Joanna Ghosh (SBN 272479)
Daniel Bass (SBN 287466)
Brian St. John (SBN 304112)
LAWYERS *for* JUSTICE, PC
450 North Brand Blvd., Suite 900
Glendale, California 91203
Tel: (818) 265-1020 / Fax: (818) 265-1021

Attorneys for Plaintiff Diana Rodriguez

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SANTA BARBARA

DIANA RODRIGUEZ, individually, and on behalf of other members of the general public similarly situated and on behalf of other aggrieved employees pursuant to the California Private Attorneys General Act,

Plaintiff,

vs.

VISITING NURSE & HOSPICE CARE, an unknown business entity; VISITING NURSE & HOSPICE CARE OF SANTA BARBARA, a California corporation; VNA HEALTH, an unknown business entity; PERSONAL CARE SERVICES, an unknown business entity; and DOES 1 through 100, inclusive,

Defendants.

Case Nos.: 22CV05104

Honorable Donna D. Geck
Department 4

CLASS ACTION

PLAINTIFF'S NOTICE OF MOTION AND MOTION FOR FINAL APPROVAL OF CLASS ACTION SETTLEMENT, CLASS COUNSEL FEES PAYMENT AND LITIGATION EXPENSES, AND CLASS REPRESENTATIVE SERVICE PAYMENT; MEMORANDUM OF POINTS AND AUTHORITIES

Date:	July 10, 2026
Time:	10:00 a.m.
Department:	4
Complaint Filed:	December 21, 2021
FAC Filed:	February 6, 2025
Trial Date:	None Set

LAWYERS *for* JUSTICE, PC
450 North Brand Blvd., Suite 900
Glendale, California 91203

PLEASE TAKE NOTICE that on July 10, 2026, at 10:00 a.m., in Department 4 of the above-entitled Court, located at 1100 Anacapa Street, Santa Barbara, CA 93101, Plaintiff Diana Rodriguez ("Plaintiff" or "Class Representative") will and hereby does move for an order granting final approval of:

1. Making final the Court's previous preliminary certification of the class for settlement purposes, and approving the Class Action and PAGA Settlement and Release Agreement ("Settlement," "Agreement," or "Settlement Agreement"), on the grounds that the Settlement is fair, adequate, and reasonable because, *inter alia*:

   - A Net Settlement Amount of approximately **$374,499.40** will be fully distributed to the Class Members who do not submit a timely and valid Request for Exclusion ("Participating Class Member"); and
   - **No Notice of Objection** and only **Two Requests for Exclusions** were submitted to the settlement administrator, Simpluris, Inc. ("Simpluris" or "Administrator");

2. Awarding payment in the amount of **$279,999.60** to Lawyers *for* Justice, PC ("Class Counsel"), representing forty percent (40%) of the Gross Settlement Amount, for attorneys' fees, which is reasonable and justified on a percentage-basis and also based on a lodestar cross-check;

3. Awarding payment in the amount of **$15,000.00** to Class Counsel for reimbursement of litigation costs and expenses;

4. Awarding payment in the amount of **$8,000.00** to the Administrator for Administration Costs;

5. Awarding payment in the amount of $7,500.00 to Plaintiff Diana Rodriguez, as a Service Payment; and

6. Approving the allocation of the penalties under the Private Attorneys General Act of 2004, California Labor Code § 2698, et seq. ("PAGA"), in the amount of $15,000.00 ("PAGA Penalties"), of which 75%, or $11,250.00, will be paid to the California Labor and Workforce Development Agency ("LWDA") ("LWDA PAGA Payment") and 25%, or $3,750.00 will be distributed to Aggrieved Employees on a *pro rata* basis, based on PAGA Pay Periods during the PAGA Period ("Individual PAGA Payments").

This motion is made pursuant to Rules 3.764, 3.769, and 3.1113(e) of the California Rules of Court, which, respectively, require that a memorandum in support of class certification not exceed 20 pages, require approval by the Court of a class action settlement, and permit the Court to extend the page limit for memoranda, and California Labor Code section 2699(l)(2), which requires approval by the Court of a PAGA settlement. Unless otherwise specified, all citations and references to the PAGA statute that are contained within this motion and supporting papers are to the former version of the PAGA statute prior to the recent amendment effective July 1, 2024; the amended PAGA statute does not apply to the above-captioned action and the Settlement pursuant to California Labor Code § 2699, subd. (v), as amended, because the above-captioned action was filed prior to June 19, 2024.

This motion is based upon the following Memorandum of Points and Authorities; the Declarations of Class Counsel (Daniel Bass), Class Representative (Diana Rodriguez), and Administrator (Arron Weisel of Simpluris) in support thereof; the pleadings and other records on file with the Court in this matter; and such evidence and oral argument as may be presented at the hearing on this motion.

Dated: June 16, 2025

LAWYERS *for* JUSTICE, PC

By: ______________________
Daniel Bass
Attorneys for Plaintiff and the Class

LAWYERS *for* JUSTICE, PC
450 North Brand Blvd., Suite 900
Glendale, California 91203

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450 North Brand Blvd., Suite 900
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450 North Brand Blvd., Suite 900
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LAWYERS *for* JUSTICE, PC
450 North Brand Blvd., Suite 900
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California Rules of Court, Rule 3.764 ii
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Other Authorities

California Practice Guide, *Civil Procedure Before Trial*, Chapter 14 11

LAWYERS *for* JUSTICE, PC
450 North Brand Blvd., Suite 900
Glendale, California 91203

MEMORANDUM OF POINTS AND AUTHORITIES

I. SUMMARY OF MOTION

Plaintiff Diana Rodriguez ("Plaintiff" or "Class Representative") seeks final approval of: (1) the settlement reached between Plaintiff and Defendant Visiting Nurse & Hospice Care of Santa Barbara ("Defendant") (together with Plaintiff, the "Parties") which provides for Defendant's payment of a Gross Settlement Amount of $699,999.00;[1] (2) attorneys' fees in the amount of $279,999.60, which is forty percent (40%) of the Gross Settlement Amount ("Class Counsel Fees Payment"), and reimbursement of litigation costs and expenses in the amount of $15,000.00 ("litigation expenses") to Lawyers *for* Justice, PC ("Class Counsel"); (3) payment in the amount of $8,000.00 to Simpluris, Inc. ("Administration Costs"); (4) payment in the amount of $7,500.00 to Plaintiff Diana Rodriguez ("Class Representative Service Payment"); and (5) allocation of $15,000.00 for penalties under the Private Attorneys General Act of 2004, California Labor Code § 2698, et seq. ("PAGA Penalties").[2]

The Settlement resolves the Released Class Claims and covers a class consisting of the following individuals: all current and former non-exempt, hourly employees of VNA who worked in California during the Class Period. (i.e., the time period of September 6, 2022 through February 20, 2026) ("Class" or "Class Members").[3] The Settlement also resolves the Released PAGA Claims of all current and former non-exempt, hourly employees of VNA who worked in California during the PAGA Period. (i.e., the time period of December 21, 2018 through February 26, 2026) ("Aggrieved Employees").[4]

This matter involved, and the settlement is the product of meaningful and extensive investigations, and review and analysis of thousands of pages of information, documents, and data exchanged by the Parties in the course of litigation, mediation and settlement negotiations (which involved one full day mediation conducted by Henry Bongiovi, Esq.).[5]

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[1] *See* Class Action and PAGA Settlement and Release Agreement ("Settlement," "Agreement," "Settlement Agreement"), ¶ 1.21.
[2] Declaration of Arron Weisel Regarding Notice and Settlement Administration ("Simpluris Decl."), ¶¶ 15 & 19; Settlement Agreement, ¶¶ 1.28 & 2(A)-(D).
[3] Settlement Agreement, ¶¶ 1.9 & 1.12.
[4] *Id*., ¶¶ 1.4 & 1.32.
[5] Declaration of Daniel Bass ("Bass Decl.") ¶ 9.

This case has required **299.30 hours** of attorney time by Class Counsel.[6] As will be demonstrated herein, the request for attorneys' fees, which represents forty percent (40%) of the Gross Settlement Amount, is fully supported by the use of the percentage-fee method. Courts have historically awarded fees of up to fifty percent (50%) of the recovery. The requested attorneys' fees are also supported under the lodestar cross-check method with the application of a modest multiplier of 1.11.[7]

The requests for Class Counsel Fees Payment, litigation expenses, Class Representative Service Payment, Administration Costs, and allocation for the PAGA Penalties were fully disclosed in the Notice of Class Action Settlement and Hearing Date for Final Court Approval ("Class Notice") that was mailed to the Class Members. Most importantly, as of the date of this Motion, *no Class Member has objected to the Settlement or to the contemplated Class Counsel Fees Payment, litigation expenses, Class Representative Service Payment, Administration Costs, or allocation for PAGA Penalties.*

The Settlement is fair, adequate, and reasonable, and is the product of arm's-length, good-faith negotiations presided over by a highly-regarded mediator who is experienced in mediating wage-and-hour class action lawsuits. Accordingly, the Court should grant final approval of the Settlement.

II. RELEVANT PROCEDURAL HISTORY AND FACTUAL BACKGROUND SINCE PRELIMINARY APPROVAL

For a discussion of relevant procedural history and facts regarding this matter since preliminary approval, please see the Declaration of Daniel Bass at paragraphs 2 to 5.

III. THE CLASS SHOULD BE CERTIFIED FOR SETTLEMENT PURPOSES

For the reasons previously addressed by way of Plaintiff's moving and supporting papers for the Motion for Preliminary Approval of Class Action Settlement (namely, that the relevant class certification factors are satisfied, i.e., ascertainability, numerosity, community of interest, typicality, adequacy of representation, superiority, and manageability), as well as the reasons discussed herein regarding the completion of the due process notice procedure, the Court is requested to now make final its preliminary certification of the class for settlement purposes.

///

[6] Bass Decl., Exh. 1.

[7] Applying a modest multiplier of 1.11, the total enhanced lodestar fees are $282,389.55 and Class Counsel seeks an attorneys' fees award of $279,999.60 (equal to 40% of the Gross Settlement Amount).

LAWYERS *for* JUSTICE, PC
450 North Brand Blvd., Suite 900
Glendale, California 91203

IV. SUMMARY OF THE SETTLEMENT TERMS, NOTICE PROCESS, AND PLAN OF DISTRIBUTION

Under the terms of the Settlement Agreement, Defendant has agreed to pay a Gross Settlement Amount of $699,999.00 on a non-reversionary basis, and separately the amounts necessary to pay its employer-side payroll taxes.[8] After deducting the Class Counsel Fees Payment, litigation expenses, Class Representative Service Payment, Administration Costs, and PAGA Penalties.[9] The Net Settlement Amount, estimated to be $374,499.40, will be fully distributed to Participating Class Members in accordance with the Settlement Agreement. The PAGA Penalties of $15,000.00 will be distributed to the Labor and Workforce Development Agency ("LWDA") (in the amount of $11,250.00) and to the Aggrieved Employees (in the amount of $3,750.00) in accordance with the Settlement Agreement.

Simpluris, Inc. ("Administrator" or "Simpluris") will determine each Participating Class Member's (i.e., Class Members who did not timely opt out of the Class Settlement) *pro rata* share of the Net Settlement Amount ("Individual Class Payment(s)")[10], as follows: the Administrator will divide the final Net Settlement Amount by the Workweeks of all Participating Class Members during the Class Period to yield the "Final Workweek Value," and multiply each Participating Class Member's individual Workweeks by the Final Workweek Value to yield his or her Individual Settlement Share.

The Administrator will calculate each Aggrieved Employees' *pro rata* share of the 25% share of the PAGA Penalties ("Individual PAGA Payment") as follows: the Administrator will divide the amount of the Aggrieved Employees' 25% share of the PAGA Penalties ($3,750) by the total number of PAGA Period Pay Periods worked by all Aggrieved Employees during the PAGA Period and multiplying the result by each Aggrieved Employee's individual PAGA Period Pay Periods to yield their Individual PAGA Payment.

Class Members had forty-five (45) calendar days from the initial mailing of the Class Notice ("Response Deadline") to dispute the number of Workweeks credited to each of them, opt out of the Class Settlement, and/or object to the Settlement.[11] The Response Deadline was May 14, 2026, and the

[8] Settlement Agreement, ¶ 1.21.
[9] *Id.* ¶ 1.28.
[10] *Id.*, ¶ 1.22.
[11] *Id.*, ¶ 1.44.

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extended Response Deadline was May 25, 2026, for Class Members who were re-mailed the Class Notice.[12] ***As of the date of this motion, the Administrator has received two (2) written requests for exclusion from the Class Settlement ("Request for Exclusion") and zero (0) written objections to the Class Settlement ("Notice of Objection") from Class Members***.[13]

Each Individual Class Payment will be allocated as follows: 15% as wages which will be reported on an IRS Form W-2; and the remaining 85% as disputed penalties, interest and non-wage damages, which will be reported on an IRS Form 1099.[14] The Administrator will withhold the employee's share of taxes and withholdings with respect to the wages portion of the Individual Class Payment, and issue checks to Participating Class Members for their Individual Settlement Shares (i.e., payment of their Individual Class Payment net of these taxes and withholdings).[15] Defendant will pay the employer's share of payroll taxes and contributions with respect to the wage portion of Individual Class Payments ("employer-side payroll taxes") in addition to the Gross Settlement Amount.[16] Individual PAGA Payments will be allocated as 100% penalties and reported on an IRS Form-1099 by the Administrator.[17]

The Administrator shall distribute the following payments: Within fourteen (14) calendar days of the funding of the Gross Settlement Amount: Individual Settlement Share to Participating Class Members, Class Counsel Fees Payment and litigation expenses to Class Counsel, Class Representative Service Payment to Plaintiff, Individual PAGA Payment checks to Aggrieved Employees, the LWDA PAGA Payment to the LWDA, and Administration Costs to itself.[18]

Individual Settlement Share and Individual PAGA Payment checks will be valid and negotiable for one hundred eighty (180) calendar days from the date the checks are mailed, and thereafter, shall be canceled.[19] The funds associated with such canceled checks will be distributed by the Administrator to the California Controller's Unclaimed Property Fund in the name of the individuals to

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[12] Simpluris Decl., ¶ 10.
[13] *Id.*, ¶¶ 11-12.
[14] Settlement Agreement, ¶ 4.2.4.3.
[15] Ibid.
[16] *Id.*, ¶ 1.21.
[17] *Id.*, ¶ 4.2.4.5.2
[18] *Id.*, ¶ 5.3.
[19] *Id.*, ¶ 5.3.1.

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450 North Brand Blvd., Suite 900
Glendale, California 91203

whom the checks had originally been issued.[20] All Participating Class Member and Aggrieved Employees shall be bound by the terms and conditions of this Settlement Agreement regardless of whether or not they cash or otherwise negotiate their Individual Settlement Share and/or Individual PAGA Payment checks.[21]

V. THE SETTLEMENT ADMINISTRATION PROCESS

The Court directed Simpluris to administer and effectuate the notice and settlement administration process. On March 16, 2026, Simpluris received the Class Data from Defendant's counsel which contained information for 635 individuals.[22] The mailing addresses contained in the Class Data were processed and updated utilizing the U.S. Postal Service's National Change of Address Database ("NCOA").[23] On March 30, 2026, Simpluris mailed the Class Notice via U.S. first class mail to all 635 individuals identified as Class Members in the Class Data.[24]

A total of 47 Class Notices were returned to Simpluris. with a forwarding address and Simpluris promptly re-mailed the Class Notices to the forwarding addresses.[25] If a Class Member's Notice was returned as undeliverable and without a forwarding address, Simpluris performed an advanced address search (i.e. skip trace) on all of these addresses. Simpluris was able to locate two (2) updated addresses and Simpluris promptly mailed a Notice to those updated addresses. There are forty-five (45) mailed Notices that remain undeliverable.[26]

The Administrator has received zero (0) Notice of Objections, only two (2) Requests for Exclusion, and zero (0) Workweeks Disputes from Class Members by the Response Deadline of May 14, 2026 or the extended Response Deadline of May 25, 2026 for those Class Notices that were re-mailed.[27] To date, there are 633 Class Members who did not submit a timely and valid Request for Exclusion ("Participating Class Members"), and who will be paid their portion of the Net Settlement Amount. The Net Settlement Amount of approximately $374,499.40 and the PAGA Penalties of $15,000.00 will be distributed in accordance with the terms of the Settlement.[28]

[20] Settlement Agreement, ¶ 5.3.3.
[21] *Id.*, ¶ 5.3.4.
[22] Ibid.
[23] *Id.*, ¶ 6.
[24] *Id.*, ¶ 7.
[25] *Id.*, ¶ 8.
[26] Ibid.
[27] Simpluris Decl., ¶¶ 10-13.
[28] *Id.*, ¶ 15.

LAWYERS *for* JUSTICE, PC
450 North Brand Blvd., Suite 900
Glendale, California 91203

VI. THE COURT SHOULD GRANT FINAL APPROVAL OF THE CLASS ACTION SETTLEMENT.

In reviewing a class settlement, the court need not reach any ultimate conclusions on the issues of fact and law that underlie the merits of the dispute. *7-Eleven Owners for Fair Franchising v. Southland Corp.* (2000) 85 Cal.App.4th 1135, 1146. The inquiry is not whether the settlement agreement is the best one that class members could have possibly obtained, but whether the settlement, taken as a whole, is "fair, adequate, and reasonable"—and the trial court has broad discretion to determine this. *Chavez v. Netflix, Inc.* (2008) 162 Cal.App.4th 43, 52-55. The list of factors is not exclusive and the court can consider different factors based on the circumstances of each case." *Wershba* at 245. At the final approval stage, a presumption of fairness exists where, as here:

> "(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."

Id. at 1802.

A. The Settlement Resulted from Arm's-Length Negotiations Based Upon Extensive Investigation and Formal and Informal Discovery.

Class Counsel conducted significant investigation and extensive formal and informal discovery into the facts of the case, to assess the veracity, strength, and scope of the claims, and was preparing for class certification and trial prior to reaching the Settlement.[29]

The Parties informally exchanged a volume of information, documents, and data throughout the course of the litigation and in connection with the mediations and settlement negotiations.[30] Class Counsel informally exchanged thousands of pages of information, documents, and data obtained from Plaintiff, Defendant, and other sources, including: employment records of Plaintiff, a detailed sampling of Plaintiff's, Class Members', and aggrieved employees' timekeeping, payroll, and reimbursement data, Defendant's Employee Handbook, wage and hour policies, earning statements, timecard information, company policy acknowledgments and forms, internal memorandum, job descriptions, and other information and documents.[31] Class Counsel had the opportunity to interview Plaintiff and other

[29] Bass Decl., ¶ 7.
[30] *Id.*, ¶¶ 7-9.
[31] *Id.*, ¶ 7.

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450 North Brand Blvd., Suite 900
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percipient witnesses. Class Counsel developed liability, damages, violation, and penalties valuation models, and met and conferred with Defendant's counsel on numerous occasions, e.g., to discuss issues relating to the pleadings, case management, motion practice, formal and informal discovery, and the production of information, documents, and data in the course of litigation and in connection with mediation and settlement negotiations, and settlement.[32] Other work performed by Class Counsel included, and was not limited to, case strategy and analysis; researching, drafting, reviewing, and/or revising the pleadings, motion-related papers, the mediation briefing and supporting materials, and settlement documents; drafting and propounding multiple sets of formal written discovery requests on Defendant and notices of depositions of Defendant's person(s) most qualified designees; reviewing Defendant's responses and objections to written discovery requests and deposition notices; and preparing for and attending court proceedings, mediation, and settlement negotiations, among other tasks.[33]

The Parties participated in a formal mediation conducted by Henry Bongiovi, Esq., who is well-regarded mediator experienced in mediating complex labor and employment matters.[34] In the course of mediation and settlement negotiations, the Parties exchanged documents and data, and discussed various aspects of the case, including and not limited to, the risks and delays of further litigation, the risks and expenses to the Parties of proceeding with class certification, representative adjudication, and trial.[35] During all settlement discussions, the Parties conducted their negotiations at arm's length in an adversarial position.[36] Arriving at a settlement that was acceptable to the Parties was not easy.[37] Defendant and its counsel felt strongly about Defendant's ability to avoid class certification prevail on the merits and, while Plaintiff and Class Counsel believed that they would be able to obtain class certification and prevail at trial.[38] The Parties agreed that this matter was well-suited for settlement given the legal issues relating to Plaintiff's principal claims, as well as the costs and risks to the Parties that would attend further litigation.[39]

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[32] Bass Decl., ¶ 7.
[33] Ibid.
[34] *Id.*, ¶ 9.
[35] Ibid.
[36] Ibid.
[37] Ibid.
[38] Ibid.
[39] *Id.*, ¶¶ 8-9.

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450 North Brand Blvd., Suite 900
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The Settlement takes into account the strengths and weaknesses of each side's position and the uncertainty of how this matter might have concluded at certification, trial, and/or appeals.[40] The Settlement was based on thousands of pages of facts, evidence, and investigation.[41] Additionally, Class Counsel has extensive experience in handling complex wage-and-hour actions, including significant experience in employment class action litigation.[42]

B. <u>The Risks Inherent in Continued Litigation Favor Final Approval of the Settlement.</u>

The risks inherent in litigating the claims through certification proceedings, trial, and/or appeals, favor resolving this matter for a Gross Settlement Amount of $699,999.00.[43] The Settlement was calculated using information and data uncovered through extensive case investigation, formal and informal discovery, and the exchange of information in the context of litigation, mediation, and ongoing settlement negotiations.[44] Had the action not settled, Defendant would have vigorously challenged class certification, manageability, and liability. Defendant contended that individualized questions of fact predominated over any common issues, and these issues would pose challenges to certification and representative adjudication. Defendant would have likely argued again at trial, if any, that Plaintiff's claims were not appropriate for class or representative adjudication.

The risks and expenses of further litigation outweighed any benefit that might have been gained otherwise. These risks of further litigation include a determination that the claims were unsuitable for class treatment and/or representative adjudication, failure to obtain certification, class de-certification after certification of a class, allowing a jury to decide the claims asserted in this matter, and the real possibility of no recovery after years of litigation. Additionally, the Parties were moving into the phase of the litigation where they would have to conduct a significant amount of additional discovery, including and not limited to, depositions of Defendant's Person Most Qualified designees, expert witnesses, and percipient witnesses, such as managers, supervisors, and other current and former employees. Additional discovery would have certainly arisen, which would have cost the Parties additional time and money. In

[40] Bass Decl., ¶¶ 7-9.
[41] Ibid.
[42] *Id.*, ¶¶ 14-19.
[43] *Id.*, ¶¶ 9 & 20.
[44] *Id.*, ¶¶ 6-9.

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450 North Brand Blvd., Suite 900
Glendale, California 91203

contrast, the Settlement provides real and significant benefits for the Class, Aggrieved Employees, and the State of California here and now, while avoiding the further expenses, risks, and delay of prolonged litigation with only the possibility of recovery.

It would be grossly inefficient for such a large class of current and former employees to bring individual actions to recover from Defendant for the alleged violations of wage-and-hour laws. Moreover, the potential individual recovery that could be obtained by a Class Member would not be significant enough to provide him or her with the incentive to sue.

C. <u>The Settlement Is Fair, Reasonable, and Adequate.</u>

The Settlement, which provides for a Gross Settlement Amount of $699,999.00, represents a fair, reasonable, and adequate resolution of this matter. The Settlement was calculated using information and data uncovered through extensive case investigation, formal and informal discovery, and the exchange of information in the context of litigation, mediation, and extensive settlement negotiations. The Settlement takes into account the potential risks and rewards inherent in any case and, in particular, in this matter. Moreover, considering the facts in this matter, the Gross Settlement Amount represents a considerable recovery.

As discussed in Section IV, *supra*, each Participating Class Member will be paid a *pro rata* share of the Net Settlement Amount (which is currently estimated to be $374,499.40), based on the number of Workweeks credited to them and each Aggrieved Employee will be paid a *pro rata* share of the 25% share of the PAGA Penalties, based on the PAGA Pay Periods credited to them.[45] The highest Individual Settlement Share to a Participating Class Member is currently estimated to be $2,000.64 and the average Individual Settlement Share is currently estimated to be $591.62.[46] The highest Individual PAGA Payment to a Aggrieved Employee is current estimated to be $21.04 and the average Individual PAGA Payment is currently estimated to be $10.86.[47] These are significant individual recoveries, particularly in light of the risks of litigation.

[45] Settlement Agreement, ¶¶ 1.22 & 1.24. The *pro rata* allocation here is a fair and reasonable way to distribute the Net Settlement Amount that is payable to the Participating Class Members and 25% of the PAGA Penalties that is payable to the Aggrieved Employees. At the final approval stage, "[a]n allocation formula need only have a reasonable, rational basis [to warrant approval], particularly if recommended by experienced and competent class counsel." *In re American Bank Note Holographics, Inc., Securities Litigation* (S.D.N.Y. 2001) 127 F.Supp.2d 418, 429-30.
[46] Simpluris Decl., ¶ 16.
[47] *Id.*, ¶ 18.

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Class Counsel believes that the Settlement as a whole is fair, reasonable, and adequate.[48]

D. The Class Was Represented by Competent Counsel.

Class Counsel has extensive experience in employment class action law and complex wage-and-hour litigation.[49] Lawyers *for* Justice, PC has been appointed class counsel in numerous complex wage-and-hour cases, and has recovered millions of dollars for individuals in California.[50] Both Parties' counsel were capable of assessing the strengths and weaknesses of the Class Members' claims against Defendant and the benefits of the Settlement under the circumstances of the lawsuit and in the context of a private, consensual settlement agreement.

E. There Are No Written Objections to the Class Settlement.

The Settlement has been well received by the Class – ***not a single Class Member objected to or the Settlement and only two (2) have opted out.***[51] Specifically, no objections have been made as to the Gross Settlement Amount or contemplated Class Counsel Fees Payment, litigation expenses, Class Representative Service Payment, Administration Costs, and allocation for the PAGA Penalties. California courts have consistently found that a small number of objectors indicates support for a settlement and strongly favors final approval.[52]

Here, the lack of any objections speaks volumes about the fairness, reasonableness, and adequacy of this Settlement. Accordingly, the Settlement as a whole is presumed to be fair, reasonable, and adequate, and the Court should grant final approval of the Settlement in its entirety. *Dunk*, 48 Cal.App.4th at 1802.

VII. THE ATTORNEYS' FEES REQUESTED SHOULD BE APPROVED.

A. A Fee Award of a Percentage of the Entire Fund Is Appropriate.

Under the terms of the Settlement Agreement, Defendant will pay a Gross Settlement Amount of $699,999.00.[53] The requested attorneys' fees are forty percent (40%) of the total value of the monetary

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[48] Bass Decl., ¶ 22.
[49] *Id.*, ¶¶ 14-19.
[50] Ibid.
[51] Simpluris Decl., ¶¶ 11 & 12.
[52] *Wershba*, *supra*, 91 Cal.App.4th at 250-51 (final approval granted despite 20 objectors); *7-Eleven Owners*, *supra*, 85 Cal.App.4th at 1152-53 (final approval granted despite 9 objectors).
[53] Settlement Agreement, ¶ 1.21.

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settlement.[54] In light of Class Counsel's successful prosecution and resolution of this matter, the requested attorneys' fees are appropriate and reasonable.

Where the amount of a settlement is a "certain easily calculable sum of money," California courts may calculate attorneys' fees as a reasonable percentage of the settlement. Weil and Brown, California Practice Guide, *Civil Procedure Before Trial*, Chapter 14, § 14:145; *In re Bluetooth Headset Prods. Liab. Litig.* (9th Cir. 2011) 654 F.3d 935, 942 (The percentage method is particularly appropriate where a monetary settlement has been recovered and "the benefit [recovered can be] easily quantified."); Trial courts "retain the discretion to forgo a lodestar cross-check and [may] use other means to evaluate the reasonableness of a requested percentage fee." *Id*. (internal quotes omitted)

The percentage fee method is preferred in representative actions because "it better approximates the workings of the marketplace than the lodestar approach." *Lealao v. Beneficial Cal., Inc.* (2000) 82 Cal.App.4th 19, 49. In cases where the settlement agreement provides that the defendant will pay the plaintiff's attorneys a percentage of the fund created by the settlement, use of that percentage method is appropriate. *Lealao* at 32.

Class Counsel's application for attorneys' fees in light of the facts and circumstances surrounding the case is well-within the range of reasonableness. Courts have awarded fees as high as 50% of the settlement in complex actions, depending on the circumstances of the case.[55]

Class Counsel has performed significant work in this matter with the very real possibility of an unsuccessful outcome and no fee recovery of any kind.[56] In the present matter, Class Counsel has borne all of the risks and costs of litigation and will not receive any compensation until recovery is obtained.[57] Class Counsel is experienced in complex wage-and-hour litigation and used that experience to obtain a significant settlement recovery for Plaintiff, the Class, and the State of California.[58]

Compensating class counsel in class litigation on a percentage basis, as requested herein, makes good sense because: (1) it is consistent with the private marketplace where contingent fee attorneys are

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[54] Settlement Agreement, ¶¶ 2(A) & 4.2.2.

[55] *See 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 total settlement amount); *Beech Cinema, Inc. v. Twentieth-Century Fox Film Corp.* (S.D.N.Y. 1979) 480 F.Supp. 1195 (awarding approximately 53% of the settlement as attorneys' fees). California courts routinely approve attorneys' fees awards "average[ing] around one-third of the recovery." *Chavez v. Netflix, Inc.* (2008) 162 Cal.App.4th 43, 66 n.11 (lower court found the range of contingency fees in marketplace to be 20%-40% and determined such a percentage fee was appropriate).

[56] Bass Decl., ¶¶ 5-11.

[57] *Id*., ¶¶ 9-11, & 20.

[58] *Id*., ¶¶ 13-20.

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customarily compensated on such a basis; (2) it aligns the interests of class counsel and absent class members in achieving the maximum possible resolution of the case; and (3) it encourages the efficient and expeditious resolution of the litigation by providing an incentive for early, yet reasonable, settlement.

The percentage method is consistent with practice in the private marketplace where contingent-fee attorneys typically negotiate percentage-fee arrangements with their clients. The named plaintiff's agreement to pay a contingent fee is powerful evidence of a reasonable fee. One of the best ways to demonstrate the value of counsel's work to the class is to review the consideration agreed to be paid by the named plaintiff. If the named plaintiff has employed counsel on a contingency-fee basis, it would indeed be inequitable for the members of the class, who will enjoy the benefits of the settlement without incurring the risks of bringing the claim, to pay less than the named plaintiff. In this case, Plaintiff has agreed to a contingency fee agreement of at least forty percent (40%) of the recovery.[59]

Class Counsel has obtained a substantial recovery on behalf of Plaintiff, the Class, and the State of California and the results achieved justify an attorneys' fees award that is the equivalent of the standard market fee and that is consistent with the contingency-fee agreement entered into by and between Plaintiff and Class Counsel. Thus, the requested attorneys' fees are appropriate.

B. **<u>The Attorneys' Fees Requested Are Reasonable Based on the Factors Considered in Determination of Fee Awards.</u>**

The factors which courts consider in determining whether fee awards are reasonable, all of which support the fee award requested by Class Counsel, are: the time and labor required; the novelty and difficulty of the questions involved; the skill requisite to perform the legal services properly; the preclusion of other employment by the attorney due to the acceptance of the case; the customary fee; whether the fee is fixed or contingent; the time limitation imposed by the client or the circumstances; the amount involved and results obtained; the experience, reputation, and ability of the attorney; the undesirability of the case; the nature and length of the professional relationship with the client; and awards in similar cases. *Camden I Condominium Association, Inc. v. Dunkel* (11th Cir. 1991) 946 F.2d 768, 772. Some of the most relevant factors to this Court's fee determination will be addressed below.

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[59] Bass Decl., ¶ 10.

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The award of attorneys' fees in the amount of $279,999.60 (40% of the Gross Settlement Amount) is commensurate with the time, effort, and expense dedicated to this matter, the contingent nature of Class Counsel's fee recovery and the risks taken, the skill and determination required, the results achieved, and the value of the settlement that Class Counsel has obtained in this matter.

1. Time & Labor.

Class Counsel used its experience and skills, and dedicated the full extent of resources, to litigate and bring this matter to a successful conclusion.[60] Class Counsel has fully and actively participated in litigation of this matter.[61] Prior to commencing the lawsuit, Class Counsel had conducted a significant amount of investigation into the factual and legal issues, Defendant's business and its operations, and employment policies, practices, and procedures.[62] Class Counsel had the opportunity to interview Plaintiff and other percipient witnesses; reviewed and analyzed of thousands of pages of information, documents and data obtained from Defendant, Plaintiff, and other sources; and prepared liability, damages, penalties, and valuation calculations.[63] Class Counsel also met and conferred with Defendant's counsel on numerous occasions e.g., to discuss issues relating to the pleadings, case management, motion practice, informal discovery, and the production of information, documents and data among other things, and prepared for and attended court proceedings, mediation, and settlement negotiations.[64]

The Attorney Task and Time Chart, which is attached as "**EXHIBIT 1**" to the accompanying Declaration of Daniel Bass, sets forth in detail the hours that attorneys at Lawyers *for* Justice, PC have spent performing tasks in this matter.[65] Class Counsel has spent **299.3** hours performing tasks and to obtain a significant recovery in this matter.[66] These hours were required to bring this matter to its successful conclusion.

2. The Skill Required to Perform Legal Services Properly.

The skill required to properly litigate this matter is evident from the results achieved, the steps necessary to reach those results, and that Defendant retained well-respected counsel to represent it.

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[60] Bass Decl., ¶¶ 7-9, & 12-19.
[61] *Id.*, ¶¶ 5-9 & 12; Exh. 1.
[62] *Id.,* ¶ 6.
[63] Bass Decl., ¶ 7.
[64] Ibid.
[65] *Id.*, Exh. 1.
[66] *Id.*, ¶ 12; Exh. 1.

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Glendale, California 91203

Class Counsel exercised its skill to perform significant investigation, analysis, and research prior to filing this case, during the litigation, and prior to and during the mediation and settlement negotiations. Class Counsel took steps to prepare the matter for class certification and representative adjudication and had every intention of taking this matter to trial on a class-wide basis if Defendant did not offer an appropriate class-wide settlement. Class Counsel used its extensive experience in the handling of class actions and complex wage-and-hour matters in order to obtain the Settlement with maximum efficiency.[67]

3. Whether the Fee Is Fixed or Contingent.

Plaintiff entered into a contingency fee agreement with Class Counsel, and the representation of the Class provided by Class Counsel has been wholly contingent.[68] Class Counsel has invested **299.3** hours of time to obtain relief on behalf of Plaintiff, the Class, and the State of California.[69] Class Counsel has also incurred litigation costs and expenses in excess of $15,000.00.[70] Thus, Class Counsel has borne all of the risks and costs of litigation and will not receive any compensation until recovery is obtained.[71]

In determining the reasonableness of a fee award in a class action settlement, whether or not representation is provided on a contingency basis is an important factor:

> 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. 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.

Cates v. Chiang (2013) 213 Cal.App.4th 791, 823 (internal quotes and citations omitted). Class Counsel litigated this matter on a contingent basis with all of the concomitant risk factors inherent in such an uncertain undertaking.

4. The Amount Involved and the Results Achieved.

The Settlement represents an excellent resolution of this matter, given the risks inherent in litigating the matter through class certification proceedings, trial, and/or appeals. Had this matter not

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[67] Bass Decl., ¶¶ 13-20.
[68] *Id.*, ¶ 10.
[69] *Id.,* ¶ 12 & Exh. 1.
[70] *Id.*, ¶ 20 & Exh. 2.
[71] Ibid.

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settled, Defendant would have vigorously challenged certifiability, manageability, and liability. Defendant, however, faced risks if the Court certified a class and allowed a jury to decide the claims. Additionally, preparing this matter for trial would have been expensive for the Parties. The Settlement at this stage is preferred over continued litigation because such resolutions save time and money that would otherwise go to litigation. The risks and expenses of further litigation outweighed any benefit that might have been gained otherwise. The Settlement provides an immediate recovery, as opposed to an uncertain result in the future after costly, risk, and prolonged litigation involving expert discovery, trial preparation, class certification proceedings, and appellate review of those proceedings.

The results achieved, in light of the difficulties inherent in similar cases and the specific difficulties faced in this matter, are considerable.[72] The Settlement has yielded a positive response from the Class Members—no Class Members objected to the Class Settlement.[73]

5. The Reputation and Ability of the Attorneys.

Lawyers *for* Justice, PC is a recognized class action law firm that employed its attorneys' knowledge, skills, and experience in bringing this case to a successful conclusion.[74] Class Counsel has years of complex and class action litigation experience, has recovered millions of dollars on behalf of thousands of individuals in California, and has successfully handled numerous significant wage-and-hour class action and complex cases. [75]

C. <u>The Lodestar Methodology Also Justifies Approval of the Requested Fees.</u>

While the percentage-of-the-benefit approach is endorsed as the better approximation of the workings of the marketplace than the lodestar approach, courts may also use the lodestar method to "cross-check" the results of the other.[76] The lodestar is calculated based on reasonable hours at reasonable prevailing hourly rates for the attorneys, and counsel is entitled to compensation for every hour reasonably spent on the matter. *Ketchum v. Moses* (2001) 24 Cal.4th 1122, 1131-33.

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[72] Bass Decl., ¶¶ 7-11.
[73] Simpluris Decl., ¶ 12
[74] Bass Decl., ¶¶ 14-19.
[75] Ibid.
[76] *Laffitte*, *supra*, 1 Cal.5th at 505 (explaining that "[a] lodestar cross-check is simply a quantitative method for bringing a measure of the time spent by counsel into the trial court's reasonableness determination" and "the lodestar calculation . . . does not override the trial court's primary determination of the fee as a percentage" and "does not impose an absolute maximum or minimum on the potential fee award."); *see also, e.g.*, *Vizcaino*, 290 F.3d at 1050 ("[W]hile the primary basis of the fee award remains the percentage method, the lodestar may provide a useful perspective on the reasonableness of a given percentage award.").

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As discussed above, Class Counsel expended significant time and labor in this highly contested matter.[77] Class Counsel has been actively involved in the prosecution of the case, and the work performed in said case has precluded other employment.[78] Class Counsel bore the risk that, despite all of its efforts and skills employed, there may be no recovery.[79] The Attorney Task and Time Chart sets forth in detail the numerous tasks that Class Counsel performed in this matter, and the time required for completing those tasks.[80] The chart demonstrates that Class Counsel has spent a total of **299.3** hours litigating this matter and finalizing the Settlement.[81] Class Counsel will continue to perform work on this matter through the date of final approval and in connection with the implementation of the Settlement.

The professional background and experience of Class Counsel support a reasonable rate of compensation of at least $850 per hour for services provided by Class Counsel.[82] Lawyers *for* Justice, PC has been awarded attorneys' fees, compensating the firm at the blended rate of at least $850 per hour for legal service performed, by courts of this state.[83] While the circumstances of every case are unique, the fact remains that the work performed by Class Counsel in this matter justify the requested attorneys' fees.

Applying the rate of $850 per hour to 299.3 hours worked by Class Counsel, would place a base lodestar value of $254,405.00 on the services provided by Class Counsel. It also bears noting that a court may apply a multiplier in consideration for risk, efficiency, and/or obtaining a substantial result, to enhance the lodestar for purpose of cross-check. See *Ketchum* at 1133-34 (holding that a risk multiplier may be applied to compensate contingency fee attorneys at a fair market rate).[84] The risks involved, skill required, complexity of the matter, and results obtained warrant upward enhancement of the lodestar.[85]

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[77] Bass Decl., ¶¶ 11-12 & Exh. 1.
[78] *Id.*, ¶ 11.
[79] *Id.*, ¶¶ 10, 11, & 20.
[80] *Id.*, ¶ 12 & Exh. 1.
[81] Ibid.
[82] *Id.*, ¶ 13.
[83] Ibid.
[84] Courts have approved fee awards with multipliers of 2 and even higher. See, e.g., *City of Oakland v. Oakland Raiders* (1988) 203 Cal.App.3d 78 (affirming a 2.34 multiplier without remand); *Wershba*, *supra*, 91 Cal.App.4th at 255 ("Multipliers can range from 2 to 4 or even higher."); *Sutter Health Uninsured Pricing Cases* (2009) 171 Cal.App.4th 495, 512 (applying a 2.52 multiplier on a lodestar cross-check); *Chavez v. Netflix, Inc.* (2008) 162 Cal.App.4th 43, 66 (applying a 2.5 multiplier in a consumer class action).
[85] Even when courts have opted to award fees in settlement fund cases based on time reasonably expended on the action, courts have generally awarded these fees based on the actual time expended (the lodestar) in conjunction with a multiplier of between 2 and 4. *Kerr v. Screen Extras Guild, Inc.* (9th Cir. 1975) 526 F.2d 67. Adjustment of the base lodestar figure to compute an award of attorneys' fees for a claim under the California Labor Code is appropriate. See *Id.*, at 1135-36; *Serrano v. Priest* (1977) 20 Cal.3d 25, 48-49. Courts frequently apply multipliers to enhance the lodestar to reflect the risks involved, the complexity of the litigation, and the other relevant facts. *Vizcaino*, 290 F.3d at 1051; *Graham v. DaimlerChrysler Corp*. (2004) 34 Cal.4th 553, 579 ("One of the most common fee enhancers [...] is for contingency risk."). Such an enhancement "mirrors the established practice in the private legal market of rewarding attorneys for taking the risk of nonpayment by paying them a premium over

(Footnote continued)

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450 North Brand Blvd., Suite 900
Glendale, California 91203

Multiple factors warrant enhancement of the lodestar in this case, including the following: the time and labor required; the skill requisite to perform the legal services properly; the preclusion of other employment by the attorney due to the acceptance of this case; the contingent nature of the fee; the amount involved and results obtained; the experience, reputation, and ability of the attorney; and awards in similar cases. *Ketchum* at 1134. Therefore, a multiplier of 1.11 should be applied. Applying the rate of $850 per hour to 299.3 hours for services provided by Class Counsel results in a base lodestar value of $254,405.00 for the work performed by Class Counsel, and applying a modest multiplier of 1.11[86], the total enhanced lodestar fees are $282,389.55.

The application of a modest multiplier of 1.11 is warranted, and the lodestar method as a cross-check to the percentage award sought herein, strongly supports the reasonableness of the requested attorneys' fees. The nature of the work performed, skill exercised, and the outcome in this matter support the percentage fee sought and the application of a lodestar multiplier. Accordingly, the Court is respectfully requested to award attorneys' fees in the amount of $279,999.60 to Class Counsel.

VIII. REIMBURSMENT OF CLASS COUNSEL'S LITIGATION COSTS AND EXPENSES SHOULD BE APPROVED.

The Settlement provides for reimbursement of litigation costs and expenses of up to $15,000.00. Class Counsel incurred $15,251.74 in litigation costs and expenses for this matter.[87] This amount was reasonable and necessary in the prosecution of this matter and to obtain the Settlement.[88] Accordingly, Plaintiff requests that the Court award litigation costs and expenses in the amount of $15,000.00 to Class Counsel.

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their normal hourly rates for winning contingency cases." *Vizcaino*, 290 F.3d at 1051; *accord Ketchum*, 24 Cal.4th at 1132-33. A risk multiplier also serves to bring the financial incentives for enforcing important rights "into line with incentives [attorneys] have to undertake claims for which they are paid on a fee-for-services basis." *Ketchum* at 1132.

[86] Larger multipliers have been awarded in similar cases, and the total amount of fees sought by Class Counsel is also reasonable compared to fees awarded in similar cases. Courts routinely enhance lodestar amounts based on multipliers that "range from **2 to 4 or even higher**." *Wershba, supra*, 91 Cal.App.4th at 255 (emphasis added); *see also, e.g., Chavez v. Netflix, Inc*. (2008) 162 Cal.App.4th 43, 66 (approving multiplier of **2.5**); *Vizcaino,* 290 F.3d at 1051 (approving multiplier of **3.65**); *Wal-Mart Stores, Inc. v. Visa U.S.A., Inc.* (2d Cir. 2005) 396 F.3d 96, 123 (approving multiplier of **3.5**); *Craft v. County of San Bernardino* (C.D. Cal. 2006) 624 F.Supp.2d 1113, 1125 (awarding multiplier of **5.2** and referring to other cases with cross-check multipliers ranging from **4.5 to 19.6**).

[87] Bass Decl., ¶ 20.

[88] Ibid.

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450 North Brand Blvd., Suite 900
Glendale, California 91203

IX. THE ADMINISTRATION COSTS SHOULD BE APPROVED.

The total costs incurred and to be incurred by Simpluris for the notice and settlement administration process are $8,000.00.[89] The costs incurred and to be incurred include, but are not limited to, establishing and maintaining a settlement fund account; establishing and maintaining a calendar of administrative deadlines and responsibilities; processing, issuing, and transmitting settlement payments; distributing notice of the Settlement to the Class; receiving and validating Request for Exclusions, Notice of Objections, or Workweeks Disputes submitted by Class Members; calculating employer-side payroll taxes and providing appropriate forms and calculations to Defendant; providing counsel with weekly reports; and other tasks as the Parties mutually agree or the Court orders Simpluris to perform.[90]

Accordingly, the Court should grant final approval of payment to Simpluris, a necessary third-party for its handling of the notice and settlement process, in the amount of $8,000.00.

X. THE CLASS REPRESENTATIVE SERVICE PAYMENT SHOULD BE APPROVED.

Plaintiff requests a Service Payment, in the amount of $7,500.00 to herself, for her efforts and work spearheading the prosecution of this matter and serving as the Class Representative, as well as her broader individual waiver and release of claims with a California Civil Code Section 1542 waiver. Such enhancement awards are common, and the one requested here is reasonable.[91]

Plaintiff spent a substantial amount of time and effort providing the facts and evidence necessary to support the prosecution of the claims.[92] Plaintiff was available whenever Class Counsel needed her and actively tried to obtain, and gave, information to support the pursuit of this matter.[93]

Accordingly, it is appropriate and just for Plaintiff Diana Rodriguez to receive $7,500.00 as a reasonable Class Representative Service Payment, in addition to her Individual Settlement Share.

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[89] Simpluris Decl., ¶ 19.
[90] *Id.*, ¶ 3.
[91] *Vranken v. Atlantic Richfield Co*. (N.D. Cal. 1995) 901 F.Supp. 294, 299 (Relevant factors considered by courts are the financial and other risk to, the notoriety and personal difficulties encountered by, and the amount of time and efforts spent by the class representative, as well as the duration of the litigation and the personal benefit (or lack thereof) enjoyed by the class representatives as a result of the litigation; approving $50,000 participation award to a single class representative based on such factors).
[92] Bass Decl., ¶ 21; Declaration of Diana Rodriguez ("Rodriguez Decl."), ¶¶ 3-8.
[93] Ibid.

LAWYERS *for* JUSTICE, PC
450 North Brand Blvd., Suite 900
Glendale, California 91203

XI. CONCLUSION

For the foregoing reasons, the Court is respectfully requested to grant final approval of the Settlement, approve and award Class Counsel Fees Payment and litigation expenses to Class Counsel, the Class Representative Service Payment to Plaintiff, Administration Costs to the Administrator, and the PAGA Penalties, in their entirety, as sought herein; and permit the filing of a memorandum that exceeds the page limit.

Dated: June 16, 2026

LAWYERS *for* JUSTICE, PC

By: ______________________

Daniel Bass
Attorneys for Plaintiff and the Class

LAWYERS *for* JUSTICE, PC
450 North Brand Blvd., Suite 900
Glendale, California 91203