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SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF RIVERSIDE

REYES ZEPEDA and ALVARO
RAMIREZ, individually, on a
representative basis, and on behalf of all
others similarly situated;

Plaintiffs,

vs.

AES CLEAN ENERGY SERVICES, LLC,
a Delaware Limited Liability Company;
and DOES 1 through 20, inclusive;

Defendants.

Case No.: CVRI2405184
*[Assigned to Hon. Harold Hopp, Dept 1, for all
purposes]*

**PLAINTIFFS' UNOPPOSED MOTION FOR
FINAL APPROVAL OF CLASS ACTION
SETTLEMENT**

*Filed Concurrently with Declarations in Support
Thereof and [Proposed] Final Order and
Judgment*

Hearing

Date: October 22, 2026

Time: 8:30 a.m.

Dept.: 1

Complaint filed: September 12, 2024

TO THE HONORABLE COURT AND TO ALL PARTIES AND COUNSEL OF RECORD:

PLEASE TAKE NOTICE THAT on October 22, 2026, at 8:30 a.m., or as soon thereafter
as this matter may be heard by the Honorable Harold Hopp in Department 1 of the Riverside
County Superior Court located at 4050 Main Street, Riverside, CA 92501, Plaintiffs Reyes
Zepeda and Alvaro Ramirez respectfully move this Court for an Order granting final approval of
the class action settlement between Plaintiffs and Defendant AES Clean Energy Services, LLC,

1 which was preliminarily approved by the Court. This Motion, which is supported and unopposed
2 by Defendant, seeks final approval and entry of judgment of a \$389,241.44 settlement on behalf
3 of 142 Participating Class Members.

4 Specifically, Plaintiff will and hereby does move the Court to grant final approval of the
5 Class Action and PAGA Settlement Agreement and Release of Claims (the "Settlement
6 Agreement"), and enter the proposed order and final judgment filed concurrently herewith:

7 1. Finally certifying the Class, as defined in the Settlement Agreement and the
8 Court's Order Granting Preliminary Approval of the Settlement;

9 2. Finally appointing Plaintiffs as Class Representatives for purposes of settlement;

10 3. Finally appointing Brian Mankin and Peter Carlson of Lauby Mankin Lauby LLP
11 as Class Counsel for purposes of settlement;

12 4. Finding that the Notice Packet was properly provided to the Class in accordance
13 with the Court's Order granting Preliminary Approval;

14 5. Finally approving the settlement as fair, adequate, and reasonable, based upon the
15 terms set forth in the Settlement Agreement;

16 6. Binding Participating Class Members, Plaintiffs, and the State of California to the
17 terms of the Settlement Agreement, including the Released Class Claims and Released PAGA
18 Claims specified therein; and

19 7. Retaining jurisdiction to enforce the Settlement Agreement.

20 This Motion will be based upon this notice; the attached memorandum of points and
21 authorities; the Declarations of the Settlement Administrator (Cassandra Polites of ILYM
22 Group), Class Counsel (Brian Mankin and Peter Carlson) and Plaintiffs filed concurrently
23 herewith; the records and files in this action; and any other further evidence or argument that the
24 Court may receive at or before the hearing.

25 Dated: September 30, 2026

LAUBY, MANKIN & LAUBY LLP

26
27 BY:



28 Brian J. Mankin, Esq.
Attorneys for Plaintiffs and the Class

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1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. SUMMARY OF ARGUMENT AND ESSENTIAL POINTS**

3 Pursuant to California Rules of Court, Rule 3.769 (d) and (e), Plaintiffs Reyes Zepeda and
4 Alvaro Ramirez respectfully request that this Court grant final approval of the class action and
5 Settlement Agreement (the “Settlement Agreement” or “S.A.”) on file in this action, which is
6 supported and unopposed by Defendant AES Clean Energy Services, LLC, and enter the
7 proposed order and final judgment in this matter.

8 There are several essential reasons why this settlement should be approved. First, after
9 considerable work, preparation, exchange of data and mediation, the Parties reached a \$370,000
10 settlement on behalf of the Class Members and PAGA Group Members (the “Total Settlement
11 Amount”), subject to an Escalator Clause that Class Counsel negotiated on behalf of the Class
12 that would increase the Total Settlement Amount if the weeks worked by the Class Members
13 exceeded the cap of 12,326 workweeks. After Defendant compiled and provided the final Class
14 Data to the Settlement Administrator, it was determined that the Escalator Clause was triggered
15 because the final number of workweeks worked by all Class exceeded the cap by 641
16 workweeks. This resulted in an upward adjustment of \$19,241.44 to the Total Settlement
17 Amount, bringing the new Total Settlement Amount to \$389,241.44 (plus Defendant will
18 separately pay its share of payroll taxes on the wage portion of the Individual Class Payments).
19 (See Declaration of Settlement Administrator, Cassandra Polites (“Polites Decl.”) ¶ 6-7).

20 Second, the Class Members were deemed to participate in the Settlement, and were not
21 required to submit a Claim Form to receive funds. Plus, there is no reversion to Defendant, so all
22 funds will be distributed to the employees.

23 Third, there were no objections or opt-outs from the 142 Class Members, meaning that
24 **100%** of the Class elected to participate in the settlement.

25 Finally, the release language (that was approved by the Court at Preliminary Approval) is
26 narrowly tailored to the claims alleged.

27 Thus, in accordance with the analysis and law set forth herein, as well as in the
28 preliminary approval motion, the Settlement should be approved, and judgment entered based on

the determination that the Settlement is fair, reasonable, adequate, and in the best interests of the Class. (Declaration of Class Counsel, Brian J. Mankin [“Mankin Decl.”] ¶¶ 13, 34).

II. SUMMARY OF THE SETTLEMENT

Plaintiffs and the Class Members include all current and former nonexempt employees employed by Defendant AES Clean Energy Services, LLC in California at any time during the Class Period of September 12, 2020, through March 3, 2026. The primary claims (which Defendant vehemently disputed) involved allegations that Defendant failed to pay the Class all wages owed, failed to provide compliant meal and rest breaks, as well as wage statement violations, waiting time penalties, and PAGA penalties arising from the same underlying conduct.

The Settlement includes 142 Participating Class Members (i.e., zero opt-outs), and the following is a breakdown of how the funds are allocated under the Settlement Agreement. (Polites Decl. ¶ 16):

<i>Gross Settlement Amount</i>	\$ 389,241.44
Attorneys’ Fees (1/3)	\$ 129,747.15
Litigation Costs	\$ 12,241.36
Administrator Costs	\$ 6,250.00
PAGA Penalties	\$ 20,000.00
Service Awards (\$10,000 each)	\$ 20,000.00
<i>Net Settlement Amount</i>	\$ 201,002.93

The Participating Class Members were deemed to participate and did not need to submit a Claim Form to receive payment. Each Participating Class Member will receive an Individual Class Payment which will be calculated and apportioned from the Net Settlement Amount based on the number of Weeks Worked during the Class Period. (S.A. ¶ III.B.1).

Assuming all of the amounts in the Settlement are approved by the Court, the highest payment to Participating Class Members is estimated to be approximately \$4,417.82, the average payment is estimated to be \$1,415.51, and the lowest is \$46.50 for a short-term employee. (Polites Decl. ¶ 18).

In addition, 111 PAGA Group Members will share in the \$7,000 PAGA Payment on a pro rata basis, who will receive \$63.06 each on average. (Polites Decl. ¶ 19-20).

1 The Individual Class Payments to Participating Class Members will be allocated as 15%
2 to wages subject to standard withholdings and 85% for interest and statutory penalties (pursuant
3 to, *e.g.*, California Labor Code sections 203, 210, 226) from which no taxes will be withheld.
4 The Settlement Administrator will issue to each Participating Class Member an Internal Revenue
5 Service Form W-2 and comparable state forms with respect to the wage allocation and a Form
6 1099 with respect to the penalties and interest allocations. Payments to PAGA Group Members
7 will be treated as civil penalties and paid on a Form 1099. (S.A. ¶ III.B.3).

8 The Settlement Agreement provides that Defendant shall fund the Settlement Amount
9 within 30 days of the Effective Date, which is expected to occur 61 days after the Final Order is
10 entered. (S.A. ¶ III.E.11). The Settlement Administrator is then required to issue payments
11 within 10 calendar days of receipt of the payment. (S.A. ¶ III.E.11). Class Members will have
12 180 days to cash their settlement check. If 180 days passes and the check is not cashed, the
13 Settlement Administrator shall issue all unclaimed funds to the California State Controller's
14 Office in the name of the Participating Class Member or PAGA Group Member. (S.A. ¶
15 III.E.12).

16 **III. THE NOTICE PROCESS**

17 **A. Notice to the Class Members**

18 Pursuant to the Court's Order and the Settlement Agreement, the Parties directed the
19 Settlement Administrator to review and update the Class Members' addresses, mail the Court-
20 approved Notice Packet, and process their responses. (Polites Decl. ¶ 3). Prior to mailing the
21 Notice Packet, the Settlement Administrator performed a National Change of Address search on
22 all Class Members to determine if any had moved. (*Id.* at ¶ 8). Then, on July 2, 2026, the Notice
23 Packet was sent via first-class mail to the 142 Class Members to advise each about the suit and
24 settlement. Ultimately, only 1 Notice Packet was determined to be undeliverable; resulting in a
25 99.3% success rate in mailing the Notice Packets. (*Id.* at ¶ 10-12).

26 In accordance with California Rules of Court, Rules 3.766(d) and 3.769(f), the Notice
27 Packet provided Class Members with (1) a brief explanation of the case; (2) an explanation of
28 each Class Member's right to opt out of the settlement class; (3) an explanation of the process

1 (and relevant deadlines) through which a Class Member could opt out of the settlement class; (4)
2 notice about the binding nature of the Judgment for Class Members who do not opt out; (5) an
3 explanation of each Class Member's right to appear through counsel; (6) an explanation of each
4 Class Member's right to appear at the fairness hearing and express views on the settlement, i.e.,
5 object or otherwise respond; and (7) an explanation of each Class Member's right to participate
6 in the Settlement and receive payment accordingly. (See **Exhibit B** to the Polites Decl.).

7 **B. There were No Objections or Requests for Exclusion, Resulting in an**
8 **Impressive 100% Class Participation in the Settlement**

9 California law makes clear that the percentage of objectors and opt-outs is an important
10 factor in the Court's consideration of a proposed class action settlement. *Dunk v. Ford Motor*
11 *Co.* (1996) 48 Cal.App.4th 1794, 1802; *see also Mandujano v. Basic Veg. Prods., Inc.* (9th Cir.
12 1976) 541 F.2d 672, 677 (where the Ninth Circuit recognized that the number or percentage of
13 class members who object to the settlement is a significant factor in the final fairness analysis).

14 In this case, there are no objections, disputes or opt-outs to the Settlement -- meaning that
15 100% of the Class Members is participating in the Settlement. (Polites Decl. ¶¶ 13-15).
16 Considering this positive reaction to the Settlement and its overall terms, it is clear that the
17 Settlement, which was the product of arm's-length negotiations, is fair and reasonable and the
18 Parties therefore respectfully request that the Court grant final approval and enter the proposed
19 judgment as requested. *See Dunk*, 48 Cal.App.4th at 1800-1802 (class action settlements should
20 be approved if they are fair and reasonable, and a low percentage of objectors and opt-outs is
21 evidence of an agreement's fairness).

22 **IV. EVALUATION OF THE SETTLEMENT**

23 It is axiomatic that California law strongly favors and encourages settlements. *See*
24 *Stambaugh v. Super. Ct.* (1976) 62 Cal.App.3d 231, 236. This presumption in favor of
25 settlement applies with particular force in the context of class actions. *See Ferguson v. Lieff,*
26 *Cabraser, Heimann & Bernstein* (2003) 30 Cal.4th 1037 (Kennard, J., concurring and dissenting)
27 (“[p]ublic policy favoring settlement is especially weighty for class actions”); *Bell v. Am. Title*
28 *Ins. Co.* (1991) 226 Cal.App.3d 1589, 1607-1608 (affirming approval of a class settlement and

1 implicitly endorsing its citation of federal precedent for the notion that there is a “strong public
2 policy in favor of settlement of class actions”); *Van Bronkhorst v. Safeco Corp.* (9th Cir. 1976)
3 529 F.2d 943, 950 (“it hardly seems necessary to point out that there is an overriding public
4 interest in settling and quieting litigation. This is particularly true in class action suits”).

5 When entertaining a request for final approval of a class action settlement, a court’s
6 fundamental consideration is whether the settlement is fair, adequate and reasonable. *Dunk*, 48
7 Cal.App.4th at 1801, fn. 7 (noting that state courts look to federal authority concerning the
8 approval of class settlements); California Rules of Court, Rule 3.769 (g).

9 Fairness is presumed when: (1) the settlement is reached through arm’s-length
10 bargaining; (2) investigation and discovery are sufficient to allow counsel and the court to act
11 intelligently; (3) counsel is experienced in similar litigation; (4) the percentage of objectors and
12 opt outs is small, and (5) the range of reasonableness of the settlement fund to a possible
13 recovery in light of all attendant risks of litigation.” *Dunk*, 48 Cal.App.4th at 1802. All five of
14 these factors are discussed in detail below.

15 **A. The Settlement was Reached through Informed Arms-Length Negotiation**

16 Courts presume the absence of fraud or collusion in the negotiation of a settlement,
17 unless evidence to the contrary is offered. Thus, there is a presumption here that the negotiations
18 were conducted in good faith. *See* 3 Alba Conte & Newberg, *supra*, at § 11.51. The proposed
19 settlement here was the product of arm’s-length negotiation before a highly experienced and
20 reputable class action mediator to reach a settlement.

21 Here, Plaintiffs and Class Counsel have diligently investigated the claims raised in this
22 litigation and, after taking into account the disputed factual and legal issues involved in this
23 action, the risks attending further prosecution, and the benefits to be received pursuant to the
24 compromise and settlement of the action as set forth in the Settlement, concluded that the
25 settlement terms are fair, reasonable, and in the best interest of the Settlement Class.

26 As the Settlement Agreement itself reveals, the Settlement is designed to fairly and
27 adequately compensate all Class Members. And, pursuant to California Rules of Court Rule
28 3.769(b), the parties have disclosed the agreed upon and proposed attorney fee award, which is

1 well within the range of reasonableness for matters of this nature.

2 **B. Plaintiffs' Investigation was Sufficient**

3 As set forth at the time of preliminary approval, Class Counsel's investigation into the
4 facts and merits of the wage and hour claims alleged included analysis of substantial amounts of
5 information, correspondence, documents, pay data, policies and procedures, and evidence
6 relating to the class size and the commonality of the claims. During this process, Plaintiffs and
7 Class Counsel conducted investigations into the potential claims of the similarly situated
8 employees, as well as researching and investigating Defendant's defenses. Finally, Class
9 Counsel synthesized and analyzed information provided by Defendant as to total Class Members,
10 the number of current and former employees, the number of employees who worked during
11 various time periods, and prepared comprehensive damage calculations regarding the claims.

12 **C. Class Counsel are Experienced in Similar Litigation and Endorse the**
13 **Settlement**

14 Class Counsel are experienced in this type of litigation, and they have (and hereby do)
15 represent that this Settlement is fair and reasonable. (Mankin Decl. ¶¶ 2-6, 13); *see 7-Eleven*
16 *Owners for Fair Franchising v. Southland Corp.* (2000) 85 Cal.App.4th 1135, 1152 (Final
17 approval of settlement affirmed where counsel were all experienced litigators with class-action
18 experience and had recommended settlement based on the negotiated terms).

19 **D. Reasonable Estimated of the Nature and Amount of Recovery**

20 Plaintiffs' Motion for Preliminary Approval contained a comprehensive *Kullar* analysis
21 which sufficiently provided the Court with "basic information about the nature and magnitude
22 of the claims in question and the basis for concluding that the consideration being paid for the
23 release of those claims represents a reasonable compromise." *Kullar v. Foot Locker Retail,*
24 *Inc.* (2008) 168 Cal.App.4th 116, 133. Of course, a settlement is not judged against what might
25 have been recovered had a plaintiff prevailed at trial, nor does the settlement have to provide
26 100% of the damages sought to be fair and reasonable. *Wershba v. Apple Computers, Inc.* (2001)
27 91 Cal.App.4th 246, 250 ("Compromise is inherent and necessary in the settlement process ...
28 even if the relief afforded by the proposed settlement is substantially narrower than it would be if

1 the suits were to be successfully litigated, this is no bar to a class settlement because the public
2 interest may indeed be served by a voluntary settlement in which each side gives ground in the
3 interest of avoiding litigation”).

4 Considering the uncertainties of protracted litigation, this negotiated settlement reflects
5 the best practicable recovery for the Class. While the total settlement amount is, of course, a
6 compromise figure, the potential risks and opportunities of both parties were effectively
7 weighed and considered by the parties, resulting in a fair and equitable settlement. Based upon
8 detailed data obtained through informal discovery and information exchanges, and factoring in
9 class certification probabilities and liability probabilities, Class Counsel formulated detailed
10 damages models to evaluate the claims for mediation in order to reach a realistic and
11 reasonable resolution as set forth at preliminary approval.

12 **V. THE REQUESTED ATTORNEYS’ FEES ARE FAIR AND REASONABLE**

13 For their efforts in creating a common fund for the benefit of the class, the Settlement
14 Agreement provided that Class Counsel may seek reasonable fees of \$129,747.15 (one-third of
15 the Total Settlement Amount). These fees are warranted under the law and within the range of
16 fees commonly awarded in similar cases.

17 As shown herein, the requested percentage of one-third of the settlement fund as payment
18 for attorneys’ fees should be granted for several reasons. First, one-third is the standard
19 benchmark in California for class action settlements. *See, e.g., Chavez v. Netflix, Inc.* (2008) 162
20 Cal.App.4th 43, 66 n. 11 (“Empirical studies show that, regardless whether the percentage
21 method or the lodestar method is used, fee awards in class actions average around one-third of
22 the recovery”). Second, the California Supreme Court upheld that the percentage of the fund
23 method survives in California class action cases. *See Laffitte v. Robert Half International, Inc.*
24 (2016) 1 Cal.5th 480. Third, the requested amount is eminently reasonable through the prism of
25 a lodestar cross-check. Accordingly, this request should receive final approval.

26 ///

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28 ///

1 **A. Plaintiff is Entitled to Recover Reasonable Attorneys’ Fees Under the Labor**
2 **Code**

3 Plaintiffs and the Class in this action are entitled to recover reasonable attorneys’ fees,
4 expenses and costs under section 218.5 of the California Labor Code, which provides that, “[i]n
5 any action brought for the nonpayment of wages ... the Court shall award reasonable attorneys’
6 fees and costs to the prevailing party.” In addition, Plaintiffs and the Class are entitled to recover
7 reasonable attorneys’ fees pursuant to section 1194.2 of the Labor Code, which provides that,
8 “... any employee receiving less than the legal minimum wage ... applicable to the employee is
9 entitled to recover in a civil action the unpaid balance of the full amount of this minimum
10 wage... including ... reasonable attorney’s fees, and costs of suit.” Plaintiffs are also entitled to
11 fees and costs under section 226(e) of the Labor Code (employee who prevails on claim for
12 itemized wage statement violation “is entitled to an award of costs and reasonable attorneys’
13 fees”), under PAGA (Labor Code § 2699(g), which provides “Any employee who prevails in any
14 action shall be entitled to an award of reasonable attorney’s fees and costs, including any filing
15 fee paid”), and, potentially, section 1021.5 of the California Code of Civil Procedure.

16 **B. Class Counsel’s Request for Fees is Reasonable and Properly Calculated as a**
17 **Percentage of the Common Fund**

18 Under the “common fund” doctrine, the request for attorneys’ fees in the amount of 1/3
19 of the common fund is reasonable and appropriate, because (1) it is within the approved range
20 for percentages awarded as attorneys’ fees in similar cases; (2) it is supported by the high quality
21 of Class Counsel’s work on this case and the results obtained for the Class; (3) the Class had
22 sufficient notice of the fee request; (4) it is supported by the fact that this case was handled on a
23 contingency basis and was undertaken despite various risks and expenses; and (5) the lodestar
24 cross-check supports the fee request.

25 ***1. The Attorneys’ Fees Requested Here Fall Within the Reasonable Range***
26 ***Awarded in Cases Under the Established Common Fund Method***

27 The California Supreme Court approved trial courts’ usage of the common fund method
28 of awarding attorneys’ fees in wage and hour class actions, like this one, and upheld a fee award

1 of 1/3 of the total settlement amount obtained for the class. *See Laffitte, supra*, 1 Cal.5th at 506;
2 *see also*, 4 Newberg on Class Actions, § 14:6 at 552 (“fee awards in class actions average around
3 one-third of the recovery”). Specifically, in *Laffitte*, the Court wrote: “[w]e join the
4 overwhelming majority of federal and state courts in holding that when class action litigation
5 establishes a monetary fund for the benefit of the class members, and the trial court in its
6 equitable powers awards class counsel a fee out of that fund, the court may determine the amount
7 of a reasonable fee by choosing an appropriate percentage of the fund created”). *Id.* at 506. The
8 California Supreme Court also noted that trial courts have the discretion to award fees as a
9 percentage of the common fund, with or without the necessity to conduct a lodestar cross-check.
10 *Id.* (“...[Courts] ... retain the discretion to forgo a lodestar cross-check and use other means to
11 evaluate the reasonableness of a requested percentage fee.”).

12 The California Supreme Court’s *Laffitte* decision was consistent with its prior rulings
13 recognizing that “when a number of persons are entitled in common to a specific fund, and an
14 action brought by ... plaintiffs for the benefit of all results in the creation or preservation of that
15 fund, such ... plaintiffs may be awarded attorneys’ fees out of the fund.” *Serrano III v. Priest*
16 (1977) 20 Cal.3d 25, 34; *Boeing Co. v. Van Gemert* (1980) 444 U.S. 472, 478 (“[A] lawyer who
17 recovers a common fund . . . is entitled to reasonable attorneys’ fees from the fund as a whole”).
18 Notably, when fees are calculated as a percentage of the common fund, they should be calculated
19 based on the amount that was available to be claimed, rather than as a percentage of the actual
20 amount claimed. *See Boeing Co.*, 444 U.S. at 475-6, 480-1 (the SCOTUS held that attorneys for
21 a successful class may recover a fee based on the fund created for the class, even if some class
22 members make no claims against the fund, so that money remains in it that will be returned to
23 the defendant, explaining: “[t]heir [class members’] right to share the harvest of the lawsuit upon
24 proof of their identity, whether or not they exercise it, is a benefit in the fund created by the
25 efforts of the class representatives and their counsel.” *See also Williams v. MGM-Pathe*
26 *Communs. Co.* (9th Cir. 1997) 129 F.3d 1026, 1027 (trial court “abused its discretion by basing
27 the fee on the class members’ claims against the fund rather than on a percentage of the entire
28 fund or on the lodestar”).

1 **2. *The High Quality of Work and Excellent Result Support the Award***

2 In addition to the fact that a Class benefit was created with a non-reversionary common
3 fund settlement, the fairness of the requested fee award of 1/3 of the Settlement Amount is
4 supported by the high quality of work performed by Class Counsel and the positive result
5 obtained for the Class in spite of the risks of ongoing litigation. This result occurred because
6 Class Counsel diligently, efficiently, and creatively pursued this case and reached a settlement
7 for the benefit of the entire Class. The fact that the settlement was embraced and supported by
8 the Class, as evidenced by a 100% participation rate, demonstrates that Class Counsel obtained a
9 favorable result for the Class.

10 **3. *Class Members had Sufficient Notice of the Requested Fees***

11 California Rules of Court, Rule 3.769, requires that the Class Members be given notice of
12 any agreement regarding an application for attorneys' fees. Here, the Notice preliminarily
13 approved by the Court and distributed to the Class Members apprised them that Class Counsel
14 will ask for fees of one-third of the Total Settlement Amount. (Polites Decl., Exh. A.)

15 The Class Notice also advised the class members of the procedures for objecting to the
16 proposed settlement and appearing at the settlement hearing, where they could present their
17 objections to any aspect of the settlement, including the amount of attorneys' fees to be awarded
18 to class counsel. *Litwin v. iRenew Bio Energy Solutions, LLC* (2014) 226 Cal.App.4th 877, 883
19 ("Procedural due process requires that affected parties be provided with 'the right to be heard at a
20 meaningful time and in a meaningful manner'"). In accordance with the foregoing, it is
21 respectfully submitted that the instant notice complied with Rule 3.769 and, as a result, the Class
22 Members' due process rights were fulfilled.

23 **4. *The Contingent Nature of Class Counsel's Representation Further***
24 ***Supports the Fee Award at 1/3 of the Common Fund***

25 An additional factor militating in favor of the granting of the requested fee award is the
26 fact that this case was both legally and financially risky for Class Counsel. *See Vizcaino v.*
27 *Microsoft Corp* (9th Cir. 2002) 290 F.3d 1043, 1048-49. Class Counsel have been representing
28 the Class in this matter on a strictly contingency basis, and as such, incurred the risk of non-

1 recovery after a substantial investment of time, money, and resources, and have done so since the
2 inception of this case without any payment or compensation. Specifically, there was the prospect
3 of enormous cost inherent in class action litigation; the risk that Defendant could prevail on its
4 argument that the class should not be certified; and the risk that Defendant could prevail on the
5 merits of some or all of the claims.

6 The court in *Horsford v. Board of Trustees of California State University*, 132
7 Cal.App.4th 359 (2005) analyzed this issue and held that, when determining the market-level
8 compensation to award to contingent fee attorneys, the analysis must take into account the large
9 risk inherent in such situations:

10 The market value of the services provided by plaintiffs' counsel in
11 a case of this magnitude must take into consideration that any
12 compensation has been deferred for up to four years from the time
13 an hourly fee attorney would begin collecting fees from his or her
14 client; that the demands of the present case substantially precluded
15 other work during that extended period, which makes the ultimate
16 risk of not obtaining fees all the greater (since the attorneys must use
17 savings or incur debt to keep their offices afloat and their families
18 fed during the years-long litigation); and that a failure to fully
19 compensate for the enormous risk in bringing even a wholly
20 meritorious case would effectively immunize large or politically
21 powerful defendants from being held to answer for constitutional
22 deprivations, resulting in harm to the public."

23 *Id.* at 399-400.

24 Indeed, as Class Counsel can attest, not all class/PAGA cases are successful. Many cases
25 end with no fees or a greatly reduced fee that is far less than lodestar, often due to no fault of
26 counsel (i.e., bankruptcy, change in the law, consolidation or coordination or preemption, being
27 top filed, etc.). According to Mayer Brown LLP's study entitled, An Empirical Analysis of
28 Class Actions, cited in *Laguna v. Coverall North America, Inc.* (9th Cir. 2014) 753 F.3d 918,
found that only one-third of class actions are successful, compared to two-thirds that are defeated
and result in no payment to the class members.¹

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¹ www.mayerbrown.com/files/uploads/Documents/PDFs/2013/December/DoClassActionsBenefitClassMembers.pdf

1 5. *A Lodestar Cross-Check Confirms the Reasonableness of the Fee Award*

2 Despite recognized limitations of the so-called lodestar method, some California and
3 federal courts acknowledge the utility of a lodestar “cross-check.”² (*Lealao*, 82 Cal.App.4th at
4 46-47.) Under the “lodestar multiplier” method of cross-checking the reasonableness of
5 attorneys’ fees in class actions, the court ascertains Class counsel’s total “lodestar” amount by
6 multiplying the number of hours reasonably expended by each attorney or legal staff member by
7 their hourly rates, and then enhances or reduces this lodestar figure by a “multiplier” to account
8 for a range of factors, such as the novelty or difficulty of the case, its contingent nature, and the
9 degree of success achieved. *PLCM Group, Inc. v. Drexler* (2000) 22 Cal.4th 1084, 1095-96;
10 *Press v. Lucky Stores, Inc.* (1983) 34 Cal.3d 311, 322; *Lealao, supra*, 82 Cal.App.4th at 43 [court
11 has discretion to use a multiplier to ensure that the “fee awarded is within the range of fees freely
12 negotiated in the legal marketplace in comparable litigation”].)

13 Historically, California courts have approved multipliers of 1.5 to 4. However, in this
14 case, Class Counsel has a ***negative multiplier***, as the actual aggregated lodestar between the
15 Plaintiffs’ attorneys that worked on this case is approximately \$186,500, as summarized in the
16 following table, and in the submitted declaration of Plaintiffs’ counsel:

17

Attorney/Timekeeper	Rate	Hours	Fee
Brian J. Mankin <i>Trial Counsel / Partner</i> (24 Years)	\$950	67³	\$63,650
Peter Carlson <i>Handling Attorney / Senior</i> <i>Associate</i> (12 Years)	\$750	163.8	\$122,850
Grand Total for All Attorneys			\$186,500

23
24
25

26
27 ² In practice, the lodestar method is difficult to apply, time-consuming to administer, inconsistent in result, and
28 capable of manipulation. In addition, the lodestar creates inherent incentive to prolong the litigation until sufficient
hours have been expended. Herr, David F., *Manual for Complex Litigation*, § 14.121 (1988); *See also In re*
Activision (N.D. Cal 1989) 723 F.Supp 1373.

³ Includes an estimated 35 hours that will be expended in finalizing the motion, attending the hearing, working with
the parties and administrator regarding the notice and payment process, and filing any post judgment paperwork.

1 The hourly rates above are comparable to those of other attorneys with equal or similar
2 experience, if not somewhat lower (*i.e.*, the Laffey Matrix at www.laffeymatrix.com indicates that
3 the benchmark rates are: \$777/hour for an 8–10-year attorney, \$878/hour for a 11–19-year
4 attorney, and \$1,057/hour for a 20+ year attorney).

5 Moreover, the Wolters Kluwer 2023 Real Rate Report (“Real Rate Report”) provides
6 directly applicable information in this regard. The Real Rate Report is based on an enormous and
7 statistically significant compilation of data, comprising millions billing entries from a hundred
8 thousand individual timekeepers who worked at thousands of law firms. The Real Rate Report
9 then compiles and analyzes this data to provide the hourly rates for partners and associates in
10 major metropolitan areas. For the southern California area: (a) the rate for partners in Los
11 Angeles is between \$840 and \$1,159 per hour for the middle and upper quartiles, and (b) the
12 rates for associates with seven or more years of experience, the median rate is \$674 per hour, and
13 the upper quartile rate is \$888 per hour. And, perhaps most importantly, the information
14 provided in the Real Rate Report is not based on self-reported numbers, surveys, sampling, or
15 reviews or other publications – instead, the Real Rate Report is based on the actual hours and
16 fees billed by law firms, which makes it “a much better reflection of true market rates than self-
17 reported rates in all practice areas.” *Brown v. CVS Pharmacy, Inc.* (C.D. Cal. Apr. 24, 2017)
18 2017 U.S. Dist. LEXIS 182309, at *21; *PLCM Group*, 22 Cal.4th at 1085 (holding that rates
19 should be premised upon precisely this form of independent, “objective” rate data that reflects
20 “fair market” rates actually billed to clients “in the community for similar work”).

21 Class Counsel are also highly experienced in Class/PAGA litigation, including having
22 been named by the LA Times as one “Southern California Leading Lawyers” in the May 2023
23 issue of Consumer Attorneys of Southern California (a recognition given to 17 employment law
24 attorneys in 2023), having been selected as “Super Lawyer” in employment litigation over the
25 last 5 consecutive years, having achieved large settlements, having prevailed at trial in PAGA-
26 only actions and Class Action jury trials. (Mankin Decl. ¶¶ 2-6). Indeed, Class Counsel’s rates
27 are typical of the rates charged by defense counsel with similar experience doing similar work in
28 this region.

1 Thus, Plaintiffs' Counsel's rates reasonable and typical, and the attorneys' fees requested
2 confirm that the fee request is fair and reasonable under the lodestar multiplier cross-check.

3 **VI. THE REQUESTED COSTS AND SERVICE AWARD ARE REASONABLE**

4 **A. The Requested Costs are Reasonable and Merit Approval**

5 The Settlement Agreement authorized litigation costs of up to \$20,000. (S.A. ¶
6 III.C.2). Class Counsel's actual costs through the final approval hearing are estimated to be
7 \$12,241.36. (Mankin Decl. ¶ 27 and Exhibit C thereto). These costs include mediation fees,
8 filing fees, expert charges, CourtCall charges, and process server fees, among others.

9 **B. The Requested Service Awards are Reasonable and Merit Approval**

10 A named plaintiff is an essential ingredient of any class action and an incentive award
11 is appropriate to induce individuals to step forward and assume the burdens and obligations of
12 representing the Class. Courts regularly approve a service payment to compensate named
13 plaintiffs for their service to the class and the risks they incurred during the litigation. *See, e.g.*
14 *Bell v. Farmers Insurance Exchange* (2004) 115 Cal.App.4th 715, 726 (upholding "service
15 payments" to named Plaintiff for their efforts in bringing class action); *Rodriguez v. West*
16 *Publishing* (9th Cir. 2009) 563 F.3d 948, 959 (stating that incentive awards are "intended to
17 compensate class representatives for work done on behalf of the class, to make up for financial
18 or reputational risk undertaken in bringing the action, and, sometimes, to recognize their
19 willingness to act as a private attorney general.").

20 The Settlement Agreement provides an incentive award payment of \$10,000 each to the
21 Class Representatives. Plaintiffs came forward and undertook significant risks, including the
22 risk of being blackballed in the industry and the risk that they could have been liable for
23 Defendant's costs if they lost. This factor is a significant one for a wage earner, and the
24 potential risk is very real. *See Whiteway v. FedEx Kinkos Office & Print Svcs., Inc.* (N.D. Cal.
25 Dec. 17, 2007) 2007 WL 4531783, at *3 ("the few courts to consider this 'class
26 representatives' dilemma' have not found it inequitable to assess costs upon the lead or named
27 plaintiff in a class action.").

1 Plaintiffs also committed a significant number of hours to assist with the
2 litigation/settlement processes of this case. The requested Service Award is reasonable,
3 particularly in light of the substantial benefits Plaintiffs generated for the Class Members, the
4 risks they undertook, and the time and effort devoted to assisting with the Class/PAGA
5 settlement. (*See* Plaintiffs' Decl. ¶ 3-9).

6 **VII. OTHER MATTERS FOR FINAL APPROVAL**

7 **A. Settlement Administrator Costs**

8 The Administrator, ILYM Group, agreed to administer the settlement for a flat-fee of
9 \$6,250. (Polites Decl. ¶ 21). This amount was fully disclosed to the Class Members in the
10 Class Notice, and no Class Members objected to it. ILYM Group Settlement Administrator's
11 declaration also fully complies with the CMO regarding the fixed fee and other work to be
12 performed. As such, the Parties request that the Administrator's fee request be approved.

13 **B. Uncashed Checks**

14 The Settlement Agreement provides that if checks are not cashed within the 180 day
15 check cashing period, then the uncashed funds will be issued to the California State Controller's
16 Office in the name of the Class Member and/or PAGA Group Member.

17 **C. Final Report**

18 Defendant's payment is due 30 days after the Effective Date, which will occur 61 days
19 after the Final Order is entered. The Administrator then has 10 days thereafter process the
20 funds and issue checks to the Class Members, who will then have 180 days to cash their
21 checks. Accordingly, the Parties project that the check cashing deadline will occur on
22 approximately July 31, 2027.

23 Thus, the Parties propose submitting a final report in the form of a declaration from the
24 Administrator on September 29, 2027, and then holding a disbursement hearing thereafter at
25 the Court's convenience.

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1 **VIII. CONCLUSION**

2 Plaintiffs respectfully submit that the Settlement is fair, adequate, and reasonable, and
3 merits approval. This motion is unopposed by Defendant.

4 Dated: September 26, 2026

LAUBY, MANKIN & LAUBY LLP

6 BY:



7 Brian J. Mankin, Esq.
8 Attorneys for Plaintiffs and the Class
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PROOF OF SERVICE
(Pursuant to CCP §§ 1013(a)(1) and 2015.5)

STATE OF CALIFORNIA)
) ss.
COUNTY OF RIVERSIDE)

I am employed in the County of Riverside, State of California. I am over the age of 18 and not a party to the within action; my business address is 5198 Arlington Avenue, PMB 513, Riverside, CA 92504.

On September 30, 2026, I caused to be served the foregoing document(s) described as follows:

PLAINTIFFS' UNOPPOSED MOTION FOR FINAL APPROVAL OF CLASS ACTION SETTLEMENT

I declare that I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. It is deposited with the U.S. postal service on that same day in the ordinary course of business. I am aware that on motion of party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

☐ **By Mail** I deposited such envelope in the mail at Riverside, California. The envelope was mailed with postage thereon fully prepaid.

☐ **By Facsimile** I sent this document via fax to all parties as listed on attached service list, on

☐ **By Overnight Service** I deposited such envelope in a facility regularly maintained by the United Parcel Service for receipt of items for overnight delivery, with overnight delivery expenses prepaid, addressed to the person to be served.

☒ **By Email or Electronic Transmission:** Pursuant to CCP § 1010.6 or an agreement of the parties to accept service by email or electronic transmission, I caused the document(s) to be sent from email address tracie@lmlfirm.com to the persons at the electronic notification address listed in the service list. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was not successful.

☐ **By Certified Mail-Return Receipt Requested** I caused such envelope with postage fully prepaid thereon, to be placed in the United States mail at Riverside, California

☐ **By Personal Service** I caused said document(s) to be personally served by hand on the parties listed on the attached service list.

☒ **State** I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on September 30, 2026, Riverside, California.

☐ **Federal** I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.



Tracie Chiarito, Declarant

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