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SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF ALAMEDA

LERE GARRETT, an individual, on behalf of themself, and on behalf of all persons similarly situated,

Plaintiff,

v.

CORE ANALYTICS RADIOLOGY, INC., a California corporation; and DOES 1-50, Inclusive,

Defendants.

Case No. 24CV103976

MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF MOTION FOR FINAL APPROVAL OF CLASS AND PAGA ACTION SETTLEMENT, APPROVAL OF CLASS COUNSEL FEES PAYMENT AND CLASS LITIGATION EXPENSES PAYMENT

Date: July 29, 2026
Time: 01:30 p.m.
Reservation ID: 143545977881

Judge: Hon. Patrick McKinney
Dept.: 18

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I. INTRODUCTION

Plaintiff Lere Garrett (hereinafter "Plaintiff") seeks final approval of the Class Action and PAGA Settlement Agreement and Class Notice and Amendment No. 1 to Class Action and PAGA Settlement Agreement (collectively, the "Agreement") [1], which if approved, would provide valuable monetary relief for 118 Participating Class Members employed by Defendant Core Analytics Radiology ("Defendant") in California during the Class Period. Plaintiff and Class Counsel also seek approval of a class counsel award in the amount of **$99,272.09**, comprised of $75,000.00 in attorneys' fees and $24,272.09 for reimbursement of actually incurred litigation expenses.

An objective evaluation of the proposed settlement of $225,000.00 ("Gross Settlement Amount") confirms that the relief negotiated on behalf of the Class is fair, reasonable, and valuable. The Settlement is a product of informed, adversarial, and non-collusive negotiations between experienced counsel, guided by the wisdom and experience of mediator Lisa Klerman, Esq., an experienced mediator of class and PAGA actions. Declaration of Shani O. Zakay ("SOZ Dec."), ¶ 19. Plaintiff estimates that the Settlement, if approved, would result in a Net Settlement Amount of approximately $92,760.00, with an average Individual Settlement Payment of **$786.10**, a high payment of $1,928.02, and a low payment of $7.97. Aggrieved Employees will receive an estimated average Individual PAGA Payment of **$57.57**, a high payment of $83.65, and a low payment of $2.09. [2] Declaration of Missy Carey ("Apex Dec."), ¶¶ 15-18.

The relief offered by the Settlement is immediate and is particularly impressive when viewed against the difficulties encountered by plaintiffs pursuing similar wage and hour cases (*see infra)*. As discussed below, the proposed Settlement satisfies all criteria for final settlement approval under California law and falls well within the range of reasonableness. SOZ Dec., ¶ 20.

II. OVERVIEW OF THE LITIGATION

Defendant owns and operates a company that provides mobile imaging and diagnostic services, including x-rays, ultrasounds, and EKGs, throughout California, including in Alameda County, where

[1] The Agreement is attached as Ex "A" to the Declaration of Shani O. Zakay ("SOZ Dec.") at ¶ 3. All citations to the Agreement incorporate by this reference a citation to the SOZ Dec., ¶ 3. Further, unless indicated otherwise, capitalized terms used herein have the same meaning as those defined by the Agreement.

Plaintiff worked. This action asserts claims on behalf of Defendant's current and former non-exempt employees employed in California during the Class Period. Plaintiff was employed by Defendant from July 2022 through June 2024 as a non-exempt employee paid on an hourly basis. At all times during her employment, Plaintiff was paid an hourly wage and was entitled to legally compliant meal and rest periods. Throughout her employment, Plaintiff was subject to Defendant's written policies and procedures. Declaration of Lere Garrett ("LG Dec.") at ¶ 3.

Generally, Plaintiff claims that Defendant failed to provide compliant meal and rest periods; failed to pay for all hours worked; failed to furnish accurate itemized wage statements; and failed to pay all wages upon separation. SOZ Dec. at ¶ 21.

Following the Parties' agreement to mediate the action, Defendant agreed to informally produce documents and data points subject to the mediation privilege and pertinent written wage and hour policies. SOZ Dec. at ¶ 22. On August 6, 2025, the Parties participated in a full day mediation with mediator Lisa Klerman, Esq. The Parties accepted the mediator's proposal shortly after mediation concluded, resulting in a global settlement of Plaintiff's class and PAGA claims, which was subsequently memorialized in the form of a Memorandum of Understanding. After reaching an agreement in principle, the parties negotiated a long-form settlement agreement, which is the subject of the instant motion. SOZ Dec., ¶ 23.

On March 30, 2026, this Court granted preliminary approval of the Settlement. SOZ Dec. ¶ 5. On April 23, 2026, the Settlement Administrator mailed Notice Packets to all 118 Settlement Class members. Apex Dec., ¶ 7. The mailing of the Notice Packets triggered a forty-five (45) day Response Deadline for the Settlement Class to submit requests for exclusion or objections to the Settlement. Agreement at § 1.43. Notably, there were zero objections and 100% of the Class Members are participating in the Settlement. Apex Dec., ¶¶ 11-12, 14.

III. THE SETTLEMENT BEFORE THE COURT

The Court preliminarily approved a Gross Settlement Amount of $225,000.00. The Gross Settlement Amount is all-in with no reversion to Defendant. Agreement at § 3.1. The Net Settlement Amount shall be used for the payment of all Individual Class Payments to satisfy all Released Class Claims. The Settlement Administrator will calculate Individual Class Payments by adding up the total number of Workweeks for all Participating Class Members. They will then 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. Agreement at § 3.2.4. The Settlement Administrator estimates the average Individual Settlement Payment is **$786.10** and the highest Individual Settlement Payment is $1,928.02. Apex Dec., ¶ 16.

When Defendant fully funds the entire Gross Settlement Amount and funds all employer payroll taxes owed on the Wage Portion of the Individual Class Payments, the Participating Class Members will release the Released Parties from all claims that were alleged, or reasonably could have been alleged, based on the facts stated in the Operative Complaint. Plaintiff, on behalf of the LWDA and the State of California, will release the Released Parties from all PAGA claims alleged, or that reasonably could have been alleged based on the facts alleged in the Operative Complaint and in Plaintiff's PAGA notice to the LWDA on December 19, 2024, which occurred during the PAGA Period, and expressly excluding all other claims, including claims for vested benefits, wrongful termination, unemployment insurance, disability, social security, workers' compensation, and PAGA claims outside the PAGA Period. Agreement at §§ 6.1, 6.2; Amendment No. 1 to Agreement at ¶ A. Apex Class Action, LLC, was appointed as the Settlement Administrator for the class. The settlement administration costs are $4,740.00. Apex Dec., ¶ 19. These expenses shall be paid from the Gross Settlement Amount. Agreement at §§ 3.2.3, 4.4. Subject to Court approval, Class Counsel shall seek attorneys' fees in the amount of Seventy-Five Thousand Dollars and Zero Cents ($75,000.00), equal to one-third of the Gross Settlement Amount, and attorneys' expenses in the amount of $24,272.09 for actually incurred litigation expenses. Agreement at § 3.2.2.

Subject to Court approval, the Agreement provides for a Class Representative Service Payment in an amount of up to $10,000.00 for Plaintiff in consideration of her time, risk, and efforts as the Class Representative on behalf of the Settlement Class. Agreement at § 3.2.1.

As set forth in the Agreement, $12,500.00 of the Gross Settlement Amount has been allocated for civil penalties under the PAGA ("PAGA Penalties"). Sixty-five percent (65%) of the PAGA Penalties will be paid to the California Labor and Workforce Development Agency. The Settlement Administrator shall distribute the remaining thirty-five percent (35%) of the PAGA Penalties to the Aggrieved

Employees. (Agreement at § 3.2.5). The Settlement Administrator estimates that Aggrieved Employees will receive an average Individual PAGA Payment of **$57.57**, and a high payment of $83.65. Apex Dec., ¶ 18. As explained in further detail below, given the complexities of this case, the defenses asserted, and the uncertainty of class certification, along with the uncertainties of proof at trial and appeal, the proposed settlement is fair, reasonable, and adequate, and should be granted final approval. SOZ Dec., ¶ 19.

IV. GENERAL STANDARDS APPLICABLE TO JUDICIAL REVIEW AND APPROVAL OF CLASS ACTION SETTLEMENTS

Settlements of disputed claims are favored by the courts. (*Huens v. Tatum*, 52 Cal. App. 4th 259, 265 (1997).). In evaluating settlements, the courts have long recognized that compromise is particularly appropriate since such litigation is difficult and notoriously uncertain. (*7-Eleven Owners for Fair Fran. v. Southland Corp.*, 85 Cal.App.4th 1135, 1151 (2000).). "[T]o prevent fraud, collusion or unfairness to the class, the settlement or dismissal of a class action requires court approval." (*Dunk v. Ford Motor Co.*, 48 Cal. App. 4th 1794, 1801 (1996) *citing Malibu Outrigger Bd. of Governors v. Superior Court*, 103 Cal. App. 3d 573, 578-579 (1980).). The court must decide whether the proposed settlement falls within the range of reasonable settlements, taking into account that settlements are compromises between the parties reflecting subjective, unquantifiable judgments concerning the risks and possible outcomes of litigation. (See also *Wershba v. Apple Computer*, 91 Cal.App.4th 224, 246 (2001).).

In *Wershba*, appellants argued that the settlement was too low given the "clear" liability, however, the Court rejected this argument and held that "the merits of the underlying class claims are not a basis for upsetting the settlement of a class action." (*Wershba*, *supra*, at 246; see also *7-Eleven*, *supra*, at 1150.). In these cases, Courts have repeatedly emphasized that there is a strong initial presumption that the compromise is fair and reasonable. (*Wershba*, 91 Cal.App.4th at 245.). The presumption of fairness exists where: (1) investigation and discovery are sufficient to allow counsel and the court to act intelligently; (2) the settlement is reached through arm's-length bargaining; (3) counsel is experienced in similar litigation; and (4) the percentage of objectors is small. (*Dunk*, 48 Cal. App. 4th at 1801, citing Newberg & Conte, *Newberg on Class Actions*, (3d ed. 1992) §11.41, pp. 11-91.). Here, all of these factors support a presumption of fairness.

V. THE SETTLEMENT IS FAIR, REASONABLE, AND ADEQUATE

The court must determine whether the settlement is fair, adequate, and reasonable. (*Dunk v. Ford Motor Co.*, 48 Cal.App.4th 1794, 1801 (1996); see also *Officers for Justice v. Civil Service Com'n*, 688 F. 2d 615, 625 (9th Cir. 1982).). The purpose of the requirement is "the protection of those class members, including the named plaintiffs, whose rights may not have been given due regard by the negotiating parties." (*Dunk*, *supra*, at 1801.).

The trial court has broad discretion to determine whether the settlement is fair. (*Rebney v. Wells Fargo Bank*, 220 Cal.App.3d 1117, 1138 (1990).). "The well-recognized factors that the trial court should consider in evaluating the reasonableness of a class action settlement agreement include '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.' [Citations.]" (*Kullar v. Foot Locker Retail, Inc.*, 168 Cal.App.4th 116, 128 (2008); see also *Munoz v. BCI Coca-Cola Bottling Co. of Los Angeles*, 186 Cal.App.4th 399, 408 (2010).). The list of factors is not exhaustive and should be tailored to each case. (*Dunk*, *supra*, at 1801.). Due regard should be given to what is otherwise a private consensual agreement between the parties. (*Id.*). The inquiry "must be limited to the extent necessary to reach a reasoned judgment that the agreement is not the product of fraud or overreaching by, or collusion between, the negotiating parties, and that the settlement, taken as a whole, is fair, reasonable and adequate to all concerned." (*Id.*). "Ultimately, the [trial] court's determination is nothing more than 'an amalgam of delicate balancing, gross approximations and rough justice.' [Citation omitted.]" (*Id.*). These factors are analyzed below and all support final approval of the class and PAGA action settlement before this Court.

A. Class Counsel Conducted a Thorough Investigation.

As detailed in the motion for preliminary approval, Class Counsel thoroughly investigated the proposed Class Members' claims, applicable law, and potential defenses. Specifically, Class Counsel assessed the value of the class claims using data and documents provided by Defendant in informal discovery. Class Counsel obtained the time and payroll data for 111 Class Members, along with pertinent written wage and hour policies. Class Counsel's investigation, research, experience, and damage models informed and guided the mediated negotiations that resulted in this settlement. SOZ Dec., ¶ 24.

B. <u>The Parties Settled After Mediation by Accepting a Mediator's Proposal</u>

The Settlement is the product of a mediation session with a respected mediator and negotiations over the terms of the Settlement. The negotiations were adversarial, conducted at arm's length and tempered by the efforts of both sides to serve the interests of their clients. SOZ Dec., ¶ 25.

C. <u>Class Counsel is Experienced in Similar Litigation.</u>

Class Counsel in this matter have extensive class action experience in multiple fields and have represented tens-of-thousands of persons in class actions. Class Counsel's experience is summarized in their concurrently filed declarations. Class Counsel has concluded the settlement is fair, adequate, and reasonable and in the best interests of the Class. SOZ Dec., ¶¶ 26-27; Declaration of Jean-Claude Lapuyade, Esq. ("JCL Dec."), ¶¶ 13-18.

D. <u>The Settlement Class Responded Positively to the Settlement.</u>

The reaction of the Settlement Class unequivocally supports approval of the Settlement. None of the 118 members of the Class opted-out of the Settlement and there are ***<u>zero</u>*** objections. Stated differently, **<u>100%</u>** of the Settlement Class has chosen to participate in the Settlement. Apex Dec., ¶¶ 11-14. The high approval rate by the Settlement Class strongly supports a finding that the Settlement is fair, reasonable, and adequate. (See *In re Austrian & German Bank Holocaust Litigation*, 80 F. Supp. 2d 164, 175 (S.D.N.Y. 2000) ["If only a small number of objections are received, that fact can be viewed as indicative of the adequacy of the settlement."]; *Stoetzner v. U.S. Steel Corp.* (3d. Cir. 1990) 897 F.2d 115, 118-119 [29 objections out of 281 member class "strongly favors settlement"]; *Laskey v. Int'l Union* (6th Cir. 1981) 638 F.2d 954 [The fact that 7 out of 109 class members objected to the proposed settlement should be considered when determining fairness of settlement.].). Consequently, Class Counsel respectfully requests the Court to follow the high participation rate of the Settlement Class and grant final approval of the Settlement.

E. <u>The Strength of Plaintiff's Case and Risks of Continued Litigation</u>

Although Plaintiff and Class Counsel believe that the case has merit, they recognize the potential risks both sides would face if litigation of this action continued. SOZ Dec., ¶ 28. As the federal court in *Glass v. UBS Fin. Servs.*, 2007 WL221862 held, where the parties faced uncertainties similar to those in this litigation:

> ***"In light of the above-referenced uncertainty in the law, the risk, expense, complexity, and likely duration of further litigation likewise favors the settlement.*** Regardless of how this Court might have ruled on the merits of the legal issues, the losing party likely would have appealed, and the parties would have faced the expense and uncertainty of litigating an appeal. The expense and possible duration of the litigation should be considered in evaluating the reasonableness of [a] settlement."

With respect to the most immediate challenge, i.e., class certification, the risks attendant to the certification of similar wage and hour claims are demonstrated by *Ali v. U.S.A. Cab Ltd.* (2009) 176 Cal.App.4th 1333, 1341. There, the Court of Appeal affirmed the Trial Court's denial of class certification because employees' declarations attesting to having taken meal and rest breaks demonstrated that individualized inquiries were required to show harm. (See also *Campbell v. Best Buy Stores, L.P.*, (C.D. Cal. 2013) 2013 WL 5302217 at *11-13 [following *Brinker* and denying certification of proposed off-the-clock and rest and meal break classes due to lack of uniform policy]; *Brown v. Fed Express Corp.* (C.D. Cal. 2008) 249 F.R.D. 580, 587-88 [denying certification of driver meal and rest period claims based on the predominance of individual issues].). Further, even if a class is certified, liability remains uncertain. The risks attendant to the issue of Defendant's liability in similar wage and hour actions are demonstrated by *Duran v. U.S. Bank National Association* (2014) 59 Cal.4th 1, 31. There, the Court reversed a trial verdict in favor of plaintiffs in a wage and hour class action. (See also *Tien v. Tenet Healthcare Corp.* (2012) 209 Cal.App.4th 1077, 1088 ["[T]he reason, if any, that employees might not take their breaks were predominantly individualized questions of fact not susceptible to class treatment."].)

Finally, even if a class is certified and Defendant is found liable for the class claims alleged, post-certification risks remain, including a reversal of a favorable judgment for Plaintiff and decertification of the class. These post-certification risks are demonstrated by *Magadia v. Wal-Mart Associates, Inc.* (9th Cir. 2021) 999 F.3d 668. There, the Ninth Circuit vacated, reversed and remanded a $110 million judgment against an employer for, *inter alia*, inaccurately paying overtime, and directed the trial court to enter judgment in favor of the employer. *See also O'Connor v. Uber Technologies, Inc.* (9th Cir. 2018) 904 F.3d 1087 [decertification of wage and hour misclassification action].

Collectively, the examples cited above illustrate the uncertain nature of class litigation. Consequently, the uncertainty of obtaining certification through a contested motion is a significant risk factor favoring settlement. Although Plaintiff is confident about the strength of her claims, Plaintiff nevertheless recognizes that Defendant has factual and legal defenses that, if successful, would potentially defeat or impair the value of the lawsuit. Legally, the fast-changing landscape of wage and hour litigation can drastically affect the value of Plaintiff's claims and, in fact, already has. In a similar wage and hour case, the federal district court in *Hopson v. Hanesbrands Inc.*, No. CV-08-0844 EDL, 2009 WL 928133 at *19-20 (N.D. Cal. 2009), granted approval of an overtime class action settlement and explained:

> **Plaintiffs may have a strong case, but the risks inherent in continued litigation are great**. Defendants strongly deny liability for Plaintiffs' principal claim that full-time Service Associates were misclassified as exempt. In addition to the uncertainties raised by Defendants at the preliminary stage regarding Plaintiffs' chance of success in this case, Defendants notes that the question of an employer's duty to provide rest and meal periods is an open one, signaling even less certainty for Plaintiffs.....[**T]he Total Settlement amount and the Class Members' expected net recovery, after fees and other costs are deducted, appear to be a reasonable compromise, in light of the risks of litigation**.

(Id. at *19-20, emphasis added).

In sum, while other courts have approved class certification in wage and hour claims, class certification in this action would have been hotly disputed and was by no means a foregone conclusion. Where both sides face significant uncertainty, as here, the attendant risks favor settlement. *Hanlon v. Chrysler Corp.*, 150 F. 3d 1011, 1026 (9th Cir. 1998). Plaintiff and Class Counsel recognize the expense and length of a trial against Defendant through possible appeals, which could take years. In arriving at their informed belief that the present settlement is fair and adequate, Class Counsel accounted for the uncertain outcome and risk inherent in complex actions such as this one. Class Counsel is also mindful of and recognizes the inherent problems of proof under, and alleged defenses to, the claims asserted in the litigation. Moreover, post-trial motions and appeals would have been inevitable. Costs would have mounted, and recovery would have been delayed if not denied, thereby reducing the benefits of an ultimate victory. Plaintiff and Class Counsel believe that the Settlement confers substantial monetary and non-monetary benefits upon the Class. Based upon their evaluation, Plaintiff and Class Counsel have determined that the Settlement set forth in the Agreement is in the best interest of the Class, is fair, reasonable, and adequate, and should be granted final approval.

F. The Gross Settlement Amount is Fair and Reasonable.

The Gross Settlement Amount of Two Hundred Twenty-Five Thousand Dollars and Zero Cents ($225,000.00) in this case is fair and well within the range of recognized reasonableness. As detailed at the time of preliminary approval, the Gross Settlement Amount is fair and reasonable considering the nature and magnitude of the claims being settled and the various potential impediments to recovery. Class Counsel developed varied economic damages models measuring Defendant's liability exposure while accounting for the uncertainties of continued litigation. The various models were informed by Class Counsel's investigation, including the analysis of a total of 111 Class Members' time and payroll data.

The settlement also provides significant relief to the Participating Class Members. The average Class Member Individual Class Payment is approximately $786.10, the highest is approximately $1,928.02, and the lowest is approximately $7.97. Apex Dec., ¶ 16. This average net recovery is greater than many wage and hour class action settlements approved by California state and federal courts. (See*, e.g., Palencia v. 99 Cents Only Stores,* No. 34-2010-00079619 (Sacramento County Super. Ct) [average net recovery of approximately $80]; *Fukuchi v. Pizza Hut,* Case No. BC302589 (LA. County Super. Ct.) [average net recovery of approximately $120]; *Contreras v. United Food Group, LLC,* Case No. BC389253 (L.A. County Super. Ct.) [average net recovery of approximately $120]; *Ressler v. Federated Department Stores, Inc.,* Case No. BC335018 (L.A. County Super. Ct.) [average net recovery of approximately $90].) Clearly the goal of this litigation to obtain redress for the class has been met by this Settlement. Given the amount of the Settlement, the risks of litigation and the arm's length negotiations between experienced counsel, the settlement is entitled to final approval.

VI. THE PENALTIES UNDER THE PAGA ARE REASONABLE

Courts routinely approve amounts for PAGA penalties in the range of zero to two percent of the settlement. (See *Hopson*, *supra*, 2009 WL 928133, at *1, 9 [approving a PAGA payment of 0.3%]; *Jack v. Hartford Fire Ins. Co.*, No. 09cv1683 MMA (JMA), 2011 WL 4899942, at *6 (S.D. Cal. Oct. 13, 2011) [approving a PAGA payment of 0.25%]; *McKenzie v. Fed. Express Corp.*, No. CV 10-02420

GAF (PLAx), 2012 WL 12882124, at *5 (C.D. Cal. Jan. 23, 2012) [acknowledging that courts approve PAGA claim settlements in the range of zero to two percent of the total settlement].) Here, Plaintiff and Defendant negotiated a good faith payment of PAGA Penalties in the amount of $12,500.00 which is 5.5% of the Gross Settlement Amount. This amount falls well within the range of approved PAGA penalty payments. Sixty-five percent (65%) of the PAGA Penalties ($8,125.00) will be paid to the LWDA, and the remaining thirty-five percent (35%) of the PAGA Penalties ($4,375.00) will be distributed to the Aggrieved Employees, which is within the range of PAGA penalty payments approved by courts and thus, respectfully, should be approved. The Settlement Administrator estimates that Aggrieved Employees will receive an average Individual PAGA Payment of **$57.57** and a high payment of $83.65. Apex Dec., ¶ 18.

Further, on December 22, 2025, Class Counsel gave the LWDA notice of this Settlement and proposed allocation by filing a copy of the Settlement and the Motion for Preliminary Approval with the LWDA. On July 1, 2026, Plaintiff gave the LWDA notice of this motion seeking final approval of this settlement. SOZ Dec., ¶¶ 6-7. By not registering an objection with either Class Counsel or the Court, the LWDA has accepted and approved of the proposed PAGA Payment.

VII. CLASS COUNSEL'S REQUEST FOR FEES AND LITIGATION EXPENSES

As part of the Settlement, the Parties agreed to a payment of Class Counsel's Fees Payment in the amount of one-third of the Gross Settlement Amount ($75,000.00) and Class Counsel's Litigation Expenses Payment in an amount up to $30,000.00. The requested attorneys' fees equal to one-third of the Gross Settlement Amount are fair compensation and, respectfully, should be approved. Class Counsel undertook complex, risky, and time-consuming wage and hour litigation on a contingent basis. The attorneys' fees are within the historically recognized range of attorneys' fees awarded in common fund class action settlements – between 25% and 50% – and are supported by Class Counsel's lodestar cross-check with a negative .78 multiplier. That is well under the recognized multiplier range of between 2 and 4[3], and there is additional work to be performed. Thus, the reasonableness of the

[3] See *Wershba v. Apple Computer*, 91 Cal. App. 4th 224, 255 (2001) ("multipliers can range from 2 to 4 or even higher."); *In re Sutter Health Uninsured Pricing Cases*,171 Cal.App.4th 495, 512 (2009) (affirming multiplier of 2.52 as "fair and reasonable"); *Chavez v. Netflix, Inc*., 162 Cal.App.4th 43, 66 (2008) (affirming multiplier of 2.53 as well within the approved range of 2 to 4).

requested attorneys' fees is confirmed by reference to the lodestar with a negative multiplier with significant additional work still to be performed. SOZ Dec., ¶ 14.

A. <u>Common Fund</u>

Courts have long recognized that when class counsel's efforts result in the creation of a common fund that benefits plaintiffs and unnamed class members, class counsel have an equitable right to be compensated from that fund. (See*, e.g.*, *Boeing Co. v. Van Gemert*, 444 U.S. 472, 478 (1980) ["recogniz[ing] consistently that a litigant or a lawyer who recovers a common fund…is entitled to a reasonable attorney's fee from the fund as a whole"]; *Laffitte*, 1 Cal. 5th at 488-89 [common fund doctrine "long recognized" under California law].). The common fund doctrine rests on the understanding that attorneys should normally be paid by their clients and that, unless attorneys' fees are paid out of the common fund, those who benefit from the fund will be "unjustly enriched." (*Boeing*, 444 U.S. at 478.). As noted above, in *Laffitte*, the California Supreme Court upheld the trial court's award of one-third of the settlement amount of $19 million with a 2.13 multiplier and affirmed that "empirical studies show the percentage method with a lodestar cross-check is the most prevalent form of fee method in practice." (*Laffitte*, 1 Cal. 5th at 496-97.). In fact, courts have historically awarded between 25% and 50% of the common fund as attorneys' fees class action settlements. (*In re Warner Communications,* 618 F.Supp. 735, 749-50 (S.D.N.Y 1985).).

Here, the fairest way to calculate a reasonable fee when contingency-fee litigation has produced a fixed settlement amount for the Settlement Class Members is by awarding Class Counsel a percentage of the total settlement sum. (See*, e.g., In re Bluetooth Headset Products Liab. Litig.*, 654 F.3d 935, 942 (9th Cir. 2011).). More importantly, a fee award under the common fund method here would achieve the two underlying goals of the common fund doctrine by: (1) equitably requiring the beneficiaries of the common fund to pay their pro rata share of fees incurred in creating the fund; and (2) providing an incentive to attract competent counsel to handle wage and hour class actions, which California courts recognize as a fundamental tool to ensure the effective enforcement of the Labor Code and minimum labor standards. (See*, e.g.*, *Gentry v. Super. Ct.*, 42 Cal. 4th 443, 455-56 (2007) [overruled on other grounds by *Iskanian v. CLS Transportation Los Angeles, LLC*, 59 Cal.4th 348 (2014) emphasizing the indispensable value of private enforcement of California's wage-and-hour laws through class actions].).

The Agreement provides for payment of Class Counsel's attorneys' fees and litigation expenses from the common fund. Accordingly, it is well within the Court's discretion to award fees to Class Counsel under the common fund doctrine. Class Counsel requests attorneys' fees in the amount of $75,000.00, representing one-third of the Gross Settlement Amount. Class Counsel's request is consistent with many fee awards in similar wage and hour class actions. Moreover, the requested attorneys' fee award is in the middle of historically recognized range of attorneys' fees awarded in common fund settlements. SOZ Dec., ¶ 17. The attorneys' fees request should be awarded based upon the Gross Settlement Amount in accordance with *Laffitte*, i.e., percentage of the fund with a lodestar cross check.

B. <u>Class Counsels' Lodestar Supports the Requested Attorneys' Fees</u>

Class Counsel's lodestar to date is $99,272.09 ***exclusive of costs***, with significant work remaining. SOZ Dec., ¶¶ 11-13; JCL Dec., ¶¶ 5-8. Thus, Class Counsel's fee request is equal to Class Counsel's lodestar with a negative .78 multiplier –well below the recognized multiplier range between 2 and 4. (See also *Taylor v. FedEx Freight, Inc.*, 2016 U.S. Dist. LEXIS 142202 (E.D. Cal. 2016) [following *Laffitte,* approved 30% fee award with cross-check lodestar multiplier of 2.26]; *Emmons v. Quest Diagnostics Clinical Labs., Inc.*, 2017 U.S. Dist. LEXIS 27249 (E.D. Cal. 2017) [following *Laffitte,* approved 33% fee award with cross-check lodestar multiplier of 1.7].). Because the Settlement in this case is a pure common fund case, and the percentage of the fund is the comparable marketplace for fee awards in common fund cases, *Laffitte* supports an award based upon the percentage of the common fund. Moreover, Class Counsel's lodestar supports the requested attorneys' fees with a multiplier well below the recognized range of reasonableness, and in fact, below what the California Supreme Court approved in *Laffitte.*

Although no rigid formula applies, an analysis of each of the following "basic factors" that California courts typically consider further supports the reasonableness of a fee request: (1) the result class counsel obtained; (2) the time and labor required of the attorneys; (3) the contingent nature of the case and the delay in payment to class counsel; (4) the extent to which the nature of the litigation precluded other employment by class counsel; (5) the experience, reputation, and ability of the attorneys who performed the services, the skill they displayed in the litigation, and the novelty, complexity and difficulty of the case; and (6) the informed consent of the clients to the fee agreement. (*Serrano v. Priest*, 20 Cal. 3d 25, 49 (1977); *Dunk v. Ford Motor Co.,* 48 Cal.App.4th at 1810 n.2.). Those factors support Class Counsel's request and are addressed in more detail in Counsel's declarations submitted concurrently herewith. In short: (1) Considering the issues presented in the case, the Gross Settlement Amount of $225,000.00 is an excellent result for the Settlement Class, (2) Collectively, Class Counsel worked hard on this case and expended approximately 133.9 hours in the prosecution of this litigation in the eighteen months since it was filed for a total lodestar of $99,272.09, (3) Class Counsel undertook this litigation on a contingent-fee basis, assuming a significant risk that the litigation would yield no recovery after many years of work, (4) Class Counsel negotiated a one-third contingency fee arrangement, which is a reasonable arrangement to obtain competent counsel in the marketplace for representation in wage and hour class actions of this nature, and it is only equitable that Settlement Class who share in the excellent results achieved by this Settlement bear their pro rata share of the attorneys' fees award to Class Counsel, (5) Class Counsel possesses significant experience litigating complex wage and hour class actions and the way this Settlement was achieved is demonstrative of the highly efficient way this litigation was managed and resolved (See Class Counsel's declarations for a detailed outline of their skills and experience), and (6) Settlement Class Counsel's hourly rates are well within the range of rates billed by comparable attorneys in this market and reasonably compare with rates approved by other trial courts in wage and hour class action litigation. SOZ Dec., ¶ 16; JCL Dec., ¶¶ 8-9.

C. <u>Class Counsel's Litigation Expenses</u>

Common fund fee and expense awards include counsel's incurred expenses because those who benefit from their effort should share in the cost. (See *Rider v. City of San Diego,* 11 Cal. App. 4th 1410, 1423 n.6 (1992).). The appropriate analysis in deciding if costs are compensable is whether the costs are of the type typically billed by attorneys to paying clients in the marketplace. (See *Harris v. Marhoefer*, 24 F.3d 16, 19 (9th Cir. 1994).). Class Counsel has expended a total of $24,272.09 in prosecuting this action. All of Class Counsel's out-of-pocket expenses are the types of expenses normally charged to paying clients including the following: filing fees; copying; postage; mediation fees; and expert costs, which were all incurred during, and were necessary for the successful prosecution of, the litigation and, therefore, should be reimbursed. SOZ Dec. ¶ 18; JCL Dec., ¶¶ 11-12.

D. <u>Plaintiff's Class Representative Service Payment Is Reasonable and Should be Approved</u>

Courts routinely approve service payments to compensate named plaintiffs for the services they provide and the risks they incur during the class litigation. (*Bell v. Farmers Ins. Exch.,* 115 Cal.App.4th 715, 726 (2004).). The factors courts use in determining the amount of service awards include: (1) a comparison between the service awards and the range of monetary recovery available to the class; (2) time and effort put into the litigation; (3) whether the litigation will further the public policy underlying the statutory scheme; and (4) risks of retaliation. (*Clark v. American Residential Services, LLC,* 175 Cal.App.4th 785, 804-805 (2009).).

Regarding the amount of the requested award, courts frequently approve awards of $10,000.00 or more. See, e.g., *In re Cellphone*, 186 Cal.App.4th 1380. The amount of the requested Class Representative Service Payment to Plaintiff for $10,000.00 is reasonable by reference to the amounts that California courts (both federal and state) have repeatedly awarded in similar class action settlements. Further, the unanimous consent by the Class Members favors the Court's approval of the requested service award. Equally important, the time, effort, and services provided to the Settlement Class justifies the requested Service Award. The Class Representative performed her duties to the Settlement Class admirably. Plaintiff's work is summarized in her declaration filed concurrently herewith. Plaintiff assumed the serious risk of liability for Defendant's costs and potentially fees if the case was unsuccessful. Nevertheless, Plaintiff knowingly and voluntarily undertook the risk to vindicate the rights of the Settlement Class. LG Dec., ¶¶ 1-17.

VIII. <u>CONCLUSION</u>

Plaintiff respectfully submits that the proposed settlement satisfies the standard of fairness established by California law and should therefore be finally approved as fair, reasonable, and adequate and requests entry of the Final Approval Order and Judgment submitted herewith. Further, based on the foregoing, Class Counsel respectfully requests approval of the attorneys' fees payment in the amount of

$75,000.00 and Attorneys' Expenses in the amount of $24,272.09, as supported by Class Counsel's billing records. Class Counsel and the Class Representative also respectfully request approval of the requested Class Representative Service Payment in the amount of $10,000.00 to Plaintiff.

Dated: July 1, 2026

ZAKAY LAW GROUP, APLC

By: ______________________________
Jaclyn Joyce, Esq.
Attorney for PLAINTIFF