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SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF LOS ANGELES

JOSE RUELAS, an individual, on behalf of
himself, and on behalf of all persons
similarly situated,

Plaintiff,

v.

SEA WEST SERVICES LLC, a California
limited liability company; and DOES 1-50,
Inclusive ,

Defendants.

Case No. 23CV038585

**MEMORANDUM OF POINTS &
AUTHORITIES IN SUPPORT OF
PLAINTIFF'S MOTION FOR ATTORNEYS'
FEES AND EXPENSES AND SERVICE
AWARD**

Date: April 15, 2025
Time: 1:30 p.m.
Reservation ID: 844957277440

Judge: Hon. Somnath Raj Chatterjee
Dept.: 21

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I. INTRODUCTION

Class Counsel successfully negotiated a Stipulation of Settlement of Class and PAGA Action Claims and Release of Claims (“Agreement”) for a Gross Settlement Amount¹ of \$294,500.00 on behalf of 82 Settlement Class Members. In an order dated November 18, 2024, the Court preliminarily approved the Settlement Agreement and preliminarily certified the Class.² As part of the settlement, the parties agreed to a Class Counsel Award comprised of \$98,166.67 for attorneys’ fees (one-third of the Gross Settlement Amount) and up to \$25,000.00 for reimbursement of actually incurred litigation expenses.³ Consequently, and in accord with the parties’ agreement, Class Counsel hereby respectfully requests a Class Counsel Award in the amount of **\$123,166.67**. Declaration of Jean-Claude Lapuyade (“JCL Dec.”) at ¶ 17; Settlement Agreement, § III(M)(10).

The requested payment for the Class Counsel Award equal to one-third of the Gross Settlement Amount is fair compensation and, respectfully, should be approved. Class Counsel undertook complex, risky, and time-consuming wage and hour litigation on a contingent basis. The attorneys’ fee portion of the requested Class Counsel Award is within the historically recognized range of attorneys’ fees awarded in common fund class action settlements – between 25% and 50% – and is supported by Class Counsel’s lodestar cross-check with a reasonable 1.02 multiplier. That is well-below the 2.13 multiplier approved by the Supreme Court in *Laffitte v. Robert Half International, Inc.* (2016) 1 Cal.5th 480, with additional work to be performed, and within the recognized multiplier range of between 2 and 4⁴. Thus, the reasonableness of the requested Class Counsel Award is confirmed by reference to the lodestar with a reasonable multiplier with significant additional work still to be performed. Finally, the requested Class Counsel Award is consistent with recent fee awards granted by this Court in similar litigation. (*See Stovall v. Javelin Logistics, Inc.*, Alameda County Superior Court, Case No. RG-20075705, filed

¹ Capitalized terms are defined in the Settlement Agreement. The Settlement Agreement is attached as Exhibit “1” to the Declaration of Jean-Claude Lapuyade (“JCL Dec.”) at ¶ 3. All further citations to the Settlement Agreement incorporate by this reference a citation to the JCL Dec., ¶ 3.

² The procedural history of this action, the discovery conducted, the settlement negotiations, and the risks of litigation and of establishing liability and damages at trial are described in Plaintiff’s Motion for Final Approval of Class Action Settlement, scheduled for the same hearing time.

³ Currently Class Counsel’s actually incurred litigation expenses are \$12,964.94. Class Counsel will provide an updated total at the time of hearing on this motion.

⁴ See *Laffitte, supra*, 1 Cal. 5th at 487 (approving 1/3 fee award with 2 multiplier); *Wershba v. Apple Computer*, 91 Cal. App. 4th 224, 255 (2001) (“multipliers can range from 2 to 4 or even higher.”); *In re Sutter Health Uninsured Pricing Cases*, 171 Cal.App.4th 495, 512 (2009) (affirming multiplier of 2.52 as “fair and reasonable”); *Chavez v. Netflix, Inc.*, 162 Cal.App.4th 43, 66 (2008) (affirming multiplier of 2.53 as well within the approved range of 2 to 4).

September 30, 2020; *Ybarra v. Helzberg Diamond Shops, LLC*, Alameda Superior Court Case No. 21CV003531, filed on December 3, 2021.) JCL Dec., ¶ 18.

Additionally, Class Counsel and Class Representative, Jose Ruelas (hereinafter “Plaintiff” or “Class Representative”), respectfully request this Court approve the Service Award in the amount of \$10,000. Settlement Agreement, § I(II). The Class Representative faithfully and dutifully performed his role on behalf of the Settlement Class. The Class Representative dedicated valuable time and assisted in the successful prosecution of this action. JCL Dec., at ¶ 19; Declaration of Jose Ruelas (“Ruelas Dec”); at ¶¶ 1-17.

As discussed below, the requested Class Counsel Award meets the criteria under California law and falls well within the recognized range of reasonableness for approval. Similarly, the requested Service Award in the amount of \$10,000 to Plaintiff meets the criteria for approval. Accordingly, the Class Representative and Class Counsel respectfully request this Court grant this motion for approval of the Class Counsel Award and Service Award. JCL Dec., ¶ 20.

II. CLASS COUNSEL IS ENTITLED TO AN AWARD OF ATTORNEY’S FEES UNDER THE COMMON FUND DOCTRINE

In recognition of Class Counsel’s significant efforts to obtain this excellent recovery for the Settlement Class Members, Class Counsel is entitled to an award of attorney’s fees and reimbursement of actual and reasonable litigation costs. It has long been recognized that where, as here, litigation has created a common fund for the benefit of persons other than the named plaintiff in a lawsuit, courts have the power to award class counsel their reasonable attorney’s fees and expenses out of the fund created. *Laffitte v. Robert Half Int’l, Inc.* (2016) 1 Cal.5th 480, 503 (“*Laffitte*”). In *Laffitte*, the California Supreme Court affirmed this tenet, holding:

[w]e join the overwhelming majority of federal and state courts in holding that when class action litigation establishes a monetary fund for the benefit of the class members, and the trial court in its equitable powers awards class counsel a fee out of that fund, the court may determine the amount of a reasonable fee by choosing an appropriate percentage of the fund created. 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

1 is a valuable tool that should not be denied our trial courts. *Id.* (internal
2 citations omitted).

3 In so doing, the Court recognized the advantages of using the percentage of the common fund
4 method of awarding attorney's fees, including the "relative ease of calculation, alignment of incentives
5 between counsel and the class, a better approximation of market conditions in a contingency case, and
6 the encouragement it provides counsel to seek an early settlement and avoid unnecessarily prolonging
7 the litigation." *Id.* The *Laffitte* ruling is consistent with courts nationwide, including the United States
8 Supreme Court, which the California Supreme Court recognized, noting, "[c]urrently, all the circuit
9 courts either mandate or allow their district courts to use the percentage method in common fund cases;
10 none require sole use of the lodestar method [and] [m]ost state courts to consider the question in recent
11 decades have also concluded the percentage method of calculating a fee award is either preferred or
within the trial court's discretion in a common fund case." *Laffitte*, 1 Cal.5th at 493-94.

12 **A. The Requested Attorneys' Fees of One-Third of the Gross Settlement Amount is Fair and**
13 **Reasonable Under the Common Fund Doctrine**

14 Courts have long recognized that when class counsel's efforts result in the creation of a common
15 fund that benefits plaintiffs and unnamed class members, class counsel have an equitable right to be
16 compensated from that fund. *See, e.g., Boeing Co. v. Van Gemert*, 444 U.S. 472, 478 (1980)
17 ("recogniz[ing] consistently that a litigant or a lawyer who recovers a common fund...is entitled to a
18 reasonable attorney's fee from the fund as a whole"); *Laffitte*, 1 Cal. 5th at 488-89 (common fund
19 doctrine "long recognized" under California law). The common fund doctrine rests on the understanding
20 that attorneys should normally be paid by their clients and that, unless attorneys' fees are paid out of the
21 common fund, those who benefit from the fund will be "unjustly enriched." *Boeing*, 444 U.S. at 478.

22 To prevent this unjust enrichment, courts exercise their inherent equitable powers to assess
23 attorneys' fees against the entire fund, thereby spreading the cost of those fees among all those who
24 benefit from the settlement. *Id.* As noted above, in *Laffitte*, the California Supreme Court upheld the
25 trial court's award of 33.33% of the settlement amount of \$19 million with a 2.13 multiplier and affirmed
26 that "empirical studies show the percentage method with a lodestar cross-check is the most prevalent
27 form of fee method in practice." *Laffitte*, 1 Cal. 5th at 496-97. In fact, courts have historically awarded
28 between 25% and 50% of the common fund as attorneys' fees class action settlements. *In re Warner*

1 *Communications*, 618 F.Supp. 735, 749-50 (S.D.N.Y 1985).

2 Here, the fairest way to calculate a reasonable fee when contingency-fee litigation has produced
3 a fixed settlement amount for the Settlement Class Members is by awarding Class Counsel a percentage
4 of the Gross Settlement Amount. *See, e.g., In re Bluetooth Headset Products Liab. Litig.*, 654 F.3d 935,
5 942 (9th Cir. 2011). “[A] private plaintiff, or his attorney, whose efforts create, discover, increase or
6 preserve a fund to which others also have a claim is entitled to recover from the fund the costs of his
7 litigation, including attorneys’ fees.” *Vincent v. Hughes Air West, Inc.*, 557 F.2d 759, 769 (9th Cir.
8 1977). More importantly, a fee award under the common fund method here would achieve the two
9 underlying goals of the common fund doctrine by: (1) equitably requiring the beneficiaries of the
10 common fund to pay their pro rata share of fees incurred in creating the fund; and (2) providing an
11 incentive to attract competent counsel to handle wage and hour class actions, which California courts
12 recognize as a fundamental tool to ensure the effective enforcement of the Labor Code and minimum
13 labor standards. *See, e.g., Gentry v. Super. Ct.*, 42 Cal. 4th 443, 455-56 (2007) (overruled on other
14 grounds by *Iskanian v. CLS Transportation Los Angeles, LLC*, 59 Cal.4th 348 (2014) (emphasizing the
15 indispensable value of private enforcement of California’s wage-and-hour laws through class actions).

16 The Agreement, preliminarily approved by this Court, provides for payment of the Class Counsel
17 Award from the common fund. Notably, after being provided with notice of the Settlement and the
18 requested Class Counsel Award, there are ***two opt-outs and zero objections***. Every member of the
19 Settlement Class will receive his or her Individual Settlement Payment. Now, it is only equitable that
20 the Settlement Class also pay their pro rata share of attorneys’ fees at a reasonable percentage-of-
21 recovery rate to compensate Class Counsel for their efforts in creating the common fund. Accordingly,
22 it is well within the Court’s discretion to award fees to Class Counsel under the common fund doctrine.
23 JCL Dec., ¶ 21.

24 Class Counsel requests payment of attorneys’ fees in the amount of \$98,166.67, representing one-
25 third of the Gross Settlement Amount. Class Counsel’s request is consistent with many fee awards in
26 similar wage and hour class actions that Class Counsel has received in California Superior Courts, over
27 the past five years. Moreover, the requested one-third attorneys’ fee award is in the middle of historically
28 recognized range of attorneys’ fees awarded in common fund class action settlements. JCL Dec., ¶ 22.

1 Here, the Settlement Class will receive an average Individual Class Settlement Payment of
2 \$1,802.85 and a high of \$5,299.97 from an estimated Net Settlement Amount of \$147,833.33. The Class
3 Counsel Award request should be awarded based upon the Gross Settlement Amount in accordance with
4 *Laffitte*, i.e., percentage of the fund with a lodestar cross check. As further explained below, the
5 reasonableness of the requested \$98,166.67 for the attorneys' fees portion of the Class Counsel Award
6 is further supported by the lodestar cross-check. JCL Dec., ¶ 23.

7 Class Counsel's lodestar to date is \$96,556.50, *exclusive of costs*, with significant work
8 remaining. JCL Dec., ¶¶ 4-5; Declaration of Shani O. Zakay ("Zakay Dec.") ¶¶ 4-5. Thus, Class
9 Counsel's fee request is equal to Class Counsel's lodestar with a 1.02 multiplier – below the 2.13
10 multiplier approved in *Laffitte* – is well within the recognized multiplier range between 2 and 4. See
11 also *Taylor v. FedEx Freight, Inc.*, 2016 U.S. Dist. LEXIS 142202 (E.D. Cal. 2016) (following *Laffitte*,
12 approved 30% fee award with cross-check lodestar multiplier of 2.26); *Emmons v. Quest Diagnostics*
13 *Clinical Labs., Inc.*, 2017 U.S. Dist. LEXIS 27249 (E.D. Cal. 2017) (following *Laffitte*, approved 33%
14 fee award with cross-check lodestar multiplier of 1.7).

15 Because the Settlement in this case is a pure common fund case, and the percentage of the fund
16 is the comparable marketplace for fee awards in common fund cases, *Laffitte* supports an award based
17 upon the percentage of the common fund. Further, as noted above, the one-third fee request is in the
18 middle of comparable awards for common fund cases, which establishes the requested award as
19 reasonable. Moreover, Class Counsel's lodestar supports the requested attorneys' fees with a multiplier
20 well within the recognized range reasonableness, and in fact, below what the California Supreme Court
21 approved in *Laffitte*. For those reasons, and those discussed *infra*, Class Counsel respectfully requests
22 this Court approve a payment to Class Counsel in the amount of **\$123,166.67**, comprised of \$98,166.67
23 for the attorneys' fees and up to \$25,000.00 for the attorneys' expenses. JCL Dec., ¶ 24.

24 **B. The Requested Fee is Fair and Reasonable Under Other Factors Considered by California**
25 **Courts**

26 Although no rigid formula applies, an analysis of each of the following "basic factors" that
27 California courts typically consider further supports the reasonableness of a fee request: (1) the result
28 class counsel obtained; (2) the time and labor required of the attorneys; (3) the contingent nature of the

case and the delay in payment to class counsel; (4) the extent to which the nature of the litigation precluded other employment by class counsel; (5) the experience, reputation, and ability of the attorneys who performed the services, the skill they displayed in the litigation, and the novelty, complexity and difficulty of the case; and (6) the informed consent of the clients to the fee agreement. *Serrano v. Priest*, 20 Cal. 3d 25, 49 (1977); *Dunk v. Ford Motor Co.*, 48 Cal.App.4th at 1810 n.2.

1. The Results Achieved

Courts have consistently recognized that the results achieved are an important factor to be considered in making a fee award. *Hensley v. Eckerhart*, 461 U.S. 424, 436 (1983) (“most critical factor is the degree of success obtained”). Here, because Class Counsel invested significant time and expense successfully prosecuting Plaintiff’s claims, significant monetary relief is to be provided to Settlement Class and the excellent results achieved by Class Counsel through this Settlement alone justify the requested fee award. As fully briefed in Plaintiff’s motions for preliminary and final approval, the Gross Settlement Amount of \$294,500.00 represents between 14.13% and 21.85% of Defendant’s liability exposure in this matter as identified by Plaintiff’s expert. JCL Dec., ¶ 25.

The likelihood of establishing liability and recovering the full amount of damages was extremely remote and the Gross Settlement Amount of \$294,500.00 from which the Settlement Class will receive an estimated average payment of \$1,802.85 and a high of \$5,299.97, represents an excellent recovery for the Settlement Class considering Defendant’s vigorous defense and the risks of continued litigation. JCL Dec., ¶ 26.

In reaching this Settlement, Class Counsel carefully considered the strength of the case versus the amount offered in settlement, as well as the risk, expense, and complexity of maintaining class certification through trial. Plaintiff is confident about the strength of his claims. Nonetheless, Plaintiff recognizes that Defendant has factual and legal defenses that, if successful, would potentially defeat or substantially impair the value of the lawsuit. JCL Dec., ¶ 27.

Additionally, continuing to litigate this action would require continued and extensive resources coupled with significant Court time to proceed through contested certification, trial, and post-trial motions, which can often take years. Furthermore, wage and hour litigation is complex and expensive, as it often necessitates extensive expert testimony, particularly with regards to damages. But even if

Plaintiff was successful at trial, Plaintiff is acutely aware that a judgment does not end the litigation. Plaintiff fully expects that Defendant would likely appeal any judgment. JCL Dec., ¶ 28.

Considering these issues, the Gross Settlement Amount of \$294,500.00 is an excellent result for the Settlement Class. While the Gross Settlement Amount represents a discount on Plaintiff's overall estimate of the damages, this reduction is an extremely reasonable compromise considering the challenges of continued litigation, including but not limited to, maintaining class certification, and establishing liability on all claims against Defendant. The Settlement commits Defendant to create a Gross Settlement Amount, from which the Settlement Class will derive a *significant financial recovery* for their alleged damages and extinguish the risks of continued litigation, including a potential bankruptcy and/or an appeal that would likely be filed following a judgment in Plaintiff's favor. Such efforts would likely result in a delay of several years before this case would be resolved, with no guarantee of recovery, whereas the Settlement provides for an average recovery of \$1,802.85, placing it well within the range of reasonableness. JCL Dec., ¶ 29.

Furthermore, the Settlement Class greeted news of the Settlement with 97.62% of the Settlement Class Members participating in the Settlement. The unanimous approval by the Settlement Class Members evidences the positive overall result of the litigation. JCL Dec., ¶ 30.

2. The Significant Amount of Time Spent and the Quality of the Labor Performed by Class Counsel Justifies the Requested Fee

Collectively, Class Counsel worked hard on this case and, expended approximately 175.3 hours in the prosecution of this litigation in the nearly nineteen months since it was filed for a total lodestar of \$96,556.50. JCL Dec., ¶ 31; Zakay Dec., ¶¶ 3-8. Moreover, Class Counsel expects to incur an additional 20-30 hours of work attending the hearing on final settlement approval, administering the settlement, filing post distribution settlement declarations, and drafting an amendment judgment. Class Counsel devoted considerable time and effort to achieve the benefit to the Settlement Class and the requested Class Counsel Award in the amount of \$123,166.67, comprised of \$98,166.67 for attorneys' fees and up to \$25,000 for attorneys' expenses is appropriate here given the excellent results achieved. JCL Dec., ¶ 32.

Practice in the narrow area of wage and hour class action litigation requires skill, knowledge, and

1 experience in two distinct subsets of the law. Expertise in one does not necessarily translate into
2 expertise in the other. Class Counsel must have expertise in both. The issues presented in this case
3 required more than just a general appreciation of wage and hour law and class action procedure. JCL
4 Dec., ¶ 33.

5 The legal landscape surrounding Plaintiff's central claim, meal and rest period violations, is in
6 constant flux. Nevertheless, Class Counsel successfully navigated these seismic legal changes during
7 this action in route to successfully negotiating a significant monetary compensation for the Settlement
8 Class. JCL Dec., ¶ 34.

9 The Settlement was possible only because Class Counsel was able to convince Defendant that
10 Plaintiff could potentially prevail on the contested issues regarding liability, achieve class certification
11 through trial, overcome difficulties in proof as to monetary relief and take the case to trial if need be. In
12 successfully navigating these hurdles Class Counsel displayed the necessary dual skill set. JCL Dec., ¶
13 35.

14 **3. The Contingent Fee and the Financial Burden Borne by Class Counsel**

15 Class Counsel undertook this litigation on a contingent-fee basis, assuming a significant risk that
16 the litigation would yield no recovery after many years of work. Unlike counsel for Defendant, who are
17 paid an hourly rate and reimbursed for their expenses on a regular basis, Class Counsel has not been
18 compensated for any time or expenses to date. JCL Dec., ¶ 36. An attorney whose compensation is
19 dependent on success should expect a significantly higher fee than an attorney who is paid a market rate
20 as the case goes along, win or lose. *Cazares v. Saenz*, 208 Cal.App.3d 279, 288 (1989). As the California
21 Supreme Court in *Ketchum v. Moses* explained, “[a] contingent fee must be higher than a fee for the
22 same legal services paid as they are performed. The contingent fee compensates the lawyer not only for
23 the legal services he renders but for the loan of those services. The interest rate on such a loan is higher
24 because the risk of default (the loss of the case, which cancels the debt of the client to the lawyer) is
25 much higher than that of conventional loans.” *Ketchum v. Moses*, 24 Cal. 4th 1122, 1132-33 (2001).

26 Traditionally, employment litigation plaintiffs are unable to pay their attorneys on an hourly basis
27 and thus can obtain representation only if they can find counsel who are willing to accept their case on
28 a contingent basis and agree to advance either all or a significant portion of the costs. JCL Dec., ¶ 37.

At the same time, most plaintiff’s attorneys are neither able nor willing to accept such contingent cases unless they can anticipate that they will recover a fee greater than they would have recovered if paid on an hourly basis if they prevail after time-consuming and expensive litigation. Plaintiff’s attorneys, especially in class actions, face the risk that even if they are successful in litigating a case through trial, that Defendant could be judgment-proof, raising the possibility that Settlement Class would receive no payment at all. For this reason, courts have long recognized “contingent risk” as a factor supporting an upward enhancement of the lodestar. *See e.g., Serrano*, 20 Cal. 3d at 49.

The simple fact is that despite the most vigorous and competent efforts, success is never guaranteed. Plaintiff’s counsel not only must turn away other income-generating opportunities but must take on a substantial risk of “never receiving compensation at all.” *Amaral v. Cintas Corp.*, 163 Cal.App.4th 1157, 1217-18 (2008). Here, Class Counsel undertook this litigation on a purely contingency basis, thereby bearing the risk that they would only receive remuneration for the substantial investment of time and resources and hours and costs expended if Plaintiff was unsuccessful. JCL Dec., ¶ 38.

Additionally, in taking this case on a purely contingency basis, Class Counsel had to turn away other fee generating work because the case required Class Counsel to not only devote considerable time and resources to effectively prosecute and settle this action, but also wait until the Settlement is fully funded before finally being made whole. Now, having overcome the obstacles surrounding Plaintiff’s claims and negotiated an excellent result on behalf of the Settlement Class, Class Counsel should be compensated with a fee award properly reflecting these efforts. JCL Dec., ¶ 40.

4. The Requested Fee Award Matches the Market Rate in Similar Litigation

As discussed *supra*, Class Counsel’s one-third fee request of the Gross Settlement Amount falls within the range of reasonable attorney’s fee awards by California courts. In *Laffitte*, the Supreme Court upheld a fee award of 33.3% of the common fund with a 2.13 multiplier as “within a historical range of 20 to 50 percent of a common fund.” *Laffitte*, 1 Cal. 5th at 487; see also *Chavez v. Netflix*, 162 Cal. App. 4th 43, 66-67 (2008) (approving a 2.5 multiplier, citing *Wershba*’s acceptable range, and applying a percentage of recovery cross-check based on a normal marketplace contingency fee range of 20-40% of the recovery to support said multiplier). Here, Class Counsel negotiated a one-third contingency fee

arrangement, which is a reasonable arrangement to obtain competent counsel in the marketplace for representation in wage and hour class actions of this nature, and it is only equitable that Settlement Class who share in the excellent results achieved by this Settlement bear their pro rata share of the attorney's fees award to Class Counsel. Moreover, this Court recently granted a one-third fee award in similar litigation. (*See Stovall v. Javelin Logistics, Inc., supra, Ybarra v. Helzberg Diamond Shops, LLC, supra.*) JCL Dec., ¶ 41.

5. The Skill, Experience, Reputation, Ability, and Quality of Counsel

The skill, experience, reputation, quality, and ability of the attorneys who prosecuted this case also support the requested fee award. Class Counsel possesses significant experience litigating complex wage and hour class actions and the way this Settlement was achieved is demonstrative of the highly efficient way this litigation was managed and resolved. Indeed, Class Counsel achieved a highly favorable result for the Class due in large part to their experience and expertise in litigating complex wage and hour class actions. JCL Dec., ¶¶ 21-42; Zakay Dec., ¶ 3.

Additionally, the quality of opposing counsel is also important in evaluating the quality of the work done by Class Counsel. *See, e.g., In re Equity Funding Corp. Sec. Litig.*, 438 F. Supp. 1303, 1337 (C.D. Cal. 1977). Class Counsel were opposed in this litigation by counsel at O'Hagan Meyer, who vigorously advocated on behalf of Defendant. In the face of such experienced opposition, Class Counsel was able to develop an effective case strategy to combat Defendant's defenses and negotiate with counsel for Defendant to settle the case for an amount that provides real benefit to the Settlement Class with reasonable hours expended. JCL Dec., ¶ 42.

C. Class Counsel's Hourly Rates Are Reasonable

Class Counsel is entitled to the hourly rates charged by attorneys of comparable experience, reputation, and ability for similar litigation. *Ketchum*, 24 Cal. 4th at 1133. "Generally, the courts will look to equally difficult or complex types of litigation to determine which market rates to apply." *Syers Props. III v. Rankin*, 226 Cal.App.4th 691, 700 (2014). Payment at full market rates is essential to fulfill the goal of enticing qualified counsel to undertake difficult complex litigation, such as this. *San Bernardino Valley Audubon Soc'y v. Cnty. of San Bernardino*, 155 Cal. App. 3d 738, 755 (1984).

Here, Class Counsel has significant experience with complex wage and hour class action cases

1 and regularly litigates wage and hour claims justifying comparable fee awards in Superior Courts and
2 Federal District Courts throughout California. Class Counsels' hourly rates are set forth in the
3 concurrently filed declarations of Jean-Claude Lapuyade, Esq. and Shani Zakay, Esq. and are well
4 within the range of rates billed by comparable attorneys in this market and reasonably compare with
5 rates approved by other trial courts in wage and hour class action litigation. JCL Dec., ¶¶ 7-16; Zakay
6 Dec., ¶ 3.

7 **D. A Lodestar Cross-Check Confirms the Reasonableness of the Requested Attorney's Fees**

8 Although Class Counsel make this application on a percentage of the common fund basis, using
9 the lodestar cross-check further demonstrates that the requested fee is extremely reasonable and should
10 be awarded. "A lodestar cross-check...provides a mechanism for bringing an objective measure of the
11 work performed into the calculation of a reasonable attorney fee. If a comparison between the percentage
12 and lodestar calculations produces an imputed multiplier far outside the normal range, indicating that
13 the percentage fee will reward counsel for their services at an extraordinary rate even accounting for the
14 factors customarily used to enhance a lodestar fee, the trial court will have reason to reexamine its choice
15 of a percentage." *Laffitte*, 1 Cal. 5th at 504. In determining a lodestar, reasonable hours include, in
16 addition to time spent during litigation, the time spent before the action is filed, including time spent
17 interviewing the clients, investigating the facts and law, and preparing the initial pleadings. *See New*
18 *York Gaslight Club, Inc. v. Carey*, 447 U.S. 54, 62 (1980). Thus, in class action cases such as this,
19 which create a common fund for the benefit of a group of individuals, courts have routinely applied an
20 upward multiplier to class counsel's lodestar where the percentage of the settlement amount is
21 reasonable.

22 In *Laffitte*, the lodestar cross-check resulted in a 1.02 multiplier, which the court held was not an
23 abuse of discretion, because the trial court properly considered the lodestar multiplier factors in
24 determining whether to apply a multiplier, including the difficulty of the issues in the case, the skill of
25 class counsel, the contingent nature of the case, and the preclusion of other employment. *Laffitte*, 1
26 Cal.5th 480, 504. In assessing the reasonableness of counsel's fee request, the Court considers "relevant
27 factors such as ... [the level of skill necessary, time limitations [imposed by the client or other
28 limitations], the amount to be obtained in the litigation, the attorney's reputation, and the undesirability

1 of the case.” *Ketchum*, 24 Cal.4th at 1139. “A more difficult legal question typically requires more
2 attorney hours, and a more skillful and experienced attorney will command a higher hourly rate.” *Id.* at
3 1138-1139. “[I]n assessing a reasonable hourly rate, the trial court is allowed to consider the attorney’s
4 skill as reflected in the quality of the work, as well as the attorney’s reputation and status.” *MBNA*
5 *America Bank, N.A. v. Gorman*, 147 Cal. App. 4th Supp. 1, 13 (2006).

6 Fee awards in successful wage and hour (and other) class actions typically exceed by *multiples*
7 the lodestar value of the time spent by counsel. *See e.g. In re Sutter Health Uninsured Pricing Cases*,
8 171 Cal. App. 4th 495, 512 (2009) (affirming that multiplier of 2.52 was “fair and reasonable”); *Chavez*,
9 162 Cal. App. 4th at 66 (affirming award of fees 2.5 times lodestar in consumer class action); *Wershba*,
10 91 Cal. App. 4th at 255 (noting that multipliers can range from 2 to 4 or even higher); *Glendora Cmty.*
11 *Redev. Agency v. Demeter*, 155 Cal. App. 3d 465 (1984) (affirming multiplier of 12); *Nat. Gas Anti-*
12 *Trust Cases I, II, III & IV*, No. 4221, 2006 WL 5377849, at *4 (Cal. Super. Ct. Dec. 11, 2006)
13 (“numerous cases have applied multipliers of between 4 and 12 to counsel’s lodestar in awarding fees.”);
14 *Ridgeway v. Wal-Mart Stores Inc.*, 269 F.Supp.3d 975, 995 (N.D. Cal. 2017) (applying multiplier of 2.0
15 to lodestar amount was appropriate on motion for attorney fees in employees’ class action); *Van Vranken*
16 *v. Atlantic Richfield Co.*, 901 F.Supp. 294, 299 (N.D. Cal. 1995) (holding that a multiplier of 3.6 was
17 well within the acceptable range for fee awards in complicated class action litigation), *see also* Newberg
18 on Class Actions, § 14:03 at 14 (multipliers of up to 4 are common).

19 Here, Class Counsel’s lodestar to date is \$96,556.50, exclusive of costs, with significant work
20 remaining. Thus, the requested attorneys’ fee of \$98,166.67 is equal to Class Counsel’s lodestar with a
21 multiplier of 1.02. Again, obviously this is below the recognized range of between 2-4 for multipliers
22 and below the 2.13 multiplier approved in *Laffitte* with significant work left to perform. JCL Dec., ¶¶
23 7-16.

24 Consequently, the requested attorneys’ fees clearly meet all the factors enumerated in *Ketchum*
25 and *Laffitte* explained above, including the quality of representation, the benefit obtained for the class,
26 the complexity of the issues presented, and the risk of nonpayment. *Ketchum*, 24 Cal. 4th at 1132-
27 33;1139; *Laffitte*, 1 Cal.5th at 504; *see also Hanlon v. Chrysler Corp.*, 150 F.3d 1011, 1029 (9th Cir.
28 1998); *In re Bluetooth*, 654 F.3d at 942. The requested Class Counsel Award is reasonable given the

substantial amount of work performed by Class Counsel, the risks that Class Counsel assumed taking this complex case while advancing all costs and deferring payment for approximately nineteen months of litigation, the experience and reputation of Class Counsel, the contingency fee arrangement with Plaintiff, and the highly favorable result obtained for the Settlement Class.

III. CLASS COUNSEL IS ENTITLED TO REIMBURSEMENT OF ACTUAL AND REASONABLY INCURRED LITIGATION COSTS

Attorneys who create a common fund for the benefit of a class are entitled to payment from the fund of reasonable litigation expenses and costs. Common fund fee and expense awards include counsel's incurred expenses because those who benefit from their effort should share in the cost. *See Rider v. City of San Diego*, 11 Cal. App. 4th 1410, 1423 n.6 (1992). The appropriate analysis in deciding if costs are compensable is whether the costs are of the type typically billed by attorneys to paying clients in the marketplace. *See Harris v. Marhoefer*, 24 F.3d 16, 19 (9th Cir. 1994); *see also Hartless*, 273 F.R.D. at 645-46 (common fund class action settlement where court awarded litigation costs for consultants, online legal research, copying, postage, long distance charges, travel expenses, filing fees, mediation fees and investigation fees). As of the filing of the Motion for Final Approval and Motion for Award of Class Counsel Award and Service Award, collectively Class Counsel expended \$12,964.94 prosecuting this action. JCL Dec. ¶ 51; Zakay Dec., ¶ 7. All of Class Counsel's out-of-pocket expenses are the types of expenses normally charged to paying clients including the following: filing fees; copying; telephone; postage; factual and legal research charges; mediation fees; and expert costs, which were all incurred during, and were necessary for the successful prosecution of the litigation and, thus, should be reimbursed. JCL Dec. ¶ 52.

IV. THE REQUESTED SERVICE AWARD SHOULD BE GRANTED

Courts routinely approve service awards to compensate named plaintiffs for the services they provide and the risks they incur during the class litigation. *Bell v. Farmers Ins. Exch.*, 115 Cal.App.4th 715, 726 (2004) (upholding "service payments" to plaintiffs for their efforts in bringing class case). The factors courts use in determining the amount of service awards include: (1) a comparison between the service awards and the range of monetary recovery available to the class; (2) time and effort put into the litigation; (3) whether the litigation will further the public policy underlying the statutory scheme; and

(4) risks of retaliation. *Clark v. American Residential Services, LLC*, 175 Cal. App. 4th 785, 804-805 (2009).

Regarding the amount of the requested award, courts frequently approve awards of \$5,000.00 each or more. *See In re Cellphone*, 186 Cal. App. 4th 1380 (2010) (upholding \$10,000.00 service award to each of the four class representatives). The amount of the requested Service Award to Plaintiff for \$10,000 is reasonable by reference to the amounts that California courts (both federal and state) have repeatedly awarded in similar class action settlements. JCL Dec., ¶ 50. Further, after administering notice of this settlement, not one of the 82 Settlement Class Members objected to the requested Service Award. Again, the unanimous consent favors the Court's approval of the requested Service Award. JCL Dec., ¶ 55.

Equally important, the time, effort, and services provided to the Settlement Class justifies the requested Service Award. The Class Representative performed his duties to the Settlement Class admirably. Plaintiff worked extensively with Class Counsel over the course of the nineteen months of investigation and litigation. For instance, Plaintiff also assisted with the review of documents, preparation of pleadings, and location of witnesses. Similarly, Plaintiff searched, located, and produced several documents in connection with the litigation and assisted Class Counsel in preparation of the complaint and mediation brief. Ruelas Dec., ¶¶ 1-17; JCL Dec., ¶ 56.

Additionally, Plaintiff remained available and responsive throughout the entire litigation to address all case needs. Plaintiff willingly came forward to protect and advance the rights of the Settlement Class on an important legal dispute affecting California employees. By way of example, Plaintiff assumed the serious risk of liability for Defendant's costs and potentially fees if the case was unsuccessful. Nevertheless, Plaintiff knowingly and voluntarily undertook the risk to vindicate the rights of the Settlement Class. Plaintiff reviewed the terms of the Settlement, including the Class Counsel Award and the Service Award. Ruelas Dec., ¶¶ 1-17; JCL Dec., ¶ 57.

The Class Representative's efforts in bringing the lawsuit conferred a monetary benefit to 82 Settlement Class Members. Accordingly, Plaintiff, in their capacity as the Class Representative, and Class Counsel, respectfully request the Court approve the Service Award in accordance with the Settlement Agreement.

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V. CONCLUSION

Based on the foregoing, Class Counsel respectfully requests approval of the Class Counsel Award in the amount of \$123,166.67, comprised of \$98,166.67 as compensation for attorneys' fees (one-third of the Gross Settlement Amount of \$294,500.00) and litigation expenses up to \$25,000.00 as supported by Class Counsel's billing records. Class Counsel and the Class Representative also respectfully request approval of the requested Service Award in the amount of \$10,000.00 to Plaintiff. Class Counsel will finish final approval, the management of the Settlement, and the defense of an appeal, if any, without a subsequent attorneys' fee request.

Dated: March 20, 2025

Respectfully Submitted,
JCL LAW FIRM, APC

By: 
Jean-Claude Lapuyade, Esq.
Attorneys for Plaintiff