JAMES HAWKINS APLC
James R. Hawkins (#192925)
Gregory Mauro (#222239)
Michael Calvo (#314986)
Lauren Falk (#316893)
Ava Issary (#342252)
9880 Research Drive, Suite 200
Irvine, CA 92618
Tel.: (949) 387-7200
Fax: (949) 387-6676
Email: James@jameshawkinsaplc.com
Email: Greg@jameshawkinsaplc.com
Email: Michael@jameshawkinsaplc.com
Email: Lauren@jameshawkinsaplc.com
Email: Ava@jameshawkinsaplc.com

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SAN DIEGO

LANCE TYLER DUNN, DANIEL CASTRO, JUAN MIGUEL TORRES VALENZUELA, STEVEN MUIR, and FREDRICK EARNHART, individually and on behalf of all others similarly situated, Plaintiff, vs. RAILPROS FIELD SERVICES, INC. and DOES 1 through 50, inclusive, Defendant.	Case No. 24CU022030C Hon. Blaine K. Bowman Dept. 74 **MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF PLAINTIFFS' MOTION FOR FINAL APPROVAL OF CLASS AND PAGA ACTION SETTLEMENT** Date: July 17, 2026 Time: 8:30 AM Dept.: 74

TABLE OF CONTENTS

I. INTRODUCTION……………………………………………………………….2

II. THE SETTLEMENT MEETS THE REQUIREMENTS FOR FINAL APPROVAL...2

A. The Court Found a Presumption of Fairness Exists at Preliminary Approval…….2

B. Other Factors Support Final Approval……………………………………………….3

1. The Strength of Plaintiffs' Claims Weighed Against the Risks, Expense, Complexity, and Likely Duration of Further Litigation, Including the Risk of Maintaining Class Action Status through Trial……………………………….3

2. The Amount Offered in Settlement ……………………………………………..4

3. The Extent of Discovery Completed and the Stage of the Proceedings………5

4. The Experience and Views of Counsel…………………………………………..6

5. The Presence of a Governmental Participant…………………………………….6

6. The Reaction of Class Members to the Settlement…………………………….7

III. THE COURT-APPROVED NOTICE PROCEDURE SATISFIED DUE PROCESS..7

IV. THE COURT SHOULD APPROVE THE REQUESTED ATTORNEYS' FEES AND COSTS…………………………………………………………………………..8

A. The Requested Fee Award is Fair and Reasonable Calculated as a Percentage of a Common Fund……………………………………………………………………8

B. A Lodestar Cross-Check Confirms the Reasonableness of the Requested Fee….10

C. A Multiplier is Justified in Light of the Results Achieved and Class Counsel's Extensive Work Performed at the Risk of Receiving No Payment……………...11

1. The Results Achieved on Behalf of the Settlement Class……….……..12

2. The Novelty/Difficulty of Questions Involved & Skill in Presenting Them...12

3. The Response of Class Members and Lack of Objections…………………..13

4. Class Counsel's Experience, Reputation, and Ability……………………….14

5. Class Counsel's Preclusion from Other Work……………………………….14

6. The Contingent Nature of the Fee Award……………………………………14

V. CLASS COUNSEL'S REQUESTED COST AWARD IS REASONABLE AND SHOULD RECEIVE FINAL APPROVAL …………..……………………………15

VI. THE CLASS REPRESENTATIVE SERVICE AWARDS ARE REASONABLE…16

VII. THE SETTLEMENT ADMINISTRATION COSTS ARE REASONABLE……….17

VIII. CONCLUSION………………………………………………………………18

TABLE OF AUTHORITIES

CASES

Augustus v. ABM Security Services, Inc., 233 Cal. App. 4th 1065 (Cal. App. 2d Dist. 2014)....4,13

Bell v. Farmers Ins. Exch., 115 Cal.App.4th 715, 726 (2004)....16

Cellphone Termination Fee Cases, 186 Cal. App. 4th 1380, 1393 (2010)....16

Chau v. Starbucks Corp., 174 Cal. App. 4th 688 (2009)....4

Chavez v. Netflix, Inc., 162 Cal.App.4th 43, 66, n.11 (2008)....9, 12

City and County of San Francisco v. Sweet, 12 Cal. 4th 105, 110 (1995)....8

Clark v. American Residential Services LLC, 175 Cal. App. 4th 785 (2009)....16

Cundiff v. Verizon Cal., Inc., 167 Cal. App. 4th 718, 724 (2008)....12

Dunk v. Ford Motor Co., 48 Cal. App. 4th 1794, 1801 (1996)....2,3,4

Eisen v. Carlisle & Jacquelin, 417 U.S. 156, 174-76 (1974)....8

Fernandez v. Victoria Secret Stores LLC, 2008 U.S. Dist. LEXIS 123546, *55-57 (C.D. Cal. July 21, 2008)....10

Graciano v. Robinson Ford Sales, Inc., 144 Cal. App. 4th 140, 154 (2006)....14

Graham v. DaimlerChrysler Corp., 34 Cal. 4th 553, 583 (2004)....14,15

Horsford v. Board of Trustees of Calif. State Univ., 132 Cal. App. 4th 359 (2005).

In re Cipro Cases I and II, 121 Cal. App. 4th 402, 409 (2004)....3

In re Consumer Privacy Cases, 175 Cal. App. 4th 545, 556-557 (2014)....11, 12

Ketchum v. Moses, 24 Cal. 4th 1122, 1139 (2001)....12,14,15

Kullar v. Foot Locker Retail, Inc., 168 Cal. App. 4th 116, 133 (2008)....4

Laffitte v. Robert Half Int'l Inc., 231 Cal. App. 4th 860, 878 (2014)....8

Laffitte v. Robert Half, 1 Cal. 5th 480, 489 (2016)....8, 9, 10

Lealao v. Beneficial California, Inc., 82 Cal. App. 4th 19, 51 (2000)....7,9,10

Mullane v. Central Hanover Bank & Trust Co., 339 U.S. 306, 314 (1950)....8

Phillips Petroleum Co. v. Shutts, 472 U.S. 797, 811-12 (1985)....8

PLCM Group v. Drexler, 22 Cal. 4th 1084, 1096-97 (2000)....11

Ridgeway v. Wal-Mart Stores Inc., 269 F. Supp. 3d 975, 1000 (N.D. Cal. 2017) 12
Sav-On Drug Stores, Inc. v. Superior Court, 34 Cal.4th 319, 340 (2004)....................................16
Serrano v. Priest, 20 Cal. 3d 25, 35-40 (1977)..8
Wershba v. Apple Computer, Inc., 91 Cal. App. 4th 224, 244-45 (2004) 2, 3

STATUTES

Cal. Code Civ. Proc. § 904.1..3

REGULATIONS

Manual for Complex Litigation § 14.122 (1984) 2,11

TREATISES

Alba Conte, *Attorney Fee Awards* § 2:08 at 50-51 16
Eisenberg & Miller, *Attorney Fees in Class Action Settlements: An Empirical Stud*...........................9
Manual for Complex Litigation (4th ed. 2008) § 21.61, 462 2

I. INTRODUCTION

This motion seeks final approval of a proposed non-reversionary Class Action Settlement, preliminarily approved by this Court on March 27, 2026. The Settlement will release various wage and hours claims against Defendant RAILPROS FIELD SERVICES, INC. ("Defendant") on behalf of Plaintiffs Lance Tyler Dunn, Daniel Castro, Steven Muir, Fredrick Earnhart, and Juan Miguel Torres Valenzuela ("Plaintiffs"), and all current and former non-exempt employees of Defendant who worked in California at any time during the Class Period of November 13, 2020 through December 8, 2025. ("Class Members").

Plaintiffs and their counsel completed an extensive investigation into the class claims, completed several rounds of written discovery filed a motion for class certification, and through mediation, the parties agreed to settle the case for $1,034,450. The Settlement provides that this Gross Settlement Amount will be distributed as follows:

(a) Net Settlement Amount distributed to 452 Class Members. Only three opted out of the Settlement ("Participating Class Members") based on the amount of weeks worked during the class period;

(b) attorneys' fees of $344,816.66;

(c) litigation costs of $30,052.52;

(d) Plaintiffs' Service Awards of $10,000.00 each ($50,000 total for all 5 plaintiffs);

(e) Settlement Administration expenses of $6,950.00; and

(f) an allocation of $50,000.00 in civil penalties, $32,500.00 of which will be paid to the California Labor and Workforce Development Agency for release of Private Attorneys General Act of 2004 ("PAGA") claims. The remaining $17,500.00 will be distributed to Class Members who worked for Defendant at any time during the PAGA period.

The proposed Settlement is a product of diligent efforts and extensive arm's length negotiations by Class Counsel to obtain the best possible result for Class. By resolving this matter now, Class Members will receive a *guaranteed* recovery without risk of nonpayment, delay, or an adverse judgment at trial.

In response to the Notice of Class Action Settlement ("Class Notice"), three of the 455 Class Members opted out, and none objected. *See* Declaration of Nathalie Hernandez with Respect to Notice and Settlement Administration ("Hernandez Decl."), ¶ 13. The Participating Class Members will receive an average settlement payment of approximately $622.86 with the highest payout reaching $1,515.18. Hernandez Decl. at ¶ 11.

In light of the Class' favorable response, and the facts and law set forth below as well as in the motion for preliminary approval, Plaintiffs respectfully requests that the Court now enter an order that (1) grants final approval of the proposed class action settlement; (2) enters final judgment; (3) orders distribution of the proportionate shares of the Settlement to Participating Class Members pursuant to the terms of the Settlement; and (4) approves payments for attorneys' fees, litigation costs, Plaintiffs' Service Awards, Settlement Administration expenses, and payment to the LWDA, as requested herein.

II. THE SETTLEMENT MEETS THE REQUIREMENTS FOR FINAL APPROVAL

In deciding whether to grant final approval for a class action settlement, California courts consider whether the settlement is "fair, adequate and reasonable." *Wershba v. Apple Computer, Inc.*, 91 Cal. App. 4th 224, 244-45 (2004); *Dunk v. Ford Motor Co.*, 48 Cal. App. 4th 1794, 1801 (1996). A settlement is "fair, adequate and reasonable" and therefore merits final approval when "the interests of the class are better served by the settlement than by further litigation." *Manual for Complex Litigation* (4th ed. 2008) § 21.61, 462. "[A] presumption of fairness exists where: (1) the settlement is reached through arm's-length bargaining; (2) investigation and discovery are sufficient to allow counsel and the court to act intelligently; (3) counsel is experienced in similar litigation; and (4) the percentage of objectors is small. *Dunk*, 48 Cal. App. 4th at 1802.

A. The Court Found a Presumption of Fairness Exists at Preliminary Approval

At preliminary approval, Plaintiffs presented evidence that the instant Settlement is entitled to a presumption of fairness because (1) the Settlement was reached through arm's-length bargaining after private mediation, (2) Plaintiffs conducted investigation and informal discovery, including a thorough analysis of Class Members' time and payroll records, and (3) Plaintiffs' Counsel are sufficiently experienced to be appointed Class Counsel. On March 27, 2026, the Court granted Plaintiffs' Motion for Preliminary Approval of Class Action Settlement, appointed ILYM, Group Inc. ("ILYM") as the Settlement Administrator, appointed Plaintiffs Lance Tyler Dunn, Daniel Castro, Steven Muir, Fredrick Earnhart, and Juan Miguel Torres Valenzuela as the Class Representatives, appointed James Hawkins APLC, Ferraro Vega Employment Lawyers, Inc. and The Sentinel Firm, APC as Class Counsel, approved the Class Notice and directed that the Class Notice be mailed to the Class. Since then, the final *Dunk* factor has been satisfied: <u>three Class Members opted out of the settlement, and no Class Members objected</u>. *See Dunk*, 48 Cal. App. 4th at 1802; *see also* Hernandez Decl. ¶¶ 11-12. The deadline to request exclusion from the Settlement is July 6, 2026, at which point an updated declaration from ILYM Group Inc. can be supplemented to the court. Accordingly, this Court can comfortably presume that the Settlement is worthy of final approval.

B. Other Factors Support Final Approval

In addition to the presumption above, a court's inquiry at final approval can include several other factors, including: (1) the strength of the plaintiff's case weighed against the risk, expense, complexity and likely duration of further litigation as well as the risk of maintaining class action status through trial, (2) the amount offered in settlement, (3) the extent of discovery completed and the stage of the proceedings when settlement was reached; (4) the experience and views of counsel, (5) the presence of a governmental participant, and (6) the reaction of class members. *Wershba*, 91 Cal. App. 4th at 244-45.

1. The Strength of Plaintiffs' Claims Weighed Against the Risks, Expense, Complexity, and Likely Duration of Further Litigation, Including the Risk of Maintaining Class Action Status through Trial

As with most complex litigation, wage and hour class actions rarely end when the trial court enters a dispositive order or final judgment as to liability and/or damages. For instance, class action defendants may seek a writ of mandate for interlocutory relief from an order granting class certification. *See* Cal. Code Civ. Proc. § 904.1; *In re Cipro Cases I and II*, 121

Cal. App. 4th 402, 409 (2004). Moreover, the losing party can appeal the final liability and/or damages issues. *See, e.g., Chau v. Starbucks Corp.*, 174 Cal. App. 4th 688 (2009) (appellate court reversed $86 million restitution award to a certified class of hourly employees); *Augustus v. ABM Security Services, Inc.*, 233 Cal. App. 4th 1065 (Cal. App. 2d Dist. 2014), (appellate court reversed $89 million judgment in favor of 14,788 class members).

To assess the inherent risks, the Court must weigh the immediacy and certainty of substantial settlement proceeds against the risks inherent in continued litigation. *Dunk*, 48 Cal. App. 4th at 1801-02. The parties should provide "basic information about the nature and magnitude of the claims in question and the basis for concluding that the consideration being paid for the release of those claims represents a reasonable compromise." *Kullar v. Foot Locker Retail, Inc.*, 168 Cal. App. 4th 116, 133 (2008).

Here, Plaintiffs' Counsel analyzed Defendant's potential exposure assuming Plaintiffs prevailed on all aspects of their claims at trial, but weighed that value against the chance of succeeding at class certification and trial. Hawkins Decl., ¶ 8. Plaintiffs alleged that Defendant failed to pay minimum and overtime wages, failed to provide meal periods and rest breaks, failed to reimburse expenses, and that these violations triggered derivative penalties. Hawkins Decl., ¶8. Plaintiffs evaluated the class claims in light of the risk that a jury might find otherwise and considering the expense and resources required for trial. Hawkins Decl., ¶ 8. If Plaintiffs continued to prosecute the claims rather than accept a settlement, Plaintiffs would have faced a potentially risky decision on the motion for class certification, engaged in additional formal discovery, expended time and resources to resolve disputes, prepared and filed potential dispositive motions, and prepared further discovery motions. Hawkins Decl., ¶ 8. An adverse ruling at any one of these stages could have prevented Plaintiffs and Class Members from obtaining recovery. Hawkins Decl., ¶ 8.

Although the amount of the Class' maximum potential damages – if proven – is substantial, the legitimate and serious risks associated with continued litigation compelled a considerable discount for settlement.

2. The Amount Offered in Settlement

The Settlement provides a $1,034,450 Gross Settlement Amount for 452 Class Members who did not opt out of the Settlement. *See* Hernandez Decl., ¶ 13. The fund also pays Class Counsel for their fees and costs, Plaintiffs for their contribution to the case, the Settlement Administrator for its oversight of the notice, and the $50,000.00 allocated to PAGA Penalties, leaving a Net Settlement Amount of approximately $552,630.82. Hernandez Decl. at ¶ 14. This Settlement is non-reversionary and the entire Net Settlement Amount will be paid to the Class Members.

After approval by the Court, the Net Settlement Amount will be distributed to all Participating Class Members. Participating Class Members' shares will be based on the Class Member's number of weeks worked during the Class Period and the total number of weeks worked for all Class Members during the Class Period. The Settlement Administrator calculated a total of 22,701 Workweeks in the Class Period and 315 Aggrieved Employees with 11,216 Pay Periods during the PAGA period. Hernandez Decl., ¶ 5. As a result, the estimated average gross payment to Class Members is $1,211.69, with the estimated highest gross payment being $6,323.79, and the estimated lowest gross payment being $24.14. Hernandez Decl.at ¶ 14. The Aggrieved Employees will receive an estimated average gross payment of $55.56, with the estimated highest gross payment being $171.63, and the estimated lowest gross payment being $1.56. Hernandez Decl. at ¶ 15. Weighing the potential value of the class claims against the risk and expense of trial, Plaintiffs and Class Counsel concluded that the value of the settlement was fair, adequate and reasonable. Thus, the amount offered in settlement provides sufficient relief in light of the potential risks associated with seeking a judgement for a larger amount.

3. The Extent of Discovery Completed and the Stage of the Proceedings

Class Counsel thoroughly investigated the proposed Class Members' claims, applicable law, and potential defenses. In particular, Class Counsel assessed the value of the class claims using data and documents provided by Defendant in formal discovery. Class Counsel obtained time, payroll, and policy records, as well as data regarding the number of Class Members, workweeks, and average rate of pay in order to assess damages before mediation. Further, Class Counsel quantified the potential exposure using the time and payroll records, and then assessed the risks associated with each of the claims meriting reductions in the likely recovery at trial.

Following a thorough analysis of this information, the Parties attended mediation on October 21, 2025, with Kevin T. Barnes serving as mediator. The parties contested key issues, worked through the mediator to understand respective risks and strengths, before ultimately agreeing upon principal settlement terms. Negotiations were adversarial but professional. The agreement was then memorialized in an MOU.

4. The Experience and Views of Counsel

Plaintiffs are represented by James Hawkins APLC, Ferraro Vega Employment Lawyers, Inc. and The Sentinel Firm, APC ("Class Counsel"). Class Counsel prosecute wage and hour cases, including class actions on behalf of employees and others who have had their rights violated. Class Counsel, either on their own, or with co-counsel are currently serving as plaintiffs' counsel of record in dozens of wage and hour class action cases in both state and federal court. *Id.* Class Counsel have litigated many wage and hour class action cases and have successfully resolved cases involving the same issue presented in this matter. In the instant case, Class Counsel negotiated a settlement that they considered fair, adequate and reasonable, based on their prior experience litigating these types of cases. Ferraro Decl.¶ 12, Hyung Decl. ¶¶2-11.

5. The Presence of a Governmental Participant

The LWDA is arguably a governmental participant in this settlement. On October 29, 2024, before adding a PAGA claim, Plaintiff Dunn submitted a letter to the LWDA alleging Labor Code violations committed by Defendant. Ferraro Decl. ¶ 7, Ex. 1. The LWDA did not respond to this letter, allowing Plaintiffs to initiate their PAGA claim. *Id.* The Settlement calls for the allocation of $50,000.00 to the settlement of claims arising under PAGA. *Hernandez Decl.* 14. Seventy-five percent (75%) of this payment will be paid to the LWDA, and twenty-five percent (25%) will be paid to Class Members who worked for Defendant during the PAGA Period, regardless if they opt out of the settlement. The Settlement allocates a fair amount to the PAGA claims, given that there is sparse case law on what types of PAGA awards are reasonable, especially when courts have discretion to reduce PAGA awards. Plaintiffs have provided notice to the LWDA of the Settlement as required by statute, and the LWDA has not objected to or commented on the proposed Settlement or allocation of the PAGA penalties. Hawkins Decl., ¶ 9.

6. The Reaction of Class Members to the Settlement

The 452 Participating Class Members will receive the benefits of the entire Net Settlement Amount; no funds will revert to Defendant. In response to the Class Notice, three Class Members opted out, and no Class Members objected. Hernandez Decl., ¶¶ 11-12.

A court may properly infer that a class action settlement is fair, adequate and reasonable when few class members object to or opt out of it. *Lealao v. Beneficial California, Inc.*, 82 Cal. App. 4th 19, 51 (2000). As such, the Class Members' favorable reaction to the Settlement supports the conclusion that it is fair, adequate and reasonable.

III. THE COURT-APPROVED NOTICE PROCEDURE SATISFIED DUE PROCESS

When the Court granted preliminary approval, it also approved the method of providing notice to Class Members. Following a National Change of Address search of the U.S. Postal Service database, ILYM, Group Inc. mailed the Class Notice to all Class Members on May 6, 2026. Hernandez Decl. ¶ 7. The Notice advised Class Members of (1) the terms of the settlement, (2) their rights to participate in the settlement, object to the settlement, or request exclusion from the settlement, (3) the procedures and timing for doing any of these acts, (4) the date, time, and place scheduled for the Final Approval Hearing and instructions in the event a Class Member wished to be heard at that hearing; and (5) each Class Member's individualized information upon which his or her share of the settlement would be calculated, i.e., the number of weeks he or she worked during the Class Period according to Defendant's records, as well as the estimated amount of his or her respective settlement payment. Hernandez Decl., Exhibit A.

As of June 22, 2026, 60 Class Notices were returned to the Settlement Administrator by the U.S. Post Office. Hernandez Decl. ¶ 8. As a result of this skip trace, 46 updated addresses were obtained and the Notice Packets were promptly re-mailed to those Settlement Class Members, via U.S First Class Mail. Hernandez Decl. ¶ 8. The Settlement Administrator reports that there are 14 Class Notices that remains undeliverable. Hernandez Decl. ¶ 10. This mailing provided the best practicable means of notice. *See Phillips Petroleum Co. v. Shutts*, 472 U.S.

797, 811-12 (1985); *Eisen v. Carlisle & Jacquelin*, 417 U.S. 156, 174-76 (1974) (individual notice must be sent to all class members who can be identified through reasonable efforts); *Mullane v. Central Hanover Bank & Trust Co.*, 339 U.S. 306, 314 (1950) (best practicable notice is that which is "reasonably calculated, under all the circumstances, to apprise interested parties of the pendency of the action and afford them an opportunity to present their objections").

The Class Members were given sufficient time to respond to the Class Notice. The Class Members did not need to submit a claim form in order to receive their Settlement share. Accordingly, the Class has been given an adequate opportunity to participate in the Settlement.

IV. THE COURT SHOULD APPROVE THE REQUESTED ATTORNEYS' FEES AND COSTS

California courts recognize two standard methods for calculating attorney fee awards in class action settlement approval. The far more prevalent "percentage of the fund" (also known as the "common fund" or "common benefit") 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*, 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 $344,816.66, or rather, one-third (1/3) of the proposed Gross Settlement Amount. Class Counsel's fee request is reasonable under either of these methods, as explained below.

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

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, which this case is. *Laffitte*, 1 Cal. 5th at 503; *see also Serrano v. Priest*, 20 Cal. 3d 25, 35-40 (1977); *City and County of San Francisco v. Sweet*, 12 Cal. 4th 105, 110 (1995) (the common fund doctrine has been applied "consistently in California when an action brought by one party creates a fund in which other persons are entitled to share."). 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. *Id*. The Court held "that when class action litigation establishes a monetary fund for the benefit of the class members, and the trial court in its equitable powers awards class counsel a fee out of that fund, the court may determine the amount of a reasonable fee by choosing an appropriate percentage of the fund created." *Id*. 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 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).

One-third of the common fund is also reasonable because it best reflects the market rate for contingency fees. *See Lealao,* 82 Cal. App. 4th at 47 ("attorneys providing the essential enforcement services must be provided incentives roughly comparable to those negotiated in the private bargaining that takes place in the legal marketplace"). Fees representing up to forty percent of the recovery reflect the rate negotiated in "typical contingency fee agreements [which] provide that class counsel will recover 33% if the case is resolved before trial and 40% if the case is tried." *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 mimics the marketplace, it is reasonable and should be approved.

Here, Class Counsel efficiently litigated this matter, making the entire Net Settlement Amount available to Class Members with no reversion to Defendant. Class Members are receiving significant recovery, averaging $1,211.69 each, with the highest payout at $6,323.79. Hernandez Decl. ¶ 14. In short, the percentage of fees sought by Class Counsel is in line with awards in similar cases in California and is reasonable for the benefit obtained for Class Members in this case.

B. A Lodestar Cross-Check Confirms the Reasonableness of the Requested Fee

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*, 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 attorney hours spent on the case. 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. Use of the lodestar cross-check, explained the Court, 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, however, did not require a lodestar cross check, explaining that courts "retain the discretion to forgo a lodestar cross-check and use other means to evaluate the

---

[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. In addition the lodestar creates inherent incentive to prolong the litigation until sufficient hours have been expended. Herr, David F., *Manual for Complex Litigation*, § 14.121 (1988).

reasonableness of a requested percentage fee." *Id*. at 505.

California's lodestar/multiplier method is a two-step process of fee calculation under which the Court first determines a lodestar value for the fees by multiplying the time reasonably spent by the plaintiff's 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.").

Here, Class Counsel's hourly rates are comparable to those charged by other class action plaintiff's counsel and the firms defending class actions. Hawkins Decl., ¶ 15; Hyun Decl. ¶11, Ferraro Decl. ¶¶7-11 and Exhibit 3 of Ferraro Declaration. Further, the total attorney hours expended on this action are reasonable and in line with comparable cases. Class Counsel billed a total of 349.10 hours prosecuting this case. Hawkins Decl., ¶¶ 15; Hyun Decl. ¶11, Ferraro Decl. ¶¶9-10. The firm dedicated significant resources to this case by dividing the tasks required according to skill level; the professional hours generated by each attorney are neither unreasonable nor duplicative. *Id*.

Multiplying the total hours billed by Class Counsel to the litigation by their reasonable hourly rates yields a lodestar of $277,703. *See* Hawkins Decl., ¶ 16. This amount does not exceed the award requested, and Class Counsel accordingly requests a lodestar multiplier of approximately 1.24 to meet the fee award. *Id.*

C. A Multiplier is Justified in Light of the Results Achieved and Class Counsel's Extensive Work Performed at the Risk of Receiving No Payment

The Court may enhance or reduce the lodestar by applying a multiplier to take into account multiple factors, including the following: (1) the results achieved on behalf of the Class; (2) the novelty and difficulty of the questions involved and the skill displayed in presenting them; (3) the response of the Class to the settlement, including a lack of objections to the settlement terms, and particularly to the fee award; (4) counsel's experience, reputation, and ability; (5) counsel's preclusion from other work; and (6) the contingent nature of the fee award. *See Ketchum v. Moses*, 24 Cal. 4th 1122, 1139 (2001); *Cundiff v. Verizon Cal., Inc*., 167 Cal. App. 4th 718, 724 (2008). Application of each of the factors identified above strongly favors granting the full attorneys' fees and costs award that Class Counsel has requested in this case, as explained in detail below.

California courts routinely award multipliers on class counsel's lodestar, ranging from 2 to 4, or even higher. *See, e.g., Chavez,* 162 Cal. App. 4th at 49-50 (approving multiplier of approximately 2.5); *Ridgeway v. Wal-Mart Stores Inc.,* 269 F. Supp. 3d 975, 1000 (N.D. Cal. 2017) (approving multiplier of 2.0). In class actions such as this one, where the value of the benefit conferred to the class "can be monetized with a reasonable degree of certainty," the Court may "adjust the lodestar in comparison to a percentage of the common fund to ensure that the fee awarded is reasonable and within the range of fees freely negotiated in the legal marketplace in comparable litigation." *In re Consumer Privacy Cases,* 175 Cal. App. 4th at 557 (2009). Here, Class Counsel requests a modest 1.24 multiplier to reach the one-third fee amount provided in the Settlement.

1. <u>The Results Achieved on Behalf of the Settlement Class</u>

As a result of Class Counsel's efforts, Class Members will receive immediate and reasonable payment for their claims. Further, Class Members' Settlement Shares represent a substantial recovery, with the highest recovery over $6,000. *See* Hernandez Decl. ¶ 14. A settlement at this juncture avoids the risk and expense of losing on some or all of the claims at class certification or at trial, and/or the risk that Defendant files for bankruptcy. Hawkins Decl., ¶ 21. Class Counsel found it preferable here to reach a resolution at this stage of the case to save time and money that would otherwise go to litigation. Hawkins Decl., ¶ 21. For example, if this action had settled following additional litigation, the settlement amount would likely have taken into account the additional costs incurred, and there may have been less money available for Class Members. Hawkins Decl., ¶ 21. Even if Plaintiffs prevailed at class certification, they would have faced arguably compelling defenses to the merits of the claims.

Hawkins Decl., ¶ 21. Accordingly, the cumulative benefits achieved by Class Counsel favor approval of the requested fees.

2. The Novelty/Difficulty of Questions Involved & Skill in Presenting Them

Class Counsel used their experience to negotiate a suitable settlement that avoided potential pitfalls for the Class. In preparation for mediation, Class Counsel spent a significant amount of time in discovery, including serving and responding to multiple sets of discovery, and engaging an expert to quantify the violations and Defendant's liability. Hawkins Decl. ¶ 22.

As evidenced by the briefing at the preliminary approval stage and exposure analysis, Class Counsel were able to identify and convey throughout the course of litigation, including during mediation, contested legal issues that could have affected the putative class, that were highly disputed, and that presented risks for the Parties. Hawkins Decl., ¶ 22.

Class Counsel's skill in researching and presenting these issues at mediation resulted in a fair settlement for the class, and weighs in favor of approving the fee request.

3. The Response of Class Members and Lack of Objections

The response from Class Members was extremely positive. Three of the Class Members opted out, and none objected to any term of the Settlement. Hernandez Decl., ¶ 12. Such a positive response from Class Members supports approval of the fee award.

4. Class Counsel's Experience, Reputation, and Ability

Class Counsel submit that their skill contributed to the efficient resolution of this case. Class Counsel are experienced litigators who focus their practices on wage and hour class actions. And have extensive experience in litigating wage and hour class actions. Hawkins Decl., ¶14; Ferraro Decl. Exhibit 1; Hyun Decl. ¶6. They have been appointed as class counsel or co-class counsel in many cases, have obtained substantial recoveries for thousands of employees through these cases, and have the requisite skill and experience to justify the requested fees. *Id.*

5. Class Counsel's Preclusion from Other Work

This factor is immensely important in the consideration of the fee request because this case went all the way though class certification briefing. During the pendency of this action, Class Counsel thoroughly investigated and researched the claims in controversy, their defenses, and the relevant body of law. Overall, Class Counsel performed extensive work and obtained a favorable result through time-consuming litigation, substantial analysis of the records, a full day of contested mediation, and negotiation of the Settlement. This time could have been spent on other potentially lucrative cases. Accordingly, Class Counsel's time should be compensated**.**

6. The Contingent Nature of the Fee Award

The California Supreme Court has recognized that attorney fee awards should be enhanced to compensate attorneys for the risks of loss involved in contingency cases. *See Graciano v. Robinson Ford Sales, Inc.*, 144 Cal. App. 4th 140, 154 (2006). The main criterion for risk is the risk of complete loss, which would leave counsel unable to recover fees. *See Graham v. DaimlerChrysler Corp.*, 34 Cal. 4th 553, 583 (2004) (explaining that a multiplier corresponds to risk of loss, with the risk of not being the successful party ranking highest). In *Ketchum*, the California Supreme Court instructed courts to adjust fee compensation to ensure that the fees account for contingency risk:

> A lawyer who both bears the risk of not being paid and provides legal services is not receiving the fair market value of his work if he is paid only for the second of these functions. If he is paid no more, competent counsel will be reluctant to accept fee award cases.

Ketchum, 24 Cal. 4th at 1132-33.

A fee award that adjusts for contingency fee risk "constitutes earned compensation; unlike a windfall, it is neither unexpected nor fortuitous." *Id*. at 1138. The contingent risk factor is the single most important enhancement factor under California law even for actions where statutory fees are available. *See Horsford v. Board of Trustees of Calif. State Univ*., 132 Cal. App. 4th 359, 399 (2005) (reversing a trial court order for failure to consider contingent risk for statutory fees pursuant to FEHA). The main criterion for risk is the risk of *complete loss*, which would leave counsel unable to recover fees. *See Graham*, 34 Cal. 4th at 583 (explaining that a multiplier corresponds to risk of loss, with the risk of not being the successful party ranking highest). This risk is particularly acute for contingency fee attorneys because they "must use savings or incur debt to keep their offices afloat and their families fed during the years-long litigation." *Horsford*, 132 Cal. App. 4th at 400.

Here, Class Counsel bore the entire risk of recovery. Class Counsel took Plaintiffs' cases on a pure contingency basis, with no guarantee of any payment. Hawkins Decl., ¶ 17; Ferraro Decl. ¶7; Hyun Decl. ¶9. Before mediation, Class Counsel spent significant time on years of formal discovery, and preparing for mediation despite the risk of recovering nothing. Had the litigation continued, Defendant would undoubtedly have mounted an aggressive defense, at the certification/decertification stage and at the merits stage. A defeat at one of these stages could have foreclosed the possibility of Class Counsel recovering full remuneration for their time and effort. Yet, in spite of these considerable challenges that enhanced the already-high contingency risk, Class Counsel was able to obtain a settlement fund of $1,034,450.00. A fee award in the amount of $344,816.66 is thus fair and reasonable.

V. CLASS COUNSEL'S REQUESTED COST AWARD IS REASONABLE AND SHOULD RECEIVE FINAL APPROVAL

The Settlement Agreement allows Class Counsel to seek reimbursement of litigation costs in an amount not to exceed $35,000.00. Class Counsel requests reimbursement of their actual litigation costs in the sum of $30,052.52, for items such as filing fees, postage, mediation fees, and other fees related to the litigation. *See* Alba Conte, *Attorney Fee Awards* § 2:08 at 50-51 ("The prevailing view is that expenses are awarded in addition to the fee percentage."); *see also* Hawkins Decl., ¶ 18, Exhibit 2; Ferraro Decl. ¶15; Hyun Decl. ¶13, Exhibit 2. Since Class Counsel's costs did not reach the maximum of $35,000.00, the remainder will revert to and increase the Net Settlement Amount. All of the costs were reasonable and necessary for the prosecution of this case. Hawkins Decl., ¶ 18.

VI. THE CLASS REPRESENTATIVE SERVICE AWARDS ARE REASONABLE

Plaintiffs seek Service Awards for accepting the responsibilities of representing the interests of all Class Members and assuming the risks and potential costs that were not borne by any other Class Members. A named plaintiff is eligible for payment that reasonably compensates him or her for undertaking and fulfilling a fiduciary duty to represent absent class members. *Cellphone Termination Fee Cases,* 186 Cal. App. 4th 1380, 1393 (2010); *Bell v. Farmers Ins. Exch.*, 115 Cal.App.4th 715, 726 (2004). "[T]he rationale for making enhancement or incentive awards to named plaintiffs is that they should be compensated for the expense or risk they have incurred in conferring a benefit on other members of the class." *Clark v. American Residential Services LLC*, 175 Cal. App. 4th 785 (2009). By actively pursuing this action, Plaintiffs have furthered the California public policy goal of enforcing the State's wage and hour laws. *See Sav-On Drug Stores, Inc. v. Superior Court*, 34 Cal.4th 319, 340 (2004). Here, the requested award is appropriate and reasonable in light of the initiation of the action, the work performed, risks for payment of costs in the event of an unsuccessful outcome, and for a release broader than that given by the Class.

As a Class Representatives, Plaintiffs assisted counsel in gathering the evidence necessary to prosecute the claims on behalf of the Class and helping Class Counsel evaluate the claims for mediation, and regularly seeking reports on the status of the case. *See* Declarations of Lance Tyler Dunn, Daniel Castro, Steven Muir, Fredrick Earnhart, and Juan Miguel Torres Valenzuela. Further, Plaintiffs made themselves available by phone on the day of mediation and reviewed the settlement to ensure that class members were received fair amounts. *Id*. Plaintiffs spent numerous hours performing these duties. *Id*. No action likely would have been taken by Class Members individually, and no compensation would have been recovered for them, but for Plaintiffs' services on behalf of the Class.

Even though Plaintiffs likely would have received an equal or larger payment for pursuing their wage claims on an individual basis, Plaintiffs performed their responsibilities as Class Representatives throughout the litigation. *Id*. Further, Plaintiffs risked incurring the stigma often associated with those who bring such lawsuits, especially since the Class Notice was sent to 455 employees. Thus, Plaintiffs should be adequately compensated for their role in obtaining this class Settlement.

Additionally, no Class Members objected to the amount of additional compensation sought by Plaintiffs. As such, the award is reasonable in light of the substantial benefits Plaintiffs conferred upon the settlement class.

VII. THE SETTLEMENT ADMINISTRATION COSTS ARE REASONABLE

The Parties agreed to hire ILYM, Group Inc. as the Settlement Administrator, and the Court approved this choice at the time of the Preliminary Approval hearing. The Settlement Administrator was responsible for updating the mailing addresses of the Class Members, mailing the Class Notices to each Class Member, responding to Class Member inquiries, providing weekly status reports, answering questions posed by Counsel for the Parties, and providing a declaration to document its duties and responsibilities under the Settlement. *See generally* Settlement Agreement. Following the granting of final approval, ILYM, Group Inc.'s duties will continue in order to calculate and to mail the settlement payments to Class Members, disburse other payments as ordered by the Court, and perform such other duties as described in the Agreement. The requested amount of $6,950.00 for services rendered and to be rendered is fair and reasonable and should be granted.

VIII. CONCLUSION

Based on the foregoing, Class Counsel respectfully request the Court grant final approval of the Class Action Settlement.

Dated: June 24, 2026

James Hawkins APLC

By: ______________________

James Hawkins
Greg Mauro
Michael Calvo
Lauren Falk
Ava Issary

Attorney for Plaintiffs Muir and Earnhart