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SUPERIOR COURT OF CALIFORNIA

COUNTY OF VENTURA

JOSEPH HERNANDEZ and ALEX PINEDA, individually, and on behalf of all others similarly situated,

Plaintiffs,

v.

PAVEWEST, INC., PAVEWEST TRANSPORT, INC. and DOES 1 through 50, inclusive,

Defendants.

`

Case No. 2024CUOE033533

MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF PLAINTIFFS' MOTION FOR FINAL APPROVAL OF CLASS ACTION AND PAGA SETTLEMENT

[Filed concurrently with Notice of Motion and Motion, Declaration of David Alami, Declaration of Joseph Hernandez, Declaration of Alex Pineda, Declaration of David Bibiyan, Declaration of William Argueta, and [Proposed] Order]

Hearing Date: July 10, 2026
Time: 8:30 a.m.
Dept: 44

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I. INTRODUCTION

Plaintiffs Joseph Hernandez ("Hernandez"), and Alex Pineda ("Pineda") (collectively, "Plaintiffs"), along with their counsel from Torus LLP, and Bibiyan Law Group, P.C. (collectively, "Class Counsel"), have dedicated significant time, energy, and resources to litigating this case against Defendants Pavewest Inc. ("Pavewest") and Pavewest Transport, Inc. ("Pavewest Transport"), including all of their parents, subsidiaries, and related entities (collectively "Defendants"). Through their efforts, they successfully negotiated the settlement set forth in the Settlement Agreement dated June 26, 2025 ("Settlement Agreement" and the Addendum to Class Action and PAGA Settlement Agreement and Class Notice dated November 20, 2025 ("Settlement Addendum") (collectively, the "Settlement") which provides for a gross settlement amount ("GSA") of $800,000 for approximately 301 Class Members, of whom 300 are participating. The average estimated individual settlement payment is approximately $1,467.56, with the highest estimated individual settlement payment of approximately $6,245.31. To date, Class Members have reacted positively to the Settlement, with 0 objections and 1 request for exclusion reported by the Settlement Administrator.

For the reasons set forth below, and for their efforts in achieving this result, Plaintiffs and Class Counsel, through this Motion, respectfully request that this Court:

(1) Confirm its conditional certification of the Settlement Class for settlement purposes;

(2) Confirm its appointment of Torus LLP and Bibiyan Law Group, P.C. as Class Counsel and Plaintiffs as Class Representatives for the Settlement Class;

(3) Finally approve the Settlement between Plaintiffs and Defendants;

(4) Finally approve the following awards from the GSA, as authorized by the Settlement:

- Class Counsel Fees: $266,666.67(1/3 of the GSA) (Declaration of David Alami in Support of Motion for Final Approval (Declaration of David Alami ("Alami Decl."), ¶ 26.);
- Class Counsel Expenses: $19,065.26 in costs to date (Alami Decl., ¶ 33; Bibiyan Decl., ¶ 17.);
- Administration Costs: $10,000.00 (Declaration of William Argueta ("Argueta

Decl."), ¶ 15);

- Incentive Award to Plaintiff: $9,000 to Plaintiff Hernandez and $5,000 to Plaintiff Pineda; and
- PAGA Payment: $50,000.00, with 65% to the LWDA and 35% to Aggrieved Employees for pay periods from November 12, 2023 through February 16, 2026.

(5) Direct that the [Proposed] Order Granting Final Approval of Class Action Settlement and Judgment be entered.

Given the risks of this litigation, the result achieved here is laudable. As detailed in this Memorandum and accompanying declarations, the work performed by Plaintiffs and Class Counsel was substantial. Among other things, Plaintiffs and Class Counsel:

- Conducted an initial investigation of this case and developed the theories and facts to support Plaintiffs' claims for failure to provide proper meal periods and rest breaks, failure to pay all hourly and overtime wages, failure to pay all interests on deposits, failure to pay all wages at termination of employment, and failure to provide accurate wage statements;
- Engaged in extensive informal discovery, obtaining and reviewing Defendants' payroll and timekeeping records for a sample of the class, employment policies, Plaintiffs' personnel files, and other relevant documents, totaling hundreds of pages;
- Conducted a detailed review of the record and prepared a thorough mediation brief and damages analysis in anticipation of mediation;
- Engaged in arm's-length negotiations with Defendants through a full-day mediation on April 11, 2025, with Will Klattle, Esq., an experienced and well-respected class action mediator, before agreeing to the Settlement; and
- Worked with Defendants to prepare the Settlement Agreement, Settlement Addendum, and related forms. (*See* Alami Decl., ¶ 15-18.)

Moreover, in pursuing this case against Defendants, Plaintiffs and Class Counsel faced serious risks, including but not limited to:

- The risk of being unable to establish class-wide liability for penalties under Labor Code sections 203 and 226 in light of those statutes' requirements that violations be

"willful" and "knowing and intentional," respectively, in order to establish liability;

- The risk of being denied the ability to proceed on a class or representative basis in view of the U.S. Supreme Court's decisions in *Wal-Mart Stores, Inc. v. Dukes* (2011) 131 S.Ct. 2541 and *Comcast Corp. v. Behrend* (2013) 133 S.Ct. 1426, and the California Supreme Court's decision in *Duran v. U.S. Bank* (2014) 59 Cal.4th 1;
- The risk of a potentially prolonged and expensive trial;
- The risk of Plaintiffs being held liable for Defendants' attorneys' fees and costs if this case had been unsuccessful; and
- The risk of lengthy appeals. (*See* Alami Decl., ¶¶ 10-14.)

Based on the foregoing risks, if Plaintiffs had lost the case, there would have been no compensation to Plaintiffs or to Class Counsel, nor would Class Counsel have been reimbursed for their costs incurred or paid at all for their time. (Alami Decl., ¶ 20.)

Despite the many risks faced by Plaintiffs and Class Counsel, and the difficulty in prosecuting such a complex case, they nevertheless achieved a strong result for the Class. Moreover, based on reports from the Settlement Administrator, CPT Group ("CPT"), the Settlement has been extremely well received by Class Members, with no objections and only 1 request for exclusion received out of 301 Class Members. (Argueta Decl., ¶¶ 11-13.) This extremely positive response rate is further proof that the Settlement is fair, adequate, and reasonable for Class Members.

Accordingly, Plaintiffs' request for Class Counsel fees of one-third of the Gross Settlement Amount is also fair, adequate, and reasonable. The amount is well-earned, is supported by controlling case law, is within the range awarded by California courts in similar complex cases, and has been received positively by the Class, who were advised that Class Counsel could seek up to one-third of the GSA in fees under terms of the Settlement. Likewise, it is fair that Plaintiffs and Class Counsel be reimbursed for their expenses and that the Settlement Administrator be paid its reasonable fee. All of the expenses incurred were reasonable and necessary to the prosecution of this action and administration of this Settlement, and they are of the kind that courts routinely approve as proper.

Finally, Plaintiffs' requested Incentive Awards also warrant approval because they are fair

and reasonable in view of Plaintiffs' efforts in this case and the risks they have undertaken, especially considering that they jeopardized their future career prospects *and* exposed themselves to the risk of awards of attorneys' fees and costs against them.

This Court should grant this Motion because: (1) the Settlement Class continues to meet the requirements for class certification under Code of Civil Procedure section 382; (2) the Settlement warrants final approval based on all indicia for fairness, reasonableness, and adequacy; (3) Plaintiffs are adequate to serve as Class Representatives; (4) Plaintiffs' attorneys are adequate to serve as Class Counsel; (5) the requested amounts for fees, costs, and incentive awards are fair and reasonable; (6) the requested amount for the PAGA payment is fair, reasonable, and adequate; (7) the notice procedures and related forms fully comport with due process and have adequately apprised Class Members of their rights; and (8) in view of the foregoing, final approval is warranted. For the reasons detailed below, Plaintiffs respectfully request that this Court grant this Motion in its entirety and finally approve the Settlement.

II. RELEVANT FACTUAL & PROCEDURAL BACKGROUND

As explained in greater detail in Plaintiffs' Motion for Preliminary Approval, filed on August 22, 2025, Plaintiffs assert in this action that Defendants are liable on a class basis for damages stemming from violations of California's wage and hour laws, including failure to provide meal and rest breaks, failure to pay hourly and overtime wages, failure to pay sick time and vacation wages, failure to reimburse business expenses, failure to pay interest on deposits, failure to provide accurate wage statements, and failure to timely pay all wages at termination. (Alami Decl., ¶ 3.) Plaintiffs also assert derivative claims under the Labor Code and seek civil penalties pursuant to the Private Attorneys General Act of 2004 (Lab. Code §§ 2698, et seq.) ("PAGA"). (*Id*., ¶ 4.) Defendants deny all liability in this lawsuit and assert that Class Members were paid properly under California law and that class certification is improper other than for settlement purposes. (*Id*., ¶¶ 5.)

Following amendments to the Settlement Agreement and Class Notice per the Court's request (i.e. adjusted up to 1/3 for attorneys fees, Cy Pres designation, adjusted incentive award amounts), The Court granted the Motion for Preliminary Approval of Class Action Settlement ("Preliminary Approval Motion") on February 16, 2026, finding that the Settlement appears to be

fair, adequate, and reasonable, and signed the Order Granting Preliminary Approval of Class Action Settlement (the "Preliminary Approval Order"). (*Id*., ¶ 8.)

On April 13, 2026, CPT commenced the process of giving notice to Class Members, and conducted a National Change of Address ("NCOA") search in an attempt to update the class list of addresses as accurately as possible. A search of this database provides updated addresses for any individual who has moved in the previous four (4) years and notified the U.S. Postal Service of their change of address. (See Aguirre Decl., ¶ 6-10.) Ultimately, there were three (3) Notice Packets that were undeliverable. (*See id*., ¶ 10.) In accordance with the Preliminary Approval Order, Plaintiffs now submit this Motion for Final Approval of Class Action Settlement. (Alami Decl., ¶ 9.)

III. SUMMARY OF THE NOTICE PROCESS

On March 18, 2026, CPT received a data file from Defense Counsel that contained names, last known mailing addresses, Social Security numbers, and Compensable Weeks for each Class Member ("Class Data") during the Class Period. The final mailing list contained three hundred and one (301) individuals identified as Class Members. (Aguirre Decl., ¶ 6.) The Notice advised Class Members of their right to opt out from the Settlement, object to the Settlement, or do nothing, and the implications of each such action. (*See id*., ¶ 5, Ex. A.) The Notice advised Class Members of applicable deadlines and other events, including the Final Approval Hearing, and how Class Members could obtain additional information. (*Id*.) The Notice was pre-printed with the name and address of the Class Member and their estimated payment. (*Id*.)

CPT conducted a National Change of Address ("NCOA") search in an attempt to update the class list of addresses as accurately as possible. A search of this database provides updated addresses for any individual who has moved in the previous four (4) years and notified the U.S. Postal Service of their change of address. (*Id.*, ¶ 7.)

On April 13, 2026, CPT mailed the Notice Packets via U.S. first class mail, to all 301 Class Members on the Class Data. A true and correct copy of the mailed Notice Packet is attached to the Declaration of William Argueta as Exhibit A. (*Id.*, ¶ 5.) The NCOA contains changes of address filed with the U.S. Postal Service. (*Id*.) In the event that any individual had filed a U.S. Postal Service change of address request, the address listed with the NCOA was utilized in connection with the

mailing. (*Id.*)

As of June 5, 2026, eleven (11) Notice Packets have been returned to CPT and three (3) Notice Packets remain undeliverable. (*Id.*, ¶ 6.) As of June 5, 2026, CPT has received one (1) Request for Exclusion from Class Members and zero (0) Notices of Objection from Class Members. The deadline to request exclusion from the Class Settlement or object was May 28, 2026. (*Id.*, ¶¶ 7-8.) As of June 5, 2026, CPT has received zero (0) Workweek disputes from Class Members. The deadline for submitting a dispute was May 28, 2026 (*Id.*, ¶ 9.)

The 300 Class Members who did not submit timely and valid Requests for Exclusion and are therefore deemed Participating Class Members, representing 99.67% of the Class. Participating Class Members have worked a collective total of 15,457 Compensable Workweeks during the Class Period. Each Compensable Workweek is valued at approximately $51.76. The Escalator Clause of the Settlement Agreement indicates if the number of Workweeks exceeds 17,003, then Defendants will have the option to either increase the Gross Settlement Amount on a proportional basis or end the Class Period on the date that the number of Workweeks reaches 17,003. Since the total number of Workweeks does not exceed 17,003, the Escalator Clause was not triggered. (*Id.*, ¶ 20).

Based upon the calculations stipulated in the Settlement, the highest Individual Settlement Award to be paid is approximately $6,245.31, the lowest Individual Settlement Payment to be paid is approximately $26.02, while the average Individual Settlement Payment to be paid is approximately $1,467.56. Participating Class Members will be issued payment of their Individual Settlement Payment subject to reduction for the employee's share of taxes and withholdings with respect to the wages portion of the Individual Settlement Payment. (Id., ¶ 13.)

Additionally, $50,000.00 of the Gross Settlement Amount has been allocated toward penalties under the Private Attorneys General Act ("PAGA Penalty Payment"). PAGA Penalties will be allocated on an aggregate pro rata basis based on total pay periods for the time period of November 12, 2023 to February 16, 2026. (Id., ¶ 6.) Individual amounts will be paid based on the number of PAGA Pay Periods an employee worked during each respective time period. (*Id.*) PAGA Penalties for PAGA Pay Periods will be paid to employees as follows: 65% allocated to the Labor and Workforce Development Agency ("LWDA") and 35% allocated to the Individual PAGA Payments. There are

two hundred and one (201) Aggrieved Employees who worked a total of 5,791 Compensable PAGA Weeks during the PAGA Covered Period. The highest Individual PAGA Payment to be paid is approximately $195.47, and the average Individual PAGA Payment to be paid is approximately $87.07. (Id., ¶ 17.)

IV. ARGUMENT

A. This Court Should Reaffirm Its Conditional Certification of the Settlement Class Because It Meets All the Requirements for Class Certification for Settlement Purposes Only Under Code of Civil Procedure § 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 claims of the class; and (4) the representative will fairly and adequately represent the interests of the class. *See*, *e.g.*, *Richmond v. Dart Industries, Inc.* (1981) 29 Cal.3d 462, 470.

This Court found that the Settlement Class meets all the requirements for class certification for settlement purposes when it granted preliminary approval on February 16, 2026. No subsequent events have cast doubt on this determination. The Settlement Class is defined as "all non-exempt individuals who are or previously were employed by Defendants in California at any time" from "November 12, 2020 through the date of preliminary approval," subject to the Escalator Clause (Settlement Agreement § 1.12), and consists of approximately 300 members, ascertainable from Defendants' employment records. Common questions regarding Defendants' wage and hour policies predominate, Plaintiffs' claims are typical of the class, and Plaintiffs and Class Counsel are adequate representatives with no conflicts of interest. (See Preliminary Approval Motion.)

This Court also found that the Settlement Class meets all the requirements for class certification for settlement purposes when it granted preliminary approval on February 16, 2026. No subsequent events have cast doubt on this determination. Accordingly, this Court should reaffirm its conditional grant of class certification for settlement purposes.

/ /

B. The Court Should Finally Approve the Settlement Because It Is a Fair, Adequate, and Reasonable Compromise of the Disputed Claims in This Case in View of Defendants' Potential Liability Exposure and the Risks of Continued Litigation.

Under California courts favor settlement. *See*, *e.g.*, *Stambaugh v. Sup. Ct.* (1976) 62 Cal.App.3d 231, 236.). Unlike most 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. Sup. Ct.* (1980) 103 Cal.App.3d 573, 578-79. This approval process consists of preliminary settlement approval, notice being given to class members, and a final fairness and approval hearing at which class members may be heard with respect to the settlement. *Id.* For the reasons discussed herein, this Court should finally approve the Settlement and enter the [Proposed] Order Granting Final Approval of Class Action Settlement and Judgment submitted herewith

1. The Settlement Is Reasonable.

The Settlement results in a substantial benefit to the Settlement Class. Courts often approve settlements where class members receive only pennies or even just coupons or vouchers. *See*, *e.g.*, *Nordstrom Commission Cases* (2010) 186 Cal.App.4th 576, 590 (affirming final approval of wage-and-hour class action settlement where 20% of the fund allocated to the class was merchandise vouchers). Here, each Class Member will be sent a check for his or his Settlement share, in the form of a monetary payment. Moreover, the average estimated payment to participating Class Members is $1,467.56 and the highest individual Settlement Share is currently estimated to be $6,245.31. (Argueta Decl., ¶ 16.) Thus, the Settlement provides significant, meaningful relief for hotly disputed wage-and-hour violations, making it reasonable and in the best interests of the Class.

2. The Settlement Was Reached at Arm's Length Through Experienced Counsel and an Experienced Mediator with Sufficient Information to Intelligently Negotiate a Fair Settlement in View of the Claims Asserted and Risks of Continued Litigation.

A settlement is presumptively fair where it is reached through arm's length bargaining, is based on sufficient discovery and investigation to allow counsel and the court to act intelligently, counsel involved is experienced in similar litigation, and the percentage of objectors is small. *Dunk v. Ford Motor Co.* (1996) 48 Cal.App.4th 1794, 1802 ("*Dunk*"). 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. Sup. Ct.* (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*, 48 Cal.App.4th at p. 1801 (internal quotations omitted). Relevant factors for that determination include, but are not limited to: [T]he 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 state 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. *Id*.

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

"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 likely would 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." *Id.* (quoting *Air Line Stewards, etc., Local 550 v. Am. Airlines, Inc.* (7th Cir. 1972) 455 F.2d 101, 109). In addition, courts review the discovery process and information received through it to aid them in assessing whether the parties sufficiently developed the claims and their supporting factual bases before reaching settlement. *See Kullar v. Foot Locker Retail Inc.* (2008) 168 Cal.App.4th 116, 129-131 ("*Kullar*"). Information is sufficient where it allows the parties and the court to form "an understanding of the amount that is in controversy and the realistic range of outcomes of the litigation." *Clark v. Am. Residential Servs. LLC* (2009) 175 Cal.App.4th 785, 801. This requirement exists so that the parties can provide the court with "a meaningful and substantiated explanation of the manner in which the factual and legal issues have been evaluated." *Kullar*, 168 Cal.App.4th at p. 132-33.

The Settlement is the product of arm's-length negotiations between the Parties occurring

throughout the litigation. In light of the uncertainties of protracted litigation and the state of the law regarding the legal positions of the Parties, the settlement amount reflects the best feasible recovery for the Class Members. The settlement amount is, of course, a compromise figure, affected by many uncertainties, but it is a reasonable and fair result under the circumstances. By necessity it took into account risks related to liability, damages, and all the defenses asserted by Defendants. Moreover, each Settlement Class Member was given the opportunity to opt out of the Settlement, allowing those who feel they have claims that are greater than the benefits they can receive under this Settlement, to pursue their own claims. For the 300 participating members of the Settlement Class, the average recovery is approximately $1,467.56 per class member. Given the strong case that Defendants could bring to bear to challenge certification and liability, this is a *reasonable* sum to have achieved in settlement.

The Gross Settlement Amount is approximately equal to the best estimate of a risk-adjusted recovery at this stage in the litigation. While Plaintiffs would certainly have preferred to recover more (and Defendants would have preferred to pay less), this outcome is in line with a carefully constructed estimate of the current fair value of the case. The maximum damage values are estimates based on average wage rates, numbers of employees, and the amount of time covered by the class period. After analyzing the claims in this matter, Plaintiffs have concluded that the value of this Settlement is fair, adequate and reasonable. Notwithstanding the raw monetary amount of the *potential* exposure, there were risks that continued litigation would entail that make the compromise amount fair, adequate, and reasonable. First, there is the risk that a court would find that, as a matter of law, Defendants' policies were lawful under the California Labor Code and the Industrial Welfare Commission Wage Orders. (Alami Decl., ¶ 23.)

Even assuming Plaintiffs succeeded on the merits, there also is a substantial risk with regards to class certification, including whether, for example, the Court would find that differences in Class Members' job duties would cause individualized inquiries to predominate over common questions or would narrow the scope of the certifiable claims. (*Id.*, ¶ 11.)

There is also the risk of being denied the ability to proceed on a class or representative basis in view of the U.S. Supreme Court's decisions in *Wal-Mart Stores, Inc. v. Dukes* (2011) 131 S.Ct.

2541 and *Comcast Corp. v. Behrend* (2013) 133 S.Ct. 1426 and the California Supreme Court's decision in *Duran v. U.S. Bank* (2014) 59 Cal.4th 1. (*Id.*, ¶ 12.)

Additionally, Defendants have asserted that they would succeed on good faith defenses regarding the penalties sought here. (*Id.*, ¶ 13.) Labor Code §§ 203 and 226(e) both require proof of "willful" or "knowing and intentional" violations for liability to be imposed. Thus, the existence of a good faith dispute that could preclude any recovery of wages (even if the plaintiff ultimately prevails) can preclude these penalties from being awarded. *See Choate v. Celite Corp.* (2013) 215 Cal.App.4th 1460 (reversing award of waiting time penalties based on employer's good faith defense notwithstanding that the plaintiffs prevailed on the underlying wage claims); (*Id.*) Therefore, because of the legal uncertainty surrounding the underlying claims, the claims for statutory and civil penalties present significant risk that supports the fairness, adequacy, and reasonableness of the Settlement. (*Id.*)

Moreover, Plaintiffs faced the risk of a potentially prolonged and expensive trial. (*Id.*, ¶ 14.) Plaintiffs faced the risk of being held liable for Defendants' attorneys' fees and costs if this case had been unsuccessful. (*Id.*, ¶ 14.) Finally, Plaintiffs and the class had to contend with the risk of lengthy appeals if the litigation continued. (*Id.*, ¶ 14.)

Each of these factors bore heavily on the negotiations leading to the Settlement. (*Id.*, ¶ 19.) In view of these risks, the Settlement reflects a fair, adequate, and reasonable compromise amount for these claims and warrants preliminary approval. (*Id.*) Indeed, while the risks listed herein are far from exhaustive, they show that the Settlement is fair, adequate, and reasonable in view of them. (*Id.*)

3. The Settlement Fairly, Reasonably, and Adequately Compensates Settlement Class Members Based on the Potential Extent of Each of Their Claims in Comparison to One Another

Defendants shall provide the Settlement Administrator with data indicating the total number of Compensable Workweeks during the Class Period for each Class Member. (Settlement, § 4.2.) The Settlement Administrator will allocate Individual Settlement Payments pro rata based on each Class Member's Compensable Workweeks relative to the total for all Settlement Class Members, and Aggrieved Employees will receive a pro rata share of the PAGA allocation based on workweeks

during the PAGA Period. (*Id*., § 3.2.4.) This method is fair because potential damages vary proportionally with workweeks worked—a Class Member with more workweeks has a larger potential claim, ensuring equitable distribution without the need for a claim form. (Alami Decl., ¶ 21.)

The proposed method of settlement share apportionment is fair, reasonable, and adequate because each Participating Class Member's potential damages varies proportionally based on his or his number of workweeks during the Class Period. (Alami Decl., ¶ 22.) A Class Member who worked a greater number of workweeks will have a larger potential claim than one who worked fewer workweeks. (*Id*.) By varying the proportion of the settlement share paid to each Class Member based upon the proportion of the number of workweeks each worked compared to the total number of workweeks for the whole Class, the proportionate recovery by each Class Member remains constant, and therefore, fair. (*Id*.) This formula, therefore, assures that the GSA will be distributed to Class Members fairly. (*Id*.) The GSA will be distributed without the need for a claim form. (*Id.*)

4. The Absence of Objections and the Low Number of Exclusions Also Show That the Settlement Is Fair, Adequate, and Reasonable

The absence of objections and low number of exclusions support the presumption of fairness and final approval of the Settlement. *See 7-Eleven Owners for Fair Franchising v. Southland Corp.* (2000) 85 Cal.App.4th 1135, 1152-1153 (finding 9 objections, and 80 opt-outs, from a class of 5,454, showed a positive response from class members supporting settlement approval). Here, after being given notice of the Settlement, zero Class Members have objected to the Settlement and 1 person has requested exclusion. (Argueta Decl., ¶¶ 6-9.) Accordingly, this confirms that Class Members view the Settlement as fair and reasonable and that the Settlement warrants final approval.

C. The Requested Attorneys' Fees and Costs Should Be Approved By The Court

California courts recognize two (2) standard methods for calculating attorney fee awards in approving class action settlements. The far more prevalent "percentage of recovery" (also known as the "common fund") method calculates attorneys' fees based on a percentage of the common benefit bestowed upon the class. The "lodestar-plus-multiplier" method uses class counsel's "lodestar" as a basis – determined by multiplying the hours counsel expended by their hourly rates –which the Court

may then enhance by a multiplier. *See Laffitte v. Robert Half Int'l, Inc.*, 1 Cal. 5th 480, 489 (2016) (recognizing both the "percentage of recovery" and "lodestar/multiplier" methods). Class Counsel seeks an award of attorneys' fees in the amount of $266,666.67. (Alami Decl., ¶ 32). Class Counsel's fee request is reasonable under either of these methods, as explained below.

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

Both California and federal courts have recognized that an appropriate method for awarding attorneys' fees in class actions is to award a percentage of the "common fund" created as a result of the settlement. *Wershba,* 91 Cal.App.4th at 254. The common fund theory is grounded on the historic power of equity to permit the trustee of a fund for the benefit of others in addition to himself, to recover his costs, including his attorneys' fees, from the fund or property itself or directly from the other parties enjoying the benefit. *Serrano v. Priest,* 20 Cal.3d 25, 35 (1977). In *Laffitte*, the California Supreme Court held that it is not an abuse of discretion for a trial court to utilize the percentage method for calculating an attorneys' fee award in a common fund case. *See Laffitte*, 1 Cal. 5th at 503; *see also Serrano*, 20 Cal.3d at 35-40; *City and County of San Francisco v. Sweet*, 12 Cal. 4th 105, 110 (1995). In so doing, the Court rejected the appellant's arguments against use of the percentage method, pointing out that the method has widespread acceptance in courts throughout the country. *Laffitte*, 1 Cal. 5th at 485-486. The Court held "when class action litigation establishes a monetary fund for the benefit of the class members, and the trial court in its equitable powers awards class counsel a fee out of that fund, the court may determine the amount of a reasonable fee by choosing an appropriate percentage of the fund created." *Id*. at 503. Explaining that the percentage method "is a valuable tool" for trial courts to calculate attorneys' fees, the Court extolled "[t]he recognized advantages" of the method, such as "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." *Id*. (citations omitted).

In applying the common fund doctrine, California courts routinely award attorneys' fees equaling *at least* one-third of the common fund's total potential value. *See*, *e.g.*, *Laffitte v. Robert*

Half Int'l, Inc., 231 Cal. App. 4th 860, 878 (2014) ("trial court's use of a percentage of 33 1/3 percent of the common fund is consistent with [] awards in other class action lawsuits" and "studies show that . . . fee awards in class actions average around one-third of the recovery"), *aff'd by Laffitte*, 1 Cal. 5th at 489; *Chavez v. Netflix, Inc.*, 162 Cal. App. 4th 43, 66, n.11 (2008) ("Empirical studies show that, regardless of whether the percentage method or the lodestar method is used, fee awards in class actions average around one-third of the recovery"); Eisenberg & Miller, *Attorney Fees in Class Action Settlements: An Empirical Study*, J. of Empirical Legal Studies, Vol. 1, Issue 1, 27-78, March 2004, at 35 (independent studies of class action litigation nationwide conclude that a one-third fee is consistent with market rates). In addition, larger awards such as 34% of the common funds are reasonable. *Fernandez v. Victoria Secret Stores LLC*, 2008 U.S. Dist. LEXIS 123546, *55-57 (C.D. Cal. July 21, 2008) (citing an academic study collecting contingency fee agreements and finding that a fee award constituting 34% of the fund is reasonable on that basis). Because the negotiated fee structure reflects the marketplace, it is reasonable and should be approved.

Here, Class Counsel efficiently litigated this matter, making the entire Net Settlement Fund available to Class Members with no reversion to Defendants, and Defendants' payment of employer-side taxes separate from the Gross Settlement Amount. Class Members are receiving significant recovery, averaging approximately $1,467.56 each, with the highest payout reaching $6,245.31. These amounts represent a fair recovery for the Class in a case where they did not have to take on the work or risk of filing their own lawsuits, but suffered an alleged loss of wages and reimbursements, among other things. In short, the percentage of fees sought by Class Counsel is in conformity with awards in similar cases in California and is reasonable for the benefit obtained for Class Members in this case.

2. A Lodestar Cross-Check Shows the Requested Fee is Fair and Reasonable

Despite the widely recognized limitations of the so-called lodestar method[1], California and federal courts acknowledge the utility of a lodestar "cross-check" for common fund awards. *Lealao*,

[1] It has been recognized that, in practice, the lodestar method is difficult to apply, time-consuming to administer, inconsistent in result, and capable of manipulation. The lodestar also creates inherent incentive to prolong the litigation until enough hours are accrued. Herr, David F., *Manual for Complex Litigation, § 14.121 (1988)*

82 Cal. App. 4th at 46-47. In *Laffitte*, the Court permitted use of a "lodestar cross check," by which the trial court would first select a percentage of the common fund for the fee award, and then verify that the percentage chosen is fair and reasonable in light of the hours attorneys spent working on the case. *Laffitte*, 1 Cal. 5th at 504. While some "multiplier" would be expected, the multiplier should be "evaluated for reasonableness;" "rough parity" between the lodestar and the percentage-based recovery would make sense. *Id*. at 496. The Court explained that use of the lodestar cross-check represents "a blending of the two fee calculation methods" (percentage and lodestar), where "one method is used to confirm or question the reasonableness of the other's result." *Id*. at 497. The Court in *Laffitte*, however, did not require a lodestar cross check, and explained that courts "retain the discretion to forgo a lodestar cross-check and use other means to evaluate the reasonableness of a requested percentage fee." *Id*. at 505.

California's lodestar/multiplier method is a two-step fee calculation method under which the Court first determines a lodestar value for the fees by multiplying the time reasonably spent by the Plaintiffs' counsel on the case by a reasonable hourly rate. *In re Consumer Privacy Cases*, 175 Cal. App. 4th 545, 556-557 (2014). The starting point in determining the appropriate hourly fee is to discern the prevailing rate for similar work in the pertinent geographic region. *PLCM Group v. Drexler*, 22 Cal. 4th 1084, 1096-97 (2000) (using prevailing hourly rate in community for comparable legal services even though party used in-house counsel); *see also* Herr, Manual for Complex Litigation, § 14.122 (1984) ("reasonable fees . . . are to be calculated according to the prevailing market rates in the relevant community."). The Court has discretion to apply the rate currently charged by the attorneys at the time the approval is sought to compensate for a contingent risk of nonpayment or a lengthy delay in receiving payment. *See Missouri v. Jenkins,* 491 U.S. 274 284 (1989) (district court may adjust an attorney fee 'for delay in payment . . . by the application of current rather than historic hourly rates or otherwise").

In *Roos*, the Court of Appeal upheld an award of **37.5%** of the settlement in attorneys' fees. *See Roos v. Honeywell Internat., Inc.*, 241 Cal. App. 4th 1472, 1488-96 (2015) (*disapproved on other grounds*). In addition, Courts have approved multipliers of **2.9** times the lodestar in class action settlements. " *McKnight v. Hinojosa*, 54 F.4th 1069, 1073 (9th Cir. 2022).

Here, Class Counsel's hourly rates are comparable to those charged by other class action plaintiffs' counsel and the firms defending class actions. (Alami Decl. ¶ 32, Ex. 5; Bibiyan Decl., ¶ 16.) Further, the total attorney hours expended on this action are reasonable and in line with comparable cases. Class Counsel billed a total of 358.4 hours prosecuting this case. (Alami Decl., Exs. 5; Bibiyal Decl., ¶ 16.) Class Counsel dedicated significant resources to this case by dividing necessary tasks according to skill level, and the professional hours generated by each attorney are neither unreasonable nor duplicative. (Alami Decl. ¶ 34, Ex. 5, Bibiyan Decl., ¶¶ 15-16.) Multiplying the total hours billed by Class Counsel to the litigation of this case by their reasonable hourly rates yields a lodestar of $269,998. *Id*. This amount reflects the efficiencies achieved by firms with significant experience in this field, and results in a negative lodestar of approximately .98, much less than the 2.9 multiplier approved in *McKnight.*

D. The Requested Cost Award is Reasonable.

The Settlement allows Class Counsel to seek reimbursement of litigation costs in the amount of up to $30,000.00. Since Class Counsel's actual litigation costs are only $19,065.26, they only seek reimbursement of this amount. (Alami Decl., ¶ 33, Ex. 6; Bibiyan Decl., Ex. 1.); *see also* Alba Conte, *Attorney Fee Awards* § 2:08 at 50-51 ("The prevailing view is that expenses are awarded in addition to the fee percentage."). All of the costs were reasonable and necessary for the prosecution and investigation of this case. *See Id.*

E. The Requested Award of Administration Costs to CPT Is Fair, Adequate, and Reasonable and Warrants This Court's Final Approval

The request for $10,000.00 in administration costs to the Settlement Administrator, CPT, is also fair and reasonable. (*Id*., ¶ 38.) First, the Settlement Agreement allowed for a reasonable amount in costs for the Settlement Administrator. (Settlement, § 3.2.3.) Moreover, the administration costs benefit the class in a very significant way. Without administration of the Settlement, Class Members could not be paid their share of the Settlement. They also would not receive proper notice of the Settlement or of their ability to opt out or object to the Settlement.

Next, as documented in the Declaration of William Argueta, all of these costs were necessary in administering the Settlement, including but not limited to: (i) calculating the amounts owed to

each Class Member; (ii) mailing notice to all 301 Class Members; (iii) processing all claims; and other duties. (*See* Argueta Decl., ¶¶ 3-16.)

F. Plaintiffs' Requested Incentive Award Should Be Finally Approved Because It Is Fair, Adequate, and Reasonable in View of the Efforts That Plaintiffs Made, and the Risks That Plaintiffs Assumed in this Litigation on Behalf of the Settlement Class.

In evaluating an incentive award, the court may consider "(1) the risk, both financial and otherwise, the class representatives faced in bringing the suit; (2) the notoriety and personal difficulties encountered by the class representatives; (3) the amount of time and effort spent by the class representatives; (4) the duration of the litigation; and (5) the personal benefit received by the class representatives as a result of the litigation." *Golba v. Dick's Sporting Goods, Inc*. (Cal.App. 4 Dist., 2015) 190 Cal.Rptr.3d 337, 352; *see also Clark v. American Residential Services LLC, supra*, 96 Cal.Rptr.3d at 456 (factors to consider include "the actions the plaintiff has taken to protect the interests of the class, the degree to which the class has benefitted from those actions, and the amount of time and effort the plaintiff expended in pursuing the litigation.").

Courts routinely approve incentive awards to compensate named plaintiffs for the services they provide and the risks they incur during class action litigation, often in much higher amounts than that sought here. *See*, *e.g.*, *Bell v. Farmers Ins. Exchange* (2004) 115 Cal.App.4th 715, 726 (upholding incentive awards to named plaintiffs for their efforts in bringing the case); *Van Vranken v. Atlantic Richfield Co.* (N.D. Cal. 1995) 901 F.Supp. 294 (approving $50,000 incentive award).

Here, pursuant to the Settlement Agreement, Plaintiffs seek enhancement awards of $9,000 to Plaintiff Hernandez and $5,000 to Plaintiff Pineda. Plaintiffs spent a considerable amount of time on this case. (Declaration of Joseph Hernandez, ¶ 5; Declaration of Alex Pineda, ¶ 15.) Among other things, Plaintiffs spent time speaking with counsel, gathering documents, assisting counsel in preparing for the mediation, attending and participating in mediation, and being actively involved in the settlement process. (Hernandez Decl., ¶ 5-9; Pineda Decl., ¶ 9-15.) The Class has significantly benefited from Plaintiffs' actions.

In addition, Plaintiffs took the personal risk of disclosure to future employers that they sued a former employer, making their future career prospects uncertain. There is now a public record of

this lawsuit and the fact that Plaintiffs filed this lawsuit has now been publicized to all of their former co-workers through the notice process. (Hernandez Decl., ¶ 12; Pineda Decl.) Furthermore, in pursuing relief on behalf of the Settlement Class, Plaintiffs risked being ordered to pay Defendants' costs and/or attorneys' fees if this action had been unsuccessful. Such costs could have exceeded any individual recovery for Plaintiffs in this case, including the amount of the Incentive Award. Finally, by the time that Plaintiffs receive any compensation from the Settlement, they will have waited almost two years from the time Plaintiff Hernandez filed this action before receiving any relief as a direct result of obtaining relief on behalf of the Settlement Class, rather than just himself. Accordingly, this modest enhancement award to Plaintiffs is appropriate and justified as part of the Settlement and warrants final approval.

V. CONCLUSION

For the reasons set forth herein, this Court should confirm its conditional certification of the Settlement Class for settlement purposes under Code of Civil Procedure section 382, finally approve the Settlement, and adopt the [Proposed] Order Granting Final Approval of Class Action Settlement and Judgment submitted concurrently herewith.

Dated: June 23, 2026

TORUS LLP

By: _____

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