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

ELMER HERCULES, an individual, on behalf
of himself, the State of California, as a private
attorney general, and on behalf of all others
similarly situated,

Plaintiff,

v.

PACIFIC STATES INDUSTRIES, INC., a
California Corporation; and DOES 1 TO 50,

Defendants.

Case Number: 24CV03671

**Plaintiff's Notice of Motion and Motion for
Final Approval of Class and PAGA Action
Settlement**

Action Filed: June 20, 2024
Trial Date: None Set
Preliminary Approval Granted:
February 11, 2026

Hearing Date: June 17, 2026
Hearing Time: 3:00 p.m.
Dept.: 16
Judge: Hon. Patrick Broderick

1 **NOTICE OF MOTION AND MOTION FOR FINAL APPROVAL**

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

3 **PLEASE TAKE NOTICE** that on June 17, 2026, at 3:00 p.m., or as soon thereafter as the
4 matter may be heard, in Department 16 of the Sonoma County Superior Court for the State of
5 California, located at the Hall of Justice, 3055 Cleveland Ave, Santa Rosa, California 95403, before
6 the Honorable Patrick Broderick, Plaintiff Elmer Hercules (“Plaintiff”), on behalf of himself, the State
7 of California, as a private attorney general, and on behalf of all others similarly situated, will and hereby
8 does move this Court for entry of an order:

9 1. Finally certifying the class, as defined in the *Settlement Agreement and Release of Class*
10 *and PAGA Action* (the “Settlement Agreement”), between Plaintiff and Defendant Pacific States
11 Industries, Inc. (“Defendant”) (collectively, the “Parties”), for the purpose of settlement pursuant to
12 California Code of Civil Procedure section 382 and California Rules of Court, rule 3.769;

13 2. Finally appointing the named plaintiff, Elmer Hercules, as class representative for
14 purposes of settlement;

15 3. Finally appointing Jonathan Melmed, Kyle D. Smith, and Jaqueline Antillón of Melmed
16 Law Group P.C., as class counsel for purposes of settlement;

17 4. Finding that the notice of the settlement was properly provided to the class members in
18 accordance with the Court’s *Order Granting Preliminary Approval of Class Action Settlement* on
19 February 11, 2026;

20 5. Finally approving the settlement as fair, adequate, and reasonable, based upon the terms
21 set forth in the Settlement Agreement, including payment by Defendant of the non-reversionary gross
22 settlement amount of \$312,500.00 (“Gross Settlement Amount”);

23 6. Finally approving the allocation of attorneys’ fees from the Gross Settlement Amount
24 in the amount of one-third of the Gross Settlement Amount (i.e., \$104,166.67), plus necessary litigation
25 costs in the amount of \$20,000.00;

26 7. Finally approving Simpluris, Inc. (the “Settlement Administrator”) as the settlement
27 administrator and approving distribution of \$8,000.00 from the Gross Settlement Amount to cover the
28 Settlement Administrator’s expenses in administering the settlement;

1 8. Finally approving a class representative service payment in an amount of \$5,000.00 for
2 Elmer Hercules from the Gross Settlement Amount to compensate him for the responsibilities, time,
3 effort, and risks involved in coming forward on behalf of the proposed class as well as his general
4 release which is broader than the release of the proposed class;

5 9. Finally approving the allocation of \$31,250.00 for penalties pursuant to the California
6 Labor Code Private Attorneys General Act of 2004, of which 65% (i.e., \$20,312.50) shall be paid to
7 the California Labor and Workforce Development Agency (“LWDA”) from the Gross Settlement
8 Amount, with the remaining 35% (i.e., \$10,937.50) payable to the aggrieved employees;

9 10. Binding all participating class members to the terms of the Settlement Agreement,
10 including the release specified therein; and

11 11. Retaining jurisdiction to enforce the Settlement Agreement.

12 This motion is based on this notice and motion; the memorandum of points and authorities in
13 support thereof; the declarations of Plaintiff’s counsel; the declaration of the Settlement Administrator;
14 the Settlement Agreement; the other records, pleadings, and papers filed in this action; and upon such
15 other evidence or argument as may be presented to the court at the hearing of this motion.

16 Because this motion seeks, in part, final certification of a class, it is filed according to Rule
17 3.764, subdivision (c)(1), of the California Rules of Court, which allows for a 20-page memorandum
18 in support of any motion for class certification.

19 Dated: May 21, 2026

MELMED LAW GROUP P.C.

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22 

KYLE D. SMITH

Attorneys for Plaintiff, the Putative Class, and the
Aggrieved Employees

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1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. INTRODUCTION**

3 This motion seeks final approval of a wage-and-hour class action and PAGA settlement
4 between Plaintiff Elmer Hercules (“Plaintiff”) and Defendant Pacific States Industries, Inc.
5 (“Defendant”) (collectively, the “Parties”) for \$312,500.00 (the “Gross Settlement Amount”) to be
6 distributed to 431 individuals¹ defined as: “All individuals who are or were employed by Defendant as
7 non-exempt employees in California during the [Class or PAGA] Period.” These employees are
8 interchangeably referred to individually as the “Class Members” or “Aggrieved Employees,” or
9 collectively as the “Class.” The “[Class or PAGA] Period” for these purposes is defined as the period
10 from May 18, 2023, through May 28, 2025.² A true and correct copy of the *Settlement Agreement and*
11 *Release of Class and PAGA Action* (the “Settlement Agreement”) is attached as **Exhibit 1** to the
12 concurrently-filed *Declaration of Kyle D. Smith in Support of Plaintiff’s Motion for Final Approval of*
13 *Class Action Settlement* (“Smith FAM Decl.”). The Settlement Agreement, in its entirety, is
14 incorporated herein by reference.

15 On February 11, 2026, this Court granted preliminary approval of the Settlement Agreement.
16 Pursuant to that order, on or about March 17, 2026, Simpluris, Inc. (the “Settlement Administrator”)
17 mailed the *Notice of Proposed Class and PAGA Action Settlement* (the “Class Notice”) to all 431
18 putative Class Members contained in the data provided by Defendant.³ (See Admin. Decl., ¶ 6.) A copy
19 of the Class Notice is attached to Smith FAM Decl. as **Exhibit 1**.

20 If the Court grants final approval, each participating Class Member and Aggrieved Employee
21 will receive a share of approximately **\$155,020.83** (the “Net Settlement Amount”), which is calculated
22 as described below. Plaintiff also provides the following summary to assist the Court in its review:
23

24 _____
25 ¹ While the number of Class Members and Aggrieved Employees differs slightly from the figure
26 stated in the Preliminary Approval Motion, the current number is based on the Class List provided by
27 Defendant’s Counsel to the Settlement Administrator and reflects the accurate count.

28 ² The “Class Period” and “PAGA Period” are limited by the prior class action settlement in *Valente*
Velasco Jimenez v. Pacific States Industries, Incorporated (“Jimenez Action”), Sonoma Superior
Court, Case No. SCV- 270920.

³ The *Declaration of Arron Weise, Regarding Notice and Settlement Administration* is filed
concurrently with this motion and referred to as “Admin. Decl.”

Gross Settlement Amount:	\$312,500.00
Attorneys' Fees:	(\$104,166.67)
Litigation Costs:	(\$20,000.00)
Settlement Administration Costs:	(\$8,000.00)
Service Awards to Plaintiff:	(\$5,000.00)
PAGA Payment to LWDA (65% of \$31,250):	(\$20,312.50)
Net Settlement Amount:	\$155,020.83

Class Participation	
Eligible Class Members:	431
Requests for Exclusion:	0
Objectors:	0
Participating Class Members:	431
Total Participation Rate:	100%

Relevant Supplemental Data	
Number of Aggrieved Employees:	431
Workweeks during the Class Period:	30,282
Pay Periods during the PAGA Period:	15,560
Highest Payment to Class Members:	\$490.78
Average Payment to Class Members:	\$334.30
Highest Payment to Aggrieved Employees:	\$36.57
Average Payment to Aggrieved Employees:	\$25.37
Class Counsel Fee Request:	⅓ of the Gross Settlement Amount

Percent of Class Payments Attributable to Unpaid Wages (W-2 Income):	20%
Percent of Class Payments Attributable to Non-Wages (1099 Income):	80%
Uncashed Checks Paid to:	Unclaimed Property Fund

The Settlement Agreement is an excellent result for the Class, which is demonstrated by the extraordinarily high participation rate of **100%**. (Admin. Decl., ¶¶ 9–10.) To date, *zero* Class Members have submitted objections to the Settlement Agreement and *zero* Class Members have requested exclusion. (Admin. Decl., ¶¶ 9–10.) These numbers evidence an overwhelmingly positive response from the Class Members regarding the substance of the Settlement Agreement, confirming that the Settlement Agreement is in the Class’s best interest. (Smith FAM Decl., ¶¶ 5, 30, 41.) Further, these numbers raise a strong presumption that the Settlement Agreement is fair, reasonable, and adequate.

II. **BACKGROUND**

A. **THE PARTIES**

Defendant is a forest products company and employed non-exempt workers during the Class and PAGA period. (Smith FAM Decl., ¶ 15.) Plaintiff was initially hired by Defendant as a chain puller on May 23, 2022. (Smith FAM Decl., ¶ 16.) Plaintiff generally worked anywhere between eight to nine hours per day, at least five days per week. (Smith FAM Decl., ¶ 16.) Plaintiff was earning approximately \$25.28 per hour throughout his employment with Defendant. (Smith FAM Decl., ¶ 16.)

B. **PROCEDURAL SUMMARY**

On approximately June 18, 2024, Plaintiff submitted a letter to the California Labor and Workforce Development Agency (“LWDA”) to notify the LWDA of Plaintiff’s intent to seek civil penalties against Defendant for violations of Labor Code sections 201, 202, 203, 204, 210, 226, 226.3, 226.7, 510, 512, 1174, 1174.5, 1185, 1194, 1194.2, 1197, 1197.1, 1198, 1198.5, 1199, 2802, 2804, and others that may be applicable; and California Industrial Welfare Commission (“IWC”) Wage Order 4-2001 (the “Applicable Wage Order”). (Cal. Code of Regs., tit. 8, § 11040; Smith FAM Decl., ¶ 17.) Plaintiff sought penalties for claims identical to those alleged in the case. A copy the LWDA letter is attached as **Exhibit 2** to the concurrently filed Declaration of Kyle D. Smith.

On June 20, 2024, Plaintiff filed a class action complaint alleging causes of action against Defendant for: **(1)** failure to pay all minimum wages; **(2)** failure to pay all overtime wages; **(3)** failure to provide rest periods and pay missed rest period premiums; **(4)** failure to provide meal periods and pay missed meal period premiums; **(5)** failure to maintain accurate employment records; **(6)** failure to pay wages timely during employment; **(7)** failure to pay all wages earned and unpaid at separation; **(8)** failure to indemnify all necessary business expenditures; **(9)** failure to furnish accurate itemized wage statements; and **(10)** violations of California’s Unfair Competition Law (Bus. & Prof. Code, §§ 17200–17210). (Smith FAM Decl., ¶ 18.)

On August 26, 2024, Plaintiff filed a first amended complaint to add an eleventh cause of action for: Penalties Pursuant to Labor Code Private Attorneys General Act of 2004. The first amended complaint is the operative complaint in the action (the “Operative Complaint”). (Smith FAM Decl., ¶ 19.)

Thereafter, the Parties agreed to attend a private mediation with Lisa Klerman. (Smith FAM Decl., ¶ 20.) Prior to the mediation, Plaintiff’s counsel conducted informal discovery. (*Id.*, ¶ 20.) Discovery, investigation, and prosecution have included, among other things, numerous telephonic conferences with Plaintiff; inspection and analysis of hundreds of pages of documents, including Defendant’s relevant policies and employee handbook, and other information produced by Plaintiff and Defendant; analysis of work-related data from a sample of Class Members and Aggrieved Employees; an analysis of the legal positions taken by Defendant; investigation into the viability of class treatment of the claims asserted in the action; analysis of potential class-wide damages, including information sufficient to understand Defendant’s potential defenses to Plaintiff’s claims; research of the applicable law with respect to the claims asserted in the Operative Complaint and the potential defenses thereto; and assembling and analyzing of data for calculating damages. (*Id.*, ¶ 20.)

Among other key pieces of information, Plaintiff’s counsel received wage statements and time records for a statistically significant sample size of Class Members during the Class Period. (Smith FAM Decl., ¶ 21.) Defendant produced an approximately 13.1% sampling of randomly-selected employees, which Plaintiff’s counsel determined provides a statistically significant sample size with a high-degree of confidence for Plaintiff’s expert’s statistical analysis. (*Id.*, ¶ 21.)

1 On April 28, 2025, the Parties engaged in a full-day mediation with experienced mediator Lisa
2 Klerman, resulting in settlement terms after extensive negotiations. (Smith FAM Decl., ¶ 22.)
3 Following further discussions, the Parties executed the longform Settlement Agreement on May 12,
4 2025.

5 On October 15, 2025, this Court continued *Plaintiff's Motion for Preliminary Approval of Class*
6 *and PAGA Action* ("Motion for Preliminary Approval") to February 11, 2026, and ordered
7 supplemental briefing. (Smith FAM Decl., ¶ 23.) On January 19, 2026, Plaintiff filed *Plaintiff's*
8 *Supplemental Brief in Support of Motion for Order Granting Preliminary Approval of Class Action*
9 *and PAGA Settlement* ("Supplemental PAM Brief") with the Court. (Smith FAM Decl., ¶ 24.)

10 On February 11, 2026, Plaintiff's Motion for Preliminary Approval was granted. (See *Order*
11 *Granting Preliminary Approval of Class Action Settlement* ("Preliminary Approval Order" or "PAM
12 Order").) In granting preliminary approval, this Court determined that "[t]he resolution set forth in the
13 Settlement Agreement appears to be fair, adequate, and reasonable..." (PAM Order, at p. 2.)

14 The matter is now before this court for final approval.

15 **C. THE CLAIMS AND DEFENSES**

16 Plaintiff alleged several categories of wage-and-hour violations on behalf of the Class and
17 Aggrieved Employees. The details and settlement value of each of these claims, and their
18 corresponding defenses, were discussed extensively in the Plaintiff's Motion for Preliminary Approval,
19 Supplemental Brief in Support of Plaintiff's Motion for Preliminary Approval, and its accompanying
20 papers, the discussion of which is incorporated by reference herein, and which, for the sake of brevity,
21 Plaintiff will avoid belaboring in this motion. (See Motion for Preliminary Approval, at pp. 4–10;
22 Supplemental PAM Brief, at pp. 8-15.)

23 Defendant has persistently denied all liability of any kind associated with the claims and
24 allegations, and further denied that the Class Members are entitled to any relief. Defendant also denied
25 that these allegations are appropriate for class or representative treatment for any purpose other than
26 the settlement. Defendant maintains, among other things, that it has complied with California laws in
27 all respects. (Smith FAM Decl., ¶ 32.)

28 **D. SUMMARY OF THE SETTLEMENT AGREEMENT**

1 Under the terms of the Settlement Agreement, Defendant will be released of all claims asserted
2 in the Complaint in exchange for Defendant's agreement to pay a non-reversionary Gross Settlement
3 Amount of \$312,500.00. (See generally, Settlement Agreement.)

4 The amount to be paid by Defendant includes: **(1)** the fees and expenses of the Settlement
5 Administrator in the amount of \$8,000.00 (Settlement Agreement, at p. 3; Admin. Decl., ¶ 16);
6 **(2)** Plaintiff's counsel's attorney fees of one-third of the Gross Settlement Amount, i.e., \$104,166.67
7 (Settlement Agreement at p. 4); **(3)** litigation expenses and costs of \$20,000 (Settlement Agreement, at
8 p. 4; Smith FAM Decl., ¶ 44); **(4)** a service award of \$5,000.00 to the named Plaintiff (Settlement
9 Agreement, at p. 17); **(5)** payment to the LWDA of \$20,312.50 for its 65% share of the settlement for
10 civil penalties pursuant to PAGA (Settlement Agreement, at p. 8); and **(6)** payment to the Aggrieved
11 Employees of \$10,937.50 for their 35% share of the settlement for civil penalties pursuant to PAGA
12 (Settlement Agreement, at p. 8.) The remaining amount, which consists of approximately \$144,083.33,
13 less applicable taxes, will be distributed to the Class Members. (Admin. Decl., ¶ 12.)

14 **III. NOTICE TO THE CLASS MEMBERS**

15 Pursuant to this Court's Preliminary Approval Order, the Settlement Administrator has fully
16 completed distributing the Class Notice, as the deadline to respond passed on May 1, 2026. (Admin.
17 Decl., ¶ 8.) The Settlement Administrator was tasked with, among other things: **(1)** preparing,
18 translating, printing and mailing the Class Members the court-approved Class Notice; **(2)** receiving and
19 processing requests for exclusion and written objections; **(3)** resolving Settlement Class Members'
20 disputes over the number of workweeks Defendant has record of them working during the Class Period,
21 which was pre-printed on their individualized Class Notice; and **(4)** calculating individual settlement
22 award amounts. (Admin. Decl., ¶ 3.)

23 On or about February 25, 2026, the Settlement Administrator received the class data list from
24 Defendant's counsel. (Admin. Decl., ¶ 5.) On March 17, 2026, the Settlement Administrator mailed
25 the Court-approved notice to all 431 Class Members contained in the data provided by Defendant.
26 (Admin. Decl., ¶ 6.) The deadline for the 431 Class Members in the class data list to submit an opt-out
27 request, objection, or dispute of workweeks was May 1, 2026. (Admin. Decl., ¶ 8.) The Settlement
28 Administrator has received **zero** objections from the Class Members and **zero** Class Members have

1 requested exclusion (Admin. Decl., ¶¶ 9–10.) Thus, the Settlement Administrator is reporting a **100%**
2 **participation rate**—an overwhelmingly favorable response to a Settlement. (Admin. Decl., ¶¶ 9–10.)
3 “[T]he absence of a large number of objections to a proposed class action settlement raises a strong
4 presumption that the terms of a proposed class settlement action are favorable to the class members.”
5 (*In re Omnivision Technologies, Inc.* (N.D. Cal. 2008) 559 F.Supp.2d 1036, 1043, quoting *National*
6 *Rural Telecommunications Cooperative v. DIRECTV, Inc.* (C.D. Cal. 2004) 221 F.R.D. 523, 529;
7 *Moore v. PetSmart, Inc.* (N.D. Cal., Aug. 4, 2015, No. 5:12-CV-03577-EJD) 2015 WL 5439000, at *7,
8 *aff’d* (9th Cir. 2018) 728 Fed. Appx. 671 [finding that where “less than one percent either opted out or
9 objected, the reaction of the putative class has been very positive. Therefore, this factor strongly favors
10 settlement.”].)

11 **IV. THE COURT SHOULD FINALLY APPROVE THE SETTLEMENT AGREEMENT**

12 **A. CLASS ACTION SETTLEMENTS ARE SUBJECT TO JUDICIAL REVIEW** 13 **AND APPROVAL UNDER THE CALIFORNIA RULES OF COURT.**

14 The law favors settlements. (*Bush v. Superior Court* (1992) 10 Cal.App.4th 1374, 1382.) This
15 is particularly true in class actions where substantial resources can be conserved by avoiding the time,
16 cost, and risk of formal litigation. (See *Ferguson v. Lieff, Cabraser, Heimann & Bernstein* (2003) 30
17 Cal.4th 1037, 1054.) However, a class action may not be dismissed, compromised, or settled without
18 the Court’s approval. (Cal. Rules of Court, rule 3.769(a).) This requirement exists to prevent fraud,
19 collusion, or unfairness to the class and to ensure that their rights are given due regard by the negotiating
20 parties. (*Malibu Outrigger Bd. of Governors v. Superior Court* (1980) 103 Cal.App.3d 573, 578–579;
21 *Officers for Justice v. Civil Service Com’n of City and County of San Francisco* (9th Cir. 1982) 688
22 F.2d 615, 624.) The California Rules of Court set forth the procedures for court approval of a class
23 action settlement: **(1)** the Court preliminarily approves the settlement; **(2)** class members receive notice
24 as directed by the Court; and **(3)** the Court conducts a final approval hearing to inquire into the fairness
25 of the proposed settlement. (See Cal. Rules of Court, rule 3.769(c), (e)–(g).)

26 In deciding whether to grant final approval, the Court’s ultimate duty is to determine whether
27 the settlement is fair, adequate, and reasonable. (See *Dunk v. Ford Motor Co.* (1996) 48 Cal.App.4th
28 1794, 1801 [setting forth the “fair, adequate, and reasonable” standard], citing *Officers for Justice v.*

1 *Civil Service Com'n of City and County of San Francisco, supra*, 688 F.2d 615, 625; see also *Cho v.*
2 *Seagate Technology Holdings, Inc.* (2009) 177 Cal.App.4th 734, 742–743 [a trial court must approve
3 a class action settlement agreement, but only after determining that it is “‘fair, adequate and
4 reasonable,’” considering factors such as the “‘risk, expense, [and] complexity’” of continued
5 litigation], citations omitted.) The Court should consider several factors including, but not limited to:

6 “[T]he strength of Plaintiffs’ case, the risk, expense, complexity and likely duration of
7 further litigation, the risk of maintaining class action status through trial, the amount
8 offered in settlement, the extent of discovery completed and the stage of the
9 proceedings, the experience and views of counsel, . . . and the reaction of the class
members to the proposed settlement.” (*Dunk v. Ford Motor Co., supra*, 48 Cal.App.4th
at p. 1801.)

10 The above factors are not exclusive, “the court is free to engage in a balancing and weighing of
11 factors depending on the circumstances of each case.” (*Wershba v. Apple Computer, Inc.* (2001) 91
12 Cal.App.4th 224, 245.) In doing so, the Court must give due “regard to what is otherwise a private
13 consensual agreement between the parties.” (*Ibid.*; see also *In re Microsoft I-V Cases* (2006) 135
14 Cal.App.4th 706, 723.) The inquiry is limited “to the extent necessary to reach a reasoned judgment
15 that the agreement is not the product of fraud or overreaching by, or collusion between, the negotiating
16 parties” (*Officers for Justice v. Civil Service Com’n of City and County of San Francisco, supra*,
17 688 F.2d 615, 625.)

18 **B. THE SETTLEMENT IS ENTITLED TO A PRESUMPTION OF FAIRNESS**

19 A presumption of fairness exists where, as here: “(1) the settlement is reached through arm’s-
20 length bargaining; (2) investigation and discovery are sufficient to allow counsel and the court to act
21 intelligently; (3) counsel is experienced in similar litigation; and (4) the percentage of objectors is
22 small.” (*Dunk v. Ford Motor Co., supra*, 48 Cal.App.4th 1794, 1802; see also *In re Microsoft I-V Cases*,
23 *supra*, 135 Cal.App.4th 706, 723.)

24 Here, the Settlement Agreement was negotiated at arm’s length between counsel using a
25 professional and well-respected third-party neutral. (Smith FAM Decl., ¶ 36.) Counsel for all parties
26 were thoroughly familiar with the complex legal and factual questions at issue in this litigation. (Smith
27 FAM Decl., ¶ 36.) The Settlement Agreement is a product of intensive negotiations, supported by
28 investigation and direct exchanges of information through informal discovery, settlement negotiations

1 that included a full-day mediation, and significant post-mediation negotiations. (Smith FAM Decl., ¶
2 36.) Though cordial and professional, the settlement negotiations were adversarial and non-collusive
3 in nature. (Smith FAM Decl., ¶ 36.)

4 As described above and in the Motion for Preliminary Approval, the Settlement Agreement was
5 reached after extensive informal discovery, investigation, research, thorough calculations, risk
6 evaluation, substantial exchanges of documents, and an exchange of other information required to
7 evaluate the claims at issue. (Smith FAM Decl., ¶ 37.) Moreover, Plaintiff's Counsel are experienced
8 in similar class actions. (Smith FAM Decl., ¶ 13.) Additionally, the percentage of valid objectors is not
9 only small, *but zero*. (Admin. Decl., ¶ 10.) The presumption of fairness of this settlement applies with
10 full force.

11 C. FINAL APPROVAL OF THE SETTLEMENT IS WARRANTED

12 This Court found that “[t]he resolution set forth in the Settlement Agreement appears to be fair,
13 adequate, and reasonable to the Class...” (PAM Order, at p. 2.) The relevant analysis remains
14 unchanged with one exception: the Court now has adequate information to know “the reaction of the
15 class members to the proposed settlement.” (*Dunk v. Ford Motor Co.*, *supra*, 48 Cal.App.4th at p.
16 1801.) Because the reaction has been overwhelmingly positive, with *zero* objections to the Settlement
17 Agreement, the justifications for approving the Settlement Agreement have only been bolstered since
18 the time of this Court's original analysis. (Admin. Decl., ¶ 10.) This Court can thus proceed secure in
19 the knowledge that the factors mentioned above weigh heavily in favor of granting final approval.

20 V. PLAINTIFF'S SERVICE AWARD IS FAIR, REASONABLE, AND APPROPRIATE

21 The Settlement Agreement provides for a service award payment in the amount of \$5,000, in
22 addition to whatever payment he is otherwise entitled to receive as a Class Member and Aggrieved
23 Employee. (Settlement Agreement, at p. 17.) The proposed service award is intended to recognize the
24 time, effort, and risk that Plaintiff undertook in bringing this case and helping to secure the relief
25 obtained for the members of the Class. (See *Bell v. Farmers Ins. Exchange* (2004) 115 Cal.App.4th
26 715, 726 [upholding “service payment” to named plaintiff for his efforts in bringing class case];
27 *Rodriguez v. West Publishing Corp.* (9th Cir. 2009) 563 F.3d 948, 958–959 [stating that service awards
28 are “intended to compensate class representatives for work done on behalf of the class, to make up for

1 financial or reputational risk undertaken in bringing the action, and, sometimes, to recognize their
2 willingness to act as a private attorney general.”].) To determine the propriety of a service award, courts
3 consider the actions protecting class interests, the benefit provided to the class based on those actions,
4 and the amount of time and effort expended by the plaintiff. (*Staton v. Boeing Co.* (9th Cir. 2003) 327
5 F.3d 938, 976–977.)

6 The proposed service award is reasonable compensation given the time and effort that Plaintiff
7 devoted to this case, the valuable assistance he provided to counsel. (Smith FAM Decl., ¶ 42;
8 Settlement Agreement, at p. 17.) Plaintiff provided invaluable assistance to Plaintiff’s counsel and the
9 Class Members in this case, including providing factual background for mediation and the Operative
10 Complaint, reviewing the relevant documents, participating in phone calls with Plaintiff’s counsel,
11 gathering highly relevant documents, and reviewing the settlement documents. (Smith FAM Decl., ¶
12 43.) Plaintiff agreed to participate in this case with no guarantee of personal benefit. (Smith FAM
13 Decl., ¶ 43.) To the contrary, Plaintiff agreed to undertake the financial risk of serving as a class
14 representative and exposed himself to the risk of negative publicity by anyone who opposed this case.
15 (Smith FAM Decl., ¶ 43.)

16 The service awards requested by Plaintiff represents only 1.6% of the Gross Settlement Amount
17 in this case. Moreover, the service award also falls well within the range of service payments typically
18 awarded to class representatives in similar class actions. (See, e.g., *Bond v. Ferguson Enterprises, Inc.*
19 (E.D. Cal. June 30, 2011) No. 1:09-cv-1662 OWW MJS, 2011 WL 2648879 [approving service awards
20 of **\$11,250.00**]; *Ross v. US Bank National Association* (N.D. Cal. Sept. 29, 2010) No. C 07-02951 SI,
21 2010 WL 3833922, at *2 [approving service award of **\$20,000.00**]; *Vasquez v. Coast Valley Roofing,*
22 *Inc.* (E.D. Cal. 2010) 266 F.R.D. 482, 493 [approving service awards of **\$10,000.00**]; *West v. Circle K*
23 *Stores, Inc.* (E.D. Cal. Oct. 19, 2006, No. S-04-0438 WBS GGH) 2006 WL 8458679, at *8 [approving
24 service awards of **\$15,000**]; *Glass v. UBS Fin. Servs., Inc.* (N.D. Cal. Jan. 26, 2007, No. C-06-4068
25 MMC) 2007 WL 221862, at *17, *aff’d* (9th Cir. 2009) 331 Fed.Appx. 452 [approving service awards
26 of **\$25,000**]; *Louie v. Kaiser Found. Health Plan, Inc.* (S.D. Cal. Oct. 6, 2008, No. 08CV0795 IEG
27 RBB) 2008 WL 4473183, at *7 [approving service awards of **\$25,000**], emphasis added; *Garner v.*
28 *State Farm Mut. Auto. Ins. Co.* (N.D. Cal. Apr. 22, 2010) No. CV 08 1365 CW EMC, 2010 WL

1 1687832, at *17 n.8 [noting that numerous courts have approved service awards of **\$20,000** or more],
2 emphasis added.) The requested service award is modest, fair, and reasonable.

3 **VI. THE PROPOSED ATTORNEYS' FEE ALLOCATION IS FAIR, REASONABLE,**
4 **AND APPROPRIATE**

5 Plaintiff's counsel seek a fee award under the "common fund" doctrine. (See *Laffitte v. Robert*
6 *Half Internat. Inc.* (2016) 1 Cal.5th 480, 506 [reaffirming its approval of the use of a percentage of the
7 common fund to compensate counsel].) Plaintiff's counsel are also entitled to fees under various
8 statutes at issue here, including, among others, Labor Code sections 218.5, 226, subdivision (e)(1),
9 1194, and 2699, subdivision (g)(1), all of which provide for reasonable attorneys' fees to be recovered
10 by the prevailing party.

11 Specifically, Plaintiff's counsel request attorneys' fees in the amount of one-third of the Gross
12 Settlement Amount (i.e., \$104,166.67), as provided in the Settlement Agreement. (Settlement
13 Agreement at p. 5.) As will be explained, this request is reasonable and appropriate under the common
14 fund theory and is supported by: (1) case law, (2) Plaintiff's counsel's high quality of work, (3) the
15 excellent results achieved for the Class Members, (4) the risks inherent in the contingent nature of
16 Plaintiff's counsel's representation in this case, and (5) public policy considerations.

17 **A. PLAINTIFF'S COUNSEL ARE ENTITLED TO A FEE FROM THE**
18 **COMMON FUND CREATED**

19 As the California Supreme Court has made clear, one-third of the common fund is a reasonable
20 percentage for a trial court to award as attorneys' fees in a class action where a common fund was
21 generated because of the case. (See *Laffitte v. Robert Half Internat. Inc.* (2016) 1 Cal.5th 480, 506
22 ["We therefore agree with the Court of Appeal below that '[t]he percentage of fund method survives
23 in California class action cases, and the trial court did not abuse its discretion in using it, in part, to
24 approve the fee request [of one-third of the common fund] in this class action"].) The California
25 Supreme Court further clarified that trial courts "have discretion to conduct a lodestar cross-check on
26 a percentage fee, as the court did here; they also retain the discretion to forgo a lodestar cross-check
27 and use other means to evaluate the reasonableness of a requested percentage fee." (*Ibid.*)

28 It is well-established that, where a lawsuit results in the recovery of a fund or property benefiting

1 others, as well as the plaintiff—as in a class action—the court has inherent equitable power to order
2 the plaintiff’s attorneys’ fees to be paid out of the common fund or property. (See *Serrano v. Priest*
3 (1977) 20 Cal.3d 25, 35; *D’Amico v. Board of Medical Examiners* (1974) 11 Cal.3d 1, 25 [“when a
4 number of persons are entitled in common to a specific fund, and an action brought by a plaintiff or
5 plaintiffs for the benefit of all results in the creation or preservation of that fund, such plaintiff or
6 plaintiffs may be awarded attorney’s fees out of the fund”]; *Quinn v. State of California* (1975) 15
7 Cal.3d 162, 168; *In re Stauffer’s Estate* (1959) 53 Cal.2d 124, 132.) This “fee spreading” is premised
8 on assuring that all those benefitted by the litigation pay their fair share of the costs for obtaining the
9 recovery. (See *Lealao v. Beneficial California, Inc.* (2000) 82 Cal.App.4th 19, 26; *Cziraki v. Thunder*
10 *Cats, Inc.* (2003) 111 Cal.App.4th 552, 558.)

11 As mentioned above, Plaintiff’s counsel are seeking a fee award under the “common fund”
12 doctrine. The common fund doctrine provides that “a litigant or a lawyer who recovers a common fund
13 for the benefit of persons other than himself or his client is entitled to a reasonable attorney’s fee from
14 the fund as a whole.” (*Boeing Co. v. Van Gemert* (1980) 444 U.S. 472, 478; see also *Vincent v. Hughes*
15 *Air West, Inc.* (9th Cir. 1977) 557 F.2d 759, 769; *Class Plaintiffs v. Jaffe & Schlesinger, P.A.* (9th Cir.
16 1994) 19 F.3d 1306, 1308.) The doctrine is founded on the understanding that attorneys should
17 normally be paid by their clients, and that unless attorneys’ fees are paid out of the common fund where
18 the attorneys’ unnamed class member “clients” have no express retainer agreement, those who
19 benefited from the fund without contributing to those who created it would be unjustly enriched.
20 (*Boeing Co. v. Van Gemert, supra*, 444 U.S. 472, 478.)

21 In *Laffitte v. Robert Half Internat., Inc., supra*, 1 Cal.5th 480, the California Supreme Court
22 unequivocally held “that when class action litigation establishes a monetary fund for the benefit of the
23 class members, and the trial court in its equitable powers awards class counsel a fee out of that fund,
24 the court may determine the amount of a reasonable fee by choosing an appropriate percentage of the
25 fund created” without considering the amount of hours expended on the case. (*Id.* at p. 503.) The court
26 further held that “[t]he recognized advantages of the percentage method—including relative ease of
27 calculation, alignment of incentives between counsel and the class, a better approximation of market
28 conditions in a contingency case, and the encouragement it provides counsel to seek an early settlement

1 and avoid unnecessarily prolonging the litigation [citations]—convince us the percentage method is a
2 valuable tool that should not be denied our trial courts.” (*Ibid.*)

3 Plaintiff’s counsel’s diligent litigation of this action resulted in the creation of an ascertainable
4 common fund that will substantially benefit the Class. Plaintiff’s counsel’s request for an award of one-
5 third of the Gross Settlement Amount is well within the range awarded to counsel under similar
6 circumstances in litigation of this type and is abundantly reasonable in light of the excellent results
7 achieved for the Class Members.

8 This requested amount has not been objected to by any Class Member. (Admin. Decl., ¶ 10.)
9 As this Settlement Agreement will result in the recovery of a substantial fund benefiting all
10 participating Class Members, this Court has inherent equitable power to order Plaintiff’s counsel’s fees
11 and costs to be paid out of the Gross Settlement Amount, pursuant to the common fund theory.

12 **B. COURTS ROUTINELY AWARD ATTORNEYS’ FEES AT OR ABOVE**
13 **THOSE REQUESTED HERE**

14 The negotiated and unopposed fee should also be approved because it is within the approved
15 range of appropriate awards of attorneys’ fees in similar wage-and-hour class action cases in California.
16 (See, e.g., *Vasquez v. Coast Valley Roofing, Inc.* (E.D. Cal. 2010) 266 F.R.D. 482, 491–492 [explaining
17 that “[t]he typical range of acceptable attorneys’ fees in the Ninth Circuit is 20% to 33 1/3% of the total
18 settlement value”]; *Singer v. Becton Dickinson and Co.* (S.D. Cal., June 1, 2010, No. 08-CV-821-IEG
19 (BLM)) 2010 WL 2196104, at *8 [approving attorney fee award of 33.33% of the common fund and
20 noting that award was similar to awards in three other wage-and-hour class action cases where fees
21 ranged from 30.3% to 50%]; *Martin v. FedEx Ground Package System, Inc.* (N.D. Cal., Dec. 31, 2008,
22 No. C 06-6883 VRW) 2008 WL 5478576, at *8 [meal break class action where the federal district court
23 approved attorneys’ fees of one-third of common fund]; *Romero v. Producers Dairy Foods, Inc.* (E.D.
24 Cal., Nov. 14, 2007, No. 1:05CV0484 DLB) 2007 WL 3492841, at *4 [approving fees at one-third of
25 the common fund in a missed meal break class action and noting that fee awards in class actions average
26 around one-third of the recovery]; *Stuart v. Radioshack Corp.* (N.D. Cal., Aug. 9, 2010, No. C-07-4499
27 EMC) 2010 WL 3155645, at *6 [noting that a fee award of one-third of the settlement was “well within
28 the range of percentages which courts have upheld as reasonable in other class action lawsuits”];

1 *McCrary v. Elations Company, LLC* (C.D. Cal., Feb. 25, 2016, No. EDCV130242JGBSPX) 2016 WL
2 769703, at *10 [noting that most fee awards are 33%]; *Boyd v. Bank of America Corp.* (C.D. Cal., Nov.
3 18, 2014, No. SACV 13-0561-DOC) 2014 WL 6473804, at *12 [finally approving a one-third fee
4 award on a \$5,800,000 settlement].)

5 Thus, a fee in the amount of one-third of the common fund is fair and reasonable as it falls
6 squarely within the range of fee awards approved by courts in similar wage-and-hour matters. (See
7 *Stuart v. Radioshack Corp.* (N.D. Cal., Aug. 9, 2010, No. C-07-4499 EMC) 2010 WL 3155645, at *6
8 [approving fee award of one-third of the total maximum settlement amount of \$4.5 million and noting
9 that the fee award of one-third of the total settlement was “well within the range of percentages which
10 courts have upheld as reasonable in other class action lawsuits”]; *Monterrubio v. Best Buy Stores, L.P.*
11 (E.D. Cal., Nov. 20, 2013, No. 2:11-CV-03270-MCE-AC) 2013 WL 12432761, at *12 [finally
12 approving fee award of 30%]; *Singer v. Becton Dickinson and Co.* (S.D. Cal., June 1, 2010, No. 08-
13 CV-821-IEG (BLM)) 2010 WL 2196104, at *8 [approving fee award of 33.33% of the common fund];
14 *Romero v. Producers Dairy Foods, Inc.* (E.D. Cal., Nov. 14, 2007, No. 1:05CV0484 DLB) 2007 WL
15 3492841, at *4 [awarding fees of one-third of common fund in a wage-and-hour class action, noting:
16 “[f]ee awards in class actions average around one-third of the recovery”]; *Martin v. FedEx Ground*
17 *Package System, Inc.* (N.D. Cal., Dec. 31, 2008, No. C 06-6883 VRW) 2008 WL 5478576, at *8
18 [approving attorneys’ fees of one-third of common fund].)

19 **C. THE HIGH QUALITY OF WORK AND EXCELLENT RESULT OBTAINED**
20 **SUPPORT THE AWARD**

21 In addition to the fact that a class benefit was created with a significant common fund, the
22 fairness of the requested fee award of one-third of that common fund is supported by the high quality
23 of work performed by Plaintiff’s counsel and the favorable result obtained for the Class Members given
24 the significant challenges faced by Plaintiff in this action.

25 Plaintiff’s counsel diligently, efficiently, and creatively pursued this case and promptly reached
26 a successful settlement for the benefit of the Class Members. Despite the numerous risks and obstacles
27 afflicting Plaintiff’s claims as detailed in the Motion for Preliminary Approval and its accompanying
28 papers, Plaintiff’s counsel crafted and negotiated a fair and reasonable Settlement Agreement for the

1 benefit of the Class Members. The fact that the settlement was embraced and supported by the Class
2 Members, as evidenced by the complete lack of any objections or opt-outs, clearly demonstrates that
3 the Class Members support the Settlement Agreement and results achieved by Plaintiff's counsel
4 through the litigation of this matter. (Admin. Decl., ¶¶ 9–10.)

5 As a result of this litigation, the Class Members stand to receive a significant Net Settlement
6 Amount of **\$155,020.83**.

7 **D. THE CONTINGENT NATURE OF PLAINTIFF'S COUNSEL'S**
8 **REPRESENTATION OF PLAINTIFF AND THE CLASS FURTHER**
9 **SUPPORTS THE FEE AWARD AT ONE-THIRD OF THE MAXIMUM**
10 **COMMON FUND**

11 An additional factor militating in favor of granting the requested fee award is the fact that this
12 case was both legally and financially risky for Plaintiff's counsel, who accepted this representation on
13 a contingency basis. (See *Vizcaino v. Microsoft Corp.* (9th Cir. 2002) 290 F.3d 1043, 1048–1049
14 [noting that “[r]isk is a relevant circumstance” when considering attorneys’ fees].) Specifically, there
15 was the prospect of enormous cost inherent in class action litigation, and the many additional risks,
16 discussed at length in Plaintiff's Motion for Preliminary Approval and its accompanying papers. Those
17 risks included difficulties in establishing Defendant's actual or constructive knowledge of unpaid
18 wages; the risk of the Court not certifying the class based on numerosity, commonality, and
19 individualized inquiry grounds; the risk of Defendant prevailing on the merits; difficulties in
20 establishing Defendant's bad faith in maintaining payroll records and in making alleged wage statement
21 errors; the difficulty in proving that Defendant's alleged wage statement errors caused injury to
22 Plaintiff; and the risk of the Court reducing PAGA penalties. In light of these risks, the chances of
23 recovery were far from certain.

24 This risk further justifies the requested fee award. As explained by the California Supreme
25 Court, “[a] lawyer who both bears the risk of not being paid and provides legal services is not receiving
26 the fair market value of his work if he is paid only for the second of these functions. If he is paid no
27 more, competent counsel will be reluctant to accept fee award cases.” (*Ketchum v. Moses* (2001) 24
28 Cal.4th 1122, 1133, quotation marks omitted; see also *Crommie v. State of Cal., Public Utilities Com’n*

(N.D. Cal. 1994) 840 F.Supp. 719, 725 [“The purpose of contingent risk inquiry is to determine a fee that is likely to entice competent counsel to undertake difficult public interest cases.”].)

Finally, the absence of any valid objections to the requested fee award, coupled with the 100% Class Member participation rate, also supports the appropriateness and reasonableness of the requested attorneys’ fees. (Admin. Decl., ¶ 10; *In re Heritage Bond Litigation* (C.D. Cal., June 10, 2005) No. 02-ML-1475 DT) 2005 WL 1594403, at *21 [“The absence of objections or disapproval by class members to Class Counsel’s fee request further supports finding the fee request reasonable.”].)

E. PUBLIC POLICY CONSIDERATIONS REQUIRE THE AWARD OF ADEQUATE FEES SO COMPETENT AND EXPERIENCED COUNSEL WILL UNDERTAKE SUCH REPRESENTATIONS

In many complex actions such as this one, able counsel for plaintiffs can be retained only on a contingent basis. A large segment of the public would be denied a remedy and the ability to retain counsel to pursue low value individual claims in actions such as the current case if fees awarded by the courts in successful cases did not fairly and adequately compensate counsel for the services provided, the serious risks undertaken, and the delay before any compensation is received.

Fair fee awards in successful cases ensure that competent legal services will be available. The complexity and societal importance of this type of litigation calls for the most able counsel obtainable for plaintiffs. To encourage first-rate attorneys to represent plaintiffs on a contingent basis in this type of important litigation, attorneys’ fees awarded should reflect this goal. In its landmark decision, *Vasquez v. Superior Court* (1971) 4 Cal.3d 800, a unanimous California Supreme Court noted:

“Thirty years ago commentators, in urging the utility of the class suit to vindicate the rights of stockholders, made this incisive observation: ‘Modern society seems increasingly to expose men to . . . group injuries for which individually they are in a poor position to seek legal redress, either because they do not know enough or because such redress is disproportionately expensive. If each is left to assert his rights alone if and when he can, there will at best be a random and fragmentary enforcement, if there is any at all. This result is not only unfortunate in the particular case, but it will operate seriously to impair the deterrent effect of the sanctions which underlie much contemporary law. The problem of fashioning an effective and inclusive group remedy is thus a major one.’ [Citation.]” (*Vasquez v. Superior Court, supra*, 4 Cal.3d 800, 807.)

The same rationale applies to this litigation. The express judicial policy of California is to favor

1 the maintenance of these types of representative actions. (See, e.g., *Sav-On Drug Stores, Inc. v.*
2 *Superior Court* (2004) 34 Cal.4th 319, 340; *Pearce v. Superior Court* (1983) 149 Cal.App.3d 1058,
3 1065; *Kraus v. Trinity Management Services, Inc.* (2000) 23 Cal.4th 116, 126.) As recognized by the
4 California Supreme Court in *Sav-On Drug Stores, Inc.*:

5 “Considerations of sound public policy buttress our conclusion. Labor Code section
6 1194 confirms ‘a clear public policy . . . that is specifically directed at the enforcement
7 of California’s minimum wage and overtime laws for the benefit of workers.’ [Citation.]
8 As defendant’s own authority reminds us, California’s overtime laws are remedial and
9 are to be construed so as to promote employee protection. [Citation.] And, as we have
10 recognized, ‘this state has a public policy which encourages the use of the class action
11 device.’ [Citation.] “By establishing a technique whereby the claims of many
12 individuals can be resolved at the same time, the class suit both eliminates the possibility
13 of repetitious litigation and provides small claimants with a method of obtaining redress
14 for claims which would otherwise be too small to warrant individual litigation.”
15 [Citation.]” (*Sav-On Drug Stores, Inc. v. Superior Court, supra*, 34 Cal.4th 319, 340.)

16 One of the purposes for awarding fees in such situations is:

17 “[E]ncouragement of the attorney for the successful litigant, who will be more willing
18 to undertake and diligently prosecute proper litigation for the protection or recovery of
19 the fund if he is assured that he will be promptly and directly compensated should his
20 efforts be successful.” (*In re Stauffer’s Estate* (1959) 53 Cal.2d 124, 132.)

21 Conversely, a reduction in attorneys’ fees due to the size of the settlement in this case would
22 create perverse incentives for class action attorneys—effectively penalizing them for obtaining more
23 favorable results on behalf of the class. Public policy would be best served by encouraging class action
24 attorneys to recover the greatest amount reasonably possible on behalf of the injured class members.
25 The award of attorneys’ fees as requested by Plaintiff’s counsel would properly reward Plaintiff’s
26 counsel’s efforts in advancing a clear public policy and would encourage additional such efforts.

27 These important public policy considerations support the Court’s approval of the fee requested.

28 **F. THE LODESTAR MULTIPLIER APPROACH CONFIRMS THE
REASONABLENESS OF THE FEE REQUEST**

Although Plaintiff’s counsel does not request fees under a lodestar-with-multiplier approach, a
lodestar cross-check confirms that the percentage requested is patently reasonable. The “lodestar-
multiplier” is an alternative accepted approach of evaluating the reasonableness of attorneys’ fees

1 whereby the court computes the “lodestar” amount by multiplying the number of hours reasonably
2 expended by each attorney or legal staff member by their hourly rates, and then enhances this lodestar
3 figure by a “multiplier” to account for a range of factors, such as the novelty or difficulty of the case,
4 its contingent nature, and the degree of success achieved. (See *PLCM Group v. Drexler* (2000) 22
5 Cal.4th 1084, 1095–1096; *Press v. Lucky Stores, Inc.* (1983) 34 Cal.3d 311, 322; *Serrano v. Priest*,
6 *supra*, 20 Cal.3d 25, 48–49.) As noted, using the loadstar approach, the court first computes the
7 reasonable market value of the service rendered. (*Ketchum v. Moses* (2001) 24 Cal.4th 1122, 1138, fn.
8 3.) The first step is to calculate the lodestar, which is determined by multiplying the time spent by the
9 attorneys and other timekeepers by their reasonable hourly rates. (*Id.* at p. 1132.)

10 When a court adopts the “lodestar multiplier” method, after initially calculating the combined
11 total lodestar, the court may then adjust the lodestar based on several factors in order to “fix a fee at
12 the fair market value for the particular action.” (*Id.* at p. 1132; *Graham v. DaimlerChrysler Corp.*
13 (2004) 34 Cal.4th 553, 574.) As noted, these additional factors include the contingent risk of the
14 litigation, the novelty and complexity of the issues, and exceptional results obtained. (*Ketchum v.*
15 *Moses, supra*, 24 Cal.4th at p. 1132; *Serrano v. Priest, supra*, 20 Cal.3d at p. 48.)

16 A lodestar calculation need not be supported by detailed time records. (*Wershba v. Apple*
17 *Computer, Inc.* (2001) 91 Cal.App.4th 224, 255 [“California case law permits fee awards in the absence
18 of detailed time sheets”], disapproved on other grounds by *Hernandez v. Restoration Hardware, Inc.*
19 (2018) 4 Cal.5th 260.) Declarations by counsel as to time spent, even if only estimates, are enough.
20 (See *Wershba v. Apple Computer, Inc., supra*, 91 Cal.App.4th at pp. 254–255 [“Here plaintiff’s
21 attorneys submitted declarations evidencing the reasonable hourly rate for their services and
22 establishing the number of hours spent working on the case”]; see also *Dunk v. Ford Motor Co., supra*,
23 48 Cal.App.4th 1794, 1810 [stating that lodestar calculation could be based on counsel’s estimate of
24 time spent]; *Syers Properties III, Inc. v. Rankin* (2014) 226 Cal.App.4th 691, 698 [“It is well established
25 that ‘California courts do not require detailed time records, and trial courts have discretion to award
26 fees based on declarations of counsel describing the work they have done and the court’s own view of
27 the number of hours reasonably spent. [Citations]’”].)

28 As set forth above, Plaintiff’s counsel are not requesting attorneys’ fees under the lodestar

multiplier approach. Nevertheless, Plaintiff's counsel in their declaration have provided a summary of the hours they expended throughout the course of the litigation, including drafting and filing of the various complaints, defending the pleadings, engaging in discovery, preparing damages analysis, reviewing the formal and informal discovery, preparing and negotiating the settlement agreement, preparing the class notice, preparing papers for and moving for preliminary approval (including supplemental briefing), preparing papers and moving for final approval, amongst other things.

To date, Plaintiff's counsel's lodestar is **\$101,178.10** after expending **119.2 hours** on this matter. (Smith FAM Decl., ¶ 54.) Thus, the fees sought here reflect a lodestar multiplier of only **1.03** (i.e., $\$104,166.67 \div \$101,178.10$). Moreover, it is anticipated that Plaintiff's counsel will expend time which cannot yet be accounted for in the hours in Plaintiff's counsel's declaration. (Smith FAM Decl., ¶ 58.) Therefore, the unadjusted lodestar will increase and the multiplier will decrease by the conclusion of this matter.

Historically, courts in California have commonly approved multipliers between two and four. (See, e.g., *Steiner v. American Broadcasting Co., Inc.* (9th Cir. 2007) 248 Fed.Appx. 780, 783 [multiplier of 6.85 "falls well within the range of multipliers that courts have allowed"]; *Sternwest Corp. v. Ash* (1986) 183 Cal.App.3d 74, 76 [directing the trial court "to enhance the lodestar award by such factor (two, three, four or otherwise) that the court, in its discretion shall deem proper"]; *Van Vranken v. Atlantic Richfield Co.* (N.D. Cal. 1995) 901 F.Supp. 294, 298 ["Multipliers in the 3–4 range are common in lodestar awards for lengthy and complex class action litigation."]; *Vizcaino v. Microsoft Corp.* (9th Cir. 2002) 290 F.3d 1043, 1052 [appendix listing numerous cases with multipliers exceeding the multiplier at issue here, and even up to a multiplier of 19.6]; *Wershba v. Apple Computer, Inc.* (2001) 91 Cal.App.4th 224, 255 ["Multipliers can range from 2 to 4 or even higher."].) The fact that Plaintiff's counsel's lodestar multiplier falls well below those approved by Courts further confirms the reasonableness of the fee request.

VII. PLAINTIFF'S COUNSEL SHOULD BE REIMBURSED FOR THEIR EXPENSES

Under the common fund method, the attorneys representing the class members are permitted to recover their litigation costs and expenses from the common fund. (See *Serrano v. Priest* (1977) 20 Cal.3d 25, 35 [common fund doctrine permits recovery of fees and costs from the fund]; *Rider v.*

1 *County of San Diego* (1992) 11 Cal.App.4th 1410, 1424, fn. 6 [costs are recoverable from the common
2 fund “[o]f necessity, and for precisely the same reasons discussed above with respect to the recovery
3 of attorney fees by . . . [Plaintiffs’] attorneys”]; *Melendres v. City of Los Angeles* (1975) 45 Cal.App.3d
4 267, 277.) In fact, this is true for whatever method is chosen by the Court to calculate attorneys’ fees:
5 Plaintiff’s counsel is entitled to recover “those out-of-pocket expenses that would normally be charged
6 to a fee-paying client.” (*Harris v. Marhoefer* (9th Cir. 1994) 24 F.3d 16, 19, internal quotation and
7 citation omitted.)

8 Accordingly, Plaintiff’s counsel further request that, in addition to awarding them reasonable
9 attorneys’ fees, the Court grant their application for reimbursement of the reasonable out-of-pocket
10 expenses advanced, incurred and expected to be incurred by the law firm representing Plaintiff in
11 connection with the prosecution of this litigation, in the amount of \$20,000.00. (Smith FAM Decl., ¶
12 44.) Plaintiff’s counsel has documented and verified these costs and expenses for which counsel seeks
13 reimbursement. (Smith FAM Decl., ¶ 44.)

14 **VIII. SETTLEMENT ADMINISTRATION COSTS**

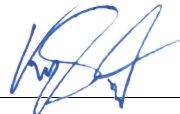
15 The parties agreed that the Settlement Administrator, Simpluris, Inc., would be compensated
16 for services performed. The Administrator’s requested fee is \$8,000.00. (Admin. Decl., ¶ 16.) The fee
17 was previously provided in the Settlement Agreement, preliminarily approved by the Court, and
18 noticed to the Class Members.

19 **IX. SUBMISSION TO THE LWDA**

20 The Settlement Agreement has been submitted to the LWDA pursuant to Labor Code section
21 2699, subdivision (s)(2). (Smith FAM Decl., ¶ 61.)

22 Dated: May 21, 2026

MELMED LAW GROUP P.C.



KYLE D. SMITH

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Aggrieved Employees