David Mara, Esq. (230498)
dmara@maralawfirm.com
Jill Vecchi, Esq. (299333)
jvecchi@maralawfirm.com
MARA LAW FIRM, PC
3160 Camino Del Rio South, Suite 207
San Diego, California 92108
Telephone: (619) 234-2833
Facsimile: (619) 234-4048

Colette Mahon, Esq. (304745)
cmahon@lfecr.com
LAWYERS FOR EMPLOYEE AND CONSUMER RIGHTS
3500 West Olive Avenue, Third Floor
Burbank, California 91505
Telephone: (323) 486-5101
Facsimile: (323) 306-5571

Attorneys for Plaintiff JOSE BARAJAS, on behalf of himself, all others similarly situated, and on behalf of the general public

SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF LOS ANGELES

JOSE BARAJAS on behalf of himself, all others similarly situated, and on behalf of the general public, Plaintiffs, v. BENNETT ENTERPRISES, A CALIFORNIA LANDSCAPE CONTRACTING CORPORATION; and DOES 1-100, Defendants.	Case No. 24STCV12791 [*Assigned for All Purposes to the Hon. Carolyn B. Kuhl; Dept. 12*] **PLAINTIFF JOSE BARAJAS' MOTION FOR FINAL APPROVAL OF CLASS AND PAGA ACTION SETTLEMENT** Date: August 6, 2026 Time: 10:30 a.m. Complaint Filed: May 21, 2024 Trial Date: None Set

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I. INTRODUCTION

This motion seeks approval of a non-reversionary $500,000 proposed wage and hour class action settlement reached between Plaintiff Jose Barajas (hereinafter "Plaintiff" or "Mr. Barajas") and Defendant Bennett Enterprises (hereinafter "Defendant" or "Bennett") (hereinafter Plaintiff and Defendant are collectively referred to as the "Parties").[1] The settlement is on behalf of Plaintiff and a Class comprised of all individuals who currently or formerly worked for Bennett as an hourly non-exempt employee, as a landscaper or in a similar job position, in California, at any time during the period of May 21, 2020, through November 22, 2025.[2] This motion also seeks an order entering judgment.

On April 22, 2026, the Settlement Administrator mailed Class Notices to all 273 Class Members.[3] These Class Members have until June 22, 2026, to request to be excluded from the settlement or to object to it.[4] The Settlement Administrator did not receive any objections to the settlement or requests for exclusion from the settlement.[5] In addition, the Settlement Administrator did not receive any disputes regarding the number of workweeks that Class Members were credited to have worked.[6]

As will be demonstrated herein, the attorneys' fee request of $166,666 ("Attorney Fee Award"), which represents one-third of the Gross Settlement Amount ("GSA"), is fully supported using the percentage fee method. The Attorney Fee Award is also supported under the lodestar cross-check method. Plaintiff further moves for reimbursement of litigation costs and expenses in the amount of $15,466.56 ("Cost Award"), originally estimated not to exceed $25,000, for costs incurred in litigating this matter. Plaintiff also moves for final approval of the payment in the amount of $10,000 to Plaintiff (this payment is referred to as the "Class Representative Service Payment") to compensate him for agreeing to a general release of his claims against Defendant

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[1] The Parties' Class Action and PAGA Settlement Agreement ("Agreement") is attached to the Declaration of David Mara, Esq. as Exhibit 1. "Exhibit 1" herein refers to the Parties' Agreement.
[2] Exhibit 1 at Paragraph 1.5.
[3] Declaration of Norma Ayala on Behalf of Apex Class Action, LLC, in Support of Motion for Final Approval of Class Action Settlement ("Ayala Dec.") ¶ 7.
[4] Ayala Dec. ¶ 10.
[5] Ayala Dec. ¶¶ 11-12.
[6] Ayala Dec. ¶ 13.

and his vital role in representing the Class Members and spearheading the case to seek actual and substantial monetary relief for the Class. Additionally, Plaintiff moves for final approval of Administration Costs in the amount of $8,890, originally estimated not to exceed $20,000, to the Settlement Administrator, Apex Class Action, LLC (hereinafter "Apex") for the costs and fees of administering settlement ("Administration Costs").

The requested Attorney Fee Award, Cost Award, Class Representative Service Payment, and Administration Costs were fully disclosed to the Class Members when the Class Notice was mailed to them. Most importantly, to date, the settlement and all of its terms have received support from Class Members as not a single Class Member has objected to the settlement or requested to be excluded from it. With a currently estimated average and high payout to Class Members of $1,003.58 and $3,750.08, respectively, the settlement is fair, adequate, and reasonable. The Court is, therefore, respectfully requested to consider the Class Members' endorsement of the settlement and grant final approval of the settlement, and approve of the Attorney Fee Award, Cost Award, Class Representative Service Payment, and Administration Costs in the amounts as preliminarily approved of by this Court and disclosed to the Class Members, and as requested herein.

II. BACKGROUND, INVESTIGATION, AND LITIGATION HISTORY

a. Litigation History

On May 21, 2024, Plaintiff commenced this Action against Bennett. (Mara Dec. ¶ 11). On September 17, 2024, Plaintiff filed a First Amended Complaint, which is the operate complaint in the Action. (Mara Dec. ¶ 13).

b. Discovery and Investigation

After filing, the Parties engaged in both formal and informal discovery. Both Parties propounded and responded to formal written discovery. (Mara Dec. ¶ 14). The Parties also engaged in informal discovery geared towards mediation. In addition, Defendant took Plaintiff's deposition. (Mara Dec. ¶ 15). These discovery efforts led to Defendant producing policy documents that covered employees' employment with Defendant, and time and wage records. From this discovery, Plaintiff and his Counsel were able to analyze Defendant's liability in this action and prepare a realistic damage model. (Mara Dec. ¶ 16).

c. Settlement Negotiations

The Parties attended an all-day mediation presided over by wage and hour mediator Steven Paul on September 23, 2025. This mediation was ultimately successful. The Parties then met and conferred over all the terms of the settlement and finalized their settlement in the Parties' Agreement. The Parties seek final approval of the Agreement in the instant motion. (*See* Mara Dec. ¶ 17; *see also* Exhibit 1 attached thereto).

III. TERMS OF THE PROPOSED SETTLEMENT

a. Deductions from the Settlement

The Parties have agreed that this action be settled and compromised for the non-reversionary total sum of $500,000 ("Gross Settlement Amount" or "GSA"), which includes, subject to Court approval: (a) attorneys' fees of $166,666 (one-third of the GSA); (b) litigation costs of $15,466.56 (originally estimated not to exceed $25,000); (c) a Class Representative Service Payment to the named class representative, Jose Barajas, in a sum of $10,000; (d) settlement administration fees and expenses to Apex in the amount of $8,890 (originally estimated not to exceed $20,000); and (e) $25,000 allocated to Plaintiff's claims under the PAGA. Of this payment, 75%, or $18,750 will be provided to the LWDA, and 25%, or $6,250, will be available for distribution to Aggrieved Employees.[7]

b. Calculation of the Settlement Payments to Class Members

After all Court-approved deductions from the GSA, it is estimated that $273,977.44 ("Net Settlement Amount" or "NSA"), less employee taxes on the "wage portion" of the settlement payment, will be distributed to Participating Class Members.[8] Subject to the terms and conditions of the settlement, each Participating Class Member will receive a portion of the Net Class Settlement Amount called their "Individual Class Payment" based upon the number of workweeks they worked for Defendant during the Class Period. (Exhibit 1 at Paragraph 3.2.4). The Individual Class Payment will be allocated as 40% wages and 60% penalties and interest. (Exhibit 1 at

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[7] Aggrieved Employees are all individuals who currently or formerly worked for Bennett as an hourly non-exempt employee, as a landscaper or in a similar job position, in California, at any time during the period of May 3, 2023, through November 22, 2025. (Exhibit 1 at Paragraph 1.4).

[8] A Participating Class Member is a Class Member who does not submit a valid and timely Request for Exclusion from the Settlement. (Exhibit 1 at Paragraph 1.35).

Paragraph 3.2.4.1). In addition, each Aggrieved Employee will receive a will receive a proportionate share of the PAGA Payment that is allocated for distribution to PAGA Aggrieved Employees (i.e., 25% of the PAGA Payment) based upon the number of pay periods they worked for Defendant during the PAGA Period. (Exhibit 1 at Paragraph 3.2.5.1).

c. Release of Claims

In exchange for an Individual Class Payment, Participating Class Members will release all claims that were alleged or reasonably could have been alleged based on the Class Period facts stated in the Operative Complaint. (Exhibit 1 at Paragraph 5.2). In addition, all Aggrieved Employees will, in exchange for an Individual PAGA Payment, release all claims for PAGA penalties that were alleged, or reasonably could have been alleged, based on the PAGA Period facts stated in the Operative Complaint and the PAGA Notice submitted by Plaintiff on May 4, 2024. (Exhibit 1 at Paragraph 5.3). Further, Plaintiff has agreed to a general release of his claims. (*See* Exhibit 1 at Paragraph 5.1).

d. Notice to the Class

On April 4, 2026, Counsel for the Defendants provided Apex with the Class Data. (Ayala Dec. ¶ 5). The Class Data consisted of a total of 273 individuals. (*Id.*). In preparation for the mailing process, all 273 names and addresses listed in the Class Data underwent verification and updating against the National Change of Address (NCOA) database maintained by the United States Postal Service (USPS). (Ayala Dec. ¶ 6). If an updated address was found in the NCOA database, it was utilized for the mailing of the Class Notice. (*Id.*). On April 22, 2026, the Class Notice was sent to all 273 individuals listed in the Class Data. (Ayala Dec. ¶ 7).

After mailing, 81 Class Notices were returned as undeliverable. (Ayala Dec. ¶ 8). Apex conducted a computerized skip trace on the 81 returned Class Notices in an attempt to acquire updated addresses for the purpose of re-mailing the Class Notice. (*Id.*). This skip trace effort resulted in obtaining 34 updated addresses. (*Id.*). To date, 47 Class Notices have been considered undeliverable as no updated address was found as a result of skip tracing. (Ayala Dec. ¶ 9).

Class Members had until June 22, 2026, to respond to the settlement. (Ayala Dec. ¶ 10).[9]

[9] Class Members with remailed notices had until July 6, 2026. (Ayala Dec. ¶ 10).

The settlement has received support from the Class Members. Not a single Class Member has submitted an objection or request for exclusion from the settlement. (Ayala Dec. ¶¶ 11-12). In addition, no Class Member has submitted a dispute as to the workweeks attributed to him or her. (Ayala Dec. ¶ 13). Therefore, currently, all 273 Class Members are participating in the settlement, meaning 100% of the Class Members are Participating Class Members. (Ayala Dec. ¶ 14).

e. Distribution of Funds

Defendant shall fully fund the Gross Settlement Amount, and also fund the amounts necessary to fully pay Defendant's share of payroll taxes by transmitting the funds to the Administrator no later than 14 days after the Effective Date. (Exhibit 1 at Paragraph 4.3). Within 14 days after Defendant funds the Gross Settlement Amount, the Administrator shall disburse the settlement funds. (Exhibit 1 at Paragraph 4.4). For any Class Member whose Individual Class Payment check or Individual PAGA Payment check is uncashed and cancelled after the void date, the Administrator shall transmit the funds represented by such checks to the California Controller's Unclaimed Property Fund in the name of the Class Member. (Exhibit 1 at Paragraph 4.4.3).

f. Final Judgment

Pursuant to Cal. Rules of Court, Rule 3.771(b), notice of the final judgment will be posted on the Settlement Administrator's website.

IV. ARGUMENT

a. The Settlement is Fair, Reasonable, and Adequate and Satisfies the Standard for Final Approval

California Rule of Court, Rule 3.769, requires court approval for class action settlements. Cal. R. Ct. 3.769(g). California courts favor settlement. *Stambaugh v. Superior Court* (1976) 62 Cal. App. 3d 231, 236, *Potter v. Pacific Coast Lumber Co. of Cal*. (1951) 37 Cal. 2d 592, 602 ("[T]he law wisely favors settlements"). Accordingly, the Court must give "[due] regard to what is otherwise a private consensual agreement between the parties." *Wershba v. Apple Computer, Inc*. (2001) 91 Cal. App. 4th 224, 245.

In deciding whether to approve a class settlement, a court evaluates whether the proposed settlement is "fair, adequate, and reasonable." *Dunk v. Ford Motor Co*. (1996) 48 Cal. App. 4th 1794, 1801 (citing *Officers for Justice v. Civil Serv. Comm'n of City & Cnty. of S.F*. (9th Cir. 1982)

688 F.2d 615, 625); *Cho v. Seagate Tech. Holdings, Inc*. (2009) 177 Cal. App. 4th 734, 742 43. A court enjoys broad discretion to make its fairness determination. *Dunk*, 48 Cal. App. 4th at 1801. However, "a presumption of fairness exists where: (1) the settlement is reached through arm's-length bargaining; (2) investigation and discovery are sufficient to allow counsel and the court to act intelligently; (3) counsel is experienced in similar litigation; and (4) the percentage of objectors is small." *Dunk*, 48 Cal. App. 4th at 1802; accord *Wershba*, 91 Cal. App. 4th at 245. In addition, a court should consider additional relevant factors, including the strength of the plaintiff's case compared to the settlement amount; the risk, expenses, complexity, and likely duration of further litigation; and the fair treatment of class members in relation to each other. *Dunk*, 48 Cal. App. 4th at 1802; see also *In re Microsoft I-V Cases* (2006) 135 Cal. App. 4th 706, 723; see also *Boyd v. Bechtel Corp*. (N.D. Cal. 1979) 485 F. Supp. 610, 617.

At the time of preliminary approval, the Court was provided with sufficient information to satisfy three of the four *Dunk* factors, leaving the fourth factor, the number of objectors, unknown until after the Class had an opportunity to respond to the settlement.[10] Subject only to the Class's reaction to the settlement, the Court preliminarily presumed the settlement was fair, adequate and reasonable. To date, not a single objection to the settlement has been submitted by any Class Member to the Settlement Administrator. Thus, the settlement is entitled to the presumption that it is fair and in all other respects proper and should be finally approved.

b. The Court Should Approve the Requested Fees and Costs

i. The Requested Fee Award is Fair and Reasonable, Calculated as a Percentage of a Common Fund

Trial courts have "wide latitude" in assessing the value of attorneys' fees and their decisions will "'not be disturbed on appeal absent a manifest abuse of discretion.'" *Lealao v. Beneficial Cal., Inc.* (2000) 82 Cal.App.4th 19, 41; *Ketchum v. Moses* (2001) 24 Cal.4th 1122, 1132 (The "experienced trial judge is the best judge of the value of professional services rendered in his court[.]"); *Cellphone Termination Fee Case*s (2009) 180 Cal.App.4th 1110, 1118.

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[10] *See* Memorandum of Points and Authorities in Support of Motion for Preliminary Approval, pages 12-17. In addition to the *Dunk* factors, Class Counsel also detailed the other factors such as the strengths of Plaintiff's case, risks and costs of further litigation, as well as the reasonableness of the GSA amount in light of *Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th 116.

California law provides that an attorneys' fee award should be equivalent to fees paid in the legal marketplace for the result achieved and risk incurred. *Id.* at 47-50; *Laffitte v. Robert Half Int'l, Inc.* (2016) 1 Cal.5th 480, 503. In *Lealao*, the court held that when an action leads to a recovery that can be "monetized" with a reasonable degree of certainty, the trial court should "ensure that the fee awarded is within the range of fees freely negotiated in the legal marketplace in comparable litigation." *Lealao*, *supra*, 82 Cal.App.4th at 50. Fee awards that are too small will "chill the private enforcement essential to the vindication of many legal rights and obstruct the representative actions that often relieve the courts of the need to separately adjudicate numerous claims." *Lealao*, *supra*, 82 Cal.App.4th at 53. Therefore, fees in class and representative actions should approximate the probable terms of a contingent fee contract negotiated by a sophisticated attorney and client in comparable litigation. *Id*. at 48.

"The ultimate goal . . . is the award of a 'reasonable' fee to compensate counsel for their efforts, irrespective of the method of calculation." *Consumer Privacy Cases* (2009) 175 Cal.App.4th 545, 557-58 (quoting *Apple Computer, Inc. v. Superior Court*, *supra*, 126 Cal.App.4th at 1270). It is not an abuse of discretion to choose one method over another as long as the method chosen is applied consistently using percentage figures and/or rates that accurately reflect the marketplace. In cases where class members present claims against a settlement amount and the settlement agreement provides that the defendant agrees to paying the attorneys a percentage of the same, use of that percentage method is appropriate. *Lealao*, *supra*, 82 Cal.App.4th at 32.

Historically, courts have awarded fees as high as fifty percent (50%) of the settlement, depending on the circumstances of the case. Conte & Newberg, *Newberg on Class Actions* (4th Ed., 2002) § 14.03; *see also In re Ampicillin Antitrust Litig.* (D.D.C. 1981) 526 F. Supp. 494 (awarding attorneys' fees in the amount of 45% of the settlement amount of $7.3 million); *Beech Cinema, Inc. v. Twentieth-Century Fox Film Corp.* (S.D.N.Y. 1979) 480 F. Supp. 1195 (awarding approximately 53% of the settlement amount as attorneys' fees). California courts routinely approve class action attorneys' fees awards "averag[ing] around one-third of the recovery." *Chavez v. Netflix, Inc.* (2008) 162 Cal.App.4th 43, 66 n.11 (lower court found 20 to 40 percent range of contingency fee in marketplace was appropriate in class actions). The Supreme Court has explained that "percentage of the fund method more accurately reflects the results achieved." *Laffitte*, 1 Cal. 5th at 439. In a similar wage and hour class action, *Laffitte v. Robert Half International, Inc.*, 1 Cal. 5th 480 (2016), the California Supreme Court affirmed an award of attorneys' fees equal to 1/3 of the common fund. Here, the requested fee is at this same percentage, and evidences all of the same considerations which warranted the one-third fee in *Laffitte.*

In short, Class Counsel's fee request of $166,666 (which represents one-third of the GSA) is in line with awards in similar cases in California and nationwide and demonstrates that Class Counsel's fee request is consistent with market rates and is reasonable.

ii. The Requested Attorneys' Fee and Cost Award is Within the Range of Fees Approved in Comparable Common Fund Cases

Class Counsel applies for an award of attorneys' fees in the sum of $166,666 (one-third of the GSA), and litigation costs of $15,466.56. (Mara Dec. ¶ 18). California state and federal courts have recognized that an appropriate method for determining an award of attorneys' fees is based on a percentage of the total value of benefits made available to Class Members by the settlement, also known as the "common fund" method. *Serrano v. Priest* (1977) 20 Cal.3d 25, 34 (*Serrano III*); *Boeing Co. v. Van Gemert* (1980) 444 U.S. 472, 478; *Vincent v. Hughes Air West, Inc*. (9th Cir. 1977) 557 F.2d 759, 769.[11] Where the amount of a settlement is a "certain easily calculable sum of money," California courts may calculate attorneys' fees as a reasonable percentage of the settlement. Weil and Brown, California Practice Guide, *Civil Procedure Before Trial*, Chapter 14, § 14:145; *Dunk*, *supra*, 48 Cal.App.4th at 1808. The percentage-of-the-benefit approach is preferred in class and representative actions because "it better approximates the workings of the marketplace than the lodestar approach." *Lealao*, *supra*, 82 Cal.App.4th at 49. The purpose of the common fund/percentage approach is to "spread litigation costs proportionally among all the beneficiaries so that the active beneficiary does not bear the entire burden alone." *Vincent, supra*, 557 F.2d at 769.

In Quinn v. State of California (1995) 15 Cal.3d 162, 167, the Court stated: "[O]ne who expends attorneys' fees in winning a suit which creates a fund from which others derive benefits

[11] The California Supreme Court has urged trial courts to consider class action federal authority. *Green v. Obledo* (1981) 29 Cal.3d 126, 146; *Vasquez v. Superior Court* (1971) 4 Cal.3d 800, 821.

may require those passive beneficiaries to bear a fair share of the litigation costs." Similarly, in *City and County of San Francisco v. Sweet* (1995) 12 Cal.4th 105, 110, the California Supreme Court recognized that the percentage-of-the-benefit approach has been applied "consistently in California when an action brought by one party creates a fund in which other persons are entitled to share." The reasons for applying this equitable doctrine include: "…fairness to the successful litigant, who might otherwise receive no benefit because his recovery might be consumed by the expenses; correlative prevention of an unfair advantage to the others who are entitled to share in the fund and who should bear their share of the burden of its recovery; encouragement of the attorney for the successful litigant, who will be more willing to undertake and diligently prosecute proper litigation for the protection or recovery of the fund if he is assured that he will be properly and directly compensated should his efforts be successful." *Id*.

Courts have consistently recognized that class action litigation is increasingly necessary to protect the rights of individuals whose injuries and/or damages are too small to economically justify legal action on an individual basis. Accordingly, in determining a reasonable fee award, courts award fees to serve as an economic incentive for lawyers to pursue such litigation in order to achieve increased access to the judicial system for meritorious claims and to enhance deterrents to wrongdoing. This is especially true in situations where multiple similar alleged wrongs would not be economically feasible to pursue individually, such as here. *See* A. Conte, *Attorney Fee Awards* (2d Ed., 1993) 104, at 6.

When the lawsuit was originally filed, the prospect of a long, drawn-out battle with a defendant represented by experienced counsel, was almost a certainty. By taking on this "battle" on a contingency basis, Class Counsel risked substantial economic loss if the results were not successful. This substantial risk is the reason that the courts approve the use of the percentage method when a settlement is obtained by the efforts of class counsel. *See Vizcaino v. Microsoft* (9th Cir. 2002) 290 F.3d 1043, 1048-49 (quotations omitted) (discussing the risks of engaging in litigation without certainty of compensation).

Under the terms of the Agreement, Defendant will pay a GSA of $500,000. An award of attorneys' fees is to be calculated as a percentage of the total value of benefits made available to the Class Members under the settlement. In light of Class Counsel's prosecution and resolution of the case, the requested Attorneys' Fees are appropriate and reasonable.

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

Class Counsel have obtained a substantial recovery on behalf of Plaintiff and the Class. Thus, the requested Attorney Fee Award is appropriate.

iii. A Lodestar Cross-Check Confirms the Reasonableness of the Requested Fee

Class Counsel's fee request is reasonable when calculated using the lodestar method. Under the lodestar method, a base fee amount is calculated from a compilation of time reasonably spent on the case and the reasonable hourly compensation of the attorney. *Serrano v. Priest* (1977) 20 Cal. 3d 25, 48. The court then enhances this lodestar figure by a "multiplier" to account for a range of factors, such as the novelty and difficulty of the case, its contingent nature, and the degree of success achieved. *Id*. at 49; see also *Ketchum v. Moses* (2001) Cal.4th 1122, 1132-36; *PLCM Group, Inc. v. Drexler* (2000) 22 Cal.4th 1084, 1096; *Thayer v. Wells Fargo Bank* (2001) 92 Cal.App.4th 819, 834, ("[t]here is no … rule limiting the factors that may justify an exercise of judicial discretion to [adjust the] lodestar").

Class Counsel has worked 241 hours to date on this case and have calculated the lodestar fee on those hours at $182,250 at rates reflecting those currently earned in the marketplace. (Mara Dec. ¶ 19, Exhibit 5). Class Counsel respectfully request attorneys' fees in the amount of $166,666 (one-third of the GSA). All of the work and tasks performed by Class Counsel were reasonable and necessary to the prosecution of this case and are reflected in the result achieved. (Mara Dec. ¶ 20). All services were performed by Class Counsel on a contingent basis. (Mara Dec. ¶ 22). As Class Counsel's lodestar fee is in excess of their fee request, a multiplier on their lodestar fee is not sought herein. (Mara Dec. ¶ 23). In fact, the requested fee results in a so-called "negative multiplier" which suggests the percentage of the fund amount is reasonable and fair. *See Chun-Hoon v. McKee Foods Corp*. (N.D. Cal. 2010) 716 F.Supp.2d 848, 854; *In re Portal Software, Inc. Securities Litigation* (N.D. Cal. 2007) 2007 U.S. Dist. LEXIS 88886, 2007 WL 4171201, at *16.

iv. Class Counsel's Hourly Rates Are Reasonable

Class Counsel's hourly rates are between $650 and $850 and are in line with rates typically approved in wage and hour class action litigation and which rates have been approved by Courts in California in the Los Angeles, Sacramento, San Francisco, Alameda, Orange and San Diego County Superior Courts. (Mara Dec. ¶ 24; Exhibit 2, Westlaw Court Express's Legal Billing Report, Volume 14, Number 3, California Region for December 2012; Exhibit 3, 2014 Declaration of Richard M. Pearl in *Hohnbaum v. Brinker Restaurant Corp.* SDSC GIC834348; Exhibit 4, 2012 National Law Journal Survey of Hourly Billing Rates for Partners and Associates).

A reasonable hourly rate is the prevailing rate charged by attorneys of similar skill and experience in the relevant community. *PLCM Group, Inc* (2000) 22 Cal. 4th 1084, 1095; *Hopson v. Hanesbrands Inc*. (N.D. Cal. Apr. 3, 2009) 2009 U.S. Dist. LEXIS 33900. When determining a reasonable hourly rate, courts may consider factors such as the attorney's skill and experience, the nature of the work performed, the relevant area of expertise and the attorney's customary billing rates. *Flannery v. California Highway Patro* (1998) 61 Cal. App. 4th 629, 632.

Class Counsel's skill and experience support their hourly rates. Their practice is limited exclusively to litigation, focusing on the representation of employees in wage and hour and consumer class action matters. (Mara Dec. ¶¶ 2-10; Declaration of Colette Mahon ¶¶ 2-6). As leading attorneys in the field of wage and hour class action litigation, Plaintiff's counsel continually monitors the prevailing market rates charged by both defense and plaintiff law firms and set the billing rates of their attorneys and paralegals/law clerks to be consistent with the prevailing market rates in the private sector for attorneys and staff of comparable skill, qualifications and experience. Other wage and hour attorneys working as class counsel before California courts charge comparable if not higher rates. (Mara Dec., Exh. 2, Westlaw Court Express's Legal Billing Report, Volume 14, Number 3, California Region for December 2012; Exh. 3, 2014 Declaration of Richard M. Pearl in *Hohnbaum v. Brinker Restaurant Corp.* SDSC

GIC834348; Exh. 4, 2012 National Law Journal Survey of Hourly Billing Rates for Partners and Associates). Therefore, as they are in line with those of the relevant community, Class Counsel's hourly rates are reasonable.

v. Class Counsels' Total Hours are Reasonable

In determining a lodestar fee, reasonable hours include, in addition to time spent during litigation, the time spent before the action was filed, including time spent interviewing clients, investigating the facts and law, and preparing the pleadings. See *New York Gaslight Club, Inc. v. Carey* (1980) 447 U.S. 54, 62; *Vo v. Las Virgenes Municipal Water Dist.* (2000) 79 Cal.App.4th 440, 447. Further, the fee award should include fees incurred to establish and defend the attorneys' fee claim. *Serrano v. Priest* (1982) 32 Cal.3d 621, 639 ("*Serrano IV*"). Under California law, counsel is entitled to compensation for every hour reasonably spent on the matter. *Id.* at 1133.

Class Counsel has expended a total of 241 hours on this case. The work performed by Class Counsel in order to achieve a settlement that will provide valuable consideration to the Class, averaging a $1,003.58 settlement payment per Class Member, with the highest estimated award being $3,750.08, is outlined by Class Counsel in the declarations submitted herewith. (Mara Dec. ¶¶ 25, 30). Class Counsel have been actively involved in this case, prior to the commencement of this action and all the way up to the present, and Class Counsel's dedication to providing representation in the case has precluded other employment. Class Counsel bore the risk that, despite all of their efforts and skills employed, there may be no recovery. All of the work performed was reasonable and necessary to the prosecution of this case. The work performed was particularly justified, in light of the extraordinary result achieved.

vi. Costs of Litigation

Class Counsel seeks reimbursement of the litigation costs and expenses of $15,466.56. (Mara Dec. ¶ 32). These costs were all reasonable and necessary to the prosecution of this case and the results achieved and are fair and reasonable.

c. The Class Representative Service Payment is Reasonable

Class Counsel seeks approval of a Class Representative Service Payment to the named Plaintiff in the sum of $10,000. Courts routinely approve service payments, or incentive awards, to compensate named plaintiffs for the services they provide and the risks they incur during class litigation.[12]

In agreeing to the settlement, Plaintiff has agreed to a general release of his claims against Defendant. This general release is far greater than the release being given by other Class Members. This payment not only compensates Plaintiff for the work he undertook in this case, but also for the claims and potential claims he may have against Defendant that he is releasing.

Since the inception of this case, Plaintiff has put the Class's interests ahead of his own. This is evident by the fact that Plaintiff's estimated individual settlement payment is less than the average payment received by Class Members.[13]

There are also other factors supporting the request that Plaintiff receive $10,000. The requested Class Representative Service Payment is reasonable in light of the benefits Plaintiff has conferred upon the entire Class, resulting in payments averaging at $1,003.58 with a high payment of $3,750.08. The requested award is appropriate and reasonable based upon Plaintiff's time and effort expended on this case, the risks he faced, and the outcome of this case. Plaintiff has submitted a declaration detailing the efforts and time he expended on behalf of the Class in order to advance this case to its successful conclusion. For example, Plaintiff had his deposition taken in person in Los Angeles. Plaintiff also provided his attorneys with valuable documents in this case. In addition, Plaintiff responded to written discovery propounded by Defendant. There is no question that this case would not have reached the same result but for Plaintiff's involvement and input at all stages of the litigation.

It should be noted that service awards are particularly important to plaintiffs in wage and hour cases because they promote the important public policies underlying the wage and hour laws.

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[12] See *In re Cellphone Fee Termination Cases* (2010) 186 Cal. App. 4th 1380, 1393; see also *Bell v. Farmers Ins. Exch*. (2004) 115 Cal. App. 4th 715, 725-26 (upholding service payments to class representatives); Manual § 21.62 n.971 (noting that service payments are warranted); *Cook v. Niedert*, 142 F.3d 1004, 1015 (7th Cir. 1998); *Roberts v. Texaco*, 979 F. Supp. 185 (S.D.N.Y. 1997) ("present or past employee whose present position or employment credentials or recommendation may be at risk by reason of having prosecuted the suit, who therefore lends his or her name and efforts to the prosecution of litigation at some personal peril, a substantial enhancement award is justified"); *Thornton v. East Texas Motor Freight*, 497 F.2d 416, 420 (6th Cir. 1974) ("We also think there is something to be said for rewarding those drivers who protect and help to bring rights to a group of employees who have been the victims of discrimination.").

[13] Plaintiff's estimated payment as a Class Member is $777.31. The average payment is estimated to be $1,003.58.

This strong policy is codified in California Labor Code section 90.5, which provides that "[i]t is the policy of this state to vigorously enforce minimum labor standards in order to ensure employees are not required or permitted to work under substandard unlawful conditions . . ." Cal. Lab. Code § 90.5. Nonetheless, the California Supreme Court has noted that "retaliation against employees for asserting statutory rights under the Labor Code is widespread," despite anti-retaliation statutes designed to protect employees. *Gentry v. Super. Ct.* (2007) 42 Cal.4th 443, 460–61. In this context, class representatives should be rewarded for assuming the risk of retaliation for the sake of class members. *See Frank v. Eastman Kodak Co.* (W.D.N.Y. 2005) 228 F.R.D. 174, 187.

In addition, there are few individuals that are willing to act as a class representative and provide the work, diligence, and willingness to assume a substantial financial risk should Defendant have prevailed in this case. Plaintiff's willingness to assume the financial risk is significant. Plaintiff risked a potential judgment taken against him for attorneys' fees and costs if this matter had not been successfully concluded. Case law holds that a losing party is liable for the prevailing party's costs, *Early v. Superior Court*, 79 Cal.App.4th 1420, 1433 (2000), and in some wage and hour actions, such as this case, pursuant to California Labor Code § 218.5, for attorneys' fees as well. Though the fee agreement provides that Class Counsel would pay such costs, Plaintiff would nevertheless have had a cost bill entered against him leaving him ultimately liable for potentially hundreds of thousands of dollars in the unexpected possibility that Class Counsel did not meet their obligation to cover those costs. Unfortunately, there have been several judgments entered against class representatives.[14] The risk of payment of Defendant's costs, in itself alone, is a sufficient basis for an award of the requested enhancement sum. Few individuals are willing to take this risk, and it is clear that Plaintiff, here, championed a cause on behalf of others with potentially huge monetary risks.

Moreover, the modern-day work force is mobile, with employees holding several jobs over the span of their career. It is also true that prospective employers in this computer, high-tech age

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[14] E.g. *Koehl v. Verio, Inc*. 142 Cal.App.4th 1313, 1328 (2006) (a wage and hour class action where Defendant prevailed at trial, the named plaintiffs were held liable, jointly and severally for the Defendant's attorneys' fees); *Whiteway v. Fedex Kinkos Office & Print Services, Inc.,* 2007 U.S. Dist. LEXIS 95398 (N.D. Cal. 2007) (a wage and hour misclassification case lost on summary judgment, after the case was certified, the named Plaintiff was assessed costs in the sum of $56,788.).

"Google" and/or do extensive background checks and have access to court databases to see if applicants have ever filed a lawsuit or have ever been sued. Here, Plaintiff's conduct will not be lost on a prospective employer who has to choose between an applicant who has never sued an employer and one who has done so. The requested award far from compensates Plaintiff for opportunities he may lose in the future.

Based on the foregoing, the $10,000 Class Representative Service Payment to the named Class Representative is fair, appropriate, and justified in light of the work performed, risks undertaken for payment of fees and costs if this case had not been successfully concluded, stigma on future employment opportunities, and the benefits all Class Members.

d. The Administration Costs are Reasonable

Plaintiff respectfully requests that the Court finally approve the Settlement Administration Costs in the amount of $8,890 to Apex for services rendered and to be rendered for the notice and settlement administration process.

V. CONCLUSION

Class Counsel respectfully requests the Court grant final approval of the settlement, and award Class Counsel attorneys' fees in the sum of $166,666 and litigation expenses of $15,466.56, Class Representative Service Payment in the sum of $10,000 to Plaintiff, Administration Costs in the amount of $8,890 to Apex, and a payment to the LWDA in the amount of $18,750 (which is 75% of $25,000 allocated to Plaintiff's claims under PAGA).

Dated: July 13, 2026

MARA LAW FIRM, PC

Jill Vecchi

David Mara, Esq.
Jill Vecchi, Esq.
Representing Plaintiff JOSE BARAJAS, on behalf of himself, all others similarly situated, and on behalf of the general public