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

KALU EKEH, as an individual and on
behalf of all others similarly situated,

Plaintiff,

vs.

QUALITY TECHNOLOGY SERVICES,
LLC, a Delaware limited liability
company; and DOES 1 through 50,
inclusive,

Defendants.

Case No.: 24CV019854

(Assigned to the Hon. Jill H. Talley, Dept. 8A)

**PLAINTIFF’S NOTICE OF MOTION AND
MOTION FOR FINAL APPROVAL OF CLASS
ACTION SETTLEMENT; MEMORANDUM
OF POINTS AND AUTHORITIES IN
SUPPORT**

Date: June 26, 2026

Time: 9:00 a.m.

Dept.: 8A

Action Filed: September 30, 2024

Trial Date: None Set

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

2 **PLEASE TAKE NOTICE** that on June 26, 2026, at 9:00 a.m., or as soon thereafter as
3 the matter may be heard, before the Honorable Jill H. Talley, in Department 8A of the above
4 referenced Court, located at 500 G Street, Sacramento, CA 95814, Plaintiff Kalu Ekeh
5 (“Plaintiff”) will seek an Order:

6 (1) Granting final approval to the Joint Stipulation of Class Action Settlement and
7 Release and the Amendment to Joint Stipulation of Class Action Settlement and Release
8 (together, the “Agreement” or “Settlement Agreement”) in this action;

9 (2) Approving the revised Gross Settlement Amount of \$337,740.50 based on the
10 Settlement Agreement’s Escalator Clause;

11 (3) Approving distribution of the settlement funds to the Settlement Class pursuant to
12 the terms of the Agreement;

13 (4) Approving Plaintiff’s request for a Service Award of \$10,000.00 to Plaintiff
14 pursuant to the terms of the Agreement;

15 (5) Approving Plaintiff’s request for an award of attorneys’ fees of 35% of the
16 revised Gross Settlement Amount of \$118,209.18, and reimbursement of actual costs in the
17 amount of \$9,778.60, pursuant to the terms of the Agreement;

18 (6) Approving Plaintiff’s request for payment of the Settlement Administration
19 Expenses to Phoenix Settlement Administrators in the amount of \$5,200.00 with payment
20 pursuant to the terms of the Agreement; and

21 (7) Entering final judgment as to all Remaining Settlement Class Members in this
22 action.

23 This Motion is made pursuant to Rule 3.769 of the California Rules of Court, which
24 provides for court approval of the settlement of a class action and authorizes the Court to grant
25 final certification of a class for settlement purposes. In light of the overwhelmingly positive
26 response, as shown by the lack of objections and requests for exclusion, there is no question that
27 the settlement is fair, reasonable, and adequate, and thus should be granted final approval.

28 This Motion will be based on the attached Memorandum of Points and Authorities, the

1 supporting Declarations of Larry W. Lee, Mai Tulyathan, Plaintiff Kalu Ekeh, Taylor Mitzner of
2 Phoenix Settlement Administrators, the oral arguments of counsel (should there be any), and on
3 the complete records and file herein.

4 Pursuant to Local Rule 1.06 (A), the Court will make a tentative ruling on the merits of
5 this matter by 2:00 p.m., the court day before the hearing. The complete text of the tentative
6 ruling may be downloaded off the Court's website. If the party does not have online access, they
7 may call the dedicated phone number for the department as referenced in the local telephone
8 directory between the hours of 2:00 p.m. and 4:00 p.m. on the court day before the hearing and
9 receive the tentative ruling. If you do not call the Court and the opposing party by 4:00 p.m. the
10 court day before the hearing, no hearing will be held.

11
12 DATED: June 3, 2026

DIVERSITY LAW GROUP, P.C.

13
14 By: 

15 Larry W. Lee
16 Mai Tulyathan
Attorneys for Plaintiff, the Class, and Aggrieved
Employees

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1 **I. INTRODUCTION**

2 This is a wage and hour class and representative Private Attorneys General Act
3 (“PAGA”) action seeking statutory and civil penalties under the California Labor Code. Plaintiff
4 Kalu Ekeh (“Plaintiff”) alleges that Defendant Quality Technology Services, LLC (“Defendant”)
5 (together with Plaintiff, the “Parties”) failed to provide off-duty meal and rest periods and/or pay
6 premium wages at the regular rate of pay, failed to pay overtime and/or double time wages at the
7 regular rate of pay, failed to pay sick pay at the regular rate of pay, failed to provide accurate,
8 itemized wage statements, and engaged in unfair business practices. Plaintiff brings class and
9 PAGA claims based on violations of Labor Code §§ 201-203, 226, 226.7, 510, 512, 558, 1194,
10 and 2698, *et seq.*, and Business and Professions Code § 17200, *et seq.* Plaintiff seeks damages,
11 penalties, attorneys’ fees, and costs.

12 Plaintiff now seeks the Court’s final approval of the Joint Stipulation of Class Action
13 Settlement and Release and the Amendment to Joint Stipulation of Class Action Settlement and
14 Release (together, the “Agreement” or “Settlement Agreement”). As preliminarily approved by
15 the Court, the Agreement provides for a \$300,000.00 **non-reversionary** fund to be created for
16 the benefit of the Settlement Class, from which attorneys’ fees, litigation costs, Service Award to
17 the Plaintiff, and costs of settlement administration are to be paid. Due to an increase in the
18 number of workweeks worked during the Class Period¹, and pursuant to the Agreement’s
19 Escalator Clause, the Settlement Administrator calculated a \$37,740.50 increase in the Gross
20 Settlement Amount over the initial \$300,000.00 amount. Taking into account the Escalator
21 Clause, this brings the Gross Settlement Amount to **\$337,740.50**. The entire net settlement fund,
22 after the above deductions, will be paid to all Settlement Class Members who did not opt-out of
23 the settlement (“Remaining Settlement Class Members”).

24 The history of this litigation was previously detailed in Plaintiff’s Motion for Preliminary
25

26 ¹ Following the receipt of the class list from Defendant, on February 11, 2026, the Settlement
27 Administrator informed the Parties of the increase in the number of actual workweeks worked during the
28 Class Period from the estimated 4,054 workweeks to 4,767 workweeks. Based on the actual number of
workweeks, the Settlement Administrator calculated a \$37,740.50 increase in the Gross Settlement
Amount. (Declaration of Taylor Mitzner (“Admin. Decl.”) ¶ 13.)

1 Approval of Class Action Settlement. This Court preliminarily approved this settlement on
2 January 23, 2026, directing distribution of Class Notice and scheduling the hearing for final
3 approval of settlement (the “Preliminary Approval Order”).

4 As directed by the Court, the Settlement Administrator distributed the Notice of Proposed
5 Class Action Settlement (“Class Notice”) to 44 Settlement Class Members. (Admin. Decl. ¶ 3.)
6 The deadline for Settlement Class Members to submit a request for exclusion, file an objection,
7 or submit a dispute was April 20, 2026. (*Id.* ¶¶ 8-10.) The response deadline has passed. **There**
8 **have been no requests for exclusions and/or objections to the settlement submitted by any**
9 **Settlement Class Member.** (*Id.* ¶¶ 8-9.) Finally, there were no disputes submitted by Class
10 Members to the Settlement Administrator, and as such, there are no outstanding disputes from
11 Class Members. (*Id.* ¶ 10.) As such, there is a **100% participation rate** by Settlement Class
12 Members. (*Id.* ¶ 11.) Thus, an inference can be made that the Settlement Class supports the
13 Court’s Preliminary Approval Order finding that the Agreement is fair and reasonable.

14 In sum, in light of the settlement administration process and the results thereof, the lack
15 of any opt-outs and objections, and the amount of class funds being paid out to the Settlement
16 Class Members, the Court should confirm its preliminary approval as this process supports the
17 Court’s initial finding that the settlement is fair and reasonable.

18 In addition to the results of the notice process, for the same reasons as set forth earlier in
19 Plaintiff’s Motion for Preliminary Approval of Class Action Settlement, the following represent
20 the basic points previously covered that support approval of the settlement:

21 ■ The settlement provides a revised total settlement sum of **\$337,740.50**, which is
22 **non-reversionary**;

23 ■ The settlement is fair given that Settlement Class Members will receive (*after*
24 *deductions for fees, costs, etc.*) on average, approximately \$3,739.83 per person. The highest
25 individual Class Member Payment Amount to be paid is approximately \$9,492.76 (*See* Admin.
26 Decl. ¶ 16);

27 ■ The average individual PAGA Group Member Payment Amount to be paid is
28 approximately \$375.00, and the highest individual PAGA Group Member Payment Amount to

1 be paid is approximately \$665.11 (*See* Admin. Decl. ¶ 17);

2 ▪ Settlement Class Members did **not** need to submit claim forms to participate in
3 the settlement, but are being paid automatically;

4 ▪ The allocation reflects that individual Class Member Payments will be paid to all
5 Settlement Class Members on a *pro rata* basis, based on the number of Workweeks each Class
6 Member worked during the Class Period;

7 ▪ Plaintiff investigated the claims at issue, including exchanges of information by
8 Plaintiff and Defendant of class data for the entire class necessary for Plaintiff to fully evaluate
9 this case; and

10 ▪ A highly regarded administrator, Phoenix Settlement Administrators (“Phoenix”),
11 was retained for fees of \$5,200.00.

12 Accordingly, the Court should grant Final Approval consistent with the Preliminary
13 Approval Order.

14 **II. CLASS MEMBERS WERE PROVIDED PROPER NOTICE OF THE SETTLEMENT**

15 The notice procedures required by the Preliminary Approval Order have been followed
16 and satisfy all due process rights of Settlement Class Members. The Preliminary Approval Order
17 contemplated that the Class Notice be sent to all Settlement Class Members by first class mail, as
18 specified in the settlement. Further, the Preliminary Approval Order contemplated that Phoenix
19 would serve as the Settlement Administrator.

20 After the Settlement Administrator received the Class List from Defendants, the Parties
21 were informed of the increase in the number of actual workweeks worked from the estimated
22 4,054 workweeks to 4,767 workweeks, which triggered the Settlement Agreement’s Escalator
23 Clause. (Declaration of Mai Tulyathan (“Tulyathan Decl.”) at ¶ 6.) On February 11, 2026, the
24 Settlement Administrator received confirmation from Defendant that Defendant will fund the
25 additional amount resulting from the Escalator Clause being triggered. (Admin. Decl. ¶ 12.)
26 Specifically, the Settlement Administrator calculated a \$37,740.50 increase in the Gross
27 Settlement Amount as a result of the Escalator Clause. (*Id.* at ¶ 13; Tulyathan Decl. at ¶ 7.)
28 Taking this into account, this brings the Gross Settlement Amount to \$337,740.50. (*Id.*) The

1 Settlement Administrator made slight modifications to the Class Notice to reflect the revised
2 Gross Settlement Amount, which includes revising the initial \$300,000.00 amount to reflect the
3 revised Gross Settlement Amount of \$337,740.50, and the attorneys' fees from \$105,000.00 to
4 an amount not to exceed \$118,209.18, to reflect 35% of the revised Gross Settlement Amount.
5 (Admin. Decl. ¶ 15.) No other substantive changes were made to the Class Notice. (*Id.*)

6 The Settlement Administrator completed the notice dissemination process as
7 contemplated by the Settlement Agreement. As stated in the Declaration of Taylor Mitzner,
8 notice was provided to all Settlement Class Members as required by the Preliminary Approval
9 Order. (*Id.* ¶ 5.) On February 6, 2026, the Settlement Administrator received the class list list
10 from Defendant's counsel that included 44 Settlement Class Members. (*Id.* ¶ 3.) On February
11 17, 2026, the Settlement Administrator sent each Settlement Class Member a Class Notice via
12 first class mail. (*Id.* ¶ 5.) From the date of mailing, zero (0) Class Notices were returned. (*Id.* ¶
13 6.) Zero (0) Class Notices are considered undeliverable. (Admin Decl. ¶ 7.) Further, the Class
14 Notice provided Class Members with Class Counsel's contact information and information about
15 how they could seek further information regarding the settlement, leave questions for the
16 Settlement Administrator, and update their mailing address. (*Id.*, Ex. A.)

17 The provision of sending the Class Notice to Settlement Class Members as described
18 above meets the requirements for the "best notice practicable" in this case as necessary to protect
19 the due process rights of class members. (*See, e.g., Phillips Petroleum Co. v. Shutts* (1985) 472
20 U.S. 797, 811-12 (provision of "best notice practicable" with description of the litigation and
21 explanation of opt-out rights satisfies due process); *Eisen v. Carlisle & Jacquelin* (1974) 417
22 U.S. 156, 174-75 (individual notice must be sent to class members who can be identified through
23 reasonable means); *Mullane v. Central Hanover Bank & Trust Co.* (1950) 339 U.S. 306, 314
24 (best practicable notice is that which is "reasonably calculated, under all the circumstances, to
25 apprise interested parties of the pendency of the action and afford them an opportunity to present
26 their objections").)

27 Here, the Settlement Class Members were sent a mailing regarding the settlement that
28 satisfies due process rights. The mailing described the litigation, provided an explanation of the

1 terms of the settlement, explained Settlement Class Members’ rights, allowed Settlement Class
2 Members to seek additional information with Class Counsel contact information, and explained
3 ways for Settlement Class Members to opt out or object, if so desired. As such, this constitutes
4 proper notice to the Settlement Class.

5 Accordingly, the Court may proceed to determine the fairness and adequacy of the
6 settlement and enter its Order granting final approval, secure in the knowledge that all absent
7 Settlement Class Members have been given the opportunity to participate fully in the claims,
8 exclusion, and the approval process.

9 **III. THE SETTLEMENT TERMS ARE FAIR, ADEQUATE, AND REASONABLE,**
10 **AND THUS THE SETTLEMENT SHOULD BE GIVEN FINAL APPROVAL**

11 **A. Strength of Plaintiff’s Case and Likelihood of Certifying the Class**

12 In order to proceed as a class, there are two requirements which must be met –
13 ascertainability and community of interest. (*See Daar v. Yellow Cab Co.* (1967) 67 Cal. 2d 695,
14 704.) Under California law, there are two basic requirements which must exist to sustain a class
15 action: “[t]he first is existence of an ascertainable class, and the second is a well-defined
16 community of interest in the questions of law and fact involved.” (*Vasquez v. Superior Court*
17 (1971) 4 Cal. 3d 800, 809.) “The community of interest requirement embodies three factors: (1)
18 predominant common questions of law or fact; (2) class representatives with claims or defenses
19 typical of the class; and (3) class representatives who can adequately represent the class.”
20 (*Richmond v. Dart Industries* (1981) 29 Cal. 3d 462, 470.)

21 **1. The Class is Ascertainable**

22 Whether a class is “ascertainable” within the meaning of Code of Civil Procedure § 382
23 is determined by examining “(1) class definition, (2) the size of the class, and (3) the means
24 available for identifying the class members.” (*Reyes v. San Diego County Board of Supervisors*
25 (1987) 196 Cal. App. 3d 1263, 1271.)

26 Here, the class is defined as: “all non-exempt employees in California at any time
27 between September 30, 2020 and March 24, 2025,” with the end date extended through the
28 January 23, 2026 Preliminary Approval date pursuant to Paragraph 3.3 of the Settlement

1 Agreement (the “Settlement Class”). There are 44 individuals that comprise of the Settlement
2 Class. (Admin. Decl. ¶ 5.) This is far more than the minimum required to certify a class.
3 Within the context of manageability, the issue is whether there exists sufficient means for
4 identifying class members at the remedial stage. (*Reyes, supra*, 196 Cal. App. 3d at pp. 1274-
5 75.) Settlement Class Members have already been identified by Defendant and notice has been
6 provided to all of the Settlement Class Members. Accordingly, the Settlement Class is
7 ascertainable under Code of Civil Procedure § 382.

8 **2. There is a Community of Interest**

9 The “community of interest” requirement embodies three separate factors: (1)
10 predominant common questions of law or fact; (2) class representatives whose claims are typical
11 of the class; and (3) class representatives who can adequately represent the class. (*Richmond,*
12 *supra*, 29 Cal. 3d at p. 470; *Reese v. Wal-Mart Stores, Inc.* (1999) 73 Cal. App. 4th 1225, 1234.)

13 **a. There are Predominant Common Questions of Law and Fact**

14 “The ultimate question in every case of this type [class actions] is whether...the issues
15 which may be jointly tried, when compared with those requiring separate adjudication, are so
16 numerous and substantial that the maintenance of a class action would be advantageous to the
17 judicial process and to the litigants.” *Lockheed Martin Corp. v. Sup. Ct.* (2003) 29 Cal. 4th 1096,
18 1104-05.)

19 Plaintiff alleges that Defendant, as a matter of its corporate policy, practice, or procedure,
20 violated the Labor Code by failing to provide off-duty meal and rest periods and/or pay premium
21 wages at the regular rate of pay, failing to pay overtime and/or double time wages at the regular
22 rate of pay, failing to pay sick pay at the regular rate of pay, and failing to provide accurate
23 itemized wage statements. Specifically, Plaintiff alleges that employees were required to keep
24 their phones on and respond to work-related calls during breaks. Defendant failed to pay
25 premium compensation for missed, late, or interrupted breaks. On occasions when premium
26 compensation was paid, Plaintiff contends that Defendant failed to pay the meal and rest
27 premium compensation at the correct, regular rate of pay. In this regard, Plaintiff alleges that
28 Defendant failed to include all non-discretionary remuneration into the calculation of the regular

1 rate of pay for the purpose of paying said meal and rest period premium compensation.
2 Similarly, Plaintiff alleges that Defendant failed to pay overtime and/or double time wages and
3 sick pay wages at the regular rate of pay, during pay periods when employees earned non-
4 discretionary remuneration and were paid said wages in the same pay period. With respect to
5 Plaintiff's wage statement claims, Plaintiff contends that Defendant issued deficient wage
6 statements, as said wage statements do not correctly identify all applicable rates of pay and gross
7 and net wages earned as a result of the underpayment and/or nonpayment of overtime/double
8 time wages, meal and rest period premiums, and sick pay.

9 Defendant asserts that it maintained legally compliant meal and rest break policies and
10 obtained and obtained valid meal period waivers where applicable, and that any missed or late
11 breaks were due to employee choice rather than employer-driven practices. Defendant further
12 represents that it conducted an internal audit of its regular rate calculations and corrected any
13 regular rate issues as of January 2025. Defendant also argued that it did not willfully fail to pay
14 wages upon separation of employment and that any alleged wage statement violation was not
15 knowing and intentional, and as such, penalties would not be recoverable.

16 **b. Plaintiff's Claims are Typical of the Class Claims**

17 The purported class representative's claim must be "typical" but not necessarily identical
18 to the claims of other class members; it is sufficient that the representative is similarly situated so
19 that he or she will have the motive to litigate on behalf of the class. (*Classen v. Weller* (1983)
20 145 Cal. App. 3d 27, 45.) Courts look to whether class members have similar injuries, "whether
21 the action is based on conduct which is not unique to the named [p]laintiff," and whether other
22 class members were injured by the same conduct. (*Hanon v. Dataproducts Corp.* (9th Cir. 1992)
23 976 F.2d 497, 508.) The purpose of the typicality requirement "is to assure that the interest of
24 the named representative aligns with the interests of the class." (*Id.* at p. 508.)

25 Here, Plaintiff was subjected to the same policies and practices as other Settlement Class
26 Members. Plaintiff was employed by Defendant as a non-exempt employee. Plaintiff alleges
27 that he, like other Class Members, was not provided with off-duty meal and rest breaks during
28 his shifts. (Declaration of Kalu Ekeh ("Ekeh Decl.") ¶ 3.) Plaintiff also alleges that he was not

1 paid meal and/or rest break premium pay, overtime wages, and sick pay wages at the correct
2 regular rate of pay during periods when he earned non-discretionary pay. Plaintiff alleges that he
3 has yet to receive all wages owed to him and that Defendant failed to provide accurate itemized
4 wage statements. (*Id.* ¶¶ 3-5.) Thus, Plaintiff’s claims are typical to those of Settlement Class
5 Members.

6 **c. Plaintiff Adequately Represented the Class**

7 The class representative, through qualified counsel, must be capable of “vigorously and
8 tenaciously” protecting the interests of the class members. (*Simons v. Horowitz* (1984) 151 Cal.
9 App. 3d 834, 846.)

10 Here, Plaintiff does not have any interests adverse to the Settlement Class, nor have any
11 such issues been raised or presented. (Ekeh Decl. ¶ 6.) Plaintiff has taken all necessary steps to
12 represent the interests of the Settlement Class, including providing information and documents to
13 his counsel. (*Id.* ¶ 8.) For such reasons, Plaintiff has adequately represented the Settlement
14 Class and will continue to do so.

15 **B. Risks, Expenses, and Complexity of Further Litigation**

16 Plaintiff believes that a class can be certified. However, Plaintiff also believes in the
17 fairness of the settlement that is based on factoring in the uncertainty and risks to Plaintiff
18 involved in not prevailing on one or more of the causes of action or theories alleged in the
19 operative Complaint at trial, the possibility of non-certification, the possibility that the Court
20 may award only a small percentage of PAGA penalties, and the potential for any appeals. These
21 risks of class certification are compounded by the California Supreme Court’s holding in *Duran*
22 *v. U.S. Bank Nat’l Ass’n* (2014) 59 Cal. 4th 1.

23 Defendant has maintained that there is no liability. Defendant alleges that a class could
24 not have been certified. There is always a risk that the court will not grant certification of the
25 class, wherein the class will not be entitled to any damages. Based on the foregoing, there was a
26 substantial risk that Plaintiff would not have obtained the total amount of damages and/or
27 penalties alleged, and a substantial amount of complex issues that would have necessitated
28 significant expenditure of time and expenses. Therefore, the risks, expenses, and complexity of

1 further litigation warrant granting of this Motion.

2 **C. The Negotiation and Terms of the Settlement, and the Reception of the**
3 **Settlement by Class Members Strongly Support the Conclusion that the**
4 **Settlement is Fair, Adequate, and Reasonable**

5 Without reiterating the Parties' showing that the Agreement and the negotiation process
6 that led up to it was fair and adequate, as set forth in detail in the Motion for Preliminary
7 Approval of Class Action Settlement, the settlement was the product of negotiation between
8 highly able and experienced attorneys on both sides who possessed the relevant data and legal
9 research which they had carefully analyzed. (Tulyathan Decl. ¶ 3.)

10 Further, the results after mailing the Class Notice also fully support confirmation of the
11 Court's preliminary approval of the settlement, as evidenced by the 100% participation rate. In
12 other words, there were no objections or requests for exclusion submitted. (Admin. Decl. ¶¶ 8-
13 11.) In light of overwhelmingly positive response to the settlement, the Court may appropriately
14 infer that the settlement is fair, adequate, and reasonable, when among other reasons, no
15 Settlement Class Members have opted out or objected to it. (*See, e.g., Jasper v. C.R. England,*
16 *Inc.* (C.D. Cal. Nov. 3, 2014) 2:08-cv-05266 (granting final approval where 2% of the class
17 objected); *Wren v. RGIS Inventory Specialists* (N.D. Cal. Apr. 1, 2011) 2011 WL 1230826, at
18 *11 (finding that "minimal number of objections" strongly supported settlement approval where
19 16 class members out of approximately 62,594 (0.02% of 1/5th of 1.0%) filed objections); *see*
20 *also Carter v. City of Los Angeles* (2014) 224 Cal. App. 4th 808, 820, *citing Dunk v. Ford Motor*
21 *Co.* (1996) 48 Cal. App. 4th 1794, 1802 (finding that settlement terms to be presumably fair
22 when there is a low percentage of objectors.); *see also Churchill Village LLC v. Gen. Elec.* (9th
23 Cir. 2004) 361 F.3d 566, 577 (affirming order approving settlement with 45 objections out of
24 90,000 notices sent).)

25 Given the overwhelming approval of the settlement by Settlement Class Members, the
26 Court should finally approve the settlement.

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1 **D. Under Well-Established Legal Principles, the Court Should Grant Final**
2 **Approval of the Settlement**

3 **1. Standard of Review**

4 On a motion for final approval of a class action settlement under California Code of Civil
5 Procedure § 382 and California Rules of Court, Rule 3.769, a court’s inquiry at this juncture is
6 whether the settlement is “fair, adequate and reasonable.” (*Officers for Justice v. Civil Serv.*
7 *Comm’n* (9th Cir. 1982) 688 F.2d 615, 625, *cert. denied subnom.*, *Byrd v. Civil Serv. Comm’n*
8 (1983) 459 U.S. 1217.) A settlement is fair, adequate, and reasonable, and therefore merits final
9 approval, when “the interests of the class are better served by the settlement than by further
10 litigation.” (*See Manual for Complex Litigation, Fourth* § 21.6 at p. 309 (Fed. Jud. Ctr., 4th ed.
11 2004) (“MCL”).) The law favors settlement, particularly in class actions and other complex
12 cases, where substantial resources can be conserved by avoiding the time, cost, and rigors of
13 formal litigation. (*See Alba Conte & Herbert B. Newberg, 4 Newberg on Class Actions* § 11.41
14 (4th ed. 2008); *Class Plaintiffs v. City of Seattle* (9th Cir. 1992) 955 F.2d 1268, 1276; *Van*
15 *Bronkhorst v. Safeco Corp.* (9th Cir. 1976) 529 F.2d 943, 950.)

16 Although the court possesses “broad discretion” in determining that a proposed class
17 action settlement is fair, the court’s role must be limited to the extent necessary to reach a
18 reasoned judgment that the agreement is not the product of fraud or overreaching by, or collusion
19 between, the negotiating parties, and that the settlement, taken as a whole, is fair, reasonable, and
20 adequate to all concerned parties. (*See Officers for Justice, supra*, 688 F.2d at p. 625.)
21 Accordingly, the court should give due regard to what is otherwise a “private consensual
22 agreement” between the parties. (*Id.*; *see also Church v. Consolidated Freightways, Inc.* (N.D.
23 Cal. 1993) 1993 WL 149840; *In re Wash. Pub. Power Supply Sys. Sec. Litig.* (D. Ariz. 1989) 720
24 F. Supp. 1379; *MCL* § 21.6 at p. 309 (“The judicial role in reviewing a proposed settlement is
25 critical, but limited to approving the proposed settlement, disapproving it, or imposing conditions
26 on it. The judge cannot rewrite the agreement.”).)

27 A court’s approval of a class action settlement will only be reversed for a clear abuse of
28 discretion. (*See Dunk v. Ford Motor Co.* (1996) 48 Cal. App. 4th 1794, 1801; *Officers for*

1 *Justice, supra*, 688 F.2d at p. 626 (reversal of class settlement “only upon a strong showing that
2 the district court’s decision was a clear abuse of discretion”); *City of Seattle, supra*, 955 F.2d at
3 p. 1276; *Ackerman v. Kassar* (9th Cir. 1993) 1993 WL 326453; *Linney v. Cellular Alaska P’ship*
4 (9th Cir. 1998) 151 F.3d 1234, 1238.)

5 As the court cautioned in *7-Eleven Owners for Fair Franchising v. Southland Corp.*
6 (2000) 85 Cal. App. 4th 1135, 1146:

7 It cannot be overemphasized that neither the trial court in approving
8 the settlement nor this Court in reviewing that approval have the
9 right or duty to reach any ultimate conclusions on the issues of fact
10 and law which underlie the merits of the dispute. It is well settled
11 that in the judicial consideration of proposed settlements, ‘the [trial]
12 judge does not try out or attempt to decide the merits of the
13 controversy,’ [citation] and the appellate court ‘need not and should
14 not reach any dispositive conclusions on the admittedly unsettled
15 legal issue.

16 **2. The Settlement is Presumed to Be Fair**

17 The Court should begin its analysis with the presumption that the settlement is fair and
18 should be approved:

19 [A] presumption of fairness exists where: (1) the settlement is
20 reached through arm’s-length bargaining; (2) investigation and
21 discovery are sufficient to allow counsel and the court to act
22 intelligently; (3) counsel is experienced in similar litigation; and (4)
23 the percentage of objectors is small.

24 (*Dunk*, 48 Cal. App. 4th at p. 1802; *7-Eleven Owners for Fair Franchising*, 85 Cal. App. 4th at p.
25 1146; *accord, Ellis v. Naval Air Rework Facility* (N.D. Cal. 1980) 87 F.R.D. 15, 18; *In re Wash.*
26 *Pub Power Supply, supra*, 720 F. Supp. at p. 1387.)

27 The settlement here warrants approval and carries a presumption of fairness. As
28 previously noted in the Motion for Preliminary Approval, this settlement was negotiated at arm’s
length between the Parties and their counsel. (Tulyathan Decl. ¶¶ 2-3.)

Second, Class Counsel engaged in extensive factual investigation before settling,
including conducting significant meet and confer discussions with opposing counsel to obtain
informal data and to discuss the merits of the claims on behalf of the Settlement Class. This

1 settlement was reached as a result of mediation with a highly experienced mediator. (*Id.* ¶ 3.)
2 Further, Class Counsel is highly experienced in this type of litigation. As shown in the
3 supporting declarations, Class Counsel has significant experience in class actions and
4 employment wage and hour matters. (Tulyathan Decl. ¶¶ 16-19; Declaration of Larry W. Lee
5 (“Lee Decl.”) ¶¶ 9-10.)

6 **3. Two-Way Costs and Other Risks Inherent in Continued Litigation**
7 **Favor Final Approval**

8 To assess the fairness, adequacy, and reasonableness of a class action settlement, the
9 Court also should weigh the immediacy and certainty of substantial settlement proceeds against
10 the risks inherent in continued litigation. (*See In re General Motors Corp.* (3d Cir. 1995) 55
11 F.3d 768, 806 (“present value of the damages plaintiffs would likely recover if successful,
12 appropriately discounted for the risk of not prevailing, should be compared with the amount of
13 the proposed settlement”) (internal citations omitted); *Girsh v. Jepson* (3d Cir. 1975) 521 F.2d
14 153, 157; *Boyd v. Bechtel Corp.* (N.D. Cal. 1979) 485 F. Supp. 610, 616-17.)

15 If Plaintiff pursued this case without settlement and did not prevail, Plaintiff would be
16 potentially responsible for Defendant’s fees and costs. Likewise, were any individual current or
17 former employees of Defendant to bring individual claims on the same causes of action, they
18 would each face the uncertainty of prevailing and the same possibility of becoming liable to pay
19 fees and costs to Defendant. Accordingly, such claims likely would not be brought by many of
20 these current and former employees who make up the Settlement Class. Thus, this lawsuit
21 achieves a true benefit for the Settlement Class that they might not otherwise get or seek as
22 individuals. Here, given that a fair and reasonable settlement has been reached, neither Plaintiff
23 nor any of the Settlement Class Members will be required to pay for Defendant’s litigation fees
24 and costs. Thus, the risks undertaken by Class Counsel should be considered a significant factor
25 by the Court in its determination of final approval. The settlement provides a fair recovery to
26 Settlement Class Members and eliminates the risk of costs to Settlement Class Members or the
27 Class Representative.

28 The settlement also affords finality, avoiding significant legal and factual battles that

1 otherwise may have prevented the Settlement Class from obtaining any recovery at all. While
2 Class Counsel believe that the Settlement Class’s claims are meritorious and can be successfully
3 litigated, counsel are experienced and fully understand the inherent risks and uncertainty
4 involved with such matters including the resolution of class certification, the outcome of a
5 potential trial, and the outcome of any appeals that would inevitably follow should the
6 Settlement Class prevail at trial. Class Counsel has also assessed the same risks in connection
7 with the current settlement. Because the settlement provides immediate and substantial relief,
8 without the attendant risks and delay of continued litigation – not to mention the threat of
9 litigation fees and costs – Class Counsel believe that the settlement warrants the Court’s final
10 approval.

11 **4. The Complexity, Expense, and Likely Duration of Continued**
12 **Litigation Against Defendant Favor Final Approval**

13 Another factor considered by courts in approving a settlement is the complexity, expense,
14 and likely duration of the litigation. (*See Officers for Justice, supra*, 688 F.2d at p. 625; *Girsh,*
15 *supra*, 521 F.2d at p. 157.) In applying this factor, the court must weigh the benefits of the
16 settlement against the expense and delay involved in achieving an equivalent or more favorable
17 result at trial. (*Young v. Katz* (5th Cir. 1971) 447 F.2d 431, 433-34.)

18 Here, as noted above, continued litigation could potentially have led to appeals on a
19 number of issues. On the other hand, the settlement that was reached provides all Settlement
20 Class Members – regardless of their means – with fair relief in a prompt and efficient manner.
21 Were the Court to deny final approval, Settlement Class Members would be left without a
22 remedy as a practical matter and courts across the State would have to address the issues
23 presented here in a piecemeal, costly, and time-consuming manner. The settlement here is
24 therefore consistent with the “overriding public interest in settling and quieting litigation” that is
25 “particularly true in class action suits.” (*See Van Bronkhorst*, 529 F.2d at p. 950 (footnote
26 omitted); *see also 4 Newberg* at § 11.41.) Here, this case could have potentially involved years
27 of litigation given the history in similar wage and hour cases.

28 //

1 **5. The Opinion of Experienced Counsel Favors Final Approval**

2 Class Counsel supports the settlement as fair, reasonable, and adequate, and in the best
3 interest of the Settlement Class as a whole. (Tulyathan Decl. ¶ 4; Lee Decl. ¶ 4.) Similarly,
4 counsel for Defendant is in favor of the settlement. The endorsement of qualified and well-
5 informed counsel of a settlement as fair, reasonable, and adequate is entitled to significant weight
6 by the court in its final approval determination. (*See Officers for Justice*, 688 F.2d at p. 625;
7 *Ellis*, 87 F.R.D. at p. 18; *Boyd*, 485 F. Supp. at p. 617; *Linney*, 151 F.3d at p. 1242.)

8 **IV. PLAINTIFF’S REQUESTED SERVICE AWARD SHOULD BE APPROVED**

9 Class Representative Kalu Ekeh requests an enhancement award of \$10,000.00 in
10 accordance with the terms of the Agreement. Plaintiff met with Class Counsel and had
11 numerous discussions about the case. (Ekeh Decl. ¶ 8.) Plaintiff also provided substantive
12 information and documents regarding Defendant’s policies and practices to help support the class
13 claims alleged in this case. (*Id.*) Accordingly, Plaintiff provided invaluable information,
14 evidence, and documents that resulted in this settlement. Plaintiff estimates that he spent
15 between 35 to 40 hours assisting in the prosecution of this matter. (*Id.*)

16 In addition to the invaluable services that he provided, Plaintiff took significant risks,
17 personally, professionally, and monetarily in acting as Class Representative, seeking benefits on
18 behalf of the Settlement Class. (*Id.* ¶¶ 7, 11.) Because the claims alleged by Plaintiff involved
19 the payment of costs to the prevailing party, Plaintiff undertook the risk that he may be required
20 to pay Defendant’s fees and costs, in the event that Defendant prevailed in this action. Moreover,
21 Plaintiff understood that an individual case would have resolved much faster than a class action
22 and involved much less financial risk than a class action. Despite this, however, Plaintiff agreed
23 to pursue this case on behalf of the class. (*Id.*)

24 Plaintiff took these risks upon himself for the benefit of the Settlement Class. Settlement
25 Class Members did not have to file individual lawsuits and bear the risks of payment of costs if
26 they did not prevail, nor did they have to face the potential for retaliation and not getting future
27 employment had they filed a lawsuit which is a public record. These are significant benefits,
28 even apart from the time Plaintiff has spent working on this case, that weigh in favor of granting

1 the requested enhancement.

2 Finally, as part of the settlement, Plaintiff also agreed to give a general release of his
3 individual claims, something that other Settlement Class Members did not have to do. (Ekeh
4 Decl. ¶ 12.) This is a significant factor to take into account that further warrants the award of the
5 requested service amount.

6 Courts have routinely granted approval of settlements containing such enhancements.
7 (*See Van Vranken v. Atlantic Richfield Co.* (N.D. Cal. 1995) 901 F. Supp. 294, 299-300
8 (incentive award of \$50,000); *In re Dun & Bradstreet Credit Servs. Customer Litig.* (S.D. Ohio
9 1990) 130 F.R.D. 366, 374 (two incentive awards of \$55,000, and three incentive awards of
10 \$35,000); *Brotherton v. Cleveland* (S.D. Ohio 2001) 141 F. Supp. 2d 907, 913-14 (granting a
11 \$50,000 incentive award); *Enter. Energy Corp. v. Columbia Gas Transmission Corp.* (S.D. Ohio
12 1991) 137 F.R.D. 240, 251-52 (\$50,000 awarded to each class representative); *Glass v. UBS Fin.*
13 *Servs.* (N.D. Cal. Jan. 27, 2007) No. C-06-4068, 2007 U.S. Dist. LEXIS 8476, at *51-52
14 (awarding \$25,000 incentive award in FLSA overtime wages class action); *Cook v. Niedert* (7th
15 Cir. 1998) 142 F.3d 1004, 1016 (affirming \$25,000 incentive award to class representative in
16 ERISA case).)

17 Here, this litigation has resulted in a significantly valuable benefit to the Settlement Class
18 with average settlement payment to Settlement Class Members in the amount of \$3,739.83.
19 Plaintiff took on substantial risk and sacrifice in helping to get this financial benefit to the
20 Settlement Class. Furthermore, there are no objections filed by any individual to the requested
21 service award. As such, one can infer that none of the Settlement Class Members have any
22 disagreement with the service award. Accordingly, the Court should find the service award fair
23 and reasonable.

24 **V. THE REQUESTED ATTORNEYS' FEES SHOULD BE APPROVED**

25 Class Counsel seeks a fee award calculated as approximately thirty-five percent (35%) of
26 the revised Gross Settlement Amount, or \$118,209.18, for the successful prosecution and
27 resolution of this action.

28 California state and federal courts have recognized that an appropriate method for

determining award of attorneys' fees is based on a percentage of the total value of benefits to Class Members by the settlement. (*Wershba v. Apple Computer, Inc.* (2001) 91 Cal.App.4th 224, 254; *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. 1997) 557 F.2d 759, 769.) The purpose of this equitable doctrine is to avoid unjust enrichment to the Class and to "spread litigation costs proportionally among all the beneficiaries so that the active beneficiary does not bear the entire burden alone." (*Vincent v. Hughes Air West, Inc.*, *supra*, 557 F.2d at p. 769.)

The California Supreme Court issued its ruling regarding the award of attorney's fees in wage and hour class action settlements in *Laffitte*. Under California law, the award of attorneys' fees in common fund wage and hour class action settlements is proper under the percentage method. (*See Laffitte v. Robert Half Int'l* (2016) 1 Cal.5th 480, 503 ("We join the overwhelming majority of federal and state courts in holding that when class action litigation establishes a monetary fund for the benefit of the class members, and the trial court in its equitable powers awards class counsel a fee out of that fund, the court may determine the amount of a reasonable fee by choosing an appropriate percentage of the fund created").) Under the percentage of the fund method, the Court's objective remains to "mimic the market" in fixing a reasonable fee. (*See Gaskill v. Gordon* (7th Cir. 1998) 160 F.3d 361, 363 (J. Posner) ("When a fee is set by a court rather than by contract, the object is to set it at a level that will approximate what the market will set....The judge, in other words, is trying to mimic the market in legal services.").)

An award of thirty-five percent of the fund in attorneys' fees "mimics the marketplace" as it is "supported by the fact that typical contingency fee agreements provide that class counsel will recover 33% if the case is resolved before trial and 40% if the case is tried." (*Fernandez v. Victoria's Secret Stores LLC* (C.D. Cal. 2008) 2008 WL 8150856 at p. *16 n. 59 (citing Brickman, *Effective Hourly Rates of Contingency-Fee Lawyers: Competing Data and Non-Competitive Fees*, 81 Wash U. L. Q. 653, 659 n. 11 (Fall 2003))). Indeed, "empirical studies [that] show that...fee awards in class actions average around one-third of the recovery." (*Chavez v. Netflix, Inc.* (2008) 162 Cal. App. 4th 43, 66 n. 11.)

The California Supreme Court in *Laffitte* affirmed a fee award representing 33 1/3

1 percent of the fund, which is the same percentage of fee award sought in this case. (*Laffitte*, 1
2 Cal. 5th at p. 506.) And this was based on a lodestar amount that required a multiplier of 2.13.
3 (*Id.* at p. 487.) As the Court held, only when the multiplier is “extraordinarily high or low
4 [should] the trial court [] consider whether the percentage method should be adjusted so as to
5 bring the imputed multiplier within a justifiable range.” (*Id.* at p. 505.)

6 Moreover, in the *Laffitte* intermediate court decision, the court observed that “33 1/3
7 percent of the common fund is consistent with, and in the range of, awards in other class action
8 lawsuits.” (*Laffitte v. Robert Half Int’l* (2014) 231 Cal. App. 4th 860, 871.) Here, the fee award
9 representing one-third of the fund clearly falls within that range and is consistent with other
10 comprehensive surveys of class action settlements and fee awards. (See Fitzpatrick, *An*
11 *Empirical Study of Class Action Settlements and Their Fee Award*, 7 J. Empirical Leg. Stud. 811,
12 833 (2010) (analyzing 444 cases between 2006-2007 and concluding that “[m]ost fee awards
13 were between 25 percent and 35 percent, with almost no awards more than 35 percent”);
14 Eisenberg & Miller, *Attorney Fees in Class Action Settlements: An Empirical Study: 1993-2008*,
15 7 J. of Empirical Leg. Stud. 248, 262, fn. 16 (2010) (independent studies of class action litigation
16 nationwide conclude that fees representing one-third of the total recovery is consistent with
17 market rates).)

18 Finally, “the response of the class members to attorneys’ fee notice, though not decisive,
19 is relevant to the...reasonable determination” regarding fees. (*Swedish Hospital v. Shalala* (D.C.
20 Cir. 1993) 1 F.3d 1261, 1272.) A positive response rate tends to suggest that the court’s
21 “approximation of the market” for fees is well supported. (*Id.* at p. 1269.) In this case, the Class
22 Notice specifically notified Settlement Class Members that Class Counsel would be seeking
23 \$118,209.18 in attorneys’ fees. To date, no Settlement Class Member has objected to the
24 settlement. This strong favorable response also supports the requested fees.

25 In addition, it is recognized that one of the primary factors justifying an enhanced
26 attorney’s fees reward is the attendant risks inherent in the litigation. As observed in *City of*
27 *Detroit v. Grinnell Corp.*:

28 No one expects a lawyer whose compensation is contingent upon his

1 success to charge, when successful, as little as he would charge a
2 client who had agreed to pay for his services, regardless of success.
3 Nor, particularly in complicated cases producing large recoveries, is
4 it just to make a fee depend solely on the reasonable amount of time
5 expended.

6 (*City of Detroit v. Grinnell Corp* (2d Cir. 1974) 495 F.2d 448, 470.) For Class Counsel, the fees
7 here were wholly contingent in nature and the case presented far more risk than the usual
8 contingent fee case. Among the risks was the cost inherent in class action litigation, as well as a
9 potentially drawn-out battle with corporate defendants.

10 As secondary support for the percentage of the fund method, courts have discretion to
11 “cross-check” the fees awarded through the lodestar method. However, the *Laffitte* Court
12 “emphasize[d] [that] the lodestar calculation, when used in this manner, does not override the
13 trial court’s primary determination of the fee as a percentage of the common fund and thus does
14 not impose an absolute maximum or minimum on the potential fee award.” (*Laffitte*, 1 Cal.5th at
15 p. 505; *In re Rite Aid Corp. Secs. Litig.* (3d Cir. 2005) 396 F.3d 294, 306-307 (“[The lodestar
16 cross-check does not trump the primary reliance on the percentage of common fund method”).)

17 The Supreme Court in *Laffitte* stated: “If the multiplier calculated by means of a lodestar
18 cross-check is extraordinarily high or low, the trial court should consider whether the percentage
19 used should be adjusted so as to bring the imputed multiplier within a justifiable range, but the
20 court is not necessarily required to make such an adjustment.” (*Id.*) Thus, a lodestar cross-check
21 is aimed at astronomical multipliers. Indeed, cross-checks are not required; in many cases,
22 performing a cross-check “undermines” one of the primary reasons for using the percentage
23 method: aligning counsel’s incentives with the benefits delivered to the class and discouraging
24 protracted litigation. (*Id.* at p. 506 (finding trial courts “retain the discretion to forgo a lodestar
25 cross-check”); *Report of the Third Circuit Task Force, Court Awarded Attorney Fees* (1985) 108
26 F.R.D. 237, 258; *Lealao v. Beneficial California, Inc.* (2000) 82 Cal.App.4th 19, 29-30 (citing
27 the recommendations of the Third Circuit Task Force with approval and observing that “[t]he
28 criticisms of the lodestar approach set forth in this Report are now echoed by many authorities,
who have been most vocal about the manner in which it exacerbates the problem of ‘cheap
settlements’ and burdens already overworked trial judge”).)

1 Courts have defined reasonable multipliers on a lodestar cross-check to “range from 2 to
2 4 or even higher.” (*Wershba v. Apple Computer, Inc.* (2001) 91 Cal.App.4th 224, 255; *see also*,
3 *e.g.*, *Sutter Health Uninsured Pricing Cases* (2009) 171 Cal.App.4th 495, 512 (applying a 2.52
4 multiplier on a cross-check in an antitrust class action); *Chavez*, 162 Cal.App.4th at p. 60
5 (applying a 2.5 multiplier on a lodestar cross-check); *City of Oakland v. Oakland Raiders*, 203
6 Cal.App.3d 78 (1988) (affirming a 2.34 multiplier without remand).) The intermediate court in
7 *Laffitte*, after finding that “2 to 4” is a reasonable range for multipliers on a cross-check, affirmed
8 a 2.13 multiplier. (*Laffitte*, 231 Cal.App.4th at pp. 881-82.) The intermediate court opinion was
9 affirmed in full by the California Supreme Court in its new decision guiding lower courts on
10 assessing fees.

11 With respect to Class Counsel’s lodestar, to date, approximately 183.6 hours have been
12 expended by Class Counsel in this matter. (Tulyathan Decl. ¶ 20, Ex. A; Lee Decl. ¶ 11, Ex. A.)
13 Ms. Tulyathan requests an hourly rate of \$650.00 per hour. (Tulyathan Decl. ¶ 23.) Mr. Lee
14 requests an hourly rate of \$900.00 per hour. (Lee Decl. ¶ 13.) The courts are quite liberal in the
15 evidence required to prove an attorney’s hours. Detailed time records are not required. An
16 attorney’s testimony alone may suffice: “Testimony of an attorney as to the number of hours
17 worked on a particular case is sufficient evidence to support an award of attorney fees, even in
18 the absence of detailed time records.” (*Martino v. Denevi* (1986) 182 Cal.App.3d 553, 559.)
19 Reasonable hours include, in addition to time spent during litigation, the time spent before the
20 action is filed, including time spent interviewing the clients, investigating the facts and the law,
21 and preparing the initial pleadings. (*New York Gaslight Club, Inc. v. Carey* (1980) 447 U.S. 54,
22 62.) Further, the fee award should include fees incurred to establish and defend the attorneys’
23 fee claim. (*Serrano v. Unruh* (1982) 32 Cal.3d 621, 639 [*Serrano IV*].) Thus, Class Counsel
24 requests that the court find that these hours were reasonable in this litigation.

25 A reasonable hourly rate is the prevailing rate charged by attorneys of similar skill and
26 experience in the relevant community. (*PLCM Group, Inc. v. Drexler* (2000) 22 Cal.4th 1084,
27 1095.) The court may consider other factors when determining a reasonable hourly rate, *e.g.*, the
28 attorney’s skill and experience, the nature of the work performed, the relevant area of expertise

1 and the attorney's customary billing rates. (*Flannery v. California Highway Patrol* (1998) 61
2 Cal.App.4th 629, 632-33.)

3 Class Counsel's skill and experience justify the requested rate. As shown in the
4 supporting declarations, Class Counsel have significant experience in the area of employment
5 and wage and hour class actions. Specifically, Class Counsel's practice focuses on representing
6 employees in employment matters, particularly wage and hour cases. (Tulyathan Decl. ¶ 15; Lee
7 Decl. ¶ 9.) As such, based on the hours and applicable rate, Class Counsel's lodestar amount
8 through finalization of this settlement, including 15 anticipated hours, will be approximately
9 \$138,540.00. (Tulyathan Decl. ¶ 22; Lee Decl. ¶ 12.)

10 Once the court establishes the lodestar amount, it may enhance the fee award by a
11 multiplier in order to make an appropriate fee award. (*Serrano III*, 20 Cal.3d at p. 48.) The
12 pertinent factors include the difficulty of the questions involved and the skill in presenting them,
13 the contingent nature of the fee award, the extent to which the litigation precluded other
14 employment, and the percentage-of-the-fund the attorney would have received on the fair
15 market. (*Id.*, *Lealao*, 82 Cal.App.4th at p. 49.) However, this list is not exhaustive and the court
16 can consider other factors it deems important in setting the multiplier. (*Ketchum v. Moses* (2001)
17 24 Cal.4th 1122, 1139.

18 *Lealao* contains several factors justifying an enhancement based on the percentage-of-
19 the-benefit; namely, no objections by class members, commendable conduct by counsel, and
20 significant recoveries by class members, all of which were previously detailed above. (*Lealao*,
21 82 Cal. App. 4th at pp. 51-53.) As in *Lealao*, the Class was notified of the settlement and
22 attorneys' fee with no objections. The extreme effort undertaken by counsel, as shown by their
23 hours and the significantly high number of claims being paid out, shows commendable conduct.

24 The multiplier should be enhanced because of the contingent nature of counsel's fee
25 recovery. The risks in taking on a class action case are enormous, not the least of which is time
26 and effort. As this Court very well knows, not only do these cases require substantial work, but
27 there exist significant risks.

28 Finally, based upon Class Counsel's lodestar of \$138,540.00. Plaintiff's request for a fee

award of \$118,209.18 is more than reasonable and fair. As the Court can see, the lodestar exceeds the requested fee amount, such that it would result in a *negative* multiplier. As such, the requested fee award is fair and reasonable, and should be awarded in its entirety. Class Counsel risked not only a great deal of time, but also a great deal of expense to ensure the successful litigation of this action on behalf of all Class Members. For these reasons, Class Counsel's request for attorneys' fees in the amount of \$118,209.18 should be approved as fair, reasonable, and adequate.

VI. THE COURT SHOULD APPROVE COSTS

The request for reimbursement of costs in the amount of \$9,778.60 is fair and reasonable, especially in light of the fact that the Parties agreed that Class Counsel may seek up to \$15,000.00 as reimbursement for litigation costs under the Settlement. As set forth in the declaration, the costs were all directly incurred in the prosecution of this action, including but not limited to filing fees, service of process costs, postage costs, and mediation fees. (Tulyathan Decl. ¶ 27, Ex. B.) As such, the requested costs should be approved as fair and reasonable.

VII. THE ADMINISTRATION EXPENSES SHOULD BE APPROVED

Pursuant to the terms of the Agreement, the fees and costs of the Settlement Administrator, Phoenix Settlement Administrators, are to be paid out of the class settlement funds. As shown on the Declaration of Taylor Mitzner, the settlement administration expenses expended in this matter amount to a total of \$5,200.00, which is the amount that was agreed upon by the Parties and preliminary approved by the Court. (Admin Decl. ¶ 19, Ex. B.) For such reasons, it is requested that the Settlement Administrator's fees be approved.

VIII. NOTICE TO THE LWDA

Plaintiff provided notice of this Motion to the LWDA in conjunction with its filing. (Tulyathan Decl. ¶ 28, Ex. C.)

IX. CONCLUSION

For all the foregoing reasons, and on the basis of the authorities cited herein, Plaintiff respectfully submits that the standards for final approval have been met, and the terms of the Agreement are fair, adequate, and reasonable.

1 Accordingly, Plaintiff respectfully requests that the Court enter an Order in the form
2 proposed and submitted:

- 3 1. Granting final approval to the proposed Agreement in this action;
- 4 2. Approving the revised Gross Settlement Amount of \$337,740.50 based on the
5 Settlement Agreement's Escalator Clause;
- 6 3. Approving distribution of the settlement funds to the Remaining Class Members
7 pursuant to the terms of the Agreement;
- 8 4. Approving Plaintiff's request for an award of the Service Award of \$10,000.00 to
9 Plaintiff, with payment pursuant to the terms of the Agreement;
- 10 5. Approving Plaintiff's request for an award to Class Counsel for \$118,209.18 in
11 attorneys' fees and \$9,778.60 in costs, with payment pursuant to the terms of the Agreement;
- 12 5. Approving Plaintiff's request for payment of the Settlement Administration
13 Expenses to Phoenix Settlement Administrators in the amount of \$5,200.00, with payment
14 pursuant to the terms of Agreement; and
- 15 6. Entering final judgment as to all Remaining Settlement Class Members in this
16 action.

17
18 DATED: June 3, 2026

DIVERSITY LAW GROUP, P.C.

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20 By: 
21 Larry W. Lee
22 Mai Tulyathan
23 Attorneys for Plaintiff, the Class, and Aggrieved
24 Employees
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