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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF STANISLAUS**

MARIA MADRIGAL & JORGE
VILLALPANDO, individually and on behalf of
others similarly situated,

Plaintiffs,

vs.

BEST DEAL FOOD COMPANY, INC., and
DOES 1 through 25, inclusive,

Defendants.

Case No. CV-23-005838

Honorable David Hood
Department 24

**NOTICE OF MOTION AND MOTION FOR
FINAL APPROVAL OF CLASS ACTION
AND PAGA SETTLEMENT, CLASS
COUNSEL'S ATTORNEYS' FEES AND
COSTS, ENHANCEMENT AWARDS, AND
ADMINISTRATOR EXPENSES PAYMENT;
MEMORANDUM OF POINTS AND
AUTHORITIES IN SUPPORT THEREOF**

Date: October 29, 2026
Time: 8:30 a.m.
Dept: 24

Complaint Filed: October 10, 2023
FAC Filed: February 7, 2024
SAC Filed: May 28, 2025
Trial Date: Not Set

**NOTICE OF MOTION AND MOTION FOR FINAL APPROVAL OF CLASS ACTION AND PAGA
SETTLEMENT, CLASS COUNSEL'S ATTORNEYS' FEES AND COSTS, ENHANCEMENT AWARDS, AND
ADMINISTRATOR EXPENSES PAYMENT; MEMORANDUM OF POINTS AND AUTHORITIES IN
SUPPORT THEREOF**

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1 **TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:**

2 **PLEASE TAKE NOTICE THAT** on October 29, 2026 at 8:30 a.m. in Department 24 of the
3 above-captioned Court located at 801 10th Street, Modesto, California 95354, pursuant to California
4 Code of Civil Procedure section 382, Rule 3.769 of the California Rules of Court, and California
5 Labor Code section 2699(s)(2), Maria Madrigal (“Plaintiff Madrigal”) and Jorge Villalpando
6 (“Plaintiff Villalpando”) (together “Plaintiffs”) will and hereby do move the Court for an Order
7 granting final approval of the proposed class action and Labor Code Private Attorneys General Act of
8 2004, California Labor Code sections 2698, *et seq.* (“PAGA”) settlement between Plaintiffs and
9 Defendant Best Deal Food Company, Inc. (“Defendant”).

10 Plaintiffs request that the Court enter an Order:

11 1. Granting final approval of the class action and PAGA settlement;
12 2. Approving the settlement as fair, adequate, and reasonable, based upon the terms as set
13 forth in the Court-approved Joint Stipulation of Class and PAGA Settlement and Release Between
14 Plaintiffs and Defendant (“Settlement Agreement” or “Settlement”), including payment by Defendant
15 of the Gross Settlement Amount of Three Million Dollars and Zero Cents (\$3,000,000.00) equal to
16 the amounts to pay (1) the Participating Class Members and PAGA Members pursuant to the terms of
17 the Settlement; (2) the Court-approved Class Counsel’s Attorneys’ Fees and Litigation Expenses; (3)
18 the Court-approved Enhancement Awards; (4) the Court-approved Administrator Expenses Payment;
19 and (5) the Court-approved payment to the California Labor and Workforce Development Agency
20 (“LWDA”) pursuant to PAGA;

21 3. Approving Class Counsel’s request for Attorneys’ Fees of thirty-five percent (35%) of
22 the Gross Settlement Amount, i.e., One Million Fifty Thousand Dollars and Zero Cents
23 (\$1,050,000.00), plus reimbursement of actual Attorneys Litigation Expenses and Costs in the amount
24 of Twenty-Eight Thousand Seventy-One Dollars and Zero Cents (\$28,071.00);

25 4. Approving the Enhancement Awards to Plaintiffs in the amount of Ten Thousand
26 Dollars and Zero Cents (\$10,000.00) to each Plaintiff (total, \$20,000.00) in recognition of their
27 services to the Class Members;
28

5. Approving the Administrator Expenses Payment to ILYM Group, Inc. in the amount of Eighteen Thousand Dollars and Zero Cents (\$18,000.00); and

6. Approving One Hundred Thousand Dollars and Zero Cents (\$100,000.00) allocated to the PAGA Amount, with \$75,000.00 (75%) allocated to civil penalties under PAGA, and \$25,000.00 (25%) allocated to the PAGA Members for their PAGA Member Amount.

This Motion is made pursuant to Rule 3.769 and Rule 3.1113(e) of the California Rules of Court, which require approval by the Court of a class action settlement and permit the Court to extend the page limit for memoranda.

This Motion is based on the following Memorandum of Points and Authorities, the Settlement Agreement, the Declarations of Class Counsel (Lizeth Marin on behalf of Blackstone Law, APC) and (Farah Khaled on behalf of Aegis Law Firm, P.C), the Class Representatives (Maria Madrigal and Jorge Villalpando), and the Settlement Administrator (Nathalie Beltran on behalf of ILYM Group, Inc.), the pleadings and other records on file with the Court in this matter, and such evidence or oral argument as may be presented at the hearing on this Motion.

Respectfully submitted,

Dated: September 16, 2026

BLACKSTONE LAW, APC

By: /s/ Lizeth Marin
Lizeth Marin
Attorney for Plaintiff Jorge Villalpando
and the Class

Dated: September 16, 2026

AEGIS LAW FIRM, PC

By: /s/ Farah Khaled
Farah Khaled
Attorney for Plaintiff Maria Madrigal
and the Class

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1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. INTRODUCTION**

3 Plaintiffs Maria Madrigal and Jorge Villalpando (“Plaintiffs” or “Class Representatives”) seek
4 final approval of the class action settlement reached with Defendant Best Deal Food Company, Inc.
5 (“Defendant”). Subject to Court approval, Plaintiffs and Defendant (together, the “Parties”) have
6 settled the Released Class Claims and Released PAGA Claims as defined in the Joint Stipulation of
7 Class and PAGA Settlement and Release Between Plaintiffs and Defendant (“Settlement Agreement”
8 or “Settlement”) for a total amount of Three Million Dollars and Zero Cents (\$3,000,000.00) (“Gross
9 Settlement Amount”). (*See* Declaration of Lizeth Marin in Support of Plaintiffs’ Motion for Final
10 Approval of Class Action and PAGA Settlement, Class Counsel’s Attorneys’ Fees and Costs,
11 Enhancement Awards, and Administrator Expenses Payment. [“Marin Decl.”], ¶ 14, Exh. 1).

12 The Court conditionally certified, for settlement purposes only, the Class defined as: “all
13 persons employed by Defendant in California as a non-exempt employee from April 14, 2019 through
14 March 13, 2025” (“Settlement Class” or “Class Members”). (Settlement Agreement, ¶10; Marin
15 Decl., ¶ 12). The “Class Period” is defined as the period from April 14, 2019 through March 13, 2025.
16 (Settlement Agreement, ¶ 8; Marin Decl., ¶ 12). The “Participating Class Members” consist of all
17 Class Members who do not request to be excluded from this Settlement. (Settlement Agreement, ¶
18 14; Marin Decl., ¶ 12). The “PAGA Members” consist of “all Class Members who worked any hours
19 for Defendant in California during any pay period from October 10, 2022 to March 13, 2025.” PAGA
20 Members are not eligible to exclude themselves from, or to opt out of, the Released PAGA Claims.
21 (Settlement Agreement, ¶ 10; Marin Decl., ¶ 12). The “PAGA Period” is defined as the period from
22 October 10, 2022 through March 13, 2025. (Settlement Agreement, ¶ 8; Marin Decl., ¶ 12).

23 As discussed herein, the proposed Settlement satisfies all the criteria for final settlement
24 approval under California law because it is fair, adequate, and reasonable. (Marin Decl., Exh. 1; *See*
25 *also, Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th 116, 129-30; *Dunk v. Ford Motor*
26 *Company* (1996) 48 Cal.App.4th 1794, 180 1). The response of the Class to the Settlement confirms
27 that final settlement approval is appropriate. *There have been no objections to and only two (2)*
28

1 *requests to opt-out from the Class Settlement.* (Declaration of Nathalie Beltran of ILYM Group, Inc.,
2 Regarding Notice and Settlement Administration [“ILYM Decl.”], ¶¶ 11 and 12).

3 Because the Settlement achieves outstanding results for the Participating Class Members, the
4 PAGA Members, and the State of California, Plaintiffs respectfully request, on behalf of the Class and
5 without opposition from Defendant, that the Court approve the Settlement as fair, adequate, and
6 reasonable, and enter judgment in accordance with the Settlement’s terms.

7 Plaintiffs seek the Court’s approval of Class Counsel’s Attorneys’ Fees of thirty-five percent
8 (35%) of the Gross Settlement Amount, equaling One Million Fifty Thousand Dollars and Zero Cents
9 (\$1,050,000.00), plus reimbursement of actual Attorneys’ Costs in the total amount of Twenty-Eight
10 Thousand Seventy Dollars and Zero Cents (\$28,070.00), consisting of Seventeen Thousand Two
11 Hundred Fifty Dollars and Seventy-Seven Cents (\$17,250.77) for Plaintiff Villalpando, and Ten
12 Thousand Eight Hundred Twenty Dollars and Twenty Three Cents (\$10,820.23) for Plaintiff
13 Madrigal; (together, “Class Counsel’s Attorneys’ Fees Costs”). Class Counsel’s request for an award
14 of Class Counsel’s Attorneys’ Fees and Costs is reasonable and appropriate in light of the outstanding
15 work performed by Class Counsel in the matter, the contingent nature of this action, and the results
16 achieved under the Settlement. (*See Lealao v. Beneficial California, Inc.* (2000) 82 Cal.App.4th 19).

17 Plaintiffs also request the Court’s approval of the amount to be paid to Plaintiffs in the amount
18 of Ten Thousand Dollars and Zero Cents (\$10,000.00) to each Plaintiff (total, \$20,000.00)
19 (“Enhancement Awards”) for their services on behalf of the Class. This amount proposed to be
20 awarded to Plaintiffs is fair and reasonable for the reasons Plaintiffs provided in their declarations.
21 (*See Declaration of Plaintiff Jorge Villalpando in Support of Motion for Final Approval of Class*
22 *Action and PAGA Settlement, Class Counsel’s Attorneys’ Fees and Costs, Enhancement Awards, and*
23 *Administrator Expenses Payment [“Villalpando Decl.”]; and Declaration of Plaintiff Maria Madrigal*
24 *in Support of Motion for Final Approval of Class Action and PAGA Settlement, Class Counsel’s*
25 *Attorneys’ Fees and Costs, Enhancement Awards, and Administrator Expenses Payment [“Madrigal*
26 *Decl.”], both filed concurrently herewith). Courts approve incentive awards to plaintiffs when*
27 *justified and appropriate to compensate plaintiffs for their time, effort, and inconvenience. (See e.g.,*
28 *Van Vranken v. Atlantic Richfield Co.* (N.D. Cal. 1995) 901 F. Supp. 294, 299).

1 Finally, Plaintiffs request that the Court approve the payment of Eighteen Thousand Dollars
2 and Zero Cents (\$18,000.00) (“Administrator Expenses Payment”) to ILYM Group, Inc. (“ILYM” or
3 “Settlement Administrator”) as compensation for its administration services it has and will provide in
4 connection with the Settlement. (*See, generally*, ILYM Decl.).

5 In order to efficiently present the Court with adequate information to determine whether to
6 grant final approval of the Settlement and award the Counsel’s Attorneys’ Fees and Costs,
7 Enhancement Awards, and Administrator Expenses Payment, Plaintiffs also move for an order
8 permitting the filing of this single consolidated memorandum, although it exceeds the page limit
9 established by California Rules of Court, Rule 3.1113(d), instead of filing several separate motions.

10 II. PROCEDURAL HISTORY AND FACTUAL BACKGROUND

11 Defendant owns and operates nine (9) grocery stores in Central and Northern California.
12 Plaintiff Madrigal was employed by Defendant as an hourly-paid, non-exempt Tortilla Maker from
13 about April 2006 to October 2022 at Defendant’s location in Modesto, California. (Madrigal Decl., ¶
14 2). Plaintiff Villalpando was employed by Defendant as an hourly-paid, non-Bagger, Overnight
15 Stocker, and Load Crew from approximately April 2019 to approximately February 2021 at
16 Defendant’s location in Hanford, California. (Villalpando Decl., ¶ 2).

17 On October 10, 2023, Plaintiff Madrigal filed a Class Action Complaint in the action entitled
18 *María Madrigal v. Best Deal Food Company, Inc.*, Stanislaus County Superior Court Case No. CV-
19 23-005838 (“Action”), thereby commencing a putative class action against Defendant. (Declaration
20 of Farah Khaled in Support of Plaintiffs’ Motion for Final Approval of Class Action and PAGA
21 Settlement, Attorneys’ Fees and Costs, Enhancement Awards, and Settlement Administration
22 Expenses [“Khaled Decl.”], ¶ 3). The complaint alleged seven (7) causes of action for violations of
23 the California Labor Code for failure to pay minimum wages, failure to pay overtime wages, failure
24 to provide meal periods, failure to provide compliant rest periods, failure to provide accurate wage
25 statements, failure to timely pay wages upon termination, and for violations of California Business &
26 Professions Code Section 17200, et seq. based on the aforementioned California Labor Code
27 violations. (Khaled Decl., ¶ 3).

1 On October 10, 2023, Counsel for Plaintiff Madrigal provided written notice to the LWDA
2 and Defendant regarding Defendant's alleged Labor Code violations, as required by Labor Code
3 section 2699.3(a). The LWDA did not respond to this notice, indicating it did not intend to investigate,
4 thus allowing Plaintiff Madrigal to bring a PAGA claim against Defendant. (Khaled Decl., ¶ 4).

5 On November 22, 2023, Plaintiff Villalpando provided written notice to the California Labor
6 and Workforce Development Agency ("LWDA") by online submission and to Defendant Best Deal
7 Food Company, Inc. ("Defendant") by U.S. Certified Mail, pursuant to California Labor Code Section
8 2699.3, of the specified provisions of the California Labor Code alleged to have been violated by
9 Defendant. (Marin Decl., ¶ 2).

10 On December 1, 2023, Plaintiff Villalpando filed a Class Action Complaint for Damages in
11 the action entitled *Jorge Villalpando v. Best Deal Food Company, Inc.*, Kings County Superior Court
12 Case No. 23CU0469 ("Villalpando Class Action"), thereby commencing a putative class action
13 against Defendant. The complaint alleged nine (9) causes of action for violations of the California
14 Labor Code for failure to pay minimum wages, failure to pay overtime wages, failure to provide
15 compliant meal periods and premium payments in lieu thereof, failure to provide compliant rest
16 periods and premiums payments in lieu thereof, failure to timely pay wages during employment,
17 failure to provide accurate wage statements, failure to timely pay wages upon termination, and failure
18 to reimburse necessary business expenses, and for violations of California Business & Professions
19 Code Section 17200, et seq. based on the aforementioned California Labor Code violations. (*Id.*, ¶ 3).

20 On January 29, 2024, Plaintiff Villalpando filed a Complaint for Enforcement Action Under
21 the Private Attorneys General Act, Cal. Labor Code §§ 2698 Et Seq. in the action entitled *Jorge*
22 *Villalpando v. Best Deal Food Company, Inc.*, Kings County Superior Court Case No. 24CU0036
23 ("Villalpando PAGA Action"), thereby commencing a representative PAGA action against
24 Defendant. (*Id.*, ¶ 4).

25 On February 7, 2024, Plaintiff Madrigal filed a First Amended Complaint. The First Amended
26 Complaint alleges eight (8) causes of action for violations of the California Labor Code for failure to
27 pay minimum wages, failure to pay overtime wages, failure to provide meal periods, failure to provide
28 compliant rest periods, failure to provide accurate wage statements, failure to timely pay wages upon

1 termination, for violations of California Business & Professions Code Section 17200, et seq. based on
2 the aforementioned California Labor Code violations, and for civil penalties under PAGA based on
3 the aforementioned California Labor Code violations. (Khaled Decl., ¶ 5).

4 On December 5, 2024, the Parties participated in a formal mediation conducted by Brandon
5 McKelvey, Esq. (“Mediator”), a neutral and respected mediator with extensive experience in complex
6 wage and hour matters, and with the assistance of the Mediator’s evaluations, the Parties were able to
7 reach an agreement to resolve the Villalpando Class Action, Villalpando PAGA Action, and the
8 Madrigal Action on a class and representative basis. The Parties then worked diligently to negotiate
9 and memorialize the terms in a long form settlement agreement. (Marin Decl., ¶ 5).

10 On May 28, 2025, Plaintiffs filed a Second Amended Class Action Complaint in the Action,
11 which added Plaintiff Villalpando as a named plaintiff and the claims alleged in the Villalpando Class
12 Action and Villalpando PAGA Action. (*Id.*, ¶ 6).

13 On June 26, 2025, pursuant to Plaintiff Villalpando’s request, the Villalpando PAGA Action
14 was dismissed without prejudice. (*Id.*, ¶ 7).

15 On July 16, 2025, pursuant to Plaintiff Villalpando’s request, the Villalpando Class Action
16 was dismissed without prejudice. (*Id.*, ¶ 8).

17 On December 10, 2025, the Parties executed the Joint Stipulation of Class Action and PAGA
18 Settlement and Release (“Settlement” or “Settlement Agreement”). (*Id.*, ¶ 9 and Exh. 1).

19 On February 13, 2026, Plaintiffs filed a Motion for Preliminary Approval of Class Action and
20 PAGA Settlement (“Motion for Preliminary Approval”) and supporting documents. (*Id.*, ¶ 10). On
21 June 1, 2026, the Court entered the Order Granting Preliminary Approval of Class Action and PAGA
22 Settlement (“Preliminary Approval Order”), thereby preliminarily approving the terms of the
23 Settlement Agreement, the Notice of Class Action Settlement (“Class Notice”), and the proposed
24 administration procedures and associated deadlines. (*Id.*, ¶ 11 and Exh. 2).

25 The Parties agree that the Class described herein may be certified for settlement purposes only.
26 If for any reason the Settlement is not approved, the certification will have no force or effect and will
27 immediately be revoked. The Parties further agree that certification for purposes of approving the
28 Settlement Agreement is in no way an admission that class certification is proper under the more

1 stringent standard applied for litigation and that evidence of this limited stipulation for settlement
2 purposes only will not be admissible for any purpose in this or any other proceeding.

3 **III. SUMMARY OF THE SETTLEMENT TERMS AND PLAN OF DISTRIBUTION**

4 The Parties have agreed to settle the Class and PAGA claims at issue in the Operative
5 Complaint for a non-reversionary Gross Settlement Amount of Three Million Dollars and Zero Cents
6 (\$3,000,000.00), which is exclusive of employer-side payroll taxes. (Settlement Agreement, ¶ 14;
7 Marin Decl., ¶ 14). The Gross Settlement Amount includes: (1) Class Counsel's Attorneys' Fees in
8 the amount of thirty-five percent (35%) of the Gross Settlement Amount, equaling One Million Fifty
9 Thousand Dollars and Zero Cents (\$1,050,000.00); (2) Class Counsel's Attorneys' Costs for Plaintiff
10 Villalpando, in the amount of Seventeen Thousand Two Hundred Fifty Dollars and Seventy-Seven
11 Cents (\$17,250.77), and Class Counsel's Attorneys' Costs for Plaintiff Madrigal, in the amount of
12 Ten Thousand Eight Hundred Twenty Dollars and Twenty Three Cents (\$10,820.23) (total,
13 \$28,070.00); (3) Administrator Expenses Payment in the amount of Eighteen Thousand Dollars and
14 Zero Cents (\$18,000.00); (4) Enhancement Awards in the amount of Ten Thousand Dollars and Zero
15 Cents (\$10,000.00) to each Plaintiff (total, \$20,000.00); and (5) PAGA Amount of One Hundred
16 Thousand Dollars and Zero Cents (\$100,000.00). (Settlement Agreement, ¶¶ 14, 15.c., 15.c.ii, 15.c.v.,
17 15.c.vi, 5.c.vii, and 17; Marin Decl., ¶ 14). After the above Court-approved amounts are deducted
18 from the Gross Settlement Amount, the Participating Class Members will share in a Net Settlement
19 Amount of approximately One Million Seven Hundred Eighty-Three Thousand Nine Hundred
20 Twenty-Nine Dollars and Zero Cents. (Settlement Agreement, ¶ 15.c; Marin Decl., ¶ 14).

21 The Settlement does not require Participating Class Members to submit claims as a prerequisite
22 to receiving their *pro rata* share of the Net Settlement Amount ("Settlement Awards") nor does it
23 require PAGA Members to submit claims as a prerequisite to receiving their *pro rata* share of twenty-
24 five percent (25%) of the PAGA Amount ("PAGA Shares"). (Marin Decl., ¶ 15). Settlement Awards
25 are calculated by the Settlement Administrator by dividing the Net Settlement Amount by the total
26 number of Workweeks worked by all Participating Class Members during the Class Period and
27 multiplying the result by each Participating Class Member's individual number of Workweeks worked
28 during the Class Period. (Settlement Agreement, ¶ 15.c.i; Marin Decl., ¶ 15). PAGA Shares are

1 calculated by the Settlement Administrator by dividing the PAGA Member Amount, which is twenty-
2 five percent (25%) of the PAGA Amount (\$25,000.00) by the total number of PAGA Workweeks
3 worked by all PAGA Members during the PAGA Period (also known as “PAGA Workweeks”), and
4 then multiplying that amount by each PAGA Member’s individual number of PAGA Workweeks.
5 (Settlement Agreement, ¶ 15.c.ii; Marin Decl., ¶ 15)

6 Each Settlement Award will be allocated as ten percent (10%) unpaid wages and ninety percent
7 (90%) unpaid penalties and interest. (Settlement Agreement, ¶ 15.c.iii; Marin Decl., ¶ 17). The
8 portion allocated to unpaid wages will be reported on an IRS Form W-2 and the portions allocated to
9 penalties and interests will be reported on an IRS Form 1099-MISC by the Settlement Administrator.
10 (Ibid). The Settlement Administrator will withhold the employee’s share of taxes and withholdings
11 with respect to the Settlement Award, and issue checks to Participating Class Members for their net
12 payment of their Settlement Award. (Settlement Agreement, ¶ 21; Marin Decl., ¶ 17). Defendant will
13 separately pay any and all employer payroll taxes owed on the wage portion of the Settlement Awards.
14 (Settlement Agreement, ¶ 15.c; Marin Decl., ¶ 17). Each PAGA Share will be allocated as one hundred
15 percent (100%) penalties and will be reported on an IRS Forms 1099-MISC will issue by the
16 Settlement Administrator. (Settlement Agreement, ¶ 15.c.iii; Marin Decl., ¶ 17)

17 If the Court grants final approval, Defendant will fund the Gross Settlement Amount in two
18 (2) installments as follows:

- 19 a. First Installment: The first half will be funded within thirty (30) calendar days after the
20 Effective Date.
- 21 b. Second Installment: The second half will be funded no later than December 15, 2026.
22 (Settlement Agreement, ¶ 21; Marin Decl., ¶ 18)

23 The Gross Settlement Amount will be distributed by the Settlement Administrator
24 within five (5) calendar days following the Effective Date and funding of the second
25 half of the Gross Settlement Amount. (Settlement Agreement, ¶ 15.c.viii; Marin
26 Decl., ¶ 19)

27 Each Settlement Award and PAGA Share check will be valid and negotiable for one hundred
28 and twenty (120) calendar days from the date the checks are issued, and thereafter, shall be

1 automatically canceled. (Settlement Agreement, ¶ 21; Marin Decl., ¶ 20). Any funds associated with
2 such canceled checks will be distributed by the Settlement Administrator to the State of California's
3 Unclaimed Property Fund in the name of the Participating Class Member and/or PAGA Members.
4 (Settlement Agreement, ¶ 21; Marin Decl., ¶ 20).

5 Effective upon the Effective Date and when Defendant fully funds the entire Gross Settlement
6 Amount and employer payroll taxes owed on the wage portion of the Settlement Awards, the
7 Participating Class Members fully release and discharge the Released Parties from all claims under
8 state, federal, and local law and all class claims that were or could have been asserted based on the
9 facts and allegations made in the Operative Complaint, arising during the Class Period, as to the
10 Participating Class Members, including without limitation, California Labor Code sections 200, 201,
11 202, 203, 204, 210, 218.5, 218.6, 221, 226, 226.3, 226.7, 227.3, 510, 512, 516, 558, 1174, 1174.5,
12 1182.12, 1194, 1194.2, 1197, 1197.1, 1198, 1199, 2800, and 2802; California Industrial Commission
13 Wage Orders; Cal. Code Regs., Title 8, section 11040, et seq.; California Employment Development
14 Department guidance and Business and Professions Code sections 17200, et seq., California Code of
15 Civil Procedure sections 382 and 1021.5; and including all claims for or related to alleged unpaid
16 wages, off the clock work, minimum wages, hours worked, overtime or double time wages, regular
17 rate of pay, bonus and incentive pay, timely payment of wages during employment, timely payment of
18 wages at separation, wage statements, payroll records and recordkeeping, unreimbursed business
19 expenses, meal periods and meal period premiums, rest breaks and rest break premiums, unfair
20 competition, unfair business practices, unlawful business practices, fraudulent business practices,
21 declaratory relief, and penalties of any nature (including but not limited to civil penalties and waiting-
22 time penalties but excluding penalties under PAGA), interest, fees, costs, as well as all other claims
23 and allegations alleged in the Operative Complaint during the Class Period (collectively "Released
24 Class Claims"). (Settlement Agreement, ¶ 24). Expressly excluded from the Released Class Claims
25 are claims for vested benefits, retaliation, discrimination, unemployment insurance, disability, social
26 security benefits, workers compensation, and claims that arose outside the Class Period. (Ibid).

27 Effective upon the Effective Date and when Defendant fully funds the entire Gross Settlement
28 Amount and employer payroll taxes owed on the wage portion of the Settlement Awards, Plaintiffs as

proxies for the State of California and the LWDA, and as representatives of the PAGA Members, release all representative and aggrieved party claims arising during the PAGA Period seeking civil penalties under PAGA that were asserted or could reasonably have asserted based on the facts alleged in the Operative Complaint and/or the LWDA letters submitted by Plaintiffs, including, but not limited to penalties for alleged violations of Labor Code sections 200, 201, 202, 203, 204, 210, 218.5, 218.6, 221, 226, 226.3, 226.7, 227.3, 510, 512, 516, 558, 1174, 1174.5, 1182.12, 1194, 1194.2, 1197, 1197.1, 1198, 1199, 2800, 2802, 2698, et seq., and 2699, et seq., the wage orders of the California Industrial Welfare Commission, including all claims for or related to alleged unpaid wages, off the clock work, minimum wages, hours worked, overtime or double time wages, regular rate of pay, bonus and incentive pay, timely payment of wages during employment, timely payment of wages at separation, wage statements, payroll records and recordkeeping, unreimbursed business expenses, meal periods and meal period premiums, and rest breaks and rest break premiums (collectively “Released PAGA Claims”). (Settlement Agreement, ¶ 25). The Settlement shall release, and bar, all Released PAGA Claims by or on behalf of Plaintiffs and all PAGA Members during the PAGA Period, regardless of whether Plaintiffs and/or a PAGA Member negotiate(s) (cashes) their PAGA Share check(s) pursuant to the Settlement. (Ibid). PAGA Members cannot and do not have the right to opt out of the PAGA Settlement and/or the Released PAGA Claims. (Ibid). As such, an individual opting out of the Class Settlement has no impact as to their standing and/or inclusion in the PAGA Settlement assuming they qualify as a PAGA Member. (Ibid).

Effective upon the Effective Date and when Defendant fully funds the entire Gross Settlement Amount and employer payroll taxes owed on the wage portion of the Settlement Awards, in addition to the Released Class Claims and Released PAGA Claims, Plaintiffs agree to generally release the Released Parties from any and all claims, whether known or unknown, under all federal, state, and local statutes, and federal and state common law (including but not limited to those for contract, tort and equity) (“Plaintiffs’ Release”). (Settlement Agreement, ¶ 26). Plaintiffs acknowledge the language of Section 1542 of the California Civil Code, which provides:

A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the

1 release and that, if known by him or her, would have materially affected his or
2 her settlement with the debtor or released party.

3 (Ibid).

4 Plaintiffs expressly waive the protection of Section 1542. (Settlement Agreement, ¶ 26).
5 Plaintiffs understand and agree that claims or facts in addition to or different from those which are now
6 known or believed by Plaintiffs to exist may hereafter be discovered. (Ibid). It is Plaintiffs' intention
7 to settle fully and release all of the claims, except for any claims or actions to enforce this Stipulation
8 of Settlement, or to any claims for vested benefits, unemployment benefits, disability benefits, social
9 security benefits, workers' compensation benefits that arose at any time, or based on occurrences
10 outside the Class Period, Plaintiffs now have against the Released Parties, whether known or unknown,
11 suspected or unsuspected. (Ibid).

12 The "Released Parties" means (i) Defendant; (ii) each of Defendant's past and present parents,
13 subsidiaries, partners, affiliates and clients, including, without limitation, and any such corporation,
14 limited liability company or partnership; (iii) each of Defendant's past and present board members,
15 directors, officers, agents, employees, attorneys, insurers, members, clients, partners, managers,
16 contractors, agents, consultants, representatives, administrators, fiduciaries, benefit plans, transferees,
17 predecessors, successors and assigns of any of the foregoing; and (iv) any individual or entity which
18 could be jointly liable with any of the foregoing for the claims alleged in the Action. (*Id.*, ¶ 11).

19 **IV. THE SETTLEMENT ADMINISTRATION PROCESS**

20 ILYM has taken all necessary steps to effectuate the notice and settlement administration
21 process, as set forth in the Preliminary Approval Order.

22 On June 3, 2026, ILYM received the Court approved text for the Class Notice from Class
23 Counsel. (ILYM Decl., ¶ 4).

24 On June 25, 2026, ILYM received the class data file from Defendant's counsel, which contained
25 the Class Members' and PAGA Members' full names, last-known addresses, last-known telephone
26 numbers, Social Security numbers, number of Workweeks during the Class Period, and number of
27 PAGA Workweeks during the PAGA Period (collectively, "Class Data"). (ILYM Decl., ¶ 5). The
28 Class Data was uploaded to ILYM's database and checked for duplicates and other possible

1 discrepancies. (Ibid). The Class Data contained 1,896 individuals identified as Class Members who
2 worked 168,584 Workweeks during the Class Period and 1,178 individuals identified as PAGA
3 Members who worked 72,969 PAGA Workweeks during the PAGA Period. Accordingly, the Escalator
4 Clause has not been triggered. (Ibid).

5 As part of the preparation for mailing, all 1,896 names and addresses contained in the Class
6 Data were then processed against the National Change of Address (“NCOA”) database, maintained by
7 the United States Postal Service (“USPS”), for purposes of updating and confirming the mailing
8 addresses of the Class Members before mailing of the Class Notice. (*Id.*, ¶ 6). The NCOA contains
9 requested change of addresses filed with the USPS. (Ibid). To the extent that an updated address was
10 found in the NCOA database, the updated address was used for the mailing of the Class Notice. (Ibid).
11 To the extent that no updated address was found in the NCOA database, the original address provided
12 by Defendant’s counsel was used for the mailing of the Class Notice. (Ibid).

13 On July 7, 2026, the Class Notice was mailed, via U.S. First Class Mail, to all 1,896 individuals
14 contained in the Class Data, and 183 Class Notices were returned to ILYM as undeliverable. (*Id.*, ¶¶
15 7 & 8). ILYM performed a computerized skip trace on the 183 returned Class Notices that did not
16 have a forwarding address in an effort to obtain an updated address for the purpose of re-mailing the
17 Class Notice. As a result of this skip trace, 175 updated addresses were obtained and the Class Notices
18 were promptly re-mailed to those Class Members, via U.S First Class Mail. (*Id.*, ¶ 8). A total of 8
19 Class Notices were deemed undeliverable as no updated address was found. (Ibid).

20 Class Members had forty-five (45) calendar days after the Settlement Administrator mailed the
21 Class Notices to submit a Request for Exclusion, written objections, and/or disputes of Workweeks
22 and/or PAGA Workweeks (“Response Deadline”). (Settlement Agreement, ¶ 20). The Response
23 Deadline was August 28, 2026. (ILYM Decl., ¶¶ 9-11). The Settlement Administrator did not receive
24 any written objections, and/or disputes of Workweeks and/or PAGA Workweeks. (*Id.*, ¶¶ 10, 11). The
25 Settlement Administrator did receive two requests for exclusions. (*Id.*, ¶ 9).

26 The estimated average gross Individual Settlement Share is \$935.59, the estimated highest
27 gross Individual Settlement Share is \$3,255.90, and the estimated lowest gross Individual Settlement
28 Share is \$10.54; the estimated average Individual PAGA Payment is \$21.22, the estimated highest

Individual PAGA Payment is \$42.51, and the estimated lowest Individual PAGA Payment is \$0.34. (*Id.*, ¶¶ 14 and 15).¹

V. COMPLIANCE WITH PROCEDURAL REQUIREMENTS OF PAGA

On February 10, 2026, Class Counsel submitted a copy of the Settlement Agreement to the LWDA through its online submission portal in compliance with California Labor Code § 2699(s)(2). (Khaled Decl., ¶ 6). The LWDA has not objected or otherwise responded to the submissions. (*Ibid.*).

VI. EVALUATION OF SETTLEMENT FOR FINAL APPROVAL

A. The Legal Standard for Final Approval

Before granting final approval of a class action settlement, the Court must review the settlement for fairness. (Cal. Rules of Court, rule 3.769(g); *Dunk v. Ford Motor Co.* (1996) 48 Cal.App.4th 1794, 1801). A court must take into account relevant factors, including, for example, the strength of the plaintiff's case, the risk, expense, complexity and likely duration of further litigation, the amount offered in settlement, the extent of discovery completed and the stage of the proceedings, the experience and views of counsel, and the reaction of the class members to the proposed settlement. (*Wershba v. Apple Computer, Inc.* (2001) 91 Cal.App.4th 224, 244-45; *Dunk*, 48 Cal.App.4th at 1801 ["The list of factors is not exhaustive and should be tailored to each case"]; *Officers for Justice v. Civil Serv. Comm'n* (9th Cir. 1982) 688 F.2d 615, 625). Considering such factors, a presumption of fairness exists where: (1) the settlement is reached through arm's-length bargaining; (2) investigation and discovery are sufficient to allow counsel and the court to act intelligently; (3) counsel is experienced in similar litigation; and (4) the percentage of objectors is small. (*Wershba*, 91 Cal.App.4th at 245; *Dunk*, 48 Cal.App.4th at 1802). "The settlement or fairness hearing is not to be turned into a trial or rehearsal for trial on the merits. [The trial court is not] to reach any ultimate conclusions on the contested issues of fact and law which underlie the merits of the dispute, for it is the very uncertainty of outcome in litigation and avoidance of wasteful and expensive litigation that induce consensual settlements." (*Officers for Justice, supra*, 688 F.2d at 625).

¹ The actual average, highest, and lowest Settlement Awards will be larger than the amounts stated in the ILYM Decl. because the Net Settlement Amount is larger due to Class Counsel's request for reimbursement of Attorneys' Costs in an amount that is less than \$40,000.00 (the difference between the amount sought and the amount authorized under the Settlement, i.e., \$11,929 will be part of the Net Settlement Amount).

1 **B. The Settlement Should be Finally Approved**

2 California courts recognize that “a presumption of fairness exists where . . . [a] settlement is
3 reached through arm’s-length bargaining.” (*Wershba*, 91 Cal.App.4th at 245; *see also Clark v. Am.*
4 *Residential Servs. LLC*, 175 Cal.App.4th 785, 799 (2009)). Here, the Parties’ settlement negotiations
5 were at all times made at arm’s-length and were adversarial. (Marin Decl., ¶ 21). The Parties engaged
6 in extensive informal discovery prior to reaching a settlement at the mediation. (*Id.*, ¶ 22).

7 **C. The Settlement is Fair and Reasonable**

8 Courts typically assess the status of discovery in determining whether a class action settlement
9 agreement is fair, reasonable, and adequate. (*Dunk*, 48 Cal.App.4th at 1801). Prior to mediation,
10 Defendant produced relevant wage and hour policies, its employee handbook, and information
11 regarding the estimated total number of putative class members, the total number of former employees,
12 the total workweeks worked by the putative class members, the dates of employment of the putative
13 class members, and the average rate of pay for the putative class members. (Marin Decl., ¶ 22). This
14 allowed Class Counsel to conduct an informed assessment and analysis of the strengths and
15 weaknesses of the claims and the potential class-wide damages. (*Ibid*). Plaintiffs’ investigation was
16 sufficient to satisfy the criteria for court approval set forth in *Dunk v. Ford Motor Co.* (1996) 48
17 Cal.App.4th 1794, 1801 and *Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th 116, 129-130
18 (“*Dunk/Kullar*”).

19 Based on the information exchanged, the Parties extensively briefed issues regarding class
20 certification and liability and provided their analyses to the Mediator who helped the Parties debate
21 the strengths and weakness of their respective positions. (Marin Decl., ¶ 23). At all times, Plaintiffs
22 were willing and prepared to litigate this matter through class certification and trial if the Parties had
23 been unable to reach a favorable resolution. (*Ibid*). Additionally, settlement negotiations were
24 conducted by highly capable and experienced counsel. (*Ibid*). Class Counsel are respected members
25 of the California State Bar with strong records of vigorous and effective advocacy and are experienced
26 in handling complex wage and hour class action litigation. (*Ibid*). Accordingly, Class Counsel had
27 sufficient information and experience to act intelligently in negotiating the Settlement.

28 A settlement is not judged against what might have been recovered had a plaintiff prevailed at

1 trial, nor does the settlement have to obtain 100% of the damages sought to be fair and reasonable.
2 (*Wershba*, 91 Cal.App.4th at 246, 250). In evaluating the reasonableness of a settlement, a trial court
3 must consider “the strength of plaintiffs’ case, the risk, expense, complexity and likely duration of
4 further litigation, the risk of maintaining class action status through trial, the amount offered in
5 settlement, the extent of discovery completed and the stage of the proceedings, the experience and
6 views of counsel, the presence of a governmental participant, and the reaction of the class members to
7 the proposed settlement.” (*Kullar v. Foot Locker Retail, Inc.*, 168 Cal.App.4th 116, 128 (2008)).

8 Here, the reasonableness of the Settlement is underscored by the fact that Defendant has legal
9 and factual grounds for defending the Action. Based upon Class Counsel’s experience litigating
10 similar complex matters, Plaintiffs reasonably expected a vigorous and lengthy defense to both class
11 certification and the merits of the Action absent a settlement.

12 Class Counsel is aware of Defendant’s defenses and arguments and has also taken into account
13 the uncertainty and risk of the outcome of further litigation, and the difficulties and delays inherent in
14 such litigation, including those involved in class and/or representative adjudication. (Marin Decl., ¶
15 25). Plaintiffs further recognize the burdens of proof necessary to establish liability for the claims
16 asserted in the Action, Defendant’s defenses, and the difficulties in establishing entitlement to
17 monetary recovery. (Ibid). Plaintiffs have also considered the Parties’ settlement discussions, as well
18 as the evaluations of the Mediator, who is experienced and well-regarded in complex labor and
19 employment matters. (Ibid).

20 Defendant denied and continues to deny any liability and wrongdoing of any kind associated
21 with the claims alleged in the Action, and further denies that class certification is appropriate for any
22 purpose other than the Settlement. (*Id.*, ¶ 26). Defendant believes that it would ultimately prevail in
23 the Action. (Ibid). Defendant proffered defenses to both certification and to the merits of Plaintiffs’
24 claims. (Ibid). Defendant contended that Plaintiffs’ claims are not suitable for class certification
25 because individual issues would predominate should this case go to trial. (Ibid). As with all class
26 actions, these complex cases raise difficult management and proof issues and, accordingly, there is a
27 significant risk that the Court may deny class certification. (Ibid).

28 Class Counsel also recognized that, even if Plaintiffs prevailed at class certification, proving

1 the amount of wages due to each Class Member would be an expensive, time-consuming, and
2 extremely uncertain proposition. (*Id.*, ¶ 27). In order to prove liability and damages, Class Counsel
3 would need to request and analyze thousands of pages of documents, obtain the Class Members'
4 contact information, contact them, and obtain declarations at great expense. (*Ibid.*). Obtaining the
5 cooperation of current employees would also be difficult, given the likely reluctance to aid prosecution
6 of a lawsuit against a current employer. (*Ibid.*). On the other hand, Defendant would likely be able to
7 obtain the cooperation of its employees. (*Ibid.*). Moreover, even if Plaintiffs prevailed at class
8 certification and trial, possible appeals would substantially delay any recovery by the Class. (*Ibid.*).

9 In light of the Parties' respective legal positions and the risks of continued litigation, the Gross
10 Settlement Amount for resolution of the Class and PAGA claims, is fair, adequate, and reasonable.
11 (*Id.*, ¶ 28).

12 **VII. THE REQUESTED CLASS COUNSEL'S ATTORNEYS' FEES AND COSTS**
13 **ARE REASONABLE AND SHOULD BE APPROVED**

14 Class Counsel seeks thirty-five percent (35%) of the Gross Settlement Amount (i.e.,
15 \$1,050,000.00) for fees for the time spent litigating this matter and reimbursement of Attorneys Costs
16 of Twenty-Eight Thousand Seventy-One Dollars and Zero Cents (\$28,071.00), consisting of
17 \$17,250.77 for Plaintiff Villalpando, and \$10,820.23 for Plaintiff Madrigal, incurred in the prosecution
18 of the Action. (Marin Decl., ¶ 29; Khaled Decl., ¶ 20). The requested fees and costs are fair
19 compensation for undertaking complex, risky, expensive, and time-consuming litigation on a
20 contingent fee basis, especially in light of the substantial benefits achieved by Class Counsel for the
21 Class Members. (Marin Decl., ¶ 29).

22 **A. Plaintiffs' Fee Request of Thirty-Five Percent (35%) of the Gross**
23 **Settlement Amount is Proper Under the Common Fund Doctrine**

24 Courts have long recognized the "common fund" or "common benefit" doctrine, under which
25 attorneys who create a common fund or benefit for a group of persons may be awarded their fees and
26 costs to be paid out of the fund. (*See Serrano v. Priest* ("Serrano III") (1977) 20 Cal.3d 25, 34,
27 quoting *D'Amico v. Board of Medical Examiners* (1974) 11 Cal.3d 1; *Glendale City Employees'*
28 *Association v. City of Glendale* (1975) 15 Cal.3d 328, 341 fn.19; *Quinn v. State of California* (1995)

1 15 Cal.3d 162, 16 7; *see also Boeing Co. v. Van Gernert* (1980) 444 U.S. 472,478; *Mills v. Electric*
2 *Auto-Lite Co.* (1970) 396 U.S. 375, 391-392).

3 The California Supreme Court has held that, “when a number of persons are entitled in
4 common to a specific fund, and an action brought by a plaintiff or plaintiffs for the benefit of all results
5 in the creation or preservation of that fund, such plaintiff or plaintiffs may be awarded attorneys’ fees
6 out of the fund.” (*Serrano III, supra*, 20 Cal.3d at 34, quoting *D’Amico*, 11 Cal.3d 1; *see also Boeing,*
7 *supra*, 444 U.S. at 478 (“[A] lawyer who recovers a common fund for the benefit of persons other than
8 himself or his client is entitled to a reasonable attorney’s fee from the fund as a whole.”); *Mills, supra*,
9 396 U.S. at 391-392 (United States Supreme Court endorsing the common fund approach in class
10 actions)). California Practice Guide: Civil Trials and Evidence (The Rutter Group) at § 17:172.3
11 explains the common fund doctrine as follows:

12 Where the lawsuit results in the recovery of a fund or property benefiting
13 others as well as plaintiff (e.g., a class action), the court has inherent
14 equitable power to order plaintiffs attorney fees paid out of the common
fund or property [citations]. Such fee spreading assures that all of those
benefited by the litigation pay their fair share of obtaining the recovery.

15 The percentage-of-the-fund approach appears to be the preferred method of awarding fees in
16 traditional common fund cases, such as this case. Where the settlement amount is a “certain or easily
17 calculable sum of money,” use of the percentage-of-the-fund method is appropriate. (*Serrano III*, 20
18 Cal. 3d at 35).

19 In *Quinn v. State of California* (1995) 15 Cal.3d 162, 167, the California Supreme Court stated:
20 “[O]ne who expends attorneys’ fees in winning a suit which creates a fund from which others derive
21 benefits may require those passive beneficiaries to bear a fair share of the litigation costs.” Similarly,
22 in *City and County of San Francisco v. Sweet* (1995) 12 Cal.4th 105, 110-111, the California Supreme
23 Court recognized that the common benefit doctrine has been applied “consistently in California when
24 an action brought by one party creates a fund in which other persons are entitled to share.”

25 Numerous appellate courts have similarly found. (*See e.g., Knoff v. City and County of San*
26 *Francisco* (1969) 1 Cal.App.3d 184, 203-204 (court upheld a “contingent percentage” award of
27 attorneys’ fees in a representative action as the proper exercise of the court’s broad equitable powers);
28 *Rider v. County of San Diego* (1992) 1 I Cal.App.4th 1410, 1423 (attorneys’ fees and expenses properly

1 awarded from common benefit composed of illegally imposed sales and use tax); *Bank of America v.*
2 *Cory* (1985) 164 Cal.App.3d 66, 89-92 (fees awarded from common benefit created by action
3 compelling state to claim dormant bank accounts); *Parker v. Los Angeles* (1974) 44 Cal.App.3d 556,
4 567-568 (court upheld fee award equal to one-third of the damages to owners of residential property
5 in an inverse condemnation action)).

6 The Supreme Court noted that several courts have expressed frustration with the alternative
7 “lodestar” approach for deciding fee awards, which usually involves wading through voluminous and
8 often indecipherable time records. (*Laffitte*, 1 Cal.5th at 503; see *Lealao v. Beneficial California, Inc.*
9 (2000) 82 Cal.App.4th 19, 31 n.5 citing *In re Activision Sec. Litig.* (N.D. Cal 1989) 723 F. Supp. 1373,
10 1375). The percentage approach is preferable to the lodestar because: (1) it aligns the interests of class
11 counsel and absent class members; (2) it encourages efficient resolution of the litigation by providing
12 an incentive for early, yet reasonable, settlement; and (3) it reduces the demands on judicial resources.
13 (*In re Activision Sec. Litig.*, 723 F. Supp. at 1378-79). The Ninth Circuit now routinely uses the
14 percentage of the common fund approach to determine the award of attorney’s fees. (*Lealao*, 82
15 Cal.App.4th at 30-31; see e.g., *In re Pac. Enters. Sec. Litig.* (9th Cir. 1995) 47 F.3d 373, 378-79
16 (approving attorney’s fee of 33%)).

17 A fee of thirty-five percent (35%) of the Gross Settlement Amount (i.e., \$1,050,000) is easily
18 within the range of reasonableness. Historically, courts have awarded percentage fees in the range of
19 20% to 50%, depending on the circumstances of the case. (See *In re Activision Sec. Litig.*, 723 F.
20 Supp. at 1378). According to Professor Newberg: “No general rule can be articulated on what is a
21 reasonable percentage of a common fund...Usually 50 per cent of the fund is the upper limit on a
22 reasonable fee award from a common fund, in order to assure that fees do not consume a
23 disproportionate part of the recovery obtained for the class, though somewhat larger percentages are
24 not unprecedented.” (Newberg on Class Actions (4th Ed.), § 14.6). Class Counsel’s requested fee is
25 reasonable and falls well within the historical range of attorney’s fee awards under the common fund
26 theory. Based on Class Counsel’s showing of reasonableness, the Court should approve the requested
27 fees pursuant to the common fund approach.

1 **B. The Circumstances of this Case Support a Thirty-Five Percent (35%) Fee**
2 **Award**

3 Given the significant results achieved under the circumstances of this litigation, the requested
4 fee award is reasonable. As discussed in *Sumitomo Copper Litigation, supra*, 74 F. Supp. 2d at 396:

5 No one expects a lawyer whose compensation is contingent on the
6 success of his services to charge, when successful, as little as he
7 would charge a client who in advance of the litigation has agreed to
8 pay for his services, regardless of success. Nor, particularly in
9 complicated cases producing large recoveries, is it just to make a fee
10 depend solely on the reasonable amount of time expended.

11 In that vein, this Court should consider the contingent nature of this case, the uncertainty of
12 the outcome, the quality of the counsel, and the preclusion from other employment.

13 **C. The Contingent Nature of This Matter**

14 From the outset of the Action to the present, prosecution of this matter has involved significant
15 financial risk for Class Counsel. Class Counsel undertook this matter solely on a contingent basis,
16 with no guarantee of recovery. Class Counsel has placed its own resources at risk to prosecute this
17 matter with no guarantee of success. The risks of this matter are apparent in that class certification
18 would likely have been a hard-fought issue, especially given the uncertainty regarding certification of
19 cases such as this. Moreover, even if class certification were granted over Defendant's opposition,
20 there was no assurance that Plaintiffs would succeed at trial. (Marin Decl., ¶¶ 21-31; Khaled Decl., ¶
21 19). Despite such challenges, Class Counsel was able to persuade Defendant that it faced significant
22 liability exposure such that it was willing to pay \$3,000,000.00 to settle the Class Members' claims.

23 **D. The Experience, Reputation, Ability of Counsel, and Skill in Litigation**

24 Class Counsel has substantial experience in wage-and-hour and other class action litigation,
25 including litigation involving the legal issues in this matter. (Marin Decl., ¶¶ 30 and 32). (Khaled
26 Decl., ¶¶ 9-15). Class Counsel's skill in developing a factual record and convincing Defendant of its
27 litigation exposure under California law was essential to achieving the Settlement. Through its skill
28 and reputation, Class Counsel was able to obtain a settlement that provides an outstanding result for
Class Members. (*See generally* Marin Decl., Khaled Decl.).

1 **E. The Results Achieved**

2 The excellent results achieved by the Settlement support Class Counsel's request for attorneys'
3 fees. Class Members' support for the results achieved by Class Counsel is demonstrated by the
4 absence of any objections to either the Class Settlement or to Class Counsel's request for fees, both of
5 which were described clearly in the Class Notice. As of the date of this Motion, Participating Class
6 Members will be paid, on average, approximately \$935.59 each, which is intended to compensate them
7 for the alleged wage and hour violations they suffered during their employment. (Marin Decl., ¶ 16).
8 This is a significant benefit for the Participating Class Members here as it represents a recovery for
9 highly disputed claims. Equally important is the fact that the State of California will receive
10 \$75,000.00 for enforcement of labor laws and education of employers. (*Id.*, ¶ 39).

11 Furthermore, the efficiency with which this litigation was conducted and resolved should be
12 rewarded. After preparing and investigating the case prior to filing the Action, Class Counsel strongly
13 litigated and then resolved the case in an efficient manner. The Class Members will directly benefit
14 from the prompt and fair resolution of their claims. They will be receiving a significant award in a
15 relatively short period of time, as opposed to waiting years to recover some undetermined amount if
16 they succeeded at trial, which is an uncertainty in itself.

17 **F. Preclusion of Other Employment**

18 As California law recognizes, Class Counsel's commitment to this litigation should not be
19 assessed in a vacuum. (*See Serrano, supra*, 20 Cal.3d at 49). A relevant factor in determining
20 attorneys' fees is whether the litigation required Class Counsel to forego other employment. (*See*
21 *ibid*). Class Counsel had to consider its workload during this litigation when considering taking on
22 additional work that was available, and which Class Counsel had to forego in order to devote the time
23 necessary to pursue this litigation. (Marin Decl., ¶ 31).

24 **G. The Requested Fees Are Also Justified Under the Lodestar Method**

25 Fee calculations under the lodestar method would result in a similar award, demonstrating the
26 fairness of Class Counsel's percentage fee request. Under the lodestar method, a base fee amount is
27 calculated from a compilation of time reasonably spent on the case and the reasonable hourly
28 compensation of the attorney. The base amount is then adjusted by use of a multiplier in light of

1 various factors. (*Serrano III*, *supra*, 20 Cal.3d at 48). Class Counsel's hourly rates are summarized
2 in the Marin Decl. at ¶¶ 32-35 and the Khaled Decl. at ¶ 18.

3 One difficulty in determining the hourly rate of attorneys of similar skill and experience in the
4 relevant community is the scarcity of hourly fee-paying clients in class action litigation. (Marin Decl.,
5 ¶ 33). As a practical matter, few if any employees or consumers pay attorneys' fees on an hourly basis
6 for such extensive litigation, and thus retainer agreements in such cases are based on a stepped-up
7 contingency fee (with the percentage increasing from one third to forty-five – and sometimes even
8 fifty percent, which is on par with personal injury contingency fee agreements – if the case goes to
9 trial). (Ibid). Therefore, there is no customary hourly billing rate for work that is routinely based on
10 a contingent fee relationship, but the nature of class action work should be strongly considered by the
11 Court. (Ibid). Wage and hour work presents a specialized and challenging area of law that is not
12 within the knowledge of many lawyers. (Ibid). This kind of class action work requires specialized
13 learning and the willingness to take large risks. (Ibid).

14 Class Counsel have spent approximately 779.1 combined total hours litigating these claims to
15 date.² (Marin Decl., ¶ 33; Khaled Decl., ¶ 18). Class Counsel expects to spend another 10 hours in
16 connection with the final approval process (including preparing for and attending the Final Approval
17 Hearing, and managing the Settlement through its conclusion, including anticipated communications
18 with defense counsel, the Settlement Administrator, our client, and Class Members). (Marin Decl., ¶
19 34). In addition to time spent during litigation, reasonable hours also include the time spent before
20 the Action was filed, including time spent interviewing the client, investigating the facts and the law,
21 preparing the initial pleadings, as well as litigating the case. (*Webb v. Board of Educ.* (1985) 471 U.S.
22 234). Further, the fee award should include fees incurred to establish and defend the attorneys' fee
23 claim. (*Serrano v. Priest* (1982) 32 Cal .3d 621, 639 (“*Serrano IV*”). Based on the rates of Class
24 Counsel, the total fees incurred to date are \$640,890.00. (Marin Decl., ¶33; Khaled Decl., ¶18). By
25

26 ² In *Martino v. Denevi* (1986) 182 Cal.App.3d 553, 559, the court addressed the issue of what evidence is required in
27 California to support a fee application. The court held: “Testimony of an attorney as to the number of hours worked on a
28 particular case is sufficient evidence to support an award of attorney fees, even in the absence of detailed time records.”
Id. There is no need to attach the voluminous invoices prepared in a case as a basis for an award of fees and costs. *Id.*
Through Class Counsel's declaration in support of this application, however, Plaintiff presents a thorough breakdown of
the hours spent and costs incurred in prosecuting this class action. Pursuant to *Martino, supra*, this presentation is sufficient
to support the amount requested.

1 the conclusion of this matter, the total fees are estimated to be approximately \$647,640. (Marin Decl.,
2 ¶ 34; Khaled Decl., ¶ 18).

3 In cases where a common fund analysis is not used, once the court establishes the lodestar
4 amount, it should adjust the fee award by a multiplier in order to make an appropriate fee award.
5 (*Serrano III, supra*, 20 Cal.3d at 48). In applying the multiplier, *Newberg on Class Actions* states that
6 “[m]ultiples ranging from one to four frequently are awarded in common fund cases when the lodestar
7 method is applied. A large common fund award may warrant an even larger multiplier.” (4 *Newberg*
8 *on Class Actions* 4th (4th ed. 2002) § 14.6). If the class members paid the fees that the market would
9 bear, they would pay a fee of anywhere from one-third to forty-five percent of any recovery. Since
10 this is the market rate, the lodestar calculation should be enhanced to reflect what the class members
11 would pay on the open market. (*Lealao, supra*, 82 Cal.App.4th at 47-48).

12 In *Lealao*, the court held that trial courts should award lodestar fees by examining the
13 percentage-of-the-benefit and adjusting the lodestar calculation accordingly. (*Id.* at 49 and 53). The
14 court indicated that this is an upward adjustment and should be akin to a contingency fee recovery;
15 the court stated, “[a]n adjustment reflecting the amount of the class recovery is not significantly
16 different from an adjustment reflecting a percentage of that amount; and California courts have
17 evaluated a lodestar as a percentage of the benefit.” (*Id.* at 46). The *Lealao* method appears
18 particularly appropriate because class actions generally are contingency fee cases for plaintiffs - and
19 the class action clients do not expect to pay an hourly fee.

20 The rationale of *Lealao* comports with the purpose of the multiplier. The multiplier is
21 “primarily to compensate the attorney for the prevailing party at a rate reflecting the risk of
22 nonpayment in contingency cases.” (*Ketchum v. Moses* (2001) 24 Cal.4th 1122, 1138). The *Lealao*
23 court reasoned:

24 Given the unique reliance of our legal system on private litigants to enforce
25 substantive provisions of law through class and derivative actions, attorneys
26 providing the essential enforcement services must be provided incentives
27 roughly comparable to those negotiated in the private bargaining that takes
28 place in the legal marketplace, as it will otherwise be economic for
defendants to increase injurious behavior. It has therefore been urged (most
persistently by Judge Richard Posner) that in defining a reasonable fee in
such representative actions, the law should mimic the market.

1 In the class action context, that would mean attempting to award the fee that
2 informed private bargaining, if it were truly possible, might have reached.
3 The simplest way for the law to duplicate the bargain that informed parties
4 would reach if agency costs were low is to look to fee award levels in actions
brought by sophisticated private parties under the same or comparable
statutes.

(*Lealao*, 82 Cal.App.4th at 47-48 (internal citations and quotations omitted)). The court added:

[T]rial judges need the flexibility *Serrano III* provides, as it enables them to
relate fee awards to the economic realities that determine the efficacy of the
private enforcement contemplated by our civil justice system.

Accordingly, we hold that, in cases in which the value of the class recovery
can be monetized with a reasonable degree of certainty and it is not
otherwise inappropriate, a trial court has discretion to adjust the basic
lodestar through the application of a positive or negative multiplier where
necessary to ensure that the fee awarded is within the range of fees freely
negotiated in the legal marketplace in comparable litigation.

(*Id.* at 49-50).

In looking at similar cases, including those set forth above, Class Counsel's requested fee
comports to the market. Based on the reasonable hourly rates suggested by Class Counsel and the
collective hours worked in this matter, the requested fee award would represent a 1.64 multiplier of
the current total fee lodestar. In this regard, Class Counsel's fee request is reasonable.

H. No Class Member Objected to the Requested Attorneys' Fee Award

Class Counsel's intention to request the Court's approval for payment of class counsel's
attorneys' fees was clearly disclosed to each Class Member in the Court-approved Class Notice.
(Marin Decl., ¶ 41; *See also*, ILYM Decl., Exh. A). As of the filing of this Motion, there has not been
a single objection to the request for attorneys' fees. (ILYM Decl., ¶ 12). It is fair to conclude that the
Class approves of/does not take issue with the requested award of class counsel's attorneys' fees.
Based thereon, Class Counsel's request for thirty-five percent (35%) of the Gross Settlement Amount,
equaling One Million Fifty Thousand Dollars and Zero Cents (\$1,050,000.00), should be granted.

I. Plaintiffs' Attorneys' Cost Request is Reasonable

Class Counsel seek reimbursement of a total amount of Twenty-Eight Thousand Seventy
Dollars and Zero Cents (consisting of \$17,250.77 for Plaintiff Villalpando, and \$10,820.23 for
Plaintiff Madrigal) in costs and expenses in this matter, which includes reasonable future costs for
filing the Motion for Final Approval. (Marin Decl., ¶ 35, Exh. 4) (Khaled Decl., ¶20, Exh. 1). All
costs were reasonably incurred in prosecution of this matter.

1 **VIII. THE REQUESTED ENHANCEMENT AWARDS TO PLAINTIFFS ARE**
2 **REASONABLE**

3 The named Plaintiffs should be awarded Enhancement Awards in the amount of Ten Thousand
4 Dollars and Zero Cents (\$10,000.00) to each Plaintiff (total, \$20,000.00) for their services as the Class
5 Representatives and the risks in connection with that role. (Marin Decl., ¶ 37). Enhancement awards
6 in wage and hour cases typically range from \$5,000.00 to \$20,000.00, although some awards are
7 higher. (Ibid). Often, multiple class representatives receive awards in the above range. (*See e.g.*,
8 *Munoz v. BCI Coca-Cola Bottling Co. of Los Angeles* (2010) 186 Cal.App.4th 399, 412 [approving an
9 enhancement request of \$10,000.00 per named plaintiff in a 188 member class]; *Cook v. Niedert*, 142
10 F.3d 1004, 1016 (7th Cir. 1998); *Thornton v. East Texas Motor Freight*, 497 F.2d 416, 420 (6th Cir.
11 1974) [“We also think there is something to be said for rewarding those drivers who protect and help
12 to bring rights to a group of employees who have been the victims of discrimination.”]). Here, the
13 requested Enhancement Awards are modest, reasonable, and should be approved.

14 Plaintiffs’ actions establish that: (1) they sought to protect the interests of the Class above their
15 own personal interests; (2) the Participating Class Members will be benefitted from their actions by
16 receiving a payment without having to do anything; and (3) Plaintiffs have put forth a significant
17 amount of time and effort pursuing the litigation and seeing it through to resolution. (*See*, generally,
18 Madrigal Decl.; Villalpando Decl.; *see also Clark v. American Residential Services LLC* (2009) 175
19 Cal.App.4th 785, 804 (discussing the criteria for determining class representative enhancement awards
20 in concluding that a requested award of \$25,000 for two class representatives was too high)).

21 The requested awards for Plaintiffs are also reasonable given the financial and personal risk
22 they took in commencing the Action, and in light of the benefits that their actions have conferred upon
23 the Class. (Villalpando Decl., ¶ 7; Madrigal Decl., ¶ 7; *See also Van Vranken v. Atl. Richfield*
24 *Co.* (N.D.Cal. 1995) 901 F.Supp. 294, 299-300). Additionally, in considering a requested class
25 representative enhancement award, courts take into consideration a plaintiff’s reasonable fear of
26 retaliation. (*Staton v. Boeing Co.* (9th Cir. 2003) 327 F.3d 938, 977). Here, it is easy to see that a
27 potential future employer could expend little effort to discover Plaintiffs brought the lawsuit – and
28 based thereon, decline to offer Plaintiffs employment.

1 In sum, Plaintiffs have performed considerable services on behalf of the Class during the
2 litigation. (*See*, generally, Villalpando Decl., and Madrigal Decl.). Class Counsel cannot understate
3 the importance of the role of an employee who is willing to search out an attorney and step forward to
4 assume the risk of litigation and retaliation in order to represent a class and put the interests of the
5 class before their own interests. Plaintiffs have understood that this is a class action where they are
6 serving as the Class Representatives and must protect the Class Members' interests. (Villalpando
7 Decl., ¶ 10; Madrigal Decl., ¶ 7). Plaintiffs were the catalyst to the benefit reached for the Class
8 Members, and has actively protected the Class Members' interests during the pendency of this matter
9 and will continue to do so even if the case was required to go to trial. (*Ibid*). Plaintiffs spent numerous
10 hours participating in this matter by searching for an attorney, communicating with their attorneys on
11 numerous occasions, searching for and producing relevant documents related to their employment,
12 responding to their attorneys' inquiries, reviewing the settlement documents, and approving the
13 Settlement on behalf of all Class Members. (*See*, generally, Villalpando Decl. and Madrigal Decl.).

14 In contrast, without having to take on any of the risk incurred by Plaintiffs or time spent by
15 Plaintiffs in litigating this matter, Participating Class Members will automatically be issued a payment
16 for their claims. It appears that the Participating Class Members recognize this enhancement was
17 justified because since the time the Class received notice of the requested Enhancement Awards, no
18 one has objected to the request. Thus, the Enhancement Awards to Plaintiffs are warranted to
19 compensate them for their time and effort, the fear and stress associated with assuming the
20 responsibility of serving as the Class Representatives, and the concrete risks they assumed as the Class
21 Representatives.

22 Further, Plaintiffs understand that Blackstone Law, APC and Aegis Law Firm, PC will share
23 the attorneys' fees in this matter, have agreed to this in writing, and understand that the amount of
24 attorneys' fees will not increase as a result of fee sharing. (Villalpando Decl., ¶ 13; Madrigal Decl., ¶
25 9).

26 **IX. THE REQUESTED SETTLEMENT ADMINISTRATOR EXPENSES**
27 **PAYMENT ARE REASONABLE**

28 In Plaintiffs' Motion for Preliminary Approval, Plaintiffs requested, and the Court approved,

1 Administrator Expenses Payment not to exceed Eighteen Thousand Dollars and Zero Cents
2 (\$18,000.00). (Marin Decl., ¶ 38). ILYM Group, Inc. is the approved Settlement Administrator.
3 (Ibid). It is an experienced class administrator and has adequately performed the administration tasks
4 required by the Preliminary Approval Order. ILYM's *actual* costs to administer the Settlement are
5 Eighteen Thousand Dollars and Zero Cents (\$18,000.00). (ILYM Decl., ¶ 16 and Exh. B). Based
6 thereon, the requested costs should be approved.

7 **X. THE PROPOSED LWDA ALLOCATION IS REASONABLE**

8 Pursuant to California Labor Code Section 2699(s)(2), the Superior Court shall review and
9 approve the settlement of penalties sought under that California Labor Code Section. (Cal. Lab. Code
10 § 2699(s)(1)). For all of the reasons stated above, the Settlement is fair, reasonable, and adequate, and
11 should be approved. As part of the Settlement, Defendant has agreed to pay One Hundred Thousand
12 Dollars and Zero Cents (\$100,000.00) to settle the claims of the PAGA Members brought pursuant to
13 PAGA, of which the payment of Seventy-Five Thousand Dollars and Zero Cents (\$75,000.00) (75%
14 of the PAGA Amount) will be paid to the LDWA for education and enforcement purposes. (Marin
15 Decl., ¶ 39).

16 It is extremely common in approved wage and hour class action cases that settle that only a
17 small portion of the total settlement is paid to PAGA penalties "in order to maximize payments to
18 class members." (*Magadia v. Wal-Mart Assocs.* (N.D. Cal. May 31, 2019, No. 17-CV-00062-LHK)
19 2019 U.S. Dist. LEXIS 91732, *90-91, citing as examples *Ceja-Corona v. CVS Pharm., Inc.* (E.D.
20 Cal. Jan. 14, 2015) 2015 U.S. Dist. LEXIS 5118, 2015 WL 222500, at *2-3 [preliminarily approving
21 \$10,000 in PAGA penalties out of a total settlement amount of \$900,000]; *Thio v. Genji, LLC* (N.D.
22 Cal. 2014) 14 F. Supp. 3d 1324, 1330 [preliminarily approving \$10,000 in PAGA penalties out of a
23 total settlement amount of \$1,250,000]; *Franco v. Ruiz Food Prods.* (E.D. Cal. Nov. 27, 2012) 2012
24 U.S. Dist. LEXIS 169057, 2012 WL 5941801, at *14 [granting final approval of \$10,000 in PAGA
25 penalties out of a total settlement amount of \$2,500,000]; *Garcia v. Gordon Trucking, Inc.* (E.D. Cal.
26 Oct. 31, 2012) 2012 U.S. Dist. LEXIS 160052, 2012 WL 5364575, at *3 [granting final approval of
27 \$10,000 in PAGA penalties out of a total settlement amount of \$3,700,000]; *Chu v. Wells Fargo Invs.,*
28 *LLC* (N.D. Cal. Feb. 16, 2011) 2011 U.S. Dist. LEXIS 15821, 2011 WL 672645, at *1 [granting final

1 approval of \$10,000 in PAGA penalties out of a total settlement amount of \$6,900,000)). Like here,
2 in these approved settlements, the parties generally maximized statutory penalties and minimized
3 PAGA penalties to focus on claims to the class members, the persons who actually suffered the
4 California Labor Code violations. (Marin Decl., ¶ 40).

5 **XI. THE CLASS RECEIVED THE BEST PRACTICABLE NOTICE**

6 California law vests the Court with broad discretion in fashioning an appropriate notice
7 program. (See California Civil Code § 1781; *Cartt v. Superior Court* (1975) 50 Cal.App.3d 960, 973-
8 74). To protect the rights of absent class members, the parties must provide class members with the
9 best notice practicable of a potential class action settlement. (*Phillips Petroleum Co. v. Shutts* (1985)
10 472 U.S. 797, 811-12; *Eisen v. Carlisle & Jacquelin* (1974) 417 U.S. 156, 174-76 [individual notice
11 must be sent to all class members who can be identified through reasonable efforts]; *Mullane v. Central*
12 *Hanover Bank & Garretson Company* (1950) 339 U.S. 306, 314 [best practicable notice is that which
13 is "reasonably calculated, under all the circumstances, to apprise interested parties of the pendency of
14 the action and afford them an opportunity to present their objections"])). The content and method of
15 the notice should be designed to apprise the class members of the terms of the proposed settlement
16 and of the class members' rights regarding the settlement. (See *Mullane, supra*, 339 U.S. at 314;
17 *Philadelphia Housing Authority v. American Radiator & Standard Sanitary Corp.* (E.D. Pa. 1970) 323
18 F. Supp. 364, 378).

19 The Class Notice approved by the Court met these requirements: it identified the Parties and
20 described the Action, the Class, the Gross Settlement Amount, the proposed method for distribution
21 of the Gross Settlement Amount, the amounts proposed to be paid as the Enhancement Awards to
22 Plaintiffs, Administrator Expenses Payment to the Settlement Administrator, and the Class Counsel's
23 Attorneys' Fees and Costs to Class Counsel. (Marin Decl., ¶ 41; see also ILYM Decl., Exh. A thereto).
24 The Class Notice described the proposed Settlement with enough specificity to allow each Class
25 Member to make an informed choice whether to accept and participate in it. (Ibid). It also explained
26 how and when Class Members may object to or opt out of the Class Settlement. (Ibid). Finally, the
27 Class Notice provided the date for the hearing on final approval of the Settlement and informed Class
28 Members how to obtain additional information about the Settlement. (Ibid).

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