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SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF HUMBOLDT

ELIJAH HEIFETZ, an individual, on behalf of himself and on behalf of all persons similarly situated, and on behalf of the State of California, as a private attorney general, Plaintiff, vs. OPEN DOOR COMMUNITY HEALTH CENTERS, a Corporation; and DOES 1 through 50, inclusive, Defendants.	CASE NO.: **CV2401704** **MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF MOTION FOR FINAL APPROVAL OF CLASS SETTLEMENT AND AWARD OF ATTORNEYS' FEES, COSTS AND SERVICE AWARD** Hearing Date: August 17, 2026 Hearing Time: 10:30 a.m. [*Hearing scheduled by Order dated March 16. 2026*] Judge: Hon. Timothy Canning Dept.: 4 Date Action Filed: September 10, 2024 Trial Date: Not set

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I. INTRODUCTION

The parties to this action have reached a Settlement and the Court preliminarily approved the Class Action and PAGA Settlement Agreement (the "Agreement"), a true and correct copy of which is attached as Exhibit #2 to the Declaration of Kyle Nordrehaug ("Nordrehaug Decl.").[1] In accordance with the Preliminary Approval Order dated March 16, 2026 ("Preliminary Approval Order"), the approved Class Notice has been disseminated to the Class.[2]

The purpose of this hearing is to determine whether the proposed settlement of the litigation should be finally approved. Plaintiff Elijah Heifetz ("Plaintiff") respectfully moves for final approval, including attorneys' fees, costs and the service award, and entry of the Final Approval Order and Judgment. The settlement represents an excellent result for the Class and avoids the delays, risks, and costs of further litigation. After disseminating the notice to the members of the Class, there were **no objections and only three (3) requests for exclusion**, which means that nearly the entire Class (99.76%) has elected to participate in the Settlement. Nordrehaug Decl. ¶4. This is a positive response from the Class evidencing their collective approval of the settlement. As a result, Plaintiff respectfully submits that the class settlement should be finally approved for the same reasons that the Court preliminarily approved the settlement as fair, reasonable, and adequate.

II. THE SETTLEMENT BEFORE THE COURT

As consideration for this Settlement, the Gross Settlement Amount to be paid by Defendant Open Door Community Health Centers is One Million Two Hundred Thirty-Five Thousand Dollars ($1,235,000) (Agreement at ¶¶ 1.22 and 3.1.) Under the Settlement, the Gross Settlement Amount consists of the following elements: (1) payment of the Individual Class Payments to the Participating Class Members; (2) Class Counsel Fees Payment and Class Counsel Litigation Expenses Payment; (3) Administration Expenses Payment; (4) the Class Representative Service Payment to the Plaintiff; and (5) the PAGA Penalties payment, which is to be allocated 35% to the Aggrieved Employees and 65%

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[1] Capitalized terms are defined in the Agreement.

[2] The "Class" is defined as "all individuals who are or previously were employed by Defendant who were classified as non-exempt in the State of California during the Class Period" The "Class Period" is defined as "September 10, 2020 through October 19, 2025." (Preliminary Approval Order at ¶5.)

to the LWDA. (Agreement at ¶ 1.22.) The Gross Settlement Amount does not include Defendant's share of employer-side payroll taxes which will be paid separately and not out of the Gross Settlement Amount. (Agreement at ¶ 3.1.) The Gross Settlement Amount shall not revert to Defendant. (Agreement at ¶ 3.1.) Nordrehaug Decl. ¶3(b). The following is a table of the key financial terms of the Settlement and the proposed deductions:

$1,235,000 (Gross Settlement Amount)
- $25,000 (Plaintiff's proposed service award - not to exceed amount)
- $30,600 (Class Counsel Litigation Expenses Payment - not to exceed amount)
- $433,333 (Class Counsel Fees Payment - not to exceed 1/3 of settlement)
- $30,000 (PAGA Payment - 65% to LWDA / 35% to Aggrieved Employees)
- $13,875 (Administration Expenses Payment)

$702,192 (Net Settlement Amount)

The specific details of the Settlement were discussed in the Motion for Preliminary Approval and are set forth again in the Declaration of Nordrehaug at ¶¶ 3(c)-3(i).

The Settlement is fair, adequate and reasonable to the class and should be finally approved for the same reasons the Court granted preliminary approval of the Settlement, agreeing that the settlement is "fair, adequate, and reasonable". (Preliminary Approval Order at ¶ 3.) In sum, the Settlement valued at $1,235,000 is an excellent result for the Class. This result is particularly favorable in light of the fact that liability and class certification in this case were far from certain in light of the defenses asserted by Defendant. Given the complexities of this case, the defenses asserted, the uncertainty of class certification, along with the uncertainties of proof at trial and appeal, the proposed settlement is fair, reasonable and adequate, and should be finally approved. Nordrehaug Decl. ¶3(j).

III. GENERAL STANDARDS APPLICABLE TO JUDICIAL REVIEW AND APPROVAL OF CLASS ACTION SETTLEMENTS

Settlements of disputed claims are favored by the courts. *Huens v. Tatum*, 52 Cal. App. 4th 259, 265 (1997). In evaluating settlements, the courts have long recognized that compromise is particularly appropriate since such litigation is difficult and notoriously uncertain. *7-Eleven Owners for Fair Fran. v. Southland Corp.*, 85 Cal. App. 4th 1135, 1151 (2000) ("[V]oluntary conciliation and settlement are the preferred means of dispute resolution. This is especially true in complex class action litigation.")

The court must decide whether the proposed settlement falls within the range of reasonable settlements, taking into account that settlements are compromises between the parties reflecting subjective, unquantifiable judgments concerning the risks and possible outcomes of litigation. *See Wershba v. Apple Computer*, 91 Cal. App. 4th 224, 246 (2001) ("The proposed settlement is not to be judged against a hypothetical or speculative measure of what might have been achieved had plaintiffs prevailed at trial.") In *Wershba*, the Court explained that "the merits of the underlying class claims are not a basis for upsetting the settlement of a class action." *Id.*; *see also 7-Eleven*, *supra*, at 1150.

In these cases, courts have repeatedly emphasized that there is a strong initial presumption that the compromise is fair and reasonable. *Wershba*, 91 Cal. App. 4th at 245. Courts should not substitute their judgment for that of the parties who negotiated the settlement. *Id.* at 246. The presumption of fairness exists where: (1) investigation and discovery are sufficient to allow counsel and the court to act intelligently; (2) the settlement is reached through arm's-length bargaining; (3) counsel is experienced in similar litigation; and (4) the percentage of objectors is small. *Dunk v. Ford Motor Co.*, 48 Cal.App.4th 1794, 1801 (1996). Here, the facts and circumstances compel the conclusion that the proposed settlement satisfies that standard and the presumption applies.

IV. <u>THE SETTLEMENT IS FAIR, REASONABLE AND ADEQUATE</u>

The Court must determine whether the settlement is fair, adequate, and reasonable. *Dunk v. Ford Motor Co.*, 48 Cal.App.4th 1794, 1801 (1996); *see also Officers for Justice v. Civil Service Com'n*, 688 F.2d 615, 625 (9th Cir. 1982). The trial court has broad discretion to determine whether the settlement is fair. *Cellphone Termination Fee Cases*, 180 Cal.App.4th 1110, 1117 (2009). "The well-recognized factors that the trial court should consider in evaluating the reasonableness of a class action settlement agreement include 'the strength of plaintiffs' case, the risk, expense, complexity and likely duration of further litigation, the risk of maintaining class action status through trial, the amount offered in settlement, the extent of discovery completed and the stage of the proceedings, the experience and views of counsel, the presence of a governmental participant, and the reaction of the class members to the proposed settlement.'" *Kullar v. Foot Locker Retail, Inc.*, 168 Cal.App.4th 116, 128 (2008) (internal citations omitted); see also *Munoz v. BCI Coca-Cola Bottling Co. of L. A.*, 186 Cal.App.4th 399, 408 (2010).

The list of factors is not exhaustive and should be tailored to each case. *Dunk*, *supra*, at 1801. Due regard should be given to what is otherwise a private consensual agreement between the parties.

Id. The inquiry "must be limited to the extent necessary to reach a reasoned judgment that the agreement is not the product of fraud or overreaching by, or collusion between, the negotiating parties, and that the settlement, taken as a whole, is fair, reasonable and adequate to all concerned." *Id*. "Ultimately, the [trial] court's determination is nothing more than 'an amalgam of delicate balancing, gross approximations and rough justice.' [Citation omitted.]" *Id.*

These factors are analyzed seriatim below, and all support final approval of the class action settlement before this Court, consistent with this Court's Preliminary Approval Order.

A. The Settlement Satisfies the California Test for Fairness

1. The Investigation and Analysis of Documents are Sufficient to Allow Counsel and the Court to Act Intelligently

Over the course of more than one year of litigation, the Parties engaged in the investigation of the claims, including the production of documents, class data, and other information, allowing for the full and complete analysis of liabilities and defenses to the claims in this Action. The procedural history and investigation performed was detailed at length in support of the motion for preliminary approval. The Settlement was the product of one arms-length mediation and contentious negotiations, both during and after mediation, presided over by mediator Steven J. Serratore. The details of the litigation are set forth in the Nordrehaug Decl. at ¶¶ 6(a)-6(g).

2. The Settlement was Reached Through Arm's Length Bargaining

This settlement is the result of extensive and hard-fought litigation as well as negotiations before an experienced and well-respected mediator. Defendant has expressly denied and continues to deny any wrongdoing or legal liability arising out of the conduct alleged in the Action. Plaintiff and Class Counsel have determined that it is desirable and beneficial to the Class to resolve the Released Class Claims of the Class in accordance with this Settlement, based upon the experience of Class Counsel who has previously litigated similar claims against other employers. Nordrehaug Decl. ¶7(a).

The Parties attended an arms-length mediation session with Steven J. Serratore, a respected jurist and experienced mediator of wage and hour class actions, in order to reach this Settlement. In preparation for the mediation, Defendant provided Plaintiff and Class Counsel with payroll and employment data and other information regarding the Class Members, various internal documents, and other compensation and employment-related materials. Class Counsel analyzed the data with the assistance of damages expert Berger Consulting and prepared and submitted a mediation brief to the mediator. Following the all-day mediation session, the Parties agreed to this Settlement based upon a mediator's proposal. Nordrehaug Decl. ¶7(b).

The fact that the settlement was negotiated with the assistance of an experienced mediator supports approval. *Alberto v. GMRI, Inc.*, 252 F.R.D. 652, 666 (E.D. Cal. Jun 24, 2008); *Glass v. UBS Fin. Servs.*, 2007 U.S. Dist. LEXIS 8476; 15 Wage & Hour Cas. 2d (BNA) 1330, at *15 (N.D. Cal. 2007) ("The settlement was negotiated and approved by experienced counsel on both sides of the litigation, with the assistance of a well-respected mediator with substantial experience in employment litigation[, and] this factor supports approval of the settlement").

From August 2025 to February 2026, the settlement agreement and exhibits thereto were drafted, negotiated and executed. On March 16, 2026, the Court issued its Order granting preliminary approved of the settlement as fair, adequate, and reasonable to the Class. Nordrehaug Decl. ¶7(c).

3. Class Counsel is Experienced in Similar Litigation

Class Counsel in this matter has extensive class action experience and has represented thousands of persons in class actions including employment litigation, wage and hour class actions, and complex litigation. Class Counsel has previously litigated wage and hour class actions involving employees and claims similar to this case and have been approved as experienced class counsel during contested motions in state and federal courts throughout California. The experience of counsel and class action cases managed and settled by the Class Counsel in this action is provided to the Court in the Nordrehaug Decl. at <u>Exhibit #1</u>. Class Counsel have participated in every aspect of the settlement discussions and have concluded the settlement is fair, adequate and reasonable and in the best interests of the Class. Nordrehaug Decl. ¶ 3(j).

4. <u>There Are No Objections and Only Three (3) Requests for Exclusion</u>

The reaction of the Class unequivocally supports approval of the Settlement. On April 13, 2026, the Administrator mailed the Court-approved Class Notice to the Class Members, which provided each class member with the terms of the Settlement, including notice of the claims at issue and the financial terms of the settlement, including the attorneys' fees, costs, and service award that were being sought, how individual settlement awards would be calculated, and the specific, estimated payment amount to that individual. See Declaration of Missy Carey ("Carey Decl.") ¶ 7, Exh. A. In disseminating the notice, the Administrator followed the notice procedures authorized by the Court in its Preliminary Approval Order. Significantly, there have been no objections and only three (3) requests to opt-out. Carey Decl. ¶¶ 11-12. As such, nearly the entire Class (99.76%) will participate in the Settlement and will be sent a settlement check. *See* Carey Decl. at ¶¶ 14-16; Nordrehaug Decl. ¶4.

The absence of any objector strongly supports the fairness, reasonableness and adequacy of the Settlement. *See In re Austrian & German Bank Holocaust Litigation*, 80 F.Supp.2d 164, 175 (S.D.N.Y. 2000) ("If only a small number of objections are received, that fact can be viewed as indicative of the adequacy of the settlement."); *Stoetzner v. U.S. Steel Corp.*, 897 F.2d 115, 118-119 (3d. Cir. 1990) (29 objections out of 281 member class "strongly favors settlement"); *Laskey v. Int'l Union*, 638 F.2d 954 (6th Cir. 1981) (The fact that 7 out of 109 class members objected to the proposed settlement should be considered when determining fairness of settlement). Here, where there are no objections, the approval of the class is evident.

5. The Strength of Plaintiff's Case

The Action generally alleges that Plaintiff and other Class Members were not properly paid all overtime wages for hours worked and at the correct rate of pay, were not provided meal and rest periods or paid premiums at the correct rate of pay in lieu thereof, were not timely paid earned wages, were not provided reimbursement for required expenses, were not provided accurate itemized wage statements, were not pay all sick wages and the correct rate of pay, and were not paid all wages at the time of termination. The Action seeks unpaid wages, penalties, attorney fees, litigation costs, and any other equitable or legal relief allegedly due and owing to Plaintiff and the other Class Members by virtue of the foregoing claims. Nordrehaug Decl. ¶5.

Where both sides face significant uncertainty, the attendant risks favor settlement. *Hanlon v. Chrysler Corp.*, 150 F.3d 1011, 1026 (9th Cir. 1998). Here, a number of defenses asserted by Defendant present serious threats to the claims of the Plaintiff and the other Class Members. Defendant asserted that Defendant's practices complied with all applicable Labor laws. Defendant argued that Class Members were paid for all time worked and that all work time was properly recorded and wages for that time were correctly compensated. Defendant contends that its meal and rest period policies fully complied with California law and Defendant did not fail to provide the opportunity for legally required meal and rest breaks. Defendant could argue that its payment of meal premiums is evidence of its lawful practices and good faith. Defendant contends that there was no failure to pay for business expenses and any cell phone usage was merely convenient and voluntary such that reimbursement was not legally required. Finally, Defendant could argue that the Supreme Court decision in *Brinker v. Superior Court,* 53 Cal. 4th 1004 (2012), weakened Plaintiff's claims, on liability, value, and class certifiability as to the meal and rest period claims. Defendant also argues that based on their facially lawful practices, Defendant acted in good faith and without willfulness, which if accepted would negate the claims for waiting time penalties and/or inaccurate wage statements. See e.g. *Naranjo v. Spectrum Sec. Servs., Inc.*, 15 Cal. 5th 1056, 1065 (May 6, 2024) ("if an employer reasonably and in good faith believed it was providing a complete and accurate wage statement in compliance with the requirements of section 226, then it has not knowingly and intentionally failed to comply with the wage statement law.") Defendant's defenses could eliminate or substantially reduce any recovery to the Class. While Plaintiff believes that these defenses could be overcome, Defendant maintains these defenses have merit and therefore present a serious risk to recovery by the Class. Nordrehaug Decl. ¶8(a).

In a similar wage and hour case, the federal district court in *Hopson v. Hanesbrands Inc.*, 2009 U.S. Dist. LEXIS 33900 (N.D. Cal. 2009), explained in approving an overtime class action settlement:

> Plaintiffs may have a strong case, but the risks inherent in continued litigation are great. Defendants strongly deny liability for Plaintiffs' principal claim... [...T]he gross settlement amount and the Class Members' expected net recovery, after fees and other costs are deducted, appear to be a reasonable compromise, in light of the risks of litigation.

2009 U.S. Dist. LEXIS 33900 at *19-20 (N.D. Cal. 2009); *see also Browning v. Yahoo!, Inc.*, 2007 U.S. Dist. LEXIS 86266, at *30 (N.D. Cal. 2007) ("In considering the strength of Plaintiff's case, legal uncertainties at the time of settlement - particularly those which go to fundamental legal issues - favor approval."). As recognized in a federal decision approving settlement of an overtime wage class action:

> The potential complexity and possible duration of trial also weigh in favor of granting final approval. Plaintiffs acknowledge the difficulties of proving damages, recognize the uncertainty of outcome, and believe defendant would appeal in the event of adverse judgment. A post-judgment appeal would require many years to resolve and delay payment to class members. Plaintiffs believe the benefits of a guaranteed recovery today

> outweigh an uncertain future result. Accordingly, plaintiffs argue, and the Court agrees, the actual recovery confers substantial benefits on the class that outweigh the potential recovery through full adjudication.

Barcia v. Contain-A-Way, Inc., 2009 U.S. Dist. LEXIS 17118, *9 (S.D. Cal. 2009); *see also Louie v. Kaiser Foundation Health Plan, Inc.*, 2008 U.S. Dist. LEXIS 78314, *14 (S.D. Cal. 2008).

There was also a significant risk that, if the Action was not settled, Plaintiff would be unable to certify a class and maintain that certification through trial, and thereby not recover on behalf of any employees other than themselves. At the time of the mediation, Defendant forcefully opposed the propriety of class certification, arguing that individual issues precluded class certification. Further, as demonstrated by the California Supreme Court decision in *Duran v. U.S. Bank National Assn.*, 59 Cal. 4th 1 (2014), there are significant hurdles to overcome for a class-wide recovery even where the class has been certified. While other cases have approved class certification in wage and hour claims, class certification in this action was hotly disputed and the maintenance of a certified class through trial was by no means a foregone conclusion. Nordrehaug Decl. ¶8(b).

In sum, the Settlement is a fair and reasonable result, and provides the Class with a significant recovery, particularly when viewed in light of the fact that the Defendant asserted serious and substantial defenses both to liability and to class certification. The maximum and average class member allocations (in addition to their Individual PAGA Payment) are $1,385.44 and $572.28, respectively. *See* Carey Decl. ¶16. Given the complexities of this case, the defenses, along with the uncertainties of proof and appeal, the proposed Settlement is fair, reasonable and adequate, and should be finally approved. Nordrehaug Decl. at ¶8(e).

6. <u>The Risk, Expense, Complexity, and Likely Duration of Further Litigation</u>

As demonstrated by the decision in *Duran*, the complexities and duration of further litigation cannot be overstated. There is little doubt that Defendant would post a bond and appeal in the event of an adverse judgment. A post-judgment appeal by Defendant would have required many more years to resolve, assuming the judgment was affirmed. If the judgment was not affirmed in total, then the case could have dragged on for years after the appeal. The benefits of a guaranteed recovery today outweigh an uncertain result three or more years in the future. Nordrehaug Decl. ¶8(c).

Plaintiff and Class Counsel recognize the expense and length of a trial against Defendant through possible appeals which could take at least another two or three years. Class Counsel also have taken into account the uncertain outcome, the risk of litigation, especially in complex actions such as this one. Class Counsel are also mindful of and recognize the inherent problems of proof under, and alleged defenses to, the claims asserted in the Action. Moreover, post-trial motions and appeals would have been inevitable. Costs would have mounted and recovery would have been delayed if not denied, thereby reducing the benefits of an ultimate victory. The Settlement confers substantial benefits upon the Class. Based upon their evaluation, Plaintiff and Class Counsel have determined that the Settlement set forth in the Agreement is in the best interest of the Class. Nordrehaug Decl. ¶8(c).

Although Plaintiff and Class Counsel believe that their case has merit, which Defendant continue to vigorously deny, they recognized the potential risks both sides would face if litigation of the Action continued. As the federal court held in *Glass*, where the parties faced uncertainties similar to those in this litigation:

> In light of the above-referenced uncertainty in the law, the risk, expense, complexity, and likely duration of further litigation likewise favors the settlement. Regardless of how this Court might have ruled on the merits of the legal issues, the losing party likely would have appealed, and the parties would have faced the expense and uncertainty of litigating an appeal. "The expense and possible duration of the litigation should be considered in evaluating the reasonableness of [a] settlement."

Id. at *12.

7. The Amount Offered in Settlement

The Settlement in this case is fair, reasonable and adequate considering Defendant's defenses to Plaintiff's claims. As set forth in the Declaration of Nordrehaug in support of preliminary approval which discussed the value of the class claims in detail, the Gross Settlement Amount compares favorably to the value of the claims. Based upon 1,227 Participating Class Members who worked an 135,325 work weeks (Carey Decl. at ¶¶ 14-16), the Gross Settlement Amount provides an average value of $1,006 per Class Member and $9.12 per workweek and after deductions the Net Settlement Amount provides an average recovery of $572.28 per Class Member and a recovery $5.18 per workweek. Nordrehaug Decl. at ¶8(d).

The calculations to compensate for the amount due for the Class at the time of the mediation were calculated by Berger Consulting, Plaintiff's damage expert. As to the Class whose claims are at issue in this Action, Plaintiff used this expert to analyze the data and determine the potential unpaid wages for the employees. The maximum potential damages were calculated to be $466,072 for alleged unpaid overtime, $5,106,893 for the alleged unpaid wages for off-the-clock work at 1 hour per week, $88,120 for the alleged underpaid meal premiums and sick pay due to the miscalculation of the regular rate, $920,487 for alleged missed meal period damages based upon the maximum 8.8% violation rate observed in the records and after deduction of premiums already paid by Defendant, $1,307,498 for alleged rest period damages based the same 8.8% violation rate observed with meal period records, 158,970 for alleged unreimbursed cell-phone expenses at $5 per month. As a result, the total damage valuation was calculated such that Defendant was subject to a maximum damage claim in the amount of $8,064,594. As to potential penalties, Plaintiffs calculated that potential waiting time penalties were a maximum of $3,501,635, and potential maximum wage statement penalties were $2,559,550.[3] Defendant vigorously disputed Plaintiff's calculations and exposure theories. Nordrehaug Decl. ¶8(d).

Consequently, the Gross Settlement Amount of $1,235,000 represents more than 15% of the maximum value of the alleged damages at issue in this case at the time this Settlement was negotiated.[4] Importantly, the recent decision that good faith belief of compliance by the employer in *Naranjo v. Spectrum Sec. Servs., Inc.*, 15 Cal. 5th 1056, 1065 (2024), could completely negate the claims for waiting time and wage statement penalties, even if wages were owed to the Class. The above maximum calculations should then be realistically risk-adjusted in consideration for both the risk of class certification and class-wide liability on all claims. Given the amount of the settlement as compared to

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[3] While Plaintiffs alleged claims for statutory penalties pursuant to Labor Code Sections 203 and 226, at mediation Plaintiffs recognized that these claims were subject to additional, separate defenses asserted by Defendant, including, a good faith dispute defense as to whether any premium wages for meal or rest periods or other wages were owed given Defendant's position that Plaintiff and Class Members were properly compensated. *See Nordstrom Commission Cases*, 186 Cal. App. 4th 576, 584 (2010) ("There is no willful failure to pay wages if the employer and employee have a good faith dispute as to whether and when the wages were due.").

[4] Because the PAGA claim is not a class claim and primarily is paid to the State of California, Plaintiffs has not included the PAGA claim in her discussion of the value of the class claims. The PAGA claim was addressed in the Motion for Preliminary Approval in the Declaration of Nordrehaug at ¶33.

the potential value of claims in this case and the defenses asserted by Defendant, this settlement is fair and reasonable.[5] Clearly, the goal of this litigation has been met. Nordrehaug Decl. ¶8(d).

V. THE REQUESTED ATTORNEYS' FEES, COSTS AND SERVICE AWARD SHOULD BE APPROVED

A. The Attorneys' Fees are Reasonable and Supported by the Percentage of the Fund Method

Class Counsel seeks a fee award calculated at one-third (1/3) of the total value of the settlement for the successful prosecution and resolution of this action. California state and federal courts have recognized that an appropriate method for determining award of attorneys' fees is based on a percentage of the total value of benefits to class members by the settlement. *Wershba v. Apple Computer, Inc.*, 91 Cal.App.4th 224, 254 (2001); *Serrano v. Priest*, 20 Cal.3d 25, 34 (1977); *Boeing Co. v. Van Gemert*, 444 U.S. 472, 478 (1980); *Vincent v. Hughes Air West, Inc.*, 557 F.2d 759, 769 (9th Cir. 1997). The purpose of this equitable doctrine is to avoid unjust enrichment to the Class and to "spread litigation costs proportionally among all the beneficiaries so that the active beneficiary does not bear the entire burden alone." *Vincent*, 557 F.2d at 769.

The California Supreme Court has provided guidance regarding the award of attorneys' fees in wage and hour class action settlements. Under California law, the award of attorneys' fees in common fund wage and hour class action settlements should start with the percentage method. See *Laffitte v. Robert Half Int'l*, 1 Cal. 5th 480, 503 (2016) ("We 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"). Under the percentage of the fund method, a court's objective remains to "mimic the

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[5] See *Glass v. UBS Fin. Servs.*, 2007 U.S. Dist. LEXIS 8476 (N.D. Cal. 2007) (approving a settlement where the settlement amount constituted approximately 25% of the estimated overtime damages for the class); *Stovall-Gusman v. W.W. Granger, Inc.*, 2015 U.S. Dist. LEXIS 78671, at *12 (N.D. Cal. 2015) (granting final approval where the settlement "represents approximately 10% of what class might have been awarded had they succeeded at trial."); *Viceral v. Mistras Grp., Inc.*, 2016 WL 5907869 (N.D. Cal. 2016) (approving wage and hour class action settlement amounting to 8.1% of full value); *Ma v. Covidien Holding, Inc.*, 2014 WL 2472316, (C.D. Cal. 2014) (approving wage and hour class action settlement worth "somewhere between 9% and 18%" of maximum valuation).

market" in fixing a reasonable fee. See *Gaskill v. Gordon*, 160 F.3d 361, 363 (7th Cir. 1998).

First, the fee award representing one-third of the fund clearly falls within that range and is consistent with other rulings of other courts and comprehensive surveys of class action settlements and fee awards. Attorneys' fees awards of one-third of the fund are within the expected range in the market in legal services. See Fitzpatrick, *An Empirical Study of Class Action Settlements and Their Fee Award*, 7 J. Empirical Leg. Stud. 811, 833 (2010) (analyzing 444 cases between 2006-2007 and concluding that "[m]ost fee awards were between 25 percent and 35 percent"). In *Laffitte*, the Court expressly approved of a one-third fee award. Such similar awards by other Courts are set forth in the Nordrehaug Decl. ¶11.

Second, the results delivered by Class Counsel also support the requested percentage of the fund. Here, Plaintiff and his counsel secured a $1,235,000 settlement for the benefit of the Class, and not one Class Member objected. The Settlement was possible only because Class Counsel was able to convince Defendant that Plaintiff could potentially prevail on the contested issues regarding liability, maintain class certification, overcome difficulties in proof as to monetary relief and take the case to trial if need be. Nordrehaug Decl. ¶10(f). In successfully navigating these hurdles Class Counsel displayed the necessary skills in both wage and hour and class action litigation. Moreover, as discussed above, there were significant risks to the contingent litigation. See *Barbosa v. Cargill Meat Solutions Corp.*, 297 F.R.D. 431, 449 (E.D. Cal. 2013) ("**Like this case, where recovery is uncertain, an award of one-third of the common fund as attorneys' fees has been found to be appropriate**.")

Third, "the response of the class members to attorneys' fee notice, though not decisive, is relevant to the … reasonable determination" regarding fees. *Swedish Hospital v. Shalala*, 1 F.3d 1261, 1272 (D.C. Cir. 1993). A positive response rate tends to suggest that the court's "approximation of the market" for fees is well supported. Id. at 1269. Here, the Class Notice specifically notified the Class that Class Counsel would be seeking a one-third fee award. Again, there were no objections.

Fourth, it is recognized that one of the primary factors justifying an enhanced attorney's fees reward is the attendant risks inherent in the litigation. Here, it is clear that a settlement fund of $1,235,000 has been created. For Class Counsel, the fees here were wholly contingent in nature and the case presented far more risk than the usual contingent fee case. Among the risks was the cost inherent in class action litigation, as well as a long battle with a corporate Defendant who had retained a premier and highly experienced defense firm. **Counsel retained on a contingency fee basis, whether in private matters or in class action litigation, is entitled to a premium above their hourly rate in order to compensate for both the risks and the delay in payment.** *See e.g. Stanger v. China Elec. Motor, Inc.*, 812 F.3d 734, 741 (9th Cir. 2016) (courts "must" apply a risk enhancement); *Stetson v. Grissom*, 821 F.3d 1157, 1166 (9th Cir. 2016) (abuse of discretion not to apply risk multiplier).

Fifth, the requested fee award is supported by the lodestar cross-check. The reasonableness of the requested attorneys' fee of one-third equal to $433,333 is also established by reference to Class Counsel's lodestar in this matter. **The contemporaneous billing records for Class Counsel evidence that through July 22, 2026, Class Counsel's total lodestar is $161,195.00, with significant additional fees still to be incurred to complete final approval and the settlement process**. (Nordrehaug Decl. at ¶12 and Exhibit #3.) The requested fee award is therefore currently equivalent to Class Counsel's total lodestar with a reasonable multiplier of less than 2.7, and there will be additional lodestar incurred by Class Counsel to complete the settlement process and manage the settlement distribution and reports. (Nordrehaug Decl. at ¶12.) Such a multiplier is within the range of multipliers approved in other cases such as *Laffitte* and *Vizcaino v. Microsoft Corp.*, 290 F.3d 1043, 1051 (9th Cir. 2002).[6] As noted in *Laffitte*, the lodestar multiplier cross-check "does not override the trial court's primary determination of the fee as a percentage of the common fund" and Courts may only consider adjustment when the "cross-check is extraordinarily high or low". *Laffitte*, *supra*, 1 Cal. 5th at 505. For such reasons, Class Counsel's request for attorneys' fees is reasonable and should be approved.

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[6] See *Johnson v. Brennan*, 2011 U.S. Dist. LEXIS 105775 (S.D.N.Y. 2011) ("Courts regularly award lodestar multipliers from two to six times lodestar"); *Buccellato v. At&T Operations, Inc.,* 2011 U.S. Dist. LEXIS 85699, at *4 (N.D. Cal. 2011) ("multiplier of 4.3 is reasonable"); *Vizcaino supra*, at 1051(3.65 multiplier approved); *Laffitte*, *supra*, 1 Cal. 5th at 487 (approving 1/3 fee award with multiplier of 2.13); *Pellegrino v. Robert Half Intern., Inc*., 182 Cal.App.4th 278 (2010) (in class actions reasonable multipliers of 2.0 to 4.0 are often applied); *Wershba*, 91 Cal. App. 4th at 255 ("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); *Taylor v. Fedex Freight, Inc.*, 2016 U.S. Dist. LEXIS 142202 (E.D. Cal. 2016) (2.26 multiplier).

B. The Reimbursement of Litigation Expenses

The Agreement provides at paragraph 3.2(b), that Class Counsel may seek a "Class Counsel Litigation Expenses Payment of not more than $30,600." Class Counsel requests reimbursement for incurred litigation expenses and costs in the amount of $28,840.19. Class Counsel have incurred $28,840.19 based upon counsel's billing records. These litigation expenses include the expenses incurred for filing fees, mediation expenses, expert expenses (Berger Consulting), attorney service charges (Knox, OneLegal), and delivery charges (FedEx), all of which are costs normally billed to and paid by the client.[7] The details of the litigation expenses incurred are set forth the Nordrehaug Decl. at ¶13 and Exhibit #3. These costs were reasonably incurred in the prosecution of the Action. (Nordrehaug Decl. at ¶13.) Because these costs were necessary to the successful prosecution of these claims, the request should be granted.

C. The Service Award Is Reasonable and Should be Approved

Plaintiff respectfully submit that for his service as the sole class representative, Plaintiff should be awarded the agreed service award of $25,000, in accordance with the Agreement for his time, risk and effort expended on behalf of the Class as the class representative. (Agreement at ¶ 3.2(a).) Defendant has agreed to this payment and there have been no objections to the requested service award. The Nordrehaug Decl., at ¶14, provides a long list of equivalent service awards approved in California in similar cases, which further supports the request in this case. The Plaintiff's Declarations is submitted in support of this request and is attached as Exhibit #5 to the Nordrehaug Decl.

As the only representative of the Class, Plaintiff performed his duties to the Class admirably and without exception. Plaintiff worked extensively with Class Counsel during the course of the litigation, responding to numerous requests, searching for documents, working with counsel, and reviewing the settlement documentation. (Nordrehaug Decl. at ¶ 14.) The Plaintiff's Declaration details the involvement, stress and risks he undertook as a result of this Action. Plaintiff also assumed the serious

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[7] Nontaxable costs are properly awarded where authorized by the parties' agreement. *Stetson*, 821 F.3d at 1165. Accordingly, "[e]xpenses such as reimbursement for travel, meals, lodging, photocopying, long-distance telephone calls, computer legal research, postage, courier service, mediation, exhibits, documents scanning, and visual equipment are typically recoverable." *Rutti v. Lojack Corp., Inc.*, 2012 WL 3151077, at *12 (C.D. Cal. 2012).

risk that he might possibly be liable for costs and fees to Defendant, as well as the reputational risk of being "blacklisted" by other future employers for having filed a class action on behalf of employees. (Nordrehaug Decl. at ¶15.) Without the Plaintiff's participation, cooperation and information, no other employees would be receiving any benefit. (Nordrehaug Decl. at ¶¶ 15-16).

The payment of a service award to a successful class representative is appropriate and the amount of $25,000 is within the currently awarded range for similar settlements. *See, e.g.*, *Louie v. Kaiser Foundation Health Plan, Inc.*, 2008 WL 4473183, *7 (S.D.Cal. Oct. 06, 2008) (awarding $25,000 service award to each of six plaintiffs); *Glass v. UBS Fin. Servs.*, 2007 WL 221862, *16-17 (N.D. Cal. 2007) (awarding $25,000 service award); *Andrews v. Plains All Am. Pipeline L.P.*, 2022 U.S. Dist. LEXIS 172183, at *11 (C.D. Cal. 2022) (service awards of $15,000 each are appropriate); *Reynolds v. Direct Flow Med., Inc.*, 2019 U.S. Dist. LEXIS 149865, at *19 (N.D. Cal. 2019) (granting$12,500 service award); *Mathein v. Pier 1 Imps. (U.S.), Inc.,* 2018 U.S. Dist. LEXIS 71386 (E.D. Cal. 2018) (awarding $12,500 where average class member payment was $351). Class Counsel respectfully request approval of the Class Representative Service Payment in accordance with the Agreement.

VI. CONCLUSION

Plaintiff respectfully submits that the proposed settlement satisfies the standard of fairness established in California law and should therefore be finally approved as fair, reasonable and adequate and requests entry of the Final Approval Order and Judgment, submitted herewith.

Respectfully submitted,

Dated: July 22, 2026

BLUMENTHAL NORDREHAUG BHOWMIK DE BLOUW LLP

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