

Armond M. Jackson, SBN 281547
ajackson@jacksonapc.com
Andrea M. Fernandez-Jackson, SBN 295924
afernandez@jacksonapc.com
Anthony S. Filer, Jr., SBN 337704
afilier@jacksonapc.com
JACKSON LAW, APC
2 Venture Parkway, Suite 240
Irvine, California 92618
Phone: (949) 281-6857
Fax: (949) 777-6218

Attorneys for Plaintiff Karla Godinez,
individually, and on behalf of all other
similarly situated employees

UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA

KARLA GODINEZ, as an individual
and on behalf of other similarly
situated employees,

Plaintiff,

v.

MERRITT HOSPITALITY, LLC, a
Delaware limited liability company,
and DOES 1-50, inclusive,

Defendant.

Case No.: 8:20-cv-00941-JWH-KES

*Assigned for all purposes to the
Honorable John W. Holcomb &
Magistrate Judge Karen E. Scott*

**MEMORANDUM OF POINTS
AND AUTHORITIES IN SUPPORT
OF MOTION FOR ATTORNEYS'
FEES, COSTS, AND EXPENSES,
AND A CLASS
REPRESENTATIVE INCENTIVE
AWARD**

Date: January 19, 2024

Time: 9:00 a.m.

Place: Courtroom 9D

Action Filed: January 29, 2020
(Orange County Superior Court, Case
No. 30-2020-01127848-CU-OE-CXC)
Trial Date: None

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1 **I. Introduction.**

2 On Plaintiff Karla Godinez brought this class action to enforce the rights of
3 hundreds of current and former employees of Defendant Merritt Hospitality, LLC,
4 (referred herein as “Defendant”) (collectively with Plaintiff, the “Parties”). Despite
5 the risk and uncertainty associated with litigating the claims, Plaintiff secured a
6 \$1,750,000.00 non-reversionary settlement that will provide timely monetary relief
7 to the Settlement Class.

8 Consistent with the terms of the Parties’ settlement, Plaintiff now moves for
9 an award of \$437,500.00 in attorneys’ fees, \$13,505.60.00 in litigation costs and
10 expenses, and a \$5,000.00 incentive award for her service on behalf of the
11 Settlement Class and for a general release of all claims arising out of her
12 employment with Defendants. This motion is unopposed by Defendant.

13 In evaluating the reasonableness of Plaintiff’s fee request, the Court should
14 consider that Plaintiff’s counsel, Jackson Law, APC (“Plaintiff’s Counsel”),
15 litigated this action on a purely contingent basis, having advanced just over 500.8
16 hours reasonably valued at approximately \$352,624, along with approximately
17 \$13,505.60 in costs, to vindicate Plaintiff’s rights and the rights of all other
18 similarly situated employees under the California Labor Code. Plaintiff’s Counsel
19 conducted a thorough investigation into Plaintiff’s claims and Defendants’
20 defenses. This investigation entailed a careful analysis of thousands of pages of
21 documents produced by Defendants. As a result of that investigation, Plaintiff’s
22 Counsel were able to position the case for settlement, and ultimately secured a
23 settlement that provides valuable relief for the Settlement Class, averaging over
24 \$312 per Class Member.

25 Likewise, Plaintiff deserves an incentive award for putting the interests of
26 the Class ahead of her own, exposing herself to the risk of extra scrutiny by
27 prospective employers who may look disapprovingly on litigious employee
28

1 candidates, investing her time and effort in assisting in the prosecution of this
2 action, and for providing Defendant a general release that is much broader than the
3 releases provided by all other Class Members.

4 For the reasons set forth in greater detail below, Plaintiff respectfully
5 submits that the requested attorneys' fees, costs and expenses, and incentive award
6 are fair and reasonable, and should be approved.

7 **II. ARGUMENT**

8 **A. Plaintiff's Request for Attorneys' Fee Should Be Evaluated Under a** 9 **Deferential Standard**

10 Courts have encouraged litigants to resolve fee issues by agreement. *See*
11 *Hanlon v. Chrysler Corp.*, 150 F.3d 1011, 1029 (9th Cir. 1998). This is consistent
12 with the strong public policy of encouraging and approving non-collusive
13 settlements, including those in class actions, and avoiding a "second major
14 litigation" arising from a request for attorneys' fees after the matter has been
15 resolved. *Hensley v. Eckerhart*, 461 U.S. 424, 437 (1983) ("Ideally, of course,
16 litigants will settle the amount of a fee"). In light of the policy favoring settlement
17 of fee disputes, district courts must account for the fact that "the parties are
18 compromising to avoid litigation." *Laguna v. Coverall North America*, 753 F.3d
19 918, 922 (9th Cir. 2014), *vac'd on other grounds*, 2014 U.S. App. LEXIS 21950
20 (9th Cir. 2014). Accordingly, the Ninth Circuit holds that "the court need not
21 inquire into the reasonableness of the fees even at the high end with precisely the
22 same level of scrutiny as when the fee amount is litigated." *Id.* (quoting *Staton v.*
23 *Boeing Co.*, 327 F.3d 938, 966 (9th Cir. 2003) (internal quotations omitted;
24 emphasis added). Thus, while the Court must conduct an independent inquiry into
25 the reasonableness of the fee request, it should give substantial weight to the
26 parties' agreement as to the reasonableness of the amount of attorneys' fees.

1 These considerations are particularly appropriate where, as here, the parties
2 negotiated the settlement at arm's-length with mediator Mark Rudy, Esq.'s
3 guidance. *In re Apple Computer, Inc. Derivative Litig.*, No. C 06-4128 JF (HRL),
4 2008 U.S. Dist. LEXIS 108195 *12 (N.D. Cal. Nov. 5, 2008) (mediator's
5 participation weighs considerably against any inference of a collusive settlement);
6 *D'Amato v. Deutsche Bank*, 236 F.3d 78, 85 (2d Cir. 2001) (a "mediator's
7 involvement in . . . settlement negotiations helps to ensure that the proceedings
8 were free of collusion and undue pressure."). The settlement negotiations were
9 adversarial and non-collusive, and the resulting settlement of attorneys' fees, as a
10 function of the overall settlement's value, is likewise fair, reasonable, and free of
11 collusion.

12 **B. The Court Should Calculate Reasonable Attorney's Fees Under the**
13 **Lodestar Method**

14 In diversity actions, federal courts must apply state law in determining
15 whether a party has a right to attorneys' fees and how to calculate those fees.
16 *Mangold v. Calif. Public Utilities Comm'n*, 67 F.3d 1470, 1478 (9th Cir. 1995)
17 ("Ninth Circuit precedent has applied state law in determining not only the right to
18 fees, but also in the method of calculating the fees"). The state law governing the
19 underlying claims in a diversity action "also governs the award of fees." *Vizcaino*
20 *v. Microsoft Corp.*, 290 F.3d 1043, 1047 (9th Cir. 2002).¹

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22
23
24
25 ¹ Class actions removed under the Class Action Fairness Act of 2005 (CAFA) are
26 diversity actions. See *Bush v. Cheaptickets, Inc.*, 425 F.3d 683, 684 (9th Cir. 2005) (CAFA
27 "broadens diversity jurisdiction for certain qualifying class actions and authorizes their removal .
28 . . ."). As the Ninth Circuit observed, "even after CAFA's enactment, *Erie*-related doctrines
ensure that, for the most part, removal of a CAFA case from state to federal court produces a
change of courtrooms and procedure rather than a change of substantive law." *McAtee v. Capital*
One, F.S.B., 479 F.3d 1143, 1147 (9th Cir. 2007).

1 Here, Plaintiff is entitled to statutory attorneys' fees under the fee-shifting
2 provisions of California Labor Code sections 226(e),² 1194(a),³ and 2699(g)(1),⁴
3 because she has successfully litigated and settled claims arising out of Defendant's
4 alleged failure to comply with the Labor Code. These fee-shifting statutes are
5 designed to create financial incentives for qualified attorneys to take on
6 meritorious cases in which the recoveries may be so small that it would be unlikely
7 for attorneys to accept the representation on a percentage-of-the-recovery basis.
8 See *Graham v. DaimlerChrysler Corp.*, 34 Cal. 4th 553, 580 (2004) (affirming the
9 primacy of the lodestar method for awarding statutory fees)

10 Under California law, the lodestar method is the "starting point of every fee
11 award." *Serrano v. Priest*, 20 Cal. 3d 25, 35 (1977) ("*Serrano III*"). For any fee
12 application subject to a statutory award, the court should "presume that the
13 Legislature intended courts to use the prevailing lodestar adjustment method."
14 *Ketchum v. Moses*, 24 Cal. 4th 1122, 1136 (2001). The lodestar is produced by
15 multiplying the number of hours reasonably expended by counsel by a reasonable
16 hourly rate. *Ketchum*, 24 Cal. 4th at 1134-36. This method best compensates
17 successful counsel for "all the hours reasonably spent, including those relating
18 solely to the fee." *Id.* at 1133. As the California Supreme Court held, "[a]nchoring
19 the analysis to [the lodestar] is the only way of approaching the problem that can
20 claim objectivity, a claim which is obviously vital to the prestige of the bar and the
21 courts." *Serrano III*, 20 Cal. 3d at 48 n.23.

22
23
24 ² Labor Code section 226(e) ("An employee suffering injury as a result of a knowing and
25 intentional failure by an employer to comply with subdivision (a) is entitled to . . . an award of
26 costs and reasonable attorney's fees.")

27 ³ Labor Code section 1194(a) ("[A]ny employee receiving less than the legal minimum
28 wage or the legal overtime compensation applicable to the employee is entitled to recover in a
civil action the unpaid balance of the full amount of this minimum wage or overtime
compensation, including interest thereon, reasonable attorney's fees, and costs of suit.")

⁴ Cal. Lab. Code § 2699(g)(1) ("Any employee who prevails in any action shall be
entitled to an award of reasonable attorney's fees and costs.")

Moreover, “[t]he contingent and deferred nature of the fee award ... requires that the fee be adjusted in some manner to reflect the fact that the fair market value of legal services” *Horsford v. Board of Trustees*, 132 Cal. App. 4th 359, 394-95 (2005) (emphasis added). To reflect the correct market price for the risks taken in high-stakes contingent legal services, courts apply a multiplier to the base lodestar. *Ketchum*, 24 Cal. 4th at 1138. Thus, any statutory fee awarded to prevailing attorneys must account for contingent risk, generally by adjusting the base lodestar with a risk multiplier.

Furthermore, in fixing fees under the lodestar method, successful attorneys should recover “all attorney fees reasonably expended, without limiting the fees to a proportion of [the] actual recovery.” *Graciano*, 144 Cal. App. 4th at 164. “[T]here is ‘no mathematical rule requiring proportionality between compensatory damages and attorneys’ fees award.’” *Harman v. City and County of San Francisco*, 158 Cal. App. 4th 407, 421 (2007) (citation omitted).

For instance, in *Harman*, the court affirmed a fee award of \$1.1 million on damages of \$33,300 under the Civil Rights Act after determining that it cannot be tied to a proportion of the recovery. *Id.* at 419-22. Indeed, no actual monetary recovery is required at all; rather, courts will award fees so long as the suit resulted in the benefits contemplated by statute. *See Graham*, 34 Cal. 4th at 570-76 (holding that a dismissed action that led to a recall warrants full compensatory attorneys’ fees using the lodestar multiplier method); *County of Los Angeles v. Super. Ct.*, 21 Cal. 4th 292, 304 n.2 (1999) (explaining that a small amount in damages can “justify a substantial amount of attorneys’ fees” due to the importance of deterrence).

1 The non-proportionality rule applies generally to attorneys prosecuting
2 employment cases.⁵ See, e.g., *Taylor v. Nabors Drilling U.S.A.*, 222 Cal. App. 4th
3 1228 (2014) (affirming \$680,520 in attorneys' fees on a \$150,000 recovery in an
4 employment discrimination case).⁶ These principles govern the determination of
5 reasonable fees for Plaintiff's Counsel.

6 **C. Plaintiff's Counsel's Lodestar is the Product of Reasonable Hourly**
7 **Rates and Hours Billed to the Litigation**

8 To determine whether an attorney's charged rate is reasonable, the Court
9 must evaluate whether that rate is "within the range of reasonable rates charged by
10 and judicially awarded comparative attorneys for comparable work." *Children's*
11 *Hospital & Med. Ctr. v. Bontá*, 97 Cal. App. 4th 740, 783 (2002). Determination of
12 a reasonable rate is derived from the community "where the services are rendered."

13
14 ⁵ And it applies with equal force to PAGA cases. See *Salas v. Hallmark Aviation Services*
15 *LP*, No. BC586585 (Los Angeles County Superior Court February 17, 2017) (awarding plaintiff
16 \$600,000 in attorneys' fees on PAGA penalties totaling \$605,000); *Monroe v. Continental*
17 *Design Co., Inc.*, No. RG16817667 (Alameda County Superior Court June 21, 2017) (awarding
18 plaintiff \$110,000 in fees on PAGA penalties totaling \$90,000); *Ramirez v. Benito Valley Farms,*
19 *LLC*, No. 16-CV-04708-LHK, 2017 WL 3670794, at *6 (N.D. Cal. Aug. 25, 2017) (awarding
20 attorneys' fees under the lodestar method with no regard to the proportion of the fees to civil
21 penalties)

22 ⁶ Plaintiffs who prevail on a private attorney general action are also not limited to a
23 proportion of the damages recovered. See *Building a Better Redondo, Inc. v. City of Redondo*
24 *Beach*, 203 Cal. App. 4th 852, 870-73 (2012) (awarding fees under the private attorney general
25 statute in an action to compel a city to put a measure on the ballot); *Vo v. Las Virgenes Mun.*
26 *Water Dist.*, 79 Cal. App. 4th 440, 445 (2000) (affirming a \$470,000 fee award when plaintiff
27 recovered only \$37,500); *Engel v. Washington*, 60 Cal. App. 4th 628, 635 (1997) (a plaintiff who
28 recovered only \$250 "may well be entitled to every penny of the requested [\$80,875] fee award"
and that "[t]o deny him the full amount of requested fees would be tantamount to finding that the
fees were unreasonable per se, some of his efforts unwarranted, or his goals unworthy"). Outside
of common fund recoveries, the rule that fees cannot be tied to proportional recovery applies
across the board, to all types of cases involving fee-shifting statutes, in both federal and state
courts. See, e.g., *City of Riverside v. Rivera*, 477 U.S. 561, 578-79 (1986) (awarding \$245,000 in
attorneys' fees for damages of \$33,350); *Hasbrouck v. Texaco, Inc.*, 879 F.2d 632, 639 (9th Cir.
1989) ("[T]here is no reason to treat attorney's fees in antitrust cases under [the Clayton Act]
different from attorney's fees in civil rights cases under section 1988. We have recognized the
public benefit of antitrust litigation."); *Lytle v. Carl*, 382 F.3d 978, 988 (9th Cir. 2004) (fee
award more than three times damages); *Fair Housing of Marin v. Combs*, 285 F.3d 899 (9th Cir.
2002) (affirming \$508,606 fee award that was more than five times damages awarded); *Niederer*
v. Ferreira, 189 Cal. App. 3d 1485 (1987) (applying the anti-proportionality logic in an action to
collect from the guarantor of a note).

1 *MBNA Am. Bank v. Gorman*, 147 Cal. App. 4th Supp. 1, 13 (2006). Here, the
2 hourly rates for Plaintiff’s Counsel have been approved by district courts in this
3 circuit on numerous occasions over the past few years.

4 Court orders are particularly probative in determining whether a requested
5 rate is reasonable since they reflect a judicial determination that the charged rates
6 are within a reasonable range. *See Margolin v. Regional Planning Com.*, 134 Cal.
7 App. 3d 999, 1005 (1982) (rejecting the defendant’s attacks on prior court orders
8 and deeming such orders to be highly probative of rates).

9 To evaluate hours worked, the general principle is that “the attorney who
10 takes [a statutory fee shifting] case can anticipate receiving full compensation for
11 every hour spent litigating a claim even against the most polemical opponent.”
12 *Weeks v. Baker & McKenzie*, 63 Cal. App. 4th 1128, 1175 (1998). However, courts
13 should not be “enmeshed in a meticulous analysis of every detailed facet of the
14 professional representation.” *Serrano v. Unruh*, 32 Cal. 3d 621, 642 (1982).
15 Rather, “[t]he essential goal in shifting fees (to either party) is to do rough justice,
16 not to achieve auditing perfection.” *Fox v. Vice*, 131 S. Ct. 2205, 2216 (2011). In
17 determining the reasonableness of the hours expended, “the court should defer to
18 the winning lawyer’s professional judgment as to how much time he was required
19 to spend on the case; after all, he won, and might not have, had he been more of a
20 slacker.” *Kerkeles v. City of San Jose*, 243 Cal. App. 4th 88, 196 Cal. Rpt. 3d 252,
21 265 (2015) (quoting *Moreno v. City of Sacramento*, 534 F.3d 1106, 1112 (9th Cir.
22 2008)). Whether attorneys expended reasonable hours in pursuit of the litigation is
23 the major building block of any fee award. *See Serrano v. Unruh*, 32 Cal. 3d at 632
24 (“absent facts rendering the award unjust, parties who qualify for a fee should
25 recover for all hours reasonably spent.”). Typically, all time reasonably spent by
26 prevailing attorneys during the course of litigation should be awarded if it is the
27 type of work that would be paid by a fee-paying client. *Hensley v. Eckerhart*, 461
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1 U.S. 424, 431 (1983). Here, the attorneys' hours were expended towards the
2 prosecution of the Labor Code claims in this matter. (Jackson Decl. ¶ 7, Ex. B.)
3 The Laffey Matrix is one well-established objective source setting rates for
4 attorneys based upon years of experience for attorneys practicing in the District of
5 Columbia. See <https://www.justice.gov/usao-dc/file/796471/download> (citing
6 *Laffey v. Northwest Airlines, Inc.*, 572 F.Supp. 354 (D.D.C. 1983), *aff'd* in part,
7 *rev'd* in part on other grounds. 746 F.2d 4 (D.C.Cir. 1984). The Jackson
8 Declaration lays the proper foundation for why the hourly rates charged for each
9 attorney working on this case is reasonable and customary for those rates charged
10 by attorneys with similar experience. (Jackson Decl. ¶¶ 2-6, 8, Ex. C) Mr.
11 Jackson's hourly rate on this matter was \$725. (Jackson Decl. ¶ 8, Ex. C) Mr.
12 Jackson is a senior attorney who has been litigating for approximately 12.5 years.
13 (*Id.*) Mr. Jackson has handled over a hundred of employment matters on behalf of
14 the plaintiff in his career. (Jackson Decl. ¶¶ 2-6) Mr. Jackson has argued before the
15 Ninth Circuit and responsible for a published opinion. (*Id.*) Based on his and
16 experience, and based on his own research for purposes of keeping his law firm
17 competitive and profitable, he has knowledge of the hourly rates other plaintiff's
18 attorneys with similar experience charge in employment cases. (*Id.*) Based on this
19 foundation, Mr. Jackson believes that his regular hourly rate of \$725 per hour
20 (Laffey Matrix \$829 for 11-19 year attorneys) is reasonable and similar to what
21 attorneys with his tenure, experience and expertise. (Jackson Decl. ¶¶ 2-6, 8, Ex.
22 C) The other attorneys and staff whom worked on this matter are comprised of
23 Andrea Fernandez-Jackson whom is an 9-year California licensed attorney whom
24 has also argued before the Ninth Circuit with a billable rate of \$515 per hour
25 (Laffey Matrix \$733 for 9-10 year attorneys) which should be considered
26 reasonable. Another attorney at my office Anthony Filer Jr. also worked on this
27 matter whom is a 2 year California licensed attorney with a billable rate of \$250
28

1 per hour (Laffey Matrix \$413 for 1-3 year attorneys) which should be considered
2 reasonable. (*Id.*) Yesenia Villalba whom is a paralegal with over five years of legal
3 experience with a billable rate of \$145 per hour (Laffey Matrix \$225 for
4 Paralegals) which should be considered reasonable. (*Id.*) This evidence therefore
5 supports the reasonableness of the fees charged in this case. “Our Supreme Court
6 has explained that the reasonable hourly rate used for the lodestar calculation ‘is
7 that prevailing in the community *for similar work*.’” *Syers Properties III, Inc. v.*
8 *Rankin*, 226 Cal.App.4th 691, 702, (2014). Reasonable hourly rates are determined
9 by the formula “‘reasonable market value’” and reached by evaluating the
10 “‘comparable salaries earned by private attorneys with similar experience and
11 expertise in equivalent litigation’” and the “‘hourly amount to which attorneys of
12 like skill in the area would typically be entitled.’” (*Serrano v. Unruh*, 32 Cal. 3d
13 621, 640, fn. 31 (1982).)

14 As explained in the declaration of Armond Jackson, the current billing rates
15 for attorneys and staff on this case are below the prevailing billing "market" rates
16 established by the Laffey Matrix. (Jackson Decl. ¶ 2-8, Ex. B-C)

17 Plaintiff’s Counsel’s lodestar of approximately \$352,624 reflects their
18 standard billing rates for billable attorney time expended litigating this action
19 multiplied by their expended hours of 500.8. (Jackson Decl. ¶ 7, Ex. B.) Here, the
20 requested fee amount of \$437,500.00 which represents the 25% standard
21 benchmark award in this district. *See Glass v. UBS Fin. Servs., Inc.*, 2007 WL
22 221862, at *14 (N.D. Cal. Jan. 26, 2007), *aff’d*, 331 F. App’x 452 (9th Cir. 2009)
23 (stating that ‘[t]he Ninth Circuit has repeatedly held that 25% of the gross
24 settlement amount is the benchmark for attorneys’ fees”).

1 **D. Given the Contingent Nature of this Suit, Results Obtained and**
2 **Complexity of the Case, Plaintiff’s Counsel Is Entitled to the 25%**
3 **Standard Benchmark Award**

4 Plaintiff’s Counsel is entitled to the standard 25% benchmark fee request
5 based on factors most commonly cited by courts, including: (1) the results
6 obtained; (2) the contingent nature of the fee award; and (3) the novelty and
7 difficulty of the questions involved. *See Serrano III*, 20 Cal. 3d at 49; *Thayer v.*
8 *Wells Fargo Bank*, 92 Cal. App. 4th 819, 835 (2001) (recognizing “results
9 obtained” as a factor). Based on the facts here, Plaintiff’s Counsel could have
10 sought a multiplier of 1.5 or higher. *See, e.g., Graham*, 34 Cal. 4th at 579
11 (authorizing the application of a 2.25 multiplier); *Cates v. Chang*, 213 Cal. App.
12 4th 791, 823 (2013) (awarding a multiplier of 1.85).

13 First, attorneys that achieve a high level of success in the litigation are
14 entitled to a multiplier. *Graham*, 34 Cal. 4th at 583. Plaintiff’s Counsel overcame
15 Defendant’s aggressive defense to secure a \$1,750,000 non-reversionary settlement
16 that will pay Class Members on average over \$312. This successful result merits a
17 standard 25% benchmark fee award.

18 Second, courts have recognized that contingent-fee attorneys like Plaintiff’s
19 Counsel should obtain a larger fee than the market-value if their services help to
20 secure adequate representation for plaintiffs unable to afford accomplished
21 attorney hourly rates. *See Ketchum*, 24 Cal. 4th at 1132 (“[A] contingent fee
22 contract, since it involves a gamble on the result, may properly provide for a larger
23 compensation than would otherwise be reasonable.”). This risk is particularly acute
24 for contingency fee attorneys because they “must use savings or incur debt to keep
25 their offices afloat and their families fed during the years-long litigation.”
26 *Horsford*, 132 Cal. App. 4th at 400.

1 Here, Plaintiff's Counsel advanced attorney time and expenses for years of
2 litigation, with no guarantee of realizing any returns. Under California law, courts
3 authorize a 1.5 multiplier ***for the contingent risk factor alone***, without the
4 presence of other factors. *See Ctr. for Biological Diversity v. Cty. of San*
5 *Bernardino*, 185 Cal. App. 4th 866, 900 (2010) (affirming a 1.5 risk multiplier in a
6 non-complex statutory case and expressly rejecting the application of other
7 multiplier factors). *See also Amaral v. Cintas Corp. No. 2*, 163 Cal. App. 4th 1157,
8 1174 (2008) (affirming a 1.65 contingent risk multiplier in a wage and hour class
9 action, explaining that "counsel risked never receiving any compensation *at all*"
10 (emphasis in original)); *Pellegrino v. Robert Half Int'l*, 182 Cal. App. 4th 278, 292
11 (2010) (affirming a 1.75 multiplier due, in part, to "Plaintiff's Counsel not being
12 paid for their work in the event that [defendant] prevailed on [an] affirmative
13 defense."). A standard 25% benchmark request is warranted which would result in
14 a 1.24 multiplier.

15 Third, as explained above, throughout this litigation, Plaintiff's Counsel had
16 to contend with novel and complex issues. Indeed, the Ninth Circuit has
17 recognized that complex litigation is often necessary to effectively enforce
18 workplace protection legislation:

19
20 The California Labor Code protects all workers regardless of their
21 immigration status or financial resources. In light of the small size of
22 the putative class members' potential individual monetary recovery,
23 class certification may be the only feasible means for them to adjudicate
24 their claims.
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1 *Leyva v. Medline Indus.*, 716 F.3d 510, 515 (9th Cir. 2013). By obtaining a
2 significant recovery for the class, Plaintiff's Counsel have vindicated the rights of
3 workers and enforced compliance with important workplace regulations.⁷

4 Plaintiff's Counsel's skillful handling of challenging and complex issues
5 would therefore warrant a multiplier under California law. *See, e.g., City of*
6 *Oakland v. Oakland Raiders*, 203 Cal. App. 3d 78 (1988) (justifying a 2.34
7 multiplier in part on novelty and complexity of issues); *Edgerton v. State*
8 *Personnel Bd.*, 83 Cal. App. 4th 1350, 1353 (2000) (affirming a 1.5 multiplier
9 based in part on skill displayed in overcoming intransigent opponent). Here,
10 Plaintiff's 1.24 multiplier request is reasonable.

11 In short, by facing a tenacious opponent, the potential for total defeat
12 remained high. Since a risk multiplier of 1.5 or greater would otherwise be justified
13 under these circumstances, Plaintiff's Counsel's 1.24 multiplier fee request is
14 reasonable and should be approved.

15 **E. The Plaintiff's Counsel's Out-Of-Pocket Expenses Should be**
16 **Reimbursed**

17 Defendant has agreed to pay Plaintiff's Counsel's litigation expenses as part
18 of the negotiated fees. For these expenses, the rule is that prevailing parties may
19 recover, as part of statutory attorneys' fees, "litigation expenses...when it is 'the
20 prevailing practice in the given community' for lawyers to bill those costs
21 separately from their hourly rates." *Trs. of the Constr. Indus. and Laborers Health*
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23
24 ⁷ Additionally, the public interest served by the lawsuit likewise supports the requested
25 award of attorneys' fees. In *Lealao*, 82 Cal. App. 4th 19, the court held that in determining the
26 appropriate award of attorneys' fees, the trial court should consider the need to encourage the
27 private enforcement necessary to vindicate many legal rights, as well as the role that
28 representative actions play in relieving the courts of the need to separately adjudicate numerous
claims. Given the result, this action will undoubtedly deter other similarly situated employers
from taking advantage of their employees. In a related vein, unless competent attorneys are fully
compensated when they take on large corporate defendants, unlawful practices at issue here will
likely go unchecked.

1 *and Welfare Trust v. Redland Ins. Co.*, 460 F.3d 1253, 1258 (9th Cir. 2006)
2 (citation omitted). In California, attorneys are reimbursed for out-of-pocket
3 expenses “such as ‘1) meals, hotels, and transportation; 2) photocopies; 3) postage,
4 telephone, and fax; 4) filing fees; 5) messenger and overnight delivery; 6) online
5 legal research; 7) class action notices; 8) experts, consultants, and investigators;
6 and 9) mediation fees.’” *Johnson v. General Mills, Inc.*, No. 10-00061-CJC, 2013
7 U.S. Dist. LEXIS 90338, *20-*21 (C.D. Cal. June 17, 2013) (quoting *In re Immune*
8 *Response Sec. Litig.*, 497 F. Supp. 2d 1166, 1177 (S.D. Cal. 2007) (both courts
9 awarding the requested expenses, including for expert witnesses, mediation,
10 photocopying and computerized research).

11 **F. The Proposed Class Representative Incentive Award is Fair and**
12 **Reasonable**

13 “Incentive awards are fairly typical in class action cases . . . Such awards are
14 discretionary and are intended to compensate class representatives for work done
15 on behalf of the class” *Rodriguez v. West Publ’g Corp.*, 563 F.3d 948, 958
16 (9th Cir. 2009) (citing *4 William B. Rubenstein et al., Newberg on Class Actions* §
17 11:38 (4th ed. 2008)). These payments work both as an inducement to participate
18 in the suit and as compensation for time spent in litigation activities. *See In re*
19 *Mego Fin. Corp. Sec. Litig.*, 213 F.3d 454, 463 (9th Cir. 2000), as amended (June
20 19, 2000) (describing the service award as an incentive to the class
21 representatives). So long as the incentive awards do not create a conflict of interest
22 between the representatives and class members, modest payments to the named
23 plaintiffs for their services as class representatives are customary and generally
24 approved. (*See Van Vranken v. Atl. Richfield Co.*, 901 F. Supp. 294, 300 (N.D. Cal.
25 1995). To determine whether the proposed incentive award is fair and reasonable,
26 many courts in the Ninth Circuit apply the “five-factor test set forth in *Van*
27 *Vranken.*” *Grant v. Capital Mgmt. Servs., L.P.*, No. 10-CV-2471-WQH BGS, 2014
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1 WL 888665, at *7 (S.D. Cal. Mar. 5, 2014). Under the *Van Vranken* test, courts
2 consider: (1) the risk to the class representative in commencing suit, both financial
3 and otherwise; (2) the notoriety and personal difficulties encountered by the class
4 representative; (3) the amount of time and effort spent by the class representative;
5 (4) the duration of the litigation and; (5) the personal benefit (or lack thereof)
6 enjoyed by the class representative as a result of the litigation.” *Van Vranken*, 901
7 F. Supp. at 299 (citations omitted). However, not all factors need to present.
8 Rather, the Court may weigh the factors and, award fees that are “just and
9 reasonable under the circumstances.” *See, e.g., In re Toys “R” Us-Del., Inc. Fair*
10 *& Accurate Credit Transactions Act (FACTA) Litig.*, 295 F.R.D. 438, 472 (C.D.
11 Cal. 2014) (citing *Van Vranken*, 901 F. Supp. at 299). Here, the proposed
12 \$5,000.00 incentive award is just and reasonable.

13 First, the incentive award is justified in light of the reputational risk that
14 Plaintiff has assumed by litigating claims against a former employer. *See*
15 *Billinghausen v. Tractor Supply Co.*, 306 F.R.D. 245, 267-68 (N.D. Cal. 2015)
16 (finding “personal detriment” upon testimony that future employers can easily
17 learn that a prospective employee served as a plaintiff through the internet);
18 *Guippone v. BH S&B Holdings LLC*, No. 09 Civ. 1029, 2011 U.S. Dist. LEXIS
19 126026, at **4, 20 (S.D.N.Y. Oct. 28, 2011) (“[T]he fact that a plaintiff has filed a
20 federal lawsuit is searchable on the internet and may become known to prospective
21 employers when evaluating the person . . . Even where there is not a record of
22 actual retaliation, notoriety, or personal difficulties, class representatives merit
23 recognition for assuming the risk of such for the sake of absent class members.”).
24 Employers commonly screen employee candidates to determine whether they have
25 ever filed suit, and employee candidates who might be branded “litigious” are
26 likely to be screened out of the process. In fact, an entire industry has developed
27 for providing employers with background information on employee candidates. By
28

1 bringing this action against an employer, Plaintiff has assumed reputational risk
2 that may impact her ability to find employment in the future. *La Fleur v. Medical*
3 *Management Intern, Inc.*, No. 13-00398-VAP, 2014 WL 2967475, *8 (C.D. Cal.
4 June 25, 2014) (awarding \$15,000 to each named plaintiff in part for attesting to
5 their fear that the lawsuit will harm their future job prospects in the industry).

6 Second, the incentive award should be awarded because Plaintiff “remained
7 fully involved and expended considerable time and energy during the course of the
8 litigation.” *In re Toys R Us-Delaware Inc.—Fair & Accurate Credit Transactions*
9 *Act (FACTA) Litig.*, 295 F.R.D. 438, 470 (C.D. Cal. 2014) (citation omitted). As
10 detailed in her declaration, Plaintiff expended considerable time and effort
11 assisting Plaintiff’s Counsel with the prosecution of the class’ claims, and her
12 contribution to the litigation should be rewarded. (Declaration of Named Plaintiff
13 Karla Godinez in Support of Unopposed Motion for Preliminary Approval of Class
14 Action Settlement, (“Godinez Decl.” ¶ 7)

15 In sum, due to Plaintiff’s effort, commitment, and personal sacrifice, all
16 Class Members can now benefit from a \$1,750,000 million settlement. Thus, the
17 proposed incentive award for Plaintiff’s service as a class representative, her
18 assistance in prosecuting the claims, and reviewing the proposed settlement to
19 ensure that its terms are fair and provide adequate relief for the Settlement Class,
20 and the risk of being branded “litigious” by prospective employers, is reasonable
21 and deserved.

22 **III. CONCLUSION**

23 For the foregoing reasons, Plaintiff respectfully requests the Court to award:
24 (1) attorneys’ fees in the amount of \$437,500.00; (2) out-of-pocket cost and
25 expenses in the amount of \$13,505.60; (3) a \$5,000.00 incentive award; (4) and
26 costs to the claims administrator in the amount of \$25,000.00.

1
2 Dated: December 22, 2023

Respectfully Submitted,

JACKSON LAW, APC

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4 By: /s/ Armond M. Jackson

5 Armond M. Jackson

6 Attorney for Plaintiff Karla Godinez
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