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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SAN JOAQUIN

TRACY HOGE, individually, and on behalf of all others similarly situated;

Plaintiff,

vs.

BETHANY HOME SOCIETY OF SAN JOAQUIN COUNTY, INC.; and DOES 1 through 20, inclusive,

Defendants.

BLANCA GALEAS, individually and on behalf of other members of the general public similarly situated;

Plaintiff,

vs.

BETHANY HOME SOCIETY OF SAN JOAQUIN COUNTY, INC.; and DOES 1 through 20, inclusive,

Defendants.

Case No.: STK-CV-UOE-2020-0010956
(Lead Case)

[Consolidated with: Case No. STK-CV-UOE-2021-0010793]

Honorable Jayne C. Lee
Department 10C

CLASS ACTION

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

[Declarations of Class Counsel (Selena Matavosian and Joseph M. Szilagyi); Declarations of Class Representatives (Blanca Galeas, Coryn Lewis, and Tracy Hoge); Declaration of Administrator (Lluvia Islas); and [Proposed] Final Approval Order and Judgment filed concurrently herein]

Date:	July 31, 2025
Time:	9:00 a.m.
Department:	10C
Hoge Complaint Filed:	December 29, 2020
Hoge FAC Filed:	August 9, 2021

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Galeas Complaint Filed:	November 19, 2021
Hoge SAC Filed:	October 16, 2024
Trial Date:	None Set

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Attorneys for Plaintiff Tracy Hoge and the Class

PLEASE TAKE NOTICE that on July 31, 2025, at 9:00 a.m., in Department 10C of the above-entitled Court, located at 180 East Weber Avenue, Stockton, California 95202, Plaintiffs Tracy Hoge, Blanca Galeas, and Coryn Lewis (collectively, "Plaintiffs" or "Class Representatives") will and hereby do move for an order:

1. Granting final approval of the Class Action and PAGA Settlement Agreement and Amendment to Class Action and PAGA Settlement Agreement (together, "Settlement," "Agreement," or "Settlement Agreement") on the grounds that the Settlement is fair, adequate, and reasonable because, *inter alia*:

- A Net Settlement Amount of approximately **$1,163,226.96** will be fully distributed to all Class Members who did not submit a valid and timely Request for Exclusion ("Participating Class Members"); and
- **No objections and No Requests for Exclusion** were submitted to the settlement administrator, Phoenix Settlement Administrators ("Phoenix" or "Administrator");

2. Awarding payment in the amount of **$666,666.66** to Aegis Law Firm, PC and Lawyers *for* Justice, PC (together, "Class Counsel"), representing one-third (1/3) of the Gross Settlement Amount, for the attorneys' fees, which is reasonable and justified on a percentage-basis and also based on a lodestar cross-check with a multiplier of 1.12;

3. Awarding payment in the amount of **$51,606.38** to Class Counsel for reimbursement of litigation costs and expenses;

4. Awarding payment in the amount of **$13,500.00** to the Administrator for the Administration Expenses Payment;

5. Awarding payment in the amount of **$15,000.00** each to Plaintiffs Tracy Hoge, Blanca Galeas, and Coryn Lewis, totaling **$45,000.00**, as Class Representative Service Payments; and

6. Approving the allocation of the penalties under the Private Attorneys General Act of 2004, California Labor Code § 2698, et seq. ("PAGA"), in the amount of $60,000.00 ("PAGA Penalties"), of which 75%, or **$45,000.00**, will be paid to the California Labor and Workforce Development Agency ("LWDA PAGA Payment") and 25%, or **$15,000.00**, will be distributed to

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Aggrieved Employees on a *pro rata* basis based on the number of PAGA Pay Periods worked during the PAGA Period ("Individual PAGA Payment(s)").

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

This motion is based upon the following Memorandum of Points and Authorities; the Declarations of Class Counsel (Selena Matavosian and Joseph M. Szilagyi), Class Representatives (Tracy Hoge, Blanca Galeas, and Coryn Lewis), and Administrator (Lluvia Islas of Phoenix Settlement Administrators) in support thereof; the pleadings and other records on file with the Court in this matter; and such evidence and oral argument as may be presented at the hearing on this motion.

Dated: July 9, 2025

LAWYERS *for* JUSTICE, PC

By: Selena
Selena Matavosian
Attorneys for Plaintiffs Blanca Galeas and Coryn Lewis and the Class

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MEMORANDUM OF POINTS AND AUTHORITIES

I. SUMMARY OF MOTION

Plaintiffs Tracy Hoge ("Plaintiff Hoge"), Blanca Galeas ("Plaintiff Galeas"), and Coryn Lewis ("Plaintiff Lewis") (collectively, "Plaintiffs" or "Class Representatives") seek final approval of: (1) the settlement reached between Plaintiffs and Defendant Bethany Home Society of San Joaquin County, Inc. ("Defendant") (collectively with Plaintiffs, the "Parties") which provides for Defendant's payment of a Gross Settlement Amount of $2,000,000.00[1]; (2) attorneys' fees in the amount of $666,666.66, which is one-third (1/3) of the Gross Settlement Amount ("Class Counsel Fees Payment"), and reimbursement of litigation costs and expenses in the amount of $51,606.38 ("Class Counsel Litigation Expenses Payment") to Aegis Law Firm, PC and Lawyers *for* Justice, PC (together, "Class Counsel"); (3) payment in the amount of $13,500.00 to Phoenix Settlement Administrators ("Phoenix" or "Administrator") ("Administration Expenses Payment"); (4) payment in the amount of $15,000.00 each to Plaintiffs Tracy Hoge, Blanca Galeas, and Coryn Lewis ("Class Representative Service Payments"), for a combined total of $45,000.00; and (5) allocation of $60,000.00 for penalties under the Private Attorneys General Act of 2004, California Labor Code § 2698, *et seq.* ("PAGA Penalties").[2]

Plaintiffs request that the Court make final its preliminary certification of the class for settlement purposes. The Settlement resolves the Released Class Claims and provides relief to a class consisting of the following individuals: non-exempt employees currently or formerly employed by Defendant in California at any time during the Class Period (i.e., the period from December 29, 2016 through March 26, 2024) ("Class," "Class Member(s)," and/or "Settlement Class Member(s)").[3]

The Settlement also resolves the Released PAGA Claims pertaining to the employment of the following alleged aggrieved employees: all persons currently or formerly employed by Defendant as a non-exempt employee in the State of California at any time during the PAGA

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[1] Class Action and PAGA Settlement Agreement and Amendment to Class Action and PAGA Settlement Agreement (together, "Settlement," "Agreement," or "Settlement Agreement"), ¶ 1.23.
[2] *Id.*, ¶¶ 3.2.1, 3.2.2, 3.2.3, & 3.2.5.
[3] *Id.*, ¶¶ 1.5 & 1.12.

Period (i.e., the period of December 28, 2019, through March 26, 2024) ("Aggrieved Employees").[4]

This matter involved, and the Settlement is the product of, meaningful and extensive investigations, and review and analysis of a large volume of information, documents, and data exchanged by the Parties in the course of litigation and mediation and settlement negotiations (which involved one full day mediation conducted by Hon. Lisa Cole (Ret.)).[5]

This matter has required 740 hours of attorney time by Class Counsel.[6] As will be demonstrated herein, the request for attorneys' fees, which represents one-third (1/3) of the Gross Settlement Amount, is fully supported by the use of the percentage-fee method. Courts have historically awarded fees of up to fifty percent (50%) of the recovery. The requested attorneys' fees are also supported under the lodestar cross-check method.[7]

The contemplated requests for Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, Class Representative Service Payments, Administration Expenses Payment, and the allocation for the PAGA Penalties were fully disclosed in the Court Approved Notice of Class Action Settlement and Hearing Date for Final Court Approval ("Class Notice") that was mailed to the members of the Class.[8] Most importantly, as of the date of this Motion, *no Class Member has objected to the Settlement or to the contemplated Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, Class Representative Service Payments, Administration Expenses Payment, or the allocation for the PAGA Penalties.*

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

[4] Settlement Agreement, ¶¶ 1.4 & 1.32.
[5] Declaration of Selena Matavosian in Support of Plaintiffs' Motion for Final Approval of Class Action and PAGA Settlement, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, and Class Representative Service Payments ("Declaration of Selena Matavosian" or "Matavosian Decl."), ¶ 9.
[6] Matavosian Decl., Exh. 1; Declaration of Joseph M. Szilagyi in Support of Plaintiff's Motion for Final Approval of Class Action Settlement ("Declaration of Joseph M. Szilagyi" or "Szilagyi Decl."), ¶¶ 25 & 26.
[7] Applying a modest multiplier of 1.12, the total enhanced lodestar fees are $670,961.20, and Class Counsel seeks an attorneys' fees award of $666,666.66 (equal to 1/3 of the Gross Settlement Amount).
[8] Settlement Agreement, ¶ 1.9.

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Litigation Expenses Payment, Class Representative Service Payments, Administration Expenses Payment, and the allocation for the PAGA Penalties in the full amounts as requested herein.

In order to efficiently present the Court with adequate information to determine whether to grant final approval of the Settlement, and award the Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, Class Representative Service Payments, Administration Expenses Payment, and the allocation for the PAGA Penalties, Plaintiffs also move for an order permitting the filing of this single consolidated memorandum, although it exceeds the page limit established by California Rules of Court, Rule 3.764, instead of filing several separate motions.

II. RELEVANT PROCEDURAL HISTORY AND FACTUAL BACKGROUND SINCE PRELIMINARY APPROVAL

Defendant operates a residential care facility. Plaintiffs are former employees of Defendants.

On December 29, 2020, Plaintiff Hoge provided written notice to the California Labor and Workforce Development Agency ("LWDA") and Defendant of his intent to pursue civil penalties and the specific provisions of the California Labor Code that were allegedly violated by Defendant ("*Hoge* PAGA Notice I")

On December 29, 2020, Plaintiff Hoge filed a Class Action Complaint ("*Hoge* Original Complaint") against Defendant, thereby commencing the action entitled *Tracy Hoge, et al. v. Bethany Home Society of San Joaquin County, Inc.*, Superior Court of California for the County of San Joaquin, Case No. STK-CV-UOE-2020-0010956 ("*Hoge* Action").

On February 4, 2021, Defendant filed an Answer to the *Hoge* Original Complaint.

On August 9, 2021, Plaintiff Hoge filed a First Amended Class Action Complaint ("*Hoge* First Amended Complaint") against Defendant in the *Hoge* Action, thereby adding a claim for civil penalties under the Private Attorneys General Act of 2004, California Labor Code § 2698, *et seq.* ("PAGA").

On September 10, 2021, Defendant filed an Answer to the *Hoge* First Amended Complaint.

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On November 19, 2021, Plaintiff Galeas filed a Class Action Complaint for Damages ("*Galeas* Complaint") against Defendant, thereby commencing the action entitled *Blanca Galeas v. Bethany Home Society of San Joaquin County, Inc.*, Superior Court of California for the County of San Joaquin, Case No. STK-CV-UOE-2021-0010793 ("*Galeas* Action") (together, with the *Hoge* Action, the "Actions").

On April 4, 2022, Defendant filed an Answer to the *Galeas* Complaint.

On May 19, 2022, the Court entered a Minute Order, thereby consolidating the *Hoge* Action and *Galeas* Action and designating the *Hoge* Action as the lead case.

On September 19, 2022, Plaintiff Hoge submitted an amended notice to the LWDA and Defendant, thereby alleging an additional violation of the California Labor Code ("*Hoge* PAGA Notice II").

On November 27, 2023, Plaintiff Lewis provided written notice to the LWDA and Defendant of her intent to pursue civil penalties and the specific provisions of the California Labor Code that were allegedly violated by Defendant ("*Lewis* PAGA Notice") (the *Hoge* PAGA Notice I, *Hoge* PAGA Notice II, and the *Lewis* PAGA Notice are collectively referred to as the "PAGA Notices").

On October 16, 2024, Plaintiff Hoge filed a Second Amended Consolidated Complaint in the *Hoge* Action, thereby consolidating the claims and parties in the Actions into a single consolidated complaint and adding Plaintiff Lewis as an additional named plaintiff.

Plaintiffs' core allegations are that Defendant has violated the California Labor Code by engaging in a uniform practice and procedure, with respect to Plaintiffs, Class Members, and Aggrieved Employees of, *inter alia*, failing to pay all overtime and minimum wages and associated premium pay, failing to provide compliant meal and rest periods and associated premium pay, failing to timely pay wages during employment and upon termination of employment, failing to provide compliant wage statements, failing to maintain requisite payroll records, and failing to reimburse necessary business expenses, and thereby engaged in unfair business practices in violation of California Business and Professions Code section 17200, *et seq.* and conduct that gives rise to penalties pursuant to PAGA. Plaintiffs contend that they, the Class Members, and the

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Aggrieved Employees are entitled to, *inter alia*, unpaid wages, penalties (including and not limited to, penalties pursuant to PAGA), and attorneys' fees.

Defendant has denied, and continues to deny, any liability and wrongdoing of any kind associated with any of the allegations in the Actions, and further denies that the Actions are appropriate for class treatment or representative adjudication for any purpose other than for settlement purposes only.

The Parties have actively litigated the Actions since the *Hoge* Action was commenced on December 29, 2020. On February 23, 2024, the Parties participated in a formal, full-day mediation conducted by Hon. Lisa Cole (Ret.), a well-regarded mediator experienced in mediating complex labor and employment matters. With the aid of the mediator's evaluation, the Parties ultimately reached the Settlement described herein to resolve the Actions in their entirety.

On January 22, 2025, Plaintiffs filed a Motion for Preliminary Approval of Class and PAGA Action Settlement, along with supporting documentation, in the *Hoge* Action ("Motion for Preliminary Approval").

On March 14, 2025, a hearing was held on the Motion for Preliminary Approval, wherein the Court granted the Motion for Preliminary Approval.

On March 14, 2025, the Court entered the Order Granting Preliminary Approval of Class Action Settlement ("Preliminary Approval Order"), thereby preliminarily approving the terms of the Settlement, the Class Notice, and the proposed administration procedures and associated deadlines.

Plaintiffs now move for final approval of the Settlement and awards of the Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, Class Representative Service Payments, Administration Expenses Payment, and the allocation for the PAGA Penalties.

III. <u>THE CLASS SHOULD BE CERTIFIED FOR SETTLEMENT PURPOSES</u>

For the reasons previously addressed by way of Plaintiffs' moving and supporting papers for the Motion for Preliminary Approval (namely, that the relevant class certification factors are satisfied, i.e., ascertainability, numerosity, community of interest, typicality, adequacy of representation, superiority, and manageability), as well as the reasons discussed herein regarding

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the completion of the due process notice procedure, the Court is requested to now make final its preliminary certification of the class for settlement purposes.

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

Under the terms of the Settlement Agreement, Defendant has agreed to pay the Gross Settlement Amount of $2,000,000.00 on a non-reversionary basis, and separately pay any and all employer payroll taxes owed on the Wage Portion of the Individual Class Payments.[9] Defendant shall fully fund the Gross Settlement Amount and also fund the amounts necessary to fully pay Defendant's share of payroll taxes no later than thirty (30) calendar days after the Effective Date.[10] Subject to approval by the Court, the Net Settlement Amount will be calculated by deducting the Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, Class Representative Service Payments, Administration Expenses Payment, and PAGA Penalties.[11] The Net Settlement Amount, which is estimated to be $1,163,226.96, will be fully distributed to Class Members who did not submit a valid and timely Request for Exclusion from the Class Settlement ("Participating Class Members"), in accordance with the Settlement Agreement.[12] The PAGA Penalties of $60,000.00 will be distributed to the LWDA (in the amount of $45,000.00) and to the Aggrieved Employees (in the amount of $15,000.00), in accordance with the Settlement Agreement.[13]

The Administrator will determine each Participating Class Member's *pro rata* share of the Net Settlement Amount ("Individual Class Payment"), according to the following methodology: the Administrator will divide the Net Settlement Amount by the total number of Workweeks worked by all Participating Class Members during the Class Period and multiply the result by each Participating Class Member's Workweeks.[14]

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[9] Settlement Agreement, ¶ 3.1.
[10] *Id.*, ¶ 4.3.
[11] *Id.*, ¶ 1.29.
[12] *Id.*, ¶ 1.37. This amount is higher than the amount stated in Paragraph 14 of the accompanying Declaration of Lluvia Islas of Phoenix Settlement Administrators Regarding Notice and Settlement Administration ("Declaration of Phoenix" or "Phoenix Decl.") because the Administrator's calculation assumes that Class Counsel will obtain litigation costs and expenses in the maximum amount of $60,000.00, which is allocated under the Settlement. However, Class Counsel seeks the amount of only $51,606.38 for reimbursement of litigation costs and expenses, and the difference of $8,393.62 will remain part of the Net Settlement Amount.
[13] Settlement Agreement, ¶ 3.2.5.
[14] *Id.*, ¶¶ 1.24 & 3.2.4.

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The Administrator will determine each Aggrieved Employee's *pro rata* share of the twenty-five percent (25%) portion of the PAGA Penalties ("Individual PAGA Payment"), according to the following methodology: The Administrator will divide the amount of the Aggrieved Employees' twenty-five percent (25%) share of the PAGA Penalties ($15,000.00) by the total number of PAGA Pay Periods worked by all Aggrieved Employees during the PAGA Period and multiply the result by each Aggrieved Employee's PAGA Pay Periods.[15]

Class Members had forty-five (45) calendar days after the Administrator mails the Class Notice to Class Members and Aggrieved Employees ("Response Deadline") to challenge the number of Workweeks and/or PAGA Pay Periods credited to them, submit a written request to be excluded from the Class Settlement ("Request for Exclusion"), and/or object to the class action components of the Class Settlement.[16] The Response Deadline was June 9, 2025, and the extended Response Deadline for Class Members to whom a Class Notice was re-mailed was June 23, 2025.[17] ***As of the date of this motion, the Administrator has received zero (0) Requests for Exclusion and zero (0) written objections to the Class Settlement from Class Members.*** [18]

Each Individual Class Payment will be allocated as follows: twenty percent (20%) as wages (the "Wage Portion") which will be reported on an IRS Form W-2; and the remaining eighty percent (80%) as interest and penalties (the "Non-Wage Portion") which will be reported on an IRS Form 1099.[19] Defendant will pay the employer payroll taxes owed on the Wage Portion of the Individual Class Payments in addition to the Gross Settlement Amount.[20] Each Individual PAGA Payment will be allocated as one hundred percent (100%) penalties, and will be reported on an IRS Form-1099, (if applicable) by the Administrator.[21]

The Administrator shall distribute the following payments: Within fourteen (14) calendar days after Defendant funds the Gross Settlement Amount and the employer's share of payroll taxes and contributions with respect to the wage portion of Individual Class Payments, the Administrator

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[15] Settlement Agreement, ¶¶ 1.25 & 3.2.5.1.
[16] *Id.*, ¶¶ 1.44 & 1.45. "Class Settlement" means the settlement and release of the Released Class Claims. *Id.*, ¶ 1.15.
[17] Phoenix Decl., ¶ 10.
[18] *Id.*, ¶¶ 11 & 12.
[19] Settlement Agreement, ¶ 3.2.4.1.
[20] *Id.*, ¶ 3.1.
[21] *Id.*, ¶ 3.2.5.2.

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will mail checks for all Individual Class Payments to Participating Class Members, all Individual PAGA Payments to Aggrieved Employees, the LWDA PAGA Payment to the LWDA, the Administration Expenses Payment to itself, the Class Counsel Fees Payment to Class Counsel, the Class Counsel Litigation Expenses Payment to Class Counsel, and the Class Representative Service Payments to Plaintiffs.[22]

The face of each Individual Class Payment and Individual PAGA Payment check shall prominently state the date (not less than 180 days after the date of mailing) when the check will be voided.[23] The Administrator will cancel all checks not cashed by the void date.[24] For any Class Member whose Individual Class Payment check or Individual PAGA Payment check is uncashed and canceled after the void date, the Administrator shall transmit the funds represented by such checks to the California Controller's Unclaimed Property Division in the name of the Class Member thereby leaving no "unpaid residue" subject to the requirements of California Code of Civil Procedure Section 384, subd. (b).[25]

V. <u>THE SETTLEMENT ADMINISTRATION PROCESS</u>

The Court directed Phoenix to administer and effectuate the notice and settlement administration process, as set forth in the Court's Preliminary Approval Order.

On March 31, 2025, Phoenix received a data file from Defendant, through Defense Counsel, that contained each Class Member's full name, last known mailing address, Social Security Number, and the number of Workweeks during the Class Period and PAGA Pay Periods during the PAGA Period (collectively, "Class Data").[26]

The Class Data contained information for eight hundred fifty-two (852) individuals identified as Class Members who are credited a total of sixty-eight thousand eight hundred fifty (68,850) Workweeks.[27] Of the eight hundred fifty-two (852) individuals, five hundred seventy-two (572) are Aggrieved Employees who are credited with eighteen thousand one hundred thirty-six

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[22] Settlement Agreement, ¶ 4.4.
[23] *Id.*, ¶ 4.4.1.
[24] Ibid.
[25] *Id.*, ¶ 4.4.3.
[26] Phoenix Decl., ¶ 5.
[27] Ibid.

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(18,136) PAGA Pay Periods.[28] The mailing addresses contained in the Class List were processed and updated utilizing the U.S. Postal Service's National Change of Address Database ("NCOA").[29]

On April 25, 2025, Phoenix mailed the Class Notice via U.S. First Class Mail to all eight hundred fifty-two (852) individuals identified as Class Members in the Class Data.[30]

A total of thirty-two (32) Class Notices were returned to Phoenix.[31] None were returned with a forwarding address.[32] For the thirty-two (32) Class Notices returned from the Post Office without a forwarding address, Phoenix attempted to locate a current mailing address using idiCORE.[33] Of the thirty-two (32) Class Notices that were skip traced, twenty-four (24) updated addresses were obtained and the Class Notice was promptly re-mailed to those Class Members via first class mail.[34] Ultimately, eight (8) Class Notices remain undeliverable, because an updated address could not be obtained via skip trace.[35]

The Administrator has received zero (0) Requests for Exclusion, zero (0) objections, and zero (0) challenges to the number of Workweeks and/or PAGA Pay Periods from Class Members by the Response Deadline of June 9, 2025 or the extended Response Deadline of June 23, 2025 for those Class Notices that were re-mailed.[36]

To date, there are eight hundred fifty-two (852) Class Members who did not submit a valid and timely Request for Exclusion (i.e., Participating Class Members), and who will be paid their portion of the Net Settlement Amount.[37] The Net Settlement Amount of $1,163,226.96 and the PAGA Penalties of $60,000.00 will be distributed in accordance with the terms of the Settlement.[38]

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[28] Phoenix Decl., ¶ 5.
[29] *Id.*, ¶ 6.
[30] *Id.*, ¶ 7.
[31] *Id.*, ¶ 8.
[32] Ibid.
[33] Ibid.
[34] Ibid.
[35] *Id.*, ¶ 9.
[36] *Id.*, ¶¶ 10-13.
[37] *Id.*, ¶ 15.
[38] *Id.*, ¶¶ 15 & 16; see, n.12, *supra*.

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

In reviewing a class settlement, the court need not reach any ultimate conclusions on the issues of fact and law that underlie the merits of the dispute. *7-Eleven Owners for Fair Franchising v. Southland Corp.* (2000) 85 Cal.App.4th 1135, 1146. The inquiry is not whether the settlement agreement is the best one that class members could have possibly obtained, but whether the settlement, taken as a whole, is "fair, adequate, and reasonable"—and the trial court has broad discretion to determine this. *Chavez v. Netflix, Inc.* (2008) 162 Cal.App.4th 43, 52-55. A settlement need not obtain 100 percent of the damages sought in order to be fair, reasonable, and ultimately, meaningful. *Wershba v. Apple Computer, Inc.* (2001) 91 Cal.App.4th 224, 251. Even if the proposed settlement affords relief that is substantially narrower than it would be if the case were to be successfully litigated, that is no bar to a class settlement because the public interest may indeed be served by a voluntary settlement in which each side gives ground in the interest of avoiding prolonged litigation. *Id.*

To determine whether the settlement is fair and reasonable, relevant factors to consider are:

> the 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.

Dunk v. Ford Motor Co. (1996) 48 Cal.App.4th 1794, 1801. The list of factors is not exclusive and the court can consider different factors based on the circumstances of each case." *Wershba* at 245. At the final approval stage, a presumption of fairness exists where, as here:

> "(1) the settlement is reached through arm's-length bargaining; (2) investigation and discovery are sufficient to allow counsel and the court to act intelligently; (3) counsel is experienced in similar litigation; and (4) the percentage of objectors is small."

Id. at 1802. "Due regard should be given to what is otherwise a private consensual agreement between the parties." *Dunk* at 1801.

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

The Parties actively litigated the cases since the *Hoge* Action commenced on December 29, 2020. Class Counsel conducted significant investigation and formal and informal discovery into the facts of the cases, to assess the veracity, strength, and scope of the claims, and were preparing the cases for class certification and trial prior to reaching the Settlement.[39]

The Parties formally and informally exchanged a volume of information, documents, and data throughout the course of the litigation and in connection with the mediations and settlement negotiations.[40] Class Counsel analyzed a large volume of pages of information, documents, and data obtained from Plaintiffs, Defendant, and other sources, including: a sampling of Class Members' time and payroll records, Plaintiffs' employment records, Defendant's Team Member Handbook, earning statements, company policy acknowledgements, job descriptions, new hire, orientation, and/or termination checklists, application for employment, and Defendant's other operations and employment practice, policies, and procedures documents, among other information and documents.[41] Lawyers *for* Justice, PC propounded Form Interrogatories – General (Set One), Special Interrogatories (Sets One and Two), and Requests for Production of Documents (Set One) onto Defendant, and served multiple notices of deposition of Defendant's Person Most Knowledgeable designees, along with accompanying requests for production of documents.[42] Lawyers *for* Justice, PC also reviewed and analyzed Defendant's responses and objections to written discovery requests and deposition notices, and document produced by Defendant in discovery.[43] Class Counsel had the opportunity to interview and obtain information from Plaintiffs and other percipient witnesses.[44] Class Counsel developed liability, damages, violation, and penalties valuation models in the course of litigation and in connection with the mediation and settlement negotiations, and met and conferred with Defendant's counsel on numerous occasions,

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[39] Matavosian Decl., ¶ 7.
[40] Ibid.
[41] Ibid.
[42] Ibid.
[43] Ibid.
[44] Ibid.

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e.g., to discuss issues relating to the pleadings, case management, motion practice, formal and informal discovery, the production of information, documents, and data in the course of litigation and in connection with mediation and settlement negotiations, and settlement.[45] Other work performed by Class Counsel included, and was not limited to, case strategy and analysis; researching, drafting, reviewing, and/or revising the pleadings, motion-related papers, the mediation briefing and supporting materials, and settlement documents; and preparing for and attending court proceedings, mediation, and settlement negotiations, among other tasks.[46]

The Parties participated in a formal, full-day mediation conducted by Hon. Lisa Cole (Ret.), who is well-regarded mediator experienced in mediating complex labor and employment matters..[47] In the course of mediation and settlement negotiations, the Parties exchanged information, documents, and data, and discussed various aspects of the cases, including and not limited to, the risks and delays of further litigation, the risks and expenses to the Parties of proceeding with class certification, representative adjudication, and trial; the law relating to class certification, manageability, off-the-clock theory, regular rates of pay, meal and rest periods, expense reimbursements, recordkeeping and wage statement requirements, representative PAGA claims and penalties, and wage-and-hour law and enforcement; Plaintiffs' claims and allegations, and Defendant's defenses thereto, as well as the evidence produced and analyzed; and the possibility of appeals, among other things.[48] During all settlement discussions, the Parties conducted their negotiations at arm's length in an adversarial position.[49] Arriving at a settlement that was acceptable to the Parties was not easy.[50] Defendant contended that individualized questions of fact predominate over any common issues, and these issues would pose challenges to class certification and representative adjudication.[51] Defendant and its counsel felt strongly about Defendant's ability to avoid class certification and prevail on the merits, while Plaintiffs and Class Counsel believed that they would be able to obtain class certification and prevail at trial.[52] After

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[45] Matavosian Decl., ¶ 7.
[46] Ibid.
[47] *Id.*, ¶ 9.
[48] Ibid.
[49] Ibid.
[50] Ibid.
[51] Ibid.
[52] Ibid.

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conducting significant formal and informal discovery and investigations, extensive settlement negotiations, and with the aid of the mediator's evaluation, the Parties agreed that this matter was well-suited for settlement given the legal issues relating to Plaintiffs' principal claims, as well as the costs and risks to the Parties that would attend further litigation.[53]

The Settlement takes into account the strengths and weaknesses of each side's position and the uncertainty of how this matter might have concluded at certification, trial, and/or appeals.[54] The Settlement was based on a large volume of facts, evidence, and investigation.[55] Additionally, Class Counsel have extensive experience in handling complex wage-and-hour actions, including significant experience in employment class action litigation.[56]

B. The Risks Inherent in Continued Litigation Favor Final Approval of the Settlement.

The risks inherent in litigating the claims through certification proceedings, trial, and/or appeals, favor resolving this matter for a Gross Settlement Amount of $2,000,000.00.[57] The Settlement was calculated using information and data uncovered through extensive case investigation, formal and informal discovery, and the exchange of information in the context of litigation, mediation, and ongoing settlement negotiations.[58] Had the action not settled, Defendant would have vigorously challenged class certification, manageability, and liability. Defendant contended that individualized questions of fact predominated over any common issues, and these issues would pose challenges to certification and representative adjudication. Defendant would have likely argued again at trial, if any, that Plaintiffs' claims were not appropriate for class-wide and/or representative adjudication. On the other hand, Defendant also faced the risk of the Court certifying a class and allowing a jury to decide Plaintiffs' claims on a class-wide or representative basis. Also, preparation for trial would have been expensive for all Parties.

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[53] Matavosian Decl., ¶ 9.
[54] *Id.*, ¶¶ 7 & 9.
[55] *Id.*, ¶¶ 7 & 8.
[56] Matavosian Decl., ¶¶ 14-18; Szilagyi Decl., ¶¶ 11-23.
[57] Matavosian Decl., ¶¶ 9 & 21.
[58] *Id.*, ¶¶ 6-9.

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It is preferable to reach an early resolution of a dispute because such resolutions save time and money that would otherwise go to litigation. If this matter had settled after further litigation, the settlement amount would have taken into account the additional costs incurred, and there might have been less money available for Class Members, Aggrieved Employees, and the State of California after all was said and done. This is not just an abstract contention. The risks and expenses of further litigation outweighed any benefit that might have been gained otherwise. These risks of further litigation include a determination that the claims were unsuitable for class treatment and/or representative adjudication, failure to obtain certification, class de-certification after certification of a class, allowing a jury to decide the claims asserted in this matter, and the real possibility of no recovery after years of litigation. Additionally, the Parties were moving into the phase of the litigation where they would have to conduct a significant amount of additional discovery, including and not limited to, depositions of Defendant's Person Most Knowledgeable designees, expert witnesses, and percipient witnesses, such as managers, supervisors, and other current and former employees throughout the State of California. Additional discovery would have certainly arisen, which would have cost the Parties additional time and money. In contrast, the Settlement provides real and significant benefits for the Class, Aggrieved Employees, and the State of California here and now, while avoiding the further expenses, risks, and delay of prolonged litigation with only the possibility of recovery.

It would be grossly inefficient for such a large class of current and former employees to bring individual actions to recover from Defendant for the alleged violations of wage-and-hour laws. Moreover, the potential individual recovery that could be obtained by a Class Member would not be significant enough to provide him or her with the incentive to sue. By granting final approval of the Settlement, the Court can approve a resolution that provides a certain and substantial recovery for Class Members, Aggrieved Employees, and the State of California.

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

The Settlement, which provides for a Gross Settlement Amount of $2,000,000.00, represents a fair, reasonable, and adequate resolution of this matter. The Settlement was calculated using information and data uncovered through extensive case investigation, formal and informal

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discovery, and the exchange of information in the context of litigation, mediation, and extensive settlement negotiations. The Settlement takes into account the potential risks and rewards inherent in any case and, in particular, in this matter. Moreover, considering the facts in this matter, the Gross Settlement Amount represents a considerable recovery.

The Gross Settlement Amount will be fully paid out, in accordance with the terms of the Settlement. As discussed in Section IV, *supra*, each Participating Class Member will be paid a *pro rata* share of the Net Settlement Amount (which is currently estimated to be $1,163,226.96, based on the number of Workweeks credited to them and each Aggrieved Employee will be paid a pro rata share of the 25% share of the PAGA Penalties, based on the number of PAGA Pay Periods credited to them.[59] The highest gross Individual Class Payment to a Participating Class Member is currently estimated to be at least $6,424.13 and the average gross Individual Class Payment is currently estimated to be at least $1,355.44.[60] The highest Individual PAGA Payment to an Aggrieved Employee is currently estimated to be $85.19 and the average Individual PAGA Payment is currently estimated to be $26.22.[61] These are significant individual recoveries, particularly in light of the risks of litigation.

Class Counsel believe that the Settlement as a whole is fair, reasonable, and adequate. Although Class Counsel's recommendations are not conclusive, the Court can properly take the recommendations into account, particularly if Class Counsel appears to be competent, has experience with this type of litigation, and significant discovery and investigation have been completed, as is the case here. Conte & Newberg, *Newberg on Class Actions* (4th Ed., 2002) § 11.47. Accordingly, the Court should grant final approval of the Settlement.

D. <u>The Class Was Represented by Competent Counsel.</u>

Class Counsel have extensive experience in employment class action law and complex wage-and-hour litigation.[62] Aegis Law Firm, PC and Lawyers *for* Justice, PC have been appointed

[59] Settlement Agreement, ¶¶ 3.2.4 & 3.2.5.1. The *pro rata* allocation here is a fair and reasonable way to distribute the Net Settlement Amount that is payable to the Participating Class Members and 25% of the PAGA Penalties that is payable to the Aggrieved Employees. At the final approval stage, "[a]n allocation formula need only have a reasonable, rational basis [to warrant approval], particularly if recommended by experienced and competent class counsel." *In re American Bank Note Holographics, Inc., Securities Litigation* (S.D.N.Y. 2001) 127 F.Supp.2d 418, 429-30.

[60] Phoenix Decl., ¶ 15; see n. 12, *supra*.

[61] *Id.*, ¶ 16.

[62] Matavosian Decl., ¶¶ 14-18; Szilagyi Decl., ¶¶ 11-23.

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class counsel in numerous complex wage-and-hour cases, and have recovered millions of dollars for individuals in California.[63] Both Parties' counsel were capable of assessing the strengths and weaknesses of the claims against Defendant and the benefits of the Settlement under the circumstances of the lawsuits and in the context of a private, consensual settlement agreement.

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

The Settlement has been well received by the Class – ***not a single Class Member objected to or opted out of the Class Settlement.***[64] Specifically, no objections have been made as to the Gross Settlement Amount or the contemplated Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, Class Representative Service Payments, Administration Expenses Payment, and the allocation for the PAGA Penalties. California courts have consistently found that a small number of objectors indicates support for a settlement and strongly favors final approval.[65]

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

VII. THE ATTORNEYS' FEES REQUESTED SHOULD BE APPROVED.

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

Under the terms of the Settlement Agreement, Defendant will pay a Gross Settlement Amount of $2,000,000.00.[66] The requested attorneys' fees are one-third (1/3) of the total value of the monetary settlement.[67] In light of Class Counsel's successful prosecution and resolution of this matter, the requested attorneys' fees are appropriate and reasonable.

Where the amount of a settlement is a "certain easily calculable sum of money," California courts may calculate attorneys' fees as a reasonable percentage of the settlement. Weil and Brown, California Practice Guide, *Civil Procedure Before Trial*, Chapter 14, § 14:145; *In re Bluetooth Headset Prods. Liab. Litig.* (9th Cir. 2011) 654 F.3d 935, 942 (The percentage method is

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[63] Matavosian Decl., ¶¶ 14-18; Szilagyi Decl., ¶¶ 11-23.
[64] Phoenix Decl., ¶¶ 11 & 12.
[65] *Wershba*, *supra*, 91 Cal.App.4th at 250-51 (final approval granted despite 20 objectors); *7-Eleven Owners*, *supra*, 85 Cal.App.4th at 1152-53 (final approval granted despite 9 objectors).
[66] Settlement Agreement, ¶ 1.23.
[67] *Id.*, ¶ 3.2.2.

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particularly appropriate where a monetary settlement has been recovered and "the benefit [recovered can be] easily quantified."); *see also Laffitte v. Robert Half Int'l Inc.* (2016) 1 Cal.5th 480, 503; *Dunk* at 1808. Courts may calculate and award attorneys' fees as a percentage of a monetary fund that has, by litigation, been preserved or recovered for the benefit of others. *Laffitte* at 486 & 506. Trial courts "retain the discretion to forgo a lodestar cross-check and [may] use other means to evaluate the reasonableness of a requested percentage fee." *Id*. (internal quotes omitted); see also *Wershba*, *supra*, 91 Cal.App. 4th at 253.

Courts award fees as an economic incentive for lawyers to pursue litigation that will enhance and facilitate access to the judicial system for meritorious claims, deter wrongdoing, and address multiple similar alleged wrongs that would not be economically feasible to pursue individually, such as here. See A. Conte, *Attorney Fee Awards* (2d ed. 1993) 104, at 6.

The percentage fee method is preferred in representative actions because "it better approximates the workings of the marketplace than the lodestar approach." *Lealao v. Beneficial Cal., Inc.* (2000) 82 Cal.App.4th 19, 49. California law provides that the award for attorneys' fees should be equivalent to fees freely negotiated in the legal marketplace and paid in comparable litigation based on the result achieved and risk incurred. *Id.* at 47-50; *Laffitte* at 503. In cases where the settlement agreement provides that the defendant will pay the plaintiff's attorneys a percentage of the fund created by the settlement, use of that percentage method is appropriate. *Lealao* at 32. Fee awards that are too small will "chill the private enforcement essential to the vindication of many legal rights and obstruct the representative actions that often relieve the courts of the need to separately adjudicate numerous claims." *Id.* at 53. Therefore, fees in representative actions should approximate the probable terms of a contingent fee contract negotiated by a sophisticated attorney and client in comparable litigation. *Id*. at 48. "The ultimate goal . . . is the award of a 'reasonable' fee to compensate counsel for their efforts, irrespective of the method of calculation." *Consumer Privacy Cases* (2009) 175 Cal.App.4th 545, 557-58 (quoting *Apple Computer, Inc. v. Superior Court* (2005) 126 Cal.App.4th, 1253, 1270).

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Class Counsel's application for attorneys' fees in light of the facts and circumstances surrounding the cases is well-within the range of reasonableness. Courts have awarded fees as high as 50% of the settlement in complex actions, depending on the circumstances of the case.[68]

Class Counsel have performed significant work in this matter, as discussed in the Declaration of Selena Matavosian and Declaration of Joseph M. Szilagyi, with the very real possibility of an unsuccessful outcome and no fee recovery of any kind.[69] In the present matter, Class Counsel have borne all of the risks and costs of litigation and will not receive any compensation until recovery is obtained.[70] Class Counsel is experienced in complex wage-and-hour litigation and used that experience to obtain a significant settlement recovery for Plaintiffs, the Class, Aggrieved Employees, and the State of California.[71] Considering the amount of fees requested, work performed, risks incurred, results obtained, and experience of Class Counsel in handling similar matters, Plaintiffs maintain that the requested attorneys' fees are reasonable and should be awarded.

Compensating class counsel in class litigation on a percentage basis, as requested herein, makes good sense because: (1) it is consistent with the private marketplace where contingent fee attorneys are customarily compensated on such a basis; (2) it aligns the interests of class counsel and absent class members in achieving the maximum possible resolution of the case; and (3) it encourages the most efficient and expeditious resolution of the litigation by providing an incentive for early, yet reasonable, settlement. The attorney fee request here satisfies all of these factors and should be approved on a percentage basis.

The percentage method is consistent with, and is intended to mirror, the practice in the private marketplace where contingent-fee attorneys typically negotiate percentage-fee arrangements with their clients. The named plaintiffs' agreement to pay a contingent fee is powerful evidence of a reasonable fee. One of the best ways to demonstrate the value of counsel's

[68] *See In re Ampicillin Antitrust Litig.* (D.D.C. 1981) 526 F.Supp. 494 (awarding attorneys' fees in the amount of 45% of the $7.3 million total settlement amount); *Beech Cinema, Inc. v. Twentieth-Century Fox Film Corp.* (S.D.N.Y. 1979) 480 F.Supp. 1195 (awarding approximately 53% of the settlement as attorneys' fees). California courts routinely approve attorneys' fees awards "average[ing] around one-third of the recovery." *Chavez v. Netflix, Inc.* (2008) 162 Cal.App.4th 43, 66 n.11 (lower court found the range of contingency fees in marketplace to be 20%-40% and determined such a percentage fee was appropriate).
[69] Matavosian Decl., ¶¶ 11 & 12; Szilagyi Decl., ¶ 27.
[70] Matavosian Decl., ¶ 19; Szilagyi Decl., ¶ 27.
[71] Matavosian Decl., ¶¶ 14-18; Szilagyi Decl., ¶¶ 11-23.

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work to the class is to review the consideration agreed to be paid by the named plaintiffs. If the named plaintiffs have employed counsel on a contingency-fee basis, it would indeed be inequitable for the members of the class, who will enjoy the benefits of the settlement without incurring the risks of bringing the claim, to pay less than the named plaintiffs. In this case, Plaintiffs have agreed to a contingency fee of at least one-third (1/3) of the recovery.[72]

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

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

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

The award of attorneys' fees in the amount of $666,666.66 (which is 1/3 of the Gross Settlement Amount) is commensurate with the time, effort, and expense dedicated to this matter, the contingent nature of Class Counsel's fee recovery and the risks taken, the skill and determination required, the results that Class Counsel have achieved, and the value of the settlement that Class Counsel have obtained in this matter.

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[72] Matavosian Decl., ¶ 10; Szilagyi Decl., ¶ 27.

1. Time & Labor.

Class Counsel used their experience and skills, and dedicated the full extent of resources, to litigate and bring this matter to a successful conclusion.[73]

As outlined in the Declaration of Selena Matavosian and Declaration of Joseph M. Szilagyi, Class Counsel have fully and actively participated in litigation of this matter.[74] Prior to commencing the lawsuits, Class Counsel had conducted a significant amount of investigation into the factual and legal issues, Defendant's business, and its operations, and employment policies, practices, and procedures.[75] During the litigation of this matter, Class Counsel had the opportunity to interview Plaintiffs and other percipient witnesses; reviewed and analyzed a large volume of information, documents and data obtained from Defendant, Plaintiffs, and other sources; and prepared liability, damages, penalties, and valuation calculations.[76] Class Counsel also met and conferred with Defendant's counsel on numerous occasions e.g., to discuss issues relating to the pleadings, case management, motion practice, formal and informal discovery, and the production of information, documents and data among other things, and prepared for and attended court proceedings, mediation, and settlement negotiations.[77]

Class Counsel have dedicated staffing and monetary resources necessary to prosecute this matter diligently and with maximum efficiency and have fully and actively participated in the litigation process.[78] The Attorney Task and Time Chart, which is attached as "**EXHIBIT 1**" to the accompanying Declaration of Selena Matavosian, sets forth in detail the hours that attorneys at Lawyers *for* Justice, PC have spent performing tasks in this matter.[79] Class Counsel have spent a collective total of 740 hours, with 359.40 hours spent by Lawyers *for* Justice, PC and 380.60 hours spent by Aegis Law Firm, PC, performing tasks and to obtain a significant recovery in this matter.[80] These hours were required to bring this matter to its successful conclusion. In light of the value of Class Counsel's work and the carrying of costs involved in litigating this matter, the requested

[73] Matavosian Decl., ¶¶ 7-9 & 12; Szilagyi Decl., ¶¶ 6-10.
[74] Matavosian Decl., ¶¶ 7-9; Exh. 1; Szilagyi Decl., ¶¶ 3-10 & 26.
[75] Matavosian Decl., ¶ 6.
[76] *Id*., ¶ 7.
[77] Ibid.
[78] Matavosian Decl., ¶ 12; Exh. 1; Szilagyi Decl., ¶¶ 3-10 & 26.
[79] Matavosian Decl., Exh. 1.
[80] Matavosian Decl., ¶ 12; Exh. 1; Szilagyi Decl., ¶¶ 25 & 26.

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attorneys' fees are fair, adequate, and reasonable.

2. The Skill Required to Perform Legal Services Properly.

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

Class Counsel exercised their skill to perform significant investigation, analysis, and research prior to filing the cases, during the litigation, and prior to and during the mediation and settlement negotiations. Class Counsel took steps to prepare the matter for class certification and representative adjudication and had every intention of taking this matter to trial on a class-wide basis if Defendant did not offer an appropriate class-wide settlement. Despite all of the obstacles that had to be overcome, as demonstrated in the Declaration of Selena Matavosian and Declaration of Joseph M. Szilagyi, Class Counsel used their extensive experience in the handling of class actions and complex wage-and-hour matters in order to obtain the Settlement with maximum efficiency.[81]

3. Whether the Fee Is Fixed or Contingent.

Plaintiffs entered into contingency fee agreements with Class Counsel, and the representation of the Class provided by Class Counsel have been wholly contingent.[82] Class Counsel have collectively invested 740 hours of time to obtain relief on behalf of Plaintiffs, the Class, Aggrieved Employees, and the State of California.[83] Class Counsel have also incurred litigation costs and expenses in the amount of $51,606.38.[84] Thus, Class Counsel have borne all of the risks and costs of litigation and will not receive any compensation until recovery is obtained.[85]

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

> A contingent fee must be higher than a fee for the same legal services paid as they are performed. The contingent fee compensates the lawyer not only for the legal services he renders but for the loan of those services. A lawyer who both bears the

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[81] Matavosian Decl., ¶¶ 14-18; Szilagyi Decl., ¶¶ 11-23.
[82] Matavosian Decl., ¶ 10; Szilagyi Decl., ¶ 27.
[83] Matavosian Decl., ¶¶ 12, Exh. 1; Szilagyi Decl., ¶¶ 25 & 26.
[84] Matavosian Decl., ¶ 19; Szilagyi Decl., ¶ 28.
[85] Ibid.

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risk of not being paid and provides legal services is not receiving the fair market value of his work if he is paid only for the second of these functions. If he is paid no more, competent counsel will be reluctant to accept fee award cases.

Cates v. Chiang (2013) 213 Cal.App.4th 791, 823 (internal quotes and citations omitted). Class Counsel litigated this matter on a contingent basis with all of the concomitant risk factors inherent in such an uncertain undertaking. Had Class Counsel not been successful, the time that Class Counsel have devoted to litigating this matter would have been for naught, and would not have produced any fee or any reimbursement of costs or expenses. *See Vizcaino v. Microsoft* (9th Cir. 2002) 290 F.3d 1043, 1048-49 (discussing the risks of engaging in litigation without certainty of compensation).

4. The Amount Involved and the Results Achieved.

The Settlement represents an excellent resolution of this matter, given the risks inherent in litigating the matter through class certification proceedings, trial, and/or appeals. Had this matter not settled, Defendant would have vigorously challenged certifiability, manageability, and liability. Defendant, however, faced risks if the Court certified a class and allowed a jury to decide the claims. Additionally, preparing this matter for trial would have been expensive for the Parties. The Settlement at this stage is preferred over continued litigation because such resolutions save time and money that would otherwise go to litigation. The risks and expenses of further litigation outweighed any benefit that might have been gained otherwise. The Settlement provides an immediate recovery, as opposed to an uncertain result in the future after costly, risk, and prolonged litigation involving expert discovery, trial preparation, class certification proceedings, and appellate review of those proceedings.

The results achieved, in light of the difficulties inherent in similar cases and the specific difficulties faced in this matter, are considerable.[86] Class Counsel obtained a settlement of $2,000,000.00.[87] The Settlement has yielded a positive response from the Class Members—no Class Members objected to the Class Settlement.[88]

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[86] Matavosian Decl., ¶¶ 7-9.
[87] Settlement Agreement ¶ 3.1.
[88] Phoenix Decl., ¶ 12.

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5. The Reputation and Ability of the Attorneys.

Lawyers *for* Justice, PC and Aegis Law Firm, PC are recognized class action law firms that employed their attorneys' knowledge, skills, and experience in bringing the cases to a successful conclusion.[89] Collectively, Class Counsel have years of complex and class action litigation experience, have recovered millions of dollars on behalf of thousands of individuals in California, and have successfully handled numerous significant wage-and-hour class action and complex cases.[90]

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

While the percentage-of-the-benefit approach is endorsed as the better approximation of the workings of the marketplace than the lodestar approach, courts may also use the lodestar method to "cross-check" the results of the other.[91] The lodestar is calculated based on reasonable hours at reasonable prevailing hourly rates for the attorneys, and counsel is entitled to compensation for every hour reasonably spent on the matter. *Ketchum v. Moses* (2001) 24 Cal.4th 1122, 1131-33. The reasonableness of hours is assessed by "the entire course of the litigation, including pretrial matters, settlement negotiations, discovery, litigation tactics, and the trial itself[.]" *Vo v. Las Virgenes Municipal Water Dist.* (2000) 79 Cal.App.4th 440, 447.

As discussed above in Part VII.B.1, *infra*, and also discussed in the Declaration of Selena Matavosian and Declaration of Joseph M. Szilagyi, Class Counsel expended significant time and labor in this highly contested matter.[92] Class Counsel have been actively involved in the prosecution of the cases, and the work performed in said cases has precluded other employment.[93] Class Counsel bore the risk that, despite all of its efforts and skills employed, there may be no recovery.[94] Ultimately, Class Counsel was successful in reaching a settlement of $2,000,000.00.[95]

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[89] Matavosian Decl., ¶¶ 14-18; Szilagyi Decl., ¶¶ 11-23.
[90] Ibid.
[91] *Laffitte*, *supra*, 1 Cal.5th at 505 (explaining that "[a] lodestar cross-check is simply a quantitative method for bringing a measure of the time spent by counsel into the trial court's reasonableness determination" and "the lodestar calculation . . . does not override the trial court's primary determination of the fee as a percentage" and "does not impose an absolute maximum or minimum on the potential fee award."); *see also, e.g.*, *Vizcaino*, 290 F.3d at 1050 ("[W]hile the primary basis of the fee award remains the percentage method, the lodestar may provide a useful perspective on the reasonableness of a given percentage award.").
[92] Matavosian Decl., ¶¶ 11-12; Exh. 1; Szilagyi Decl., ¶¶ 25 & 26.
[93] Matavosian Decl., ¶ 11.
[94] *Id.*, ¶¶ 11 & 21.
[95] Settlement Agreement, ¶ 3.1.

The Attorney Task and Time Chart sets forth in detail the numerous tasks that Lawyers *for* Justice, PC performed in this matter, and the time required for completing those tasks.[96] The Declaration of Selena Matavosian and Declaration of Joseph M. Szilagyi demonstrate that Class Counsel have spent a total of **740 hours** litigating this matter and finalizing the Settlement.[97] In light of the facts and circumstances of this matter, as well as the results that Class Counsel have achieved, Class Counsel have spent a reasonable number of hours performing work on this matter. In addition, Class Counsel will continue to perform work on this matter through the date of final approval and in connection with the implementation of the Settlement.

As set forth in the Declaration of Selena Matavosian, the professional background and experience of Lawyers *for* Justice, PC support a reasonable rate of compensation of at least $850 per hour for services provided by Lawyers *for* Justice, PC.[98] Lawyers *for* Justice, PC has been awarded attorneys' fees, compensating the firm at the blended rate of at least $850 per hour for legal service performed, by courts of this state.[99] While the circumstances of every case are unique, the fact remains that the work performed by Class Counsel in this matter justify the requested attorneys' fees.

Applying the rate of $850 per hour to 359.40 hours worked by Lawyers *for* Justice, PC, would place the firm's base lodestar at $305,490, and Aegis Law Firm, PC's base lodestar is $293,582.50, for a combined base lodestar of $599,072.50 for the work performed by Class Counsel.

It also bears noting that a court may apply a multiplier in consideration for risk, efficiency, and/or obtaining a substantial result, to enhance the lodestar for purpose of cross-check. See *Ketchum* at 1133-34 (holding that a risk multiplier may be applied to compensate contingency fee attorneys at a fair market rate).[100] The risks involved, skill required, complexity of the matter, and

[96] Matavosian Decl., Exh. 1.
[97] Matavosian Decl., ¶ 12; Szilagyi Decl., ¶¶ 25 & 26.
[98] Matavosian Decl., ¶ 13.
[99] Ibid.
[100] Courts have approved fee awards with multipliers of 2 and even higher. See, e.g., *City of Oakland v. Oakland Raiders* (1988) 203 Cal.App.3d 78 (affirming a 2.34 multiplier without remand); *Wershba*, *supra*, 91 Cal.App.4th at 255 ("Multipliers can range from 2 to 4 or even higher."); *Sutter Health Uninsured Pricing Cases* (2009) 171 Cal.App.4th 495, 512 (applying a 2.52 multiplier on a lodestar cross-check); *Chavez v. Netflix, Inc.* (2008) 162 Cal.App.4th 43, 66 (applying a 2.5 multiplier in a consumer class action).

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results obtained warrant upward enhancement of the lodestar.[101] In determining whether or not to enhance the lodestar, California courts take into account multiple factors, many of which were specifically addressed above in §§ VII.B, *infra*. See, *Cates* at 822-23. Multiple factors warrant enhancement of the lodestar in the cases, including the following: the time and labor required; the skill requisite to perform the legal services properly; the preclusion of other employment by the attorney due to the acceptance of these cases; the contingent nature of the fee; the amount involved and results obtained; the experience, reputation, and ability of the attorney; and awards in similar cases. *Ketchum* at 1134.

For purposes of a lodestar cross-check analysis, the Court is requested to apply a multiplier of at least 1.12. The total enhanced lodestar fees are $670,961.20 if the requested multiplier is applied.[102]

The lodestar method as a cross-check to the percentage award sought herein, strongly supports the reasonableness of the requested attorneys' fees. The nature of the work performed, skill exercised, and the outcome in this matter—which involves an outstanding monetary recovery involving a Gross Settlement Amount of $2,000,000.00 (with a Net Settlement Amount of approximately at least $1,163,226.96 to be paid to Participating Class Members (with gross Individual Class Payments averaging approximately more than $1,355.44), payment of $15,000.00 to Aggrieved Employees, and payment of $45,000.00 to the State of California)—support the percentage fee sought. Accordingly, the Court is respectfully requested to award attorneys' fees in the amount of $666,666.66 to Class Counsel.

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[101] Even when courts have opted to award fees in settlement fund cases based on time reasonably expended on the action, courts have generally awarded these fees based on the actual time expended (the lodestar) in conjunction with a multiplier of between 2 and 4. *Kerr v. Screen Extras Guild, Inc.* (9th Cir. 1975) 526 F.2d 67. Adjustment of the base lodestar figure to compute an award of attorneys' fees for a claim under the California Labor Code is appropriate. See *Id.*, at 1135-36; *Serrano v. Priest* (1977) 20 Cal.3d 25, 48-49. Courts frequently apply multipliers to enhance the lodestar to reflect the risks involved, the complexity of the litigation, and the other relevant facts. *Vizcaino*, 290 F.3d at 1051; *Graham v. DaimlerChrysler Corp.* (2004) 34 Cal.4th 553, 579 ("One of the most common fee enhancers [...] is for contingency risk."). Such an enhancement "mirrors the established practice in the private legal market of rewarding attorneys for taking the risk of nonpayment by paying them a premium over their normal hourly rates for winning contingency cases." *Vizcaino*, 290 F.3d at 1051; *accord Ketchum*, 24 Cal.4th at 1132-33. A risk multiplier also serves to bring the financial incentives for enforcing important rights "into line with incentives [attorneys] have to undertake claims for which they are paid on a fee-for-services basis." *Ketchum* at 1132.

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

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

The Settlement provides for reimbursement of litigation costs and expenses in the amount of up to $60,000.00. As set forth in the Declaration of Selena Matavosian and Declaration of Joseph M. Szilagyi, Class Counsel only seeks reimbursement of $51,606.38 in litigation costs and expenses incurred in this matter.[103] This amount was reasonable and necessary in the prosecution of the cases and to obtain the Settlement, and is less than the $60,000-maximum amount allocated under the Settlement Agreement.[104] The cost savings of $8,393.62 will be part of the Net Settlement Amount, which will be distributed to Participating Class Members in accordance with the Settlement.[105] Accordingly, Plaintiffs request that the Court award litigation costs and expenses in the amount of $51,606.38 to Class Counsel.

IX. THE ADMINISTRATION EXPENSES PAYMENT SHOULD BE APPROVED.

As set forth in the accompanying Phoenix Declaration, the total costs incurred and to be incurred by Phoenix for the notice and settlement administration process are $13,500.00.[106] The costs incurred and to be incurred include, but are not limited to, establishing and maintaining a settlement fund account; establishing and maintaining a calendar of administrative deadlines and responsibilities; processing, issuing, and transmitting settlement payments; distributing notice of the Settlement to the Class; receiving and validating Request for Exclusions, objections, and/or challenges to the number of Workweeks and/or PAGA Pay Periods submitted by Class Members; calculating employer payroll taxes owed on the Wage Portion of Individual Class Payments and providing appropriate forms and calculations to Defendant; providing counsel with weekly reports; and other tasks as the Parties mutually agree or the Court orders Phoenix to perform.[107]

Accordingly, the Court should grant final approval of payment to Phoenix, a necessary third-party for its handling of the notice and settlement process, in the amount of $13,500.00.

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[103] Matavosian Decl., ¶ 19; Szilagyi Decl., ¶ 28.
[104] Matavosian Decl., ¶ 19.
[105] Ibid.
[106] Phoenix Decl., ¶ 17.
[107] *Id.*, ¶ 3.

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X. <u>THE CLASS REPRESENTATIVE SERVICE PAYMENTS SHOULD BE APPROVED.</u>

Plaintiffs request Class Representative Service Payments, in the amount of $15,000.00 each, for their efforts and work spearheading the prosecution of this matter and serving as the Class Representatives, as well as their broader individual waiver and release of claims with a California Civil Code Section 1542 waiver. Such service payments are common, and the ones requested here are reasonable.[108]

Plaintiffs spent a substantial amount of time and effort providing the facts and evidence necessary to support the prosecution of the claims.[109] Plaintiffs were available whenever Class Counsel needed them and actively tried to obtain, and gave, information to support the pursuit of the cases.[110]

Accordingly, it is appropriate and just for Plaintiffs Tracy Hoge, Blanca Galeas, and Coryn Lewis to each receive $15,000.00, for a total of $45,000.00, as reasonable Class Representative Service Payments, in addition to their Individual Class Payments and Individual PAGA Payments (if applicable).

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[108] *Vranken v. Atlantic Richfield Co.* (N.D. Cal. 1995) 901 F.Supp. 294, 299 (Relevant factors considered by courts are the financial and other risk to, the notoriety and personal difficulties encountered by, and the amount of time and efforts spent by the class representative, as well as the duration of the litigation and the personal benefit (or lack thereof) enjoyed by the class representatives as a result of the litigation; approving $50,000 participation award to a single class representative based on such factors).

[109] Declaration of Plaintiff Blanca Galeas in Support of Plaintiffs' Motion for Final Approval of Class Action and PAGA Settlement, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, and Class Representative Service Payments ("Galeas Decl."), ¶¶ 3-5; Declaration of Plaintiff Coryn Lewis in Support of Plaintiffs' Motion for Final Approval of Class Action and PAGA Settlement, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, and Class Representative Service Payments ("Lewis Decl."), ¶¶ 3-5; Declaration of Plaintiff Hoge in Support of Motion for Final Approval of Class Action Settlement ("Hoge Decl."), ¶¶ 1-10.

[110] Galeas Decl., ¶¶ 3-5; Lewis Decl., ¶¶ 3-5; Hoge Decl., ¶¶ 2-10.

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XI. CONCLUSION

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

Dated: July 9, 2025

LAWYERS *for* JUSTICE, PC

By: ______________________
Selena Matavosian
Attorneys for Plaintiff Blanca Galeas and Coryn Lewis and the Class