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SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF LOS ANGELES

CHAZLEY FOSTER, as an individual and on behalf of all others similarly situated, Plaintiff, v. AMERICAN HONDA MOTOR CO., INC., a California Corporation, and DOES 1 through 100, inclusive, Defendants.	Case No.: 23STCV22112 Assigned for all Purposes to: Hon. Timothy Patrick Dillon Dept. SSC-15 **MEMORANDUM OF POINTS & AUTHORITIES IN SUPPORT OF MOTION FOR FINAL APPROVAL OF CLASS ACTION SETTLEMENT** Date: May 6, 2026 Time: 10:00 a.m. Dept.: SSC-15

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I. INTRODUCTION

Plaintiff and Class Representative Chazley Foster seeks final approval of a non-reversionary class action settlement resolving wage and hour claims on behalf of 816 individuals including all current and former non-exempt employees who were employed by Defendant American Honda Motor Co. ("Honda") at any location in California at any time during the Class Period of September 13, 2019 to May 15, 2025. The proposed $985,000 total settlement provides about $537,067 in cash payments to the Class, with an average award of about $660, plus additional amounts payable under PAGA. The remaining balance will cover settlement administration costs, civil penalties to the state, and reasonable attorney's fees and costs. The parties and their counsel finalized the settlement after extensive and difficult arms-length negotiations overseen by an experienced and highly-regarded mediator. The Court conditionally certified the Class and preliminarily approved the settlement on December 3, 2025. Since then, the Court-approved notice form was mailed to the Class Members on January 7, 2026, and they reacted very favorably to the settlement. As of the date of this motion, only three class members have opted out of the settlement and there are no objections.

Further, Class Counsel secured an excellent settlement with Defendant after nearly three years of investigation, litigation, and settlement negotiation and administration, all without any compensation for services rendered or costs expended. The class notice duly informed the class members that Class Counsel would request attorney's fees not to exceed 1/3 of the Gross Settlement Amount, or $325,050, along with reimbursement of no more than $35,000 for actual costs incurred litigating this matter. As of the filing of this motion, *not one Class Member objected* to the proposed fee award. Consistent with the Settlement and Notice, Plaintiff now respectfully requests the Court award Class Counsel's fees in the amount of $325,050 and costs in the amount of $21,082.09, as described in the Declaration of Nikki Trenner ("Trenner Decl.") filed herewith. The requested attorney's fees are well within the range of reasonableness, especially considering the complex and risky nature of this litigation, the contingent risk assumed, and the nearly two year delay in payment and, when subjected to a lodestar crosscheck, results in fee equal to the base lodestar with a reasonable 2.20 upward enhancement.

Accordingly, on behalf of herself and the Settlement Class, Plaintiff respectfully requests the Court grant this motion, give full and final approval to the settlement, grant Class Counsel's request for attorney's fees and costs, and enter judgment according

II. BACKGROUND/LITIGATION HISTORY

Defendant American Honda Motor Co., Inc. is responsible for the North American distribution, marketing and sales of Honda and Acura-branded products. Plaintiff Foster was employed by Defendant as a non-exempt material handler from 2011 to June 2023 at Defendant's Torrance warehouse. [Trenner Decl., ¶ 2.]

On September 13, 2023, Plaintiff filed a class action complaint against Honda alleging causes of action for (1) recovery of unpaid minimum wages and liquidated damages; (2) recovery of unpaid overtime wages; (3) failure to provide meal periods or compensation in lieu thereof; (4) failure to provide rest periods or compensation in lieu thereof; (5) failure to furnish accurate itemized wage statements; (6) failure to pay all wages due upon separation of employment; (7) failure to reimburse business expenses; and (8) unfair competition. On October 13, 2023, after notice to the LWDA and Defendant and exhausting administrative remedies, Plaintiff filed a First Amended Complaint alleging an additional cause of action against Defendant for violations of the PAGA based on the same alleged Labor Code violations. [Trenner Decl., ¶ 3.]

Once the matter was at issue, the Parties initiated discovery and later, after engaging in meet and confer discussions regarding discovery, potential law and motion, and the merits of the case, ultimately agreed to attempt mediation. They then engaged in significant informal discovery to facilitate an exchange of information necessary to engage in a meaningful mediation. In March 2025, the Parties participated in mediation with Todd Smith, Esq., a respected wage and hour class action mediator. After a full day of mediation, the Parties were unable to reach an agreement, but ultimately both sides accepted a mediator's proposal issued by Mr. Smith shortly thereafter. [Trenner Decl., ¶¶ 4-5.] This Court preliminarily approved the settlement on December 3, 2025.

Class notices were mailed to class members on January 7, 2026, with a 45-day window (to February 23, 2026) for class members to opt out of or object to the proposed settlement. [Declaration of Madely Nava ("Nava Decl."), ¶¶ 7, 11-13.]

III. TERMS OF THE PROPOSED SETTLEMENT

Under the proposed settlement, Honda will pay $985,000.00 into a common fund, the Gross Settlement Amount ("GSA"). Reasonable attorney's fees of up to one-third of the GSA, or $325,050, actual litigation costs of up to $35,000 (only $21,082.09 is requested), a service award of up to $10,000 for plaintiff, settlement administration costs of $9,300, and $85,000 PAGA Payment for alleged civil penalties under PAGA,[1] all will be paid from the GSA. The remainder of approximately $537,067 will be allocated among the Participating Class Members based on their total weeks worked during the Class Period. No portion of the GSA will revert to Defendant. [Trenner Decl., ¶ 6.]

F. Certification of the Settlement Class

The Court conditionally certified a settlement class defined to include all current and former non-exempt employees who were employed by Defendant Honda at any location in California at any time during the Class Period" of September 13, 2019 to May 15, 2025. The Settlement Administrator ultimately mailed class notices to 816 individuals identified as members of the Class. [Nava Decl., ¶ 7.] Nothing has changed to require reconsideration of the Court's certification of the Settlement Class.

B. The Benefit Conferred on the Settlement Class

As noted, the settlement obligates Honda to pay $985,000 to resolve the Settlement Class's claims, inclusive of attorney's fees and costs. At least $537,067 from the GSA will be distributed to the Participating Class Members. This is a cash settlement that does not require Participating Class Members to submit a claim form to receive their settlement share. Participating Class Members will receive their settlement checks automatically via First Class U.S. Mail. Twenty percent of each settlement share will be allocated to wages and the remaining s will be allocated to

[1] Consistent with PAGA, $63,750 of that amount will go the LWDA for the State's share of the civil penalties, and the remaining $21,250 will be distributed pro rata to the Aggrieved Employees.

penalties, unreimbursed expenses, and interest. Honda will pay any and all applicable employer-side payroll taxes separately and in addition to the GSA. Subject to the Court's approval, any amounts not claimed (because a class member does not cash his or her settlement check) will be forwarded to the California State Controller's Unclaimed Property Fund. [Trenner Decl., ¶ 7.]

Each Participating Class Member will receive a share of the Net Settlement Sum based on his or her position held and total weeks worked for Honda during the Class Period while employed as a non-exempt employee. Thus, each Class Member's Individual Settlement Payment will be calculated using criteria typically used in determining appropriate amounts of alleged unpaid wages, unpaid premium wages for missed meal breaks, and potential statutory penalties under applicable law. These methods are intended to ensure each Class Member receives a portion of the available settlement funds corresponding to the relative value of his or her potential claims. The proposed allocation provides a reasonable way to compensate Class Members based on the amount of time they worked for Defendant, and the number of instances they missed a break, were not provided compensation in lieu of such missed breaks, or lost wages due to Defendant's alleged improper payroll practices. [Trenner Decl., ¶ 8.]

The average class award will be approximately $660, and the awards will range from about $6 on the low end to over $1,760 on the high end. The average PAGA award will be about $40, and PAGA awards will range from about $0.92 to about $67. [Nava Decl., ¶¶ 16, 18.]

C. <u>Settlement Administration</u>

Apex Class Action, LLC, as the Court-approved Settlement Administrator, mailed the Notice Packet to the Class members after making all reasonable effort to ascertain the best mailing address, including running each address through the National Change of Address database and "skip-tracing" any Notice Packets returned as undeliverable. [Nava Decl., ¶¶ 3-9.] The Class Notice, previously approved by the Court, duly informed Class Members of the settlement terms, including the estimated relief each Class Member will receive, the amounts to be requested for attorney's fees and the class representative enhancement awards, and the right to opt out of or object to the settlement. [Nava Decl., ¶ 7, Exh. A.] Apex mailed 816 Notice Packets on January 7, 2026. [Nava Decl., ¶ 7.] As of the filing of this motion, nine

Notice Packets were deemed undeliverable, for a 98.9% success rate. [Nava Decl., ¶ 6.] The response window for opting out, objecting to the settlement, or submitting a dispute, expired on February 23, 2026. [Nava Decl., ¶¶ 11-13.] As of the filing of this motion, Apex has received three requests for exclusion, zero objections to the settlement, and one dispute regarding the information used to calculate class member settlement shares (which dispute was not accepted). [Nava Decl., ¶¶ 11-13.]

D. <u>Release of Claims</u>

Upon final approval and full payment by Defendant, Participating Class Members shall forever release the Released Parties for the Released Claims for the Class Period, including all claims pleaded in the Operative Complaint, and which could reasonably have been alleged, based on the Class Period facts, allegations, and/or claims stated in the Operative Complaint, for work performed during the Class Period, and as specifically detailed in Sections 5.2 of the Agreement. Additionally, the Aggrieved Employees will the Released Parties from all claims for PAGA penalties that were alleged, or reasonably could have been alleged, based on the PAGA Period facts stated in the Operative Complaint, and PAGA Notice, and as more specifically detailed in Section 5.3 of the Agreement. [Trenner Decl., ¶ 9.]

E. <u>PAGA Claims and Notice to the LWDA</u>

The Parties allocated $85,000 to payment of civil penalties under PAGA for such claims against Honda, and Plaintiff submits that amount if fair, reasonable and adequate, and consistent with PAGA's underlying purposes, as addressed in more detail below. As required by Labor Code section 2699(*l*)(2), Plaintiff gave notice of the settlement and final approval hearing to the LWDA via its online portal. [Trenner Decl., ¶ 10; Exh. 1.]

IV. <u>ARGUMENT</u>

A. <u>Standards For Approval</u>

The law favors settlement, particularly in class actions where substantial resources can be conserved by avoiding the time, cost, and rigors of formal litigation. H. Newberg & A. Conte, 4 Newberg on Class Actions (4th ed. 2002), § 11.41; <u>Class Plaintiffs v. City of Seattle</u> (9th Cir. 1992) 955 F.2d 1268, 1276, cert. denied, 506 U.S. 953; <u>Van Bronkhorst v. Safeco</u>

Corp. (9th Cir. 1976) 529 F.2d 943,950; Potter v. Pacific Coast Lumber Co. (1951) 37 Cal.2d 592, 602. Nevertheless, to make certain the rights of absent parties are not unjustly compromised, the settlement of a class action requires court approval. Cal. Rule of Court 3.769; Dunk v. Ford Motor Co. (1996) 48 Cal.App.4th 1794, 1801; Wershba v. Apple Computer (2001) 91 Cal.App.4th 224, 245. The purpose of that judicial review is to protect against fraud or collusion, and to ensure fairness to absent class members. Dunk, 48 Cal.App.4th at 1800-01; Newberg, at §§ 11.22, *et seq*. Review is accomplished through a two-step process intended to determine whether, under the totality of circumstances, the settlement is fair, reasonable and adequate. Dunk, 48 Cal.App.4th at 1801; Wershba, 91 Cal.App.4th at 245.

On a motion for final approval, the trial court is charged with determining whether, in light of the total circumstances of the action and the response of the class members to the proposed settlement, the settlement is fair, reasonable, and adequate. Dunk, 48 Cal.App.4th at 1801-02; Wershba, 91 Cal.App.4th at 244-45. The court has broad discretion in making that determination and may consider a number of relevant factors, including: the strength of plaintiff's case; the likelihood of potential recovery; the risk, expense and likely duration of further litigation; the amount offered in settlement; the extent of discovery and stage of the proceedings; the experience and opinion of counsel; and the reaction of class members to the settlement. Id. In light of the strong judicial policy favoring the settlement of class actions, courts·generally apply a presumption of fairness to a proposed class action settlement when: (1) the settlement is reached through arm's-length bargaining; (2) investigation and discovery are sufficient to allow counsel and the court to act intelligently; (3) counsel is experienced in similar litigation; and (4) the percentage of objectors is small. Dunk, 48 Cal.App.4th at 1802; Wershba, 91 Cal.App.4th at 245.

B. The Proposed Settlement Merits Final Approval

The proposed settlement of this action warrants final approval under the standards summarized above. The settlement is fair, reasonable and adequate, and represents a favorable resolution of highly disputed claims. Further, the settlement was overwhelmingly approved by the class members as there are no objections and no class member has requested exclusion.

1. The Settlement Is the Product of Arm's-Length, Informed Negotiations

The settlement is not the result of fraud or collusion. Rather, the proposed settlement was reached following arm's-length negotiations presided over by Michael Loeb, Esq., a highly respected and well-known mediator with extensive experience mediating wage and hour class actions. [Trenner Decl., ¶ 5.] Moreover, Plaintiff and his counsel were well-informed about the facts and the law, and counsel Zachary M. Crosner, Jamie Serb and Nikki Trenner all have years of litigation experience, including litigating wage and hour class actions. Plaintiff's counsel are well-qualified to evaluate the risks and benefits of pursuing further litigation or settling the matter. [Trenner Decl., ¶¶ 29-34, 38.] Defendant likewise was represented by highly-qualified and experienced defense counsel. Both sides advocated vigorously for their clients and nothing was "left on the table."

2. The Class Reacted Favorablv to the Settlement

The settlement was well-received by the class. As of the filing of this motion, no objections have been filed, and only three Class Member have requested exclusion for a 99.6% participation rate. [Nava Decl., ¶¶ 7-8.] As many courts recognize, class member reaction to the settlement is one of the most important factors to consider in determining if final approval should be granted. Mandujano v. Basic Vegetable Prods., Inc. (9th Cir. 1976) 541 F.2d 832, 837 ; *see also* In re: American Bank Note Holographics (S.D.N.Y. 2001) 127 F.Supp.2d 418, 425 ("It is well-settled that the reaction of the class to the settlement is perhaps the most significant factor to be weighed in considering its adequacy") (internal quotation marks omitted).

3. The Settlement Is Fair and Reasonable Considering the Benefits Conferred, the Case Value, and Significant Litigation Risks

Prior to mediation, the parties engaged in extensive formal and informal discovery to facilitate settlement discussions. As a result, Plaintiff reviewed documents and information regarding Honda's payroll practices, pay stubs and time records for a sampling of class members, meal and rest break policies, etc., and information from Defendant regarding class size and breakdown of job positions, work weeks, rates of pay, and other information used to formulate a damages model. This extensive information then was analyzed by a consulting expert to look for meal and rest break violation rates, time spent working off the clock due to donning/doffing, security checks, etc., and other issues relevant to liability and damages. Plaintiff's counsel are confident they obtained sufficient information to enable them to understand the law and facts of this case and make an informed decision regarding the proposed settlement and whether it is in the best interests of the class. [Trenner Decl., ¶¶ 4, 11.]

First, Plaintiff contends Defendant failed to pay all minimum and overtime wages due to the class members. Plaintiff alleges that, from approximately September 2019 to November 2022, Defendant improperly rounded/shaved hours from employee time punches, and that the rounding favored Defendant such that the class members lost substantial hours worked and corresponding pay. Per Plaintiff, his expert's review of the time and wage sampling provided by Defendant suggested the class members lost substantial hours worked (around 1600 hours total) due to rounding. Plaintiff further alleges Defendant required Class Members to frequently work off the clock because they had to travel through the warehouse to access the time clock when clocking in/out and which took, on average, about two minutes each shift. Additionally, Plaintiff and the Class Members were forced to wait in line to access the time clocks at the beginning of their shifts but were not compensated for this time. Finally, Plaintiff alleges Defendant automatically deducted thirty minutes of time from employees work hours every day for purported meal periods, regardless of whether meal periods were received or if meal periods were less than 30 minutes, which resulted in lost hours worked. [Trenner Decl., ¶ 12.]

For mediation purposes, and after accounting for the approximately 1600 hours of time lost due to rounding, Plaintiff's expert estimated class members lost about 1 hour per week working "off the clock," giving an estimated exposure of approximately **$1,215,445** for unpaid wages, exclusive of any of Honda's defenses to class certification or on the merits. Plaintiff also alleges Defendant failed to incorporate all forms of compensation into the regular rate of pay calculations when paying overtime and sick pay as required by Alvarado v. Dart Container Corp. (2018) 4 Cal.5th 542 (the "regular rate of pay, which can change from pay period to pay period, includes adjustments to the straight time rate, reflecting, among other things, shift differentials and the per-hour value of any non-hourly compensation the employee has earned.") Per Plaintiff's experts, the total exposure on this claim was around **$15,000**. [Trenner Decl., ¶ 13.]

In response, Honda argued its payroll and timekeeping policies are fully compliant, and that it properly tracked and paid for all hours worked at the appropriate hourly wage. Defendant also argued that any rounding was entirely neutral in its overall effect and accordingly allowed under California law. <u>See's Candy Shops, Inc. v. Superior Court</u> (2012) 210 Cal. App. 4th 889. Beyond that, if any class members failed to record and report time, it was in violation of company policy prohibiting off the clock work and would have occurred on a haphazard and individual basis. Accordingly Defendant argued the issue would not be certifiable since it would require individualized inquiries whether any compensable "off the clock" work occurred and why it was or was not documented and paid for. <u>White v. Starbucks Corp.,</u> (N.D. Cal. 2007) 497 F.Supp.2d 1080, 1083 (employer must have actual or constructive knowledge of the off the clock work for liability to attach). Honda also argued that there were no lines to clock in/out for parts center employees (such as Plaintiff), as employees simply had to wave a badge over a scanner, and that only around 20 employees would clocking in at any one time such that clocking in or out took no measurable amount of time. Defendant further argued that the time clock was directly inside the entrance to the parts warehouse in which Plaintiff worked, and that employees were permitted to make their way to the time clock before the end of their shift. [Trenner Decl., ¶ 14.]

Next, Plaintiff contends Defendant failed to provide legally compliant meal and rest breaks. Specifically, as to meal breaks, Plaintiff contends Defendant "auto-deducted" 30 minutes from employee time for meal periods regardless of whether the meal period actually lasted a full 30 minutes, and that the time record produced showed over 71% of meal periods were for precisely 30 minutes. Plaintiff also contends his expert's review of the time records suggested substantial number of "de facto" violations for untimely first meal periods, and that second meal periods rarely were provided on shifts of 10+ hours. Per Plaintiff, the expert analysis suggests approximately a 25% violation rate for "de facto" first meal period violations and an almost 100% violation rate for second meal periods. [Trenner Decl., ¶ 15.]

Plaintiff also contends Defendant failed to provide duty-free rest periods to Class Members and that its written policies did not adequately inform employees they were entitled a net 10 minute break free from all employee control. As a result, per Plaintiff, employees did not receive a full 10 minutes since they would lost a minute or two getting across the warehouse floor to and from the break area. [Trenner Decl., ¶ 16.]

Defendant denies Plaintiff's contentions, claiming it made meal and rest breaks available to Class Members in compliance with California law. Defendant contends that its meal and rest break policies have been lawful throughout the class period, and that it provided employees with 15-minute rest breaks (which is a greater duration than required under California law). Defendant further contends that Class Members were frequently reminded that they were required to take all meal and rest breaks, and that taking meal and rest breaks was engrained in the Company's culture. Defendant asserts that in the parts warehouse where Plaintiff worked, meal and rest breaks were governed by a bell system, which signaled the start and stop for each break, that the timing and duration of the breaks were compliant with California law, and that because all operations for each shift ceased for meal breaks, automatic deductions were permissible pursuant to the applicable wage order. Defendant also contends that time records for employees outside of the parts warehouses demonstrate that these Class Members recorded compliant meal periods. Defendant further contends that its meal and rest break policies and practices comport with the flexibility the Brinker court held was integral to California's meal and rest period requirements. [Trenner Decl., ¶ 17.]

In addition, Defendant contends that employees signed valid meal period waivers, which are enforceable under Bradsbery v Vicar Operating, Inc. (2025) 110 Cal.App.5th 899, and consequently many meal periods that Plaintiff contends were missed were in fact validly waived. Finally, Defendant argues that Plaintiff's meal and rest break claims are not susceptible to common proof, as the claims would require individualized inquiry, including whether there was an unlawful companywide policy, whether employees had the opportunity to take meal and rest breaks, whether they voluntarily chose to forego their meal and rest breaks, and whether Defendant ever prevented them from taking meal and rest breaks. Accordingly, Defendant contends these claims are vulnerable to a ruling that class treatment is not appropriate. [Trenner Decl., ¶ 18.]

Without taking into consideration any of Defendant's defenses to certification or on the merits, Plaintiff estimates Defendant faces around **$2,374,115** in damages for meal period violations. On the rest period claims, Plaintiff estimates around **$10,944,270** in damages, assuming a 100% violation rate. [Trenner Decl., ¶ 18.]

On the expense reimbursement claims, Plaintiff alleges employees were required to use their own personal cell phones to communicate with supervisors and other employees both while at work and away from work. Per Plaintiff, he did not receive any reimbursement for this. *Cochran v. Schwan's Home Service, Inc*. (2014) 228 Cal.App.4th 1137, 1140. Without taking into consideration any of Defendant's defenses to certification or on the merits, Plaintiff calculated Defendant's maximum exposure for unreimbursed expenses at about **$417,105.** [Trenner Decl., ¶ 19.]

Defendant contends that employees who needed a cell phone for their job duties were provided with a company phone, and that there was no conceivable need for employees who worked in the warehouse, such as Plaintiff, to use their cell phones while clocked in and working in the warehouse and that its policies strictly prohibited employees from bringing cell phones into the parts warehouses. Per Defendant, to the extent that Plaintiff or any other warehouse employee did so, it was purely for personal convenience and therefore not reimbursable under Labor Code § 2802 as a "reasonable" or "necessary" expense. [Trenner Decl., ¶ 20.]

As a result of the above alleged violations, Plaintiff also derivatively alleges Defendant failed to provide accurate wage statements and further failed to timely pay all wages that were due and owing upon separation of employment. Thus, should the primary claims fail, Plaintiff's claim for wage statement violations and waiting time penalties would also fail. Defendant contends that it timely pays final wages to terminating employees, and in any event, it would not be liable for waiting time penalties whenever a "good faith dispute" exists over the payment of past wages. Amaral v. Cintas Corp. No. 2 (2008) 163 Cal.App.4th 1157, 1201. Further, Defendant contends Plaintiff would have to prove Defendant "willfully" failed to pay Class Members appropriate wages due upon separation of employment. Without taking into consideration any of Defendant's defenses to certification or on the merits, Plaintiff calculated Defendant's maximum exposure for inaccurate wage statements at about **$1,982,500**, and the exposure for waiting time penalties at about **$1,954,515** based on 550 former employees during the limitations period. [Trenner Decl., ¶ 21.]

As far as potential PAGA liability, the theoretical civil penalties likely total around $10 million should Plaintiff prevail on all claims and establish violations of the multiple Labor Code sections at issue for each and every pay period. (Trenner Decl., ¶ 22.) As with the class claims, Plaintiff discounted the potential PAGA penalties based on Defendant's various defenses on the merits and also accounted for the Court's wide discretion to reduce such penalties, or to decline to award penalties at all. Labor Code § 2699(e)(2); Carrington v. Starbucks Corp. (2018) 30 Cal.App.5th 504 (trial court awarded penalties of $5 per pay period after a bench trial, which decision was upheld on appeal); In re Taco Bell Wage and Hour Actions (E.D. Cal. Apr. 8, 2016) 2016 U.S. Dist. LEXIS 48557 (PAGA penalties denied after trial). Accordingly, the Parties allocated $85,000 to PAGA penalties.

Plaintiff submits this amount is reasonable under the circumstances and in line with comparable settlements in other wage and hour class actions in California. *E.g.*, Van Kempen v. Matheson Tri-Gas, Inc. (N.D. Cal. Aug. 25, 2017) 2017 U.S. Dist. LEXIS 137182 (granting final approval of $5,000 PAGA penalty from $370,000 settlement, or 1.4 percent of total settlement); Slavkov v. First Water Heater Partners I (N.D. Cal. July 25, 2017) 2017 U.S. Dist. LEXIS 116303 (finding a $7,500 PAGA payment reasonable when measured against the overall settlement of $345,000 and the possible weaknesses in plaintiffs' case, or 2.2 percent of total settlement). Additionally, the LWDA has been informed of the terms of the PAGA portion of the settlement, and will be able to weigh in as necessary. Jennings v. Open Door Mktg. Inc. (N.D. Cal. Oct. 3, 2018) 2018 U.S. Dist. LEXIS 171356, at *27 (approving settlement with PAGA penalties of 0.6% where "[p]laintiffs [have] submitted the settlement agreement to the LWDA, and the LWDA has not objected to the settlement.)

The settlement obviates the significant risk that this Court may find any kind of class or representative resolution unachievable or deny certification of all or some of Plaintiff's claims. Furthermore, even if Plaintiff obtained certification of all or some of the claims, continued litigation would be lengthy and expensive as the parties pursued merits discovery, a probable motion to decertify, as well as trial and possible appeals, and would further and substantially delay any recovery by the class with no assurance of recovering significantly more than the proposed settlement. While Plaintiff is confident in the merits of these claims, legitimate controversies exist regarding each one of them. Plaintiff also recognizes proving the amount of wages and penalties due each Class Member would be an expensive, time-consuming, and uncertain proposition. [Trenner Decl., ¶ 23.]

Plaintiff and her counsel discounted the value of the class claims consistent with the risks discussed above, and carefully weighed the likelihood of the class receiving substantially greater benefit if the litigation continued. Plaintiff and counsel concluded – in light of these very real and substantial risks – settlement on the proposed terms and without prolonged and costly litigation was in the best interests of the class, and the overall $985,000 recovery represents a significant percentage of Defendant's potential exposure. Given these risks, a total recovery for the class of $985,000, which will result in average award of some $660 per class member, plus additional amounts under PAGA, is a significant result well within the range of reasonableness considering all potential outcomes, and it will provide direct monetary awards to all Class Members without further delay. [Trenner Decl., ¶ 24.]

Importantly, the mere fact that a settlement does not provide the same recovery as might be achieved at trial is not a proper indicator of whether the settlement is fair, reasonable, and adequate. Wershba, 91 Cal.App.4th at 246, 250 ("Compromise is inherent and necessary in the settlement process…even if the relief afforded by the proposed settlement is substantially narrower than it would be if the suits were to be successfully litigated, this is no bar to a class settlement because the public interest may indeed be served by a voluntary settlement in which each side gives ground in the interest of avoiding litigation"); Lane v. Facebook, Inc. (9th Cir. 2012) 696 F.3d 811, 819 ("[T]he question whether a settlement is fundamentally fair . . . is different from the question whether the settlement is perfect in the estimation of the reviewing court"); 7-Eleven Owners for Fair Franchising v. Southland Corp. (2000) 85 Cal.App.4th 1135, 1150 ("The fact that a proposed settlement may amount to only a fraction of the potential recovery does not, in and of itself, mean that the proposed settlement is grossly inadequate and should be disapproved"); White v. Experian

Information Solutions, Inc. (C.D. Cal. 2011) 803 F.Supp.2d 1086, 1098 (rejecting contention settlement was not fair and reasonable even though it represented 99% discount off the maximum value of the claims). Importantly as well, the proposed settlement is non-reversionary and will provide timely benefits to the Class Members without a claims process. White, 803 F.Supp.2d at 1098; c.f., Federal Judicial Center, Managing Class Action Litigation: A Pocket Guide for Judges (3d ed. 2010) at 20, available at http:// www.fjc.gov/sites/default/files/2012/ClassGd3.pdf (reversionary provisions and/or cumbersome claims process may indicate lack of fairness). Plaintiffs and their counsel submit the settlement is within the "range of reasonableness," and is fair and adequate for the Class.

IV. SETTLEMENT ADMINISTRATION COSTS

The settlement provides for a payment to Apex from the GSA for its services as the Settlement Administrator. As set forth in the Declaration of Madely Nava, Apex has performed and will continue to perform its required duties through final distribution of the settlement funds, and incurred $9,300 in fees and expenses. [Nava Decl., ¶ 19.] Accordingly, Plaintiff respectfully requests the Court approve payment of $9,300 to Apex from the GSA. [Trenner Decl., ¶ 25.]

V. PLAINTIFF'S ENHANCEMENT

Pursuant to the terms of the settlement, Plaintiff seeks modest incentive award of $10,000 for his service in bringing these claims on behalf of the Class. This request is reasonable given the risks he undertook on behalf of the Class Members. By contacting and retaining counsel to pursue these claims, Plaintiff helped make this settlement possible for the absent Class Members, while shouldering the risk of being liable for Defendant's litigation costs. Plaintiff also exposed himself to unwanted notoriety related to filing a public lawsuit (discoverable even through a simple google search) for the benefit of other employees, placing himself at risk of discrimination by future prospective employers. As set forth in more detail in his declaration submitted at preliminary approval, among taking many other actions assisting in the successful litigation of this case, Plaintiff provided substantial factual information and documents to counsel, attended numerous meetings/phone conferences with counsel to discuss the case, and kept abreast of all significant developments. [Declaration of Chazley Foster, ¶¶ 2-9 (filed September 12, 2025); Trenner Decl.,

¶ 26.] Accordingly, the requested enhancement payment to Plaintiff is appropriate and justified as part of the settlement. Staton v. Boeing (9th Cir. 2003) 327 F.3d 938, 977 (collecting cases awarding class representatives service and incentive payments ranging from $2,000 to $25,000).

VI. ATTORNEY'S FEES AND COSTS

A. The Attorney's Fees Requested Are Fair and Reasonable and Should Be Approved

This Court has discretion over the amount of attorneys' fees awarded and court approval is required for Class Counsel's fees. Cal. Rule of Court 3.769; Levy v. Toyota Motor Sales, U.S.A. (1992) 4 Cal.App.4th 807, 813; Lealao v. Beneficial Cal., Inc. (2000) 82 Cal.App.4th 19. In defining a reasonable fee, the Court should attempt to mimic the marketplace for cases involving significant contingent risk, such as this one. Deposit Guaranty Nat'l Bank, Jackson, Miss. v. Roper (1980) 445 U.S. 326, 338, rehg. den. 446 U.S. 947; Lealao, 82 Cal.App.4th at 49-50 (court should attempt "to award the fee that informed private bargaining, if it were truly possible, might have reached" in determining a reasonable fee, and a fee award should approximate a "range of fees freely negotiated in comparable litigation"). Here, Class Counsel's request for attorney's fees and costs is reasonable and justified by the work performed, the benefits obtained, and the contingent risk assumed. As addressed in detail above, at the time the parties reached the tentative settlement success for Plaintiff and the putative class was far from certain. Plaintiff faced a real risk that some or all the claims would not be certified for class treatment, as Honda had strong arguments that its compensation policies were legal and properly compensated the class members. Even if Plaintiff certified some or all of the claims and ultimately prevailed on the merits, it undoubtedly would have taken several years to realize any recovery while they pursued class certification, trial, and an almost certain appeal. [Trenner Decl., ¶¶ 12-22.]

Nonetheless, Plaintiff succeeded and obtained the relief she set out to obtain, and the settlement provides substantial cash payments to Class Members, with an average award of about $660, and with a maximum award of over $1,760. Importantly as well, the Class Members have been overwhelmingly supportive of the Settlement – as of the filing of this motion there are no objections to the settlement and only three individuals opted out. [Nava Decl., ¶¶ 11-12.]

B. The Requested Fee Award Is Reasonable and Appropriate

The United States Supreme Court has ruled the parties to a class action properly may negotiate not only the settlement of the action itself but also the payment of attorney's fees. Evans v. Jeff D. (1986) 475 U.S. 717, 734-35, 738, fn. 30.) In Hensley v. Eckerhart (1983) 461 U.S. 424, 437, the Supreme Court explained that negotiated, agreed-upon attorney's fee provisions are the ideal towards which the parties should strive: "A request for attorney's fees should not result in a second major litigation. Ideally, of course, litigants will settle the amount of a fee." The United States Supreme Court has reemphasized this policy and further stressed trial courts have “a responsibility to encourage agreement" on fees. Blum v. Stenson (1984) 465 U.S. 886, 902 n.19.

As part of the Settlement, Defendant agreed not to object to an award of no more than 1/3 of the GSA for attorney's fees, or $325,050 and up to $35,000 in reimbursement for litigation costs and expenses (only $21,082.09 is requested). Such a fee is commensurate with what the market would provide for similar services and the Court therefore can most certainly enforce the agreement. As California's Court of Appeal has instructed:

> Given the unique reliance of our legal system on private litigants to enforce substantive provisions of law through class and derivative actions, attorneys providing the essential enforcement services must be provided incentives roughly comparable to those negotiated in the private bargaining that takes place in the legal marketplace, as it will otherwise be economic for defendants to increase injurious behavior.

Lealao, 82 Cal.App.4th at 47.

Here, the parties did not negotiate the inclusion of attorney's fees until after extensive arms-length bargaining regarding relief to the Class was completed. [Trenner Decl., ¶ 27.] The requested fee and cost award was a product of these arms-length negotiations and fairly reflects the marketplace value of the services rendered by Class Counsel in this case. As a result, the fee agreed to by the parties should be approved.

C. Class Counsel's Fees are Justified When Calculated as a Percentage of the Common Fund

In approving fee applications, courts typically apply either a percentage-of-recovery method or the lodestar method. Laffitte v. Robert Half Int'l., Inc. (2016) 1 Cal.5th 480, 489; Wershba v. Apple Computer, Inc. (2001) 91 Cal.App.4th 224, 254, disapproved on other grounds, Hernandez v. Restoration Hardware, Inc. (2018) 4 Cal.5th 260. The California Supreme Court recently recognized the advantages and equities of calculating attorney's fees using the percentage-of-the-common-fund method in another wage-and-hour case:

> 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 convince us the percentage method is a valuable tool that should not be denied our trial courts.

Laffitte, 1 Cal.5th at 503 (citations omitted).

Indeed, both California and federal courts have long recognized an appropriate method for determining the award of attorney's fees is based on a percentage of the total value of benefits afforded to class members by the settlement. Serrano v. Priest (1977) 20 Cal.3d 25, 34; Boeing Co. v. Van Gernert (1980) 444 U.S. 472, 478; Vincent v. Hughes Air West, Inc. (9th Cir. 1977) 557 F.2d 759, 769. Awarding a fee based on a percentage of the common fund recovered operates to "spread litigation costs proportionately among all the beneficiaries so that the active beneficiary does not bear the entire burden alone." Vincent, 557 F.2d at 769.

In determining a reasonable common fund fee award, courts should also consider the fact that fees serve as an economic incentive for lawyers to bring class action litigation to achieve increased access to the judicial system for meritorious claims and to enhance deterrents to wrongdoing. Conte, Attorney Fee Awards (2d ed. 1993) § 104. Without prosecution on a contingent basis and use of the class action mechanism, the courthouse door would effectively be closed to most class members due to the relatively small size of their individual claims in relation to the enormous time and cost associated with class action litigation.

Here, Class Counsel seek a fee award for their successful prosecution and resolution of this action of no more than 1/3 of the total amount recovered by the Class via the lawsuit, or $325,050. The percentage requested is justified for the reasons set forth further below, and comports with fee awards calculated on a percentage-of-the-benefit basis. Indeed, review of class action settlements shows that courts have historically awarded fees in the range of 20 to 50 percent, depending upon the circumstances of the case. In re Warner Communications Sec. Litig. (S.D.N.Y. 1985) 618 F.Supp. 735, 749-50 (concluding that percentage fees in common fund cases range from 20 to 50 percent); Newberg, Newberg on Class Actions (3d ed.) § 14.03, pp. 13-14 ("Usually 50% of the fund is the upper limit on a reasonable fee award from a common fund in order to assure that the fees do not consume a disproportionate part of the recovery obtained for the class, although somewhat larger percentages are not unprecedented.").

D. A Lodestar Cross-Check Also Supports Class Counsel's Fee Request

To ensure the fairness of an attorney's fee award, courts frequently conduct a lodestar cross check of counsel's fees. "A lodestar cross-check thus provides a mechanism for bringing an objective measure of the work performed into the calculation of a reasonable attorney fee." Laffitte, 1 Cal.5th at 504. Here, Class Counsel spent 184.3 hours of time on this matter, resulting in a modest and very reasonable lodestar of $148,015.

As is fully detailed in the Trenner Declaration, Class Counsel's efforts included: (1) extensive pre-lawsuit investigation of the claims of Plaintiff and the putative class, including legal research, research into similar claims and claims against other employers in the same industry, and attempts to locate and contact other Honda employees; (2) drafting a PAGA notice letter; (3) drafting the initial complaint and related documents; (4) case management, including communications with defense counsel, meeting and conferring/preparing case management statements, etc.; (5) drafting a first amended complaint; (6) propounding initial written discovery, (7) lengthy discussions with defense counsel regarding settlement/mediation and informal discovery needed for meaningful settlement discussions; (8) engaging in substantial informal discovery, including propounding informal discovery “requests” and reviewing documents and other information produced; (9) drafting a mediation brief and accompanying damages model after review and analysis of Defendant's informal discovery production; (10) attending an all-day mediation; (11) negotiating and drafting the settlement agreement and related documents; (12) drafting an amended complaint to effectuate the settlement; (13) drafting the motion for preliminary approval, and attending the hearing; (14) administration of the settlement, including communications with the Settlement Administrator and settlement class members; (15) drafting the motion for final approval and motion for attorney's fees, and attending the final approval hearing; and (16) extensive communications with the Plaintiff regarding case status, case investigation and document review, mediation, and settlement terms. [Trenner Decl., ¶ 28, Exh. 2.] Additionally, Class Counsel will incur additional time following final approval to, inter alia, respond to class member inquiries, work with the Settlement Administrator on the distribution of settlement funds, and on the compliance hearing.

In pursuing this matter, Class Counsel incurred total attorney's fees of $148,015, based on 184.3 attorney hours. The lodestar is based on an eminently reasonable number of hours worked to litigate this matter to a successful conclusion, and the requested attorney hourly rates are reasonable and comport with hourly rates charged by other attorneys with similar experience in this practice area in California. [Trenner Decl., ¶¶ 29-43.] On a lodestar basis, the fee request of $325,050 results in a base lodestar with a reasonable upward modifier of 2.20, which is entirely in line with California precedent. Indeed, California courts routinely approve multipliers in the in the 2-4 range to compensate for the time and risk of class action cases. Chavez v. Netflix, Inc. (2008) 162 Cal.App.4th 43, 66 (affirming attorneys' fee award including an upward multiplier of 2.5); Wershba, 91 Cal.App.4th at 255 ("Multipliers can range from 2 to 4 or even higher."); City of Oakland Oakland Raiders (1988) 203 Cal.App.3d 78, 85 (affirming a multiplier of 2.34).) Class Counsel submits that the requested 2.20 multiplier effectively operates to show that the percentage fee request is reasonable considering the challenges presented in this contingency fee matter, and appropriately compensates Class Counsel for the contingent risk assumed and delay in payment during the 2.5+ years counsel have been representing Plaintiffs. Thus, the multiplier results in a fee constituting a fair return on the contingency.

E. The Award is Supported By 1) the Results Achieved; 2) the Risk, 3) the Skill Required, 4) the Contingent Nature of the Fee and 5) Awards in Similar Cases

What has now emerged in most fee award decisions is the recognition that fee determinations in both common fund and statutory fee situations are incapable of mathematical precision because of the intangible factors that must be resolved in the court's discretion based on the circumstances of each particular case. Conte, § 207, p. 44. In determining an appropriate fee in a common fund case, a Court must decide, based on the unique posture of each case, what percentage of the common fund would most reasonably compensate Class Counsel given the nature of the litigation and the performance of counsel. Paul, Johnson, Alston & Hunt v. Graulty (9th Cir. 1989 886 F.2d 268, 272) (the benchmark percentage fee may be adjusted to account for the circumstances involved in a case).

Courts apply a five-part test in calculating a reasonable percentage fee in common fund cases: (1) the results achieved; (2) the risk of litigation; (3) the skill required and the quality of work; (4) the contingent nature of the fee and the financial burden carried by the plaintiffs; and (5) awards made in similar cases. Laffitte, l Cal.5th at 489.

1. The Results Achieved.

Class Counsel obtained an excellent result in this case for the Class Members. The Settlement provides real monetary benefits to the Class Members, and the Settlement is particularly advantageous to the Class Member because the proceeds will be distributed shortly as opposed to waiting additional years for a similar, or possibly, less favorable result. Considering many individual claims would be very modest and would not be cost-effective to pursue successfully, the Settlement provided them with fair compensation for their claims. Moreover, the absence of any objection to either the Settlement or the attorney's fee request bolsters the excellent results. Indeed, the approval of the Class is overwhelming as indicated by the fact that not only one class member opted out. Additionally, the settlement amounts to a substantial percentage of the maximum value of the amount the Class might have obtained if it had tried the case and recovered on all theories seeking recovery of wages and penalties. "It is well-settled law that a cash settlement amounting to only a fraction of the potential recovery does not per se render the settlement inadequate or unfair." In re Omnivision Techs., Inc., 559 (N.D. Cal. 2008) F.Supp.2d 1036, 1042.

2. Class Counsel Bore Considerable Risk.

At the time of filing the complaint, Class Counsel recognized that they would have to expend a substantial amount of time and advance significant costs to prosecute a statewide class action suit with no guarantee of compensation or reimbursement, in the hope of prevailing against a sophisticated company represented by first-rate attorneys. Despite their belief in the validity of Plaintiff's claims, they also knew they faced substantial risks of class certification and the ability to prove class-wide and individual damages. In light of the highly uncertain nature of this suit, Class Counsel also bore the risk that Honda would dig in and attempt to bury their small firms in work. Given the small size of Class Counsel's firm, not receiving any compensation for several years while simultaneously advancing litigation costs posed considerable risk and difficulty. [Trenner Decl., ¶¶ 44-45.]

3. The Skill Required and the Quality of Work.

Practice in the narrow area of wage and hour litigation requires skill, knowledge and experience. The issues presented in this case required more than just a general appreciation of wage and hour law and class action procedure. This Settlement was possible only because counsel persuaded Honda that Plaintiff and the putative class had a realistic chance of prevailing on their claims despite Honda's contrary arguments, and that the case would be pursued through class certification and trial if necessary. In successfully navigating these hurdles, Class Counsel displayed appropriate skill while pursuing a risky and difficult case.

4. The Contingent Nature of the Fee and Risk Assumed

There is a substantial difference between the risk assumed by attorneys being paid by the hour and attorneys working on a contingent fee basis. The attorney being paid by the hour can go to the bank with his fee. Powers v. Eichen (9th Cir. 2000) 229 F.3d 1249, 1256. The attorney working on a contingent basis can only log hours while working without pay towards a result that will hopefully entitle him to a market fee considering the risk and other factors of the undertaking. Id. at 1257. Otherwise, the contingent fee attorney receives nothing. Id. In this case, Class Counsel subjected themselves to this risk in this all or nothing contingent fee case wherein the necessity and financial burden of private enforcement makes the requested award appropriate.

Counsel retained on a contingency fee basis, whether in private matters or in class action litigation, is entitled to a premium beyond their standard, hourly, non-contingent fee schedule to compensate for both the contingent risk assumed and the delay in payment. The simple fact is that despite the most vigorous and competent of efforts, success is never guaranteed. McKittrick v. Gardner (4th Cir. 1967) 378 F.2d 872, 875. Indeed, if counsel is not adequately compensated for the risks inherent in difficult class actions, competent attorneys will be discouraged from prosecuting similar cases. Ketchum v. Moses (2001) 24 Cal.4th 1122, 1132-33; Cazares v. Saenz (1989) 208 Cal.App.3d 279, 287.

Here, the contingent fee practices of Plaintiff's counsel simply do not accommodate the investment of unnecessary time in a case, and the adverse resolution of any one of several difficult issues present in this matter could have doomed the entire effort. As discussed, the attorney's fees in this case were not only contingent but fairly risky, and there was always a palpable chance Plaintiff's counsel would receive nothing for any number of reasons. [Trenner Decl., ¶¶ 44-45.] Accordingly, the contingent nature of the fee and the financial burdens on Class Counsel and Plaintiff also support the fee requested.

5. Awards in Other Cases

As discussed, the attorney's fees requested by Class Counsel are within the range of fees awarded in comparable cases, as cross-checked against the lodestar method in light of the contingent risk assumed, the delay in payment, the result achieved, and the overall quality of the representation.

F. Class Counsel's Costs and Expenses are Reasonable

Plaintiff's counsel also request reimbursement of actual out-of-pocket expenses incurred to prosecute this action. These expenses were incidental and necessary to the effective representation of the employees, and Plaintiff's counsel is permitted to recover litigation costs and expenses under the common fund doctrine and the Settlement Agreement. Serrano, 20 Cal.3d at 35 (common fund doctrine permits recovery of fees and costs from the fund); Rider v. County of San Diego (1992) 11 Cal.App.4th 1410, 1424 n.6 (costs are recoverable from the common fund "[o]f necessity, and for precisely the same reasons discussed above with respect to the recovery of attorneys' fees by ... [Plaintiffs'] attorneys"). Plaintiff's counsel also is entitled to recover "those out-of-pocket expenses that would normally be charged to a fee-paying client." Harris v. Marhoefer (9th Cir. 1994) 24 F.3d 16, 19.

As explained in the Trenner Declaration, Class Counsel incurred a total of $21,082.09 in expenses incurred in connection with this litigation. These expenses include the amounts paid for court filing fees, service of process, expert fees, postage, and mediation fees, all of which are costs normally billed to and paid by the client. These costs were reasonably incurred in the prosecution of this matter and it is respectfully requested that the Court authorized they be reimbursed in full. [Trenner Decl., ¶¶ 46-47.]

VI. CONCLUSION

For all the foregoing reasons, Plaintiff Chazley Foster respectfully requests that the Court grant this motion and grant final approval of the proposed class action settlement and approve the payment of PAGA penalties to the State. Plaintiff further requests the Court approve payment of the Settlement Administrator's fees and expenses, approve the requested class representative enhancement, approve the award of attorney's fees and costs as requested, and enter judgment in this action. Finally, Plaintiff requests the Court set a non-appearance case review regarding settlement compliance for May 5, 2027, or a later date convenient for the Court.

Dated: April 13, 2026

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