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**SUPERIOR COURT OF CALIFORNIA**

**IN AND FOR THE COUNTY OF SACRAMENTO**

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| ASHLEY HUDSON, on behalf of the State of California and all Aggrieved Employees,<br><br>Plaintiff,<br><br>v.<br><br>SUPERIOR VISION SERVICES, INC., a Delaware Corporation; SUPERIOR VISION BENEFIT MANAGEMENT, INC., a New Jersey Corporation; VERSANT HEALTH HOLDCO, INC., a Delaware Corporation; VERSANT HEALTH, INC., a Delaware Corporation; VERSANT HEALTH CONSOLIDATIONS CORP., a Delaware Corporation; VERSANT HEALTH LAB, LLC, a Delaware Limited Liability Company; DAVIS VISION, INC., a New York Corporation; METLIFE SERVICES AND SOLUTIONS, LLC; a Delaware Limited Liability Company; and DOES 1-100, inclusive,<br><br>Defendants. | CASE NO. 24CV008471<br><br>Assigned for All Purposes to:<br>Hon. Peter K. Southworth<br>Dept. 8B<br><br>MEMORANDUM OF POINTS & AUTHORITIES IN SUPPORT OF MOTION FOR FINAL APPROVAL OF CLASS AND REPRESENTATIVE ACTION SETTLEMENT AND REQUEST FOR ATTONREY'S FEES AND COSTS<br><br>Date: November 20, 2026<br>Time: 9:00 a.m.<br>Dept.: 8B |

## TABLE OF CONTENTS


I. INTRODUCTION ..... 6
II. FACTUAL BACKGROUND AND PROCEDURAL POSTURE ..... 7
III. THE PROPOSED SETTLEMENT TERMS ..... 8
A. Certification of the Settlement Class ..... 9
B. The Benefit Conferred on the Settlement Class ..... 9
C. Settlement Administration ..... 10
D. Release of Claims ..... 10
E. PAGA Claims and Notice to the LWDA ..... 11
V. ARGUMENT ..... 11
A. The Proposed Settlement Merits Final Approval ..... 12
1. The Settlement Is the Product of Arm's-Length, Informed Negotiations. ..... 12
2. The Class Reacted Favorably to the Settlement ..... 12
3. The Settlement Is Fair and Reasonable Considering the Benefits Conferred, the Case Value, and Significant Litigation Risks ..... 13
V. PLAINTIFF'S ENHANCEMENT AWARD ..... 17
VI. SETTLEMENT ADMINISTRATION COSTS ..... 18
VII. ATTORNEY'S FEES AND COSTS ..... 18
A. The Attorney's Fees Requested Are Fair and Reasonable and Should Be Approved ..... 18
B. The Requested Fee Award Is Reasonable and Appropriate ..... 19
C. Class Counsel's Fees are Justified When Calculated as a Percentage of the Common Fund ..... 20
D. A Lodestar Cross-Check Also Supports Class Counsel's Fee Request ..... 22
E. The Award is Supported By 1) the Results Achieved; 2) the Risk, 3) the Skill Required, 4) the Contingent Nature of the Fee and 5) Awards in Similar Cases ..... 23
1. The Results Achieved. ..... 24
2. Class Counsel Bore Considerable Risk. ..... 24
3. The Skill Required and the Quality of Work. ..... 25
4. The Contingent Nature of the Fee and Risk Assumed ..... 25
5. Awards in Other Cases ..... 26
F. Class Counsel's Costs and Expenses are Reasonable ..... 26
VIII. CONCLUSION ..... 27

## TABLE OF AUTHORITIES

Page(s)

CASES


Alvarado v. Dart Container Corp. of Cal.,
(2018) 4 Cal.5th 542 ..... 14
Amaral v. Cintas Corp. No. 2,
(2008) 163 Cal.App.4th 1157 ..... 16
Blum v. Stenson,
(1984) 465 U.S. 886 ..... 20
Boeing Co. v. Van Gemert,
(1980) 444 U.S. 472 ..... 21
Carrington v. Starbucks Corp.,
(2018) 30 Cal.App.5th 504 ..... 16
Cazares v. Saenz,
(1989) 208 Cal.App.3d 279 ..... 26
Chavez v. Netflix, Inc.,
(2008) 162 Cal.App.4th 43 ..... 23
City of Oakland v. Oakland Raiders,
(1988) 203 Cal.App.3d 78 ..... 23
Class Plaintiffs v. City of Seattle,
(9th Cir. 1992) 955 F.2d 1268 ..... 11
Deposit Guaranty Nat'l Bank, Jackson, Miss. v. Roper,
(1980) 445 U.S. 326 ..... 19
Dunk v. Ford Motor Co.,
(1996) 48 Cal.App.4th 1794 ..... 11, 12
Evans v. Jeff D.,
(1986) 475 U.S. 717, fn. 30 ..... 19
Harris v. Marhoefer,
(9th Cir. 1994) 24 F.3d 16 ..... 27
Hensley v. Eckerhart,
(1983) 461 U.S. 424 ..... 19
Hernandez v. Restoration Hardware, Inc.,
(2018) 4 Cal.5th 260 ..... 20
Huntington Mem'l Hosp. v. Superior Court,
(2005) 131 Cal.App.4th 893 ..... 14
*In re Omnivision Techs., Inc.* (N.D. Cal. 2008) 559 F.Supp.2d 1036 ..... 24
In re Taco Bell Wage and Hour Actions, (E.D. Cal. Apr. 8, 2016) 2016 U.S. Dist.
LEXIS 48557 ..... 16
In re Warner Communications Sec. Litig.,
(S.D.N.Y. 1985) 618 F.Supp. 735 ..... 21, 25
In re: American Bank Note Holographics,
127 F.Supp.2d 418 (S.D.N.Y. 2001) ..... 13
Jennings v. Open Door Mktg. Inc., (N.D. Cal. Oct. 3, 2018) 2018 U.S. Dist.
LEXIS 171356, at *27 ..... 17
Ketchum v. Moses,

(2001) 24 Cal.4th 1122 ..... 26
Laffitte v. Robert Half Int'l., Inc.,
(2016) 1 Cal.5th 480 ..... 20, 21
Lealao v. Beneficial Cal., Inc.,
(2000) 82 Cal.App.4th 19 ..... 18, 19, 20
Levy v. Toyota Motor Sales, U.S.A.,
(1992) 4 Cal.App.4th 807 ..... 18
Mandujano v. Basic Vegetable Prods., Inc.,
541 F.2d 832 (9th Cir. 1976) ..... 13
McKittrick v. Gardner,
(4th Cir. 1967) 378 F.2d 872 ..... 26
Newberg on Class Actions (3d ed.) § 14.03 ..... 21, 26
Newberg, at §§ 11.22 ..... 11
Paul, Johnson, Alston & Hunt v. Graulty,
(9th Cir. 1989) 886 F.2d 268 ..... 24
Potter v. Pacific Coast Lumber Co.,
(1951) 37 Cal.2d 592 ..... 11
Powers v. Eichen,
(9th Cir. 2000) 229 F.3d 1249 ..... 25
Rider v. County of San Diego,
(1992) 11 Cal.App.4th 1410 ..... 27
Serrano v. Priest,
(1977) 20 Cal.3d 25 ..... 21, 27
Slavkov v. First Water Heater Partners I, (N.D. Cal. July 25, 2017) 2017 U.S. Dist.
LEXIS 116303 ..... 16
Staton v. Boeing,
(9th Cir. 2003) 327 F.3d 938 ..... 18
Van Bronkhorst v. Safeco Corp.,
(9th Cir. 1976) 529 F.2d 943 ..... 11
Van Kempen v. Matheson Tri-Gas, Inc., (N.D. Cal. Aug. 25, 2017) 2017 U.S.
Dist. LEXIS 137182 ..... 16
Vincent v. Hughes Air West, Inc.,
(9th Cir. 1977) 557 F.2d 759 ..... 21
Wershba v. Apple Computer,
(2001) 91 Cal.App.4th 224 ..... 11, 12, 20, 23
White v. Starbucks Corp.,
(N.D. Cal. 2007) 497 F.Supp.2d 1080 ..... 14

**Statutes**

Labor Code sections 203 and 226 ..... 16
Labor Code § 2699(e)(2) ..... 16
Labor Code section 2699(s)(2) ..... 11

**Rules**

Cal. Rule of Court 3.769 ..... 11, 18

## Other Authorities

A. Conte, Attorney Fee Awards (2d ed. 1993) ..... 21,23

H. Newberg & A. Conte, 4 Newberg on Class Actions (4th ed. 2002) § 11.41 ..... 11

H. Newberg & A. Conte, Newberg on Class Actions (4th ed. 2002) § 11.22 et seq. ..... 11

§ 11.41 ..... 11

## I. INTRODUCTION

Plaintiff and Class Representative Ashley Hudson seeks final approval of a non-reversionary class and representative action settlement resolving wage and hour claims on behalf of 173 individuals who worked for Defendants Davis Vision, Inc. or Superior Vision Services, Inc. or any other direct or indirect subsidiary of Versant Health, Inc. (collectively "Versant") as non-exempt employees in California between May 1, 2020 and May 29, 2026, and/or individuals who were assigned to perform services for Versant in a non-exempt role via a staffing agency in California between May 1, 2020 and May 29, 2026, excluding any individuals who previously signed releases covering the Released Claims and/or Released PAGA Claims.

The proposed $415,850.63 total settlement (escalated from the original amount of $382,500) provides about $201,383.19 in cash payments to the Class, with an average award of about $1,164, plus additional amounts payable under PAGA. The remaining balance will cover a modest service award to Plaintiff, settlement administration costs, payment of civil penalties to the State and Aggrieved Employees, and reasonable attorney's fees and costs. The parties and their counsel finalized the settlement after extensive and difficult arms-length negotiations overseen by an experienced and highly-regarded mediator. The Court conditionally certified the Class and preliminarily approved the settlement on May 29, 2026. Since then, the Court-approved notice form was mailed to the Class Members on August 7, 2026, and they reacted very favorably to the settlement, as zero Class Members requested exclusion and there are no objections.

Class Counsel secured an excellent settlement with Defendants after extensive investigation, litigation, and settlement negotiation and administration, all without any compensation for services rendered or costs expended. The class notice duly informed the class members that Class Counsel would request attorney's fees not to exceed 1/3 of the escalated Maximum Settlement Amount, or $138,616.88, along with reimbursement of no more than $30,000 for actual costs incurred litigating this matter. As of the filing of this motion, *not one Class Member objected* to the proposed fee award. Consistent with the Settlement and notice, Plaintiff now respectfully requests the Court award Class Counsel's

fees in the amount of $138,616.88 and costs in the amount of $29,129.56, as described in the Declaration of Jamie Serb ("Serb Decl.") filed herewith. The requested attorney's fees are well within the range of reasonableness, especially considering the complex and risky nature of this litigation, the contingent risk assumed, the nearly two-year plus delay in payment and, when subjected to a lodestar crosscheck, results in a fee equal to the base lodestar with a modest 1.08 upward modifier.

Accordingly, on behalf of herself and the Settlement Class, Plaintiff respectfully requests the Court grant this motion, give full and final approval to the settlement, grant Class Counsel's request for attorney's fees and costs, and enter judgment accordingly.

## II. FACTUAL BACKGROUND AND PROCEDURAL POSTURE

Versant administers managed vision care plans for customers. Plaintiff Ashley Hudson worked for Versant as a non-exempt Customer Service Specialist from 2019 through March 2023. During her employment, she typically worked Monday through Friday from 6:30 a.m. to 3:00 p.m., five days per week. On occasion, she also worked overtime hours. She was paid an hourly wage. [Serb Decl., ¶ 2.]

On May 1, 2024, Plaintiff filed a class action complaint against Defendants for several alleged violations of the Labor Code and IWC Wage Orders. In her complaint, Plaintiff contended she and other employees worked "off the clock" and that Defendants failed to pay for all hours worked. Plaintiff also alleged she and other employees did not receive all required meal breaks mandated under the Labor Code and IWC Wage Orders, or that the breaks were non-compliant and started after the fifth hour of work or lasted less than 30 minutes. Similarly, Plaintiff alleged Defendants failed to provide all required rest breaks. Plaintiff also contended Defendants failed to fully reimburse employees for all reasonable and necessary business expenses, including personal cell phone expenses and expenses incurred working remotely from home. Lastly, Plaintiff alleged claims for failing to provide proper itemized wage statements and payment of all wages due on separation of employment. On May 2, 2024, and after notice to the LWDA and Defendants and exhausting administrative remedies, Plaintiff filed a separate PAGA-only representative action complaint against Defendants. Plaintiff later filed a First Amended Complaint consolidating the

two matters, and the FAC is the operative complaint for purposes of settlement. [Serb Decl., ¶ 3.]

Defendants have at all times denied Plaintiff's allegations and maintained their meal and rest break, timekeeping, reimbursement, and payroll policies and procedures comply with California law, that they provided employees with fully compliant meal and rest breaks, and that they properly tracked employee time and paid Plaintiff and all other employees all wages due and at the correct hourly rate. Defendants further contend they fully reimbursed employees for all reasonable and necessary business expenses. Additionally, Defendants strongly contend the case cannot be maintained as any kind of class or representative action, arguing for example that to the extent class members did not take a meal break or that such breaks were non-compliant, it was due to the employee voluntarily choosing not to take a compliant break rather than due to any failure to provide the opportunity to take a compliant break. If the alleged violations are purely anecdotal, then individualized issues may predominate and trial would become unmanageable. [Serb Decl., ¶ 4.]

After Plaintiff filed her complaint, the Parties engaged in substantial meet and confer discussions regarding discovery, potential law and motion, and other case management issues, and ultimately agreed to attempt early mediation. The Parties also agreed on an informal exchange of information necessary to engage in a meaningful mediation. The Parties then engaged Michael Young, Esq., a highly respected mediator with extensive wage and hour class action experience and, on July 18, 2025, participated in a full day mediation with Mr. Young and ultimately reached agreement on all major issues. [Serb Decl., ¶¶ 5-6.] The Court preliminarily approved the settlement on May 29, 2026.

Class Notices were mailed to class members on August 7, 2026, with a 60-day window (to October 6, 2026) for class members to opt out or object to the proposed settlement. [Declaration of Ben Conn ("Conn Decl."), ¶¶ 8, 11.]

## III. THE PROPOSED SETTLEMENT TERMS

Under the settlement, Defendant Versant will pay $415,850.63 into a common fund, the Maximum Settlement Amount ("MSA"), which amount was increased under the Settlement Agreement's escalator provision from the original amount of $382.500. [Conn Decl., ¶ 6.]

Reasonable attorney's fees of up to one-third of the escalated MSA, or $138,616.88, actual litigation costs of up to $30,000 (only $29,129.56 is requested), a modest enhancement award of up to $10,000 for plaintiff, settlement administration costs of $6,721.00, and a payment of $30,000 for alleged civil penalties under PAGA (of which $22,500 will go to the LWDA with the remaining $7,500 to the Aggrieved Employees), all will be paid from the MSA. The remainder of approximately $201,383 will be allocated among the Participating Class Members based on their total weeks worked during the Class Period. No portion of the MSA will revert to the Defendants. [Serb Decl., ¶ 7.]

**A. Certification of the Settlement Class**

The Court conditionally certified a settlement class defined to include all individuals employed by Versant as non-exempt employees in California between May 1, 2020 and May 29, 2026 and/or individuals who were assigned to perform services for Versant in a non-exempt role via a staffing agency in California between May 1, 2020 and May 29, 2026, excluding any individuals who previously signed releases covering the Released Claims and/or Released PAGA Claims. The Settlement Administrator ultimately mailed notices to 173 individuals identified as members of the Class. [Conn Decl., ¶ 8.] Nothing has changed to warrant reconsideration of the Court's certification of the class for settlement purposes only.

**B. The Benefit Conferred on the Settlement Class**

As noted, the settlement now obligates Versant Health to pay the escalated amount of $415,850.63 to resolve the Settlement Class's claims, inclusive of attorney's fees and costs. This is a cash settlement that does not require Participating Class Members to submit a claim form to receive their settlement share. Participating Class Members will receive their settlement checks automatically via First Class U.S. Mail. One-third of each settlement share will be allocated to wages and the remaining two-thirds will be allocated to expenses, penalties and interest. Versant Health, Inc. will pay any and all applicable employer-side payroll taxes separately and in addition to the MSA. Subject to the Court's approval, any amounts not claimed (because a class member does not cash his or her settlement check) will be forwarded to the California State Controller's Unclaimed Property Fund. [Serb Decl., ¶ 8.]

Each Class Member's Individual Settlement Payment will be calculated using criteria typically used in determining appropriate amounts of unpaid wages, unpaid premium wages for missed meal breaks, and potential statutory penalties under applicable law. These methods are intended to ensure each Class Member receives a portion of the available settlement funds corresponding to the relative value of his or her potential claims. The proposed allocation provides a reasonable way to compensate Class Members based on the amount of time they worked for Versant. [Serb Decl., ¶ 9.]

The average class award will be approximately $1,159, and class awards will range from $4.27 to $3,130. The average PAGA award will be about $110, and PAGA awards will range from $1.83 to $153. [Conn Decl., ¶¶ 17, 19.]

**C. Settlement Administration**

Simpluris, Inc., as the Court-approved Settlement Administrator, mailed the Notice Packet to the Class members after making all reasonable effort to ascertain the best mailing address, including running each address through the National Change of Address database and "skip-tracing" any Notice Packets returned as undeliverable. [Conn Decl., ¶¶ 4-10.] The Class Notice, previously approved by the Court, duly informed Class Members of the settlement terms, including the estimated relief each Class Member will receive, the amounts to be requested for attorney's fees and the class representative enhancement awards, and the right to opt out of or object to the settlement. [Conn Decl., ¶ 8, Exh. A.] Simpluris mailed 173 Notice Packets on August 7, 2026. [Conn Decl., ¶ 8.] Ultimately, only one Notice Packet was deemed undeliverable, representing a 99.4% success rate. [Conn Decl., ¶ 9.] The 60-day response window for objecting to the settlement expired on October 6, 2026. [Conn Decl., ¶ 8.] As of the filing of this motion, Simpluris has received zero requests for exclusion (for a 100% participation rate), and zero objections to the settlement. No disputes have been submitted regarding the information used to calculate class member settlement shares. [Conn Decl., ¶¶ 12-14.]

**D. Release of Claims**

All Participating Class Members will be deemed to release Defendants and the Released

Parties from all claims alleged in the operative First Amended Complaint, or that could have been brought based on the facts, claims, and/or allegations in the operative complaint, including PAGA claims, that arose during the Class Period and PAGA Period. [Serb Decl., ¶ 10.]

**E. PAGA Claims and Notice to the LWDA**

The Parties allocated $30,000 to payment of civil penalties under PAGA for such claims against Defendants, as addressed in more detail below, and Plaintiff submits that amount is fair, reasonable and adequate, and consistent with PAGA's underlying purposes. As required by Labor Code section 2699(s)(2), Plaintiff gave notice of the settlement and final approval hearing to the LWDA via its online portal. [Serb Decl., ¶ 11; Exh. 1.]

## V. ARGUMENT

The law favors settlement, particularly in class actions where substantial resources can be conserved by avoiding the time, cost, and rigors of formal litigation. H. Newberg & A. Conte, 4 Newberg on Class Actions (4th ed. 2002), § 11.41; Class Plaintiffs v. City of Seattle (9th Cir. 1992) 955 F.2d 1268, 1276, cert. denied, 506 U.S. 953; Van Bronkhorst v. Safeco Corp. (9th Cir. 1976) 529 F.2d 943,950; Potter v. Pacific Coast Lumber Co. (1951) 37 Cal.2d 592, 602. Nevertheless, to make certain the rights of absent parties are not unjustly compromised, the settlement of a class action requires court approval. Cal. Rule of Court 3.769; Dunk v. Ford Motor Co. (1996) 48 Cal.App.4th 1794, 1801; Wershba v. Apple Computer (2001) 91 Cal.App.4th 224, 245. The purpose of that judicial review is to protect against fraud or collusion, and to ensure fairness to absent class members. Dunk, 48 Cal.App.4th at 1800-01; Newberg, at §§ 11.22, *et seq.* Review is accomplished through a two-step process intended to determine whether, under the totality of circumstances, the settlement is fair, reasonable and adequate. Dunk, 48 Cal.App.4th at 1801; Wershba, 91 Cal.App.4th at 245.

On a motion for final approval, the trial court is charged with determining whether, in light of the total circumstances of the action and the response of the class members to the proposed settlement, the settlement is fair, reasonable, and adequate. Dunk, 48 Cal.App.4th at 1801-02; Wershba, 91 Cal.App.4th at 244-45. The court has broad discretion in making that determination and may consider a number of relevant factors, including: the strength of

plaintiff's case; the likelihood of potential recovery; the risk, expense and likely duration of further litigation; the amount offered in settlement; the extent of discovery and stage of the proceedings; the experience and opinion of counsel; and the reaction of class members to the settlement. Id. In light of the strong judicial policy favoring the settlement of class actions, courts·generally apply a presumption of fairness to a proposed class action settlement when: (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. Dunk, 48 Cal.App.4th at 1802; Wershba, 91 Cal.App.4th at 245.

### A. The Proposed Settlement Merits Final Approval

The proposed settlement of this action warrants final approval under the standards summarized above. The settlement is fair, reasonable and adequate, and represents a favorable resolution of highly disputed claims. Further, the settlement was overwhelmingly approved by the class members, as there were no objections and no Class Member requested exclusion, for a 100% participation rate.

#### 1. The Settlement Is the Product of Arm's-Length, Informed Negotiations.

The settlement is not the result of fraud or collusion. Rather, the proposed settlement was reached following arm's-length negotiations presided over by Michael Young, Esq., a highly respected and well-known mediator with extensive experience mediating wage and hour class actions. [Serb Decl., ¶ 6.] Moreover, Plaintiff and her counsel were well-informed about the facts and the law, and counsel Zach Crosner and Jamie Serb, and Crosner Legal, PC, have years of litigation experience, including litigating wage and hour class actions. Plaintiff's counsel are well-qualified to evaluate the risks and benefits of pursuing further litigation or settling the matter. [Serb Decl., ¶¶ 28-35.] Defendants likewise were represented by highly-qualified and experienced defense counsel. Both sides advocated vigorously for their clients, and nothing was "left on the table."

#### 2. The Class Reacted Favorably to the Settlement

The settlement was well-received by the class. As of the filing of this motion, no objections have been filed, and zero Class Members requested exclusion out of 173 settlement class members. [Conn Decl., ¶¶ 12-13.] As many courts recognize, class member reaction to the settlement is one of the most important factors to consider in determining if final approval should be granted. Mandujano v. Basic Vegetable Prods., Inc., 541 F.2d 832, 837 (9th Cir. 1976); see also In re: American Bank Note Holographics, 127 F.Supp.2d 418, 425 (S.D.N.Y. 2001) ("It is well-settled that the reaction of the class to the settlement is perhaps the most significant factor to be weighed in considering its adequacy") (internal quotation marks omitted).

**3. The Settlement Is Fair and Reasonable Considering the Benefits Conferred, the Case Value, and Significant Litigation Risks**

Prior to mediation, the parties engaged in substantial informal discovery to facilitate settlement discussions. As a result, Plaintiff reviewed documents and information regarding Versant's payroll practices, pay stubs and time records for essentially all of the class members, meal and rest break policies, etc., and information from Defendants regarding class size, work weeks, rates of pay, and other information used to formulate a damages model. Plaintiff had this extensive information analyzed by a consulting expert to look for meal and rest break violation rates, overtime pay lost, and other issues relevant to liability and damages. Plaintiff's counsel are confident they obtained sufficient information to enable them to understand the law and facts of this case and make an informed decision regarding the proposed settlement and whether it is in the best interests of the class. [Serb Decl., ¶¶ 5, 12.]

Using that data, Plaintiff ran various calculations and estimated Defendants' likely maximum exposure on the class claims at approximately $3,260,550, including about $254,490 on the unpaid wage/off the clock claim, $2,250 on the underpaid overtime/regular rate claims, $658,535 on the meal break claims, $1,626,795 on the rest break claims, $170,000 on the expense reimbursement claims, $300,000 on the wage statement claims, and $248,480 on the waiting time penalty claims. [Serb Decl., ¶ 13.] Plaintiff and her counsel substantially discounted the value of these claims, however, in light of the multiple and considerable risks posed by proceeding with the

litigation.

On the unpaid wage claims, Plaintiff first alleged she and other employees regularly performed off-the-clock work prior to the start of a scheduled shift as on each day it took approximately 3 to 5 minutes to start up computers and receive a security code on her mobile phone as part of a multi-step authentication process required to access necessary work software, including an application called Dayforce that was used to clock in and out for her shifts and to record meal periods. Plaintiff further alleges employees had to review Quality Assurance Reports and submit rebuttals approximately 4 to 6 times per month, which reports could not be completed on the clock because of the volume of incoming calls during scheduled hours. [Serb Decl., ¶ 14.]

Second, Plaintiff alleged that Versant incorrectly calculated Class Members' regular rate of pay when compensating them with overtime wages and sick pay wages, by failing to include additional compensation (i.e., bonuses) earned by Class Members. The regular rate of pay must include all remunerations, including bonuses. "Where an employee receives a higher wage or rate because of undesirable hours or disagreeable work, such wage represents a shift differential or higher wages because of the character of work done or the time at which he is required to labor. Such payments enter into the determination of the regular rate of pay." Huntington Mem'l Hosp. v. Superior Court (2005) 131 Cal.App.4th 893, 894; Alvarado v. Dart Container Corp. of Cal. (2018) 4 Cal.5th 542 (bonuses should be factored into the employee's regular rate of pay so the regular rate reflects all forms of regular compensation that the employee earned). Accordingly, Plaintiff alleges underpaid class members for overtime and sick wages. [Serb Decl., ¶ 15.]

In response to Plaintiff's unpaid wage claims, Defendants argued their timekeeping and payroll practices accurately captured all hours worked by the class members and paid for those hours at the correct hourly rates, including both overtime pay and sick pay. Defendants further argued their policies strictly prohibited off-the-clock work and, to the extent any such work occurred it was aberrational and intermittent, and performed without management's approval or knowledge. White v. Starbucks Corp. (N.D. Cal. 2007) 497 F.Supp.2d 1080, 1083 (employer must have actual or constructive knowledge of the off the clock work). For similar reasons, Defendants emphasized this issue would not be amenable to class treatment since individualized inquiries

would be required to determine on a case-by-case basis if any alleged off the clock work was in fact compensable. As for the regular rate claim, Defendants asserted that the majority of Class Members did not earn any non-discretionary incentive pay to begin with that would differentiate the regular rate from the standard hourly rate and Defendants submit that the regular rate was otherwise calculated correctly. [Serb Decl., ¶ 16.]

On the meal break claims, Plaintiff argued Defendants' meal and rest break policy was not fully compliant with California law and, regardless, that Plaintiff's review of the time and payroll records provided suggested numerous "de facto" violations, such as late and short meal breaks or missed second meal periods. Plaintiff's review of the time records produced suggested around 44.8% of shifts had a unique violation for a missed, late, or short meal period. Plaintiff similarly argued that Defendants failed to provide all required rest breaks, and in particular employees missed breaks due to the high volume of incoming customer calls that made it difficult to either take a break at all or to take a compliant break. [Serb Decl., ¶ 17.]

In response, Defendants argued their break policies were fully compliant and that it met its obligation to provide employees with all required meal and rest periods. Per Defendants, many class members waived meal periods when appropriate and also that, in light of the compliant policies, whether a class member missed a meal period, received a late meal period, or missed a rest break would have been aberrational and against company policy. In addition, Defendants challenged the methodology used to calculate the meal break violation rate and disputed that a majority of these instances actually demonstrated a violation, even as a rebuttable presumption. Thus, per Defendants, these issues are not amenable to class or representative treatment since their resolution would require individualized inquiries as to why a break was missed or non-compliant and whether a violation actually occurred. [Serb Decl., ¶ 18.]

On the expense reimbursement claims, Plaintiff argued that employees who worked remotely incurred various costs including personal cell phone use, internet, electricity, and supplies, all of which were only partially reimbursed by Defendants. Here, while Plaintiff acknowledged employees received a $16.25 expense allowance per bi-weekly paycheck, she also argued that amount simply was insufficient to completely reimburse for all expenses required to work remotely.

On the other hand, Defendants argued this allowance did fully reimburse all necessary and reasonable expenses, and to the extent employees chose to incur additional expenses, such as extra high-speed internet, it was purely for personal preference and not reasonable business expenses. [Serb Decl., ¶ 19.]

The claims under Labor Code sections 203 and 226 are derivative of the primary unpaid wage claims, and accordingly are subject to the same risks and uncertainties plus additional risks posed by the need to account for the "good faith" and other defenses available to Defendants. Amaral v. Cintas Corp. No. 2 (2008) 163 Cal.App.4th 1157, 1203-4 (employer did not willfully fail to pay wages under Labor Code § 203 even though class prevailed on underlying claim for failure to pay living wages). Thus, while these claims largely are derivative of the unpaid wage claim, they also are subject to additional defenses. [Serb Decl., ¶ 20.]

As far as potential PAGA liability, the allegedly aggrieved employees theoretically are entitled about $1.5 million in civil penalties should Plaintiff prevail on all claims and establish violations of the multiple Labor Code sections at issue for every single pay period. [Serb Decl., ¶ 21.] As with the class claims, Plaintiff discounted the potential PAGA penalties based on Defendants' various defenses on the merits and also accounted for the Court's wide discretion to reduce such penalties, or to decline to award penalties at all. Labor Code § 2699(e)(2); Carrington v. Starbucks Corp. (2018) 30 Cal.App.5th 504 (trial court awarded penalties of $5 per pay period after a bench trial, which decision was upheld on appeal); In re Taco Bell Wage and Hour Actions (E.D. Cal. Apr. 8, 2016) 2016 U.S. Dist. LEXIS 48557 (PAGA penalties denied after trial). Accordingly, the Parties allocated $30,000 to PAGA penalties, and Plaintiff submits this amount is reasonable under the circumstances and in line with comparable settlements in other wage and hour class actions in California. *E.g.*, Van Kempen v. Matheson Tri-Gas, Inc. (N.D. Cal. Aug. 25, 2017) 2017 U.S. Dist. LEXIS 137182 (granting final approval of $5,000 PAGA penalty from $370,000 settlement, or 1.4 percent of total settlement); Slavkov v. First Water Heater Partners I (N.D. Cal. July 25, 2017) 2017 U.S. Dist. LEXIS 116303 (finding a $7,500 PAGA payment reasonable when measured against the overall settlement of $345,000 and the possible weaknesses in Plaintiffs' case, or 2.2 percent of total settlement). Additionally, the LWDA has been informed of the terms of the

PAGA portion of the settlement, and will be able to weigh in as necessary. Jennings v. Open Door Mktg. Inc. (N.D. Cal. Oct. 3, 2018) 2018 U.S. Dist. LEXIS 171356, at *27 (approving settlement with PAGA penalties of 0.6% where "[p]laintiffs [have] submitted the settlement agreement to the LWDA, and the LWDA has not objected to the settlement.

The settlement obviates the significant risk that this Court may find any kind of class or representative resolution unachievable or deny certification of all or some of Plaintiff's claims. Furthermore, even if Plaintiff obtained certification of all or some of the claims, continued litigation would be lengthy and expensive as the Parties pursued merits discovery, a probable motion to decertify, as well as trial and possible appeals, and would substantially delay any recovery by the class with no assurance of recovering significantly more than the proposed settlement. While Plaintiff is confident in the merits of these claims, legitimate controversies exist regarding each one of them and Plaintiff also recognizes proving the amount of wages and penalties due each Class Member would be an expensive, time-consuming, and uncertain proposition. [Serb Decl., ¶ 22.]

Plaintiff and her counsel discounted the value of the class claims consistent with the risks discussed above, and carefully weighed the likelihood of the class receiving substantially greater benefit if the litigation continued. Plaintiff and counsel concluded – in light of these very real and substantial risks – settlement on the proposed terms and without prolonged and costly litigation was in the best interests of the class. The initial $382,500 recovery represented a significant percentage of Defendant's potential exposure – around 11.7% of the overall class exposure and about 8% of the estimated class/PAGA exposure, and around 78% of the estimated risk-discounted exposure, and now has been escalated to $415,850.63 to account for additional work weeks. Given the various procedural and merits risks addressed above, the total escalated recovery for the class of $415,850.63, which will result in average award of some $1,159 per class member, plus additional amounts under PAGA, is a significant result well within the range of reasonableness considering all potential outcomes, and it will provide direct monetary awards to all Class Members without further delay. [Serb Decl., ¶ 23.]

## V. PLAINTIFF'S ENHANCEMENT AWARD

Under the terms of the settlement, Plaintiff seeks a modest incentive award of $10,000

for her service in bringing these claims on behalf of the Class. Staton v. Boeing (9th Cir. 2003) 327 F.3d 938, 977 (collecting cases awarding class representatives service and incentive payments ranging from $2,000 to $25,000). The request is reasonable given the risks she undertook on behalf of the Class Members. By contacting and retaining counsel to pursue these claims, Plaintiff helped make this settlement possible for the absent Class Members, while shouldering the risk of being liable for Defendant's litigation costs. Plaintiff also exposed herself to unwanted notoriety related to filing a public lawsuit (discoverable even through a simple google search) for the benefit of other employees, placing herself at risk of discrimination by future prospective employers. As set forth in more detail in her declaration submitted with the preliminary approval motion, among taking many other actions assisting in the successful litigation of this case, Plaintiff provided substantial factual information and documents to counsel, attended numerous meetings/phone conferences with counsel to discuss the case, and kept abreast of all significant developments. [Declaration of Ashley Hudson, ¶¶ 2-9 (filed February 23, 2026); Serb Decl., ¶ 24.] Finally, there are no class member objections submitted with respect to the amounts Plaintiff proposes to receive. [Conn Decl., ¶ 13.] Accordingly, the requested enhancement payment to Plaintiff is appropriate and justified as part of the settlement.

## VI. SETTLEMENT ADMINISTRATION COSTS

The settlement provides for a payment to Simpluris for its services as the Settlement Administrator. As set forth in the Declaration of Ben Conn, Simpluris has performed and will continue to perform its required duties through final distribution of the settlement funds and incurred $6,721.00 in fees and expenses. [Conn Decl., ¶ 30.] Accordingly, Plaintiff respectfully requests the Court approve payment of $6,721.00 to Simpluris from the MSA. [Serb Decl., ¶ 25.]

## VII. ATTORNEY'S FEES AND COSTS

### A. The Attorney's Fees Requested Are Fair and Reasonable and Should Be Approved

This Court has discretion over the amount of attorneys' fees awarded and court approval is required for Class Counsel's fees. Cal. Rule of Court 3.769; Levy v. Toyota Motor Sales, U.S.A. (1992) 4 Cal.App.4th 807, 813; Lealao v. Beneficial Cal., Inc. (2000) 82 Cal.App.4th

19. In defining a reasonable fee, the Court should attempt to mimic the marketplace for cases involving significant contingent risk, such as this one. Deposit Guaranty Nat'l Bank, Jackson, Miss. v. Roper (1980) 445 U.S. 326, 338, rehg. den. 446 U.S. 947*;* Lealao*,* 82 Cal.App.4th at 49-50 (court should attempt "to award the fee that informed private bargaining, if it were truly possible, might have reached" in determining a reasonable fee, and a fee award should approximate a "range of fees freely negotiated in comparable litigation"). Here, Class Counsel's request for attorney's fees and costs is reasonable and justified by the work performed, the benefits obtained, and the contingent risk assumed.

As addressed in detail above, at the time the parties reached the tentative settlement success for Plaintiff and the putative class was far from certain. Plaintiff faced a real risk that some or all the claims would not be certified for class treatment, as Defendant had strong arguments that its compensation policies were legal and properly compensated the class members, that the class might not be sufficiently numerous, and that many putative class members previously waived the claims at issue. Even if Plaintiff certified some or all of the claims and ultimately prevailed on the merits, it undoubtedly would have taken several years to realize any recovery while they pursued class certification, trial, and an almost certain appeal. [Serb Decl., ¶¶ 14-21.]

Nonetheless, Plaintiff succeeded and expeditiously obtained the relief she set out to obtain, and the settlement provides substantial cash payments to Class Members, with an average award of about $1,159, and with a maximum award of over $3,100. Importantly as well, the Class Members have been overwhelmingly supportive of the Settlement – as of the filing of this motion, there are no objections to the settlement and no opt outs. [Conn Decl., ¶¶ 12-13.]

**B. The Requested Fee Award Is Reasonable and Appropriate**

The United States Supreme Court has ruled the parties to a class action properly may negotiate not only the settlement of the action itself but also the payment of attorney's fees. Evans v. Jeff D. (1986) 475 U.S. 717, 734-35, 738, fn. 30.) In Hensley v. Eckerhart (1983) 461 U.S. 424, 437, the Supreme Court explained that negotiated, agreed-upon attorney's fee

provisions are the ideal towards which the parties should strive: "A request for attorney's fees should not result in a second major litigation. Ideally, of course, litigants will settle the amount of a fee." The United States Supreme Court has reemphasized this policy and further stressed trial courts have "a responsibility to encourage agreement" on fees. Blum v. Stenson (1984) 465 U.S. 886, 902 n.19.

As part of the Settlement, Defendants agreed not to object to an award of no more than one-third of the MSA for attorney's fees, or $127,500.00, and up to $30,000 in reimbursement for litigation costs and expenses (although only $29,129.56 is requested). Such a fee is commensurate with what the market would provide for similar services and the Court therefore can most certainly enforce the agreement. As California's Court of Appeal has instructed:

> Given the unique reliance of our legal system on private litigants to enforce substantive provisions of law through class and derivative actions, attorneys providing the essential enforcement services must be provided incentives roughly comparable to those negotiated in the private bargaining that takes place in the legal marketplace, as it will otherwise be economic for defendants to increase injurious behavior.

Lealao, 82 Cal.App.4th at 47.

Here, the parties did not negotiate the inclusion of attorney's fees until after extensive arms-length bargaining regarding relief to the Class was completed. [Serb Decl., ¶ 26.] The requested fee and cost award was a product of these arms-length negotiations and fairly reflects the marketplace value of the services rendered by Class Counsel in this case. As a result, the fee agreed to by the parties should be approved.

### C. Class Counsel's Fees are Justified When Calculated as a Percentage of the Common Fund

In approving fee applications, courts typically apply either a percentage-of-recovery method or the lodestar method. Laffitte v. Robert Half Int'l., Inc. (2016) 1 Cal.5th 480, 489; Wershba v. Apple Computer, Inc. (2001) 91 Cal.App.4th 224, 254, disapproved on other grounds, Hernandez v. Restoration Hardware, Inc. (2018) 4 Cal.5th 260. The California Supreme Court recently recognized the advantages and equities of calculating attorney's fees using the percentage-of-the-common-fund method in another wage-and-hour case:

> The recognized advantages of the percentage method-including relative ease of

> calculation, alignment of incentives between counsel and the class, a better approximation of market conditions in a contingency case, and the encouragement it provides counsel to seek an early settlement and avoid unnecessarily prolonging the litigation convince us the percentage method is a valuable tool that should not be denied our trial courts.

Laffitte, 1 Cal.5th at 503 (citations omitted).

Indeed, both California and federal courts have long recognized an appropriate method for determining the award of attorney's fees is based on a percentage of the total value of benefits afforded to class members by the settlement. Serrano v. Priest (1977) 20 Cal.3d 25, 34; Boeing Co. v. Van Gernert (1980) 444 U.S. 472, 478; Vincent v. Hughes Air West, Inc. (9th Cir. 1977) 557 F.2d 759, 769. Awarding a fee based on a percentage of the common fund recovered operates to "spread litigation costs proportionately among all the beneficiaries so that the active beneficiary does not bear the entire burden alone." Vincent, 557 F.2d at 769.

In determining a reasonable common fund fee award, courts should also consider the fact that fees serve as an economic incentive for lawyers to bring class action litigation to achieve increased access to the judicial system for meritorious claims and to enhance deterrents to wrongdoing. Conte, Attorney Fee Awards (2d ed. 1993) § 104. Without prosecution on a contingent basis and use of the class action mechanism, the courthouse door would effectively be closed to most class members due to the relatively small size of their individual claims in relation to the enormous time and cost associated with class action litigation.

Here, Class Counsel seek a fee award for their successful prosecution and resolution of this action of no more than one-third of the total amount recovered by the Class via the lawsuit, or $138,616.88. The percentage requested is justified for the reasons set forth further below, and comports with fee awards calculated on a percentage-of-the-benefit basis. Indeed, review of class action settlements shows that courts have historically awarded fees in the range of 20 to 50 percent, depending upon the circumstances of the case. In re Warner Communications Sec. Litig. (S.D.N.Y. 1985) 618 F.Supp. 735, 749-50 (concluding that percentage fees in common fund cases range from 20 to 50 percent); Newberg, Newberg on Class Actions (3d ed.) § 14.03, pp. 13-14 ("Usually 50% of the fund is the upper limit on a reasonable fee award

from a common fund in order to assure that the fees do not consume a disproportionate part of the recovery obtained for the class, although somewhat larger percentages are not unprecedented.").

**D. A Lodestar Cross-Check Also Supports Class Counsel's Fee Request**

To ensure the fairness of an attorney's fee award, courts frequently conduct a lodestar cross check of counsel's fees. "A lodestar cross-check thus provides a mechanism for bringing an objective measure of the work performed into the calculation of a reasonable attorney fee." Laffitte, 1 Cal.5th at 504. Here, Class Counsel spent 151.95 hours of time on this matter, resulting in a modest and very reasonable lodestar of $128,690.

As is fully detailed in the Serb Declaration, Class Counsel's efforts included: (1) extensive pre-lawsuit investigation of the claims of Plaintiff and the putative class, including legal research, obtaining Plaintiff's employment records, research into similar claims and claims against other employers in the same industry, and attempts to locate and contact other employees of Defendants; (2) drafting a PAGA notice letter; (3) drafting the class complaint and related documents, and drafting the PAGA complaint and related documents; (4) case management, including communications with defense counsel, meeting and conferring/preparing case management statements, attending the initial CMC, etc.; (5) lengthy discussions with defense counsel regarding settlement/mediation and informal discovery needed for meaningful settlement discussions; (6) engaging in substantial informal discovery, including propounding informal discovery "requests" and reviewing documents and other information produced; (7) drafting a mediation brief and accompanying damages model after review and analysis of defendants' informal discovery production, and related work with Plaintiff's experts; (8) attending an all-day mediation and participating in follow up negotiations; (9) negotiating and drafting the settlement agreement and related documents; (10) drafting the motion for preliminary approval; (11) administration of the settlement, including communications with the Settlement Administrator and settlement class members; (12) drafting the motion for final approval and motion for attorney's fees, and attending the final approval hearing; and (13) extensive communications with the Plaintiff regarding case status, case investigation and document review, mediation, and settlement terms.

Additionally, Class Counsel will incur additional time following final approval to, inter alia, respond to class member inquiries, work with the Settlement Administrator on the distribution of settlement funds, and on the compliance hearing and amended judgment. [Serb Decl., ¶ 27, Exh. 2.]

In pursuing this matter, Class Counsel incurred total attorney's fees of $128,690, the lodestar is based on an eminently reasonable number of hours worked to litigate this matter to a successful conclusion (151.95 attorney hours), and the requested attorney hourly rates are reasonable and comport with hourly rates charged by other attorneys with similar experience in this practice area in California. [Serb Decl., ¶¶ 28-40; Exh 2.] On a lodestar basis, the fee request of $138,616.88 results in a base lodestar with a reasonable upward modifier of 1.08, which is entirely in line with California precedent. Indeed, California courts routinely approve multipliers in the in the 2-4 range to compensate for the time and risk of class action cases. Chavez v. Netflix, Inc. (2008) 162 Cal.App.4th 43, 66 (affirming attorneys' fee award including an upward multiplier of 2.5); Wershba, 91 Cal.App.4th at 255 ("Multipliers can range from 2 to 4 or even higher."); City of Oakland Oakland Raiders (1988) 203 Cal.App.3d 78, 85 (affirming a multiplier of 2.34).) Class Counsel submits that the requested 1.08 multiplier effectively operates to show that the percentage fee request is reasonable considering the challenges presented in this contingency fee matter, and appropriately compensates Class Counsel for the contingent risk assumed and delay in payment during the nearly 2 years counsel have been representing Plaintiff. Thus, the multiplier results in a fee constituting a fair and reasonable return on the contingency.

**E. The Award is Supported By 1) the Results Achieved; 2) the Risk, 3) the Skill Required, 4) the Contingent Nature of the Fee and 5) Awards in Similar Cases**

What has now emerged in most fee award decisions is the recognition that fee determinations in both common fund and statutory fee situations are incapable of mathematical precision because of the intangible factors that must be resolved in the court's discretion based on the circumstances of each particular case. Conte, § 207, p. 44. In determining an appropriate

fee in a common fund case, a Court must decide, based on the unique posture of each case, what percentage of the common fund would most reasonably compensate Class Counsel given the nature of the litigation and the performance of counsel. Paul, Johnson, Alston & Hunt v. Graulty (9th Cir. 1989 886 F.2d 268, 272) (the benchmark percentage fee may be adjusted to account for the circumstances involved in a case).

Courts apply a five-part test in calculating a reasonable percentage fee in common fund cases: (1) the results achieved; (2) the risk of litigation; (3) the skill required and the quality of work; (4) the contingent nature of the fee and the financial burden carried by the plaintiffs; and (5) awards made in similar cases. Laffitte, l Cal.5th at 489.

**1. The Results Achieved.**

Class Counsel obtained an excellent result in this case for the Class Members. The Settlement provides real monetary benefits to the Class Members, and the Settlement is particularly advantageous to the Class Member because the proceeds will be distributed shortly as opposed to waiting additional years for a similar, or possibly, less favorable result. Considering many individual claims would be very modest and would not be cost-effective to pursue successfully, the Settlement provided them with fair compensation for their claims. Moreover, the absence of any objection to either the Settlement or the attorney's fee request bolsters the excellent results. Indeed, the approval of the Class is overwhelming as indicated by the fact that not only one class member opted out. Additionally, the settlement amounts to a substantial percentage of the maximum value of the amount the Class might have obtained if it had tried the case and recovered on all theories seeking recovery of wages and penalties. "It is well-settled law that a cash settlement amounting to only a fraction of the potential recovery does not per se render the settlement inadequate or unfair." In re Omnivision Techs., Inc., 559 (N.D. Cal. 2008) F.Supp.2d 1036, 1042.

**2. Class Counsel Bore Considerable Risk.**

At the time of filing the complaint, Class Counsel recognized that they would have to expend a substantial amount of time and advance significant costs to prosecute a statewide class action suit with no guarantee of compensation or reimbursement, in the hope of

prevailing against a sophisticated company represented by first-rate attorneys. Despite their belief in the validity of Plaintiff's claims, they also knew they faced substantial risks of class certification and the ability to prove class-wide and individual damages. In light of the highly uncertain nature of this suit, Class Counsel also bore the risk that Defendant would dig in and attempt to bury their small firm in work. Given the small size of Class Counsel's firm, not receiving any compensation for several years while simultaneously advancing litigation costs posed considerable risk and difficulty. [Serb Decl., ¶¶ 41-42.]

**3. The Skill Required and the Quality of Work.**

Practice in the narrow area of wage and hour litigation requires skill, knowledge and experience. The issues presented in this case required more than just a general appreciation of wage and hour law and class action procedure. This Settlement was possible only because counsel persuaded Defendants that Plaintiff and the putative class had a realistic chance of prevailing on their claims despite Defendants' contrary arguments, and that the case would be pursued through class certification and trial if necessary. In successfully navigating these hurdles, Class Counsel displayed appropriate skill while pursuing a risky and difficult case.

**4. The Contingent Nature of the Fee and Risk Assumed**

There is a substantial difference between the risk assumed by attorneys being paid by the hour and attorneys working on a contingent fee basis. The attorney being paid by the hour can go to the bank with his fee. Powers v. Eichen (9th Cir. 2000) 229 F.3d 1249, 1256. The attorney working on a contingent basis can only log hours while working without pay towards a result that will hopefully entitle him to a market fee considering the risk and other factors of the undertaking. Id. at 1257. Otherwise, the contingent fee attorney receives nothing. Id. In this case, Class Counsel subjected themselves to this risk in this all or nothing contingent fee case wherein the necessity and financial burden of private enforcement makes the requested award appropriate.

Counsel retained on a contingency fee basis, whether in private matters or in class action litigation, is entitled to a premium beyond their standard, hourly, non-contingent

fee schedule to compensate for both the contingent risk assumed and the delay in payment. The simple fact is that despite the most vigorous and competent of efforts, success is never guaranteed. McKittrick v. Gardner (4th Cir. 1967) 378 F.2d 872, 875. Indeed, if counsel is not adequately compensated for the risks inherent in difficult class actions, competent attorneys will be discouraged from prosecuting similar cases. Ketchum v. Moses (2001) 24 Cal.4th 1122, 1132-33; Cazares v. Saenz (1989) 208 Cal.App.3d 279, 287.

Here, the contingent fee practices of Plaintiff's counsel simply do not accommodate the investment of unnecessary time in a case, and the adverse resolution of any one of several difficult issues present in this matter could have doomed the entire effort. As discussed, the attorney's fees in this case were not only contingent but fairly risky, and there was always a palpable chance Plaintiff's counsel would receive nothing for any number of reasons. [Serb Decl., ¶¶ 41-42.] Accordingly, the contingent nature of the fee and the financial burdens on Class Counsel and Plaintiff also support the fee requested.

**5. Awards in Other Cases**

As discussed, the attorney's fees requested by Class Counsel are within the range of fees awarded in comparable cases, and review of class action settlements over the past 10 years shows that the courts have historically awarded fees in the range of 20 to 50 percent, depending upon the circumstances of the case. In re Warner Communications Sec. Litig. (S.D.N.Y. 1985) 618 F.Supp. 735, 749-50 (concluding that percentage fees in common fund cases range from 20 to 50 percent); Newberg, Newberg on Class Actions (3d ed.) § 14.03, pp. 13-14 ("Usually 50% of the fund is the upper limit on a reasonable fee award from a common fund in order to assure that the fees do not consume a disproportionate part of the recovery obtained for the class, although somewhat larger percentages are not unprecedented."). Class Counsel's requested fees equal to one-third of the gross amount recovered on behalf of the class and are well within the range of reasonableness under either the percentage of the recovery or the lodestar method in light of the contingent risk assumed, the delay in payment, the result achieved, and the overall quality of the representation.

**F. Class Counsel's Costs and Expenses are Reasonable**

Plaintiff's counsel also requests reimbursement of actual out-of-pocket expenses incurred to prosecute this action. These expenses were incidental and necessary to the effective representation of the employees, and Plaintiff's counsel is permitted to recover litigation costs and expenses under the common fund doctrine and the Settlement Agreement. Serrano, 20 Cal.3d at 35 (common fund doctrine permits recovery of fees and costs from the fund); Rider v. County of San Diego (1992) 11 Cal.App.4th 1410, 1424 n.6 (costs are recoverable from the common fund "[o]f necessity, and for precisely the same reasons discussed above with respect to the recovery of attorneys' fees by ... [Plaintiffs'] attorneys"). Plaintiff's counsel also is entitled to recover "those out-of-pocket expenses that would normally be charged to a fee-paying client." Harris v. Marhoefer (9th Cir. 1994) 24 F.3d 16, 19.

Per the Serb Declaration, Class Counsel incurred a total of $29,129.56 in expenses in connection with this matter. These expenses include amounts paid for court filing fees, service of process, expert witness costs, postage, and mediation fees, all of which are costs normally billed to and paid by the client. These costs were reasonably incurred in the prosecution of this matter, and should be reimbursed in full. Plaintiff respectfully requests that the Court authorize reimbursement of counsel's costs in the amount of $29,129.56. [Serb Decl., ¶¶ 43-44.]

## VIII. CONCLUSION

For all the foregoing reasons, Plaintiff Ashley Hudson respectfully requests that the Court grant this motion and grant final approval of the proposed class action settlement and approve the payment of PAGA penalties to the State. Plaintiff further requests the Court approve payment of the Settlement Administrator's fees and expenses, approve the requested class representative enhancement payment, approve the award of attorney's fees and costs as requested, and enter judgment in this action. Finally, Plaintiff requests the Court set a final compliance hearing for November 19, 2027, or a later date convenient for the Court.

Dated: October 28, 2026.

CROSNER LEGAL, PC

*/s/ Jamie K. Serb*
Jamie K. Serb

Attorneys for Plaintiff Ashley Hudson