”), in the Los Angeles County Superior Court (“Court”), thereby commencing the above-captioned lawsuit (the “Action”).

On October 26, 2020, Plaintiff and former plaintiff Giovanni Estrella filed a First Amended Class Action Complaint for Damages (“First Amended Complaint”) asserting a single cause of action for unfair business practices pursuant to California Business & Professions Code sections 17200, et seq. based on all the same facts alleged in the Original Complaint.

On July 20, 2023, Plaintiff provided written notice by certified mail to the LWDA and by online submission to Defendant of the specific provisions of the California Labor Code that were allegedly violated by Defendant (“LWDA Notice”).

On April 12, 2024, Class Counsel filed a motion to be relieved as former plaintiff Giovanni Estrella’s counsel. On May 6, 2024, the Court entered an order relieving Class Counsel as former plaintiff Giovanni Estrella’s attorneys in the Action.

On October 30, 2024, Plaintiff filed Second Amended Class Action Complaint for Damages & Enforcement Under the Private Attorneys General Act, California Labor Code § 2698, Et Seq. (“Second Amended Complaint” or “Operative Complaint”).

Plaintiff’s core allegation is that Defendant has violated the California Labor Code by engaging in a uniform practice and procedure, with respect to Plaintiff, the Class Members, and

Aggrieved Employees of, *inter alia*, failing to pay all overtime and minimum wages, failing to provide compliant meal and rest periods and associated premium pay, failing to timely pay wages during employment and upon termination of employment, failing to provide compliant wage statements, failing to maintain requisite payroll records, and failing to reimburse necessary business expenses, and thereby engaged in unfair business practices in violation of California Business and Professions Code section 17200, *et seq. and* conduct that gives rise to penalties pursuant to PAGA. Plaintiff contends that she, and the Class Members, and Aggrieved Employees are entitled to, *inter alia*, unpaid wages, penalties (including and not limited to, penalties pursuant to PAGA), and attorneys' fees.

Defendant heavily disputed Plaintiff's allegations of unlawful conduct, and has denied, and continues to deny, any liability and wrongdoing of any kind associated with any of the allegations in the Action, and further denies that the Action is appropriate for class treatment or representative adjudication for any purpose other than for settlement purposes only.

Prior to reaching Settlement, Class Counsel conducted significant investigation into the facts of the case and engaged in formal and informal discovery and review and analysis of a large volume of documents and data produced by Defendant.

The Parties have actively litigated the Action since it was commenced on July 12, 2019. On September 3, 2020, the Parties participated in a formal, full-day mediation conducted by Eve Wagner, Esq., a well-regarded mediator experienced in mediating complex labor and employment matters. The Parties did not reach a settlement at mediation but continued to engage in settlement negotiations. With the aid of the mediator's evaluation, the Parties ultimately reached the Settlement described herein to resolve the Action in its entirety.

On May 13, 2024, Plaintiff filed a Motion for Preliminary Approval of Class Action Settlement ("Motion for Preliminary Approval") and supporting documents. On June 5, 2024, the Court held a hearing on Plaintiff's Preliminary Approval of Class Action Settlement, wherein the Court raised certain points of inquiry regarding the Settlement. On August 14, 2024, Plaintiff filed supplemental briefing in support of the Motion for Preliminary Approval. On August 27, 2024, the Court held a hearing on Plaintiff's Preliminary Approval of Class Action Settlement,

wherein the Court raised certain points of inquiry regarding the Settlement. On October 2, 2024, Plaintiff filed supplemental briefing in support of the Motion for Preliminary Approval. On October 29, 2024, the Court entered an Order Granting Plaintiff's Motion for Preliminary Approval of Class Action Settlement ("Preliminary Approval Order"), thereby preliminarily approving the terms of the Settlement, the Class Notice, and the proposed administration procedures and associated deadlines.

Plaintiff now moves for final approval of the Settlement, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, Class Representative Service Payment, Administration Expenses Payment, and allocation for PAGA Penalties.

III. SUMMARY OF THE SETTLEMENT TERMS AND PLAN OF DISTRIBUTION

Under the terms of the Settlement Agreement, Defendant has agreed to pay a Gross Settlement Amount (\$442,500.00) on a non-reversionary basis.³ Subject to approval by the Court, the Net Settlement Amount will be calculated by deducting the following amounts from the Gross Settlement Amount: (1) Class Counsel Fees Payment and Class Counsel Litigation Expenses Payment, consisting of attorneys' fees in the amount of \$147,500.00 and reimbursement of litigation costs and expenses in the amount of \$22,384.75 to Class Counsel; (2) Class Representative Service Payment in the amount of \$7,500.00 to Plaintiff Lesley Munoz; (3) Administration Expenses Payment in the amount of \$19,094.00 to Rust; and (4) the amount of \$50,000.00 allocated to penalties under the Private Attorneys General Act ("PAGA"), of which 75% (i.e., \$37,500.00) ("LWDA PAGA Payment") will be distributed to the Labor and Workforce Development Agency ("LWDA") and 25% (i.e., \$12,500.00) will be distributed on a *pro rata* basis to all hourly-paid or non-exempt employees who performed work in California for Defendant at any time from July 12, 2015 through the date the Court grants preliminary approval of the settlement ("Aggrieved Employees").⁴ The Net Settlement Amount, which is estimated to

³ Settlement Agreement, § 3.1.

⁴ *Id.*, §§ 1.4 and 3.2.5, "PAGA Period" is defined as the period of time from July 12, 2015 through the date of the Court grants preliminary approval of the settlement *See id.*, ¶ 1.34.

be \$196,021.25, will be distributed in accordance with the Settlement Agreement, and there is no reversion to Defendant.⁵

The Administrator will calculate each Participating Class Member's (i.e., Class Members who did not submit a valid and timely Request for Exclusion from the Settlement) share of the Net Settlement Amount ("Individual Class Payment"), as follows:

- a. The Administrator will divide the Net Settlement Amount by the total number of Workweeks worked by all Participating Class Members during the Class Period and multiply the result by each Participating Class Member's Workweeks.⁶

The Administrator will calculate each Aggrieved Employee's *pro rata* share of the 25% share of the PAGA Penalties ("Individual PAGA Payment"), in accordance with the Settlement Agreement as follows:

- a. The Administrator will calculate each Individual PAGA Payment by dividing the amount of the PAGA Employee Amount (\$12,500.00) by the total number of PAGA Pay Periods worked by all Aggrieved Employees during the PAGA Period and multiplying the result by each Aggrieved Employee's PAGA Pay Periods.⁷

Class Members had sixty (60) days after the Administrator mailed the Class Notice to Class Members to dispute the number of Workweeks and/or PAGA Pay Periods credited to each of them, submit a Request for Exclusion from the Class Settlement, and/or submit a Notice of Objection to the Class Settlement ("Response Deadline").⁸ The Response Deadline was February 11, 2025.⁹ As of this date, the Administrator has received zero (0) written requests for exclusion from the Class Settlement ("Requests for Exclusion") and zero (0) written objections to the Class Settlement ("Notices of Objection") from Class Members.¹⁰

Each Participating Class Member's Individual Settlement Payment will be allocated as twenty percent (20%) wages (the "Wage Portion"), which will be reported on an IRS Form W-2;

⁵ This amount is higher than the amount stated in Paragraph 20 of the accompanying Declaration of Abigail Schwartz for Rust Consulting, Inc. ("Rust Declaration" or "Rust Decl.") because the Settlement Administrator's calculation assumes that Class Counsel will obtain litigation costs and expenses in the maximum amount of \$25,000.00 and attorneys fees equal to 35% of the escalated Gross Settlement Amount, which is allocated under the Settlement. However, Class Counsel seeks the amount of only \$22,384.75 for reimbursement of litigation costs and expenses (and the difference of \$2,615.25 will remain part of the Net Settlement Amount) and only one-third of the Gross Settlement Amount in attorneys' fees.

⁶ Settlement Agreement, § 3.2.4.

⁷ *Id.*, § 3.2.5.1.

⁸ *Id.*, § 1.47.

⁹ Rust Decl., ¶ 12.

¹⁰ *Id.*, ¶¶ 17 & 18.

1 and the remaining eighty percent (80%) interest and penalties (the “Non-Wage Portion”), which
2 will be reported on an IRS Form 1099.¹¹ The Individual PAGA Payments will be allocated as
3 one hundred percent (100%) penalties, and will be reported on an IRS Form-1099, if necessary.¹²
4 Participating Class Members assume full responsibility and liability for any taxes paid by an
5 individual employee, including but not limited to taxes paid pursuant to the Federal Insurance
6 Contributions Act, federal income tax, state disability insurance, and state income tax payments
7 (“Employee Paid Taxes”) owed on their Individual Class Payment.¹³ Defendant will pay the
8 taxes paid pursuant to the Federal Unemployment Tax Act, Federal Insurance Contributions Act,
9 state unemployment insurance, and Employee Training Tax payments (“Employer Paid Taxes”) in
10 addition to the Gross Settlement Amount.¹⁴

11 For any Participating Class Member and/or Aggrieved Employee whose Individual Class
12 Payment check or Individual PAGA Payment check is uncashed and cancelled after the void
13 date, the Administrator shall transmit the funds represented by such checks to the California
14 Controller’s Unclaimed Property Fund in the name of the Participating Class Member and/or
15 Aggrieved Employee thereby leaving no “unpaid residue” subject to the requirements of
16 California Code of Civil Procedure Section 384, subd. (b).¹⁵

17 **IV. THE SETTLEMENT ADMINISTRATION PROCESS**

18 The Court-appointed Administrator, Rust, has taken all necessary steps to effectuate the
19 notice and settlement administration process, as set forth in the Court’s October 29, 2024
20 Preliminary Approval Order.

21 On November 25, 2024, Rust received a mailing list from Defendant’s counsel that
22 contained each Class Members’ and Aggrieved Employees’ names, last known addresses, Social
23 Security Numbers and applicable employment information (“Class List”).¹⁶

24 The Class List contained data for 2,306 potential Class Members and 2,423 Aggrieved
25

26 ¹¹ Settlement Agreement, § 3.2.4.1.

27 ¹² *Id.*, § 3.2.5.1.

28 ¹³ *Id.*, §§ 1.20 & 3.2.4.1.

¹⁴ *Id.*, §§ 1.21. & 3.1.

¹⁵ *Id.*, § 4.4.3.

¹⁶ Rust Decl., ¶ 10.

Employees.¹⁷ The mailing addresses contained in the Class List were processed and updated utilizing the National Change of Address Database (“NCOA”) maintained by the U.S. Postal Service. The NCOA contains requested changes of address filed with the U.S. Postal Service. In the event that any individual had filed a U.S. Postal Service change of address request, the address listed with the NCOA would be utilized in connection with the mailing of the Notice.¹⁸

On December 13, 2024, Notices were mailed to 2,423 individuals identified as Class Members and/or Aggrieved Employees contained in the Class List via First Class mail.¹⁹

As of this date, nine (9) Notices were returned by the Post Office with forwarding addresses attached as of February 11, 2025.²⁰ Rust performed 395 address traces on Notices returned as undeliverable for the first time as of February 11, 2025.²¹ The address trace utilizes the Class Member’s and/or Aggrieved Employee’s name, previous address and Social Security Number for locating a current address.²² Of the 395 traces performed, 244 more current addresses were obtained and Notices were promptly re-mailed to those Class Members/Aggrieved Employees via First Class mail.²³ Of the 395 traces performed, Rust did not obtain updated addresses for 151 undeliverable Notices.²⁴ Of the 244 Notices mailed to a more current address identified from trace, 46 Notices were returned to Rust as undeliverable a second time. As of this date, 197 Notices remain undeliverable.

The Administrator has received zero (0) Notices of Objection and zero (0) Requests for Exclusion from Class Members.²⁵

To date, there are two thousand three hundred six (2,306) Class Members who did not submit a timely and valid Request for Exclusion, and are therefore, deemed to be Participating Class Members.²⁶ Pursuant to the terms of the Settlement, the Net Settlement Amount of

¹⁷ Rust Decl., ¶ 10.

¹⁸ *Id.*, ¶ 11.

¹⁹ *Id.*, ¶ 12.

²⁰ *Id.*, ¶ 14.

²¹ *Id.*, ¶ 13.

²² *Ibid*

²³ *Ibid.*

²⁴ *Ibid.*

²⁵ *Id.*, ¶¶ 17 & 18.

²⁶ *Id.*, ¶ 12.

approximately \$196,021.25 will be distributed to Participating Class Members in accordance with the terms of the Settlement.²⁷ The highest Individual Class Payment is currently estimated to be at least \$507.50 and the average Individual Class Payment is currently estimated to be at least \$75.69.²⁸ The highest Individual PAGA Payment is currently estimated to be at least \$35.95, and the average Individual PAGA Payment is currently estimated to be at least \$5.16.²⁹

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

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

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

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

The proponent of the settlement has the burden to show that it is fair and reasonable. *Wershba, supra*, 91 Cal.App.4th at 245. At the final approval stage, a presumption of fairness exists where, as here: "(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*,

²⁷ Rust Decl., ¶ 20; see n.5, *supra*.

²⁸ *Id.*, ¶ 21. The actual average and highest Individual Class Payment will be larger than the amounts stated in the Rust Declaration 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 \$25,000.00 and attorneys' fees equal to 1/3 of the Gross Settlement Amount (the difference between the amount sought and the amount authorized under the Settlement will be part of the Net Settlement Amount.) See n.5, *supra*.

²⁹ *Id.*, ¶ 22.

supra, 48 Cal.App.4th at 1802. In reviewing a class settlement, the court need not reach any ultimate conclusions on the issues of fact and law that underlie the merits of the dispute. *7-Eleven Owners for Fair Franchising v. Southland Corp.* (2000) 85 Cal.App.4th 1135, 1146. The inquiry is not whether the settlement agreement is the best one that class members could have possibly obtained, but whether the settlement, taken as a whole, is “fair, adequate, and reasonable.” *Chavez v. Netflix, Inc.* (2008) 162 Cal.App.4th 43, 55. A settlement need not obtain 100 percent of the damages sought in order to be fair, reasonable, and ultimately, meaningful. *Wershba, supra*, 91 Cal.App.4th at 251. Even if the proposed settlement affords relief that is substantially narrower than it would be if the case were to be successfully litigated, that is no bar to a class settlement because the public interest may indeed be served by a voluntary settlement in which each side gives ground in the interest of avoiding prolonged litigation. *Id.*

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

The Parties actively litigated the case since it was commenced on July 12, 2019. Counsel for the Parties used the pre-mediation time period to investigate the veracity, strength, and scope of the claims, and also to prepare the matter for class certification and trial.³⁰ The Parties conducted formal and informal discovery and investigation into the facts of the case, and also informally exchanged information, documents, and data in preparation for mediation.³¹ Class Counsel analyzed information, documents, and data obtained from Defendant, Plaintiff, and other sources.³² The information, documents, and data reviewed and analyzed by Class Counsel included, and were not limited to, Plaintiff’s employment records, a detailed sampling of Plaintiff’s and other Class Members’ time data and pay records, Defendant’s Employee Handbook, Defendant’s operations and employment practices, forms, procedures, and policies (including, and not limited to, Meal and Rest Policy, Overtime Policy, Timekeeping Policy, and

³⁰ St. John Decl., ¶ 6.

³¹ *Ibid.*

³² *Ibid.*

Expense Reimbursement Request Form), among other information and documents.³³ Class Counsel also developed damages, violation, and penalties valuation models in connection with the mediation and settlement negotiations, and met and conferred with Defendant's counsel on numerous occasions, e.g., to discuss issues relating to the pleadings, case management, formal and informal discovery, motion practice, and production of documents and data in the course of litigation and mediation and settlement negotiations, and mediation and settlement negotiations. Other work that Class Counsel has performed includes, and is not limited to, case strategy and analysis; drafting, reviewing, and revising the pleadings, the mediation brief, and motion-related papers; claims assessment; preparing for and attending court proceedings; and preparing for and participating in mediation and settlement negotiations, among other tasks.³⁴

After conducting meaningful formal and informal discovery and investigation into the facts of the case, the Parties participated in a formal, full-day mediation conducted by Eve Wagner, Esq., a well-regarded mediator experienced in mediating complex labor and employment matters.³⁵ In the course of litigation and in connection with mediation and settlement discussions, the Parties exchanged information, data, and documents, and discussed various aspects of the case, including and not limited to, the risks and delays of further litigation, the risks and expenses to the Parties of proceeding with class certification and trial, the law relating to class certification, manageability, off-the-clock theory, rounding, regular rate, meal and rest periods, representative PAGA claims and penalties, wage-and-hour law and enforcement, the evidence produced and analyzed, and the possibility of appeals, among other things.³⁶ During all settlement discussions, the Parties conducted their negotiations at arm's length in an adversarial position.³⁷ Arriving at a settlement that was acceptable to the Parties was not easy.³⁸ Defendant and its counsel felt very strongly about Defendant's ability to prevail on the merits and to obtain a denial of class certification, while Plaintiff and Class Counsel believed

³³ St. John Decl., ¶ 6.

³⁴ Ibid.

³⁵ *Id.*, ¶ 8.

³⁶ Ibid.

³⁷ Ibid.

³⁸ Ibid.

1 that class certification would be obtained and Plaintiff would prevail at trial.³⁹ After conducting
2 formal and informal discovery and investigations, settlement negotiations, and with the aid of the
3 mediator's evaluation, the Parties agreed that the matter was well-suited for settlement given the
4 legal issues relating to Plaintiff's principal claims, as well as the costs and risks to the Parties that
5 would attend further litigation.⁴⁰

6 The Settlement takes into account the strengths and weaknesses of each side's position
7 and the uncertainty of how the case might have concluded at certification, trial, and/or appeals.
8 Class Counsel also reviewed and analyzed documents obtained from Defendant, Plaintiff, and
9 other sources, and performed significant research into the applicable law, which is constantly
10 evolving as it relates to class certification, manageability, off-the-clock theory, rounding, regular
11 rate, meal and rest periods, representative PAGA claims and penalties, wage-and-hour law and
12 enforcement, Plaintiff's claims and damages, and Defendant's defenses, as well as facts
13 discovered.⁴¹ The Settlement was based on this large volume of facts, evidence, and
14 investigation.⁴² Additionally, Class Counsel has extensive experience in handling complex
15 wage-and-hour matters, including significant experience in employment class and representative
16 action litigation.⁴³

17 **B. The Risks Inherent in Continued Litigation Favor Final Approval of the**
18 **Settlement.**

19 The Settlement, which provides for an Gross Settlement Amount of \$442,500.00,
20 represents a fair, adequate, and reasonable resolution of the case, given the risks inherent in
21 litigating class claims through certification proceedings, trial, and/or appeals.⁴⁴ The Settlement
22 was calculated using information, data, and documents uncovered through extensive case
23 investigation, formal and informal discovery, and the exchange of information in the context of
24 mediation and settlement negotiations.⁴⁵ Had the action not settled, Defendant would have

25 ³⁹ St. John Decl., ¶ 8.

26 ⁴⁰ Ibid.

27 ⁴¹ *Id.*, ¶ 6.

28 ⁴² *Id.*, ¶¶ 6 & 8.

⁴³ *Id.*, ¶¶ 13-18.

⁴⁴ *Id.*, ¶¶ 8 & 21.

⁴⁵ *Id.*, ¶¶ 5-8.

1 vigorously challenged class certification, manageability of representative adjudication, and
2 liability. Defendant contended that individualized questions of fact predominate over any
3 common issues, and these issues would pose challenges to certification. Defendant would have
4 likely argued again at trial, if any, that Plaintiff's claims were not appropriate for class-wide
5 adjudication. On the other hand, Defendant also faced the risk of the Court certifying a class and
6 allowing a jury to decide Plaintiff's claims on a class-wide basis. Additionally, preparation for
7 trial would have been expensive for all Parties.

8 It is preferable to reach an early resolution of a dispute because such resolutions save
9 time and money that would otherwise go to litigation. If this matter had settled after further
10 litigation, the settlement amount would have taken into account the additional costs incurred, and
11 there might have been less money available for Class Members after all was said and done. This
12 is not just an abstract contention. The risks and expenses of further litigation outweighed any
13 benefit that might have been gained otherwise. These risks of further litigation include a
14 determination that the claims were unsuitable for class treatment, failure to obtain certification,
15 class de-certification after certification of a class, allowing a jury to decide the claims asserted in
16 the case, and the real possibility of no recovery after years of litigation. Additionally, the Parties
17 were moving into the phase of the litigation where they would have to conduct a significant
18 amount of additional discovery, including and not limited to, depositions of Defendant's Person
19 Most Knowledgeable designees, expert witnesses, and percipient witnesses, such as managers,
20 supervisors, and other current and former employees throughout the State of California. Formal
21 discovery would have certainly arisen, which would have cost the Parties additional time and
22 money. In contrast, the Settlement provides real and significant benefits for the Class here and
23 now, while avoiding the further expenses, risks, and delay of prolonged litigation with only the
24 possibility of recovery.

25 It would be grossly inefficient for such a large class of current and former employees to
26 bring individual actions to recover from Defendant for the alleged violations of wage-and-hour
27 laws. Moreover, the potential individual recovery that could be obtained by a Class Member
28 would not be significant enough to provide him or her with the incentive to sue. By granting

1 final approval of the Settlement, the Court can approve a resolution that provides a certain and
2 substantial recovery for Class Members.

3 **C. The Settlement Is Fair, Reasonable, and Adequate.**

4 The Settlement, which provides for a Gross Settlement Amount of \$442,500.00,
5 represents a fair, reasonable, and adequate resolution of the case. The Settlement was calculated
6 using information, data, and documents uncovered through extensive case investigation, formal
7 and informal discovery, and the exchange of information in the context of mediation and
8 settlement negotiations. The Settlement takes into account the potential risks and rewards
9 inherent in any case and, in particular, in this matter. Moreover, considering all of the facts in
10 the case, the Gross Settlement Amount represents a considerable recovery.

11 Even after deducting attorneys' fees in the amount of \$147,500.00, litigation costs and
12 expenses in the amount of \$22,384.75, Class Representative Service Payment in the amount of
13 \$7,500.00, Administration Expenses Payment in the amount of \$19,094.00, and PAGA Penalties
14 in the amount of \$50,000.00 from the Gross Settlement Amount of \$442,500.00, the Net
15 Settlement Amount is currently estimated to be \$196,021.25.⁴⁶ Under the Settlement Agreement,
16 the Gross Settlement Amount will be fully paid out without any reversion to Defendant, in
17 accordance with the terms of the Settlement. As discussed in Section III, *supra*, each
18 Participating Class Member will be paid a *pro rata* share of the Net Settlement Amount, based
19 on the number of Workweeks during the Class Period credited to him or her and each Aggrieved
20 Employee will be paid a *pro rata* share of the twenty-five percent share of the PAGA Penalties,
21 based on the number of PAGA Pay Periods during the PAGA Period credited to him or her. To
22 date, there are 2,306 Class Members who did not submit a timely and valid Request for
23 Exclusion, and are therefore deemed Participating Class Members, representing 100% of the
24 Class Members.⁴⁷ The highest Individual Class Payment is currently estimated to be at least
25 \$507.50 and the average Individual Class Payment is currently estimated to be at least \$75.69.⁴⁸
26 The highest Individual PAGA Payment is currently estimated to be at least \$35.95, and the

27 ⁴⁶ Rust Decl., ¶ 20; see n.5, *supra*.

28 ⁴⁷ *Id.*, ¶ 19.

⁴⁸ *Id.*, ¶ 21; see n.28, *supra*.

1 average Individual PAGA Payment is currently estimated to be at least \$5.16.⁴⁹ These are
2 significant individual recoveries, particularly in light of the risks of litigation.

3 At the final approval stage, “[a]n allocation formula need only have a reasonable, rational
4 basis [to warrant approval], particularly if recommended by experienced and competent class
5 counsel.” *In re American Bank Note Holographics, Inc., Securities Litigation* (S.D.N.Y. 2001)
6 127 F.Supp.2d 418, 429-30. The *pro rata* allocation here is a fair and reasonable way to
7 distribute the Net Settlement Amount. In light of the above considerations, Class Counsel
8 believes that the Settlement as a whole is fair, reasonable, and adequate, and in the best interest
9 of the Class Members.⁵⁰ Although the recommendations of Class Counsel are not conclusive, the
10 Court can properly take the recommendations into account, particularly if Class Counsel appears
11 to be competent, has experience with this type of litigation, and significant discovery and
12 investigation have been completed, as is the case here. Conte & Newberg, *Newberg on Class*
13 *Actions* (4th Ed., 2002) § 11.47. Accordingly, the Court should grant final approval of the
14 Settlement.

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

16 Class Counsel has extensive experience in employment class and representative action
17 law and complex wage-and-hour litigation.⁵¹ Lawyers for Justice, PC has been appointed class
18 counsel in numerous complex wage-and-hour cases, and has recovered millions of dollars for
19 individuals in California.⁵² Both Parties’ counsel were capable of assessing the strengths and
20 weaknesses of the Class Members’ claims against Defendant and the benefits of the Settlement
21 under the circumstances of the case and in the context of a private, consensual settlement
22 agreement.

23 **E. There are no Notices of Objection to the Settlement.**

24 The Settlement has been well received by the Class – *not a single Class Member objected*
25 *to the Settlement.*⁵³ Specifically, no objections have been made as to the Gross Settlement

26 ⁴⁹ Rust Decl., ¶ 22.

27 ⁵⁰ St. John Decl., ¶ 21.

28 ⁵¹ *Id.*, ¶¶ 13-18.

⁵² *Ibid.*

⁵³ Rust Decl., ¶ 18.

Amount or requested Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, Class Representative Service Payment, Administration Expenses Payment, or the allocation for PAGA Penalties. California courts have consistently found that a small number of objectors indicates the class' support for a settlement and strongly favors final approval. *Wershba, supra*, 91 Cal.App.4th at 250-51 (final approval granted despite 20 objectors); *7-Eleven Owners, supra*, 85 Cal.App.4th at 1152-53 (final approval granted despite 9 objectors).

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

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

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

Trial courts have "wide latitude" in assessing the value of attorneys' fees and their decisions will "not be disturbed on appeal absent a manifest abuse of discretion." *Lealao v. Beneficial Cal., Inc.* (2000) 82 Cal.App.4th 19, 41; *Ketchum v. Moses* (2001) 24 Cal.4th 1122, 1132 (The "experienced trial judge is the best judge of the value of professional services rendered in her court[.]"); *Cellphone Termination Fee Cases* (2009) 180 Cal.App.4th 1110, 1118. Where the amount of a settlement is a "certain easily calculable sum of money," California courts may calculate attorneys' fees as a reasonable percentage of the settlement. Weil and Brown, *California Practice Guide, Civil Procedure Before Trial*, Chapter 14, § 14:145; *see also Laffitte v. Robert Half Int'l Inc.* (2016) 1 Cal.5th 480, 503; *Dunk, supra*, 48 Cal.App.4th at 1808. The percentage-of-the-benefit approach is preferred in class and representative actions because "it better approximates the workings of the marketplace than the lodestar approach." *Lealao, supra*, 82 Cal.App.4th at 49.

California law provides that an attorneys' fees award should be equivalent to fees paid in the legal marketplace for the result achieved and risk incurred. *Id.* at 47-50; *Laffitte v. Robert Half Int'l, Inc.* (2016) 1 Cal.5th 480, 503. In *Lealao*, the court held that when an action leads to

a recovery that can be “monetized” with a reasonable degree of certainty, the trial court should “ensure that the fee awarded is within the range of fees freely negotiated in the legal marketplace in comparable litigation.” *Lealao, supra*, 82 Cal.App.4th at 50. Fee awards that are too small will “chill the private enforcement essential to the vindication of many legal rights and obstruct the representative actions that often relieve the courts of the need to separately adjudicate numerous claims.” *Lealao, supra*, 82 Cal.App.4th at 53.

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

Historically, courts have awarded fees as high as fifty percent (50%) of the settlement, depending on the circumstances of the case. *Conte & Newberg, Newberg on Class Actions* (4th Ed., 2002) § 14.03; *see also In re Ampicillin Antitrust Litig.* (D.D.C. 1981) 526 F.Supp. 494 (awarding attorneys’ fees in the amount of 45% of the settlement amount of \$7.3 million); *Beech Cinema, Inc. v. Twentieth-Century Fox Film Corp.* (S.D.N.Y. 1979) 480 F.Supp. 1195 (awarding approximately 53% of the settlement amount as attorneys’ fees). California courts routinely approve class action attorneys’ fees awards “averag[ing] around one-third of the recovery.” *Chavez v. Netflix, Inc.* (2008) 162 Cal.App.4th 43, 66 n.11 (lower court found 20 to 40 percent range of contingency fee in marketplace was appropriate in class actions); *see also Laffitte*, 1 Cal.5th at 488 & 506 (approving fee award of 1/3 of common fund of \$19 million).

B. A Fee Award of a Percentage of the Entire Fund Is Appropriate.

California and federal courts have long recognized that an appropriate method for determining the award of attorneys’ fees is based on a percentage of the total value of benefits

made available to class members by the settlement. *Laffitte*, 1 Cal.5th at 503; *Boeing Co. v. Van Gemert* (1980) 444 U.S. 472, 478; *Paul, Johnson, Alston & Hunt v. Gaulty* (9th Cir. 1989) 886 F.2d 268, 272; *Vincent v. Hughes Air West, Inc.* (9th Cir. 1977) 557 F.2d 759, 769; *Serrano v. Priest* (1977) 20 Cal.3d 25, 34.⁵⁴ The purpose of this equitable doctrine is to spread litigation costs proportionally among all the beneficiaries so that the active beneficiary does not bear the entire burden alone. See *Vincent, supra*, 557 F.2d at 769.

When a litigant's efforts result in a settlement from which others may derive benefits, the litigant may require the passive beneficiaries to compensate those whose efforts brought about the settlement. See, R. Pearle, *California Attorney Fee Awards* (CEB, 1993) § 7A, p. 5-7 (permitting attorneys' fees and costs to be paid out of the settlement or directly on behalf of the other parties enjoying the benefit of the settlement). Both state and federal courts have embraced this doctrine. See *Serrano, supra*, 20 Cal.3d at 35; *Crampton v. Takegoshi* (1993) 17 Cal.App.4th 308, 317; *Vincent, supra*, 557 F.2d at 769.

The propriety of calculating and awarding attorneys' fees as a percentage of a monetary settlement that has, by litigation, been preserved or recovered for the benefit of others, has been confirmed by the California Supreme Court. *Laffitte, supra*, 1 Cal.5th 480 at 486 & 506. The California Supreme Court has taken the position that "[t]rial courts have discretion to conduct a lodestar cross-check on a percentage fee," "they also retain the discretion to forgo a lodestar cross-check and use other means to evaluate the reasonableness of a requested percentage fee[.]" and "[t]he percentage [...] method survives in California." *Id.* (internal quotes omitted).

Courts have consistently recognized that class and representative action litigation is increasingly necessary to protect the rights of individuals whose injuries and/or damages are too small to economically justify legal action on an individual basis. Accordingly, in determining a reasonable fee award, courts award fees to serve as an economic incentive for lawyers to pursue such litigation in order to achieve increased access to the judicial system for meritorious claims and to enhance deterrents to wrongdoing. This is especially true in situations where multiple

⁵⁴ The California Supreme Court has urged trial courts to consider class action federal authority. *Green v. Obledo* (1981) 29 Cal.3d 126, 146; *Vasquez v. Superior Court* (1971) 4 Cal.3d 800, 821.

similar alleged wrongs would not be economically feasible to pursue individually, such as here. See A. Conte, *Attorney Fee Awards* (2d Ed., 1993) 104, at 6.

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

Under the terms of the Settlement Agreement, Defendant will pay a Gross Settlement Amount of \$442,500.00 on a non-reversionary basis. The requested attorneys’ fees are one-third (1/3) of the Gross Settlement Amount. In light of Class Counsel’s successful prosecution and resolution of the case, the requested attorneys’ fees are appropriate and reasonable.

Compensating class counsel in class litigation on a percentage basis makes good sense because: (1) it is consistent with the private marketplace where contingent fee attorneys are customarily compensated on such a basis; (2) it aligns the interests of class counsel and absent class members in achieving the maximum possible resolution of the case; and (3) it encourages the most efficient and expeditious resolution of the litigation by providing an incentive for early, yet reasonable, settlement. The requested attorneys’ fees in this matter satisfy all of those factors and should be approved on a percentage basis.

The percentage method is consistent with, and is intended to mirror, the practice in the private marketplace where contingent-fee attorneys typically negotiate percentage-fee arrangements with their clients. A named plaintiff’s agreement to pay a contingent fee is powerful evidence of a reasonable fee. One of the best ways to demonstrate the value of counsel’s work to the class is to review the consideration agreed to be paid by the named plaintiff. If the named plaintiff has employed counsel on a contingency-fee basis, it would indeed be inequitable for the members of the class, who will enjoy the benefits of the settlement without incurring the risks of bringing the claim, to pay less than the named plaintiff. In this

case, Plaintiff has agreed to a contingency fee of at least thirty-nine percent (39%) of the recovery.⁵⁵

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

In *Wershba v. Apple Computer, Inc.* (2001) 91 Cal.App.4th 224, in determining reasonable attorneys’ fees, the Court of Appeal valued a settlement based on the total value of the settlement made available to class members by the efforts of counsel, decided in favor of granting fees as a percentage of the total value of the settlement, and rejected an objection that the fees be awarded based on the exact amount claimed by class members. *Id.* at 247.

Class Counsel has obtained a substantial recovery on behalf of Plaintiff and the Class, and the results achieved justify an attorneys’ fees award that is the equivalent of the standard market fee and that is consistent with the contingency-fee agreement entered into by and between Plaintiff and Class Counsel. Thus, the requested attorneys’ fees are appropriate.

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

In *Camden I Condominium Association, Inc. v. Dunkel*, the court identified twelve factors to be considered in determining whether fee awards are reasonable: (1) the time and labor required; (2) the novelty and difficulty of the questions involved; (3) the skill required to perform the legal services properly; (4) the preclusion of other employment by the attorney due to the

⁵⁵ St. John Decl., ¶ 9.

1 acceptance of the case; (5) the customary fee; (6) whether the fee is fixed or contingent; (7) time
2 limitation imposed by the client or the circumstances; (8) the amount involved and results
3 obtained; (9) the experience, reputation and ability of the attorney; (10) the undesirability of the
4 case; (11) the nature and length of the professional relationship with the client; and (12) awards
5 in similar cases. *Camden I Condominium Association, Inc. v. Dunkel* (11th Cir. 1991) 946 F.2d
6 768, 772.

7 Each and every one of these factors favors the attorneys' fees sought here; however,
8 some of the most relevant factors to this Court's fee determination will be addressed herein. The
9 award of attorneys' fees in the amount of \$147,500.00 (which is one-third of the Gross
10 Settlement Amount) is commensurate with the time, effort, and expense dedicated to the case,
11 the contingent nature of Class Counsel's fee and the risks taken in commencing the case, the skill
12 and determination required, the results that Class Counsel has achieved, and the value of the
13 settlement that Class Counsel has obtained for the Class Members.

14 ***1. Time & Labor.***

15 Class Counsel used its experience and skills, and dedicated the full extent of resources, to
16 litigate and bring this matter to a successful conclusion on behalf of the Class, Aggrieved
17 Employees, and the State of California. Moreover, as demonstrated in the supporting
18 declaration, Class Counsel has extensive experience in the handling of class actions and complex
19 litigation matters.⁵⁶

20 As outlined in the Declaration of Brian J. St. John, Class Counsel has fully and actively
21 participated in litigation of this case.⁵⁷ Prior to commencing the lawsuit, Class Counsel had
22 conducted a significant amount of investigation into the factual and legal issues, Defendant's
23 business, and its operations and employment policies, practices, and procedures.⁵⁸ During the
24 litigation of the action, Class Counsel reviewed and analyzed information, documents, and data
25 obtained from Defendant, Plaintiff, and other sources; and prepared liability, damages, and
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27 ⁵⁶ St. John Decl., ¶¶ 13-18.

28 ⁵⁷ *Id.*, Exh. A.

⁵⁸ *Id.*, ¶ 6 & Exh. A.

1 penalties valuation calculations.⁵⁹ Class Counsel also developed damages, violation, and
2 penalties valuation models in connection with the mediation and settlement negotiations, and met
3 and conferred with Defendant's counsel on numerous occasions, e.g., to discuss issues relating to
4 the pleadings, case management, formal and informal discovery, motion practice, and production
5 of documents and data in the course of litigation and mediation and settlement negotiations, and
6 mediation and settlement negotiations. Other work that Class Counsel has performed includes,
7 and is not limited to, case strategy and analysis; drafting, reviewing, and revising the pleadings,
8 the mediation brief, and motion-related papers; claims assessment; preparing for and attending
9 court proceedings; and preparing for and participating in mediation and settlement negotiations,
10 among other tasks.⁶⁰

11 Class Counsel has dedicated staffing and monetary resources necessary to prosecute this
12 matter diligently and with maximum efficiency and has fully and actively participated in the
13 litigation process. The Task and Time Chart, which is attached as EXHIBIT A to the
14 accompanying Declaration of Brian J. St. John, sets forth in detail the hours that Class Counsel
15 has spent performing tasks on behalf of Plaintiff and the Class.⁶¹ The Task and Time Chart is
16 thorough and comprehensive, and was prepared so that the Court can peruse it without having to
17 set forth each and every task in the body of this Motion. The Court is respectfully referred to the
18 chart, which sets forth the history of the work performed by Class Counsel, commencing with
19 the pre-filing analysis and research, and continuing up to settlement and final approval. Class
20 Counsel has spent 425.80 performing tasks and to obtain a significant recovery on behalf of
21 Plaintiff and the Class.⁶² These hours were required to bring this matter to its successful
22 conclusion. In light of the value of time expended and the carrying of costs involved in litigating
23 this case, the requested attorneys' fees are fair, adequate, and reasonable.

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25 ///

27 ⁵⁹ St. John Decl., ¶ 6.

⁶⁰ Ibid.

⁶¹ *Id.*, Exh. A.

⁶² Ibid.

1 **2. *The Skill Required to Perform Legal Services Properly.***

2 The skill required to properly litigate the case is evident not only in the results achieved,
3 but in the steps necessary to reach the same. Defendant retained well-respected counsel to
4 represent its defenses. More specifically, Defendant and its counsel felt very strongly about
5 Defendant's ability to obtain a denial of certification and to prevail on the merits. Plaintiff and
6 Class Counsel believed that they would have obtained class certification and prevailed at trial.

7 Class Counsel undertook significant investigation, analysis, and research prior to filing
8 this case, during the litigation, and prior to mediation. Class Counsel took steps to prepare the
9 matter for class certification and had every intention of taking the case to trial on a class-wide
10 basis if Defendant did not offer an appropriate class-wide settlement. Despite all of the obstacles
11 that had to be overcome, as demonstrated in the Declaration of Brian J. St. John, Class Counsel
12 used its extensive experience in the handling of class actions and complex wage-and-hour
13 litigation matters in order to obtain the Settlement with maximum efficiency.⁶³

14 **3. *The Value of the Settlement for the Class Members.***

15 The Settlement represents an excellent resolution of the action, given the risks inherent in
16 litigating the case through certification proceedings, trial, and/or appeals. Had the case not
17 settled, Defendant would have vigorously challenged certifiability, manageability of
18 representative adjudication, and liability. Defendant, however, faced risks if the Court certified a
19 class and allowed a jury to decide the claims. Additionally, preparing the case for trial would
20 have been expensive for the Parties.

21 The Settlement at this stage is preferred over continued litigation because such
22 resolutions save time and money that would otherwise go to litigation. The risks and expenses of
23 further litigation outweighed any benefit that might have been gained otherwise. The Settlement
24 provides an immediate recovery, as opposed to an uncertain result in the future after prolonged
25 litigation involving expert discovery, trial preparation, class certification proceedings, and
26 appellate review of those proceedings. The Settlement offers present relief and/or recovery to
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⁶³ St. John Decl., ¶¶ 13-18.

Participating Class Members while avoiding the further expense, risk, and delay in obtaining possible recovery at an unknown time in the future.

As a result of this litigation and settlement negotiations, Defendant agreed to pay a Gross Settlement Amount of \$442,500.00 to settle the matter. After deducting the attorneys' fees (\$147,500.00), litigation costs and expenses (\$22,384.75), Class Representative Service Payment (\$7,500.00), Administration Expenses Payment (\$19,094.00), and the PAGA Penalties (\$50,000.00) from the Gross Settlement Amount, it is currently estimated that the Net Settlement Amount is approximately \$196,021.25.⁶⁴ The Net Settlement Amount will be fully distributed in accordance with the terms of the Settlement. The highest Individual Class Payment is currently estimated to be at least \$507.50 and the average Individual Class Payment is currently estimated to be at least \$75.69.⁶⁵ The highest Individual PAGA Payment is currently estimated to be at least \$35.95, and the average Individual PAGA Payment is currently estimated to be at least \$5.16.⁶⁶ The Settlement offers significant monetary relief to the Participating Class Members, the State of California, and Aggrieved Employees.

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

Plaintiff entered into a contingency fee agreement with Class Counsel, and the representation of the Class provided by Class Counsel has been wholly contingent. Class Counsel took on the case without knowing whether any recovery would be obtained. Class Counsel has invested 425.80 of time to obtain relief on behalf of Plaintiff and the Class.⁶⁷ Class Counsel has also incurred litigation costs and expenses in the amount of \$22,384.75.⁶⁸

Class Counsel has borne all of the risks and costs of litigation and will not receive any compensation until recovery is obtained.⁶⁹ Class Counsel is well-experienced in wage-and-hour class action and complex litigation and used that experience to obtain a great result.⁷⁰ The skill and determination that Class Counsel has shown, along with the results obtained, justify the

⁶⁴ Rust Decl., ¶ 20; see n.5, *supra*.

⁶⁵ *Id.*, ¶ 21; see n.28, *supra*.

⁶⁶ *Id.*, ¶ 22.

⁶⁷ St. John Decl., ¶ 11, Exh. A.

⁶⁸ See Part VII, *infra*.

⁶⁹ St. John Decl., ¶ 19.

⁷⁰ See *id.*, ¶¶ 13-18.

requested attorneys' fees. Considering the amounts requested, the work performed, and the risks incurred, the requested fees and costs are reasonable and should be awarded.

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

A contingent fee must be higher than a fee for the same legal services paid as they are performed. The contingent fee compensates the lawyer not only for the legal services she renders but for the loan of those services. A lawyer who both bears the risk of not being paid and provides legal services is not receiving the fair market value of her work if she is paid only for the second of these functions. If she is paid no more, competent counsel will be reluctant to accept fee award cases.

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

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

The results achieved, in light of the difficulties inherent in similar cases and the specific difficulties faced in this matter, are considerable. The Settlement has yielded a positive response from the Class Members—no Class Members objected to the Settlement.⁷¹

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

Here, the results achieved and obtained on behalf of Plaintiff and the Class are reasonable in light of the risks inherent in further litigating this matter. Class Counsel's efforts have resulted in a settlement that provides for a Gross Settlement Amount of \$442,500.00.⁷² The Gross Settlement Amount will be fully paid out, in accordance with the terms of the Settlement

⁷¹ Rust Decl., ¶ 18.

⁷² St. John Decl., ¶¶ 5-8.

Agreement. The highest Individual Class Payment is currently estimated to be at least \$507.50 and the average Individual Class Payment is currently estimated to be at least \$75.69.⁷³ The highest Individual PAGA Payment is currently estimated to be at least \$35.95, and the average Individual PAGA Payment is currently estimated to be at least \$5.16.⁷⁴

6. The Reputation and Ability of the Attorneys.

Lawyers for Justice, PC is a recognized class action law firm that employed its attorneys' knowledge, skills, and experience in bringing this case to a successful conclusion. Class Counsel has years of complex and class action litigation experience, has recovered millions of dollars on behalf of thousands of individuals in California, and has successfully handled numerous significant wage-and-hour class action and complex cases.⁷⁵

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

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

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

⁷³ Rust Decl., ¶ 21; see n.28, *supra*.

⁷⁴ *Id.*, ¶ 22.

⁷⁵ St. John Decl., ¶¶ 13-18.

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

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

5 As discussed above, the case was highly contested and required a significant amount of
6 time and labor. Defendant made it clear very early on that it disputed all of the allegations of the
7 case and disputed that the matter was appropriate for class treatment. Defendant raised
8 affirmative defenses and denied liability, and the pursuit of this matter involved gathering and
9 analyzing data not only from Defendant but also from the Class Members. The handling of the
10 case involved a great amount of effort, and also required and involved the exercise of a high
11 level of skill, which Class Counsel has as a result of its extensive experience in employment
12 class and representative actions and complex wage-and-hour litigation. Long and difficult
13 battles would have followed as the case moved toward certification and trial, including taking
14 and defending depositions of Defendant’s Person Most Knowledgeable designees, percipient
15 witnesses, and experts, propounding discovery requests and conducting additional document
16 production, and engaging in extensive motion practice. As Class Counsel geared up for these
17 battles, Class Counsel undertook intense preparation in an attempt to resolve the entire matter
18 through mediation.

19 Class Counsel had to bring together a large volume of data and documents that were
20 produced by Defendant and obtained from Plaintiff and Class Members and through other
21 sources. Class Counsel conducted extensive review and analysis of these documents,
22 information, and data to strategize the action and to prepare for and attend mediation and engage
23 in settlement discussions.

24 As discussed above in Part VII.C.1, *infra*, attached to the Declaration of Brian J. St. John
25 is a task and time chart that sets forth in detail the numerous tasks that Class Counsel performed
26 on behalf of Plaintiff and the Class, and the time required for completing those tasks.⁷⁶ The chart
27 demonstrates that Class Counsel has spent a total of 425.80 litigating the case and finalizing the

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⁷⁶ See St. John Decl., Exh. A.

1 Settlement.⁷⁷ In light of the facts and circumstances of the case, as well as the results that Class
2 Counsel has achieved on behalf of Plaintiff and the Class Members, Class Counsel has spent a
3 reasonable number of hours on this matter. In addition, Class Counsel will continue to perform
4 work on this matter through the date of final approval and in connection with the implementation
5 of the Settlement.

6 **2. The Fees Requested Represent a Reasonable Hourly Rate of Compensation**
7 **in Light of Class Counsel's Efforts and Experience.**

8 Both California and federal courts recognize that attorneys should be compensated for
9 providing representation on a contingency basis and for taking on the risks associated with said
10 representation, as well as being provided with financial incentives to enforce important rights
11 and protections like those at issue in this action. See *Ketchum, supra*, 24 Cal.4th at 1132-33. In
12 awarding attorneys' fees, the aim is to mirror "the established practice in the private legal market
13 of rewarding attorneys for taking the risk of nonpayment by paying them a premium over their
14 normal hourly rates for winning contingency cases." See *id.*

15 Class Counsel has been actively involved in this case, prior to its commencement and all
16 the way up to the present, and Class Counsel's dedication to providing representation in this
17 matter has precluded other employment. Here, Class Counsel bore the risk that, despite all of its
18 efforts and skills employed, there may be no recovery. Ultimately, Class Counsel was successful
19 in reaching a settlement of \$442,500.00.

20 As set forth in the Declaration of Joanna Ghosh, the professional backgrounds and
21 experience of Class Counsel support a reasonable blended hourly rate of compensation of at least
22 \$850 per hour for services provided by Class Counsel.⁷⁸ Lawyers for Justice, PC has been
23 awarded attorneys' fees, compensating Lawyers for Justice, PC at the blended rate of at least
24 \$850 for legal service performed, by courts of this state.⁷⁹ While the circumstances of every case
25 are unique, the fact remains that the work performed and efforts undertaken by Class Counsel on
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27 ⁷⁷ St. John Decl., ¶ 11.

28 ⁷⁸ *Id.*, ¶ 12.

⁷⁹ *Ibid.*

1 behalf of the Class Members, Aggrieved Employees, and the State of California justify the
2 requested attorneys' fees.

3 Applying the rate of \$850 per hour to 425.80 for services provided by Class Counsel
4 would place a reasonable value of \$361,930.00 based on lodestar, for the work performed by
5 Class Counsel. However, Class Counsel only seeks attorneys' fees in the amount of \$147,500.00
6 which is thirty five percent (one-third) of the total recovery, as provided for by the Settlement
7 Agreement.

8 It also bears noting that a court may apply a multiplier in consideration for risk,
9 efficiency, and/or obtaining a substantial result, to enhance the lodestar for purpose of cross-
10 check. See *Ketchum*, 24 Cal.4th at 1133-34 (holding that a risk multiplier may be applied to
11 compensate contingency fee attorneys at a fair market rate). Such an enhancement "mirrors the
12 established practice in the private legal market of rewarding attorneys for taking the risk of
13 nonpayment by paying them a premium over their normal hourly rates for winning contingency
14 cases." *Vizcaino*, 290 F.3d at 1051; accord *Ketchum*, *supra*, 24 Cal.4th 1122, 1132-34. A risk
15 multiplier also serves to bring the financial incentives for enforcing important rights "into line
16 with incentives [attorneys] have to undertake claims for which they are paid on a fee-for-services
17 basis." *Ketchum*, 24 Cal.4th at 1132. Courts have also approved fee awards with multipliers of 2
18 and even higher. See, e.g., *City of Oakland v. Oakland Raiders* (1988) 203 Cal.App.3d 78
19 (affirming a 2.34 multiplier without remand); *Wershba*, *supra*, 91 Cal.App.4th at 255
20 ("Multipliers can range from 2 to 4 or even higher."); *Sutter Health Uninsured Pricing Cases*
21 (2009) 171 Cal.App.4th 495, 512 (applying a 2.52 multiplier on a lodestar cross-check); *Chavez*,
22 *supra*, 162 Cal.App.4th at 66 (applying a 2.5 multiplier in a consumer class action).

23 The lodestar method as a cross-check to the percentage figure sought strongly supports
24 the reasonableness of the requested attorneys' fees. Accordingly, Plaintiff respectfully request
25 that the Court grant final approval of, and award, attorneys' fees in the amount of \$147,500.00 to
26 Class Counsel.

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VII. COSTS TO BE REIMBURSED TO CLASS COUNSEL ARE FAIR AND REASONABLE, AND SHOULD BE APPROVED.

The Settlement provides for reimbursement of litigation costs and expenses of up to \$25,000.00. As set forth in the Declaration of Brian J. St. John, Class Counsel seeks reimbursement of \$22,384.75, in litigation costs and expenses incurred in this matter.⁸⁰ This amount was reasonable and necessary in the prosecution of the case and to obtain the Settlement, and is less than the maximum amount allocated under the Settlement Agreement.⁸¹ The cost savings of \$2,615.25 will be part of the Net Settlement Amount, which will be distributed to the Participating Class Members in accordance with the Settlement.⁸² Accordingly, Plaintiff requests that the Court award litigation costs and expenses in the amount of \$22,384.75 to Class Counsel.

VIII. THE ADMINISTRATION EXPENSES PAYMENT ARE FAIR AND REASONABLE AND SHOULD BE APPROVED.

As set forth in the accompanying Rust Declaration, the total costs incurred and to be incurred by Rust for the notice and settlement administration process are \$19,094.00.⁸³ The costs incurred and to be incurred include, but are not limited to, a) preparing, printing and mailing of the *Court Approved Notice of Class Action Settlement and Hearing Date for Final Court Approval* (“Notice”); b) tracking of exclusions, objections and disputes; c) setting up and posting Settlement documents on a publicly available website; d) drafting and mailing Settlement Award checks; and e) for such other tasks as the Parties mutually agree or the Court orders Rust to perform.⁸⁴

Accordingly, the Court should grant final approval of payment to Rust, a necessary third-party for handling of the notice and settlement process, in the amount of \$19,094.00.

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⁸⁰ St. John Decl., ¶ 19 & Exh. B.

⁸¹ Ibid.

⁸² Ibid.

⁸³ Rust Decl., ¶ 24.

⁸⁴ *Id.*, ¶ 3.

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

The Settlement provides for a Class Representative Service Payment in the amount of \$7,500.00 to Plaintiff Lesley Munoz to compensate Plaintiff for the time and effort that she expended on behalf of the Class, Aggrieved Employees, and the State of California. The contemplated and requested Class Representative Service Payment is both common and reasonable and should be awarded.

In determining whether to make Class Representative Service Payment, courts consider the following factors: (1) the risk to the class representative in commencing suit, both financial and otherwise; (2) the notoriety and personal difficulties encountered by the class representatives; (3) the amount of time and efforts spent by the class representatives; (4) the duration of the litigation; and (5) the personal benefit (or lack thereof) enjoyed by the class representatives as a result of the litigation.

The requested Class Representative Service Payment is fair and appropriate because Plaintiff spent a substantial amount of time and effort producing relevant documents and past employment records, as well as providing the facts and evidence necessary to attempt to prove the allegations in the case.⁸⁵ Plaintiff was available whenever Class Counsel needed her and actively tried to obtain, and gave, information that would facilitate the pursuit of the case, including and not limited to, by way of working with Class Counsel to prepare responses to discovery requests that were propounded on her by Defendant.⁸⁶ Plaintiff spent numerous hours speaking with Class Counsel about her claims, describing her work experiences with Defendant, and gathering and reviewing documents.⁸⁷ These services merit the requested Class Representative Service Payment to Plaintiff, who has not received any compensation for her efforts on behalf of the Class Members to date.⁸⁸

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⁸⁵ St. John Decl., ¶ 20; Declaration of Lesley Munoz (“Munoz Decl.”), ¶¶ 3-5.

⁸⁶ St. John Decl., ¶ 20; Munoz Decl., ¶¶ 3-5.

⁸⁷ St. John Decl., ¶ 20; Munoz Decl., ¶¶ 2-6.

⁸⁸ Munoz Decl., ¶ 9.

The requested Class Representative Service Payment was fully disclosed in the Class Notice that was mailed to the Class Members. No objections were made with regards to the requested Class Representative Service Payment. Accordingly, it is appropriate and just for Plaintiff Lesley Munoz to receive \$7,500.00 as a reasonable Class Representative Service Payment for her services on behalf of the Class, Aggrieved Employees, and the State of California, in addition to her individual settlement payment.

X. CONCLUSION

For the foregoing reasons, Plaintiff respectfully requests that the Court grant final approval of the Settlement, and award Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, Class Representative Service Payment, Administration Expenses Payment, and allocation for the PAGA Penalties in their entirety, as sought herein; and permit the filing of a memorandum that exceeds the page limit.

Dated: March 21, 2025

LAWYERS for JUSTICE, PC

By: 

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