LIDMAN LAW, APC
Scott M. Lidman (SBN 199433)
slidman@lidmanlaw.com
Milan Moore (SBN 308095)
mmoore@lidmanlaw.com
Tiara Gose-Hardy (SBN 323823)
tgose@lidmanlaw.com
2155 Campus Drive, Suite 150
El Segundo, California 90245
Tel: (424) 322-4772
Fax: (424) 322-4775

Attorneys for Plaintiff
VENANCIO CARRERA

HAINES LAW GROUP, APC
Paul K. Haines (SBN 248226)
phaines@haineslawgroup.com
2155 Campus Drive, Suite 180
El Segundo, California 90245
Tel: (424) 292-2350
Fax: (424) 292-2355

Attorneys for Plaintiff
VENANCIO CARRERA

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

VENANCIO CARRERA, as an individual and on behalf of all others similarly situated, Plaintiffs, vs. TRAIL LINES, INC., a California corporation; and DOES 1 through 100, inclusive, Defendants.	Case No.: 23STCV23347 *[Assigned for all purposes to the Hon. Elihu M. Berle, Dept. SSC-6]* **PLAINTIFF'S SUPPLEMENTAL BRIEF IN SUPPORT OF MOTION FOR PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT** Date: December 2, 2025 Time: 10:00 a.m. Dept.: SSC-6

TO THE COURT, ALL PARTIES, AND THEIR ATTORNEYS OF RECORD:

Plaintiff Venancio Carrera ("Plaintiff"), individually and on behalf of a class of similarly situated individuals, hereby submits this Supplemental Brief in Support of Plaintiff's Motion for Preliminary Approval of Class Action Settlement (the "Motion").

I. PROCEDURAL HISTORY

Plaintiff filed his Motion for Preliminary Approval of Class Action Settlement on November 5, 2024, setting it for hearing on January 15, 2025. After several continuances, the Court held the Hearing on Motion for Preliminary Approval of Settlement on September 16, 2025.

On September 16, 2025, the Court detailed the issues that need to be addressed in subsequent briefing. Consistent therewith, Plaintiff hereby submits the instant supplemental brief (and accompanying declaration) to address the issues identified by the Court. Each of the issues are addressed in the same order as they were identified by the Court in the hearing.

In connection with addressing the issues identified by the Court, the Parties have executed an Amended Class Action and PAGA Settlement Agreement and Class Notice. The following documents are being submitted concurrently herewith as Exhibits to the Supplemental Declaration of Scott M. Lidman ("Supp. Lidman Decl."), as follows:

Attached as **Exhibit A** to the Supp. Lidman Decl. is the fully executed Amended Class Action and PAGA Settlement Agreement and Class Notice.

Attached as **Exhibit B** to the Supp. Lidman Decl. is the redline of the Amended Class Action and PAGA Settlement Agreement and Class Notice showing the changes made per the Court's instructions.

Attached as **Exhibit C** to the Supp. Lidman Decl. is proof of submission of the Amended Class Action and PAGA Settlement Agreement and Class Notice to the LWDA.

II. ISSUES IDENTIFIED IN THE COURT'S CHECKLIST

A. Attorneys' Fees

During the Hearing, the Court asked Plaintiff to address the fairness of only certain Class Members paying attorneys' fees. Of the 69 Class Members, only six did not receive a portion of the previously Paid Settlement Amount. Supp. Lidman Decl., ¶4. Prior to Individual Class Payments being calculated, these six Class Members will receive an amount equal to what they would have received under Defendant's formula used to pay the previously Paid Settlement Amount. *Id*. This is irrespective of attorneys' fees. *Id*. Only after these six Class Members are allotted the amount equal to what they would have received under Defendant's formula used to pay the previously Paid Settlement Amount will the Individual Class Payments be calculated. *Id*.

Each and every Class Member is receiving an Individual Class Payment from the Net Settlement Amount, which is affected by the payment of attorneys' fees. *Id*. This means that the entire Settlement Class is paying attorneys' fees. The fact that each and every Class Member is paying attorneys' fees contributes to the overall fairness of the Settlement.

Further, the catalyst theory and common fund doctrine support the attorneys' fee award being based on the Total Settlement Amount.

1. <u>Catalyst Theory</u>

Under the catalyst theory, class counsel's fees should be calculated based on the total compensation received by the Settlement Class as a result of the litigation. The California Supreme Court in the seminal case *Tipton-Whittingham v. City of Los Angeles*, 34 Cal.4th 604, 608 (2004) set forth the requirements needed to satisfy the catalyst theory. According to the Court, "In order to obtain attorney fees without such as…change in the legal relationship between the parties, a plaintiff must establish that (1) the lawsuit was a catalyst motivating the defendants to provide the primary relief sought; (2) that the lawsuit had merit and achieved its catalytic effect by threat of victory, not by dint of nuisance and threat of expense…; and (3) that the plaintiffs reasonably attempted to settle the litigation." *Tipton-Whittingham, supra*, 34 Cal.4th at 608. Plaintiff can satisfy these requirements. *Id*.

"The first of these requirements—causation—...[requires that] in order to justify a fee award, there must be a causal connection between the lawsuit and the relief obtained.'" *Graham v. DaimlerChrysler Corp*. 34 Cal.4th 553, 595 (2004), as modified (Jan. 12, 2005) (internal citation omitted). Here, the instant litigation was the sole and complete motivating factor for Defendant to engage in the *Pick Up Stix* Campaign to attempt to reduce its liability in this case. Supp. Lidman Decl., ¶ 5. Defendant began offering individual settlements only after this litigation was commenced. *Id*. Additionally, the primary relief sought in this action is monetary compensation related to Defendant's wage and hour violations. *Id*. The *Pick Up Stix* campaign provided 63 of the 69 Settlement Class Members with monetary compensation for these alleged wage and hour violations in exchange for a release of such claims, compensation that would not have been paid to Class Members if the instant lawsuit was never initiated. Supp. Lidman Decl., ¶¶ 4-5.

Second, Plaintiff contends that his claims have merit and the catalytic effect was achieved by threat of victory. Thus, Plaintiff's case was not one of just mere nuisance value.

Third, Plaintiff reasonably attempted to the litigation. Indeed, the Parties participated in private mediation and were able to reach a class-wide settlement.

2. <u>Common Fund Doctrine</u>

Additionally, under the Common Fund doctrine, it is proper to compensate class counsel based on a percentage of the recovery that the litigation obtained for the Settlement Class. When a settlement results in a common fund for the benefit of a class, class counsel may be awarded fees as a percentage of the common fund. *See Wershba*, *supra*, 91 Cal.App.4th at 254 (recognizing the "percentage of recovery" method). The California Supreme Court confirmed in *Laffitte v. Robert Half Int'l, Inc.* that "[t]he percentage of fund method survives in California class action cases." 1 Cal.5th 480, 506 (2016). In *Laffitte*, the California Supreme Court held:

> 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.

Id. at 503 (internal citation omitted); *see also e.g.*, *Serrano v. Priest*, 20 Cal.3d 25, 34 (1977) ("when a number of persons are entitled in common to a specific fund, and an action brought by a plaintiff or plaintiffs for the benefit of all results in the creation or preservation of that fund, such plaintiff or plaintiffs may be awarded attorney's fees out of the fund."); *Serrano v. Unruh*, 32 Cal.3d 621, 627 (1982) (in awarding a fee from the common fund obtained for the benefit of all parties, the trial court acts within its equitable power to prevent the other parties' unjust enrichment.); *Rawlings v. Prudential-Bache Properties, Inc.*, 9 F.3d 513, 516 (6th Cir. 1993) (the percentage of the fund method for calculating attorney's fees more accurately reflects the results achieved for the putative class than the lodestar method and "establishes reasonable expectations on the part of plaintiffs' attorneys as to their expected recovery; and it encourages early settlement, which avoids protracted litigation."); *In re Rite Aid Corp.*

Securities Litigation, 396 F.3d 294, 300 (3d Cir. 2005) ("The percentage-of-recovery method is generally favored in common fund cases because it allows courts to award fees from the fund 'in a manner that rewards counsel for success and penalizes it for failure.")

Class Counsel's fee request of one-third of the total Settlement Amount is fair and reasonable based on a percentage of the recovery. "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. Thus, the percentage sought by Class Counsel here is reasonable.

B. <u>Amended Settlement Agreement</u>

The Court asked Plaintiff to address the reference in Paragraph 5.1 of the Settlement Agreement to Paragraph 5.3, which does not exist.

The Settlement Agreement has been amended so that Paragraph 5.1 now refers to Paragraph 5.2 and all references to paragraph 5.3 have been removed. *See* Exhibit B to Supp. Lidman Decl. The Amended Class Action and PAGA Settlement Agreement and Class Notice has been fully executed by the Parties. *See* Exhibit A to Supp. Lidman Decl.

C. <u>Maximum Exposure for Reimbursement Claim</u>

The Court asked Plaintiff to address the discrepancy in the maximum exposure for Plaintiff's reimbursement claim under Labor Code § 2802. In Plaintiff's Motion for Preliminary Approval of Settlement, the stated maximum exposure amount is $1,208,928.00, while in the supporting declaration of Scott M. Lidman, the stated maximum exposure amount is $3,000,000.00. The error is in Plaintiff's Motion; the correct maximum exposure amount is $3,000,000.00. Supp. Lidman Decl., ¶ 6.

The maximum exposure of $3,000,000.00 is based on Plaintiff's estimate that Plaintiff and other drivers incurred approximately $1,500.00 per month in expenses and/or unlawful deductions from their pay. Supp. Lidman Decl., ¶ 6. With approximately 2,000 months at issue in the relevant time period, this equates to approximately $3,000,000.00 in unreimbursed business expenses. *Id*. The correct maximum exposure amount is $3,000,000.00.

/ /

III. CONCLUSION

For the foregoing reasons and the reasons discussed in Plaintiff's Motion, Plaintiff respectfully requests that the Court preliminarily approve the proposed Amendment to Class Action and PAGA Settlement Agreement and Class Notice, provisionally certify the Settlement Class, and enter the Proposed Order Granting Preliminary Approval of Class Action Settlement submitted concurrently herewith.

Respectfully submitted,

Dated: October 14, 2025

LIDMAN LAW, APC

By: ____________________

Scott M. Lidman

Attorney for Plaintiff
VENANCIO CARRERA