

**BLUMENTHAL NORDREHAUG BHOWMIK
DE BLOUW LLP**

Norman B. Blumenthal (State Bar #068687)

Kyle R. Nordrehaug (State Bar #205975)

Aparajit Bhowmik (State Bar #248066)

2255 Calle Clara

La Jolla, CA 92037

Telephone: (858)551-1223

Facsimile: (858) 551-1232

Email: norm@bamlawca.com

Website: www.bamlawca.com

Attorneys for Plaintiff

SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF LOS ANGELES

SELENE MURILLO, an individual, on
behalf of herself and on behalf of all
persons similarly situated,

Plaintiff,

vs.

CRANE WORLDWIDE LOGISTICS
LLC, a Limited Liability Company; and
DOES 1 through 50, inclusive,

Defendants.

CASE NO.: **23STCV22869**

**MEMORANDUM OF POINTS AND
AUTHORITIES IN SUPPORT OF MOTION
FOR FINAL APPROVAL OF CLASS
SETTLEMENT AND AWARD OF
ATTORNEYS' FEES, COSTS AND SERVICE
AWARD**

Hearing Date: April 25, 2025

Hearing Time: 10:30 a.m.

*[Hearing scheduled by Order dated December 3,
2024]*

Judge: Hon. Carolyn B. Kuhl

Dept: SS-12

Date Filed: September 21, 2023

Trial Date: Not set

TABLE OF CONTENTS

I.	INTRODUCTION.....	1
II.	THE SETTLEMENT BEFORE THE COURT	1
III.	GENERAL STANDARDS APPLICABLE TO JUDICIAL REVIEW AND APPROVAL OF CLASS ACTION SETTLEMENTS.....	2
IV.	THE SETTLEMENT IS FAIR, REASONABLE AND ADEQUATE.....	3
A.	The Settlement Satisfies the California Test for Fairness.....	4
1.	The Investigation and Analysis of Documents are Sufficient to Allow Counsel and the Court to Act Intelligently.....	4
2.	The Settlement was Reached Through Arm's Length Bargaining	4
3.	Class Counsel is Experienced in Similar Litigation	5
4.	There Are No Objections and No Requests for Exclusion.....	5
5.	The Strength of Plaintiff's Case	6
6.	The Risk, Expense, Complexity, and Likely Duration of Further Litigation	8
7.	The Amount Offered in Settlement.....	9
V.	THE REQUESTED ATTORNEYS' FEES, COSTS AND SERVICE AWARD SHOULD BE APPROVED	11
A.	The Attorneys' Fees are Reasonable and Supported by the Percentage of the Fund Method.....	11
B.	The Reimbursement of Litigation Expenses.....	13
C.	The Service Award Is Reasonable and Should be Approved.....	14
VI.	CONCLUSION.....	15

TABLE OF AUTHORITIES

Cases:	Page:
<i>Alberto v. GMRI, Inc.</i> , 252 F.R.D. 652 (E.D. Cal. Jun 24, 2008)	5
<i>Andrews v. Plains All Am. Pipeline L.P.</i> , 2022 U.S. Dist. LEXIS 172183, (C.D. Cal. 2022)	15
<i>Barbosa v. Cargill Meat Solutions Corp.</i> , 297 F.R.D. 431 (E.D. Cal. 2013)	12
<i>Barcia v. Contain-A-Way, Inc.</i> , 2009 U.S. Dist. LEXIS 17118 (S. D. Cal. 2009)	7
<i>Boeing Co. v. Van Gemert</i> , 444 U.S. 472 (1980)	11
<i>Brinker v. Superior Court</i> , 53 Cal. 4th 1004 (2012)	7
<i>Browning v. Yahoo!, Inc.</i> , 2007 U.S. Dist. LEXIS 86266 (N.D. Cal. Nov. 16, 2007)	7
<i>Cacho v. Eurostar, Inc.</i> , 43 Cal. App. 5th 885 (2019)	8
<i>Cellphone Termination Fee Cases</i> , 180 Cal. App. 4th 1110 (2009)	3
<i>Chavez v. Netflix, Inc.</i> , 162 Cal.App.4th 43 (2008)	13
<i>Dunk v. Ford Motor Co.</i> , 48 Cal. App. 4th 1794 (1996)	3
<i>Dunleavy v. Nadler</i> , 213 F.3d 454 (9th Cir. 2000)	11
<i>Duran v. U.S. Bank National Assn.</i> , 59 Cal. 4th 1 (2014)	8
<i>Gaskill v. Gordon</i> , 160 F.3d 361 (7th Cir. 1998)	11
<i>Glass v. UBS Fin. Servs.</i> , 2007 U.S. Dist. LEXIS 8476; 15 Wage & Hour Cas. 2d (BNA) 1330 (N.D. Cal. 2007); <i>aff'd</i> 2009 U.S. App. LEXIS 10328 (9 th Cir. May 14, 2009)	5, 9, 15
<i>Hanlon v. Chrysler Corp.</i> , 150 F.3d 1011 (9 th Cir. 1998)	6
<i>Hopson v. Hanesbrands Inc.</i> , 2009 U.S. Dist. LEXIS 33900 (N.D. Cal. 2009)	7

1	<i>Huens v. Tatum,</i>	
2	52 Cal. App. 4 th 259 (1997).....	2
3	<i>In re Austrian & German Bank Holocaust Litigation,</i>	
4	80 F. Supp. 2d 164 (S.D.N.Y. 2000).....	6
5	<i>In re Sutter Health Uninsured Pricing Cases,</i>	
6	171 Cal.App.4th 495 (2009).....	13
7	<i>Kullar v. Foot Locker Retail, Inc.,</i>	
8	168 Cal. App. 4th 116 (2008).....	3
9	<i>Laffitte v. Robert Half Int'l,</i>	
10	1 Cal. 5th 480 (2016)	11- 13
11	<i>Laskey v. Int'l Union,</i>	
12	638 F.2d 954 (6th Cir. 1981)	6
13	<i>Lockheed Martin Corp. v. Superior Ct.,</i>	
14	29 Cal. 4th 1096 (2003)	7
15	<i>Louie v. Kaiser Foundation Health Plan, Inc.,</i>	
16	2008 U.S. Dist. LEXIS 78314 (S.D. Cal. 2008)	7, 15
17	<i>Ma v. Covidien Holding, Inc.,</i>	
18	2014 WL 2472316, (C.D. Cal. 2014)	11
19	<i>Mathein v. Pier 1 Imps.,</i>	
20	2018 U.S. Dist. LEXIS 71386, 168 Lab. Cas. (CCH) P36,620 (E.D. Cal. 2018).....	15
21	<i>Munoz v. BCI Coca-Cola Bottling Co. of Los Angeles,</i>	
22	186 Cal. App. 4th 399 (2010).	3
23	<i>Naranjo v. Spectrum Sec. Servs., Inc.,</i>	
24	15 Cal. 5th 1056, 1065 (2024).....	7,10
25	<i>Officers for Justice v. Civil Service Com'n,</i>	
26	688 F.2d 615 (9th Cir. 1982)	3
27	<i>Pellegrino v. Robert Half Intern., Inc.,</i>	
28	182 Cal.App.4th 278 (2010).	13
	<i>Reynolds v. Direct Flow Med., Inc.,</i>	
	2019 U.S. Dist. LEXIS 149865, (N.D. Cal. 2019).....	15
	<i>Rutti v. Lojack Corp., Inc.,</i>	
	2012 WL 3151077 (C.D. Cal. 2012).....	14
	<i>Salazar v. See's Candy Shops Inc.,</i>	
	64 Cal.App.5th 85 (2021)	7
	<i>Serrano v. Priest,</i>	
	20 Cal. 3d 25 (1977)	11
	//	

1	<i>Stanger v. China Elec. Motor, Inc.</i> ,	
2	812 F.3d 734 (9th Cir. 2016)	13
3	<i>Stetson v. Grissom</i> ,	
4	821 F.3d 1157 (9th Cir. 2016)	13, 14
5	<i>Stoetzner v. U.S. Steel Corp.</i> ,	
6	897 F.2d 115 (3d. Cir. 1990).....	6
7	<i>Stovall-Gusman v. W.W. Granger, Inc.</i> ,	
8	2015 U.S. Dist. LEXIS 78671 (N.D. Cal. 2015).....	11
9	<i>Swedish Hospital v. Shalala</i> ,	
10	1 F.3d 1261 (D.C. Cir. 1993)	12
11	<i>Taylor v. Fedex Freight, Inc.</i> ,	
12	2016 U.S. Dist. LEXIS 142202 (E.D. Cal. 2016).....	13
13	<i>Viceral v. Mistras Grp., Inc.</i> ,	
14	2016 WL 5907869 (N.D. Cal. 2016)	11
15	<i>Vincent v. Hughes Air West, Inc.</i> ,	
16	557 F.2d 759 (9th Cir. 1997)	11
17	<i>Vizcaino v. Microsoft Corp.</i> ,	
18	290 F.3d 1043 (9th Cir. 2002)	13
19	<i>Wershba v. Apple Computer</i> ,	
20	91 Cal. App. 4 th 224 (2001).....	2, 3, 11, 13

1 **I. INTRODUCTION**

2 The parties to this action have reached a Settlement and the Court preliminarily approved the
3 Class Action and PAGA Settlement Agreement (the “Agreement”), a true and correct copy of which
4 is attached as Exhibit #2 to the Declaration of Norman Blumenthal (“Blumenthal Decl.”).¹ In
5 accordance with the Preliminary Approval Order dated December 3, 2024 (“Preliminary Approval
6 Order”), the approved Class Notice has been disseminated to the Class.²

7 The purpose of this hearing is to determine whether the proposed settlement of the litigation
8 should be finally approved. Plaintiff Selene Murillo (“Plaintiff”) respectfully moves for final approval,
9 including attorneys’ fees, costs and the service award, and the proposed entry of the Final Approval
10 Order and Judgment, submitted herewith. The settlement represents an excellent result for the Class
11 and avoids the delays, risks, and costs of further litigation. After disseminating the notice to the
12 members of the Class, there were **no objections and no requests for exclusion**, which means that the
13 entire Class (100%) has elected to participate in the Settlement. Blumenthal Decl. ¶ 4. This is a positive
14 response from the Class evidencing their collective approval of the settlement. As a result, Plaintiff
15 respectfully submits that the class settlement should be finally approved for the same reasons that the
16 Court preliminarily approved the settlement as fair, reasonable, and adequate.

17 **II. THE SETTLEMENT BEFORE THE COURT**

18 As consideration for this Settlement, the Gross Settlement Amount is Six Hundred and Sixty
19 Thousand Dollars (\$660,000) to be paid by Defendant Crane Worldwide Logistics (“Defendant”)
20 (Agreement at ¶¶ 1.22 and 3.1.) Under the Settlement, the Gross Settlement Amount consists of the
21 following elements: (i) all Individual Class Payments and Individual PAGA Payments; (ii) the LWDA
22 PAGA Payment; (iii) the Class Counsel Fees Payment and the Class Counsel Litigation Expenses
23 Payment; (iv) the Class Representative Service Payment; and (v) the Administration Expenses Payment.
24 (Agreement at ¶ 1.22.) The Gross Settlement Amount does not include Defendant's share of payroll

25

26 ¹ Capitalized terms are defined in the Agreement.

27 ² The “Class” is defined as “all individuals who were employed by Defendant in California and
28 classified as a non-exempt employee at any time during the Class Period.” The “Class Period” is defined
 as “September 21, 2019 through December 3, 2024.” (Preliminary Approval Order ¶ 6.)

1 taxes. (Agreement at ¶ 3.1.) The Gross Settlement Amount shall be all-in with no reversion to
2 Defendant. (Agreement at ¶ 3.1.) Blumenthal Decl. ¶ 3(b). The following is a table of the key financial
3 terms of the Settlement and the proposed deductions:

4 **\$660,000** (Gross Settlement Amount)

- 5 - \$10,000 (Plaintiff's proposed service award - not to exceed amount)
- 6 - \$20,000 (Class Counsel Litigation Expenses Payment - not to exceed amount)
- 7 - \$220,000 (Class Counsel Fees Payment - not to exceed one-third of settlement)
- 8 - \$5,000 (PAGA Penalties - 75% to LWDA / 25% to Aggrieved Employees)
- 9 - \$5,500 (Administration Expenses Payment)

10 **\$399,500** (Net Settlement Amount)

11 The specific details of the Settlement were discussed in the Motion for Preliminary Approval and are
12 set forth again in the Declaration of Blumenthal at ¶¶ 3(c)-3(i).

13 The Settlement is fair, adequate and reasonable to the class and should be finally approved for
14 the same reasons the Court granted preliminary approval of the Settlement, agreeing that the settlement
15 is "fair, adequate and reasonable". (Preliminary Approval Order at ¶ 3.) In sum, the Settlement valued
16 at \$660,000 is an excellent result for the Class. This result is particularly favorable in light of the fact
17 that liability and class certification in this case were far from certain in light of the defenses asserted
18 by Defendant. Given the complexities of this case, the defenses asserted, the uncertainty of class
19 certification, along with the uncertainties of proof at trial and appeal, the proposed settlement is fair,
20 reasonable and adequate, and should be finally approved. Blumenthal Decl. ¶3(j).

21 **III. GENERAL STANDARDS APPLICABLE TO JUDICIAL REVIEW AND APPROVAL**
22 **OF CLASS ACTION SETTLEMENTS**

23 Settlements of disputed claims are favored by the courts. *Huens v. Tatum*, 52 Cal. App. 4th 259,
24 265 (1997). In evaluating settlements, the courts have long recognized that compromise is particularly
25 appropriate since such litigation is difficult and notoriously uncertain. *7-Eleven Owners for Fair Fran.*
26 *v. Southland Corp.*, 85 Cal. App. 4th 1135, 1151 (2000) ("[V]oluntary conciliation and settlement are
27 the preferred means of dispute resolution. This is especially true in complex class action litigation.")

28 The court must decide whether the proposed settlement falls within the range of reasonable
settlements, taking into account that settlements are compromises between the parties reflecting
subjective, unquantifiable judgments concerning the risks and possible outcomes of litigation. *See*
Wershba v. Apple Computer, 91 Cal. App. 4th 224, 246 (2001) ("The proposed settlement is not to be

1 judged against a hypothetical or speculative measure of what might have been achieved had plaintiffs
2 prevailed at trial.”) In *Wershba*, the Court explained that “the merits of the underlying class claims are
3 not a basis for upsetting the settlement of a class action.” *Id.*; see also *7-Eleven, supra*, at 1150.

4 In these cases, courts have repeatedly emphasized that there is a strong initial presumption that
5 the compromise is fair and reasonable. *Wershba*, 91 Cal. App. 4th at 245. Courts should not substitute
6 their judgment for that of the parties who negotiated the settlement. *Id.* at 246. The presumption of
7 fairness exists where: (1) investigation and discovery are sufficient to allow counsel and the court to
8 act intelligently; (2) the settlement is reached through arm's-length bargaining; (3) counsel is
9 experienced in similar litigation; and (4) the percentage of objectors is small. *Dunk v. Ford Motor Co.*,
10 48 Cal.App.4th 1794, 1801 (1996). Here, the facts and circumstances compel the conclusion that the
11 proposed settlement satisfies that standard and the presumption applies.

12 **IV. THE SETTLEMENT IS FAIR, REASONABLE AND ADEQUATE**

13 The Court must determine whether the settlement is fair, adequate, and reasonable. *Dunk v. Ford*
14 *Motor Co.*, 48 Cal.App.4th 1794, 1801 (1996); see also *Officers for Justice v. Civil Service Com'n*, 688
15 F.2d 615, 625 (9th Cir. 1982). The trial court has broad discretion to determine whether the settlement
16 is fair. *Cellphone Termination Fee Cases*, 180 Cal.App.4th 1110, 1117 (2009). “The well-recognized
17 factors that the trial court should consider in evaluating the reasonableness of a class action settlement
18 agreement include 'the strength of plaintiffs' case, the risk, expense, complexity and likely duration of
19 further litigation, the risk of maintaining class action status through trial, the amount offered in
20 settlement, the extent of discovery completed and the stage of the proceedings, the experience and views
21 of counsel, the presence of a governmental participant, and the reaction of the class members to the
22 proposed settlement.” *Kullar v. Foot Locker Retail, Inc.*, 168 Cal.App.4th 116, 128 (2008); see also
23 *Munoz v. BCI Coca-Cola Bottling Co. of L. A.*, 186 Cal.App.4th 399, 408 (2010).

24 The list of factors is not exhaustive and should be tailored to each case. *Dunk, supra*, at 1801.
25 Due regard should be given to what is otherwise a private consensual agreement between the parties.
26 *Id.* The inquiry “must be limited to the extent necessary to reach a reasoned judgment that the
27 agreement is not the product of fraud or overreaching by, or collusion between, the negotiating parties,
28 and that the settlement, taken as a whole, is fair, reasonable and adequate to all concerned.” *Id.*

1 “Ultimately, the [trial] court's determination is nothing more than 'an amalgam of delicate balancing,
2 gross approximations and rough justice.' [Citation omitted.]” *Id.*

3 These factors are analyzed seriatim below, and all support final approval of the class action
4 settlement before this Court, consistent with this Court’s Preliminary Approval Order.

5 **A. The Settlement Satisfies the California Test for Fairness**

6 1. The Investigation and Analysis of Documents are Sufficient to Allow Counsel
7 and the Court to Act Intelligently

8 Over the course of more than a year and a half of litigation, the Parties engaged in the
9 investigation of the claims, including the production of documents, class data, and other information,
10 allowing for a complete analysis of liabilities and defenses to the claims in this Action. The procedural
11 history and investigation performed was detailed in support of the motion for preliminary approval. The
12 Settlement was the product of one arms-length mediation and contentious negotiations through
13 mediation presided over by mediator Marc Feder, Esq. The details of the litigation are set forth in the
14 Blumenthal Decl. at ¶¶ 6(a)-6(g).

15 2. The Settlement was Reached Through Arm’s Length Bargaining

16 The Settlement is the result of extensive and hard-fought litigation as well as negotiations before
17 an experienced and well-respected mediator. Defendant has expressly denied and continue to deny any
18 wrongdoing or legal liability arising out of the conduct alleged in the Action. Plaintiff and Class
19 Counsel have determined that it is desirable and beneficial to the Class to resolve the Released Class
20 Claims in accordance with the Settlement. Blumenthal Decl. ¶7(a).

21 The Parties attended an arms-length mediation session with Marc Feder, a respected and
22 experienced mediator of wage and hour class actions, to reach the Settlement. In preparation for the
23 mediation, Defendant provided Class Counsel with necessary information, including the Class payroll
24 and timekeeping data. Plaintiff analyzed the data with the assistance of a damages expert, Berger
25 Consulting, and prepared and submitted a mediation brief and damage valuation to the Mediator.
26 Following the all-day mediation, the Parties agreed to the Settlement, which was memorialized in the
27 form of a Memorandum of Understanding. Blumenthal Decl. ¶7(b).

28 The fact that the settlement was negotiated with the assistance of an experienced mediator

1 supports approval. *Alberto v. GMRI, Inc.*, 252 F.R.D. 652, 666 (E.D. Cal. Jun 24, 2008); *Glass v. UBS*
2 *Fin. Servs.*, 2007 U.S. Dist. LEXIS 8476; 15 Wage & Hour Cas. 2d (BNA) 1330, at *15 (N.D. Cal.
3 2007) (“The settlement was negotiated and approved by experienced counsel on both sides of the
4 litigation, with the assistance of a well-respected mediator with substantial experience in employment
5 litigation[, and] this factor supports approval of the settlement”).

6 From July 2024 to September 2024, the initial settlement agreement and exhibits thereto were
7 finalized and executed. On December 3, 2024, the Court issued its Order granting preliminary approval
8 of the settlement as fair, adequate, and reasonable to the Class. Blumenthal Decl. ¶ 7(c).

9 3. Class Counsel is Experienced in Similar Litigation

10 Class Counsel in this matter has extensive class action experience and has represented thousands
11 of persons in class actions including employment litigation, wage and hour class actions, and complex
12 litigation. Class Counsel has previously litigated wage and hour class actions involving employees and
13 claims similar to this case and have been approved as experienced class counsel during contested
14 motions in state and federal courts throughout California. The experience of counsel and class action
15 cases managed and settled by the Class Counsel in this action is provided to the Court in the Blumenthal
16 Decl. at Exhibit #1. Class Counsel have participated in every aspect of the settlement discussions and
17 have concluded the settlement is fair, adequate and reasonable and in the best interests of the Class.
18 Blumenthal Decl. ¶ 3(j).

19 4. There Are No Objections and No Requests for Exclusion

20 The reaction of the Class unequivocally supports approval of the Settlement. On January 2,
21 2025, the Administrator mailed the Court-approved Class Notice to the Class Members, which provided
22 each class member with the terms of the Settlement, including notice of the claims at issue and the
23 financial terms of the settlement, including the attorneys' fees, costs, and service award that were being
24 sought, how individual settlement awards would be calculated, and the specific, estimated payment
25 amount to that individual. *See* Declaration of Nathalie Hernandez (“Hernandez Decl.”) ¶ 7, Exh. A. In
26 disseminating the notice, the Administrator followed the notice procedures authorized by the Court in
27 its Preliminary Approval Order. Significantly, there have been no objections and no requests to opt-out.
28 Hernandez Decl. ¶¶ 11-12. As such, the entire Class (100%) will participate in the Settlement and will

1 be sent a settlement check. *See* Hernandez Decl. at ¶¶ 13-14; Blumenthal Decl. ¶ 4.

2 The absence of any objector strongly supports the fairness, reasonableness and adequacy of the
3 Settlement. *See In re Austrian & German Bank Holocaust Litigation*, 80 F.Supp.2d 164, 175 (S.D.N.Y.
4 2000) ("If only a small number of objections are received, that fact can be viewed as indicative of the
5 adequacy of the settlement."); *Stoetznner v. U.S. Steel Corp.*, 897 F.2d 115, 118-119 (3d. Cir. 1990) (29
6 objections out of 281 member class "strongly favors settlement"); *Laskey v. Int'l Union*, 638 F.2d 954
7 (6th Cir. 1981) (The fact that 7 out of 109 class members objected to the proposed settlement should
8 be considered when determining fairness of settlement). Here, where there are no objections, the
9 approval of the class is evident.

10 5. The Strength of Plaintiff's Case

11 The Action generally alleges that Plaintiff and other Class Members were not properly paid all
12 wages for hours worked, including minimum wages, overtime, and at the correct rate of pay, were not
13 provided meal and rest periods or paid premiums at the correct rate of pay in lieu thereof, were not
14 timely paid earned wages, were not provided reimbursement for required expenses, were not provided
15 accurate itemized wage statements, were not pay all sick wages and the correct rate of pay, and were
16 not paid all wages at the time of termination. The Action seeks unpaid wages, penalties, attorney fees,
17 litigation costs, and any other equitable or legal relief allegedly due and owing to Plaintiff and the other
18 Class Members by virtue of the foregoing claims. Blumenthal Decl. ¶ 5.

19 Where both sides face significant uncertainty, the attendant risks favor settlement. *Hanlon v.*
20 *Chrysler Corp.*, 150 F.3d 1011, 1026 (9th Cir. 1998). Here, a number of defenses asserted by Defendant
21 present serious threats to the claims of the Plaintiff and the other Class Members. Defendant maintains
22 that its practices complied with all applicable wage and hour laws. Defendant maintains that all Class
23 Members' work time was properly recorded and compensated and that there was no miscalculation of
24 the regular rate. Defendant contends that its meal and rest period policies and practices provide Class
25 Members with meal and rest periods and that the payment of significant meal premiums is evidence of
26 Defendant's legal compliant practices. As to expense reimbursement, Defendant maintains that it did
27 not fail to provide reimbursement for necessary business expenses because, among other things,
28 employees are not required to use their personal cell phones to perform their work. Defendant could

1 argue that the decisions in *Brinker v. Superior Court*, 53 Cal. 4th 1004 (2012), *Lockheed Martin Corp.*
2 *v. Superior Ct.*, 29 Cal. 4th 1096, 1108 (2003), and *Salazar v. See's Candy Shops Inc.*, 64 Cal.App.5th
3 85 (2021), weakened Plaintiff's claims in terms of liability and value, and preclude claims from
4 proceeding on a class or representative basis. Defendant also maintains that a good faith dispute and
5 absence of willfulness would negate the claims for waiting time penalties and/or failure to provide
6 accurate itemized wage statements. See e.g. *Naranjo v. Spectrum Sec. Servs.*, 15 Cal. 5th 1056, 1065
7 (May 6, 2024) ("if an employer reasonably and in good faith believed it was providing a complete and
8 accurate wage statement in compliance with the requirements of section 226, then it has not knowingly
9 and intentionally failed to comply with the wage statement law.") If successful, Defendant's defenses
10 could eliminate or substantially reduce any recovery to the Class. While Plaintiff believes that these
11 defenses could be overcome, Defendant maintains these defenses have merit and therefore present a
12 serious risk to recovery by the Class. Blumenthal Decl. ¶ 8(a).

13 In a similar wage and hour case, the federal district court in *Hopson v. Hanesbrands Inc.*, 2009
14 U.S. Dist. LEXIS 33900 (N.D. Cal. 2009), explained in approving an overtime class action settlement:

15 Plaintiffs may have a strong case, but the risks inherent in continued litigation are great.
16 Defendants strongly deny liability for Plaintiffs' principal claim... [...T]he gross
17 settlement amount and the Class Members' expected net recovery, after fees and other
costs are deducted, appear to be a reasonable compromise, in light of the risks of
litigation.

18 2009 U.S. Dist. LEXIS 33900 at *19-20 (N.D. Cal. 2009); *see also Browning v. Yahoo!, Inc.*, 2007
19 U.S. Dist. LEXIS 86266, at *30 (N.D. Cal. 2007) ("In considering the strength of Plaintiff's case, legal
20 uncertainties at the time of settlement - particularly those which go to fundamental legal issues - favor
21 approval."). As recognized in a federal decision approving settlement of an overtime wage class action:

22 The potential complexity and possible duration of trial also weigh in favor of granting
23 final approval. Plaintiffs acknowledge the difficulties of proving damages, recognize the
24 uncertainty of outcome, and believe defendant would appeal in the event of adverse
judgment. A post-judgment appeal would require many years to resolve and delay
payment to class members.

25 *Barcia v. Contain-A-Way, Inc.*, 2009 U.S. Dist. LEXIS 17118, *9 (S.D. Cal. 2009); *see also Louie v.*
26 *Kaiser Foundation Health Plan, Inc.*, 2008 U.S. Dist. LEXIS 78314, *14 (S.D. Cal. 2008).

27 There was also a significant risk that, if the Action was not settled, Plaintiff would be unable
28 to obtain class certification and thereby not recover on behalf of any employees other than themselves.

1 Defendant argued that the individual experience of each putative class member varied with respect to
2 the claims, which would preclude the claims from proceeding on a class basis. For instance, Plaintiff's
3 meal and rest period claims would require individualized inquiries into whether each employee took
4 a compliant meal or rest period on a given shift and, if not, why. Plaintiff is aware of other cases where
5 class certification of similar claims was denied. *See e.g. Cacho v. Eurostar, Inc.*, 43 Cal. App. 5th 885
6 (2019) (denying certification of rest break claims). Finally, even if class certification was successful,
7 as demonstrated by the California Supreme Court decision in *Duran v. U.S. Bank National Association*,
8 59 Cal. 4th 1 (2014), there are significant hurdles to overcome for a class-wide recovery even where
9 a class has been certified. While other cases have approved class certification of wage and hour claims,
10 class certification in this Action would have been hotly disputed and was by no means a foregone
11 conclusion. Blumenthal Decl. ¶ 8(b).

12 In sum, the Settlement is a fair and reasonable result, and provides the Class with a significant
13 recovery, particularly when viewed in light of the fact that the Defendant asserted serious and
14 substantial defenses both to liability and to class certification. The maximum and average class member
15 allocations (in addition to their Individual PAGA Payment) are \$7,007.41 and \$2,244.38, respectively.
16 *See Hernandez Decl. ¶ 14.* Given the complexities of this case, the defenses, along with the
17 uncertainties of proof and appeal, the proposed Settlement is fair, reasonable and adequate, and should
18 be finally approved. Blumenthal Decl. at ¶8(e).

19 6. The Risk, Expense, Complexity, and Likely Duration of Further Litigation

20 As demonstrated by the decision in *Duran*, the complexities and duration of further litigation
21 cannot be overstated. There is little doubt that Defendant would post a bond and appeal in the event
22 of an adverse judgment. A post-judgment appeal by Defendant would have required many more years
23 to resolve, assuming the judgment was affirmed. If the judgment was not affirmed in total, then the case
24 could have dragged on for years after the appeal. The benefits of a guaranteed recovery today outweigh
25 an uncertain result three or more years in the future. Blumenthal Decl. ¶ 8(c).

26 Plaintiff and Class Counsel recognize the expense and length of continuing to litigate and trying
27 this Action against Defendant and then litigating a possible appeal that could take several years. Class
28 Counsel has also taken into account the uncertain outcome and risk of litigation, especially in complex

1 class actions such as this Action. Class Counsel is also mindful of and recognizes the inherent problems
2 of proof under, and alleged defenses to, the claims asserted in the Action. Moreover, post-trial motions
3 and appeals would have been inevitable. Costs would have mounted and recovery would have been
4 delayed if not denied, thereby reducing the benefits of an ultimate victory. The Settlement confers
5 substantial benefits upon the Class. Based upon their evaluation, Plaintiff and Class Counsel have
6 determined that the Settlement set forth in the Agreement is in the best interest of the Class Members.
7 Blumenthal Decl. ¶ 8(c).

8 Although Plaintiff and Class Counsel believe that their case has merit, which Defendant
9 continue to vigorously deny, they recognized the potential risks both sides would face if litigation of
10 the Action continued. As the federal court held in *Glass*, where the parties faced uncertainties similar
11 to those in this litigation:

12 In light of the above-referenced uncertainty in the law, the risk, expense, complexity,
13 and likely duration of further litigation likewise favors the settlement. Regardless of how
14 this Court might have ruled on the merits of the legal issues, the losing party likely
would have appealed, and the parties would have faced the expense and uncertainty of
litigating an appeal.

15 *Id.* at *12.

16 7. The Amount Offered in Settlement

17 The Settlement in this case is fair, reasonable and adequate considering Defendant's defenses
18 to Plaintiff's claims. As set forth in the Declaration of Nordrehaug in support of preliminary approval
19 which discussed the value of the class claims in detail, the Gross Settlement Amount compares
20 favorably to the value of the claims. Based upon 178 Participating Class Members who collectively
21 worked an estimated 15,393 workweeks, the Gross Settlement Amount provides an average value of
22 \$3,708 per Class Member and \$43 per workweek and after deductions the Net Settlement Amount
23 provides an average recovery of \$2,244.38 per Class Member and a recovery of \$25.95 per workweek.
24 Blumenthal Decl. at ¶ 8(d).

25 The calculations to compensate for the amount due to the Class Members at the time the
26 Settlement was negotiated were calculated by Plaintiff's expert, Berger Consulting, in advance of
27 mediation. Class Counsel analyzed the data for putative class members and determined the potential
28 maximum damages for the class claims. For the Class, the maximum value of the claim for unpaid

1 wages due to the alleged miscalculation of the regular rate applicable to overtime pay, meal premiums
2 and sick pay was \$30,626, the maximum value of the claim for unpaid wages due to alleged
3 off-the-clock work was \$441,265, the maximum potential damages for alleged meal period violations
4 were estimated to be \$311,179 based upon a 29.7% violation rate observed in the time records and after
5 deduction of meal premiums already paid by Defendant, the maximum potential damages for alleged
6 rest period violations were estimated to be \$447,535 based upon an alleged 100% violation rate, and
7 the maximum potential damages for the alleged failure to reimburse business expenses were calculated
8 to be \$33,500 based upon \$10 per month. In total, the damages for the Class were calculated to have
9 a maximum potential total value of \$1,264,105. In addition, Plaintiff calculated that the maximum
10 value of the potential waiting time penalties were between \$196,331 and \$452,156, depending on the
11 predicate violation, and the maximum value of the potential wage statement penalties were \$348,250.³
12 Defendant vigorously disputed Plaintiff's calculations and exposure theories. Blumenthal Decl. ¶ 8(d).

13 Consequently, the Gross Settlement Amount represents more than 52% of Plaintiff's calculation
14 of the potential maximum damages at issue for the Class in this case, assuming these amounts could
15 all be proven in full at trial.⁴ Importantly, the recent decision that good faith belief of compliance by
16 the employer in *Naranjo v. Spectrum Sec. Servs., Inc.*, 15 Cal. 5th 1056, 1065 (2024), could completely
17 negate the claims for waiting time and wage statement penalties, even if wages were owed to the class.
18 The maximum calculations should then be realistically risk rated in consideration for both the risk of
19 class certification and the risk of establishing class-wide liability on all claims. Given the amount of the
20
21

22 ³ While Plaintiff alleged claims for statutory penalties pursuant to Labor Code Sections 203 and 226,
23 at mediation Plaintiff recognized that these claims were subject to additional, separate defenses asserted
24 by Defendant, including but not limited to, a good-faith dispute defense as to whether any premium
25 wages for meal or rest periods or other wages were owed given Defendant's position that Plaintiff and
26 Class Members were properly compensated. *See Nordstrom Commission Cases*, 186 Cal. App. 4th 576,
584 (2010) ("There is no willful failure to pay wages if the employer and employee have a good faith
dispute as to whether and when the wages were due.").

27 ⁴ Because the PAGA claim does not provide a recovery to the Class, Plaintiff did not included the
28 PAGA claim in this discussion of the class claim valuation. The PAGA claim was addressed at
preliminary approval in the Declaration of Nordrehaug at ¶ 33.

1 Settlement as compared to the potential value of the claims, the Settlement is most certainly fair and
2 reasonable.⁵ Clearly, the goal of this litigation has been met. Blumenthal Decl. ¶ 8(d).

3 **V. THE REQUESTED ATTORNEYS' FEES, COSTS AND SERVICE AWARD SHOULD**
4 **BE APPROVED**

5 **A. The Attorneys' Fees are Reasonable and Supported by the Percentage of the Fund**
6 **Method**

7 Class Counsel seeks a fee award calculated at one-third (1/3) of the total value of the settlement
8 for the successful prosecution and resolution of this action. California state and federal courts have
9 recognized that an appropriate method for determining award of attorneys' fees is based on a percentage
10 of the total value of benefits to class members by the settlement. *Wershba v. Apple Computer, Inc.*, 91
11 Cal.App.4th 224, 254 (2001); *Serrano v. Priest*, 20 Cal.3d 25, 34 (1977); *Boeing Co. v. Van Gemert*, 444
12 U.S. 472, 478 (1980). The purpose of this rule is to avoid unjust enrichment to the Class and to "spread
13 litigation costs proportionally among all the beneficiaries so that the active beneficiary does not bear
14 the entire burden alone." *Vincent v. Hughes Air West, Inc.*, 557 F.2d 759, 769 (9th Cir. 1997).

15 The California Supreme Court has provided guidance regarding the award of attorneys' fees in
16 wage and hour class action settlements. Under California law, the award of attorneys' fees in common
17 fund wage and hour class action settlements should start with the percentage method. See *Laffitte v.*
18 *Robert Half Int'l*, 1 Cal. 5th 480, 503 (2016) ("We join the overwhelming majority of federal and state
19 courts in holding that when class action litigation establishes a monetary fund for the benefit of the class
20 members, and the trial court in its equitable powers awards class counsel a fee out of that fund, the court
21 may determine the amount of a reasonable fee by choosing an appropriate percentage of the fund
22 created"). Under the percentage of the fund method, a court's objective remains to "mimic the market"
23 in fixing a reasonable fee. See *Gaskill v. Gordon*, 160 F.3d 361, 363 (7th Cir. 1998).

24 ⁵ See *Dunleavy v. Nadler (In re Mego Fin. Corp. Sec. Litig.)*, 213 F.3d 454, 459 (9th Cir. 2000)
25 approving settlement which represented "roughly one-sixth of the potential recovery"; *Stovall-Gusman*
26 *v. W.W. Granger, Inc.*, 2015 U.S. Dist. LEXIS 78671, at *12 (N.D. Cal. 2015) (granting final approval
27 where "the proposed Total Settlement Amount represents approximately 10% of what class might have
28 been awarded had they succeeded at trial."); *Viceral v. Mistras Grp., Inc.*, 2016 WL 5907869 (N.D. Cal.
2016) (approving wage and hour class action settlement amounting to 8.1% of full verdict value); *Ma*
v. Covidien Holding, Inc., 2014 WL 2472316, (C.D. Cal. 2014) (approving wage and hour class action
settlement worth "somewhere between 9% and 18%" of full verdict value).

1 First, the fee award representing one-third of the fund clearly falls within that range and is
2 consistent with other rulings of other courts and comprehensive surveys of class action settlements and
3 fee awards. Attorneys' fees awards of one-third of the fund are within the expected range in the market
4 in legal services. See Fitzpatrick, *An Empirical Study of Class Action Settlements and Their Fee Award*,
5 7 J. Empirical Leg. Stud. 811, 833 (2010) (analyzing 444 cases between 2006-2007 and concluding that
6 "[m]ost fee awards were between 25 percent and 35 percent"). In *Laffitte*, the Court expressly approved
7 of a one-third fee award. Such similar awards by other Courts are set forth in the Blumenthal Decl. ¶11.

8 Second, the results delivered by Class Counsel also support the requested percentage of the fund.
9 Here, Plaintiff and his counsel secured a \$660,000 settlement for the benefit of the Class, and not one
10 Class Member objected. The Settlement was possible only because Class Counsel was able to convince
11 Defendant that Plaintiff could potentially prevail on the contested issues regarding liability, maintain
12 class certification, overcome difficulties in proof as to monetary relief and take the case to trial if need
13 be. Blumenthal Decl. ¶ 10(f). In successfully navigating these hurdles Class Counsel displayed the
14 necessary skills in both wage and hour and class action litigation. Moreover, as discussed above, there
15 were significant risks to the contingent litigation. See *Barbosa v. Cargill Meat Solutions Corp.*, 297
16 F.R.D. 431, 449 (E.D. Cal. 2013) ("**Like this case, where recovery is uncertain, an award of**
17 **one-third of the common fund as attorneys' fees has been found to be appropriate.**")

18 Third, "the response of the class members to attorneys' fee notice, though not decisive, is
19 relevant to the ... reasonable determination" regarding fees. *Swedish Hospital v. Shalala*, 1 F.3d 1261,
20 1272 (D.C. Cir. 1993). A positive response rate tends to suggest that the court's "approximation of the
21 market" for fees is well supported. *Id.* at 1269. Here, the Class Notice specifically notified the Class that
22 Class Counsel would be seeking a one-third fee award. Again, there were no objections.

23 Fourth, it is recognized that one of the primary factors justifying an enhanced attorney's fees
24 reward is the attendant risks inherent in the litigation. Here, it is clear that a settlement fund of \$660,000
25 has been created. For Class Counsel, the fees here were wholly contingent in nature and the case
26 presented far more risk than the usual contingent fee case. Among the risks was the cost inherent in
27 class action litigation, as well as a long battle with a corporate Defendant who had retained a premier
28 and highly experienced defense firm. **Counsel retained on a contingency fee basis, whether in**

1 private matters or in class action litigation, is entitled to a premium above their hourly rate in
2 order to compensate for both the risks and the delay in payment. See e.g. *Stanger v. China Elec.*
3 *Motor, Inc.*, 812 F.3d 734, 741 (9th Cir. 2016) (courts "must" apply a risk enhancement); *Stetson v.*
4 *Grissom*, 821 F.3d 1157, 1166 (9th Cir. 2016) (abuse of discretion not to apply risk multiplier).

5 Fifth, the requested fee award is supported by the lodestar cross-check. The reasonableness of
6 the requested attorneys' fee of one-third equal to \$220,000 is also established by reference to Class
7 Counsel's lodestar in this matter. **The contemporaneous billing records for Class Counsel evidence**
8 **that through March 27, 2025, Class Counsel's total lodestar is \$143,226.25, with significant**
9 **additional fees still to be incurred to complete final approval and the settlement process.**

10 Blumenthal Decl. at ¶ 12 and Exhibits #3. The requested fee award is therefore currently equivalent
11 to Class Counsel's total lodestar with a reasonable multiplier of 1.5, and there will be additional lodestar
12 incurred by Class Counsel to complete the settlement process and manage the settlement distribution
13 and reports. Blumenthal Decl. at ¶ 12. Such a multiplier is below the range of multipliers approved
14 in other cases such as *Laffitte* and *Vizcaino v. Microsoft Corp.*, 290 F.3d 1043, 1051 (9th Cir. 2002).⁶

15 For such reasons, Class Counsel's request for attorneys' fees in the amount of one-third of the
16 common fund is fair and reasonable, and should be approved.

17 **B. The Reimbursement of Litigation Expenses**

18 The Agreement provides at paragraph 3.2(b), that Class Counsel may seek a "Class Counsel
19 Litigation Expenses Payment of not more than \$20,000." Class Counsel requests reimbursement for
20 incurred litigation expenses and costs in the amount of \$17,531.04. Class Counsel have incurred
21 \$17,531.04 based upon counsel's billing records. These litigation expenses include the expenses
22 incurred for filing fees, mediation expenses, expert expenses (Berger Consulting), attorney service

23
24 ⁶ See *Laffitte*, *supra*, 1 Cal. 5th at 487 (approving 1/3 fee award with multiplier of 2.13); *Vizcaino*
25 *supra*, at 1051 (3.65 multiplier approved); *Pellegrino v. Robert Half Intern., Inc.*, 182 Cal.App.4th 278
26 (2010) (in class actions reasonable multipliers of 2.0 to 4.0 are often applied); *Wershba*, 91 Cal. App.
27 4th at 255 ("multipliers can range from 2 to 4 or even higher."); *In re Sutter Health Uninsured Pricing*
28 *Cases*, 171 Cal.App.4th 495, 512 (2009) (affirming multiplier of 2.52 as "fair and reasonable"); *Chavez*
v. Netflix, Inc., 162 Cal.App.4th 43, 66 (2008) (affirming multiplier of 2.53 as well within the approved
range of 2 to 4); *Taylor v. Fedex Freight, Inc.*, 2016 U.S. Dist. LEXIS 142202 (E.D. Cal. 2016) (2.26
multiplier).

1 charges (Knox, OneLegal), Case Anywhere charges, and legal research charges (LexisNexis), all of
2 which are costs normally billed to and paid by the client.⁷ The details of the litigation expenses incurred
3 are set forth the Blumenthal Decl. at ¶ 13 and Exhibit #3. These costs were reasonably incurred in the
4 prosecution of the Action. Blumenthal Decl. at ¶ 13. Because these costs were necessary to the
5 successful prosecution of these claims, the request should be granted.

6 **C. The Service Award Is Reasonable and Should be Approved**

7 Plaintiff respectfully submit that for her service as the sole class representative, Plaintiff should
8 be awarded the agreed service award of \$10,000, in accordance with the Agreement for her time, risk
9 and effort expended on behalf of the Class as the class representative. (Agreement at ¶ 3.2(a).)
10 Defendant has agreed to this payment and there have been no objections to the requested service award.
11 The Blumenthal Decl. at ¶ 14, provides a long list of equivalent service awards approved in California
12 in similar cases, which further supports the request in this case. The Plaintiff's Declaration is submitted
13 in support of this request and is attached as Exhibit #5 to the Blumenthal Decl.

14 As the only representative of the Class, Plaintiff performed her duties to the Class admirably and
15 without exception. Plaintiff worked extensively with Class Counsel during the course of the litigation,
16 responding to numerous requests, searching for documents, working with counsel, and reviewing the
17 settlement documentation. Blumenthal Decl. at ¶ 14. The Plaintiff's Declaration details the
18 involvement, stress and risks she undertook as a result of this Action. Plaintiff also assumed the serious
19 risk that she might possibly be liable for costs and fees to Defendant, as well as the reputational risk of
20 being "blacklisted" by other future employers for having filed a class action on behalf of employees.
21 Blumenthal Decl. at ¶ 15. Without the Plaintiff's participation, cooperation and information, no other
22 employees would be receiving any benefit. Blumenthal Decl. at ¶¶ 15-16.

23 The payment of a service award to a successful class representative is appropriate and the
24 amount of \$12,500 is well within the currently awarded range for similar settlements. *See, e.g., Andrews*

25
26 ⁷ Nontaxable costs are properly awarded where authorized by the parties' agreement. *Stetson*, 821
27 F.3d at 1165. Accordingly, "[e]xpenses such as reimbursement for travel, meals, lodging,
28 photocopying, long-distance telephone calls, computer legal research, postage, courier service,
mediation, exhibits, documents scanning, and visual equipment are typically recoverable." *Rutti v.*
Lojack Corp., Inc., 2012 WL 3151077, at *12 (C.D. Cal. 2012).

1 v. *Plains All Am. Pipeline L.P.*, 2022 U.S. Dist. LEXIS 172183, at *11 (C.D. Cal. 2022) (service awards
2 of \$15,000 each are appropriate); *Reynolds v. Direct Flow Med., Inc.*, 2019 U.S. Dist. LEXIS 149865,
3 at *19 (N.D. Cal. 2019) (granting \$12,500 service award); *Mathein v. Pier 1 Imps. (U.S.), Inc.*, 2018
4 U.S. Dist. LEXIS 71386 (E.D. Cal. 2018) (awarding \$12,500); *Louie v. Kaiser Foundation Health Plan,*
5 *Inc.*, 2008 WL 4473183, *7 (S.D. Cal. 2008) (awarding \$25,000 service award to each of six plaintiffs);
6 *Glass v. UBS Fin. Servs.*, 2007 WL 221862, *16-17 (N.D. Cal. 2007) (awarding \$25,000 service
7 award). Class Counsel respectfully request approval of the Class Representative Service Payment in
8 accordance with the Agreement.

9 **VI. CONCLUSION**

10 Plaintiff respectfully submits that the proposed settlement satisfies the standard of fairness
11 established in California law and should therefore be finally approved as fair, reasonable and adequate
12 and requests entry of the Final Approval Order and Judgment, submitted herewith.

13 Respectfully submitted,

14 Dated: March 27, 2025

BLUMENTHAL NORDREHAUG BHOWMIK DE BLOUW LLP
By: /s/ Kyle Nordrehaug
Kyle R. Nordrehaug,
Attorneys for Plaintiff