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SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF LOS ANGELES

VANESSA HERNANDEZ, LAVONTRA BREAUX, NARON TRIPLETT, and NATALIE FLORES Individually, and on behalf of other members of the general public similarly situated; Plaintiffs, vs. PANDORA JEWELRY LLC, a Maryland Limited Liability Company; PANDORA VENTURES, LLC, a Maryland Limited Liability Company; and DOES 1-10, inclusive, Defendants.	CASE NO. 24STCV04554 [Related Case Nos.: 23SMCV04825; 24SMCV00844; 24STCV04697; and 24STCV15396] **MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF PLAINTIFFS' MOTION FOR FINAL APPROVAL OF CLASS ACTION SETTLEMENT** Date: June 5, 2026 Time: 11:30 a.m. Dept.: 12 Judge: Hon. Carolyn B. Kuhl

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TABLE OF CONTENTS

I. Summary of Motion.. 2
II. Updated Factual and Procedural History.......... 3
III. Settlement Terms.......... 3
1. Contingent Nature of the Settlement.......... 3
2. Description of the Settlement Classes.......... 4
3. Appointment of Settlement Claims Administrator.......... 4
4. Scope of the Release.......... 4
5. Cash Payment and Allocation.......... 5
6. Contingent Costs.......... 5
IV. Controlling Law.......... 6
A. Final Approval of Class Action Settlements.......... 6
B. Attorneys' Fees.......... 7
C. Class Representative Enhancements.......... 8
V. Argument.......... 9
A. The Proposed Settlement Is Made in Good Faith.......... 9
1. Strength of Plaintiff's Case and Investigation and Discovery 9
2. The Risk, Expense, Complexity, and Likely Duration of Further Litigation 11
3. The Experience and Views of Counsel.......... 11
4. Presence of a Governmental Actor.......... 13
5. Reaction of the Class Members to the Proposed Settlement.......... 13
B. The Requested Attorney's Fees and Costs Are Reasonable.......... 14
1. The Contingent Nature of the Fee Agreement, and Inherent Risk Therein, Supports Awarding a *Percentage of the Recovery*.......... 14
2. The Continuing Obligation to Devote Time and Effort to the Litigation 15
3. The Extent to which the Litigation Precluded Other Employment 15
4. The Experience, Reputation, and Ability of the Attorneys who Performed the Services, and the Skill They Displayed in Litigation 16

5. The Amount Involved and the Results Obtained on Behalf of the Class....16
6. A Percentage of the Common Fund Award is Proper....16
7. The Lodestar Cross-Check....17
8. Lodestar Multiplier....18
9. The Reasonableness of the Hourly Rates....19
10. The Amount of Costs....20
C. The Requested Class Representative Enhancement Is Reasonable....20
VI. Conclusion....21

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(1991) 235 Cal.App.3d 1407, 1419 15

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(1980) 444 U.S. 472, 478 14,17

Brinker Rest. v. Superior Court
(2012) 53 Cal. 4th 1004, 1051 9

Carrington v. Starbucks Corp.
(2018) 30 Cal.App.5th 504 16

Cellphone Termination Fee Cases
(2010) 186 Cal.App.4th 1380, 1394-1395 8

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(2008) 162 Cal. App. 4th 43 6,8,17

Clark v. Am. Residential Servs. LLC
(2009) 175 Cal.App.4th 785, 804 9

Coalition for Los Angeles County Planning v. Board of Supervisors
(1977) 76 Cal. App.3d 241 18

Donohue v. AMN Services, LLC
11 Cal.5th 58 (2021) 12,16, 19

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(1987) 196 Cal. App. 3d 983 18

Dunk v. Ford Motor Co.
(1996) 48 Cal. App. 4th 1794 6,8

Estate of Stauffer
(1959) 53 Cal.2d 124, 132.) 15

Golba v. Dick's Sporting Goods, Inc.
(2015) 238 Cal.App.4th 1251, 1270 8

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2011 U.S. Dist. LEXIS 126026 *20 (S.D.N.Y. Oct. 28, 2011) 20

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(2009) 174 Cal. App. 4th 1441 7,9

In re Ampicillin Antitrust Litig.
(D.D.C. 1981) 526 F.Supp.494 17

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175 Cal. App. 4th 545, 556-57 (2009) 19

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(9th Cir. 2000) 213 F.3d 454, 463 8

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(2006) 135 Cal. App. 4th 706 6,8

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(N.D. Cal. 2008) 559 F.Supp.2d 1036,1043 13

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(9th Cir. 1994) 19 F.3d 1291, 1299. 14

Jordan v. California Dep't of Motor Vehicles
(2002) 100 Cal.App.4th 431, 446 15

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(1985) 170 Cal. App. 3d 1205 18

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24 Cal. 4th 1122, 1132 (2001) 8

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(2016) 1 Cal.5th 480, 503 7,8,17

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(2000) 82 Cal.App.4th 51 17

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22 Cal. 4th 1084, 1096-97 (2000) 19

Rabin v. Concord Assets Group, Inc.
(S.D.N.Y. 1991) Fed. Sec. L. Rep. (CCH) par. 96471 at 92,091 18

Rievman v. Burlington Northern Railroad Co.
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(1986) 183 Cal. App. 3d 74 18

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(1944) 25 Cal.2d 274, 284..17

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Cal. Lab. Code § 1194(a)..20

Cal. Lab. Code § 2699(g)(1)..20

OTHER

1 Newberg §14.03..17

I. SUMMARY OF MOTION

This motion seeks final approval of a "Wage and Hour" representative (*i.e.*, "PAGA") and Class Action settlement. Plaintiffs LAVONTRA BREAUX, VANESSA HERNANDEZ, NARON TRIPLETT, and NATALIE FLORES (collectively, "Plaintiffs") claim on behalf of a class of all persons who worked for Defendants as non-exempt, hourly paid employees in California during the operative class period, set forth herein.

Following approximately **22 months** of formal litigation, exchanges of formal and informal discovery, a full-day of Mediation, and extensive arms length negotiations, the parties agreed to the terms of the Class Action and PAGA Settlement and Release Agreement ("Settlement," "Agreement," or "Settlement Agreement"). Following the distribution of the Court-approved Notice of Class and PAGA Action Settlement ("Class Notice") to the Class, the proposed final settlement figures are as follows:

Final Size of Potential Class:	**2,714 Participating Class Members**
Objections to Settlement:	**Two (2)** [1]
Opt-Outs:	**Two (.07%)**
Gross Settlement Amount ("GSA"):	**$2,850,000.00**
Settlement Administration Costs:	**$19,950.00**
Litigation Costs:	**$37,232.79**
LWDA Payment:	**$213,750.00** (75 % Share of $285,000 allocation)
Attorneys' Fees:	**$949,905.00** (1/3 of total)
Class Representative Service Awards:	**$40,000.00** ($10,000.00 each)

There has been **two objections** to this proposed settlement. The *average* gross payment to each participating Class Member based on the above figures is **$545.37**, which does not account for the fact that certain Class Members will receive more or less than an "average" share, depending on the

[1] A separate concurrently filed pleading will contain the response to these objections. **Please Note**: the "objection" from Catherine Rashada appears to actually be in error, as she only filled out contact information on the objection form and did not raise any actual objection to the settlement.

number of shifts each Class Member worked for Defendants during the Class Period. (Please see the declaration of Settlement Administrator Nicole Bench at ¶16).

II. UPDATED FACTUAL AND PROCEDURAL HISTORY

Should the Court deem it relevant, a much more detailed procedural history of the case, and summary of all claims, was already set forth in Plaintiff's original Motion for Preliminary Approval. (ROA #64). The Court **granted** Preliminary Approval of the Parties' Settlement on December 11, 2025. (ROA #87).

As was detailed more fully in the prior motion, after nearly two years of active litigation, the parties attended a highly adversarial mediation, presided over by a well respected "Wage and Hour" mediator (Steven Serratore, Esq. ("Mediator")). (ROA #64, § II). The case did not settle at mediation. However, the Parties continued settlement discussions directly between counsel, and at times, facilitated through the Mediator. *Id*. Through these discussions, the Parties agreed on key terms of a settlement that would globally resolve all class and representative "Wage and Hour" claims asserted in the operative complaint in this Action and the related Actions.

Most importantly for purposes of final approval, only two employees (out of **2,716 individuals)** objected, and only two employees have "opted out." (Bench decl. ¶¶ 11-12). Thus, the class overwhelmingly supports the proposed settlement.

The parties' Settlement Agreement contains the terms of the Class Action and PAGA settlement and is already on file with the Court. (ROA #65: **Exhibit A** thereto). For ease of reference, the Agreement will be cited to herein again as Agreement or Exhibit A)[2].

III. SETTLEMENT TERMS

The Agreement includes the following key terms:

1. Contingent Nature of the Settlement

The parties entered into the Agreement exclusively for the purpose of resolving the actions and facilitating the negotiated settlement. Should the Court, for any reason, not finally approve the

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[2] This Memorandum incorporates by reference the definitions in the Agreement and the terms used herein are intended to have the same meaning as set forth in the Agreement.

Agreement, or if the Agreement is terminated for any reason, the Agreement will be null and void and this action will revert to its status with respect to any and all matters as they existed prior to the parties signing the Agreement. (**Ex. A** at ¶6.7).

2. Description of the Settlement Class

Solely for the purposes of the Agreement, the parties have agreed that the term "Class Member" is defined as:

> all persons who worked for Defendants as non-exempt, hourly paid employees in California during the Class Period. (**Exhibit A** at ¶1.7).

The Class Period is defined as "between February 2, 2020 and either (i) June 1, 2025, or (ii) an earlier date as set forth in Paragraph 2.1.1." (Ex. A at ¶1.10). The Class Notices were sent to 2,716 individuals, as determined by Defendants' employment records. (Bench decl. ¶5). Two (2) Class Members opted out of the class action portion of the Settlement. (Bench decl. ¶ 11). **Two** Class Members have objected to the proposed Settlement. (Bench decl. ¶12). Following the mailing of the Class Notice, there are a total of 2,714 class members who will all receive a share of the class action portion of the settlement proceeds. (Bench decl. ¶¶14-15).

3. Appointment of Settlement Claims Administrator

ILYM Group, Inc. ("ILYM") was used as the "Settlement Administrator" for purposes of providing the Class Notice (and its instructions) to Class Members, issuing all payments pursuant to the Agreement, and to track all opt-outs and objections to the settlement.

As detailed in the accompanying declaration, ILYM successfully completed all steps of the Notice process and is prepared to distribute payments pursuant to this Court's Final Approval Order. (See Bench decl.¶¶ 3-18).

4. Scope of the Release

For purposes of the Agreement, Class Members release all claims that are either or both: (1) alleged in the First Amended Complaint ("FAC") filed November 13, 2025; or (2) which relate to or arise out of the allegations and claims asserted in the FAC and could have been alleged in the FAC relating in any way to violations of the wage and hour provisions of the California Labor Code or the

California Wage Orders, or any wage and hour provisions of California law. The precise release language is reflected in **Exhibit A** at ¶3.1.

5. Cash Payment and Allocation

The Agreement provides for an automatic Individual Settlement Payment to the 2,714 members of the Class who did not submit valid requests for exclusion. The settlement is non-reversionary, in that all of the Net Settlement Amount, after all costs and fees are deducted, will be paid to the participating Class Members. Each Individual Settlement Payment shall be allocated 20% as wages and 80% as non-wage damages, interest, and penalties. (**Ex. A** at ¶2.2.5).

Based on the final counts after the notice period, the 2,714 Participating Class Members will be entitled to an average Individual Settlement Payment of approximately **$545.37.** (Bench decl. ¶ 16). The actual amounts received vary based on length of employment during the class period. The highest estimated payout is **$4,073.28** and the lowest amount is **$3.88**. (Bench decl. ¶ 16).

The settlement checks returned as undeliverable and those settlement checks remaining un-cashed for more than one hundred eight (180) calendar days after issuance shall be distributed to the Controller of the State of California to be held pursuant to the Unclaimed Property Law, California Code of Civil Procedure section 1500 *et seq*., for the benefit of those Settlement Members who did not receive, deposit, or case their checks until such time they claim their property. The Parties agree this disposition results in no "unpaid residue" under California Civil Procedure Code § 384, as the entire Net Fund Value shall be paid to Participating Class Members, whether or not their Individual Settlement Payment checks are cashed. (**Ex. A** at ¶6.6.3).

6. Contingent Costs

The Agreement provides for Nine Hundred Forty-Nine Thousand Nine Hundred Five Dollars (**$949,905.00**) in Attorneys' Fees, which is roughly one-third (1/3%) of the Gross Fund Value, and up to Seventy-Five Thousand Dollars ($75,000.00) in litigation costs. (*See* **Exhibit A** at ¶2.2.1). The actual costs incurred by all Class Counsel totals **$37,232.79**. (Yaeckel decl. ¶30).

For costs incurred in administering the Settlement, the Agreement provides for up to Nineteen Thousand Nine Hundred Fifty Dollars ($19,950.00), or less. (*See* **Exhibit A** at ¶ 2.2.3; Bench decl. ¶17).

Defendants also agree to allocate Two Hundred Eighty-Five Thousand Dollars ($285,000.00) to be allocated for Plaintiffs' PAGA claims with 75% of the amount, or Two Hundred Thirteen Thousand Seven Hundred Fifty Dollars ($213,750.00) being paid to the LWDA, and 25%, or Seventy-One Thousand Two Hundred Fifty Dollars ($71,250.00), being distributed amongst the PAGA Members. (*See* **Exhibit A** at ¶2.2.4).

Defendants also agree to pay to Plaintiffs Breaux, Flores, Triplett and Hernandez Ten Thousand Dollars (**$10,000.00**) each, which represents a Class Representative Enhancement Payment in consideration for their services as Class Representatives. (*See* **Exhibit A** at ¶2.2.2). The class was notified of the payments to Plaintiffs and did not object to the Enhancements. (See Bench decl.: **Ex. B** at § IV). The enhancement awards were decided pursuant to good faith negotiations and is intended to recognize that it was the class representatives who initiated the lawsuit, initiated the PAGA claims, and provided critical documents and witnesses to their attorneys, all in an effort to obtain moneys allegedly owed not only to themselves, but to all other employees. For further justification of the enhancements, please see the declarations of Ms. Breaux, Ms. Flores, Ms. Triplett, and Ms. Hernandez. (Declarations Filed in Support of Motion for Preliminary Approval).

IV. CONTROLLING LAW

The following facts and law support this unopposed request.

A. FINAL APPROVAL OF CLASS ACTION SETTLEMENTS

The trial court has broad discretion to determine whether a class action settlement is fair and reasonable. *In re Microsoft I-V Cases* (2006) 135 Cal.App.4th 706, 723.

Fairness is presumed where **(1)** the settlement is reached through arm's-length bargaining; **(2)** investigation and discovery are sufficient to allow counsel and the court to act intelligently; **(3)** counsel is experienced in similar litigation; and **(4)** the percentage of objectors is small. *Chaves v. Netflix, Inc.*, (2008) 162 Cal.App.4th 43, 52; *Dunk v. Ford Motor Co.*,(1996) 48 Cal.App.4th 1794, 1802. But, even where it appears the settlement is fair, the court must still determine whether the settlement should be approved after considering "the strengths and weaknesses of the claims and risks of the particular litigation." *Kullar v. Foot Locker Retail, Inc.*, (2008) 168 Cal.App.4th 116, 129. It considers: (i) the strength of the plaintiff's case; (ii) the risks, expense, complexity and likely duration of further litigation; (iii) the risk of maintaining class action status throughout the trial; (iv) the amount offered in settlement; (v) the extent of discovery completed; (vi) the stage of the proceedings; (vii) the experience and views of counsel; (viii) the presence of a governmental participant; and (ix) any reaction of putative class members. *Dunk*, *supra*, 48 Cal.App.4th, at 1800-1801; *In re Microsoft*, *supra*, 135 Cal.App.4th, at 723.

The court should approve a class action settlement when the settlement is fair and falls "within the range of reasonableness." *Hernandez v. Vitamin Shoppe*, (2009) 174 Cal.App.4th 1441, 1446.

B. ATTORNEYS' FEES

The California Supreme Court has recently determined that the percentage of the benefit, ("percentage method") is proper for determining a reasonable attorney fee award in an employment class action case. *Laffitte v. Robert Half Intern. Inc*. (2016) 1 Cal.5th 480.

The California Supreme Court's rationale was as follows:

> we clarify today that use of the percentage method to calculate a fee in a common fund case, where the award serves to spread the attorney fee among all the beneficiaries of the fund, does not in itself constitute an abuse of discretion. We join the overwhelming majority of federal and state courts in holding that when class action litigation establishes a monetary fund for the benefit of the class members, and the trial court in its equitable powers awards class counsel a fee out of that fund, the court may determine the amount of a reasonable fee by choosing an appropriate percentage of the fund created. The *recognized advantages* of the percentage method—including relative ease of calculation, alignment of incentives between counsel and the class, a better approximation of market conditions in a contingency case, and the encouragement it provides counsel to seek an early settlement and avoid unnecessarily prolonging the litigation (See pt. I, ante; *Lealao, supra*, 82 Cal.App.4th at pp. 48–49, 97 Cal.Rptr.2d 797; *Rawlings v. Prudential–Bache Properties, Inc., supra*, 9 F.3d at p. 516)**—convince us the percentage method is a valuable tool that should not be denied our trial courts**. *Laffitte v. Robert Half Intern. Inc*. (2016) 1 Cal.5th 480, 503 (emphasis added).

The Court also determined that while permissible, a lode-star "cross check" of the percentage method was **not** required of California's trial courts. *Id.* at 506.

In fact the *Laffitte* Court further noted how advocating a lodestar, over a percentage of the recovery, creates perverse litigation incentives:

> Critics of the lodestar method note, for example, the difficulty in applying the method and cite the **undesirable incentives created by that approach**—i.e., a financial **incentive to extend the litigation so that the attorneys can accrue additional hours** (and thus, additional fees). Moreover, some courts and commentators have criticized the lodestar method because **it gives counsel less of an incentive to maximize the recovery** for the class.

Id. at 494 (emphasis added).

Finally, "regardless whether the percentage method or the lodestar method is used, **fee awards in class actions average around one-third of the recovery**." *Chavez v. Netflix, Inc.*, (2008) 162 Cal.App.4th 43, 66, n.11 (2008); See e.g., *In re Mego Fin. Corp. Sec. Litig.* (9th Cir. 2000) 213 F.3d 454, 463 (upholding award of 33.3 percent of the settlement fund).

In considering the reasonableness of the fees requested under the percentage method, California courts may also consider the following factors: **(1)** the results achieved on behalf of the Class; **(2)** the response of the Class to the settlement, including a lack of objections to the settlement terms, and particularly to the fee award; **(3)** counsel's preclusion from taking other work and the contingent nature of the fee award; and **(4)** counsel's experience, reputation, and ability. *See Laffitte*, 1 Cal. 5th at 504-05 (holding that the court may consider various factors in determining the reasonableness of the fees); see also, *Ketchum v. Moses*, 24 Cal. 4th 1122, 1132 (2001) (applying these factors in considering a fee award under the lodestar-multiplier method).

C. CLASS REPRESENTATIVE ENHANCEMENTS

An incentive award may be appropriate to induce someone to serve as a class representative.

In determining whether to make an incentive award, the court may consider (1) the risk, both financial and otherwise, the class representative faced in bringing the suit; (2) the notoriety and personal difficulties encountered by the class representative; (3) the amount of time and effort spent by the class representative; (4) the duration of the litigation; and (5) the personal benefit received by the class representative as a result of the litigation. *Golba v. Dick's Sporting Goods, Inc.* (2015) 238 Cal.App.4th 1251, 1270 citing *Cellphone Termination Fee Cases* (2010) 186 Cal.App.4th 1380, 1394-1395.

Additional factors to consider include:

> "'the actions the plaintiff has taken to protect the interests of the class, the degree to which the class has benefitted from those actions, and the amount of time and effort the plaintiff expended in pursuing the litigation.' Federal district courts have identified other factors as well, including 'the risk to the class representative in commencing suit, both financial and otherwise,' 'the notoriety and personal difficulties encountered by the class representative," the duration of the litigation, and 'the personal benefit (or lack thereof) enjoyed by the class representative as a result of the litigation.'"

Clark v. Am. Residential Servs. LLC (2009) 175 Cal.App.4th 785, 804.

V. ARGUMENT

A. THE PROPOSED SETTLEMENT IS MADE IN GOOD FAITH

As specifically set forth below, the settlement meets all requirements for Court approval.

1. Strength of Plaintiffs' Case and Investigation and Discovery

The most important factor courts consider when evaluating the fairness of the class action settlement is the strength of the plaintiff's case balanced against the amount offered in settlement. *Kullar, supra*, 168 Cal.App.4th at 130.

This is a class and representative action, with Plaintiffs' claims premised on Labor Code violations, based (in part) on Defendants' uniform policies. *Brinker Rest. v. Superior Court*, (2012) 53 Cal. 4th 1004, 1051 (holding that, where a company's uniform policy prohibits off-the-clock work, certification of claims for such off-the-clock work is inappropriate, especially where the court is merely "presented with anecdotal evidence of a handful of individual instances in which employees worked off the clock.") Thus, Plaintiffs counsels' approach was to investigate Defendants' employment policies by, *inter alia*, scrutinizing putative class members' time and wage records, as well as Defendants' written meal and rest period policies.

As detailed more thoroughly in the preliminary approval motion, extensive informal exchanges of information occurred prior to mediation. (See ROA # 64 at § II).

Plaintiffs obtained copies of Defendants' time keeping, employee compensation, Meal Period, Rest Period, and reimbursement polices. In addition to Plaintiff's time and wage records, Defendants also produced a large electronic sampling of settlement class member's records. Counsel reviewed hundreds of pages of electronic documents. Through this review, Plaintiff's counsel was able to analyze and verify the following: Defendants' "timekeeping" and compensation practices and the average net effect it had on Defendants' nonexempt employees; the format and content of Defendants' itemized wage statements; the average rate of pay for Defendants' nonexempt employees; and the average number of potential meal period violations per employee based on multiple sets of timekeeping data.

From this data, a detailed valuation of all claims was performed, and was presented to this Court at the preliminary approval stage. (See ROA # 64 at § IV, and the declaration of Eric K. Yaeckel in Support of Preliminary Approval).

While Plaintiffs maintained the claims were all viable, Plaintiffs (and counsel) recognize there were substantial risks to proceeding on behalf of a putative class and representative group. Defendants presented several potentially valid defenses to certification, liability and mitigation of damages. (Yaeckel Decl.¶12).

Specifically, with respect to Plaintiffs' putative class claims regarding failure to pay all compensation, Defendants denied that any unpaid work occurred, and even if some did occur, Defendants claimed they were not on notice of these alleged Labor Code violations and had a strict written prohibition against off-the-clock work and a mandate that all time worked must be accurately recorded. As to meal and rest period claims, Defendants argued that its time and pay records do not conclusively show whether (1) Defendants actually failed to provide a Meal Period, (2) there was a voluntary waiver, (3) employees forgot to clock out, (4) employees voluntarily chose to skip or take them late even though they were provided, or (5) whether the individual was working on a federal enclave and therefore lacked standing to bring such a claim. Similarly, as to rest periods, Defendants pointed out that they provided for adequate breaks and argued that witness testimony would demonstrate that in practice no restrictions on rest breaks was ever enforced. On Plaintiffs' wage statement claims, Defendants argued that the failure to list gross and net wages are derivative of other claims that may ultimately fail and as a result there is no "knowing and intentional failure" to list information, which triggers liability under Labor Code § 226(e). Additionally, Defendants asserted that proof of any of these alleged violations would require individualized inquiries, which could preclude class certification, including, for example, the fact that in light of Defendants' written Meal and Rest

Period policy, Defendants contended there was no uniform policy or practice of denying Meal and Rest Periods.

With respect to Plaintiffs' purported PAGA representative claim based on the same foregoing Labor Code theories, Defendants asserted the same defenses summarized above. Defendants also asserted that proof of these alleged violations would require individualized inquiries, which could make any PAGA claims unmanageable. And, Defendants also argued that even if any violations could be established, the Court would have great discretion to mitigate any penalties awarded.

2. <u>The Risk, Expense, Complexity, and Likely Duration of Further Litigation</u>

Plaintiffs' Counsel's effectiveness in prosecuting this case has translated into tangible monetary benefits for the Settlement Class Members in the following respects: **(a)** a guaranteed favorable result; **(b)** guaranteed monetary recovery over a reasonably short period of time, as opposed to possibly waiting additional years for a potentially worse (or no) result; and **(c)** significant savings in attorney's fees and costs, which would have greatly increased had the case progressed through trial and possible appeals.

Given the existence of viable defenses, detailed in the Motion for Preliminary Approval and above, for the vast majority of the class claims, it was unlikely that all class claims would have been certified and brought to trial. Therefore, this class action settlement is a superior result for both parties. In exchange for a full release, Class members are able to recover substantial monetary amounts *now*. Defendant is also able to avoid the costs of defending claims stemming from the same wage and hour issues in this case.

Regarding Plaintiffs' PAGA representative claims, there is also a substantial risk that Plaintiffs would either fail to obtain a favorable judgment on one or more of these claims, or that a favorable award on one or more PAGA claims can be reduced. *See Thurman v. Bayshore Transit Mgmt., Inc.*, (2012) 203 Cal.App.4th 1112, 1135 (holding the Superior Court may "mitigate" PAGA penalties, even after a finding of liability.)

3. <u>The Experience and Views of Counsel</u>

Class Counsel has considerable experience in wage and hour and class action litigation. Mr. Sullivan (who is currently and temporarily unavailable, due to a medical issue), estimates that, throughout the course of his 30-year career, he has acted as Lead Plaintiffs' counsel on "Wage and Hour" Class/Representative actions that have collected more than $300 million for employees and/or the State of California, either through judgment following trial, or via negotiated settlement. (Yaeckel decl. ¶ 3).

Mr. Yaeckel has over 14 years of experience as an attorney who is primarily engaged in prosecuting class and representative actions. Mr. Yaeckel is one of the attorneys of record in a matter very recently (and favorably) decided before the California Supreme Court titled *Donohue v. AMN Services, LLC*, 11 Cal.5th 58 (2021). The *Donohue* matter is a certified class and PAGA action. Mr. Yaeckel also has specific trial experience in several PAGA representative action matters. (Yaeckel decl. ¶ 4-5).

Mr. Ryan T. Kuhn has over 6 years of experience as an attorney who is primarily engaged in prosecuting class and representative actions. He has been the "lead associate" on numerous class action cases that settled in the high "seven figure" and "eight figure" range. (Yaeckel decl. ¶ 4).

Mr. Cody D. Archer has about 1 year of experience as an attorney who is primarily engaged in prosecuting class and representative actions. He has been the "lead associate" on numerous class action cases that have settled. (Yaeckel decl. ¶ 4).

Lead co-counsel Mr. David D. Bibiyan has approximately 12 years representing plaintiffs in employment class actions. (Bibiyan decl. ¶ 5). His firm has handled numerous large and extensively litigated class action cases, and has repeatedly been found "adequate" to act as class counsel by numerous California State and District Courts. (Bibiyan decl. ¶¶ 9-11).

Lead co-counsel Mr. Mehrdad Bokhour has approximately 13 years representing plaintiffs in employment class actions. (Bokhour decl. ¶6). His firm has handled numerous large and extensively litigated class action cases, and has repeatedly been found "adequate" to act as class counsel by numerous California State and District Courts. (Bokhour decl. ¶¶6-8).

Lead co-counsel Mr. Joshua S. Falakassa has approximately 8 years representing plaintiffs in employment class actions. (Falakassa decl. ¶¶6-7). His firm has handled numerous large and extensively litigated class action cases, and has repeatedly been found "adequate" to act as class counsel by numerous California State and District Courts. (Falakassa decl. ¶¶6-7).

Lead co-counsel Ms. Selena Matavosian's firm Lawyers for Justice, PC has approximately 18 years representing plaintiffs in employment class actions. (Matavosian decl. ¶¶14-19). Her firm has handled numerous large and extensively litigated class action cases, and has repeatedly been found "adequate" to act as class counsel by numerous California State and District Courts. (Matavosian decl. ¶¶14-19).

Based on a detailed analysis of all the claims and the risks involved in continuing litigation, class counsel each submit the **$2,850,000.00** Gross Fund Value represented a fair, and more than reasonable, settlement. (Yaeckel decl. ¶12).

4. <u>Presence of a Governmental Actor</u>

Although the State is not directly involved in this action, Plaintiff "stands in the shoes" of the Labor and Workforce Development Agency ("LWDA") by bringing a PAGA action. Consideration has been made to compensate to Labor Workforce Development Agency ("LWDA") in the amount of $213,750.00 (which is the LWDA's 75% share of a $285,000.00 allocation).

The LWDA was notified and declined to prosecute the claims itself. Counsel for the parties believe this is a fair, reasonable, and adequate allocation. (Yaeckel decl. ¶¶ 13, 15). The LWDA was also served with copies of the Settlement and Preliminary Approval Motion and has not objected or responded to date. (*Id.*) The LWDA has also been served with the notice of this motion and all supporting documents. (See concurrently filed Proof of Service). Counsel will submit a declaration updating the Court should the LWDA provide any response.

5. <u>Reaction of the Class Members to the Proposed Settlement</u>

A total of **2,716** members of the settlement class were notified and only two (2) members requested exclusion and opted out of the class. (Bench decl. ¶¶11, 14).

There has been only <u>two</u> objections to the terms of the proposed settlement. (Bench decl. ¶ 12).

"By any standard, the lack of objection of the Class Members favors approval of the Settlement." *In re Omnivision Technologies, Inc.*, (N.D. Cal. 2008) 559 F.Supp.2d 1036,1043; see also *Ross v. A.H. Robins*, (S.D.N.Y. 1988) 700 F. Supp. 682, 684 ["The absence of objectants may itself be taken as evidencing the fairness of a settlement."]

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B. THE REQUESTED ATTORNEY'S FEES AND COSTS ARE REASONABLE

Plaintiffs will seek, and Defendants will not oppose, a payment of Nine Hundred Forty Nine Thousand Nine Hundred Five Dollars (**$949,905.00**) in Attorneys' Fees, which is one-third (1/3%) of the total Settlement.

The agreement also calls for up to Seventy Five Thousand Dollars ($75,000.00) in litigation costs. However, Plaintiffs will be seeking only a total amount of **$37,232.79** ($9,635.18 SYLG + $8,863.59 Bibiyan Law Group + $7,467.38 Bokhour Law Group and Falakassa Law + $11,266.64 Lawyers for Justice). (Yaeckel decl. ¶ 29; Bibiyan decl. ¶20; Bokhour decl. ¶20; Matavosian decl. ¶20).

As set forth below, the requested attorney's fees are inherently reasonable, on the basis of both a percentage of the recovery and a lodestar method, given the results obtained for the class. The following factors establish the reasonableness of the attorney's fees requested.

1. <u>The Contingent Nature of the Fee Agreement, and Inherent Risk Therein, Supports Awarding a *Percentage of the Recovery*</u>

In the instant matter, Plaintiff's Counsel was retained on a contingency basis. (Yaeckel decl. ¶16). A percentage fee of 35 % (thirty-five percent) was freely negotiated. (*Id.*) As part of the Agreement, Counsel was required to continue the prosecution of the matter regardless of the outcome of the preliminary motions (*i.e.*, class certification.) (*Id.*) Here, however, Plaintiff's Counsel have agreed to a 33 & 1/3 % share of the recovery in order to maximize the recovery on behalf of the class. (*Id.*)

There is an **<u>established</u> practice** in the private legal market to reward attorneys for taking the risk of non-payment by paying them a **premium <u>over</u> their normal hourly rates** for obtaining results in contingency cases. *In re Washington Public Power Supply System Securities Litigation* (9th Cir. 1994) 19 F.3d 1291, 1299. If attorneys' efforts create a benefit for others in addition to their own client, the court is empowered to award fees from that fund. *Boeing v. Van Gemert* (1980) 444 U.S. 472, 478.

The rationale for fee enhancement in contingency cases has been explained as follows:

> 'A contingent fee must be higher than a fee for the same legal services paid as they are performed. **The contingent fee compensates the lawyer not only for the legal services he renders but for the loan of those services. The implicit interest rate on such a loan is higher because the risk of default (the loss of the case, which cancels the debt of the client to the lawyer) is much higher than that of conventional loans**.' (Prosner, Economic Analysis of Law (4th ed.1992) pp. 534,

> 567.) '**A lawyer who both bears the risk of not being paid and provides legal services is not receiving the fair market value of his work if he is paid only for the second of these functions. If he is paid no more, competent counsel will be reluctant to accept fee award cases**.' (Leubsdorf, The Contingency Factor in Attorney Fee Awards (1981) 90 Yale L.J. 473, 480; see also Rules Prof. Conduct, rule 4-200(B)(9) [recognizing the contingent nature of attorney representation is an appropriate component in considering whether a fee is reasonable]; ABA Model Code Prof. Responsibility, DR 2-106(B)(8) [same]; ABA Model Rules Prof. Conduct, rule 1.5(a)(8). [] **Such fee enhancements are intended to compensate for the risk of loss generally in contingency cases as a class**.

Beasley v. Wells Fargo Bank (1991) 235 Cal.App.3d 1407, 1419 (disapproved on other grounds.)

The percentage of the fund approach also sets expectations and incentivizes counsel in taking on the risk of a contingency case:

> The bases of the equitable rule which permits surcharging a common fund with the expenses of its protection or recovery, including counsel fees, appear to be these: fairness to the successful litigant, who might otherwise receive no benefit because his recovery might be consumed by the expenses; correlative prevention of an unfair advantage to the others who are entitled to share in the fund and who should bear their share of the burden of its recovery; **encouragement of the attorney for the successful litigant, who will be more willing to undertake and diligently prosecute proper litigation for the protection or recovery of the fund if he is assured that he will be promptly and directly compensated should his efforts be successful**.

Jordan v. California Dep't of Motor Vehicles (2002) 100 Cal.App.4th 431, 446 (with emphasis added) citing *Estate of Stauffer* (1959) 53 Cal.2d 124, 132.

As a result, the percentage of the recovery (routinely approved in California at 33 & 1/3%), properly incentivizes and awards counsel for diligently pursuing this matter in the face of numerous obstacles to both certification, and liability.

2. <u>The Continuing Obligation to Devote Time and Effort to the Litigation</u>

Since the tentative agreement, my office has had to devote considerable time to maintain the litigation, achieve Court approval for the proposed settlement, and assist the proposed Class Members with questions about the Class Notice, Potential Release and all available options. Moreover, based on my experience acting as class counsel, I also estimate at least another 10 hours by my office will be devoted assisting Class Members on questions and issues regarding the settlement, meeting with Class Members (including on any late submissions), and preparing for and attending the Final Approval hearing in this matter. (Yaeckel decl. ¶17).

3. <u>The Extent to which the Litigation Precluded Other Employment</u>

Counsel was precluded from accepting other employment and clients due to the necessity of maintaining the prosecution of the instant matter and also was precluded from bringing clients to the firm. (Yaeckel decl. ¶ 18).

4. <u>The Experience, Reputation, and Ability of the Attorneys who Performed the Services, and the Skill They Displayed in Litigation</u>

As set forth above, Plaintiffs counsel all have extensive experience, successfully prosecuting class and representative actions. (Yaeckel decl. ¶¶3-8; Bibiyan decl. ¶ 5; Bokhour decl. ¶6; Falakassa decl. ¶¶6-7; Matavosian decl. ¶¶14-19). Breaux's counsel are the attorneys of record in a matter very recently (and favorably) decided before the California Supreme Court titled *Donohue v. AMN Services, LLC*, (2021) 11 Cal.5th 58. The *Donohue* matter is a <u>certified</u> class and PAGA action. (Yaeckel decl. ¶ 5). Plaintiff's counsel are currently lead counsel on approximately 30 employment "wage and hour" claims with class action, or representative action allegations. (Yaeckel decl. ¶6).

Plaintiffs' counsel has recent (and successful) trial experience in "Wage and Hour" cases. In a recent successful PAGA trial, before the Hon. Katherine Bacal of the San Diego Superior Court, Plaintiff's counsel was awarded their full requested attorneys fees and the hourly rates (which are similar to the fees/rates billed here) billed were all approved. See *Carrington v. Starbucks Corp.* San Diego Superior Court, Case No. 37-2014-00018637-CU-OE-CTL and published appellate opinion at 30 Cal.App.5th 504. (Yaeckel decl. ¶7).

Based on said experience, it is the opinion of counsel that this settlement represents a fair and adequate payment. (Yaeckel decl. ¶¶8-10; Bibiyan decl. ¶15; Bokhour decl. ¶13; Falakassa decl. ¶13; Matavosian decl. ¶21).

5. <u>The Amount Involved and the Results Obtained on Behalf of the Class</u>

This is not a "coupon" class action case. (Yaeckel decl. ¶19). The Class is set to receive significant monetary benefits they would not have received if Class Counsel did not act. (*Id.*) Participating members of the Class will receive an average of **$545.37** with some class members receiving as much as **$4,073.28**. (Bench decl. ¶ 16).

6. <u>A Percentage of the Common Fund Award is Proper</u>

The controlling law on this issue is set forth above in Section IV(B).

Plaintiff's counsel submits that the request for 33 & 1/3 % in attorneys fees from the "common fund" settlement is proper. *Laffitte v. Robert Half Intern. Inc*., (2016) 1 Cal.5th 480, 503, 506. Historically, courts have awarded fees as high as fifty percent (50%) of the common fund, depending on the circumstances of the case. *Newberg,* § 14.03; *see also In re Ampicillin Antitrust Litig.* (D.D.C. 1981) 526 F.Supp.494 (awarding attorneys' fees in the amount of 45% of the $7.3 million settlement fund); *Beech Cinema, Inc. v. Twentieth-Century Fox Film Corp.* (S.D.N.Y. 1979) 480 F.Supp. 1195 (awarding approximately 53% of the settlement fund as attorney fees).

California Courts routinely approve class action attorneys' fee awards "averag[ing] around one-third of the recovery." *Chavez v. Netflix, Inc.* (2008) 162 Cal.App.4th 43, 66 n.11 (lower court found 20 to 40 percent range of contingency fee in marketplace was appropriate in class actions).

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

7. **The Lodestar Cross-Check**

If deemed necessary, a "lodestar cross-check" of the settlement also confirms the propriety of the request. **Please Note**: A simple review of this Court's Register of Actions confirms this was, by no means, an "expedited" or "easy" settlement.

As set forth in the attached Declaration of Eric K. Yaeckel, David D. Bibiyan, Selena Matavosian, Mehrdad Bokhour, and Joshua Falakassa the actual lodestar attorney's fees incurred (to date) are estimated to amount to be approximately **$567,416.50** between all Plaintiff's counsel ($154,812.50 SYLG + $151,214.00 Bibiyan Law Group + $49,125.00 Bokhour Law Group + $32,335.00 Falakassa Law + $179,930.00 Lawyers for Justice, PC). (Yaeckel decl. ¶21).

Please Note: For a detailed breakdown of the tasks performed, rates of pay and hours expended please see the declaration of counsel. (Yaeckel decl. ¶ 20; Bibiyan decl. ¶¶17-18; Falakassa decl. ¶14; Bokhour decl. ¶¶14-15; Matavosian decl. ¶¶5-8, 12).

Based on past experience, counsel estimates they will incur an additional 10 hours (at a minimum) in assisting Class Members on questions and issues regarding the settlement, meeting with Class Members (including those who file "late" submissions), and preparing for and attending the Final Approval hearing in this matter.

8. Lodestar Multiplier

Given the attorneys fees incurred – in the approximate amount of **$567,416.50** – a multiplier of approximately **1.67** is necessary for the full award requested (and undisputed) by Plaintiff.

California courts and the Ninth Circuit hold that the trial court in determining whether to apply a multiplier should look at the case and its results as a whole. Historically, California courts have approved **multipliers of 1.5 to 4**. See *Coalition for Los Angeles County Planning v. Board of Supervisors*, (1977) 76 Cal. App. 3d 241, 251 (multiplier of 2+); *Kern River Public Access Committee v. City of Bakersfield*, (1985) 170 Cal. App. 3d 1205, 1228 (multiplier of 1.5); *Downey Cares v. Downey Community Development Commission*, (1987) 196 Cal. App. 3d 983, 994 (multiplier of 1.5); *Sternwest Com. v. Ash*, (1986) 183 Cal. App. 3d 74, 75.

Furthermore, the Federal courts have applied multipliers ranging from 1.7 to 4.0, even when the class action involved relatively routine issues. See *Rabin v. Concord Assets Grouo. Inc.*, (S.D.N.Y. 1991) Fed. Sec. L. Rep. (CCH) Par. 96,471 at 92, 091 (multiplier of 4.4); *Behrens v. Wometco*, (S.D.Fla 1988) 118 F.R.D. 534, 549 (multiplier of 3); *Rievman v. Burlington Northern Railroad Co.*, (S.D.N.Y. 1987) 118 F.R.D. 29, 35 (noting multiplier~ between 3 and 4.5 are common).

Here, the multiplier requested is within the range of what California and federal courts often apply in class action cases. Moreover, the results obtained here, versus the risk of a zero recovery, given the numerous asserted defenses, support this modest multiplier request. (Yaeckel decl. ¶21).

Additionally, the settlement provides the class with a substantial monetary amount and the class strongly supports the fairness of the settlement, even after being notified of the requested attorneys' fee award (**2 opt-outs**, **and 2 objections**). In the event the Court deems a lodestar analysis is necessary it will confirm that Plaintiffs' counsels' fees are reasonable.

9. <u>The Reasonableness of the Hourly Rates</u>

In conducting a lodestar cross-check, the Court first determines a lodestar value for the fees by multiplying the time reasonably spent by plaintiffs' counsel on the case by a ***reasonable hourly rate***. *In re Consumer Privacy Cases*, 175 Cal. App. 4th 545, 556-57 (2009). To determine whether the requested rate is reasonable, courts look to the prevailing rate for similar work in the pertinent geographic region. *PLCM Group v. Drexler*, 22 Cal. 4th 1084, 1096-97 (2000) (using prevailing hourly rate in community for comparable legal services even though party used in-house counsel).

A trial court has discretion to use the "Laffey Matrix" when it comes to establishing attorneys' reasonable hourly rates in California State Courts. *See e.g. Syers Properties III, Inc. v. Rankin*, (2014) 236 Cal.App.4th 691, 702.

The referenced "Laffey" chart states that for the time periods in this case, for an attorney with "**20+**" years experience, such as Mr. Sullivan, the matrix states a reasonable fee is between **$1,227–$919** per hour. Mr. Sullivan has over **30** years of experience and bills at **$800** per hour. **<u>Please Note</u>:** While $800 an hour may seem like a high figure at first glance, multiple Court's (including all San Diego Superior Court Judges) have accepted this figure for Mr. Sullivan. Moreover, this rate is justified given that "wage and hour" Class and/or Representative Action cases very rarely go to trial. Mr. Sullivan is one of the few attorneys who have (successfully) tried numerous of these types of cases. He has also successfully argued in front of the California Supreme Court in a Class and Representative action that is frequently cited in "wage and hour" litigation involving Meal Period claims. *Donohue v. AMN Services, LLC,* (2021) 11 Cal.5th 58. (Yaeckel decl. ¶ 23).

For an attorney with **11-19** years' experience, the matrix states a reasonable fee is between **$1,019- $764** per hour. Mr. Yaeckel has over **14** years' experience working on class action litigation and only bills at the rate of **$700** per hour. (Yaeckel decl. ¶ 24).

For an attorney with 4-7 years' experience, the matrix states a reasonable fee is between $625 - $538 per hour. The associate Mr. Kuhn, who was working on this matter has over six years experience and billed at the rate of $475 per hour. For an attorney with **1-3** years' experience, the matrix states a reasonable fee is between **$508 - $437** per hour. Mr. Archer, who is working on this matter has about a year of experience and billed at the rate of **$475** per hour. (Yaeckel decl. ¶ 25).

Moreover, the rates of co-counsel are all disclosed and within the market range of hourly rates charged by attorneys of comparable skill and experience working on similar matters. (Bibiyan decl. ¶¶16-17; Falakassa decl. ¶14; Bokhour decl. ¶15; Matavosian decl. ¶13).

Accordingly, Plaintiffs' Counsel's hourly rates are comparable to, or less than, those charged by other class action plaintiffs' counsel and the firms defending class actions, and have been approved by numerous federal and state courts.

10. <u>The Amount of Costs</u>

Plaintiffs' Counsel are also entitled to reimbursement of their litigation costs. Cal. Lab. Code §§ 1194(a), 2699(g)(1).

Class Counsel has expended approximately **$37,232.79** in costs, including filing fees, travel, mediation, copying and document preparation charges, investigative fees, and delivery/service fees. (Yaeckel decl. ¶29). Defendant agreed not to oppose an amount of up to $75,000.00 in costs. Accordingly, Plaintiffs' counsel therefore seeks approval of the actual costs of **$37,232.79** ($9,635.18 SYLG + $8,863.59 Bibiyan Law Group + $7,467.38 Bokhour Law Group and Falakassa Law + $11,266.64 Lawyers for Justice, PC). (Yaeckel decl. ¶¶29-30; Bibiyan decl. ¶20; Bokhour decl. ¶20; Matavosian decl. ¶20).

C. THE REQUESTED CLASS REPRESENTATIVE ENHANCEMENT IS REASONABLE

Plaintiffs Hernandez, Triplett, Flores, and Breaux each request an enhancement award of **$10,000.00** ($40,000 total) for serving as the class representatives. Defendants do **<u>not</u>** oppose this request. The class was notified and there was no objections to the service awards.

A Plaintiff puts their future employment prospects at risk by becoming a class representative as the fact that they filed a class action lawsuit "is searchable on the internet and may become known to prospective employers when evaluating" the employee as a candidate. *Guippone v. BH S&B Holdings, LLC*, 2011 U.S., Dist. LEXIS 126026, *20 (S.D.N.Y. Oct. 28, 2011).

Plaintiffs contributed extensive time and resources in the prosecution of this case. Plaintiffs were able to provide information instrumental to the prosecution of this matter including identifying numerous witnesses that could corroborate their claims. Plaintiffs also assisted with reviewing and providing insight on Defendants' documents produced. (See Declarations of Plaintiffs in Support of Motion for Preliminary Approval).

Moreover, by "sticking their neck out" as a Class Representatives in a publicly filed lawsuit, Plaintiffs took a substantial risk that may adversely impact their ability to work in this field in the future. Any company who does a detailed background check, will be able to determine that Plaintiffs asserted legal claims against their former employer. An entire industry exists that allows employers to run extensive background searches on potential employees. Companies who provide these services specifically highlight the fact that their services allows employers to weed out litigious employment candidates. (Yaeckel decl. ¶¶ 32-35).

In addition, Plaintiffs' co-workers have all been notified of the lawsuit, so there is a large pool of peers who now know they brought claims against a former employer, which could also jeopardize future positions.

Plaintiffs also risked personally owing a large cost award, into the tens of thousands of dollars, based on the costs incurred by Plaintiffs, had the claims been unsuccessful. (Yaeckel decl. ¶ 36).

Despite all the risks, Plaintiffs at all times remained committed to securing a monetary recovery on behalf of the entire class. (Yaeckel decl. ¶ 37).

Accordingly, Plaintiff asks the Court to approve a class representative enhancement in the amount of $10,000.00 to Ms. Hernandez, $10,000.00 to Ms. Triplett, $10,000.00 to Ms. Flores, and $10,000.00 to Ms. Breaux.

VI. CONCLUSION

Based on the foregoing, Plaintiff respectfully requests that this Court grant Plaintiff's Motion consistent with the accompanying proposed Order and Final Judgment.

Dated: May 13, 2026

SULLIVAN & YAECKEL LAW GROUP, APC

Cody Archer

Eric K. Yaeckel
Cody D. Archer
Attorneys for Plaintiff LAVONTRA BREAUX, individually, and on behalf of other members of the public similarly situated