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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

CATHERINE ANDERSON, as an individual and on behalf of all others similarly situated; JOSE RODRIGUEZ, as an individual and on behalf of all others similarly situated,

Plaintiffs,

vs.

KINDER MORGAN, INC., a Delaware corporation; and DOES 1 through 100,

Defendant.

Case No. 23STCV25789

[*Assigned for all purposes to the Hon. Laura A. Seigle, Dept. SSC-17*]

PLAINTIFFS' NOTICE OF MOTION AND MOTION FOR FINAL APPROVAL OF CLASS ACTION SETTLEMENT, CLASS REPRESENTATIVE SERVICE AWARDS, AND ATTORNEYS' FEES AND COSTS; MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT THEREOF

Date: April 27, 2026
Time: 9:00 a.m.
Dept.: SSC-17

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

PLEASE TAKE NOTICE that pursuant to Rule 3.769 of the California Rules of Court, on April 27, 2026 at 9:00 a.m. in Department 17 of the above-entitled Court, located at 312 N. Spring Street, Los Angeles, California 90012, Plaintiffs Catherine Anderson and Jose Rodriguez (collectively referred to as "Plaintiffs"), jointly and on behalf of a class of similarly situated individuals, will and hereby do move this Court for:

1. Confirmation of the certification of the Settlement Class for settlement purposes under Section 382 of the California Code of Civil Procedure;
2. Confirmation of the appointment of Plaintiffs Catherine Anderson and Jose Rodriguez as Class Representatives for settlement purposes;
3. Confirmation of the appointment of Scott M. Lidman, Milan Moore, and Tiara Gose-Hardy of Lidman Law, APC; Paul Haines of Haines Law Group, APC; and George S. Azadian and Ani Azadian of Azadian Law Group, P.C. as Class Counsel for settlement purposes;
4. The granting of final approval of the Amended Class Action and PAGA Settlement Agreement and Class Notice (hereinafter the "Settlement");
5. Approval of an award of $125,000.00 in attorneys' fees to Class Counsel;
6. Approval of an award of $22,762.85 in costs to Class Counsel;
7. Approval of an award of $10,000.00 in costs to Phoenix Settlement Administrators for its settlement administration services;
8. Approval of a service award of $2,500.00 to Plaintiff Catherine Anderson for her services as Class Representative;
9. Approval of a service award of $5,000.00 to Plaintiff Jose Rodriguez for his services as Class Representative;
10. Approval of an award of $20,000.00 in PAGA Penalties to the Labor & Workforce Development Agency ("LWDA") and Aggrieved Employees; and
11. The entering of final judgment in the form of the [Proposed] Order Granting Plaintiffs' Motion for Final Approval of Class Action Settlement and Final Judgment filed concurrently herewith.

This Motion is made on the following grounds: (l) the Settlement Class continues to meet the requirements for class certification for settlement purposes only under Code of Civil Procedure § 382; (2) Plaintiffs and Class Counsel continue to be adequate representatives of the Settlement Class; (3) the Settlement is a fair, adequate, and reasonable compromise of disputed wage and hour claims; (4) the requested awards of attorneys' fees and costs, service awards, PAGA Penalties, and settlement administration costs are all fair, adequate, and reasonable; and (5) in light of the foregoing, the [Proposed] Order Granting Plaintiffs' Motion for Final Approval of Class Action Settlement and Final Judgment submitted concurrently herewith should be entered so as to give finality to, and allow for disbursements from, the Settlement.

This Motion is based on this Notice; the attached Memorandum of Points and Authorities; the supporting declarations of Scott M. Lidman, Milan Moore, Tiara Gose-Hardy, Paul K. Haines, George S. Azadian, Plaintiffs Catherine Anderson and Jose Rodriguez[1], Mayra Gonzalez of Phoenix Settlement Administrators, and the exhibits attached thereto; the Settlement; all other pleadings and papers on file in this action; and on any further oral or documentary evidence or argument presented at the time of hearing.

Dated: April 3, 2026

Respectfully submitted,
LIDMAN LAW, APC

By: ______________________
Scott M. Lidman

Attorney for Plaintiff
CATHERINE ANDERSON and the Proposed Class

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[1] The declaration of each Plaintiff was originally filed with this Court in connection with the Motion for Preliminary Approval. For the convenience of the Court, Plaintiffs have re-filed their declaration with the instant Motion.

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MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

Plaintiffs Catherine Anderson and Jose Rodriguez ("Plaintiffs") submit this memorandum of points and authorities in support of their motion for final approval of the class action settlement (the "Settlement") with Defendant Kinder Morgan, Inc. ("Defendant") on behalf of the Settlement Class defined as: "All non-exempt, hourly paid employees who are or were employed by Defendant in California during the Class Period." The Class Period is the period from September 28, 2019 to April 19, 2025.

In this non-reversionary Settlement, all participating Settlement Class members will receive **automatic** payments without the need to submit a claim form, resulting in an average settlement payment of approximately $363.48 to each participating Settlement Class member. This is a favorable resolution of the highly disputed wage and hour claims in this case and the significant litigation risks that Plaintiffs faced.

Since this Court granted preliminary approval on December 18, 2025, nothing has changed to impact the propriety, fairness, adequacy and reasonableness of the Settlement. In addition, after receiving notice of the Settlement and of their projected Settlement payments, as of the date of this filing, none of the 522 Settlement Class members have opted out of the Settlement and not a single Settlement Class member has filed an objection to any portion of the Settlement.

As explained below, the Court should grant Plaintiffs' motion in its entirety because: (1) the Settlement Class continues to meet the requirements for class certification for settlement purposes under Code of Civil Procedure § 382; (2) the Settlement warrants final approval because it is a fair, adequate, and reasonable compromise of the disputed claims in this case; and (3) the amounts requested for Class Counsel's attorneys' fees and costs, Plaintiffs' Class Representative Service Awards, PAGA Penalties, and settlement administration costs are all fair, adequate, and reasonable.

In light of the foregoing, Plaintiffs respectfully request that this Court enter the [Proposed] Order Granting Plaintiffs' Motion for Final Approval of Class Action Settlement and [Proposed] Final Judgment submitted concurrently herewith.

II. FACTUAL AND PROCEDURAL BACKGROUND

On October 20, 2023, Plaintiff Catherine Anderson commenced this action by filing a class action Complaint against Defendant Kinder Morgan, Inc. alleging class-wide causes of action against Defendant for: (i) failure to pay all minimum wages owed; (ii) failure to pay all overtime wages owed; (iii) failure to provide meal periods; (iv) failure to authorize and permit all rest periods; (v) failure to provide accurate, itemized wage statements; and (vi) unfair competition ("*Anderson* Action"). *See* Declaration of Scott M. Lidman ("Lidman Decl."), ¶ 10. The *Anderson* Action was removed to federal court on December 20, 2023, and after exhausting her administrative remedies, pursuant to a stipulation and court order Plaintiff Anderson filed a First Amended Class and Representative Action Complaint adding a cause of action for civil penalties under the Private Attorneys General Act of 2004 ("PAGA") based on Labor Code violations as alleged in her operative complaint. *Id*.

On September 28, 2023, Plaintiff Jose Rodriguez commenced an action in Imperial County Superior Court by filing a class action complaint against Defendant Kinder Morgan, Inc. alleging class-wide causes of action against Defendant for: (i) failure to pay all minimum wages owed; (ii) failure to pay all overtime wages owed; (iii) failure to provide meal periods; (iv) failure to authorize and permit all rest periods; (v) failure to provide accurate, itemized wage statements; and (vi) unfair competition ("*Rodriguez* Action"). Lidman Decl., ¶ 11. The *Rodriguez* action was removed to federal court on October 30, 2023. *Id*.

On June 26, 2024, Plaintiffs and Defendant (collectively, the "Parties") moved to have the *Anderson* Action and *Rodriguez* Action consolidated, to which the federal court granted. Lidman Decl., ¶ 12.

On March 27, 2025, the federal court granted the Parties' motion to remand. Lidman Decl., ¶ 13.

A. Plaintiffs' Claims

As explained in detail in the Motion for Preliminary Approval, Plaintiffs' primary theories of liability are related to Defendant's alleged failure to pay Settlement Class members for all time worked and its alleged failure provide Settlement Class members all legally compliant duty-free meal and rest periods. Lidman Decl., ¶¶ 10-11; 19-29. Specifically, Plaintiffs allege that they worked off-the-clock, which, along with other issues, resulted in underpayment of hourly wages. Lidman Decl., ¶ 19. Plaintiffs further allege that they and other Class Members earned non-discretionary bonuses related to achieving set bonus standards that Defendant had and shift differentials. *Id*. Plaintiffs allege they were not provided all meal and rest periods. *Id*. Plaintiffs contend wage statements provided by Defendant did not show accurate information by omitting the lack of meal/rest break premium pay that should have been paid to Plaintiffs and the other Class Members and incorrectly stated the hours worked due to alleged off-the-clock work. *Id*.

Plaintiffs contend that, as a further result of not being paid all minimum and overtime wages and not receiving meal and rest period premiums for all noncompliant meal and rest periods, former employees were denied wages owed to them. Lidman Decl., ¶ 24.

Plaintiffs allege that Defendant failed to reimburse Settlement Class members for necessary business expenditures, including the use of their personal cellular phones for work activities and use of their personal cars, as required under Labor Code section 2802 and by *Cochran v. Schwan's Home Service, Inc.* (2014) 228 Cal.App.4th 1137. Lidman Decl., ¶ 26. Plaintiffs contend that Defendant required them to use their personal cellular phones and/or vehicles for work-related purposes but Defendant did not reimburse the putative class members for the cell phones and/or the data usage and/or mileage. *Id*.

Plaintiffs also seek civil penalties under the PAGA as a result of the foregoing alleged Labor Code violations. Lidman Decl., ¶ 28.

As explained *infra* and in Plaintiffs' Motion for Preliminary Approval, Defendant denies Plaintiffs' claims, maintains that it has consistently compensated Settlement Class Members in accordance with all applicable laws, and asserts several affirmative defenses, both on the merits and with respect to class certification.

B. <u>Mediation and Settlement</u>

Prior to mediation, Plaintiffs obtained, through formal and informal discovery: (a) time and payroll records for a random sample of 20% of the putative class members; (b) putative class data points, including, *inter alia*, the number of Class Members and Aggrieved Employees, the number of employees in the waiting time penalty period, the average hourly rate of pay, the number of Workweeks during the Class and PAGA Periods, and the number of shifts through mediation; (c) Defendant's wage and hour policy documents, including all written policies relating to meal and rest breaks, overtime, clocking in and out, and recording of work time; and (d) all documents pertaining to Plaintiffs available to Defendant. Lidman Decl., ¶ 14. Class Counsel retained a consultant to assist with a review of the time and pay records in creating a damages model for purposes of the mediation. *Id*. Class Counsel also was able to obtain from Plaintiffs a number of additional documents and electronically stored information utilized for the mediation, including wage statements and time records. *Id.*

This information coupled with the data for the entire putative class aided in Plaintiffs' creation of a class-wide exposure model for all the claims at issue, including unpaid wages and penalties potentially owed for alleged overtime wages, and meal and rest and unpaid wages violations. Lidman Decl., ¶ 14. Ultimately, this discovery allowed the parties to assess the merits and value of Plaintiffs' claims and Defendant's defenses thereto. *Id*.

On September 5, 2024, a mediation was held with Michael Ludwig, Esq., a well-respected and experienced wage and hour class action mediator. Lidman Decl., ¶ 15. During mediation, the parties vigorously debated their opposing legal positions, the likelihood of certification of Plaintiffs' claims, and the legal basis for the claims and defenses. *Id*. Ultimately, the Parties agreed on a class-wide resolution. *Id*.

C. <u>Preliminary Approval of Settlement</u>

Plaintiffs submitted the Settlement to the Court with their Motion for Preliminary Approval on October 23, 2025. Lidman Decl., ¶ 16. On November 18, 2025, Plaintiffs also submitted the Settlement to the LWDA. Lidman Decl., ¶ 40, Exh. D.

The Court ordered Plaintiffs to revise portions of the settlement agreement, resulting in the Parties executing the Amended Class Action and PAGA Settlement Agreement and Class Notice. Lidman Decl., ¶ 16. The Amended Class Action and PAGA Settlement Agreement and Class Notice was submitted to the LWDA on December 18, 2025. Lidman Decl., ¶ 41, Exh. E.

On December 17, 2025, Plaintiffs provided the Court with a Supplemental Preliminary Approval Brief and amended Proposed Order. Lidman Decl., ¶ 16. These documents were submitted to the LWDA on April 3, 2026. Lidman Decl., ¶ 42, Exh. F.

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Subsequently on December 18, 2025, the Court granted preliminary approval of the class action settlement, approving the Settlement. Lidman Decl., ¶ 16, Exh. A (Order Granting Preliminary Approval). Plaintiffs submitted to the LWDA the Order Granting Preliminary Approval on December 22, 2025. Lidman Decl., ¶ 43, Exh. G.

On February 3, 2026, the Court-approved Class Notice was sent to 522 Settlement Class members. *See* Declaration of Mayra Gonzalez of Phoenix Settlement Administrators ("Gonzalez Decl."), ¶ 5. The Settlement Class members have until April 6, 2026 to submit disputes, objections, and/or requests for exclusion. Gonzalez Decl., ¶¶ 7-9. As of the date of this filing, there have been **no objections, one dispute (resolved)**[2] and **no opt-outs.** *Id*. Plaintiffs now respectfully submit the Settlement for this Court's final approval.

III. SUMMARY OF THE SETTLEMENT AND NOTICE PROCESS

A. Settlement Class Definition

The Settlement Class approved at the preliminary approval stage encompassed "All non-exempt, hourly paid employees who are or were employed by Defendant in California during the Class Period." The Class Period is the period from September 28, 2019 to April 19, 2025. The total number of workweeks at issue in the Settlement is 87,413. Gonzalez Decl., ¶ 10.

B. Monetary Terms of the Settlement

The Settlement requires to pay a Gross Settlement Amount ("GSA") of $375,000.00. Settlement, ¶¶ 1.22; 3.1. The Net Settlement Amount ("NSA") is the amount remaining from the GSA after deducting requested attorneys' fees ($125,000.00) and verified costs ($22,762.85), proposed Class Representative Service Awards to Plaintiffs (total of $7,500.00), Settlement Administration costs ($10,000.00), and PAGA Penalties ($20,000.00). Settlement, ¶ 3.2; Gonzalez Decl., ¶ 11. Based on these requested amounts, the NSA is calculated to be approximately $189,737.15. Gonzalez Decl., ¶ 11.

The Net Settlement Amount shall be allocated to Settlement Class members who worked during the Class Period, as follows:

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[2] The administrator received one (1) Workweek dispute. The dispute was reviewed by counsel for Defendant, and it was determined that it resulted from the individual not realizing that a number of Workweeks had been settled through prior class actions, and the Class Member was notified of the determination. See Declaration of Mayra Gonzalez, ¶ 9.

An Individual Class Payment is calculated by (a) dividing the Net Settlement Amount by the total number of Workweeks worked by all Participating Class Members during the Class Period, and (b) multiplying the result by the total Workweeks worked by each Participating Class Member's Workweeks. Settlement, ¶ 3.2.4.

The Administrator will calculate each Individual PAGA Payment by (a) dividing the amount of the Aggrieved Employees' 25% share of PAGA Penalties ($5,000.00) by the total number of PAGA Period Pay Periods worked by all Aggrieved Employees during the PAGA Period, and (b) multiplying the result by each Aggrieved Employee's PAGA Period Pay Periods. Settlement, ¶ 3.2.5.1. Each Aggrieved Employee assumes full responsibility and liability for any taxes owed on his or her Individual PAGA Payment. *Id*.

The Parties agreed that 33% of each Participating Class Member's Individual Class Payment will be allocated to settlement of wage claims (the "Wage Portion"). Settlement, ¶ 3.2.4.1. The Wage Portions are subject to tax withholding and will be reported on IRS Form W-2. *Id*. The remaining 67% of each Participating Class Member's Individual Class Payment will be allocated to settlement of claims for interest and penalties (the "Non-Wage Portion"). *Id*. The Non-Wage Portions are not subject to wage withholdings and will be reported on IRS Forms 1099. *Id*.

C. <u>Summary of Notice Process</u>

1. Mailing of Notice Packets

On January 20, 2026, Defendant provided Phoenix Settlement Administrators ("PSA") with the Class Data (Class Member identifying information in Defendant's possession including the Class Member's name, last known mailing address, Social Security number, and number of Class Period Workweeks and PAGA Pay Periods worked). Gonzalez Decl., ¶ 3; Settlement, ¶ 1.8. After performing address updates and verifications, PSA mailed the Class Notice to the 522 Settlement Class members on February 3, 2026. *Id*., ¶¶ 4-5. Following the initial mailing, 0 Class Notices were returned to PSA as undeliverable. *Id*., ¶ 6. As a result of a skip trace, forwarding address provided by the Post Office, or re-mail requests from Counsel or Class Members, 0 Class Notices were re-mailed and as a result, 0 Class Notices remain undeliverable with no forwarding address, and where no new address could be located through skip trace. *Id*., ¶ 6.

Settlement Class members have until April 6, 2026 to submit objections, requests for exclusion, or disputes. Gonzalez Decl., ¶¶ 7-9.

As of the date of this filing, there were no objections, one dispute (resolved), and none of the 522 Settlement Class members have elected to opt-out of the Settlement. *Id.*, ¶¶ 7-9. Accordingly, as of the date of this filing, the participation rate amongst the Settlement Class members is 100% and the average estimated payment is $363.48, with the highest estimated payment to a Settlement Class member being $629.47. *Id.*, ¶¶ 7-9; 12.

D. <u>Timing of Payments</u>

Defendant shall fully fund the Gross Settlement Amount, and also fund the amounts necessary to fully pay Defendant's share of payroll taxes, by transmitting the funds to the Administrator no later than thirty (30) days after the Effective Date.[3] *See* Settlement, ¶ 4.3.

E. <u>Uncashed Funds</u>

Each member of the Settlement Class who receives a Settlement Award must cash the check(s) within 180 days from the date the Settlement Administrator mails it/them. Settlement, ¶ 4.4.1. Any funds payable to Settlement Class members whose checks were not cashed within 180 days after mailing will escheat to the California Secretary of State- Unclaimed Property Fund under the unclaimed property laws in the name of the Settlement Class member. Settlement, ¶ 4.4.3.

F. <u>Notice of Judgment</u>

As stated in the Notice mailed to Settlement Class members, the final judgment entered by the Court will be posted by the Settlement administrator on the Settlement Administrator's website at anderson-v-kinder-morgan.phoenixcases.com. See Gonzalez Decl., Exh. A.

[3] "Effective Date" means the date by when both of the following have occurred: (a) the Court enters a Judgment on its Order Granting Final Approval of the Settlement; and (b) the Judgment is final. The Judgment is final as of the latest of the following occurrences: (a) if no Participating Class Member objects to the Settlement, the day the Court enters Judgment; or (b) if one or more Participating Class Members objects to the Settlement, the day after the deadline for filing a notice of appeal from the Judgment; or if a timely appeal from the Judgment is filed, the day after the appellate court affirms the Judgment and issues a remittitur. Settlement, ¶ 1.18.

IV. ARGUMENT

A. This Court Should Confirm its Conditional Certification of the Settlement Class for Settlement Purposes Because It Meets All of the Requirements for Class Certification Under Code of Civil Procedure § 382

Under Code of Civil Procedure § 382, a class may be certified if: (1) it is ascertainable and its members are too numerous for joinder to be practical; (2) the representative and absent class members share a community of interest, and questions of law and fact common to the class predominate over questions unique to individual class members; (3) the representative's claims are typical of the class' claims; and (4) the representative will fairly and adequately represent the class' interests. *See Richmond v. Dart Industries, Inc*. (1981) 29 Cal.3d 462, 470.

Here, this Court found that the Settlement Class meets all the requirements for class certification for settlement purposes when it granted preliminary approval of the Settlement on December 18, 2025. *See* Lidman Decl., ¶ 16; Exh. A. Subsequent to the Court's order granting preliminary approval, no events have cast doubt on the propriety of this determination and, in fact, the reaction of the Settlement Class members thus far to the Settlement has been strongly in support of the Settlement, with no Settlement Class members objecting to any portion of the Settlement and no Settlement Class member elected to opt-out of the Settlement. *See* Gonzalez Decl., ¶¶ 7-9. This Court should therefore confirm its conditional certification of the Settlement Class.

B. This Court Should Finally Approve the Settlement Because it is a Fair, Adequate, and Reasonable Compromise of Disputed Wage and Hour Claims

California courts have a strong policy in favor of settlement. *See, e.g., Stambaugh v. Superior Court*, 62 Cal.App.3d 231, 236 (1976). Unlike individual settlements, class action settlements involve a court approval process that exists to prevent fraud, collusion, and unfairness to class members. *Malibu Outrigger Bd. of Governors v. Superior Court*, 103 Cal.App.3d 573, 578-79 (1980). This approval process consists of preliminary settlement approval, notice being given to class members, and a final fairness and approval hearing being held, at which class members have the opportunity to be heard with respect to the settlement. *Id*. Now that notice has been provided to the Settlement Class, Plaintiffs respectfully request that the Court finally approve the Settlement as fair, adequate, and reasonable.

1. The Settlement was Reached at Arm's-Length, Through Experienced Counsel and an Experienced Mediator, and Was Based on Sufficient Information to Intelligently Negotiate a Fair Settlement in Light of the Claims Asserted and Risks of Continued Litigation

A settlement is presumptively fair where it is reached through arm's-length bargaining, based on sufficient discovery and investigation to allow counsel and the court to act intelligently, counsel is experienced in similar litigation, and the percentage of objectors to the settlement is small. *Dunk v. Ford Motor Co.,* 48 Cal.App.4th 1794, 1802 (1996). In deciding whether to approve a proposed settlement, a trial court has broad powers to determine if the proposed settlement is fair under the circumstances of the case. *Mallick v. Superior Court,* 89 Cal.App.3d 434, 438 (1979). In exercising these powers, the overriding concern is to ensure that a proposed settlement is "fair, adequate, and reasonable." *Dunk*, *supra*, 48 Cal.App.4th at 1801 (internal quotations omitted). Relevant factors for the Court to consider include, but are not limited to:

> [T]he strength of plaintiffs' case, the risk, expense, complexity and likely duration of further litigation, the risk of maintaining class action status through trial, the amount offered in settlement, the extent of discovery completed and the stage of the proceedings, the experience and views of counsel, the presence of a governmental participant, and the reaction of the class members to the proposed settlement.

Id. These factors require balancing, are non-exhaustive and, as such, trial courts should tailor the factors to each case and give due regard to "what is otherwise a private consensual agreement between the parties." *Id*.

"In the context of a settlement agreement, the test is not the maximum amount plaintiffs might have obtained at trial on the complaint, but rather whether the settlement is reasonable under all of the circumstances." *Wershba v. Apple Computer, Inc.,* 91 Cal.App.4th 224, 250 (2001). Because settlements inherently involve compromise, even settlements providing for substantially narrower relief than likely would be obtained if the suit were successfully litigated can be reasonable because, "the public interest may indeed be served by a voluntary settlement in which each side gives ground in the interest of avoiding litigation." *Id*. (quoting *Air Lines Stewards, etc., Local 550 v. American Airlines, Inc.*, 455 F.2d 101, 109

(7th Cir. 1972)).

Here, the Settlement resulted from extensive arm's length settlement negotiations between qualified and experienced counsel, with the assistance of a well-respected mediator, and is fair, adequate, and reasonable for all Settlement Class members. While Plaintiffs maintain that their claims are meritorious, Plaintiffs acknowledge that their position includes substantial risks and uncertainty, which justifies a downward departure from the maximum exposure that Plaintiffs' calculated each claim carried.

As detailed in Plaintiffs' Motion for Preliminary Approval, there is significant risk of non-certification and/or not prevailing on the merits with respect to each of Plaintiffs' claims. For example, with respect to Plaintiffs' claim that Defendant failed to pay for all hours worked, Defendant produced facially compliant written policies and trainings related to employees being required to accurately record all hours worked. Lidman Decl., ¶ 20. Furthermore, given the nature of off-the-clock work, there are no time records substantiating that such work occurred. *Id*. In regard to Plaintiffs' regular rate claim, Plaintiffs' expert analysis revealed that additional overtime compensation was paid to cover non-discretionary incentive compensation and shift differentials. *Id*.

As for Plaintiffs' meal period claim, Defendant contends that, to establish a violation for missed meal periods, a plaintiff must do more than show that a meal break was not taken. Lidman Decl., ¶ 21; see *Brinker Restaurant Corp. v. Superior Court* (2012) 53 Cal. 4th 1004. So long as an employer provides employees with a "reasonable opportunity" to take a duty-free meal period, it has no further duty to "police meal breaks and ensure no work thereafter is performed." *Id*. at 1040-41. Instead, a plaintiff must show the employer impeded, discouraged, or prohibited the employee from taking a proper break, or otherwise failed to release the employee of all control. *Id*. "Thus, the crucial issue with regard to the meal break claim is the reason that a particular employee may have failed to take a meal break." *Washington v. Joe's Crab Shack* (N.D. Cal. 2010) 271 F.R.D. 629, 641. Further, Defendant paid a very significant number of meal periods premium payments ($4,951,312.83) between September 28, 2022 and January 6, 2025. Lidman Decl., ¶ 21. Accordingly, Defendant will argue that it made significant efforts to keep track of and compensate the Class for any non-compliant meal periods. *Id*.

As for Plaintiffs' rest period claim, Defendant has facially compliant written rest period policies. Lidman Decl., ¶ 22. Employers are not required to record rest periods and such rest periods are paid.

Thus, unlike meal periods, where there are records showing whether an employee clocked out or not, there is no such evidence to prove a missed rest period or that the employer refused to authorize and permit one. Managing such claims at trial may be exceedingly difficult. Plaintiffs would depend on sample witness testimony and surveys to prove the claims. While a victory with such evidence is certainly possible, relevant caselaw makes such claims risky from a trial management and due process perspective. See *Duran v. U.S. Bank National Assn.* (2014) 59 Cal. 4th 1, 31 (explaining "[I]f sufficient common questions exist to support class certification, it may be possible to manage individual issues through the use of surveys and statistical sampling."). Further, Defendant paid a very significant number of rest periods premium payments ($2,403,348.35) between September 28, 2022 and January 6, 2025. Lidman Decl., ¶ 22. Accordingly, Defendant will argue that it made significant efforts to keep track of and compensate the Class for any non-compliant rest periods. *Id*.

As for Plaintiffs' wage statement claim, Defendant contends that the wage statements were accurate in all material respects and that Labor Code section 226 requires "a knowing and intentional failure by an employer to comply with subdivision (a)." Lidman Decl., ¶ 23; See Cal. Lab. Code §§ 226(e), 226(e)(3) (For purposes of this subdivision, a "knowing and intentional failure" does not include an isolated and unintentional payroll error due to a clerical or inadvertent mistake."). In this regard, Defendant contends that any failure to include information on wage statements was an inadvertent or isolated mistake. Lidman Decl., ¶ 23.

As for Plaintiffs' reimbursement claim, discovery revealed that use of cell phones was not needed by Plaintiffs or the Class Members for work purposes. Lidman Decl., ¶ 27.

As for Plaintiffs' waiting time penalties claim, a good faith belief in a legal defense precludes any finding of willfulness. Lidman Decl., ¶ 23; see *Gonzalez v. Downtown LA Motors* (2013) 215 Cal. App. 4th 36, 54. All of the obstacles to proving liability present the same challenges for this claim.

As for Plaintiffs' PAGA claim, Defendant argues Plaintiffs' PAGA claims are also predicated on the violations described above, and thus subject to the same disputes and defenses. Lidman Decl., ¶ 29. Additionally, PAGA states that a court has discretion to award a lesser amount than the maximum penalty. *Id*.; see Lab. Code § 2699(e)(2); *Thurman v. Bayshore Transit Management, Inc.* (2012) 203 Cal. App. 4th 1112, 1135 (reducing PAGA award); *Carrington v. Starbucks Corp.* (2018) 30 Cal. App. 5th at 528-

529 (affirming the trial court's PAGA penalty award of $5 per violation). These uncertainties increased the risks related to the PAGA cause of action.

These considerations, not only bore heavily on the negotiations leading to the Settlement, but also confirm that the Settlement is fair, adequate, and reasonable compromise in view of the risks of further litigation. As detailed in Plaintiffs' Motion for Preliminary Approval, Plaintiffs carefully vetted the claims at issue and conducted a detailed statistical analysis of class-wide data to arrive at the calculated damages figures. Thus, while these risks are far from exhaustive, they demonstrate that the Settlement is fair, adequate, and reasonable in view of them.

2. The Settlement Fairly, Reasonably, and Adequately Compensates Class Members Because Each Participating Class Member Will Be Paid Based on the Extent of His or Her Injury

Individual settlement payments will be calculated based on the number of workweeks worked by each Settlement Class member. *See* Settlement ¶ 3.2.4. This method of distribution compensates Settlement Class members based on the estimated extent of their injuries, as Settlement Class members who worked more workweeks would have been subject to more of the alleged wage and hour violations than those who worked fewer shifts. Thus, the formula for compensating Settlement Class members is fair, adequate, and reasonable, as it is tethered to the damages and penalties that could be recovered by them.

3. The 100% Participation Rate Further Confirms that the Settlement is Fair, Adequate, and Reasonable

Class members' response to a settlement is relevant in evaluating whether it merits final approval. *Dunk*, *supra*, 48 Cal.App.4th at 1801. The lack of objections and requests for exclusion supports a fairness presumption. *See 7-Eleven Owners for Fair Franchising v. Southland Corp.* (2000) 85 Cal.App.4th 1135, 1152-53 (finding 9 objections and 80 opt-outs from a class of 5,454 showed a "particularly impressive" favorable response from class members). Here, as of the filing of this Motion, not a single Settlement Class member has objected to the Settlement, no Settlement Class member has elected to opt-out, and none of the 522 Class Notices were returned undeliverable. Gonzalez Decl., ¶¶ 6-

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8. The extremely favorable response of the Settlement Class further confirms that the Settlement is fair, adequate, and reasonable.

C. <u>The Requested Award of Attorneys' Fees is Reasonable as a Percentage of the Common Fund Confirmed by a Lodestar Cross-Check</u>

Plaintiffs and the Settlement Class, as the prevailing parties in settlement, are entitled to recover their attorneys' fees and costs for their wage claims. *See* Lab. Code §§ 218.5, 226(e) and 2699(g). A fee award is justified where the legal action has produced its benefits by way of a voluntary settlement. *See*, *e.g.*, *Maria P. v. Riles*, 43 Cal.3d 1281, 1290-91 (1987); *Westside Community for Independent Living, Inc. v. Obledo*, 33 Cal.3d 348, 352-53 (1983). 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.*, 1 Cal.5th 480, 506 (2016), that "[t]he percentage of fund method survives in California class action cases." Specifically, the *Laffitte* 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 attorneys' 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 (3rd 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.") (citation omitted).

Laffitte also held that trial courts have discretion to assess reasonableness of fee awards with tools such as the "lodestar cross-check," whereby the trial court calculates class counsel's lodestar (hours worked multiplied by hourly rate) and determines whether the "lodestar multiplier" needed to bring the lodestar on par with the percentage of recovery is reasonable. *Laffitte* at 503-06. While a trial court may utilize the lodestar cross-check, it need not do so. *Id.* at 506 ("[w]e hold further that trial courts have discretion to conduct a lodestar cross-check on a percentage fee, as the court did here; they also retain the discretion to forgo a lodestar cross-check and use other means to evaluate the reasonableness of a requested percentage fee.")

Here, Class Counsel's fee request of $125,000.00 (one-third of the Gross Settlement Amount) is fair and reasonable based on a percentage of the recovery confirmed with a lodestar cross-check. First, "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.*, 162 Cal.App.4th 43, 66, n.11 (2008); *see also*, *e.g.*, *Cicero v. DirectTV, Inc.*, No. EDCV 07-1182, 2010 WL 2991486 at * 7 (C.D. Cal. July 27, 2010) (observing that "30-50% [is] commonly awarded in cases in which the common fund is relatively small" and that in California, "courts usually award attorneys' fees in the 30-40% range in wage and hour class actions…"); *Williams v. Costco Wholesale Corp.*, No. 02-cv-2003 IEG (AJB), 2010 WL 2721452 at * 6 (S.D. Cal. July 7, 2010) (collecting cases where courts awarded between 33.33% and 40% in attorneys' fees in wage and hour class actions). This is also consistent with Class Counsel's experience in similar wage and hour class action matters. *See* Lidman Decl., ¶ 31. Thus, the percentage sought by Class Counsel here (the same percentage sought by class counsel in *Laffitte*) is reasonable.

Next, as stated, under the lodestar method the court computes the "lodestar" amount by multiplying the number of hours reasonably expended by each attorney or legal staff member by their reasonable hourly rates. *See, e.g., Serrano v. Priest* 20 Cal.3d 25, 48 (1977). The court then can enhance this lodestar figure by a "multiplier" to account for a range of factors, such as the novelty and difficulty of the case, its contingent nature, and the degree of success achieved. *Id.* at 49; *Ketchum v. Moses*, 24 Cal.4th 1122, 1132-36 (2001); *Thayer v. Wells Fargo Bank,* 92 Cal.App.4th 819, 834 (2001) ("There is no hard-and-fast rule limiting the factors that may justify an exercise of judicial discretion to increase or decrease a lodestar calculation").

Under California law, lodestar multipliers can range from 2 to 4 or even higher. *See, e.g., Chavez*, *supra*, 162 Cal.App.4th at 49-50 (approving multiplier of approximately 2.5); *City of Oakland v. Oakland Raiders*, 203 Cal.App.3d 78 (1988) (approving multiplier of ~2.34); *Coalition for L. County Planning etc. Interest v. Bd. of Supervisors*, 76 Cal.App.3d 241, 251 (1977) (approving multiplier of ~2.04). In class actions such as this one, where the value of the benefit conferred to the class "can be monetized with a reasonable degree of certainty," a court may "adjust the lodestar in comparison to a percentage of the common fund to ensure that the fee awarded is reasonable and within the range of fees freely negotiated in the legal marketplace in comparable litigation." *Consumer Privacy Cases*, 175 Cal.App.4th 545, 557 (2009). In doing so, "the court determines, retrospectively, whether the litigation involved a contingent risk or required extraordinary legal skill justifying augmentation of the unadorned lodestar in order to approximate the fair market for such services." *Id.* at 556; *see also Laffitte*, *supra*, 1 Cal.5th at 503-05.

In this case, Class Counsel have a lodestar of $159,250.50 which is 1.27 times more than the $125,000.00 fee request. Lidman Decl., ¶ 34; Declaration of George S. Azadian ("Azadian Decl."), ¶ 14-14. A summary showing the number of hours of work performed by each attorney and paralegals is set forth below. The billing rates used are reasonable especially in light of the hourly rates identified based on years of experience in the *Laffey* Matrix, submitted concurrently herewith. Lidman Decl., ¶¶ 35-36, Exh. C; Azadian Decl., ¶¶ 16-19.

Name	**Rate**	**Hours**	**Pre-Multiplier Lodestar**
Scott M. Lidman (27th Year Attorney)	$900	56.2	$50,580
Paul K. Haines (19th Year Attorney)	$800	13.7	$10,960
George S. Azadian (18th Year Attorney)	$775	48.6	$37,665

Ani Azadian (13th Year Attorney)	$700	3.1	$2,170
Milan Moore (10th Year Attorney)	$675	63.4	$42,798
Tiara Gose-Hardy (7th Year Attorney)	$575	20.9	$12,017.50
Paralegals	$200	15.3	$3,060
Total Lodestar			**$159,250.50**

The fee award requested here is justified because Class Counsel achieved a significant monetary recovery for the Settlement Class in an uncertain and risky case, while bearing the substantial burdens of representation on a contingency basis, and the fees requested are in line with the market rate. *Vizcaino v. Microsoft Corp.*, 290 F.3d 1043, 1048-51 (9th Cir. 2002) (finding that exceptional results in a contingency case, significant risk and the absence of supporting precedents, are proper considerations in awarding attorneys' fees). First, Class Counsel negotiated a substantial recovery for the Settlement Class, resulting in a current participation rate of 100%, and not a single Settlement Class member has objected to the Settlement or to Class Counsel's requested fees as of the date of this filing. *See* Gonzalez Decl., ¶¶ 7-9. Additionally, the *average* settlement payment in this case of approximately $363.48 is above settlement payments in similar wage and hour class action settlements. *See*, *e.g.*, *Sorenson v. PetSmart, Inc.*, Case No. 2:06-CV-02674-JAM-DAD (E.D. Cal. 2008) (wage and hour class action settlement approved where average class member recovery was approximately $60); *Schiller v. David's Bridal, Inc.*, No. 1:10-cv-00616-AWI-SKO, 2012 WL 2117001, at *17 (E.D. Cal. 2012) (finding that average payment to class members of less than $200 was a "good" result); *Williams v. Centerplate, Inc.*, Nos. 11-CV-2159-H-KSC, 12-CV-0008-H-KSC, 2013 WL 4525428, at *4 (S.D. Cal. 2013) (granting final approval of class action settlement where average recovery for each class member was approximately $108). The fact that Class Counsel achieved these results without engaging in a protracted legal battle, in the face of serious defense challenges and an uncertain legal landscape confirms the strength of the results achieved.

As discussed above, this case presented significant risk as to both class certification and merits considerations. Accordingly, it is fair and reasonable to account for these risks in compensating Class Counsel. Class Counsel should also be compensated for the risks involved in undertaking this litigation and expending considerable effort, all while working on a pure contingency basis. Since undertaking representation of Plaintiffs, Class Counsel have borne all the costs of litigation without receiving any compensation for almost three years of work. Lidman Decl., ¶ 34; Azadian Decl., ¶ 20. During this time, Class Counsel have expended $22,312.85, in actual costs, have devoted substantial time to this litigation and expect to incur approximately $450.00 in future costs for filing the instant motion, filing the final declaration regarding distribution of settlement, Case Anywhere fees, service and messenger fees, and postage fees. Lidman Decl., ¶ 32, Exh. B; Azadian Decl., ¶ 22, Exh. 1. Class Counsel's efforts have included conducting pre-filing investigation, analyzing Plaintiffs' claims, conducting legal research, drafting discovery requests and responses, reviewing discovery responses and responsive documents, analyzing timekeeping data and payroll records, creating a comprehensive damages model, preparing for and attending mediation, negotiating and preparing the long-form settlement agreement, preparing the Motions for Preliminary and Final Approval, overseeing the settlement administration process, and otherwise litigating this case. *See* Lidman Decl., ¶ 31. Given the considerable potential for adverse outcomes in this case, including, but not limited to losing on class certification and/or merits issues, the contingent risk borne by Class Counsel was great. Lidman Decl., ¶ 34.

Class Counsel's previous experience in litigating wage and hour class actions also supports the reasonableness of the fee request. Class Counsel are well-versed in plaintiff and defense-side wage and hour class action litigation, with substantial experience litigating claims for meal and rest period violations, and related penalties. *See* Lidman Decl., ¶¶ 3-8; Declaration of Paul K. Haines ("Haines Decl."), ¶¶ 2-8; Azadian Decl., ¶¶ 11-13; Declaration of Milan Moore ("Moore Decl."), ¶¶ 2-5; Declaration of Tiara Gose-Hardy ("Gose-Hardy Decl."), ¶¶ 2-4. They have been certified as class counsel in numerous other cases. *Id*. Their experience in similar matters was integral in evaluating the strengths and weaknesses of the case against Defendant and the reasonableness of the Settlement. Practice in the narrow field of wage and hour and PAGA litigation requires skill and knowledge concerning the rapidly evolving substantive state and federal law, as well as the procedural law of class action litigation. Lidman Decl., ¶ 33. Because it is reasonable to compensate Class Counsel commensurate with their skill, reputation, and experience, a fee award of one-third of the Class Settlement Amount is reasonable. Further, Plaintiffs have provided written approval of the split of attorneys' fees in this action (50% to Azadian Law Group, PC; 30% to Haines Law Group, APC; and 20% to Lidman Law, APC). Lidman

Decl., ¶ 44; Azadian Decl., ¶ 21.

Other factors also show that the fee award requested in this case is reasonable under the circumstances. This case involved nuanced legal issues including questions surrounding Defendant's obligation to "provide" meal periods and "authorize and permit" rest periods, and the propriety of statutory and civil penalties, to name just a few. Lidman Decl., ¶¶ 33. Thus, Class Counsel's requested fee award is fair, reasonable, and adequate and should be approved.

D. <u>The Requested Cost Amount Warrants Final Approval as Fair, Adequate, and Reasonable</u>

Class Counsel seek reimbursement of $22,762.85 (including anticipatory fees and expenses related to the instant motion and other future activity in this case) in litigation costs. Class Counsel's request is fair, adequate, and reasonable, as all of these costs are documented and reasonably incurred. *See* Lidman Decl., ¶ 32; Exh. B; Azadian Decl., ¶ 22, Exh. 1. Moreover, the costs Plaintiffs seek are the types of costs routinely approved by courts. *See, e.g.*, *Harris v. Marhoefer*, 24 F.3d 16, 19 (9th Cir. 1994) (counsel should recover "those out-of-pocket expenses that would normally be charged to a fee paying client"); *Ashker v. Sayre*, No. 05-03759 CW, 2011 WL 825713, at * 3 (N.D. Cal. 2011)("costs of reproducing pleadings, motions and exhibits are typically billed by attorneys to their fee-paying clients" and are reimbursable); *Trustees of Const. Industry & Laborers Health and Welfare Trust v. Redland Ins. Co*., 460 F.3d 1253, 1258-59 (9th Cir. 2006) (legal research costs are reimbursable); *In re Immune Response Securities Litigation*, 497 F. Supp. 2d 1166, 1177-78 (S.D. Cal. 2007) (mediation expenses, consultant and expert fees, legal research, copies, postage, filing fees, messenger and overnight delivery costs are reimbursable). Because the expense reimbursements requested by Class Counsel were reasonably incurred, and no Settlement Class member has objected to them, Plaintiffs respectfully request the Court grant the request for actual costs incurred.

E. <u>The Court Should Finally Approve the Requested Administration Costs</u>

Plaintiffs also request that the Court approve $10,000.00 in administration costs to the Settlement Administrator, Phoenix Settlement Administrators ("PSA"). As detailed in the declaration of Mayra Gonzalez on Behalf of PSA submitted herewith, PSA performed duties in connection with this Settlement that were integral in effectuating the Settlement and the Notice process. Among other things, PSA calculated each Settlement Class member's individual settlement payment, updated addresses contained in the class data supplied by Defendant, formatted and the Class Notices for mailing, mailed Class Notices to all 522 Settlement Class members in English and Spanish, kept the parties informed of any objections or requests for exclusion, and have otherwise administered the Settlement. *See* Gonzalez Decl., ¶¶ 2-13.

For these reasons, PSA's requested costs are fair, reasonable, and adequate, and should be finally approved.

F. <u>This Court Should Finally Approve Plaintiffs' Requested Service Awards Because They are Fair, Adequate, and Reasonable in View of Plaintiffs' Efforts and the Risks that They Assumed on Behalf of the Class</u>

Courts routinely approve service payments to compensate named plaintiffs for the services they provide and the risks they incur during class action litigation. *See, e.g.*, *Bell v. Farmers Ins. Exchange*, 115 Cal.App.4th 715, 726 (2004) (upholding "service payments" to named plaintiffs for their efforts in bringing the case); *Van Vranken v. Atlantic Richfield Co*., 901 F. Supp. 294 (N.D. Cal. 1995) (approving $50,000 service payment).

Here, Plaintiff Anderson seeks a service award of $2,500.00 and Plaintiff Rodriguez seeks a service award of $5,000.00. They believe their request is reasonable given Plaintiffs' efforts in this case and the risks they undertook on behalf of Settlement Class members. Lidman Decl., ¶ 39; Azadian Decl., ¶¶ 8-9. Plaintiffs gathered documents for use in the lawsuit and attended several meetings with Class Counsel discussing the case, the merits, the defenses, and the overall fairness of the settlement reached. *Id*.; Declaration of Catherine Anderson ("Anderson Decl."), ¶¶ 9-15; Declaration of Jose Rodriguez ("Rodriguez Decl."), ¶¶ 5-20. Moreover, after receiving notice of the proposed Class Representative Service Awards for Plaintiffs, no Settlement Class member has objected to the proposed award, as of the date of this filing. *See* Gonzalez Decl., ¶¶ 7-9. Thus, the service awards to Plaintiffs are appropriate and justified as part of the Settlement and should be finally approved. The class has benefited from Plaintiffs' actions as the average settlement amount is $363.48.

Further, Plaintiffs understood that the lawsuit is a matter of public record and being part of the lawsuit could stigmatize them and/or affect future employment. *See* Lidman Decl., ¶ 39; Declaration of Anderson Decl., ¶¶ 9-15; Azadian Decl., ¶¶ 23-26; Rodriguez Decl., ¶¶ 5-20. Plaintiffs also understood the risk that they could be liable for Defendant's costs if they lost the case. *Id*. Plaintiffs accepted these risks and burdens because they wanted Defendant to compensate its current and former employees for unpaid wages. *Id*. Plaintiff Anderson estimates she spent between 20 to 25 hours on activities related to this case, and Plaintiff Rodriguez estimates he spent approximately 30 hours on activities related to this case. Anderson Decl., ¶ 11; Rodriguez Decl., ¶ 14.

Moreover, as the named plaintiffs, Plaintiffs have agreed to release, in addition to the released claims included within the Settlement, all claims, whether known or unknown, under federal, state, or local law against Defendant and the Released Parties. Plaintiffs' release includes unknown claims and, as a result, they are waiving all rights and benefits afforded by Section 1542 of the California Civil Code.

V. CONCLUSION

For the reasons stated herein, Plaintiffs respectfully submit that this Court should grant Plaintiffs' motion in its entirety and adopt the [Proposed] Order Granting Plaintiffs' Motion for Final Approval of Class Action Settlement and Final Judgment submitted herewith.

Dated: April 3, 2026

Respectfully submitted,
LIDMAN LAW, APC

By: ______________________
Scott M. Lidman

Attorney for Plaintiffs
CATHERINE ANDERSON and the Proposed Class