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11 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

12 **FOR THE COUNTY OF LOS ANGELES**

13 FERNANDO ALBERTO ACEVEDO,
14 ANTHONY GUZMAN, FERNANDO
15 HIPOLITO, and VANESSA OLMOS-CORTES,
16 individually, on behalf of all others similarly
17 situated, and on behalf of the State of California
18 and other aggrieved persons,

19 *Plaintiffs,*

20 v.

21 CROCS RETAIL, LLC, a limited liability
22 company; and DOES 1 through 10, inclusive,

23 *Defendants.*

Case No.: 23STCV15354

CLASS & REPRESENTATIVE ACTION

[Assigned to: Hon. Elihu M. Berle, Dept. 6]

**PLAINTIFFS' MOTION FOR FINAL
APPROVAL OF CLASS ACTION
SETTLEMENT; MEMORANDUM OF
POINTS AND AUTHORITIES**

[Filed concurrently with: Declaration of Arrash
T. Fattahi; and Declaration of Kaylie
O'Connor]

FINAL APPROVAL HEARING

Date: July 17, 2025

Time: 9:00 a.m.

Department: 6

1 **TO THE COURT AND TO ALL PARTIES AND THEIR COUNSEL OF RECORD:**

2 **PLEASE TAKE NOTICE** that on July 17, 2025 at 9:00 a.m., in Department 6 of the Los
3 Angeles County Superior Court, located at 312 North Spring Street, Los Angeles, CA 90012,
4 pursuant to Code of Civil Procedure § 382 and California Rules of Court 3.769 *et seq.*, Plaintiffs
5 Fernando Alberto Acevedo, Anthony Guzman, Fernando Hipolito, and Vanessa Olmos-Cortes
6 (collectively, “Plaintiffs”) will and hereby do move the Court for an Order granting final approval
7 of the proposed class action settlement between Plaintiffs and Defendant Crocs Retail, LLC
8 (“Defendant” or “Crocs,” and together with Plaintiffs, the “Parties”). Plaintiffs further move the
9 Court for an Order:

- 10 1. Certifying a Class for settlement purposes;
- 11 2. Approving the settlement as fair and reasonable and finding that class members were
12 given notice of the settlement, and advised of their right to participate in the settlement,
13 object to the settlement, or exclude themselves from the settlement, in a reasonable
14 manner;
- 15 3. Appointing Plaintiffs as Class Representatives for settlement purposes;
- 16 4. Appointing Plaintiffs’ Counsel, Arrash T. Fattahi and Arman A. Salehi, of Wilshire
17 Law Firm, PLC, as Class Counsel for settlement purposes;
- 18 5. Approving payment of administrative expenses to CPT Group, Inc. as the Settlement
19 Administrator in the amount of \$19,750.00;
- 20 6. Approving payment of \$333,333.33 in attorneys’ fees, which is one-third of the Gross
21 Settlement Amount, and costs in the amount of \$25,536.72 for litigating this action to
22 Class Counsel;
- 23 7. Directing that the clerk of the Court enter the Court’s order as a final judgment; and,
- 24 8. Without affecting the finality of the final judgment, reserving continuing jurisdiction
25 over the parties for the purposes of implementing, enforcing, and/or administering the
26 Settlement or enforcing the terms of the judgment.

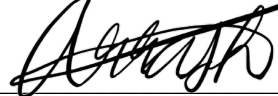
27 The Motion is based upon this notice, the attached memorandum of points and authorities,
28 the Declarations of Arrash T. Fattahi and Kaylie O’Connor, filed concurrently herewith, the

1 records and files in this action, including, but not limited to, the declarations of Plaintiffs, filed
2 concurrently with Plaintiffs' Motion for Final Approval of Class Action Settlement, and any other
3 further evidence or argument that the Court may properly receive at or before the hearing.
4

5 Respectfully submitted,

6 Dated: May 20, 2025

WILSHIRE LAW FIRM

7
8 By: 

Arrash T. Fattahi

Arman A. Salehi

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10 Attorneys for Plaintiffs
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MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

Plaintiffs Fernando Alberto Acevedo, Anthony Guzman, Fernando Hipolito, and Vanessa Olmos-Cortes (collectively “Plaintiffs”) seek final approval of a proposed \$1,000,000.00 non-reversionary, wage and hour class action settlement with Defendant Crocs Retail, LLC (“Defendant” or “Crocs,” and together with Plaintiffs, the “Parties”). The Settlement will provide substantial monetary payments to 2,128 class members. And, as set forth more fully below, the proposed Settlement satisfies all the criteria for settlement approval under California law.

The proposed settlement satisfies all the criteria for settlement approval under California law. A presumption of fairness exists as the Settlement was reached through extensive, mediated arm’s-length negotiations, sufficient investigation and discovery allowed Class Counsel to act intelligently, and Class Counsel is experienced in similar wage and hour litigation. Upon the Court’s approval of the settlement, participating class members will receive an *average individual net settlement class payment of approximately \$268.88*, with the *highest individual net settlement class payment to be paid of approximately \$2,438.59*. (Declaration of Kaylie O’Connor, filed concurrently with this Motion [“O’Connor Decl.”], ¶ 14.) *The deadline to opt-out or object to the settlement is June 18, 2025;¹ as of the filing of this Motion, there was one request for exclusion and zero written objections to the settlement.* (*Id.* at ¶¶ 10-11.) Thus, the proposed Settlement is fair, reasonable, and adequate and is in the best interests of the Settlement Class Members.

Plaintiffs’ request for attorneys’ fees in the amount of \$333,333.33, reimbursement of

¹ Notably, the Class Notice sent out to the class members identifies an opt-out and objection deadline of June 2, 2025 because the Settlement Agreement provides for 45 days for class members to respond to the Class Notice. Given that the Class Notices were sent out to the class members on April 18, 2025, June 2, 2025 was identified as the response deadline. The Court’s order placing June 18, 2025 as the response deadline was entered by the Court *after* the Class Notices were sent out – the Class Notices were sent out on April 18, 2025 and the Court identified June 18, 2025 as the response deadline on May 12, 2025. Similarly, the Final Approval Hearing is identified as July 9, 2025 in the Class Notice even though the hearing is on July 17, 2025. Again, the Court’s order modifying the hearing date was entered *after* the Class Notices were sent out to the class members. Given that the response deadline is not in line with the Court’s order from May 12, 2025, opt outs and objections received after June 2, 2025 but before June 18, 2025 will be considered valid (unless the Court objects). With respect to the Final Approval Hearing date, the Class Notice states that “[i]t is possible the Court may reschedule the Final Approval Hearing.”

1 attorney costs and expenses in the amount of \$25,536.72, incentive awards for Plaintiffs in the
2 amount of \$7,500.00 each (\$30,000.00 total), and Settlement Administration Costs of
3 \$19,750.00 are also reasonable and thus should be approved by the Court.

4 Accordingly, Plaintiffs respectfully request that the Court grant final approval of the
5 Settlement.

6 **II. SUMMARY OF THE LITIGATION AND SETTLEMENT**

7 **A. Plaintiffs' Claims.**

8 This is a wage and hour class and Private Attorneys General Act ("PAGA") (Cal. Lab.
9 Code § 2699 *et seq.*) representative action. (Declaration of Arrash Fattahi, filed concurrently
10 with this Motion ["Fattahi Decl."], ¶ 2.) Plaintiffs and putative class members worked in
11 California as hourly-paid or non-exempt employees for Defendant during the class period. (*Id.*)
12 Defendant is a world leader in innovative casual footwear for women, men, and children, whose
13 products are sold in more than 85 countries. (*Id.* at ¶ 2.)

14 Plaintiffs allege that Defendant's payroll, timekeeping, and wage and hour practices
15 resulted in Labor Code violations. (*Id.* at ¶ 3.) Plaintiffs allege that Defendant failed to pay for
16 all hours worked. (*Id.*) Plaintiffs further allege that Defendant failed to provide employees with
17 legally compliant meal and rest periods, and Defendant failed to reimburse business expenses.
18 (*Id.*) Based on these allegations, Plaintiffs assert related claims for failure to provide accurate
19 wage statements, failure to pay all final wages at termination, unfair business practices, and
20 civil penalties under PAGA. (*Id.*)

21 On June 30, 2023, Plaintiff Acevedo filed a putative wage and hour class action
22 complaint against Defendant for: (1) failure to pay minimum and straight time wages; (2) failure
23 to pay overtime wages; (3) failure to provide meal periods; (4) failure to authorize and permit
24 rest periods; (5) failure to timely pay final wages at termination; (6) failure to provide accurate
25 itemized wage statements; (7) failure to indemnify employees for expenditures; and (8) unfair
26 business practices. (Fattahi Decl., ¶ 4.) On December 20, 2024, Plaintiff Acevedo filed a First
27 Amended Class & Representative Action Complaint adding a PAGA cause of action and
28 Plaintiffs Anthony Guzman, Fernando Hipolito, and Vanessa Olmos-Cortes as named plaintiffs

1 to the matter. (*Id.*)

2 **B. Discovery and Investigation.**

3 Following the filing of the initial complaint, the Parties exchanged documents and
4 information before mediating this action. Defendant produced a sampling of timekeeping and
5 payroll records for the class members. Defendant also provided documents of its wage and hour
6 policies and practices during the class period, and information regarding the total number of
7 current and former employees in its informal discovery responses. (Fattahi Decl., ¶ 5.)

8 After reviewing documents regarding Defendant's wage and hour policies and practices
9 and analyzing Defendant's timekeeping and payroll records, Class Counsel were able to
10 evaluate the probability of class certification and success on the merits and assess Defendant's
11 maximum monetary exposure for all claims. (*Id.* at ¶ 6.) Class Counsel also investigated the
12 applicable law regarding the claims and defenses asserted in the litigation. (*Id.*) Based on the
13 foregoing, Class Counsel prepared a damage analysis prior to the mediation. (*Id.*)

14 **C. Settlement Negotiations, Preliminary Approval, and Class Size.**

15 On May 13, 2024, the Parties participated in a private mediation session with
16 experienced class action mediator, Steve Rottman, Esq. (Fattahi Decl., ¶ 7.) The mediation
17 session was conducted via Zoom. (*Id.*) The settlement negotiations were at arm's length and,
18 although conducted in a professional manner, were adversarial. (*Id.*) The Parties went into the
19 mediation willing to explore the potential for a settlement of the dispute, but each side was also
20 prepared to litigate their position through trial and appeal if a settlement had not been reached.
21 (*Id.*) After extensive negotiations and discussions regarding the strengths and weaknesses of
22 Plaintiffs' claims and Defendant's defenses, the Parties reached a settlement (via a proposal
23 from the mediator), the material terms of which are encompassed within the Settlement
24 Agreement. (*See id.* at ¶ 8 and **Exhibit 1** attached thereto, a true and correct copy of the
25 previously approved Amended Class and PAGA Settlement Agreement.)

26 Class Counsel has conducted a thorough investigation into the facts of this case. (Fattahi
27 Decl., ¶ 9.) Based on the foregoing discovery and their own independent investigation and
28 evaluation, Class Counsel is of the opinion that the Settlement is fair, reasonable, and adequate

and is in the best interests of the Settlement Class Members in light of all known facts and circumstances, the risk of significant delay, the defenses that could be asserted by Defendant both to certification and on the merits, trial risk, and appellate risk. (*Id.*)

D. Key Terms of the Proposed Settlement.

The Parties used the Los Angeles County Superior Court’s Form Class Action and PAGA Settlement Agreement. The Settlement’s key terms include:

1. Class Definition: For settlement purposes only, the Parties agree to the certification of a class pursuant to California Code of Civil Procedure § 382 defined as: “all persons employed as hourly, non-exempt employees by Crocs in California during the Class Period.” (Settlement, § 1.5.)

2. Class Period: “means the period from January 3, 2019, through December 31, 2024.” (Settlement, § 1.12.)

3. Participating Class Member: “means a Class Member who does not submit a valid and timely Request for Exclusion from the Settlement.” (Settlement, § 1.33.)

4. Aggrieved Employee: “means a person employed as an hourly, non-exempt employee by Crocs in California during the PAGA Period.” (Settlement, § 1.4.)

5. PAGA Period: “means the period from February 14, 2023, through December 31, 2024.” (Settlement, § 1.29.)

6. Gross Settlement Amount: This amount is \$1,000,000.00, for all claims, including Individual Class Payments, Individual PAGA Payments, the LWDA PAGA Payment, the Class Counsel Fees Payment, the Class Counsel Expenses Payment, the Class Representative Service Payments, and the Administrator’s Expenses Payment. (Settlement, § 1.20.)

7. Uncashed Checks: Any settlement checks remaining uncashed after one hundred and eighty (180) days shall be transmitted to the California Controller's Unclaimed Property Fund in the name of the Class Member thereby leaving no “unpaid residue” subject to the requirements of California Code of Civil Procedure Section 384, subd. (b). (Settlement, § 6.3.3.)

8. Release by Participating Class Members: “All Participating Class Members, on behalf of themselves and their respective present and former spouses, representatives, agents,

attorneys, heirs, administrators, successors, and assigns, release and discharge Released Parties from all claims, debts, liabilities, demands, obligations, guarantees, actions, or causes of action of whatever kind or nature during the Class Period, whether known or unknown, that were alleged in the Operative Complaint or that reasonably could have been alleged, based on the facts stated in the Operative Complaint and that were ascertained in the course of the Action, including those arising out of or related to: (1) all claims for failure to pay minimum, straight-time, and/or overtime wages for all hours worked, including all off-the-clock time both before clocking in for a shift, after clocking out for meal periods, and after clocking out at the end of shift; (2) all claims for failure to provide compliant meal periods or compensation in lieu thereof; (3) all claims for failure to authorize and permit compliant rest periods or compensation in lieu thereof; (4) all claims for failure to pay overtime, meal and/or rest period compensation, and/or sick pay at the regular rate of pay; (5) all claims for failure to timely pay wages due upon termination or resignation of employment; (6) all claims for failure to pay wages due upon regularly-scheduled paydays; (7) all claims for noncompliant wage statements; (8) all claims for failure to reimburse necessary business expenses; and (9) all claims asserted through California Business & Professions Code section 17200 *et seq.* arising out of the Labor Code violations referenced in the Operative Complaint (the “Released Claims”). The Released Claims include all related claims of any kind for unpaid wages, premium pay, liquidated damages, statutory penalties, civil penalties, restitution, interest, injunctive relief, punitive damages, and other damages, costs, expenses, and attorneys’ fees arising from the alleged violation of any provision of common or statutory law that were or reasonably could have been raised as part of Plaintiffs’ claims in the Operative Complaint, including but not limited to claims under California Labor Code sections 201, 202, 203, 204, 210, 218.5, 218.6, 226, 226.3, 226.7, 246 *et seq.*, 510, 512, 558, 1174, 1174.5, 1194, 1194.2, 1197, 1197.1, 1198, 2800, and 2802, all provisions of the California Industrial Welfare Commission Wage Orders that provide the same or similar protections, and section 17200 *et seq.* of the California Business and Professions Code.” (Settlement, § 7.2.) This Release will be deemed effective on the date when Defendant fully funds the entire Gross Settlement Amount and funds all employer payroll taxes owed on the Wage Portion of the Individual Class Payments. (Settlement, § 7.)

1 9. Release by Aggrieved Employees: “All Aggrieved Employees, on behalf of
2 themselves and their respective present and former spouses, representatives, agents, attorneys,
3 heirs, administrators, successors, and assigns, are deemed to release and discharge the Released
4 Parties from all claims for any and all PAGA remedies during the PAGA Period that were alleged
5 in, or reasonably could have been alleged in, or that were based on, arise from, or relate to the facts
6 stated in the Operative Complaint, the PAGA Notices, and that were ascertained in the course of
7 the Action, including any right, claim, or demand for civil penalties pursuant to Labor Code
8 sections 210, 226.3, 558, 1174.5, 1197.1, and 2699 in connection with alleged violations of Labor
9 Code sections 201, 202, 203, 204, 218.5, 218.6, 226, 226.7, 246 *et seq.*, 510, 512, 1174, 1194,
10 1194.2, 1197, 1198, 2800, and 2802, all provisions of the California Industrial Welfare
11 Commission Wage Orders that provide the same or similar protections, and section 17200 *et seq.*
12 of the California Business and Professions Code. Plaintiffs and Aggrieved Employees will be
13 bound by this release of PAGA claims even if they, or any of them, request to be excluded from
14 the Settlement in accordance with Paragraph 9.5, below.” (Settlement, § 7.3.)

15 10. No Reversion: “None of the Gross Settlement Amount will revert to Crocs.”
16 (Settlement, § 4.1.)

17 11. PAGA Allocation: The settlement includes \$10,000.00 allocated to Plaintiffs’
18 claims under PAGA, 75% of which (\$7,500.00) being paid to the LWDA and 25% (\$2,500.00)
19 being paid to the Aggrieved Employees. (Settlement, § 4.2.5.) Class Counsel submitted the
20 proposed settlement to the LWDA before filing the Motion for Preliminary Approval. (Fattahi
21 Decl., ¶ 10.)

22 12. Net Settlement Amount: The “Net Settlement Amount” is the amount that remains
23 and that shall be paid to Settlement Class Members after the following amounts are subtracted:
24 Individual PAGA Payments, the LWDA PAGA Payment, Class Representative Service Payments,
25 Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, and the Administration
26 Expenses Payment. (Settlement, § 1.26.)

27 13. Distribution Formula: “An Individual Class Payment calculated by (a) dividing the
28 Net Settlement Amount by the total number of Workweeks worked by all Participating Class

Members during the Class Period and (b) multiplying the result by each Participating Class Member's Workweeks." (Settlement, § 4.2.4.) As to PAGA: "The Administrator will calculate each Individual PAGA Payment by (a) dividing \$2,500.00 by the total number of PAGA Period Pay Periods worked by all Aggrieved Employees during the PAGA Period and (b) multiplying the result by each Aggrieved Employee's PAGA Period Pay Periods." (Settlement, § 4.2.5.1.)

14. Tax Allocation: Any settlement money paid to Settlement Class Members will be allocated as 25% to wages and 75% to penalties and interest. (Settlement, § 4.2.4.1.)

15. Class Representative Service Award: Subject to Court approval, Plaintiffs shall be paid an enhancement award not to exceed \$7,500.00 each (\$30,000.00 total). (Settlement, § 4.2.1.) This amount is for Plaintiffs' time and effort in bringing and presenting the action, and in exchange for a general release of all claims, known or unknown, pursuant to Civil Code Section 1542. (Settlement, § 7.1.)

16. Attorneys' Fees and Costs: The Settlement provides that Defendant will not oppose a fee application of up to 1/3 (\$333,333.33) of the Gross Settlement Amount, plus out-of-pocket costs not to exceed \$35,000.00. (Settlement, § 4.2.2.)

17. Notice of Proposed Class Action Settlement: The Notice, which was previously approved by this Court, set forth in plain terms a statement of the case, the terms of the Settlement Agreement, the approximate amount of attorneys' fees, costs, and service awards being sought, and an explanation of how the settlement allocations are calculated. (See Settlement, Ex. A, Class Notice.) Class Members were notified of the settlement in English only by first-class mail. (O'Connor Decl., ¶ 7 and **Exhibit A** attached thereto, a true and correct copy of the notice actually mailed to the Class Members.) CPT Group, Inc., the appointed Settlement Administrator, undertook its best efforts to ensure that the notice was provided to the current addresses of class members, including conducting a national change of address search and re-mailing the notice to updated addresses. (See *id.* at ¶¶ 6-9.)

E. Class Notice and Settlement Administration.

On March 14, 2025, this Court granted Plaintiffs' Motion for Preliminary Approval of Class Action Settlement. (Fattahi Decl., ¶ 10.) Notices explaining class member rights were

1 mailed out to all 2,128 class members in the mailing list provided by Defendant. (*See* O'Connor
2 Decl., ¶ 5 and **Exhibit A** attached thereto.) To date, only 21 notice packets remain undeliverable
3 after remailing attempts were made. (*Id.* at ¶ 9.) ***There has been one request for exclusion***
4 ***and zero written objections to the settlement.*** (*Id.* at ¶¶ 10-11.)

5 **III. THE SETTLEMENT MERITS FINAL APPROVAL.**

6 The law favors the settlement of lawsuits, particularly in class actions and other complex
7 cases. (*See e.g., Neary v. Regents of Univ. of Cal.* (1992) 3 Cal.4th 272, 277-81.) Factors to be
8 considered in evaluating a class action settlement include “the strength of plaintiffs’ case, the risk,
9 expense, complexity and likely duration of further litigation, the risk of maintaining class action
10 status through proceedings, the experience and views of counsel, the presence of a government
11 participant, and the reaction of the class members to the proposed settlement.” (*Kullar v. Foot*
12 *Locker Retail, Inc.* (2008) 168 Cal.App.4th 116, 128.) A presumption that a settlement is fair and
13 reasonable exists where, as here, the following four factors are present: “(1) the settlement is
14 reached through arm’s length bargaining; (2) investigation and discovery are sufficient to allow
15 counsel and the court to act intelligently; (3) counsel is experienced in similar litigation; and (4)
16 the percentage of objectors is small.” (*Wershba v. Apple Computers, Inc.* (2001) 91 Cal.App.4th
17 224, 245.) Whether a class action settlement should be approved is a question committed to the
18 trial court’s broad discretion. (*Id.* at pp. 234-35.) In exercising its discretion, the Court should
19 give “[d]ue regard ...to what is otherwise a private consensual agreement between the parties.”
20 (*Dunk v. Ford Motor Co.* (1996) 48 Cal.App.4th 1794, 1801.) “The inquiry ‘must be limited to
21 the extent necessary to reach a reasoned judgment that the agreement is not the product of fraud or
22 overreaching by, or collusion between, the negotiating parties, and that the settlement, taken as a
23 whole, is fair, reasonable and adequate to all concerned.’” (*Id.* [internal citations omitted].)

24 **A. The Settlement Reflects a Reasonable Compromise.**

25 A settlement is not judged against what the plaintiff might recover had she prevailed at
26 trial, nor does the settlement have to provide 100% of the damages sought to be fair and reasonable.
27 (*Wershba, supra*, 91 Cal.App.4th at pp. 246, 250 [“Compromise is inherent and necessary in the
28 settlement process...even if the relief afforded by the proposed settlement is substantially narrower

1 than it would be if the suits were to be successfully litigated, this is no bar to a class settlement
2 because the public interest may indeed be served by a voluntary settlement in which each side
3 gives ground in the interest of avoiding litigation.”].)

4 The settlement obviates the significant risk that this Court may deny certification of all or
5 some of Plaintiffs’ claims. (Fattahi Decl., ¶ 9.) While Plaintiffs are confident in the merits of the
6 claims, a legitimate controversy exists as to each cause of action. (*Id.*) Plaintiffs also recognize
7 that proving the amount of wages due to each class member would be an expensive, time-
8 consuming, and uncertain proposition. (*Id.*) Furthermore, even if Plaintiffs obtained certification
9 of all or some of the claims, continued litigation would be expensive, involving a trial and possible
10 appeals, and would substantially delay and reduce any recovery by the class. (*Id.*)

11 Because of the proposed Settlement, class members will receive timely, guaranteed relief
12 and will avoid the risk of an unfavorable judgment. When considering the risks of litigation, the
13 uncertainties involved in achieving class certification, the burdens of proof necessary to establish
14 liability, the probability of appeal of a favorable judgment, it is clear that the settlement amount of
15 \$1,000,000 is within the “ballpark” of reasonableness. (*Id.*) ***Indeed, each Settlement Class***
16 ***Member is eligible to receive an average benefit of approximately \$268.88.*** (O’Connor Decl., ¶
17 14.)

18 **B. The Settlement was Reached After Arms-Length Negotiations Following**
19 **Informal Discovery.**

20 The Settlement was reached following extensive negotiations at mediation with
21 experienced employment mediator, Steve Rottman, Esq. (Fattahi Decl., ¶ 7.) The settlement
22 negotiations were at arm’s length and, although conducted in a professional manner, were
23 adversarial. (*Id.*) The Parties went into the mediation willing to explore the potential for a
24 settlement of the dispute, but each side was also prepared to litigate their position through trial
25 and appeal if a settlement had not been reached. (*Id.*)

26 Prior to reaching this settlement, Class Counsel conducted informal discovery
27 concerning the claims set forth in the litigation, such as class member timekeeping and payroll
28 records, Defendant’s policies and procedures concerning the payment of wages, the provision

1 of meal and rest breaks, issuance of wage statements, and providing all wages at separation, as
2 well as information regarding the number of putative class members and the mix of current
3 versus former employees, the wage rates in effect, and the amount of meal and rest period
4 premium wages paid to class members. (*Id.* at ¶¶ 5-6.) Defendant produced a sample of time
5 and pay records for class members. (*Id.*)

6 After reviewing documents regarding Defendant’s wage and hour policies and practices
7 and analyzing Defendant’s timekeeping and payroll records, Class Counsel was able to evaluate
8 the probability of class certification, success on the merits, and Defendant’s maximum monetary
9 exposure for all claims. (*Id.* at ¶ 6.) Class Counsel also investigated the applicable law
10 regarding the claims and defenses asserted in the litigation. (*Id.*) Class Counsel reviewed these
11 records and prepared a damage analysis prior to mediation. (*Id.*) Thus, Plaintiffs and their
12 counsel were able to act intelligently and effectively in negotiating the proposed Settlement.
13 (*Id.*)

14 **C. Plaintiffs’ Counsel Has Substantial Class Action Experience.**

15 Class Counsel has considerable experience and has demonstrated competence with
16 litigating wage and hour class actions. (Fattahi Decl., ¶¶ 26-36.) Class Counsel has substantial
17 experience in all facets of litigation in state and federal court, including discovery, law and motion,
18 trial, appeals, arbitration, and mediation. (*Id.*) Class Counsel has litigated numerous class actions
19 on behalf of plaintiffs and has been lead counsel or otherwise exercised significant case handling
20 responsibilities in numerous cases resulting in millions of dollars in class action settlements. (*Id.*)

21 Based on Class Counsel’s experience as employment and class action attorneys, Class
22 Counsel is eminently qualified to evaluate the strength of Plaintiffs’ claims, the strength of
23 Defendant’s defenses against certification, the strength of Defendant’s defenses on the merits, and
24 the fairness of the Settlement. Their opinion that final approval of the Settlement would be in the
25 best interests of class members in light of the significant risks of litigation is entitled to great
26 weight. (*See Kullar, supra*, 168 Cal.App.4th at p. 129 [“The court undoubtedly should give
27 considerable weight to the competency and integrity of counsel and the involvement of a neutral
28 mediator in assuring itself that a settlement agreement represents an arms’ length transaction

entered without self-dealing or other potential misconduct.”.)

D. There Are No Objections to the Settlement.

No class member has objected to the Settlement, and only one class member has requested exclusion from the Settlement. (O’Connor Decl., ¶¶ 10-11.) **The overwhelmingly positive response of the class strongly supports final approval of the Settlement.** (*See, e.g., In re Lifelock, Inc. Marketing and Sales Practices Litigation* (D. Ariz. 2010) 2010 WL 3715138, *6 [holding that relatively few objections and requests for exclusion support approval].)

Factors to be considered in evaluating a class action settlement include “the reaction of the class members to the proposed settlement.” (*Kullar, supra*, 168 Cal.App.4th at p. 128.) The reaction here has been overwhelmingly positive. Courts have approved class action settlements in lesser circumstances. (*See, e.g., Hughes v. Microsoft Corp.* (W.D.Wash. 2001) 2001 U.S. Dist. LEXIS 5976, 2001 WL 34089697, *8 [finding that the “class members overwhelmingly support[ed] the settlement” where there were over 37,000 notices sent out, 2,745 class members participated in the settlement, “only nine objections were submitted,” and there were 86 timely opt-outs and over 20 additional defective or untimely opt-outs, “these indicia of the approval of the class of the terms of the settlement support a finding of fairness under Rule 23”], *citing Hanlon v. Chrysler Corp.* (9th Cir.1998) 150 F.3d 1011, 1027 [stating that despite vigorous objections and appeal by objectors, “fact that the overwhelming majority of the class willingly approved the offer and stayed in the class presents at least some objective positive commentary as to its fairness,” court did not abuse its discretion in approving settlement].)

IV. THE COURT SHOULD AWARD PLAINTIFFS THE REQUESTED AMOUNTS OF FEES, COSTS AND ENHANCEMENT PAYMENTS.

Under the Settlement, subject to the Court’s approval, Class Counsel shall be awarded reasonable attorneys’ fees, payable from the Gross Settlement Amount, of \$333,333.33, which is one-third of the Gross Settlement Amount, and costs up to \$35,000.00 for litigating this Action. In addition, Defendant will not oppose an application for the payment of Class Representative Service Payments to Plaintiffs in the amount of \$7,500.00 to each named Plaintiff (\$30,000.00 total). The proposed attorneys’ fees and expenses, as well as the requested Enhancement Awards,

1 were disclosed to the Class Members in the Notice of Class Action Settlement and Hearing Date
2 for Final Approval Hearing.

3 “In general, questions whether a settlement was fair and reasonable, whether certification
4 of the class was proper, and whether the attorney fee award was proper are matters addressed to
5 the trial court’s broad discretion.” (*Wershba, supra*, 91 Cal.App.4th at pp. 234-35.) “Courts
6 recognize two methods for calculating attorney fees in civil class actions: the lodestar/multiplier
7 method and the percentage of recovery method.” (*Id.* at p. 254; *Vincent v. Hughes Air West, Inc.*
8 (9th Cir. 1977) 557 F.2d 759, 769.)

9 In common fund cases like this one, the primary method California courts use for
10 calculating attorneys’ fees is the percentage of the common fund method, which may be followed
11 by a lodestar cross-check. In *Laffitte v. Robert Half Int’l Inc.* (2016) 1 Cal.5th 480, the California
12 Supreme Court affirmed a fee award with a 2.03 to 2.13 multiplier. (*Id.* at p. 506.) In doing so,
13 the California Supreme Court explained:

14 As to the incentives a lodestar cross-check might create for class counsel, we
15 emphasize the lodestar calculation, when used in this manner, ***does not override the***
16 ***trial court’s primary determination of the fee as a percentage of the common fund***
17 ***and thus does not impose an absolute maximum or minimum on the potential fee***
18 ***award.*** If the multiplier calculated by means of a lodestar cross-check is
19 extraordinarily high or low, the trial court should consider whether the percentage
20 used should be adjusted so as to bring the imputed multiplier within a justifiable
21 range, but the court is not necessarily required to make such an adjustment. Courts
22 using the percentage method have generally weighed the time counsel spent on the
23 case as an important factor in choosing a reasonable percentage to apply.

24 (*Id.* at p. 505 [emphasis added]; *see also Beaver v. Tarsadia Hotels* (S.D. Cal. Sept. 28, 2017) 2017
25 WL 4310707, at *9.)

26 **A. A Fee Award Based on 1/3 of the Common Fund is Justified.**

27 According to a leading treatise on class actions, “[n]o general rule can be articulated on
28 what is a reasonable percentage of a common fund. Usually 50% of the fund is the upper limit on
a reasonable fee award from a common fund in order to assure that the fees do not consume a
disproportionate part of the recovery obtained for the class, although somewhat larger percentages
are not unprecedented.” (*See Conte & Newberg, Newberg on Class Actions* (3rd Ed.) § 14.03.)
Attorneys’ fees at fifty percent of the fund are typically considered the upper limit, with ***thirty to***

1 *forty percent* commonly awarded in cases where the settlement is relatively small. (*See id.*; *see*
2 *also Van Vranken v. Atlantic Richfield Company* (N.D. Cal. 1995) 901 F. Supp. 294 [stating that
3 most cases where 30-50% was awarded involved “smaller” settlement funds of under \$10 million].)

4 The settled-for one-third fee award is consistent with the average fee award in class actions.
5 Indeed, the custom and practice in class actions is to award approximately one-third of a fund as a
6 fee award. (*See Chavez v. Netflix, Inc.* (2008) 162 Cal.App.4th 43, 66, n.11 [“Empirical studies
7 show that, regardless whether the percentage method or the lodestar method is used, fee awards in
8 class actions average around one-third of the recovery.”].) Thus, Plaintiffs’ fee request is in line
9 with the prevailing guidelines established in California case law and academic literature and is
10 consistent with awards in California. Accordingly, the Court should approve the attorneys’ fees
11 requested herein.

12 **B. While the Lodestar Method is Not Necessary in Common Fund Cases, Courts**
13 **May Perform a Cross-Check to Award Fees.**

14 Although California supports the common fund doctrine, the lodestar method can be used
15 to cross-check fee awards. “It may be appropriate in some cases, assuming the class benefit can
16 be monetized with a reasonable degree of certainty, to “cross-check” or adjust the lodestar in
17 comparison to a percentage of the common fund to ensure that the fee awarded is reasonable and
18 within the range of fees freely negotiated in the legal marketplace in comparable litigation.” (*In*
19 *re Consumer Privacy Cases* (2009) 175 Cal.App.4th 545, 557.)

20 Applying the lodestar method requires a two-step process. The first step is to multiply the
21 number of hours reasonably expended by a reasonable hourly rate. The second step is to apply a
22 multiplier to the lodestar to take into account various factors. “The purpose of such adjustment is
23 to fix a fee at the fair market value for the particular action. In effect, the court determines,
24 retrospectively, whether the litigation involved a contingent risk or required extraordinary legal
25 skill justifying augmentation of the unadorned lodestar in order to approximate the fair market rate
26 for such services.” (*Id.* at pp. 556-57.) “Under certain circumstances, a lodestar calculation may
27 be enhanced on the basis of a percentage-of-the-benefit analysis.” (*Id.* at p. 557.)

28 Detailed timesheets are not necessary to a lodestar cross-check. “The law is clear ... that

1 an award of attorney fees may be based on counsel’s declarations, without production of detailed
2 time records.” (*Raining Data Corp. v. Barrenechea* (2009) 175 Cal.App.4th 1363, 1375.) As the
3 California Supreme Court explained in *Laffitte*:

4
5 With regard to expenditure of judicial resources, we note that trial courts conducting
6 lodestar cross-checks have generally not been required to closely scrutinize each
7 claimed attorney-hour, but have instead used information on attorney time spent to
8 “focus on the general question of whether the fee award appropriately reflects the
9 degree of time and effort expended by the attorneys.” (5 Newberg on Class Actions,
10 *supra*, § 15:86, p. 331; *see, e.g., Goldberger v. Integrated Resources, Inc., supra*, 209
11 F.3d at p. 50 [2d Cir.; “where used as a mere cross-check, the hours documented by
12 counsel need not be exhaustively scrutinized by the district court”]; *In re Prudential
13 Ins. Co. America Sales Practice Litigation Agent Actions* (3d Cir.1998) 148 F.3d 283,
14 342 [agreeing with district court that “detailed time summaries were unnecessary
15 where, as here, it was merely using the lodestar calculation to double check its fee
16 award.”]; *Barbosa v. Cargill Meat Solutions Corp.* (E.D.Cal.2013) 297 F.R.D. 431,
17 451 [“Where the lodestar method is used as a cross-check to the percentage method,
18 it can be performed with a less exhaustive cataloguing and review of counsel’s
19 hours.”].)

20 (*Laffitte, supra*, 1 Cal.5th at p. 505.)

21 Class Counsel’s lodestar is at least \$141,950 based on approximately 166 hours of work
22 performed thus far. (Fattahi Decl., ¶¶ 17-18.) Accordingly, the requested fee of \$333,333.33 is
23 reasonable and fair as it is based on an approximate multiplier of 2.35. To be sure, trial courts
24 have substantial discretion in adjusting the lodestar to account for various factors. (*See Lealao v.*
25 *Beneficial California, Inc.* (2000) 82 Cal.App.4th 19, 26, 39-45; *see also Serrano v. Priest* (1977)
26 20 Cal.3d 25, 49.) In addition, it has been held that “[m]ultipliers can range from 2 to 4 or even
27 higher.” (*See Wershba, supra*, 91 Cal.App.4th at p. 255; *see also Van Vranken, supra*, 901 F.
28 Supp. At p. 298 “[m]ultipliers in the 3-4 range are common in lodestar awards for lengthy and
complex class action litigation.”.) Similar multipliers have been found to be reasonable for Class
Counsel. (*See, e.g., Moreno v. Pretium Packaging, L.L.C.* (C.D. Cal. Aug. 6, 2021) No. 8:19-cv-
02500-SB, 2021 WL 3673845, *3 [finding Wilshire Law Firm, PLC’s multiplier of 2.57 reasonable
“in light of the contingent nature of recovery, the complexity of the issues, and the result
obtained”].)

29 **1. Class Counsel’s Rates Have Been Approved by Several Courts.**

30 Class Counsel provides a declaration to support their lodestar hourly rates. “Affidavits of

1 the plaintiffs’ attorney and other attorneys regarding prevailing fees in the community, and rate
2 determinations in other cases, particularly those setting a rate for the plaintiffs’ attorney, are
3 satisfactory evidence of the prevailing market rate.” (*United Steelworkers of America v. Phelps*
4 *Dodge Corp.* (9th Cir. 1990) 896 F.2d 403, 407.) Class Counsel has received final approval of
5 their hourly rates in other wage and hour class action settlements.

6 For example, Mr. Marquez’s \$1,500 hourly rate was approved in *Suarez v. Bank of*
7 *America, N.A.* (N.D. Cal. Jan. 11, 2024), No. 18-cv-01202-LB, 2024 WL150721. There, the court
8 held that “[a]s for the lodestar cross-check, the billing rates are normal and customary for
9 timekeepers with similar qualifications and experience in the relevant market.” (*Id.* at p. *3.)

10 **2. Applying a Positive Multiplier Is Appropriate.**

11 Once this lodestar figure has been determined, the Court may take into account other
12 “enhancement” factors to adjust the lodestar award. While Plaintiffs seek a modest multiplier
13 of 2.35 here, the overall reasonableness of Plaintiffs’ request is underscored by the fact that a
14 significantly higher multiplier would be justified under applicable law.

15 Contingency fees should be higher than fees for the same legal services paid concurrently
16 with the provision of the services. (*Ketchum v. Moses* (2001) 24 Cal.4th 1122, 1132-33.) “A
17 lawyer who both bears the risk of not being paid and provides legal services is not receiving the
18 fair market value of his work if he is paid only for the second of these functions. If he is paid
19 no more, competent counsel will be reluctant to accept fee award cases.” (*Id.* at p. 1133.)
20 Application of that rule is particularly appropriate where the case is brought to redress important
21 rights of vulnerable persons. (*Id.*) A risk enhancement is “earned compensation; unlike a
22 windfall, it is neither unexpected nor fortuitous. Rather it is intended to approximate market-
23 level compensation for such services which typically pay a premium for the risk of nonpayment
24 or delay in payment of attorney’s fees.” (*Id.* at p. 1138.)

25 “Multipliers can range from 2 to 4 or even higher.” (*Wershba, supra*, 91 Cal.App.4th at
26 p. 255; *see also Sutter Health Uninsured Pricing Cases* (2009) 171 Cal.App.4th 495, 512
27 [applying a 2.52 multiplier on a cross-check in an antitrust class action]; *Chavez, supra*, 162
28 Cal.App.4th at p. 60 [applying a 2.5 multiplier on a lodestar cross-check]; *Vizcaino v. Microsoft*

1 *Corp.* (9th Cir. 2002) 290 F.3d 1043, 1051 n.6 [“most” common fund cases apply a multiplier
2 of 1.0-4.0]; *Been v. O.K. Industries Inc.* (E.D. Okla. 2011) 2011 WL 4478766, *11, *citing* a
3 study “reporting [an] average multiplier of 3.89 in survey of 1,120 class action cases” and
4 finding that a multiplier of 2.43 would be “per se reasonable.”) The intermediate court in
5 *Laffitte*, after finding that “2 to 4” is a reasonable range for multipliers on a cross-check,
6 affirmed a 2.13 multiplier. (*Laffitte v. Robert Half Int’l* (2014) 231 Cal.App.4th 860, 881-82.)
7 The intermediate court opinion was affirmed in full by the California Supreme Court in its new
8 decision guiding lower courts on assessing fees.

9 Factors considered in determining whether a lodestar multiplier is appropriate generally
10 include: (1) the risks presented by the contingent nature of the case; (2) the novelty and difficulty
11 of the questions involved and the skill requisite to perform the legal service properly; (3) the
12 nature of the opposition; (4) the preclusion of other employment by the attorney due to
13 acceptance of the case; and (5) the result obtained and the importance of the lawsuit to the
14 public. (*Serrano, supra*, 20 Cal.3d at pp. 48-49.) All of these factors favor approval of a
15 multiplier along the lines of those approved in the cases above.

16 The major consideration in determining the necessity of a multiplier is the contingent nature
17 of the award. (*Ketchum, supra*, 24 Cal.4th at pp. 1132-33.) Further, the possibility of no recovery
18 is only one of the uncertainties involved in taking on such a case. Other uncertainties are the
19 amount that will be recovered, uncertainty as to the cost, both in effort and expenses, and
20 uncertainty about how much time will pass before the recovery is obtained. (*Id.* at pp. 1132-33,
21 1138.) Here, Class Counsel have been the only counsel to represent Class Members in this matter
22 and have borne the entire risk and costs of litigation purely on a contingency basis. Class Counsel’s
23 outlay of time and money in this case has been significant.

24 The other factors are also present here. Class Counsel are skilled attorneys who have
25 had success in wage and hour class actions. This case required experienced and competent
26 lawyers and expertise in the issues presented herein. Defendant’s contentions underscore the
27 risk of prevailing at class certification and trial, and any of these obstacles could have prevented
28 recovery completely. Further, proceeding to trial would have added years to the resolution of

1 this case because of the difficult legal and factual issues raised and the likelihood of appeals.
2 Despite these risks, Class Counsel took this case on a contingency basis. Yet, there are only so
3 many cases that Class Counsel can take at any one time. Consequently, there were other
4 meritorious cases presented to Class Counsel that would have generated substantial fees, but
5 were declined, during the pendency of this action in order to devote the attention necessary to
6 achieve favorable results. (Fattahi Decl., ¶ 23.) Considered against the risks of continued
7 litigation, and the importance of the employment rights and a speedy recovery, the relief
8 provided under the Settlement represents a very strong result for the Class.

9 **C. Costs Are Reasonable.**

10 As of the date of drafting this Motion, Class Counsel has incurred approximately
11 \$25,236.72 in costs, and they anticipate incurring at least \$300.00 in additional costs up to the time
12 the Court enters a judgment in this action and schedules a hearing on distribution. (See Fattahi
13 Decl., ¶ 25 and **Exhibit 2** attached thereto, true and correct copies of Plaintiffs' counsel's costs
14 records.) Accordingly, Class Counsel respectfully requests reimbursement of \$25,536.72 in costs.
15 (*Id.*) Notably, this amount is below the "up to" \$35,000.00 of costs agreed to by Defendant. The
16 categories of costs are set forth in Arrash T. Fattahi's declaration, and these costs are easily seen
17 to be both reasonable and necessary.

18 **D. The Enhancement Payments to the Plaintiffs are Reasonable.**

19 Named plaintiffs in class action lawsuits "are eligible for reasonable incentive payments to
20 compensate them for the expense or risk they have incurred in conferring a benefit on other
21 members of the class." (*Munoz v. BCI Coca-Cola Bottling Co. of Los Angeles* (2010) 186
22 Cal.App.4th 399, 412.) Courts routinely grant approval of class action settlement agreements
23 containing enhancements for the class representatives, which are necessary to provide incentive to
24 represent the class, and are appropriate given the benefit the class representatives help to bring
25 about for the class. (See *Rodriguez v. W. Publ'g Corp.* (9th Cir. 2009) 563 F.3d 948, 958-59.) The
26 California Supreme Court has also noted that "retaliation against employees for asserting statutory
27 rights under the Labor Code is widespread," despite anti-retaliation statutes designed to protect
28 employees. (*Gentry v. Super. Ct.* (2007) 42 Cal.4th 443, 460-61.) Plaintiffs should therefore be

1 rewarded for assuming the risk of retaliation for the sake of class members. (*See Frank v. Eastman*
2 *Kodak Co.* (W.D.N.Y. 2005) 228 F.R.D. 174, 187.)

3 Under the settlement agreement, subject to the Court's approval, Defendant agreed to pay
4 Service Awards in the amount of \$7,500.00 to each named Plaintiff (\$30,000.00 total). (*See Fattahi*
5 *Decl.*, ¶¶ 11-15.) These amounts are also in exchange for Plaintiffs' general release of all claims
6 against Defendant. (*Id.*) Plaintiffs submitted declarations demonstrating that they each devoted,
7 on average, at least, **33 hours** of time and work assisting counsel in the case from the start of
8 retaining Class Counsel, which has included communicating with counsel very frequently in the
9 course of litigation and to prepare for mediation. (*Id.*)

10 When compared with the amounts awarded in typical class action cases, the amount
11 requested here is particularly reasonable. Indeed, a **2006** study examining the average incentive
12 award given to class action plaintiffs from **1993 to 2002** found that the "average award per class
13 representative was \$15,992 and the median award per class representative was \$4,357." (Theodore
14 Eisenberg & Jeffrey P. Miller, "Incentive Awards to Class Action Plaintiffs: An Empirical Study."
15 53 UCLA L. Rev. 1303, 1308 (2006).)

16 **E. Administration Expenses Should be Approved.**

17 CPT Group, Inc. estimates that it will incur a total of \$19,750.00 in costs associated with
18 the administration of this Settlement. (*See O'Connor Decl.*, ¶ 16.) These expenses are reasonable,
19 based upon the size of the class, claim and exclusion tracking, and Class Member payment
20 processing.

21 **V. CONCLUSION**

22 For the foregoing reasons, Plaintiffs respectfully request that the Court grant final approval
23 of the proposed settlement.

24 Dated: May 20, 2025

Respectfully submitted,

WILSHIRE LAW FIRM

By: 

Arrash T. Fattahi
Arman A. Salehi

Attorneys for Plaintiffs

Acevedo v. Crocs Retail, LLC, et al.
23STCV15354

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) ss

On May 20, 2025, I served the foregoing **PLAINTIFFS' MOTION FOR FINAL APPROVAL OF CLASS ACTION SETTLEMENT; MEMORANDUM OF POINTS AND AUTHORITIES**, on the interested parties by placing a true copy thereof, enclosed in a sealed envelope by following one of the methods of service as follows:

Glenn L. Briggs (SBN 174497)
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Attorneys for Defendant

(X) BY UPLOAD: I hereby certify that the documents were uploaded by my office to the State of California Labor and Workforce Development Agency Online Filing

(X) **BY ELECTRONIC SERVICE:** Based on a court order or an agreement of the parties to accept electronic service, I caused the documents to be sent to the persons at the electronic service address listed above via third-party service **CASEANYWHERE**.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed this **May 20, 2025**, at Los Angeles, California.


Ashley Narinyans