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SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF SAN DIEGO

JUNE GARCIA, an individual, on behalf of
herself and on behalf of all persons similarly
situated,

Plaintiff,

v.

HILTON RESORTS CORPORATION, a
Delaware corporation; HILTON GRAND
VACATIONS COMPANY, LLC, a Delaware
limited liability company; HILTON GRAND
VACATIONS MANAGEMENT, LLC, a
Nevada limited liability company; DOES 1-
50, Inclusive,

Defendants.

Case No. 37-2023-00024664-CU-OE-CTL

Action Filed: June 13, 2023

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

Date: July 25, 2025

Time: 10:30 a.m.

Judge: Hon. Loren G. Freestone

Department: C-64

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1 I. INTRODUCTION

2 Plaintiff JUNE GARCIA (hereinafter “Plaintiff”) seeks final approval of the Stipulation of
3 Settlement of Class and PAGA Action and Release of Claims (“Agreement”)¹, which if approved, would
4 provide valuable monetary relief for 209 Settlement Class Members and 140 PAGA Members employed
5 by Defendants HILTON RESORTS CORPORATION, HILTON GRAND VACATIONS COMPANY,
6 LLC, and/or HILTON GRAND VACATIONS MANAGEMENT, LLC (collectively “Defendants”)
7 during the Class Period. Plaintiff and Class Counsel also seek approval of the Class Counsel Award in
8 the amount of \$175,000.00 comprised of \$145,000.00 for attorneys’ fees (one-third of the Gross
9 Settlement Amount) and up to \$30,000.00 for reimbursement of actually incurred litigation expenses².

10 An objective evaluation of the proposed settlement of \$435,000.00 (“Gross Settlement Amount”)
11 confirms that the relief negotiated on behalf of the Class is fair, reasonable, and valuable. The
12 Settlement is a product of informed, adversarial, and non-collusive negotiations, between experienced
13 counsel, guided by the wisdom and experience of Hon. Brian C. Walsh (Ret.), an experienced wage
14 and hour class and PAGA action mediator. Declaration of Jean-Claude Lapuyade (“JCL Dec.”), ¶ 10.
15 Plaintiff estimates that the Settlement, if approved, would result in a Net Class Settlement Amount of
16 approximately \$217,050.00 to the Class Members, \$185,794.80 available to Participating Non-Exempt
17 Class Members and \$31,255.20 to Participating Exempt Class Members, and a Net PAGA Settlement
18 Amount of \$6,250.00. JCL Dec. ¶ 11. Plaintiff estimates that the Net Settlement Amount would result
19 in an average Individual Settlement Payment of \$1,038.52, high payment of \$2,929.12, and a low
20 payment of \$32.13. Aggrieved Employees will receive an estimated average gross payment of \$42.97,
21 a high payment of \$75.22, and a low payment of \$2.84. Declaration of Madely Nava (“Apex Dec.”),
22 ¶¶16 & 18,³ JCL Dec. ¶ 11.

23 The relief offered by the Settlement is immediate and is particularly impressive when viewed
24 against the difficulties encountered by plaintiffs pursuing similar wage and hour cases (*see infra*). As

25
26 ¹ The Agreement is attached as Ex “1” to the Declaration of Jean-Claude Lapuyade (“JCL Dec.”) at ¶ 3. All citations to the
Agreement incorporate by this reference a citation to the JCL Dec., ¶ 3. Further, unless indicated otherwise, capitalized terms
used herein have the same meaning as those defined by the Agreement.

27 ² Currently Class Counsel’s actually incurred litigation expenses are \$15,559.81. Class Counsel will provide an updated total
at the time of hearing on this motion.

28 ³ The deadline for Class Members to opt-out or object is July 11, 2025, Apex Dec., ¶¶ 11-12. Class Counsel will provide an
updated declaration from the administrator following the expiration of the response deadline.

discussed below, the proposed Settlement satisfies all criteria for final settlement approval under California law and falls well within the range of reasonableness. JCL Dec., ¶¶ 12-13.

II. OVERVIEW OF THE LITIGATION

Defendants develop, manage, market, and operate vacation property ownership resorts in California, including in San Diego County, where Plaintiff worked. This action asserts claims on behalf of all current and former employees of Defendants who worked for Defendants in a non-exempt position or exempt position at the Marbrisa location at any time during the period beginning June 13, 2019 through June 13, 2024 (“Class Period”). Plaintiff worked for Defendants from 2012 to June of 2022 during the Class Period. JCL Dec., ¶ 13.

Among other claims, Plaintiff claims that Defendants failed to provide compliant meal and rest periods, failed to pay overtime and meal period premiums at the correct regular rate of pay, failed to furnish accurate itemized wage statements, failed to reimburse for mandatory business expenses, and failed to pay all wages upon separation. Defendants forcefully deny liability for each of Plaintiff’s claims. JCL Dec., ¶ 14.

On June 13, 2023, Plaintiff served Defendants and the Labor and Workforce Development Agency (“LWDA”) with a Notice of Violations (“PAGA Notice”). Also on June 13, 2023, Plaintiff filed the above-entitled class action complaint in the San Diego Superior Court (“the Action”). The Action alleged eight causes of action against Defendants for: (1) Unfair Competition in violation of Cal. Bus. & Prof. Code §§ 17200, *et seq.*; (2) Failure to Pay Minimum Wages in violation of Cal. Lab. Code §§ 1194, 1197, 1197.1; (3) Failure to Pay Overtime Wages in violation of Cal. Lab. Code §§ 510, *et seq.*; (4) Failure to Provide Required Meal Periods in violation of Cal. Lab. Code §§ 226.7 & 512 and the Applicable IWC Wage Order; (5) Failure to Provide Required Rest Periods in violation of Cal. Lab. Code §§ 226.7 & 512 and the Applicable IWC Wage Order; (6) Failure to Provide Accurate Itemized Wage Statements in violation of Cal. Lab Code §226; (7) Failure to Pay Wages When Due in violation of Cal. Lab. Code §§ 201, 202, and 203; and (8) Failure to Reimburse for Required Expenses in violation of Cal. Lab. Code § 2802. On October 3, 2023, Plaintiff filed the operative First Amended Complaint to include an additional cause of action for Violations of the Private Attorneys General Act [Labor Code §§ 2698, *et seq.*]. JCL Dec., ¶ 15.

1 The Parties agreed early to mediate the Action. The Parties also agreed to engage in discovery,
2 but on an informal basis, to prepare for mediation. Such discovery included production of documents
3 and data points, subject to the mediation privilege, including but not limited to, a sampling of the Class
4 Members' time data and certain payroll data points. As discussed *infra*, Plaintiff's counsel retained the
5 forensic consultants at Berger Consulting Group ("BCG") to analyze Defendants' time and payroll data.
6 JCL Dec., ¶ 16.

7 On June 13, 2024, the Parties participated in a full day mediation with respected jurist and
8 experienced wage and hour and PAGA mediator Hon. Brian C. Walsh (Ret.). The Parties reached a
9 settlement after both sides agreed to a Mediator's proposal which was subsequently memorialized in the
10 form of a Memorandum of Understanding. Thereafter, the Parties drafted and negotiated a long-form
11 settlement agreement, which is the subject of the instant motion. JCL Dec., ¶ 17. On March 18, 2025,
12 this Court granted preliminary approval of the Settlement. JCL Dec., ¶ 4. On March 28, 2025, Plaintiff
13 filed the operative Second Amended Class Action Complaint for the purpose of clarifying a subclass of
14 employees in order to effectuate the settlement reached by the parties. On May 27, 2025, the Settlement
15 Administrator mailed Notice Packets to all 209 Settlement Class members. Apex Dec., ¶ 6. The mailing
16 of the Notice Packets triggered a forty-five (45) day Response Deadline for the Settlement Class to
17 submit requests for exclusion or objections to the Settlement. Agreement, ¶ I(MM). As of the date of
18 the filing of this motion, 100% of the Class Members are participating in the Settlement. Apex Dec., ¶
19 14.

20 **III. THE SETTLEMENT BEFORE THE COURT**

21 The Court preliminarily approved a Gross Settlement Amount of \$435,000.00. The Gross
22 Settlement Amount is all-in with no reversion to Defendants. Agreement, ¶ (I)(Q). The Net Class
23 Settlement Amount shall be used for the payment of all Individual Settlement Payments to satisfy all
24 Released Claims. The Settlement Administrator will calculate Individual Settlement Payments pursuant
25 to the formula set forth herein. 85.6% of the Net Settlement Amount shall be allocated to the Non-
26 Exempt Class Members and 14.4% of the Net Settlement Amount shall be allocated to the Exempt Class
27 Members. Using the Class List, the Settlement Administrator shall add up the total number of
28 Workweeks for all Non-Exempt Class Members. The respective Workweeks for each Non-Exempt

1 Class Member will be divided by the total Workweeks for all Non-Exempt Class Members, resulting in
2 the Payment Ratio for each Non-Exempt Class Member. Each Non-Exempt Class Member's Payment
3 Ratio will then be multiplied by 85.6% of the Net Settlement Amount to calculate each Non-Exempt
4 Class Member's estimated Individual Settlement Payments. The same formula will be used to calculate
5 the Exempt Class Member's estimated Individual Settlement Payments. Agreement, ¶ III(O)(1). As of
6 the date of filing this motion, the Settlement Administrator estimates the average Individual Settlement
7 Payment is \$1,038.52, the highest Individual Settlement Payment is \$2929.52, and the lowest Individual
8 Settlement Payment is \$32.13. Apex Dec., ¶16.

9 In exchange for valuable consideration, as of the funding of the Gross Settlement Amount, the
10 Non-Exempt and Exempt Settlement Class Members will release the Released Parties from the Released
11 Class Claims for the Class Period. Plaintiff, the LWDA, and the State of California will release the
12 Released Parties from the Released PAGA Claims for the PAGA Period. Agreement, ¶¶ III(B)-(D).

13 Apex Class Action, LLC was appointed as the Settlement Administrator for the class. The
14 Settlement Administration Costs are \$7,950.00. Apex Dec., ¶ 19. These expenses shall be paid from the
15 Gross Settlement Amount. Agreement, ¶ III(O)(12).

16 Subject to Court approval, Class Counsel shall seek a Class Counsel Award in the amount of
17 \$175,000.00 comprised of attorneys' fees equal to one-third of the Gross Settlement Amount (estimated
18 to be at least \$145,000.00) and up to \$30,000.00 for actually incurred litigation expenses. Agreement,
19 ¶ III(O)(10).

20 Subject to Court approval, the Agreement provides for a Class Representative Enhancement
21 Award in the amount of \$10,000.00 for Plaintiff in consideration for her time, risk, and efforts as the
22 Class Representative on behalf of the Settlement Class and a broad release of claims, including a waiver
23 of Civil Code section 1542. Settlement Agreement, ¶ III(O)(9).

24 As set forth in the Agreement, \$25,000.00 of the Gross Settlement Amount has been allocated for
25 civil penalties under the PAGA ("PAGA Payment"). Seventy-five percent (75%) of the PAGA Payment
26 will be paid to the California Labor Workforce and Development Agency ("LWDA Payment"). The
27 Settlement Administrator shall distribute the remaining twenty-five (25%) of the PAGA Settlement to
28 the PAGA Members ("PAGA Member Payment"). Agreement, ¶ III(O)(11). The Settlement

1 Administrator estimates the Net PAGA Settlement Amount will be approximately \$6,250.00. Apex
2 Dec., ¶ 17.

3 As explained in further detail below, the Settlement is fair, adequate, and reasonable and should
4 be granted final approval. Given the complexities of this case, the defenses asserted, the uncertainty of
5 class certification, along with the uncertainties of proof at trial and appeal, the proposed settlement is
6 fair, reasonable, and adequate, and should be granted final approval. JCL Dec., ¶ 18-19.

7 **IV. GENERAL STANDARDS APPLICABLE TO JUDICIAL REVIEW AND APPROVAL**
8 **OF CLASS ACTION SETTLEMENTS**

9 Settlements of disputed claims are favored by the courts. *Huens v. Tatum*, 52 Cal. App. 4th 259,
10 265 (1997). In evaluating settlements, the courts have long recognized that compromise is particularly
11 appropriate since such litigation is difficult and notoriously uncertain. *7-Eleven Owners for Fair Fran.*
12 *v. Southland Corp.*, 85 Cal.App.4th 1135, 1151 (2000).

13 “[T]o prevent fraud, collusion or unfairness to the class, the settlement or dismissal of a class
14 action requires court approval.” *Dunk v. Ford Motor Co.*, 48 Cal. App. 4th 1794, 1801 (1996) *citing*
15 *Malibu Outrigger Bd. Of Governors v. Superior Court*, 103 Cal. App. 3d 573, 578-579 (1980). The
16 court must decide whether the proposed settlement falls within the range of reasonable settlements,
17 taking into account that settlements are compromises between the parties reflecting subjective,
18 unquantifiable judgments concerning the risks and possible outcomes of litigation. See also *Wershba v.*
19 *Apple Computer*, 91 Cal.App.4th 224, 246 (2001). In *Wershba*, appellants argued that the settlement
20 was too low given the “clear” liability, however, the Court rejected this argument and held that “the
21 merits of the underlying class claims are not a basis for upsetting the settlement of a class action.”
22 *Wershba, supra*, at 246; *see also 7-Eleven, supra*, at 1150. In these cases, Courts have repeatedly
23 emphasized that there is a strong initial presumption that the compromise is fair and reasonable.
24 *Wershba*, 91 Cal.App.4th at 245. The presumption of fairness exists where: (1) investigation and
25 discovery are sufficient to allow counsel and the court to act intelligently; (2) the settlement is reached
26 through arm’s-length bargaining; (3) counsel is experienced in similar litigation; and (4) the percentage
27 of objectors is small. *Dunk*, 48 Cal. App. 4th at 1801, *citing Newberg & Conte, Newberg on Class*
28 *Actions*, (3d ed. 1992) §11.41, pp. 11-91. Here, all of these factors support a presumption of fairness.

1 **V. THE SETTLEMENT IS FAIR, REASONABLE AND ADEQUATE**

2 The court must determine whether the settlement is fair, adequate, and reasonable. *Dunk v. Ford*
3 *Motor Co.*, 48 Cal.App.4th 1794, 1801 (1996); *see also Officers for Justice v. Civil Service Com'n*, 688
4 F.2d 615, 625 (9th Cir. 1982). The purpose of the requirement is "the protection of those class members,
5 including the named plaintiffs, whose rights may not have been given due regard by the negotiating
6 parties." *Dunk, supra*, at 1801.

7 The trial court has broad discretion to determine whether the settlement is fair. *Rebney v. Wells*
8 *Fargo Bank*, 220 Cal.App.3d 1117, 1138 (1990). "The well-recognized factors that the trial court should
9 consider in evaluating the reasonableness of a class action settlement agreement include 'the strength of
10 plaintiffs' case, the risk, expense, complexity and likely duration of further litigation, the risk of
11 maintaining class action status through trial, the amount offered in settlement, the extent of discovery
12 completed and the stage of the proceedings, the experience and views of counsel, the presence of a
13 governmental participant, and the reaction of the class members to the proposed settlement.' [Citations.]"
14 *Kullar v. Foot Locker Retail, Inc.*, 168 Cal.App.4th 116, 128 (2008); *see also Munoz v. BCI Coca-Cola*
15 *Bottling Co. of Los Angeles*, 186 Cal.App.4th 399, 408 (2010).

16 The list of factors is not exhaustive and should be tailored to each case. *Dunk, supra*, at 1801.
17 Due regard should be given to what is otherwise a private consensual agreement between the parties.
18 *Id.* The inquiry "must be limited to the extent necessary to reach a reasoned judgment that the agreement
19 is not the product of fraud or overreaching by, or collusion between, the negotiating parties, and that the
20 settlement, taken as a whole, is fair, reasonable and adequate to all concerned." *Id.* "Ultimately, the
21 [trial] court's determination is nothing more than 'an amalgam of delicate balancing, gross
22 approximations and rough justice.' [Citation omitted.]" *Id.*

23 These factors are analyzed seriatim below and all support final approval of the class action
24 settlement before this Court.

25 **A. Class Counsel Conducted a Thorough Investigation.**

26 As detailed in the motion for preliminary approval, Class Counsel thoroughly investigated the
27 proposed Class Members' claims, applicable law, and potential defenses. Specifically, Class Counsel
28 assessed the value of the class claims using data and documents provided by Defendants in informal

discovery. Class Counsel obtained time, payroll, and policy records, as well as data regarding the number of Class Members, workweeks, pay periods, and average rate of pay in order to assess damages before mediation. Class Counsel retained Berger Consulting Group to analyze Defendants' time and payroll data to formulate damage models estimating Defendants' liability exposure. Class Counsel's investigation, research, experience, and damage models informed and guided the mediated negotiations that resulted in this settlement. JCL Dec., ¶ 20-27.

B. The Parties Settled Shortly After Mediation.

The Settlement is the product of a mediation session with a respected mediator and negotiations over the terms of the Settlement. The negotiations were adversarial, conducted at arm's length and tempered by the efforts of both sides to serve the interests of their clients. JCL Dec., ¶ 28.

C. Class Counsel is Experienced in Similar Litigation.

Class Counsel in this matter have extensive class action experience in multiple fields and have represented tens of thousands of persons in class actions. Class Counsel's experience is summarized in their concurrently filed declarations. Class Counsel have concluded that the settlement is fair, adequate, and reasonable and in the best interests of the Class. JCL Dec., ¶¶ 29-35; Declaration of Shani O. Zakay, Esq. ("SOZ Dec."), filed concurrently herewith, ¶ 3.

D. The Settlement Class Responded Positively to the Settlement

As of the date of filing this motion, the reaction of the Settlement Class unequivocally supports approval of the Settlement. To date, none of the 209 Class Members opted-out of the Settlement. Moreover, there are no objections. Stated differently, to date, 100% of the Settlement Class chose to participate in the Settlement. JCL Dec., ¶ 9; Apex Dec., ¶¶ 11-12, 14.

The high approval by the Settlement Class strongly supports a finding that the Settlement is fair, reasonable, and adequate. *See In re Austrian & German Bank Holocaust Litigation*, 80 F. Supp. 2d 164, 175 (S.D.N.Y. 2000). Consequently, Class Counsel respectfully request that the Court follow the high approval of the Settlement Class and grant final approval of the Settlement.

E. The Risk, Expense, Complexity and Duration of Further Litigation Favor Settlement.

Although Plaintiff and Class Counsel believe that their case has merit, they recognize the

1 potential risks both sides would face if litigation of this action continued. As the federal court in *Glass*
2 v. *UBS Fin. Servs.*, 2007 WL221862 held, where the parties faced uncertainties similar to those in this
3 litigation:

4 ***“In light of the above-referenced uncertainty in the law, the risk, expense,***
5 ***complexity, and likely duration of further litigation likewise favors the***
6 ***settlement.*** Regardless of how this Court might have ruled on the merits of
7 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.”

8 With respect to the most immediate challenge, i.e., class certification, the risks attendant to the
9 certification of similar wage and hour claims are demonstrated by *Ali v. U.S.A. Cab Ltd.* (2009) 176
10 Cal.App.4th 1333, 1341. There, the Court of Appeal affirmed the Trial Court’s denial of class
11 certification because employees’ declarations attesting to having taken meal and rest breaks
12 demonstrated that individualized inquiries were required to show harm. *See also Campbell v. Best Buy*
13 *Stores, L.P.*, (C.D. Cal. 2013) 2013 WL 5302217 at *11-13 (following *Brinker* and denying certification
14 of proposed off-the-clock and rest and meal break classes due to lack of uniform policy); *Brown v. Fed*
15 *Express Corp.* (C.D. Cal. 2008) 249 F.R.D. 580, 587-88 (denying certification of driver meal and rest
16 period claims based on the predominance of individual issues). JCL Dec., ¶ 38.

17 Further, even if a class is certified, liability remains uncertain. The risks attendant to the issue of
18 Defendants’ liability in similar wage and hour actions are demonstrated by *Duran v. U.S. Bank National*
19 *Association* (2014) 59 Cal.4th 1, 31. There, the Court reversed a trial verdict in favor plaintiffs in a
20 wage and hour class action. *See also Tien v. Tenet Healthcare Corp.* (2012) 209 Cal.App.4th 1077,
21 1088 (“[T]he reason, if any, that employees might not take their breaks were predominantly
22 individualized questions of fact not susceptible to class treatment.”). JCL Dec., ¶ 39.

23 Finally, even if a class is certified and Defendants are found liable for the class claims alleged,
24 post-certification risks remain, including a reversal of a favorable judgment for Plaintiff and
25 decertification of the class. These post-certification risks are demonstrated by *Magadia v. Wal-Mart*
26 *Associates, Inc.* (9th Cir. 2021) 999 F.3d 668. There, the Ninth Circuit vacated reversed and remanded
27 a \$110 million judgement against an employer for, *inter alia*, inaccurately paying overtime, and
28 directed the trial court to enter judgement in favor of the employer. *See also O’Conner v. Uber*

1 *Technologies, Inc.* (9th Cir. 2018) 904 F.3d 1087 (decertification of wage and hour misclassification
2 action). JCL Dec., ¶ 40.

3 Collectively, the examples cited above illustrate the uncertain nature of class litigation.
4 Consequently, the uncertainty of obtaining certification through a contested motion is a significant risk
5 factor favoring settlement. JCL Dec., ¶ 41.

6 Although Plaintiff is confident about the strength of her claims, Plaintiff nevertheless recognizes
7 that Defendants have factual and legal defenses that, if successful, would potentially defeat or impair
8 the value of the lawsuit. Legally, the fast-changing landscape of wage and hour litigation can drastically
9 affect the value of Plaintiff's claims and, in fact, already has. JCL Dec., ¶ 42

10 In a similar wage and hour case, the federal district court in *Hopson v. Hanesbrands Inc.*, 2009
11 U.S. Dist. LEXIS 33900 at * 19-20 (N.D. Cal. 2009), granted approval of an overtime class action
12 settlement and explained:

13 **Plaintiffs may have a strong case, but the risks inherent in continued**
14 **litigation are great.** Defendants strongly deny liability for Plaintiffs'
15 principal claim that full-time Service Associates were misclassified as
16 exempt. In addition to the uncertainties raised by Defendants at the
17 preliminary stage regarding Plaintiffs' chance of success in this case,
18 Defendants notes that the question of an employer's duty to provide rest and
meal periods is an open one, signaling even less certainty for
Plaintiffs.....[T]he **Total 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.

19 As recognized in a federal decision approving settlement of an overtime wage class action:

20 **The potential complexity and possible duration of trial also weigh in**
21 **favor of granting final approval.** Plaintiffs acknowledge the difficulties
22 of proving damages, recognize the uncertainty of outcome, and believe
23 defendant would appeal in the event of adverse judgment. A post-judgment
24 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.

25 *Barcia v. Contain-A-Way, Inc.*, 2009 U.S. Dist. LEXIS 17118, *9 (S.D. Cal. 2009).

26 In sum, while other courts have approved class certification in wage and hour claims, class
27 certification in this action would have been hotly disputed and was by no means a foregone conclusion.
28 Where both sides face significant uncertainty, as here, the attendant risks favor settlement. *Hanlon v.*

1 *Chrysler Corp.*, 150 F. 3d 1011, 1026 (9th Cir. 1998).

2 Plaintiff and Class Counsel recognize the expense and length of a trial against Defendants through
3 possible appeals, which could take another three years. In arriving at their informed belief that the
4 present settlement is fair and adequate, Class Counsel accounted for the uncertain outcome and risk
5 inherent in complex actions such as this one. Class Counsel are also mindful of and recognize the
6 inherent problems of proof under, and alleged defenses to, the claims asserted in the litigation.
7 Moreover, post-trial motions and appeals would have been inevitable. Costs would have mounted, and
8 recovery would have been delayed if not denied, thereby reducing the benefits of an ultimate victory.
9 Plaintiff and Class Counsel believe that the Settlement confers substantial monetary and non-monetary
10 benefits upon the Class. Based upon their evaluation, Class Representative and Class Counsel have
11 determined that the Settlement set forth in the Agreement is in the best interest of the Class, is fair,
12 reasonable, and adequate, and should be granted final approval. JCL Dec., ¶ 43.

13 **F. The Gross Settlement Amount is Fair and Reasonable.**

14 The Gross Settlement Amount of \$435,000.00 in this case is fair and well within the range of
15 recognized reasonableness. As detailed at the time of preliminary approval, the Gross Settlement
16 Amount is fair and reasonable considering the nature and magnitude of the claims being settled and the
17 various potential impediments to recovery. Class Counsel developed varied economic damages models
18 measuring Defendants' liability exposure while accounting for the uncertainties of continued litigation.
19 The various models were informed by Class Counsel's investigation, including the analysis of a
20 significant sample of time and payroll data. As detailed in greater depth during the preliminary approval
21 process, Class Counsel projected a range of Defendants' liability exposure for the claims asserted on
22 behalf of the Settlement Class. The Gross Settlement Amount represents a recovery of between 29%
23 ("Realistic Damages") and 13% ("Maximum Damages") of Defendants' class-wide liability exposure
24 as estimated by Class Counsel at the time of mediation. JCL Dec., ¶ 44.

25 In *Stovall-Gusman v. W.W. Granger, Inc.*, 2015 U.S. Dist. LEXIS 78671, at * 12, the District
26 Court for the Northern District of California granted final approval in a wage and hour misclassification
27 action and found that the Total Settlement representing 10% of the estimated trial award was within the
28 "range of reasonableness." In *Dunleavy v. Nadler (In re Mego Fin. Corp. Sec. Litig.)*, 213 F.3d 454, 459

(9th Cir. 2000), the Ninth Circuit approved a settlement representing “roughly one-sixth of the potential recovery.” Given the amount of the settlement here as compared to potential value of the claims, particularly the strength of Plaintiff’s action, the settlement is clearly fair and reasonable.

The settlement provides significant relief to the Settlement Class Members. As stated, the Net Settlement Amount available to Participating Class Members is estimated to be \$217,050.00, \$185,794.80 available to Participating Non-Exempt Class Members and \$31,255.20 to Participating Exempt Class Members. The average Class Member individual settlement payment is approximately \$1,038.52, and the highest is approximately \$2,929.12. Apex Dec., ¶ 16. This average net recovery is greater than many wage and hour class action settlements approved by California state and federal courts. *See, e.g., Palencia v. 99 Cents Only Stores*, No. 34-2010-00079619 (Sacramento County Super. Ct.) (average net recovery of approximately \$80); *Fukuchi v. Pizza Hut*, Case No. BC302589 (L.A. County Super. Ct.) (average net recovery of approximately \$120); *Contreras v. United Food Group, LLC*, Case No. BC389253 (L.A. County Super. Ct.) (average net recovery of approximately \$120); *Ressler v. Federated Department Stores, Inc.*, Case No. BC335018 (L.A. County Super. Ct.) (average net recovery of approximately \$90).

Clearly the goal of this litigation to obtain redress for the class has been met by this Settlement. Given the amount of the Settlement, the risks of litigation and the arm’s length negotiations between experienced counsel, the settlement is entitled to final approval. JCL Dec., ¶ 45.

**VI. THE PENALTIES UNDER THE PRIVATE ATTORNEY GENERAL ACT OF 2004
ARE REASONABLE**

Courts routinely approve amounts for PAGA penalties in the range of zero to two percent of the settlement. *See id.* at *1, 9 (approving a PAGA payment of 0.3%); *Jack v. Hartford Fire Ins. Co.*, No. 09cv1683 MMA (JMA), 2011 WL 4899942, at *6 (S.D. Cal. Oct. 13, 2011) (approving a PAGA payment of 0.25%); *McKenzie v. Fed. Express Corp.*, No. CV 10-02420 GAF (PLAx), 2012 WL 12882124, at *5 (C.D. Cal. Jan. 23, 2012) (acknowledging that courts approve PAGA claim settlements in the range of zero to two percent of the total settlement).

Here, Plaintiff and Defendants negotiated a good faith PAGA Payment in the amount of \$25,000.00 which is 5.7% of the Gross Settlement Amount. This amount falls well within the range

1 of approved PAGA Payments. Seventy-Five percent (75%) of the PAGA Settlement (\$18,750.00) will
2 be paid to the LWDA (“LWDA Payment”) with the remaining twenty-five percent (25%) to be
3 distributed to the PAGA Members, which is within the range of PAGA penalties approved by courts
4 and should be approved. JCL Dec., ¶ 46. The Settlement Administrator estimates the Net PAGA
5 Settlement Amount will be approximately \$6,250.00, with an average Individual Settlement Payment
6 of **\$42.97**. Apex Dec., ¶ 18.

7 Further, on January 27, 2025, Class Counsel gave the LWDA notice of this Settlement and
8 proposed allocation by filing a copy of the Settlement and the Motion for Preliminary Approval with
9 the LWDA. On July 1, 2025, Plaintiff gave the LWDA notice of this motion seeking final approval of
10 this settlement. JCL Dec., ¶¶ 5-6, 47. By not registering an objection with either Class Counsel or the
11 Court, the LWDA has accepted and approved of the proposed PAGA Payment.

12 **VII. CLASS COUNSEL’S REQUEST FOR FEES AND COSTS**

13 As part of the settlement, the parties agreed to a Class Counsel Award comprised of \$145,000.00
14 for attorneys’ fees (one-third of the Gross Settlement Amount) and up to \$30,000.00 for
15 reimbursement of actually incurred litigation expenses. The requested attorneys’ fee portion of the
16 Class Counsel Award equal to one-third of the Gross Settlement Amount is fair compensation and,
17 respectfully, should be approved. Class Counsel undertook complex, risky, and time-consuming wage
18 and hour litigation on a contingent basis. The attorneys’ fee portion of the requested Class Counsel
19 Award falls within the historically recognized range for attorneys’ fees awarded in common fund class
20 action settlements – between 25% and 50% – and is supported by Class Counsel’s lodestar cross-check
21 which reflects a reasonable negative .93 multiplier. That is well-below the 2.13 multiplier approved
22 by the Supreme Court in *Laffitte v. Robert Half International, Inc.* (2016) 1 Cal.5th 480, with
23 additional work to be performed, and within the recognized multiplier range of between 2 and 4⁴.
24 Thus, the reasonableness of the requested Class Counsel Award is confirmed by reference to the
25 lodestar with a reasonable multiplier with significant additional work still to be performed. JCL Dec.,
26

27 ⁴ See *Laffitte, supra*, 1 Cal. 5th at 487 (approving 1/3 fee award with 2 multiplier); *Wershba v. Apple Computer*, 91 Cal.
28 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).

¶¶ 48-56.

A. Common Fund

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

As noted above, in *Laffitte*, the California Supreme Court upheld the trial court’s award of 33.33% of the settlement amount of \$19 million with a 2.13 multiplier and affirmed that “empirical studies show the percentage method with a lodestar cross-check is the most prevalent form of fee method in practice.” *Laffitte*, 1 Cal. 5th at 496-97. In fact, courts have historically awarded between 25% and 50% of the common fund as attorneys’ fees class action settlements. *In re Warner Communications*, 618 F.Supp. 735, 749-50 (S.D.N.Y 1985).

Here, the fairest way to calculate a reasonable fee when contingency-fee litigation has produced a fixed settlement amount for the Settlement Class Members is by awarding Settlement Class Counsel a percentage of the total settlement sum. *See, e.g., In re Bluetooth Headset Products Liab. Litig.*, 654 F.3d 935, 942 (9th Cir. 2011). More importantly, a fee award under the common fund method here would achieve the two underlying goals of the common fund doctrine by: (1) equitably requiring the beneficiaries of the common fund to pay their pro rata share of fees incurred in creating the fund; and (2) providing an incentive to attract competent counsel to handle wage and hour class actions, which California courts recognize as a fundamental tool to ensure the effective enforcement of the Labor Code and minimum labor standards. *See, e.g., Gentry v. Super. Ct.*, 42 Cal. 4th 443, 455-56 (2007) (overruled on other grounds by *Iskanian v. CLS Transportation Los Angeles, LLC*, 59 Cal.4th 348 (2014) (emphasizing the indispensable value of private enforcement of California’s wage-and-hour

laws through class actions).

The Agreement provides for payment of the Class Counsel Award from the common fund. Accordingly, it is well within the Court’s discretion to award fees to Class Counsel under the common fund doctrine. Class Counsel request attorneys’ fees in the amount of \$145,000.00, representing one-third of the Gross Settlement Amount. Class Counsel’s request is consistent with many fee awards in similar wage and hour class actions. Moreover, the requested attorneys’ fee award is in the middle of historically recognized range of attorneys’ fees awarded in common fund settlements. JCL Dec., ¶¶ 56-57.

The attorneys’ fee portion of the Class Counsel Award request should be awarded based upon the Gross Settlement Amount in accordance with *Laffitte*, i.e., percentage of the fund with a lodestar cross check. As explained below, the reasonableness of the requested \$145,000.00 attorneys’ fee award is further supported by the lodestar cross-check.

B. Class Counsels’ Lodestar Supports the Requested Attorneys’ Fees

Class Counsel’s lodestar to date is \$155,807.50 *exclusive of costs*, with significant work remaining. JCL Dec., ¶¶ 52-54. Thus, Class Counsel’s fee request is less than Class Counsel’s lodestar, and much less than Class Counsel’s lodestar with a negative .93 multiplier – below the 2.13 multiplier approved in *Laffitte* – is well within the recognized multiplier range between 2 and 4. See also *Taylor v. FedEx Freight, Inc.*, 2016 U.S. Dist. LEXIS 142202 (E.D. Cal. 2016) (following *Laffitte*, approved 30% fee award with cross-check lodestar multiplier of 2.26); *Emmons v. Quest Diagnostics Clinical Labs., Inc.*, 2017 U.S. Dist. LEXIS 27249 (E.D. Cal. 2017) (following *Laffitte*, approved 33% fee award with cross-check lodestar multiplier of 1.7).

Because the Settlement in this case is a pure common fund case, and the percentage of the fund is the comparable marketplace for fee awards in common fund cases, *Laffitte* supports an award based upon the percentage of the common fund. Moreover, Class Counsel’s lodestar supports the requested attorneys’ fees with a multiplier well within the recognized range reasonableness, and in fact, below what the California Supreme Court approved in *Laffitte*. JCL Dec., ¶ 57.

Although no rigid formula applies, an analysis of each of the following “basic factors” that California courts typically consider further supports the reasonableness of a fee request: **(1)** the result

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. Those factors support Class Counsel's request and are addressed in more detail in Counsel's declarations submitted concurrently herewith. In short: (1) Considering the issues presented in the case, the Gross Settlement Amount of \$435,000.00, is an excellent result for the Settlement Class, (2) Collectively, Class Counsel worked hard on this case and expended approximately 211.75 hours in the prosecution of this litigation in the two years since it was filed for a total lodestar of \$155,807.50, (3) Class Counsel undertook this litigation on a contingent-fee basis, assuming a significant risk that the litigation would yield no recovery after many years of work, (4) 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 his/her pro rata share of the attorney's fees award to Class Counsel, (5) 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 (See Class Counsel's declarations for a detailed outline of their skills and experience), and (6) Settlement Class Counsel's hourly rates, which are set forth in the concurrently filed declarations of Jean-Claude Lapuyade, Esq. and Shani Zakay, Esq., are well within the range of rates billed by comparable attorneys in this market and reasonably compare with rates approved by other trial courts in wage and hour class action litigation. JCL Dec., ¶¶ 60-73.

C. Class Counsel's 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).

As of the date of the hearing on this motion, Class Counsel has incurred a total of \$15,559.81 litigating this action. 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; postage; mediation fees; and expert costs, which were all incurred during, and were necessary for the successful prosecution of, the litigation and, therefore, should be reimbursed. JCL Dec., ¶¶ 74-76; SOZ Dec. ¶¶ 11-12.

D. Plaintiff's Enhancement Award Is Reasonable and Should be Approved

Courts routinely approve enhancement 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) The factors courts use in determining the amount of enhancement awards include: (1) a comparison between the enhancement 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).

As a preliminary matter, Plaintiff granted Defendants a broad and general release of all claims arising from her employment. In exchange, the Class Representative Enhancement Award is, in part, intended to compensate Plaintiff for executing this general release. This release is far broader than the release that binds the remainder of the Settlement Class. JCL Dec., ¶¶ 77.

Regarding the amount of the requested award, courts frequently approve awards of \$10,000.00 or more. *See In re Cellphone*, 186 Cal.App.4th 1380. The amount of the requested Class Representative Enhancement Award to Plaintiff for \$10,000.00 is reasonable by reference to the amounts that California courts (both federal and state) have repeatedly awarded in similar class action settlements. Further, the unanimous consent by the Class Members favors the Court's approval of the requested Class Representative Enhancement Award. Equally important, the time, effort, and services provided to the Settlement Class justifies the requested Enhancement Award. The Class Representative performed her duties to the Settlement Class admirably. Plaintiff's work is summarized

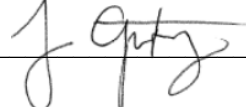
1 in her declaration filed concurrently herewith. Plaintiff assumed the serious risk of liability for
2 Defendants' costs and potentially fees if the case was unsuccessful. Nevertheless, Plaintiff knowingly
3 and voluntarily undertook the risk to vindicate the rights of the Settlement Class. Garcia Dec., ¶¶ 7-
4 9; JCL Dec., ¶¶ 78-80.

5 **VIII. CONCLUSION**

6 Plaintiff respectfully submits that the proposed settlement satisfies the standard of fairness
7 established by California law and should therefore be finally approved as fair, reasonable, and adequate
8 and requests entry of the Final Approval Order and Judgment submitted herewith. Further, based on the
9 foregoing, Class Counsel respectfully requests approval of the Class Counsel Award in the amount of
10 \$175,000.00, comprised of (1) \$145,000.00 as compensation for attorneys' fees (one-third of the Gross
11 Settlement Amount of \$435,000.00) and (2) litigation expenses up to \$30,000.00 as supported by Class
12 Counsel's billing records. Class Counsel and the Class Representative also respectfully request approval
13 of the requested Class Representative Enhancement Award in the amount of \$10,000.00 to Plaintiff.

14
15 Dated: July 1, 2025

ZAKAY LAW GROUP, APLC

16 By:  _____

17 Jennifer Gerstenzang, Esq.
18 Attorneys for Plaintiff
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