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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SAN JOAQUIN

YOGESHKUMAR MISTRY and RUDOLPH JACKSON, on behalf of themselves and others similarly situated,

Plaintiffs,

v.

UST GLOBAL INC; and DOES 1 through 100, inclusive,

Defendants.

Case No.: STK-CV-UOE-2025-0008591

Assigned for all purposes to:
Hon. Robert T. Waters, Dept. 11B

CLASS ACTION

NOTICE OF MOTION AND PLAINTIFFS' MOTION FOR FINAL APPROVAL OF CLASS AND REPRESENTATIVE ACTION SETTLEMENT, ATTORNEYS' FEES AND COSTS, ADMINISTRATION COSTS, AND CLASS REPRESENTATIVES' SERVICE AWARDS; MEMORANDUM OF POINTS AND AUTHORITIES

[Declarations of Anthony J. Orshansky, Yogeshkumar Mistry, Rudolph Jackson, and Abel E. Morales of CPT Group, Inc., and Proposed Final Approval Order and Judgment submitted concurrently herewith]

Final Approval Hearing
Date: April 2, 2026
Time: 9:00 a.m.
Dept.: 11B

TO THE COURT, ALL PARTIES, AND THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that on April 2, 2026, at 9:00 a.m., or as soon thereafter as the matter may be heard before the Honorable Robert T. Waters in Department 11B of the above-captioned court located at 180 E. Weber Avenue, Stockton, California 95202, Plaintiffs Yogeshkumar Mistry and Rudolph Jackson ("Plaintiffs" or "Class Representatives"), individually and on behalf of all others similarly situated, will and hereby do move this Court for entry of an order pursuant to Code of Civil Procedure section 382 and California Rules of Court, Rule 3.769:

1. Granting final approval of the Stipulation of Class and Representative Action Settlement ("Settlement Agreement") entered into with Defendant UST Global Inc ("Defendant");

2. Confirming certification of the conditionally certified Settlement Class for settlement purposes under Code of Civil Procedure section 382;

3. Confirming the appointment of Plaintiffs as Class Representatives for settlement purposes;

4. Confirming the appointment of CounselOne, PC as Class Counsel for settlement purposes;

5. Approving an award of $900,000 in attorneys' fees to Class Counsel;

6. Approving an award of $17,595.35 in litigation costs to Class Counsel;

7. Approving an award of $24,000 in administration costs to CPT Group, Inc. for its settlement administration services;

8. Approving service payments in the amount of $20,000 each to the Class Representatives ($40,000 in the aggregate); and

9. Entering final judgment in the form of the Proposed Final Order and Judgment Granting Plaintiffs' Motion for Final Approval of Class and Representative Action Settlement, Attorneys' Fees and Costs, Administration Costs, and Class Representatives' Service Awards, submitted concurrently herewith.

This Motion is made on the following grounds: (1) the conditionally certified Settlement Class continues to meet the requirements for class certification for settlement purposes only under Code of Civil Procedure section 382; (2) Plaintiffs and Class Counsel continue to be adequate representatives of the Settlement Class; (3) the settlement is a fair, adequate, and reasonable compromise of disputed wage and hour claims; (4) the requested awards of attorneys' fees and costs, Class Representatives' service payments, and settlement administration costs are all fair, adequate, and reasonable; and (5) in light of the foregoing, the Proposed Final Order and Judgment Granting Plaintiffs' Motion for Final Approval of Class and Representative Action Settlement, Attorneys' Fees and Costs, Administration Costs, and Class Representatives' Service Awards, submitted concurrently herewith, should be entered to give finality to, and allow for disbursements from, the settlement.

This motion is based on this Notice of Motion; the attached Memorandum of Points and Authorities; the concurrently filed Declarations of Anthony J. Orshansky, Yogeshkumar Mistry, Rudolph Jackson, and Abel E. Morales of CPT Group, Inc., and the exhibits attached thereto; the Settlement Agreement; all other pleadings and papers on file in this action; and on any further oral or documentary evidence or argument presented at the time of hearing.

Dated: March 9, 2026

Respectfully submitted,

COUNSELONE, PC

By: ______________________

Anthony J. Orshansky
Justin Kachadoorian
P. Bartholomew Quintans
Attorneys for Plaintiff, Settlement Class Members, and PAGA Group Members

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MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

Plaintiffs Yogeshkumar Mistry and Rudolph Jackson (collectively, "Plaintiffs" or "Class Representatives") submit this Memorandum of Points and Authorities in support of their motion for final approval of this class and representative action settlement on behalf of all current and former employees who worked for Defendant UST Global Inc ("Defendant") within the State of California during the Class Period, which is defined as the period beginning on October 23, 2020 and ending on August 15, 2025 (the "Class" or " Class Members;" "Settlement Class" or "Settlement Class Members" are Class Members who do not opt out of the settlement).

The Stipulation of Class and Representative Action Settlement ("Settlement Agreement")[1] entered into between Plaintiffs and Defendant (the "Parties"), if approved, will resolve specific claims of the Settlement Class Members and PAGA Group Members[2] in exchange for Defendant's agreement to pay the amount of Two Million Seven Hundred Thousand Dollars ($2,700,000) into a non-reversionary common settlement fund. This is a very favorable resolution of disputed wage and hour claims. As of the date of filing of this Motion, ***not a single Class Member has objected*** to the settlement after receiving notice of the proposed settlement and the projected individual settlement payments, and ***not a single Class Member has requested exclusion*** from the settlement, resulting in a 100% settlement participation rate. (See Declaration of Abel E. Morales of CPT Group, Inc. ("CPT") Regarding Notification and Settlement Administration ("Morales Decl."), filed concurrently herewith, at ¶¶ 10-12.)

As explained below, the Court should grant Plaintiffs' motion because: (1) the conditionally certified Settlement Class continues to meet the requirements for class certification for settlement purposes under Code of Civil Procedure section 382, (2) the settlement is a fair, adequate, and

[1] A copy of the Settlement Agreement is attached to the Declaration of Anthony J. Orshansky ("Orshansky Decl.), filed concurrently herewith, at Exh. A.

[2] "PAGA Group Members" are defined as all Class Members, whether or not they submit a request for exclusion from the class settlement, employed by Defendant during the PAGA Period. (Settlement Agreement ¶ 21.) "PAGA Period" is defined as the period beginning on October 23, 2023 and ending on August 15, 2025. (*Id.* at ¶ 23.)

reasonable compromise of the disputed claims in this case, and (3) the amounts requested for Class Counsel's attorneys' fees and costs, Class Representatives' service awards, and settlement administration costs are all fair, adequate, and reasonable. In light of the foregoing, this Court should enter the Proposed Final Order and Judgment Granting Plaintiffs' Motion for Final Approval of Class and Representative Action Settlement, Attorneys' Fees and Costs, Administration Costs and Class Representatives' Service Awards, submitted concurrently herewith.

II. FACTUAL AND PROCEDURAL BACKGROUND

On October 23, 2024, Class Counsel provided pre-filing written notice to the California Labor and Workforce Development ("LWDA") and by certified mail to Defendant of the below-identified allegations on behalf of Plaintiff Mistry and similarly situated aggrieved employees in accord with the California's Private Attorneys General Act of 2004, Labor Code section 2698 et seq. ("PAGA"). (Orshansky Decl. ¶ 22.) On November 4, 2024, Class Counsel provided an amended pre-filing written notice to LWDA and by certified mail to Defendant of the above-identified allegations on behalf of both Plaintiffs and similarly situated aggrieved employees in accord with the PAGA. (*Ibid.*) This notice is required under Labor Code section 2699.3, subdivision (a)(1), as a prerequisite to bringing a PAGA representative claim against an employer. The LWDA did not provide notice of its intent to investigate within the allotted 65 days' time. (Orshansky Decl. ¶ 22.)

Plaintiffs filed their Class and Representative Action Complaint, asserting the following claims against Defendant: (1) Failure to Pay Minimum Wages (Lab. Code, §§ 1194, 1194.2, 1197, 1197.1, 1197.5); (2) Failure to Pay Overtime Wages (Lab. Code, §§ 510, 1197.5 and 1198); (3) Failure to Provide Meal Periods (Lab. Code, §§ 226.7 and 512); (4) Failure to Authorize and Permit Rest Breaks (Lab. Code, § 226.7); (5) Failure to Provide Sick Pay and Supplemental Sick Leave (Lab. Code, §§ 245-248.6); (6) Failure to Provide Accurate Itemized Wage Statements (Lab. Code, §§ 226 and 226.3); (7) Failure to Pay All Wages Within a Timely Manner and Upon Separation of Employment (Lab. Code, §§ 201, 202, 203, 204, and 210); (8) Failure to Reimburse Business Expenses (Lab. Code, §§ 2800 and 2802); (9) Failure to Maintain Payroll Records (Lab. Code, § 1174, subd. (d)); (10) Unfair Competition Law Violations (Bus. & Prof. Code, § 17200 et seq.); and (11) Penalties pursuant to the PAGA (Lab. Code, § 2698 et seq.). (Orshansky Decl. ¶ 23.)

Plaintiffs' lawsuit thus sought to recover unpaid wages, premiums for improper meal and rest breaks, reimbursement of business expenses, restitution, liquidated damages, penalties for improper wage statements, waiting time penalties, civil penalties pursuant to the PAGA, injunctive and other equitable relief, prejudgment interest, and attorneys' fees and costs. (Orshansky Decl. ¶ 24.)

Defendant denies Plaintiffs' allegations of wrongdoing. (Orshansky Decl. ¶ 25.) Defendant does not believe that any liability to Plaintiffs, Class Members, and PAGA Group Members exists, or that Plaintiffs, Class Members, and PAGA Group Members are entitled to any recovery. (*Ibid.*) In settling, Defendant does not admit liability with respect to the alleged claims made by Plaintiffs and makes no admissions regarding any facts or law related to the lawsuit. (Settlement Agreement ¶ 40.)

A. Discovery and Investigation.

Prior to initiating the lawsuit, and at least as early as August 2024, Class Counsel independently and thoroughly investigated the claims and considered the facts and circumstances underlying the pertinent issues and applicable law. (Orshansky Decl. ¶ 20.) This required thorough discussions and interviews with Plaintiffs and other Class Members as well as research into the various legal issues involved in the case. (*Ibid.*) After conducting their initial investigation, Class Counsel determined that the claims were well suited for class action adjudication owing to what appeared to be a common course of conduct affecting a similarly situated group of employees. (*Ibid.*)

Class Counsel devoted a considerable amount of time to interviewing Plaintiffs and other Class Members; researching California law; preparing and submitting notice to the LWDA; drafting the operative pleading; and requesting production of and reviewing key information and documents. (Orshansky Decl. ¶¶ 20, 26-27.) Defendant produced information and documentation concerning the alleged violations, such as Class Members' time and pay records and Defendant's written policies concerning the at-issue allegations, including Defendant's employee handbooks, policies and procedures regarding the payment of wages, the provision of meal and rest breaks, and time keeping policies, such as recording hours, issuance of wage statements, and providing all wages at separation, as well as composite data regarding the number of Class Members and PAGA Group

Members and the mix of current versus former employees, total number of pay periods, total number of workweeks, and the average hourly rate in effect. (*Id.* at ¶ 26.) The Parties met and conferred at length regarding the information and documents produced. (*Ibid.*) With the assistance of a consultant, Class Counsel further analyzed the documents and data produced to determine Defendant's degree of liability and potential amounts due in damages. (*Id.* at ¶ 27.)

B. Mediation and Settlement.

After having performed extensive investigation and analysis of the legal and factual issues and risks, the Parties participated in a full-day mediation before the Hon. Peter D. Lichtman (Ret.) of Signature Resolution where they debated and discussed their respective positions in an attempt to resolve the action. (Orshansky Decl. ¶ 28.) Judge Lichtman is a well-respected mediator with considerable experience mediating wage and hour class actions and PAGA representative actions. (*Ibid.*) During the mediation, the Parties exchanged further information and discussed all aspects of the case, including the risks and delays of litigation and the risk to both Parties for proceeding with a motion for class certification and liability under the claims asserted, and the implications of a PAGA representative action (*Ibid.*) Though the matter did not settle at mediation, the Parties continued to negotiate with the assistance of Judge Lichtman, and ultimately accepted a mediator's proposal to settle the action. (*Ibid.*)

From Class Counsel's review of the facts, strengths, and weaknesses of the case, the risks and delays of litigation, and Class Counsel's own prior litigation experience, Class Counsel believe that the recovery being made available to Settlement Class Members and PAGA Group Members is fair, reasonable, and adequate taking into consideration the amounts received in other wage and hour class and representative actions, the risks inherent in litigation of this genre, and the reasonable tailoring of each Settlement Class Member's and PAGA Group Member's claim to the settlement award he or she will receive. (Orshansky Decl. ¶ 30.) Class Counsel believe that the settlement serves the best interests of Settlement Class Members and PAGA Group Members. (*Ibid.*) Further, the settlement negotiations, which were hard fought and conducted in good faith and at arm's length between attorneys with substantial experience litigating class actions, representative actions, and wage and hour cases, fostered a non-collusive settlement process in which the Parties were forced to make significant compromises in the interest of reaching a full and complete settlement of the litigation. (*Id.* at ¶ 29.) The Parties have concluded that it is in their best interests to compromise, settle, and accept the terms of the Settlement Agreement.

The Parties subsequently finalized the terms of the settlement and executed the Settlement Agreement—a true and correct copy of which is attached to the Orshansky Decl. as **Exhibit A**—which was preliminarily approved by the Court on December 5, 2025. (See Order Granting Preliminary Approval of Class and Representative Action Settlement entered December 5, 2025.)

On January 27, 2026, after performing a National Change of Address ("NCOA") search to update and verify addresses for Class Members, CPT mailed the Notice of Pendency of Class and Representative Action Settlement ("Class Notice") to Class Members and PAGA Group Members. (Morales Decl. ¶¶ 6-7.) As a result of either a skip trace, or a request from counsel or the Class Member, a total of 36 Class Notices have been re-mailed. (*Id.* at ¶ 8.) Class Members have until March 13, 2026 to submit requests for exclusion or objections. (*Id.* at ¶ 7.) As of the date of this filing, CPT has received no objections and no requests for exclusion out of 573 Class Members, for an outstanding participation rate of 100%. (*Id.* at ¶¶ 10-12.) As of the date of filing this Motion, the average estimated Individual Settlement Payment is $2,475.40. (*Id.* at ¶ 13.)

III. SUMMARY OF THE SETTLEMENT AND NOTICE PROCESS

A. The Class Definition.

For settlement purposes only, the Settlement Class to be confirmed for certification is as follows: all current and former employees who worked for Defendant in California during the Class Period, who have not submitted a timely and valid request for exclusion from the settlement. (Settlement Agreement ¶¶ 4, 31.)

B. Monetary Terms.

Defendant has agreed to pay a non-reversionary settlement amount of Two Million Seven Hundred Thousand Dollars ($2,700,000) ("Gross Settlement Amount"). (Settlement Agreement ¶¶ 15, 43; Orshansky Decl. ¶ 5.) The Gross Settlement Amount shall be inclusive of all settlement payments to Settlement Class Members, Service Awards to the Class Representatives, Administration Costs to the Settlement Administrator, Attorneys' Fees and Costs to Class Counsel, and the PAGA Payment, including payment to PAGA Group Members and to the LWDA for civil penalties. (Settlement Agreement ¶ 43; Orshansky Decl. ¶ 6.) The Net Settlement Amount is the amount remaining from the Gross Settlement Amount after deducting Court-approved amounts for Class Counsel's attorneys' fees (*i.e.*, $900,000), Class Counsel's litigation costs (*i.e.*, $17,595.35 [which is less than the agreed upon $30,000]), Class Representatives' Service Awards (*i.e.*, $40,000 in the aggregate), PAGA Payment (*i.e.*, $300,000—of which 75% is allocated for payment to the LWDA for civil penalties pursuant to statute and 25% is to be distributed to all PAGA Group Members), and Administration Costs (*i.e.*, $24,000 [which is less than the agreed upon $25,000]). (Settlement Agreement ¶ 43; Orshansky Decl. ¶ 7.) The average individual payment ("Individual Settlement Share") to Settlement Class Members is $2,475.40. (Morales Decl. ¶ 13.)

The Net Settlement Amount will be the amount that is available for distribution to Settlement Class Members on a pro rata basis based on qualifying workweeks during the Class Period. (Settlement Agreement ¶ 43(e); Orshansky Decl. ¶ 8.) Specifically, the Net Settlement Amount shall be divided by the total of all workweeks of Settlement Class Members during the Class Period to determine the value of a workweek. Each Settlement Class Member's Individual Settlement Share will be calculated by multiplying the value of a workweek by the number of workweeks worked by that Class Member during the Class Period. (Settlement Agreement ¶ 43(e); Orshansky Decl. ¶ 8.)

In addition, each PAGA Group Member will receive a proportional share of the 25% of the PAGA Payment based on his or her eligible pay periods during the PAGA Period. (Settlement Agreement ¶ 43(d); Orshansky Decl. ¶ 9.) Specifically, the 25% of the PAGA Payment (or $75,500) shall be divided by the total of all pay periods worked by PAGA Group Members during the PAGA Period in order to establish the value of each pay period. (Settlement Agreement ¶¶ 43(d); Orshansky Decl. ¶ 9.) Each PAGA Group Member's individual PAGA payment will be calculated by multiplying the value of a pay period by the number of pay periods worked by the PAGA Group Member during the PAGA Period. (Settlement Agreement ¶ 43(d); Orshansky Decl. ¶ 9.)

After reduction for the employee's share of taxes on the wage portion, the net payment to each Settlement Class Member/PAGA Group Member will be the sum of his or Individual Settlement Share, plus, if applicable, their individual PAGA payment ("Individual Settlement

Payment"). (Orshansky Decl. ¶ 10.) As a result of this distribution formula, the consideration paid to each Settlement Class Member and PAGA Group Member is tailored to the impact of Defendant's alleged violations as well as to the claims he or she is releasing. (*Id.* at ¶ 11.)

As a non-reversionary settlement, the entire Net Settlement Amount shall be paid out to Settlement Class Members. Settlement Class Members shall automatically receive Individual Settlement Shares without the need to submit a claim form, and PAGA Group Members shall receive their portion of the 25% of the PAGA Payment irrespective of whether or not they opt out of the class settlement. (Settlement Agreement ¶¶ 15, 21-22, 47.) For any Settlement Class Member/PAGA Group Member whose Individual Settlement Payment check is uncashed and cancelled after the void date, the funds associated with such checks will be transmitted to Legal Aid at Work as the cy pres beneficiary in conformity with the requirements of Code of Civil Procedure section 384. (Orshansky Decl. ¶ 13.)

Individual Settlement Payments will be classified as twenty-five percent (25%) wages to be reported on an IRS Form W-2, and seventy-five percent (75%) penalties, interest, and non-wage damages to be reported on an IRS Form 1099. (Settlement Agreement ¶ 45(a).)

C. Summary of Notice Process.

On January 22, 2026, Defendant provided CPT, the Court-approved Settlement Administrator, with a list containing the information necessary to complete the mailing of Class Notice to Class Members and PAGA Group Members ("Class List"), specifically listing their full names, last known mailing addresses, Social Security numbers, number of workweeks during the Class Period, number of pay periods during the PAGA Period, and start and end dates of employment. (Morales Decl. ¶ 5.) The Class List contained 573 Class Members. (*Ibid.*) On January 27, 2026, after performing a NCOA search to update and verify addresses, CPT mailed the Class Notice to Class Members and PAGA Group Members. (*Id.* at ¶¶ 6-7.) As a result of either a skip trace, or a request from counsel or the Class Member, a total of 36 Class Notices have been re-mailed to date. (*Id.* at ¶ 8.)

Class Members have until March 13, 2026 to submit requests for exclusion or objections. (Morales Decl. ¶ 7.) As of the date of this filing, not a single Class Member has objected to the class settlement, and not a single Class Member has opted-out of the class settlement. (*Id.* at ¶¶ 10-11.)

D. Timing of Payments.

The settlement calls for the Gross Settlement Amount to be funded within thirty (30) business days after the Effective Date.[3] (Settlement Agreement ¶ 52(a).) Within ten (10) calendar days after Defendant funds the Gross Settlement Amount, the Settlement Administrator shall distribute the following: (a) payment of the Court-approved Class Representative Service Awards; (b) payment to the LWDA for its 75% portion of the PAGA Payment ("LWDA Payment"); (c) payment of the Court-approved Administration Costs; (d) payment of the Court-approved Attorneys' Fees and Costs to Class Counsel; and (e) payment of Individual Settlement Payments to Settlement Class Members and PAGA Group Members. *(Id.* at ¶ 52(c).)

IV. ARGUMENT

A. This Court Should Confirm Its Conditional Certification of the Settlement Class for Settlement Purposes Because It Meets All of the Requirements for Class Certification under Code Civ. Proc., § 382.

Under Code of Civil Procedure section 382, a class may be certified if: (1) it is ascertainable and its members are too numerous for joinder to be practical; (2) the representative and absent class members share a community of interest, and questions of law and fact common to the class predominate over questions unique to individual class members; (3) the representative's claims are typical of the class's claims; and (4) the representative will fairly and adequately represent the class's interests. (See *Richmond v. Dart Industries, Inc.* (1981) 29 Cal.3d 462, 470.) Here, this Court found that the Settlement Class meets all the requirements for class certification for settlement purposes when it granted preliminary approval of the settlement. (See Order Granting Preliminary

[3] "Effective Date" will be the date of entry of the Final Approval Order and Judgment if no objections to the settlement are filed. If objections are filed but no appeal is taken, then the Effective Date will be the date of the appeal period has run. If an appeal is taken, then the Effective Date will be the date the judgment is final and no longer subject to appeal..(Settlement Agreement ¶ 11.)

Approval of Class and Representative Action Settlement entered December 5, 2025.) Since then, no events have cast doubt on the propriety of this determination, and in fact, the reaction of the Class Members has been overwhelmingly supportive of the settlement; not a single Class Member objected to the settlement, and not a single Class Member opted out of the settlement across the 573 Class Members, resulting in an outstanding 100% settlement participation rate. (See Morales Decl. ¶¶ 10-12.) This Court should therefore confirm its conditional certification of the Settlement Class.

B. This Court Should Finally Approve the Settlement Because It is a Fair, Adequate, and Reasonable Compromise of Disputed Wage and Hour Claims.

California courts have a strong policy in favor of settlement. (See, e.g., *Stambaugh v. Superior Court* (1976) 62 Cal.App.3d 231, 236.) Unlike individual settlements, class action settlements involve a court approval process that exists to prevent fraud, collusion, and unfairness to class members. (*Malibu Outrigger Bd. of Governors v. Superior Court* (1980) 103 Cal.App.3d 573, 578-79.) This approval process consists of preliminary settlement approval, notice given to lass members, and a final fairness and approval hearing at which class members have the opportunity to be heard with respect to the settlement. (*Ibid.*) Now that notice has been provided to Class Members, Plaintiffs respectfully request that the Court finally approve the settlement as fair, adequate, and reasonable.

1. The Settlement Was Reached at Arm's Length through Experienced Counsel and a Respected Mediator, and Was Based on Sufficient Information to Intelligently Negotiate a Fair Settlement in Light of the Claims Asserted and Risks of Continued Litigation.

A settlement is presumptively fair where it is reached through arm's-length bargaining, it is based on sufficient discovery and investigation to allow counsel and the court to act intelligently, counsel is experienced in similar litigation, and the percentage of objectors to the settlement is small. (*Dunk v. Ford Motor Co.* (1996) 48 Cal.App.4th 1794, 1802.) In deciding whether to approve a proposed settlement, a trial court has broad powers to determine if the proposed settlement is fair under the circumstances of the case. (*Mallick v. Superior Court* (1979) 89 Cal.App.3d 434, 438.) In exercising these powers, the overriding concern is to ensure that a proposed settlement is "fair, adequate, and reasonable." (*Dunk, supra*, 48 Cal.App.4th at p. 1801 [internal quotations omitted].) Relevant factors for the Court to consider include, but are not limited to:

> [T]he strength of plaintiffs' case, the risk, expense, complexity and likely duration of further litigation, the risk of maintaining class action status through trial, the amount offered in settlement, the extent of discovery completed and the stage of the proceedings, the experience and views of counsel, the presence of a governmental participant, and the reaction of the class members to the proposed settlement.

(*Ibid.*) These factors require balancing, are non-exhaustive and, as such, trial courts should tailor the factors to each case and give due regard to "what is otherwise a private consensual agreement between the parties." (*Ibid.*)

"In the context of a settlement agreement, the test is not the maximum amount plaintiffs might have obtained at trial on the complaint, but rather whether the settlement is reasonable under all of the circumstances." (*Wershba v. Apple Computer, Inc.* (2001) 91 Cal.App.4th 224, 250.) Because settlements inherently involve compromise, even settlements providing for substantially narrower relief than what may be obtained if the suit were successfully litigated can be reasonable because "the public interest may indeed be served by a voluntary settlement in which each side gives ground in the interest of avoiding litigation." (*Ibid.*, quoting *Air Lines Stewards & Stewardesses Asso. v. American Airlines, Inc.* (7th Cir. 1972) 455 F.2d 101, 109.)

Here, the settlement resulted from extensive arm's-length settlement negotiations between qualified and experienced counsel with the assistance of a well-respected mediator. (See Orshansky Decl. ¶¶ 28-29.) Although Plaintiffs steadfastly maintain that their claims are meritorious, they acknowledge that there are substantial risks and uncertainty in proceeding with class certification and trial. (*Id.* at ¶ 32.) Class Counsel posit that the settlement is fair, adequate, and reasonable.

Defendant presented numerous defenses to Plaintiffs' claims, both on the merits and with respect to class certification. (Orshansky Decl. ¶ 33.) For example, as to Plaintiffs' claim that they were misclassified as exempt (thereby resulting in the various wage-and-hour violations described throughout the Complaint), Defendant maintained that it met the requirements for properly exempting Plaintiffs and Class Members under the various exemptions applicable to its employees as set forth under California law, including the exemption for computer professionals. (*Ibid.*) Defendant also vehemently argued that it had fully compliant Equal Employment Opportunity policies and practices, and denied that it had any policy or practice of discriminating between employees as to pay or other terms and conditions of employment on the basis of any protected characteristic (*Ibid.*) Further, Defendant contended Plaintiffs would face significant hurdles to certification given that Class Members signed arbitration agreements with class action waivers as a condition of their employment, which, if enforceable, would convert a putative class action (with the potential for class-wide damages) into an individual dispute and action—effectively forcing Class Members to retain their own counsel and proceed on the basis of individual claims only. (*Ibid.*)

Although Plaintiffs were prepared to litigate these claims through class certification and, ultimately, through trial, given the substantial amount offered in settlement, Class Counsel predicted that it was far from certain that Plaintiffs would be able to recover a greater amount at trial, particularly after considering the increased litigation costs that would accrue. (Orshansky Decl. ¶ 38.)

The proposed recovery of the Gross Settlement Amount of $2,700,000, resulting in an average Individual Settlement Shares of $2,475.40 per Settlement Class Member, represents a significant portion of any realistic exposure to Defendant as to each Class Member (and indeed, such exposure might have resulted to be zero for the reasons described above), while avoiding the further expense and serious risks involved with proceeding toward class certification and trial. (Orshansky Decl. ¶ 39.) "The fact that a proposed settlement may only amount to a fraction of the potential recovery does not, in and of itself, mean that the proposed settlement is grossly inadequate and should be disapproved." (*Linney v. Cellular Alaska P'ship* (9th Cir. 1998) 151 F.3d 1234, 1242, internal quotations omitted; see, e.g., *Altamirano v. Shaw Indus.* (N.D.Cal. July 24, 2015, No. 13-cv-00939-HSG) 2015 U.S.Dist.LEXIS 97098, at *24 [preliminarily approving wage and hour class action settlement, stating, "[a]lthough 15% represents a modest fraction of the hypothetical maximum recovery estimated by Plaintiff, that figure is sufficient for the Court to grant preliminary approval given the merits of Plaintiff's claims."].) Taking into account the risks of non-certification, failure to prevail on the merits, and the Court's power to reduce the civil penalties, the proposed settlement falls within the realm of being fair, reasonable, and adequate. (Orshansky Decl. ¶ 44.)

For reasons of economy and space, Plaintiffs refer the Court to their prior preliminary approval filing, as well as the concurrently submitted Orshansky Decl., for a detailed *Clark* and *Kullar* analysis regarding Plaintiffs' claims under the PAGA. While the above-described risks are far from exhaustive, they demonstrate that the settlement is fair, adequate, and reasonable in light of them.

2. The Settlement Fairly, Reasonably, and Adequately Compensates Settlement Class Members and PAGA Group Members Because Each Settlement Class Member and PAGA Group Member Will Be Paid Based on the Extent of His or Her Injury.

Individual Settlement Shares will be calculated based on the number of workweeks worked by each Settlement Class Member during the Class Period, and individual PAGA payments will be calculated based on the number of pay periods worked by each PAGA Group Member during the PAGA Period. This method of distribution compensates Settlement Class Members and PAGA Group Members based on the estimated extent of their injuries, as individuals employed for a longer period would have been subject to more of the alleged wage and hour violations than those who employed for a shorter period. Thus, the formulas for compensating Settlement Class Members and PAGA Group Members are fair, adequate, and reasonable, as they are tethered to the damages and penalties that could be recovered by them. (See discussion in III.B, *supra*.)

3. The Absence of Any Objections Confirms That the Settlement is Fair, Adequate, and Reasonable.

The Class Members' response to the settlement is relevant in evaluating whether it merits final approval. (*Dunk, supra*, 48 Cal.App.4th at p. 1801.) Further, the absence of objections and requests for exclusion support a fairness presumption. (See *7-Eleven Owners for Fair Franchising v. Southland Corp.* (2000) 85 Cal.App.4th 1135, 1152-53 [finding 9 objections and 80 opt-outs showed a "particularly impressive" response from class members].) Here, ***not a single Class Member has objected*** to the settlement after receiving notice, and ***not a single Class Member*** requested exclusion from the class settlement out of 573 Class Members, for a participation rate of

100%. (Morales Decl. ¶¶ 10-12.) This extremely positive reaction from the Class further confirms that the settlement is fair, adequate, and reasonable.

C. The Requested Award of Attorneys' Fees is Reasonable as a Percentage of the Common-Fund Settlement Amount.

A percentage method may be used to calculate a reasonable fee in a common fund case such as this. (*Laffitte v. Robert Half Internat., Inc*. (2016) 1 Cal.5th 480, 503.) A fee award is justified where the legal action has produced its benefits by way of a voluntary settlement. (See, e.g., *Maria P. v. Riles* (1987) 43 Cal.3d 1281, 1290-91; *Westside Community for Independent Living, Inc. v. Obledo* (1983) 33 Cal.3d 348, 352-53.) When a settlement results in a common fund for the benefit of a class, class counsel may be awarded fees as a percentage of the common fund. (See *Wershba*, *supra*, 91 Cal.App.4th at p. 254 [recognizing the "percentage of recovery" method].) The California Supreme Court confirmed in *Laffitte* that "[t]he percentage of fund method survives in California class action cases." (1 Cal.5th at p. 506.) Specifically, the *Laffitte* Court held:

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

(*Id.* at p. 503, internal citation omitted; see also, e.g., *Serrano v. Priest* (1977) 20 Cal.3d 25, 34 ["when a number of persons are entitled in common to a specific fund, and an action brought by a plaintiff or plaintiffs for the benefit of all results in the creation or preservation of that fund, such plaintiff or plaintiffs may be awarded attorney's fees out of the fund."]; *Serrano v. Unruh* (1982) 32 Cal.3d 621, 627 [in awarding a fee from the common fund obtained for the benefit of all parties, the trial court acts within its equitable power to prevent the other parties' unjust enrichment]; *Rawlings v. Prudential-Bache Properties* (6th Cir. 1993) 9 F.3d 513, 516 [the percentage of the fund method for calculating attorneys' fees more accurately reflects the results achieved for the class than the lodestar method and "establishes reasonable expectations on the part of plaintiffs' attorneys as to their expected recovery; and it encourages early settlement, which avoids protracted litigation."];

In re Rite Aid Corp. Sec. Litig. (3d Cir. 2005) 396 F.3d 294, 300 ["The percentage-of-recovery method is generally favored in common fund cases because it allows courts to award fees from the fund 'in a manner that rewards counsel for success and penalizes it for failure."].)

The settlement calls for the payment of up to thirty-five percent (35%) of the Gross Settlement Amount in attorneys' fees and up to $30,000 in litigation costs. (Settlement Agreement ¶ 43(a); Orshansky Decl. ¶ 57.) Here, Class Counsel's fee request is fair and reasonable based on a percentage of the recovery, and adequate to compensate Class Counsel for the substantial work put into this case and the risk assumed by taking it in the first place. (*Ibid.*)

First, the fee request is fair, reasonable, and adequate to compensate Class Counsel for the excellent results achieved in a wage-and-hour case with substantial payments to Settlement Class Members. In fact, not a single Settlement Class Member objected to the settlement or to Class Counsel's requested fees. (Morales Decl. ¶ 10.) That Class Counsel achieved these results in the face of serious defense challenges and an uncertain legal landscape confirms the strength of the results achieved. (Orshansky Decl. ¶ 58.) Second, the fee award requested is consistent with Class Counsel's experience in similar wage and hour class action matters. (Orshansky Decl. ¶ 60.) Indeed, the attorney fees award requested is also consistent with what courts have awarded in other class and representative action cases. The following list shows PAGA/class action cases where attorney's fees were awarded on a common fund basis in a range between 33.33% and 40%:

- *Banda v. Verizon California, Inc.*, Los Angeles County Superior Court Case No. BC434587 (**35% fee awarded** on $15,000,000 settlement of mixed PAGA/class claims);
- *Birch v. Office Depot*, United States District Court for the Southern District of California Case No. 06-cv-1690-DMS (**40% fee awarded** on $16,000,000 settlement of mixed PAGA/class claims); and
- *Zelada v. Majestic Terminal Services*, San Bernardino County Superior Court Case No. CIVDS1916968 (**38% fee awarded** on $1,800,000 settlement of a PAGA only case).

Class Counsel's application for attorneys' fees in light of the facts and circumstances surrounding the case is well within the range of reasonableness. In fact, historically courts have awarded fees as high as fifty percent (50%) of the settlement in complex actions. (See *In re Ampicillin Antitrust Litigation* (D.D.C. 1981) 526 F.Supp. 494 [**awarding attorneys' fees in the amount of 45%** of the $7.3 million total settlement amount]; *Beech Cinema, Inc. v. Twentieth Century Fox Film Corp.* (S.D.N.Y. 1979) 480 F.Supp. 1195 [awarding approximately **53% of the settlement as attorneys' fees**]; *Chavez v. Netflix, Inc.* (2008) 162 Cal.App.4th 43, 66, fn. 11 [lower court found the range of contingency fees in marketplace to be up to 40 percent and determined such a percentage fee was appropriate]; *Van Vranken v. Atl. Richfield Co.* (N.D.Cal. 1995) 901 F.Supp. 294, 297-298 [observing that "[m]ost of the cases Class Counsel have cited in which high percentages such as 30-50 percent of the fund were awarded involved relatively smaller funds of less than $10 million"]; see also 4 Conte & Newberg, Newberg on Class Actions (4th Ed. 2002) § 14.6 ["No general rule can be articulated on what is a reasonable percentage of a common fund. Usually 50% of the fund is the upper limit on a reasonable fee award from a common fund in order to assure that the fees do not consume a disproportionate part of the recovery obtained for the class, although somewhat larger percentages are not unprecedented."].)

The attorneys' fees award is intended to reimburse Class Counsel for all the uncompensated work that they have already done and for all the work they will continue to do. (Orshansky Decl. ¶ 62.) To investigate, litigate, and ultimately negotiate and craft the settlement, Class Counsel spent a significant amount of time involved in activities, including but not limited to, the following: (1) thorough pre-litigation investigation of facts with a focus on class certification elements; (2) research and investigation as to potential claims, including identifying patterns of potential harm or misconduct, and analyzing job classifications; (3) drafting the PAGA notices to the LWDA and pleadings; (4) extensive legal research and analysis into substantive law, including enforceability of arbitration agreements; (5) interviewing Class Members; (6) reviewing Defendant's policies and procedures regarding payment of wages, provision and tracking of meal and rest breaks, reimbursement of business-related expenses, and timekeeping protocol, including recording hours, issuance of wage statements, and providing all wages at separation; (7) examining Class Members' time records and wage statements in conjunction with Class Member interviews to determine Defendant's degree of liability; (8) meeting and conferring with defense counsel; (9) engaging a consultant; (10) building a comprehensive damages model; (11) preparing the mediation brief; (12) preparing for and attending mediation; (13) negotiating and preparing the long-form Settlement Agreement; (14) preparing the motion for preliminary approval and supporting documents; (15) overseeing the notice process; (16) responding to questions from Class Members; and (17) preparing the motion for final approval and supporting documents. (*Ibid.*) It bears mentioning that Class Counsel's responsibilities will not end with final approval. (*Ibid.*) Class Counsel will remain available to answer any Settlement Class Member inquiries and to work with Defendant's counsel and the Settlement Administrator to complete administration and finalize this settlement. (*Ibid.*) Based on prior experience, this will likely add further hours of work by Class Counsel and their staff. (*Ibid.*)

The fee award requested here is also justified because Class Counsel achieved a significant monetary recovery for Settlement Class Members and PAGA Group Members in an uncertain, complex, and risky case while bearing the substantial burdens of representation on a contingency basis, and the fees requested are in line with the market rate. (Orshansky Decl. ¶ 63; see *Vizcaino v. Microsoft Corp.* (9th Cir. 2002) 290 F.3d 1043, 1048-1051 [finding that exceptional results in a contingency case, significant risk, and the absence of supporting precedents are proper considerations in awarding attorneys' fees].) Here, Class Counsel negotiated a substantial recovery for the Settlement Class, and not a single Class Member objected to the settlement, nor to Class Counsel's requested fees. (See Morales Decl. ¶ 10.) The average Individual Settlement Share in this case far exceeds average settlement payments in similar wage and hour class action settlements.[4]

[4] (See, e.g., *Sorenson v. PetSmart, Inc*. (E.D.Cal. 2008, No. 2:06-CV-02674-JAM-DAD) [wage and hour class action settlement approved where average class member recovery was approximately $60]; *Ressler v. Federated Department Stores, Inc.* (Super. Ct. L.A. County Jan. 2, 2009, No. BC335018) [average recovery of $90]; *Palencia v. 99 Cents Only Stores* (Super. Ct. Sacramento County 2010, No. 34-2010-00079619) [average recovery of $80]; *Lim v. Victoria's Secret Stores, Inc.* (Super. Ct. Orange County Jan. 20, 2006, No. 04CC00213) [average recovery of $35]; *Gomez v. Amadeus Salon, Inc*. (Super. Ct. L.A. County July 23, 2010, No. BC392297) [average recovery of $20]; *Schiller v. David's Bridal, Inc*. (E.D.Cal. June 11, 2012, No. 1:10-cv-00616-AWI-SKO) 2012 WL 2117001, at *17 [finding that average payment to class members of less than $200 was a "good" result]; *Williams v. Centerplate, Inc* (S.D.Cal. Aug. 26, 2013, No. 11-CV-2159-H-KSC)

(Morales Decl. ¶ 13; Orshansky Decl. ¶ 63.) Class Counsel achieved these results in the face of serious defense challenges, and in the face of an uncertain legal landscape. (*Id.* at ¶ 66.)

The *Serrano* factors militate strongly in favor of the requested fee award. (*Serrano*, *supra*, 20 Cal.3d at p. 49.) Defendant argued that Plaintiffs would be unable to certify a class outside of the settlement context. There are factual risks and evidentiary challenges of substantiating Defendant's alleged violations on a class-wide basis, especially as to the underlying misclassification claim. As discussed above, Defendant argued that Class Members worked in different job positions and had different duties and supervisors, and as a result, Defendant contended that Plaintiffs would face difficulties in defeating applicable overtime exemptions on a class-wide basis, as well as showing a systemic policy and practice of discrimination as to pay and other job conditions. Even further, if Plaintiffs prevailed and certified a class action, there is no guarantee that Defendant would not later move for and obtain decertification. If the Court either denied class certification or later decertified it, the Settlement Class would recover nothing and Class Members would be forced to retain their own counsel and proceed on the basis of individual claims only.

Since this case presented significant risk as to both class certification and merits considerations, it is fair and reasonable to account for these risks in compensating Class Counsel. (Orshansky Decl. ¶ 69.) Class Counsel should be compensated for the risks involved in undertaking this litigation and expending considerable effort, all while working on a pure contingency basis. (*Ibid.*) Since undertaking representation of Plaintiffs, Class Counsel bore all the costs of litigation without receiving any compensation to date. (*Ibid.*) Given the considerable potential for adverse outcomes in this case, including, but not limited to, being unable to proceed on a class-wide basis and/or risking unfavorable adjudication on the merits, the contingent risk borne by Class Counsel was great. (*Id.* at ¶ 72.)

Class Counsel's previous experience litigating wage-and-hour class and representative actions also supports the reasonableness of the fee request. (Orshansky Decl. ¶ 67.) Class Counsel

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2013 U.S.Dist.LEXIS 121307, 2013 WL 4525428, at *25-27 [granting final approval of class action settlement where average recovery for each class member was approximately $108].)

are well-versed in plaintiff-side wage and hour class action litigation, with substantial experience litigating claims for unpaid wages, meal and rest period violations, and related penalties, and have been certified as class counsel in numerous other cases. (*Id.* at ¶¶ 67, 52-56.) Class Counsel's experience in similar matters was integral to evaluating the strengths and weaknesses of this case and the reasonableness of the settlement. (Orshansky Decl. ¶ 68.) Practice in the narrow field of wage-and-hour litigation requires skill and knowledge concerning the rapidly evolving substantive state and federal law, as well as the procedural law of class action litigation. (*Ibid.*)

Because it is reasonable to compensate Class Counsel commensurate with their skill, reputation, and experience, the requested fee award is fair and reasonable, and in accord with the principles outlined by the California Supreme Court in *Laffitte*, and should therefore be approved.

D. The Requested Costs Reimbursement Warrants Final Approval as Fair, Adequate, and Reasonable.

Class Counsel respectfully request reimbursement of the amount of $17,595.35 (which is less than the Settlement Agreement's allocation of up to $30,000) for reimbursement of actual litigation costs. (See Settlement Agreement ¶ 43(a); Orshansky Decl. ¶ 75 and Exh. B.) Class Counsel's request is fair, adequate, and reasonable, as all of these costs are documented and reasonably incurred. Moreover, the costs for which Plaintiffs seek reimbursement are all types of costs routinely approved by courts. (See, e.g., *Harris v. Marhoefer* (9th Cir. 1994) 24 F.3d 16, 19 [counsel should recover "those out-of-pocket expenses that would normally be charged to a fee paying client"]; *Ashker v. Sayre* (N.D.Cal. 2011, No. 05-03759 CW) 2011 WL 825713, at * 3 ["costs of reproducing pleadings, motions and exhibits are typically billed by attorneys to their fee-paying clients" and are reimbursable]; *Trs. of the Constr. Indus. & Laborers Health & Welfare Trust v. Redland Ins. Co.* (9th Cir. 2006) 460 F.3d 1253, 1258-1259 [legal research costs are reimbursable]; *In re Immune Response Sec. Litig.* (S.D.Cal. 2007) 497 F.Supp.2d 1166, 1177-78 [mediation expenses, legal research, copies, postage, filing fees, messenger and overnight delivery costs are reimbursable].) No Settlement Class Member objected to the settlement, including Class Counsel's request for up to $30,000 in reimbursement of costs. (Morales Decl. ¶ 10.) Because the costs reimbursement requested by Class Counsel is reasonable, and no Class Member has objected to them, the Court should grant Class Counsel's request for reimbursement of $17,595.35 for litigation costs.

E. The Court Should Finally Approve the Requested Administration Costs.

Plaintiffs also request that the Court approve payment of $24,000 in Administration Costs to the Settlement Administrator, which is less than the Settlement Agreement's allocation of up to $25,000. (See Settlement Agreement ¶ 43(b); Morales Decl. ¶ 15.) As detailed in the Morales Decl., CPT performed duties in connection with this settlement that were instrumental in effectuating the settlement and the notice process. Among other things, CPT calculated Settlement Class Members' and PAGA Group Members' Individual Settlement Payments, updated addresses contained in the Class List supplied by Defendant (e.g., via NCOA database searches and skip-traces), formatted the Class Notice for mailing, mailed the Class Notice to all Class Members and PAGA Group Members, kept the Parties informed of any communications received from the Class Members, and otherwise administered the settlement. (See Morales Decl., *passim*.) For these reasons, CPT's requested costs are fair, reasonable, and adequate, and should be finally approved.

F. This Court Should Finally Approve the Class Representatives' Service Awards Because the Amounts Are Fair, Adequate, and Reasonable in Light of Plaintiffs' Efforts and Risks Assumed on Behalf of the Settlement Class.

Courts routinely approve service enhancement payments to compensate named plaintiffs for the services they provide and the risks they incur during class action litigation. (See, e.g., *Bell v. Farmers Ins. Exchange* (2004) 115 Cal.App.4th 715, 726 [upholding "service payments" to named plaintiffs for their efforts in bringing the case]; *Van Vranken, supra*, 901 F.Supp. at p. 294 [approving $50,000 service payment].)

Here, Plaintiffs seek service enhancement payments in the amount of $20,000 each, for a total of $40,000. This request is reasonable given their time and effort spent in this case, including prosecuting the action on behalf of others similarly situated, the risks they undertook on behalf of Class Members including the potential of being assessed Defendant's costs of suit, and the positive response by Class Members. (See Settlement Agreement ¶ 43(c); Orshansky Decl. ¶¶ 78-84; Morales Decl. ¶ 10.) Plaintiffs spent considerable time and effort in the prosecution of this action.

(Orshansky Decl. ¶ 80; Mistry Decl. ¶¶ 14-17; Jackson Decl. ¶¶ 14-17.) Plaintiffs participated in the prosecution of this matter in particular, but not exclusively, through their discussions with Class Counsel regarding Defendant's policies, practices, and procedures, identifying potential witnesses, providing factual information and strategic considerations in support of their claims, answering questions, providing information regarding the duties of other employees, proposing case-related ideas, discussing and evaluating the terms of the settlement, and communicating with counsel about the status of the case. (Orshansky Decl. ¶ 80; Mistry Decl. ¶¶ 15-16; Jackson Decl. ¶¶ 15-16.) As further detailed in their individual declarations, Plaintiffs were high-earning employees in the technology consulting space inhabited by Defendant. In our firm's experience, it is difficult to find employees of this nature and in this sector to come forward in a public lawsuit. Putting their names onto a lawsuit against their former employer carries great risk to Plaintiffs' careers, and indeed, neither Plaintiff has secured stable comparable long-term employment since bringing this lawsuit. (Orshansky Decl. ¶ 82; Mistry Decl. ¶ 13; Jackson Decl. ¶ 13.)

Plaintiffs have diligently, adequately, and fairly represented Settlement Class Members, are members of the Settlement Class, have no conflicts, and have not placed their interests above those of any member of the Settlement Class. (Orshansky Decl. ¶ 81; Mistry Decl. ¶¶ 9-10; Jackson Decl. ¶¶ 9-10.) In fact, as part of the settlement, Plaintiffs each entered into a general release of claims which is broader than the release that applies to the unnamed Settlement Class Members. (Settlement Agreement ¶ 42.) Moreover, after receiving notice of the proposed amount for the Class Representatives' service payments, no Settlement Class Member objected. (Orshansky Decl. ¶ 83; see Morales Decl. ¶ 10.) Thus, the requested Service Awards are appropriate and justified as part of the settlement, and should be approved.

V. CONCLUSION

For the reasons stated herein, Plaintiffs respectfully request that the Court grant this Motion, and enter the Proposed Final Order and Judgment Granting Plaintiffs' Motion for Final Approval of Class and Representative Action Settlement, Attorneys' Fees and Costs, and Class Representatives' Service Awards, submitted concurrently herewith.

Dated: March 9, 2026

Respectfully submitted,

COUNSELONE, PC

By: ______________________

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