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individually and on behalf of other individuals
similarly situated.

**SUPERIOR COURT FOR THE STATE OF CALIFORNIA
COUNTY OF SAN DIEGO**

GABRIEL GUZMAN JR., an individual, on his
own behalf and on behalf of all others similarly
situated,

Plaintiff,

v.

VULCAN MATERIALS COMPANY, a New
Jersey corporation; CALMAT Co., a Delaware
Corporation, and DOES 1 through 50, inclusive,

Defendants.

Case No. 37-2021-00024583-CU-OE-CTL

CLASS ACTION

**NOTICE OF MOTION AND MOTION
FOR FINAL APPROVAL OF CLASS
ACTION SETTLEMENT;
MEMORANDUM OF POINTS AND
AUTHORITIES**

Date: May 19, 2023
Time: 1:30 p.m.

Judge: Hon. Katherine Bacal
Department: C-69

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1 9. Entering judgment accordingly and retaining continuing jurisdiction over the
2 implementation of the Settlement.

3 10. This Motion is based upon: this Notice of Motion and Motion; the Memorandum of
4 Points and Authorities in Support of Motion for Final Approval of Class Action Settlement; the
5 Declarations of Marcus J. Bradley, Shani O. Zakay, Jean-Claude Lapuyade, Plaintiff Gabriel Guzman
6 Jr., Plaintiff James Sancho, and of Cassandra Polites of ILYM Group, Inc., and all other documents
7 and records on file in this action, and on such further oral and documentary evidence as may be given
8 at the hearing, if any, on this Motion.

9 11. As this Motion is unopposed, the Parties respectfully request relief from the page limit
10 requirement set by California Rules of Court, rule 3.1113(d).

11
12 DATED: April 27, 2023

JCL LAW FIRM, APC

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14 By: _____

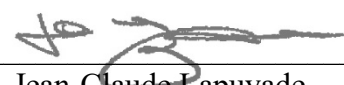

Jean-Claude Lapuyade
Attorneys for Plaintiffs

TABLE OF CONTENTS

I.	INTRODUCTION	1
II.	KEY TERMS OF THE PROPOSED SETTLEMENT	1
III.	FINAL CERTIFICATION IS APPROPRIATE FOR SETTLEMENT PURPOSES	3
A.	The Settlement Class is Ascertainable	4
B.	The Central Issues That Are Common to All Settlement Class Members Predominate Over Any Individual Claims	4
C.	Plaintiffs' Claims Are Typical of the Claims of the Settlement Class.....	5
D.	The Named Plaintiffs and Their Counsel Adequately Represent the Class.....	5
E.	A Settlement Class is Superior to a Multiplicity of Litigation.	5
IV.	FINAL APPROVAL OF THE SETTLEMENT IS APPROPRIATE	6
A.	The Settlement is Fair and Reasonable.....	6
B.	The Settlement Has No Obvious Deficiencies but Rather Provides a Strong Result for the Class Members.....	7
C.	The Positive Reaction from the Class Further Supports Settlement Approval.....	7
D.	The Formula for Each Class Member's Share is Fair and Reasonable	8
E.	The Class Received Reasonable and Adequate Notice	8
V.	THE SERVICE AWARDS TO THE CLASS REPRESENTATIVE ARE FAIR AND REASONABLE.....	9
A.	Reasonable Service Awards Compensate Named Plaintiffs for Work Performed and Burdens Undertaken to Obtain Relief For a Class.....	9
1.	The Named Plaintiffs Devoted Substantial Time and Effort to this Litigation.....	10
2.	The Class Representative's Efforts Resulted in Substantial Benefit to the Class.....	11
3.	The Named Plaintiffs Took a Substantial Risk.....	11
4.	The Class Representative Acted in the Best Interests of the Class.....	12
5.	The Requested Service Award Promotes the Public Policies Underlying the Labor Code.....	12

VI. PLAINTIFFS ARE ENTITLED TO REASONABLE ATTORNEYS’	
FEES AND COSTS.....	13
A. Plaintiffs are Entitled to Attorneys’ Fees Under Both the Common Fund Doctrine (“Fee Spreading”) and Statutory Fee Shifting.....	13
B. The Two Methods for Calculating the Amount of Attorneys’ Fees.....	13
C. The Risks Presented by the Contingent Nature of the Recovery and Complex Nature of the Case Justify the Fee Award Requested	14
D. The Requested Fees are Well Within the Range of Attorneys’ Fees Awarded in Similar Wage and Hour Class Action Settlements	15
E. The “Lodestar-Multiplier” Cross-Check Confirms the Reasonableness of the Fee Award. .	17
1. Counsel’s time was reasonably spent	17
2. Counsel’s hourly rates are within the market range and have been consistently approved by the courts.....	18
3. The proposed fees requested will result in a multiplier of 1.42 of Counsel’s total lodestar.....	19
4. Plaintiffs’ requested cost reimbursements are reasonable.....	20
VII. CONCLUSION	20

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(S.D.N.Y. Nov. 18, 2013 No. 12 Civ. 3371(CM)) 2013 WL 6144764.....11

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(E.D. Cal., 2013) 297 F.R.D. 43116

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(Super. Ct. Alameda County, 2019) No. RG083821309

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Blanchard v. Bergeron

(1989) 489 U.S. 87.....18

Blum v. Stenson

(1984) 465 U.S. 886.....18

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(N.D. Cal., Feb. 27 2016, No. 3:11-cv-03082-LB) 2016 WL 6318806

Camacho v. Bridgeport Fin., Inc.

(9th Cir. 2008) 523 F.3d 973.....18

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(2008) 162 Cal.App.4th 43.....8

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(N.D. Cal. 2010) 716 F.Supp.2d 848.....7

Churchill Vill., L.L.C. v. Gen. Elec.

(9th Cir. 2004) 361 F.3d 566.....7

1	<i>Clark v. Am. Residential Servs. LLC</i>	
2	(Super. Ct., Los Angeles County, 2007) No. BC332632.....	10
3	<i>Clark v. American Residential Services LLC</i>	
4	(2009) 175 Cal.App.4th 785.....	9
5	<i>Classen v. Weller</i>	
6	(1983) 145 Cal.App.3d 27.....	5
7	<i>Cotchett, Pitre & McCarthy v. Universal Paragon Corp.</i>	
8	(2010) 187 Cal.App.4th 1405	16
9	<i>Crespo-Szabo v. Hollywood Entm't Corp.</i>	
10	(Super. Ct., Alameda County, 2005) No. RG04-135321	10
11	<i>Daar v. Yellow Cab</i>	
12	(1967) 67 Cal.2d 695	3
13	<i>De Munecas v. Bold Food, LLC</i>	
14	(S.D.N.Y. 2010) 2010 WL 3322580	16
15	<i>DeWitt v. Darlington Cnty. S.C.</i>	
16	(D. S.C., Dec. 6, 2013, No. 4:11-cv-00740-RBH) 2013 WL 6408371	12
17	<i>Dunk v. Ford Motor Co.</i>	
18	(1996) 48 Cal.App.4th 1794.....	4, 6
19	<i>Earley v. Superior Court</i>	
20	(2000) 79 Cal.App.4th 1423.....	12
21	<i>Fischel v. Equitable Life Assurance Soc'y of U.S.</i>	
22	(9th Cir. 2002) 307 F.3d 997	14
23	<i>Garcia v. Gordon Trucking, Inc.</i>	
24	(E.D. Cal., Oct. 31, 2012, No. 1:10-CV-0324 AWI SKO) 2012 WL 5364575	16
25	<i>Gaudin v. Saxon Mortgage Servs., Inc.</i>	
26	(N.D. Cal. 2015) 2015 WL 7454183.....	10
27	<i>Hanlon v. Chrysler Corp.</i>	
28	(9th Cir. 1998) F.3d 1011	4, 7

1	<i>Helmick v. Air Methods Corp.</i>	
2	(Super. Ct. Alameda County, 2020) No. RG13-665373.....	9
3	<i>Hensley v. Eckerhart</i>	
4	(1983) 461 U.S. 424.....	17
5	<i>In re Cellphone Fee Termination Cases</i>	
6	(2010) 186 Cal.App.4th 1380	9, 10, 11
7	<i>In re NASDAQ Market-Makers Antitrust Litig.</i>	
8	(S.D.N.Y. 1998) 187 F.R.D. 465	8
9	<i>In re Omnivision Techs., Inc.</i>	
10	(N.D. Cal. 2008) 559 F.Supp.2d 1036.....	7
11	<i>In re Sutter Health Uninsured Pricing Cases</i>	
12	(2009) 171 Cal.App.4th 495.....	7
13	<i>In re Toys R Us</i>	
14	(C.D. Cal., 2014) 295 F.R.D. 438	11
15	<i>Junglas v. General Motors Corp</i>	
16	(Super. Ct. Alameda County, 1990) No. 558-051-6	10
17	<i>Ketchum v. Moses</i>	
18	(2001) 24 Cal. 4th 1122.....	17, 19
19	<i>Kirschenbaum v. Elec. Arts, Inc.</i>	
20	(Super. Ct., San Mateo County, 2006) No. Civ. 440876	10
21	<i>Kullar v. Foot Locker Retail, Inc.</i>	
22	(2008) 168 Cal.App.4th 116.....	6
23	<i>Laffitte v. Robert Half Int'l Inc.</i>	
24	(2016) 1 Cal.5th 480	13
25	<i>Lane v. Brown</i>	
26	(D. Or. 2016) 166 F.Supp.3d 1180	7
27	<i>Lazarin v. Superior Court</i>	
28	(2010) 188 Cal.App.4th 1560	13

1	<i>Lealao v. Beneficial Inc.</i>	
2	(2000) 82 Cal.App.4th 19.....	13, 17
3	<i>Lee v. JPMorgan Chase & Co.</i>	
4	(C.D. Cal. 2015) 2015 WL 12711659.....	16
5	<i>Linney v. Cellular Alaska Partnership</i>	
6	(9th Cir.1998) 151 F.3d 1234.....	6
7	<i>McGhee v. Bank of Am.</i>	
8	(1976) 60 Cal.App.3d 442.....	5
9	<i>Millan v. Cascade Water Servs., Inc.</i>	
10	(E.D. Cal., 2016) 2016 WL 3077710	11
11	<i>Murphy v. Kenneth Cole Prods. Inc.</i>	
12	(2007) 40 Cal.4th 1094.....	12
13	<i>Richmond v. Dart Indus., Inc.</i>	
14	(1981) 29 Cal.3d 462	3
15	<i>Rodriguez v. West Publishing Corp.</i>	
16	(9th Cir. 2009) 563 F.3d 948.....	7, 9
17	<i>Rosack v. Volvo of Am. Corp.</i>	
18	(1982) 131 Cal.App.3d 741.....	5
19	<i>Sav-On Drug Stores, Inc. v. Super. Ct.</i>	
20	(2004) 34 Cal.4th 319	4, 12
21	<i>Schaffer v. Litton Loan Servicing, LP</i>	
22	(C.D. Cal. 2012) 2012 WL 10274679.....	10
23	<i>Serrano v. Priest</i>	
24	(1977) 20 Cal.3d 25	13, 17
25	<i>Singer v. Becton Dickinson and Co.</i>	
26	(S.D. Cal. 2010, No. 08–CV–821–IEG (BLM)) 2010 WL 2196104.....	16
27	<i>Staton v. Boeing</i>	
28	(9th Cir. 2003) 327 F.3d 938.....	11

1	<i>Stuart v. Radioshack Corp.</i>	
2	(N.D. Cal., Aug. 9, 2010, No. C–07–4499 EMC.) 2010 WL 3155645	16
3	<i>Van Vranken v. Atlantic Richfield Co.</i>	
4	(N.D. Cal. 1995) 901 F.Supp.294	10, 16
5	<i>Vasquez v. Super. Ct.</i>	
6	(1971) 4 Cal.3d 800	4
7	<i>Vizcaino v. Microsoft Corp.</i>	
8	(9th Cir. 2002) 290 F.3d 1043	16
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10	(E.D. Cal., Sept. 11, 2020, No. 2:18-cv-02462 WBS DB) 2020 WL 5502318	15
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12	(C.D. Cal., 2013) 2013 WL 6531177	11
13	<i>Wershba v. Apple Computer</i>	
14	(2001) 91 Cal.App.4th 224	6, 8, 13, 17, 19
15	<i>Wisniewski v. Pacific Maritime Assoc.</i>	
16	(Super. Ct., Los Angeles County, 2006) No. BC293134	9
17	<i>Wren v. RGIS Inventory Specialists</i>	
18	(N.D. Cal., Apr. 1, 2011, No. C–06–05778 JCS) 2011 WL 1230826	7, 11, 16
19	<u>STATUTES</u>	
20	Code of Civil Procedure section 1032	20
21	Code of Civil Procedure section 382	3
22	Labor Code section 2699(g)(1)	20
23	<u>OTHER AUTHORITIES</u>	
24	Rubenstein et al., <i>Newberg on Class Actions</i> (4th ed. 2002)	9
25	<u>RULES</u>	
26	California Rules of Court, rule 3.769(d)	3
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1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. INTRODUCTION**

3 Plaintiffs Gabriel Guzman Jr. and James Sancho seeks final approval of a proposed
4 \$1,270,000 non-reversionary, class action settlement to resolve this wage and hour case brought on
5 behalf of individuals who worked for Defendants Vulcan Materials Company and Calmat Co.
6 (“Defendants”).

7 The Court preliminarily approved the Settlement on December 21, 2022, and the Settlement
8 Administrator mailed the Notice to 1,269 Class members on February 6, 2023.¹ Class Members had
9 forty-five (45) days to object, raise disputes regarding the calculation of their awards, or opt-out of
10 the settlement. To date, no Class Member has objected to any terms of the Settlement, the Class
11 Representative Service Awards, or the Class Counsel Award sought. To date, there has been one
12 valid request for exclusion from the Settlement. Declaration of Cassandra Polites, (“Polites Decl.”)
13 ¶¶ 7, 8. This strong support from the class supports final approval of the Settlement.

14 Aside from the widespread support from the Class Members themselves, the proposed
15 Settlement satisfies all the criteria for settlement approval. Indeed, as further demonstrated in the
16 previous motion for preliminary approval, the proposed Settlement presents a very strong result for
17 the Class in relation to the potential value of the claims, the delays of further litigation, and the
18 complexities and risks of the case. Accordingly, Plaintiffs request that the Court grant final approval
19 of the proposed Settlement.

20 **II. KEY TERMS OF THE PROPOSED SETTLEMENT**

21 Plaintiffs’ motion for preliminary approval and the supporting declarations provide a detailed
22 history of the claims and litigation history of this case. Motion for Preliminary Approval (filed
23 September 20, 2022) [ROA #33], pp. 3-7. Plaintiffs will not repeat that history in detail here.

24 As previously discussed, the proposed Settlement Agreement was reached after the conclusion
25

26 ¹ During the notice administration, Defendants identified a total of 6 additional individuals that should have been included
27 in the Class List sent to the Settlement Administrator. Defendants’ Counsel explained that those 6 individuals were
28 inadvertently left off the Class List because those individuals were promoted to an exempt position during the Class Period.
As a result, the Settlement Administrator made subsequent mailings on March 17, 2023 and March 27, 2023. The response
deadline for those individuals sent notices on March 27, 2023 is May 12, 2023. Polites Decl., ¶ 10, 11, 12 and fn. 1.
Plaintiffs will file a supplemental declaration from the Settlement Administrator after the May 12, 2023 response deadline.

1 of a lengthy mediation with Tripper Ortman, Esq., an experienced and well-regarded mediator in this
2 area of law. Motion for Preliminary Approval, p. 5. Under the Settlement Agreement, Defendants will
3 pay \$1,270,000 to resolve this litigation. Declaration of Marcus J. Bradley, (“Bradley Decl.”), Ex. 3
4 (Settlement Agreement (“SA”)), ¶ III.A.1. The entire Gross Settlement Amount will be disbursed
5 pursuant to the terms of the Settlement Agreement, and none of it will revert to Defendant. *Ibid.*

6 The key terms of the Settlement Agreement include:

- 7 • Gross Settlement Amount: The Gross Settlement Amount is \$1,270,000. It is the sum
8 Defendants agree to pay in exchange for Plaintiffs’ and the Settlement Class Members’
9 releases to fully and finally settle this matter. SA, ¶ III.A.1.
- 10 • No Reversion: All settlement funds will be paid out, and none will revert to Defendants.
11 *Ibid.*
- 12 • Released Class Claims: The Released Class Claims with respect to the Settlement Class
13 Members are limited to the wage and hour claims that were pled or could have been pled
14 based on the alleged facts in the Second Amended Complaint. *Id.*, ¶ I.BB. and III.B.
- 15 • Released PAGA Claims: The Released PAGA Claims with respect to Aggrieved
16 Employees are limited to penalties pursuant to PAGA for the wage and hour claims that
17 were pled or could have been pled based on the alleged facts in the Second Amended
18 Complaint and asserted in Plaintiffs’ letters to Labor and Workforce Development
19 Agency (“LWDA”). *Id.*, ¶¶ I.CC. and III.C.
- 20 • Net Settlement Amount: The Net Settlement Amount is the amount that remains and that
21 shall be paid to Settlement Class Members, after the following amounts are subtracted:
22 (1) Settlement Administration Costs charged with administering the settlement
23 (\$19,550); (2) \$50,000 for penalties under PAGA (“PAGA Settlement”), which includes
24 \$37,500 paid to the LWDA and \$12,500 distributed to Aggrieved Employees (3) any
25 Class Representative Service Awards approved by the Court for the Class
26 Representatives; and (5) any Class Counsel Award approved by the Court. *Id.*, ¶ I.Q.;
27 Polites Decl., ¶ 15.
- 28 • Direct Payments to Settlement Class Members/No Claim Forms: Settlement Class
Members will not need to submit claims to receive their pro-rata settlement payment.
Rather, Individual Settlement Payments (i.e., settlement checks) will be automatically
sent to all Settlement Class Members for whom a valid address was located either through
Defendants’ records, and/or address searches by the Settlement Administrator. SA, ¶
III.N.2.a.
- Distribution Formula: Each Settlement Class Member’s individual share of the Net
Settlement Amount will be proportional to the number of weeks the Settlement Class
Member worked for Defendants during June 3, 2017 to February 11, 2022 (“Class
Period”), in comparison to the aggregate number of weeks all Settlement Class Members
combined worked for Defendants during the same period. SA, ¶ III.O.1. Each Aggrieved
Employees’ individual share of the Aggrieved Employee Payment will be proportional to
the number of PAGA Pay Periods the Aggrieved Employee worked for Defendants during
May 22, 2019 to February 11, 2022 (“PAGA Period”), in comparison to the aggregate
number of PAGA Pay Periods all Aggrieved Employees combined worked for Defendants
during the same period. SA, ¶ III.O.2. The exact formula is set forth in the Settlement
Agreement and was also set forth the Class Notice. SA, ¶ III.N.2.a.; Polites Decl., Ex. A,

p. 3.

- Notice of Settlement: Class Members were notified by first class mail of the Settlement, on February 6, 2023. Polites Decl., ¶ 6. The Class Notice contained a statement of the case, the terms of the Settlement, the amount of attorneys’ fees, costs, and the service awards being sought, an explanation of how the Settlement allocations are calculated, among other pertinent information. Polites Decl., Ex. A. The Settlement Administrator, undertook its best efforts to ensure that the notice was provided to the current addresses of Class Members, including conducting a national change of address search and re-mailing the notice to updated addresses. Polites Decl., ¶ 5.
- Right to Challenge Defendants’ Workweek Records: Class Members had the opportunity, had they disagreed with Defendants’ records regarding the dates of employment stated on their Class Notice, to provide documentation and/or an explanation to show contrary employment dates. Polites Decl., Ex. A, p. 4.
- Right to Object: The Class Notice stated that Class Members who wished to object to the Settlement needed to mail the Settlement Administrator a written statement of objection by the 45-day Response Deadline, which March 23, 2023. Polites Decl., Ex. A, pp. 4-5. No Class Members have objected to the Settlement. Polites Decl., ¶ 8.
- Right to Opt Out: The Class Notice stated that Class Members who wished to exclude themselves from the Settlement must submit a written Request for Exclusion to the Settlement Administrator by the 45-day Response Deadline, March 23, 2023. Polites Decl., Ex. A, p. 4. One Class Members have opted out of the Settlement. Polites Decl., ¶ 7.

III. FINAL CERTIFICATION IS APPROPRIATE FOR SETTLEMENT PURPOSES

The Class consists of all of Defendant’s current and former nonexempt employees employed in California during June 3, 2017 to February 11, 2022. SA, ¶ I.G.

Under the Code of Civil Procedure section 382, certification is proper “when the question is one of a common or general interest, of many persons, or when the parties are numerous, and it is impracticable to bring them all before the court, one or more may sue or defend for the benefit of all.” Code of Civil Procedure section 382; *see also* California Rules of Court, rule 3.769(d) (“The court may make an order approving ... certification of a provisional settlement class after the preliminary settlement hearing.”). Courts have interpreted section 382 as imposing two requirements that must be met in order for a class to be certified: (1) “there must be an ascertainable class” and (2) “there must be a well-defined community of interest in the questions of law and fact involved affecting the parties to be represented.” *Daar v. Yellow Cab* (1967) 67 Cal.2d 695, 704 (internal citations omitted). “The community of interest requirement embodies three factors: (1) predominant common questions of law or fact; (2) class representatives with claims or defenses typical of the class; and (3) class representatives who can adequately represent the class.” *Richmond v. Dart Indus., Inc.* (1981) 29 Cal.3d 462, 470.

1 Finally, in making a class certification decision, the Court must determine whether “the class
2 action proceeding is superior to alternate means for a fair and efficient adjudication of the litigation.”
3 *Sav-On Drug Stores, Inc. v. Super. Ct.* (2004) 34 Cal.4th 319, 332 (internal quotation omitted). In
4 doing so, Courts may relax certain manageability concerns that may arise with litigation classes, given
5 that there is no longer ongoing litigation to manage and that the absentees’ interests are protected by
6 the court’s fairness review. *Dunk v. Ford Motor Co.*, (1996) 48 Cal.App.4th 1794, 1807, fn.19.

7 **A. The Class is ascertainable**

8 Defendants’ records identified 1,275 individuals in the Class, making joinder of all Settlement
9 Class Members impracticable. Further, because all Class Members are either current or former
10 employees of Defendants, the Class is readily ascertainable from Defendants’ regular business
11 records.

12 **B. The Central Issues That Are Common to All Class Members Predominate Over**
13 **Any Individual Claims**

14 The test for predominance is whether the issues that are common to all class members “would
15 be the principal issues in any individual action, both in terms of time to be expended in their proof and
16 of their importance, and that if a class suit were not permitted, a multiplicity of legal actions dealing
17 with identical basic issues would be required in order to permit recovery by each [individual member
18 of the class].” *Vasquez v. Super. Ct.* (1971) 4 Cal.3d 800, 810.

19 Here, commonality is satisfied as to all of Plaintiffs’ class claims which all arise from the same
20 policies. *Hanlon v. Chrysler Corp.* (9th Cir. 1998) F.3d 1011 (“When common questions present a
21 significant aspect of the case and they can be resolved for all members of the class in a single
22 adjudication, there is clear justification for handling the dispute on a representative rather than an
23 individual basis.”) Additionally, the class mechanism is superior to individual litigation of Plaintiffs’
24 claims. Indeed, the alternative of more than 1,275 individual actions is not realistic. *See Vasquez*,
25 *supra*, 4 Cal.3d at 810. Accordingly, certification of the Class is superior to any other method of
26 resolving this matter, because it will promote economy, expediency, and efficiency.

27 ///

28 ///

1 **C. Plaintiffs' Claims Are Typical of the Claims of the Settlement Class**

2 To satisfy the typicality requirement, California law requires that the named Plaintiffs be
3 “similarly situated” to the other members of the proposed class. *Classen v. Weller* (1983) 145
4 Cal.App.3d 27, 46. Where, as Plaintiffs contend is true here, the same underlying conduct affects the
5 named Plaintiffs and the class sought to be represented, the typicality requirement is met irrespective
6 of any differences that may underlie individual claims. *Rosack v. Volvo of Am. Corp.*, (1982) 131
7 Cal.App.3d 741, 763.

8 Here, Plaintiffs maintain that their claims are typical of the claims of the Class because they
9 all arise out of the same common policies and practices applicable to other Class Members.
10 Declaration of James Sancho., (“Sancho Decl.”) ¶¶ 7-10; Declaration of Gabriel Guzman Jr.,
11 (“Guzman Decl.”) ¶ 4. Moreover, the interests of the Plaintiffs and the Class Members also are aligned
12 because they both need to demonstrate the same elements to recover on their claims under the Labor
13 Code. *Ibid.*

14 **D. The Named Plaintiffs and Their Counsel Adequately Represent the Class**

15 Adequacy of representation consists of two components: (1) no disabling conflict of interest
16 between the class representative and the class, and (2) the named representative must be represented
17 by counsel competent and experienced in the kind of litigation to be undertaken. *McGhee v. Bank of*
18 *Am.* (1976) 60 Cal.App.3d 442, 450-51. Both requirements are satisfied here.

19 Plaintiffs are represented by counsel with substantial experience in wage and hour class
20 actions. Bradley Decl., ¶¶ 12-18; Declaration of Shani O. Zakay, (“Zakay Decl.”) ¶ 3; Declaration of
21 Jean-Claude Lapuyade, (“Lapuyade Decl.”) ¶¶ 10-18. Second, Plaintiffs do not have any conflicts
22 with other Settlement Class Members. Sancho Decl., ¶¶ 4, 16. Plaintiffs’ interests are co-extensive
23 with those of other Class Members and their agreement to serve as class representatives, respond to
24 discovery, and participate in mediation demonstrates his serious commitment to bringing about the
25 best results possible for fellow Class Members. *See McGhee, supra*, 60 Cal.App.3d at 451.

26 **E. A Class is Superior to a Multiplicity of Litigation.**

27 A lawsuit warrants certification as a class action when doing so would be superior to alternative
28 means for the fair and efficient adjudication of the litigation. This is the case here. Consolidating 1,275

individual actions into a single proceeding saves the parties and the Court substantial time, effort, and expense. Additionally, particularly in the context of settlement, the case management concerns are manageable.

In light of Plaintiffs' showing and the Court's previous Order granting Preliminary Approval, Plaintiffs request that the Court permanently certify the Settlement Class.

IV. FINAL APPROVAL OF THE SETTLEMENT IS APPROPRIATE

A. The Settlement is Fair and Reasonable.

A presumption of fairness exists where: (1) the settlement is reached through arm's-length bargaining; (2) investigation and discovery are sufficient to allow counsel and the court to act intelligently; (3) counsel is experienced in similar litigation; and (4) the percentage of objectors is small. *Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th 116, 128. All elements exist here.

A settlement that is the product of an arms-length negotiation is entitled to a presumption of fairness. *See, e.g., Dunk, supra*, , 48 Cal.App.4th at 1802. As set forth in Plaintiffs' Motion for Preliminary Approval, the settlement was reached after informed, arms-length settlement negotiations supervised by a well-respected mediator experienced in wage-and-hour class action cases, Tripper Ortman, Esq. Declaration of Jean-Claude Lapuyade in Support of Motion for Preliminary Approval (Filed September 20, 2022), ¶¶ 24-25. Before the mediation, counsel vetted the claims through rigorous legal analysis, both on the class certification and merits issues. *Id.*, ¶ 17-22. Counsel also evaluated class data provided by Defendants showing: (1) information bearing on the class size; (2) time and wage records for a representative sample of the class; and (3) Defendant's written employment policies. *Ibid.* Counsel also drew upon their extensive experience litigating, trying, and settling complex wage and hour class actions. *Id.*, ¶59. The parties then participated in a day-long mediation before a very experienced and highly regarded mediator. *Id.*, ¶ 16. Although respectful, the negotiations were rigorous and at arms-length. *Ibid.*

Accordingly, the fact that qualified and well-informed counsel endorses the proposed settlement as being fair, reasonable, and adequate weighs heavily in favor of approval. *See Brown v. Hain Celestial Grp., Inc.* (N.D. Cal., Feb. 17, 2016, No. 3:11-cv-03082-LB) 2016 WL 631880, at *5.

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1 **B. The Settlement Has No Obvious Deficiencies but Rather Provides a Strong**
2 **Result for the Class Members**

3 A proposed settlement is not to be measured against a hypothetical ideal result that might have
4 been achieved. *See Wershba v. Apple Computer* (2001) 91 Cal.App.4th 224, 246 (citing *Linney v.*
5 *Cellular Alaska Partnership* (9th Cir. 1998) 151 F.3d 1234, 1242.). “The test is not the maximum
6 amount plaintiffs might have obtained at trial on the complaint, but rather whether the settlement is
7 reasonable under all of the circumstances.” *Id.* at 250; *In re Sutter Health Uninsured Pricing Cases*
8 (2009) 171 Cal.App.4th 495, 510.

9 The Settlement represents a strong recovery for the Class. The projected Net Settlement
10 Amount (after the Class Counsel Award sought, the proposed Class Representative Service Awards,
11 the penalties under PAGA, and Settlement Administration Costs) is \$732,116.67 and Aggrieved
12 Employee Payment of \$12,500. Polites Decl., ¶ 15. This works out to an average gross payment of
13 \$574.66 to each Settlement Class Member, with the highest gross payment estimated to be \$973.30.
14 *Id.*, ¶ 17. Ultimately, this will bring substantial relief to the Class.

15 **C. The Positive Reaction from the Class Further Supports Settlement Approval.**

16 Reaction to the Settlement from the Class has been quite positive. No class members have
17 objected and only one has sought to exclude themselves the Settlement. Polites Decl., ¶¶ 7-8.

18 The absence of objections and only one request for exclusion is strong evidence of the fairness
19 of the Settlement. *See Rodriguez v. West Publishing Corp.* (9th Cir. 2009) 563 F.3d 948, 967;
20 *Hanlon, supra*, 150 F.3d at 1027 (“[T]he fact that the overwhelming majority of the class willingly
21 approved the offer and stayed in the class presents at least some objective positive commentary as to
22 its fairness”); *In re Omnivision Techs., Inc.*, (N.D. Cal. 2008) 559 F.Supp.2d 1036, 1043 (“It is
23 established that the absence of a large number of objections to a proposed class action settlement raises
24 a strong presumption that the terms of a proposed class settlement action are favorable to the class
25 members.”); *see also Lane v. Brown*, (D. Or. 2016) 166 F.Supp.3d 1180, 1193 (finding that “reaction
26 of class members” factor favored approval of settlement where 32 written objections and 2 oral
27 objections were received, from a class of approximately 2,000 members); *Churchill Vill., L.L.C. v.*
28 *Gen. Elec.* (9th Cir. 2004) 361 F.3d 566, 575 (finding a favorable class reaction when 45 individuals

submitted objections out of 90,000 putative class members who received notice); *Chun-Hoon v. McKee Foods* (N.D. Cal. 2010) 716 F.Supp.2d 848, 852 (finding that opt-out rate of 4.86% strongly supported settlement); *Wren v. RGIS Inventory Specialists*, (N.D. Cal., Apr. 1, 2011, No. C-06-05778 JCS) 2011 WL 1230826, at *10 (finding that opt-out rate of 0.05% was “strong indicia the class supports the proposed settlement.”). The lack of objections here is a particularly strong indication of fairness, as “[i]n litigation involving a large class it would be ‘extremely unusual’ not to encounter objections[.]” *In re NASDAQ Market-Makers Antitrust Litig.* (S.D.N.Y. 1998) 187 F.R.D. 465, 478. The fact that there were no objections and one opt out is indicative of the strong value and fairness of the Settlement here.

D. The Formula for Each Class Member’s Share is Fair and Reasonable

The formula for allocation of Class Member payments is subject to the same standard of review as class action settlements—it must be “fair, adequate and reasonable.” *See, e.g., 7-Eleven Owners for Fair Franchising v. Southland Corp.* (2000) 85 Cal.App.4th 1135, 1166-1167 (holding that plans of allocation within the context of settlement agreements are subject to a fair, adequate, and reasonable standard). *Accord Chavez v. Netflix, Inc.* (2008) 162 Cal.App.4th 43, 55-56 (holding that courts do not decide whether plans of allocation are the best plans possible, but rather whether they are fair, adequate, and reasonable).

Here, the distribution formula is designed to take into account objective data, specifically the length of time worked by each Settlement Class Member. SA, ¶ III.O.1. Each Settlement Class Member’s share will increase or decrease proportionally based on the number of workweeks he or she has in comparison to the workweeks of the Settlement Class Members combined. This is reasonable because the Settlement Class Members’ share will increase or decrease proportionally based on the amount of time worked.

E. The Class Received Reasonable and Adequate Notice

The manner of giving notice and content of the notice must “fairly apprise the prospective members of the class of the terms of the proposed settlement and of the options that are open to them in connection with proceedings.” *7-Eleven, supra*, 85 Cal.App.4th at 1164. An appropriate notice has a “reasonable chance of reaching a substantial percentage of the class members.” *Wershba, supra*, 91

1 Cal.App.4th at 251. Here, the Court-approved class notice adequately protected the due process rights
2 of all Class Members and satisfied rule 3.766 of the California Rules of Court.

3 The Class Notice contained a statement of the case, the terms of the Settlement, the amount of
4 attorneys' fees, costs, and the service award being sought, an explanation of how the settlement
5 allocations are calculated, among other pertinent information. Polites Decl., Ex. A. The Class Notice
6 also was tailored to provide each Class Member with the number of workweeks credited to that Class
7 Member and an estimate of the amount of money that the Class Member will receive if all Class
8 Members participate in the Settlement. The Notice explained the procedures for disputing Defendants'
9 records concerning the Class Member's workweeks as well as the procedures for objecting to any
10 aspect of the Settlement or opting out. Polites Decl., Ex. A, pp. 4-5. After mailing 1,275 Class Notices
11 through the original and subsequent mailing, only 18 have been returned as undeliverable. Polites
12 Decl., ¶ 14. This establishes the Class received adequate notice.

13 **V. THE SERVICE AWARDS TO THE CLASS REPRESENTATIVES ARE FAIR AND**
14 **REASONABLE**

15 **A. Reasonable Service Awards Compensate Named Plaintiffs for Work Preformed**
16 **and Burdens Undertaken to Obtain Relief for a Class**

17 Service awards are common in class action cases. *In re Cellphone Fee Termination Cases*
18 (2010) 186 Cal.App.4th 1380, 1393, *as modified* (July 27, 2010) (citing *Rodriguez v. West Publishing*
19 *Corp.* (9th Cir. 2009) 563 F.3d 948, 958); Rubenstein et al., *Newberg on Class Actions* (4th ed. 2002)
20 § 11:38, p. 81. "[T]he rationale for making enhancement or incentive awards to named plaintiffs is
21 that they should be compensated for the expense or risk they have incurred in conferring a benefit on
22 other members of the class." *Clark v. American Residential Services LLC* (2009) 175 Cal.App.4th
23 785, 806.

24 Furthermore, courts often approve service awards substantially larger than those requested by
25 Plaintiffs here, where the named plaintiffs have made significant contributions to the prosecution of
26 the class action, and the settlement has yielded a substantial benefit for the class. *See, e.g., Helmick v.*
27 *Air Methods Corp.* (Super. Ct. Alameda County, Oct. 16, 2020) No. RG13-665373 at p. 9 (approving
28 service awards of ranging from \$19,000 to \$38,000 for four Class Representatives); *Bartoni v.*

1 *American Medical Response*, (Super. Ct. Alameda County, Sept. 13, 2019) No. RG08382130
2 (approving service awards of \$15,000 for four Class Representatives); *Wisniewski v. Pacific Maritime*
3 *Assoc.* (Super. Ct., Los Angeles County, Nov. 20, 2006) No. BC293134 (approving \$50,000 service
4 payment); *Clark v. Am. Residential Servs. LLC* (Super. Ct., Los Angeles County, Aug. 29, 2007) No.
5 BC332632 (approving \$25,000 service payment); *Kirschenbaum v. Elec. Arts, Inc.* (Super. Ct., San
6 Mateo County, Jan. 27, 2006) No. Civ. 440876 (approving \$30,000 and \$15,000 service payments);
7 *Crespo-Szabo v. Hollywood Entm't Corp.* (Super. Ct., Alameda County, May 31, 2005) No. RG04-
8 135321 (approving \$25,000 service payment); *Junglas v. General Motors Corp* (Super. Ct. Alameda
9 County. April 20, 1990) No. 558-051-6 (awarding choice of \$12,000 or free new Cadillac to named
10 plaintiffs); *Gaudin v. Saxon Mortgage Servs., Inc.* (N.D. Cal. 2015) 2015 WL 7454183, at *10 (finding
11 service award of \$15,000 to be “fair and reasonable”).

12 In evaluating the appropriateness of service awards, courts consider the following relevant
13 factors: (1) the risk to the class representative in commencing suit, both financial and otherwise; (2)
14 the notoriety and personal difficulties encountered by the class representative; (3) the amount of time
15 and effort spent by the class representative; (4) the duration of the litigation; and (5) the personal
16 benefit (or lack thereof) enjoyed by the class representative as a result of the litigation. *See In re*
17 *Cellphone, supra*, 186 Cal.App.4th at 1393; *Van Vranken v. Atlantic Richfield Co.* (N.D.Cal.1995)
18 901 F.Supp.294, 299. Application of these factors demonstrates that the service award requested is
19 fully warranted here.

20 **1. The named Plaintiffs devoted substantial time and effort to this litigation**

21 Reasonable service awards are warranted where, as here, named Plaintiffs devote substantial
22 time and effort to the case. *See In re Cellphone, supra*, 186 Cal.App.4th at 1394; *see also Schaffer v.*
23 *Litton Loan Servicing, LP* (C.D. Cal. Nov. 13, 2012) 2012 WL 10274679 at *19 (“An incentive award
24 is appropriate where...the ‘class representatives remained fully involved and expended considerable
25 time and energy during the course of the litigation.’”).

26 Here, Plaintiffs have expended substantial time assisting in the prosecution of the case. Sancho.
27 Decl., ¶¶ 12-15, 19; Guzman Decl., ¶¶ 5, 10, 13-15. Their work included: providing important
28 information to Counsel; engaging in lengthy interviews with Counsel; making themselves available

1 during mediation; reviewing and approving the settlement papers, and remaining in contact and
2 communication with Counsel throughout this litigation. *Ibid.*

3 **2. The Class Representatives' efforts resulted in substantial benefit to the Class**

4 In addition to weighing the amount of time and effort expended by the class representatives,
5 courts also consider the degree to which class representatives' efforts benefitted the class. *See Staton*
6 *v. Boeing* (9th Cir. 2003) 327 F.3d 938, 977 (internal citation omitted). Plaintiffs' contributions to this
7 litigation will have a significant, positive impact on the Class Members. The average Class Member
8 payment is approximately \$574.66 per person under the proposed Settlement, although some will
9 receive more. Polites Decl., ¶ 17; (the highest gross payment is estimated to be \$973.30). The
10 substantial benefit Plaintiffs' efforts have secured for the Class weighs in favor of granting the
11 requested service awards.

12 **3. The named Plaintiffs took a substantial risk**

13 Another factor supporting the award of service payments is whether the class representative's
14 service resulted in personal difficulties and/or whether they undertook significant risks to serve as
15 class representatives. *See In re Cellphone, supra*, 186 Cal.App.4th at 1394; *Millan v. Cascade Water*
16 *Servs., Inc.* (E.D. Cal., May 31, 2016) 2016 WL 3077710, at *12 (reasoning that service awards "are
17 particularly appropriate in wage-and-hour actions where plaintiffs undertake a significant
18 'reputational risk' by bringing suit against their present or former employers."). "When a class
19 representative shoulders some degree of personal risk in joining the litigation, such as workplace
20 retaliation or financial liability, an incentive award is especially important." *In re Toys R Us* (C.D.
21 Cal., 2014) 295 F.R.D. 438, 470; *Weeks v. Kellogg Co.* (C.D. Cal., Nov. 23, 2013) 2013 WL 6531177,
22 at *36. Examples of risks to the Plaintiffs in commencing the litigation "includ[e] reasonable fears of
23 workplace retaliation, personal difficulties, and financial risks." *Wren v. RGIS Inventory Specialists*
24 (N.D. Cal., Apr. 1, 2011, No. C-06-05778 JCS) 2011 WL 1230826, at *32.

25 Further, it is well established that plaintiffs in the employment context "face[] the risk that new
26 employers would learn that they were class representatives in a lawsuit against their former employer
27 and take adverse action against them. Moreover, each time they change jobs, they will risk retaliation
28 in the hiring process." *Asare v. Change Grp. of N.Y., Inc.* (S.D.N.Y., Nov. 18, 2013, No. 12 Civ.

3371(CM)) 2013 WL 6144764, at *15; *DeWitt v. Darlington Cnty. S.C.*, (D. S.C., Dec. 6, 2013, No. 4:11-cv-00740-RBH) 2013 WL 6408371, at *14 (noting that incentive payments are especially warranted “where the Plaintiff is often a former or current employee of the defendant, and thus, by lending his name to the litigation, he has, for the benefit of the class as a whole, undertaken the risk of adverse actions by the employer or co-workers”).

Here the named Plaintiffs risked their reputation in the community and with regard to future employment opportunities as a result of stepping forward publicly as named representatives in this class action. Bradley Decl., ¶¶ 36. Plaintiffs had to devote their own time and expenses to participating in the case. Sancho Decl., ¶¶ 12-15, 19; Guzman Decl. ¶¶ 5, 13. Furthermore, they bore the risk that they might have to pay defense costs if they lost the case. Bradley Decl., ¶ 36; Sancho Decl., ¶ 20; Guzman Decl., ¶ 6. Plaintiffs have also agreed to general release as a part of the settlement. Sancho Decl., ¶ 18; Guzman Decl., ¶ 12.

4. The Class Representatives Acted in the Best Interests of the Class

The possibility of receiving a service award has not created a conflict between Plaintiffs and the Class. Plaintiffs understand that as class representatives, they have been obligated to act, and in fact have acted, in the best interests of the Class. Sancho Decl., ¶ 16; Guzman Decl., ¶ 6. Moreover, when they accepted the proposed settlement on behalf of the Class, they were fully aware that this Court may reduce their requested service award or deny it altogether. Their support for the proposed Settlement is in no way conditioned upon the promise of receiving a service award.

5. The Requested Service Awards Promote the Public Policies Underlying the Labor Code

Approving the requested Class Representative Service Awards will promote important public policies underlying Plaintiffs’ wage-and-hour claims. Plaintiffs’ claims are brought under the Labor Code, a remedial statute reflecting a strong public policy of robust employee rights. *Murphy v. Kenneth Cole Prods. Inc.* (2007) 40 Cal.4th 1094, 1103. Furthermore, the State’s strong public policy in favor of strict enforcement of minimum wage and overtime laws is well-established and fundamental to the Labor Code’s protective purpose. *See Sav-On Drug Stores, Inc, supra*, 34 Cal.4th at 340 (citing *Earley v. Superior Court* (2000) 79 Cal.App.4th 1423, 1429-30) (confirming ““a clear

1 public policy ... that is specifically directed at the enforcement of California’s minimum wage and
2 overtime laws for the benefit of workers.”). Likewise, California’s meal and rest period requirements
3 also were designed to protect workers from substantial health and safety risks resulting from employer
4 abuses. *See Lazarin v. Superior Court*, (2010) 188 Cal.App.4th 1560, 1582-83.

5 Here, Plaintiffs have helped to vindicate the important public policies underlying the State’s
6 wage and hours laws, including the important health and safety policies against overwork.
7 Accordingly, the “public policy” factor weighs heavily in favor of the requested service awards.

8 **VI. PLAINTIFFS ARE ENTITLED TO REASONABLE ATTORNEYS’ FEES AND**
9 **COSTS**

10 **A. Plaintiffs are entitled to attorneys’ fees under both the common fund doctrine**
11 **(“fee spreading”) and statutory fee shifting**

12 There are two legal bases for Plaintiffs’ request for attorneys’ fees: the common fund doctrine
13 and fee shifting. Under either basis, the Court is empowered to award reasonable attorneys’ fees and
14 costs where, as here, a litigant proceeding in a representative capacity has achieved a “substantial
15 benefit” for a class of persons. *Serrano v. Priest* (1977) 20 Cal.3d 25, 38 (“*Serrano IIP*”). Plaintiffs
16 have achieved a substantial benefit by securing the \$1,270,000 proposed class action Settlement. Thus,
17 Plaintiffs are entitled to reasonable attorneys’ fees and costs.

18 **B. The Two Methods for Calculating the Amount of Attorneys’ Fees**

19 There are two methods of calculating attorneys’ fees in civil class actions: (1) the
20 lodestar/multiplier method, and (2) the percentage of recovery method. *Wershba, supra*, 91 Cal.App.
21 4th at 254. While the trial court has discretion, one recognized approach is to determine the plaintiffs’
22 lodestar fees, determine whether a multiplier is warranted, and then “cross check” the propriety of that
23 amount as a percentage of the overall recovery. *See Lealao v. Beneficial Inc* (2000) 82 Cal.App.4th
24 19, 49-50. It also is permissible for courts to “double-check” the reasonableness of a percentage fee
25 through a lodestar calculation. *Laffitte v. Robert Half Int’l Inc.* (2016) 1 Cal.5th 480, 504.

26 Courts generally do not “closely scrutinize each claimed attorney-hour but have instead used
27 information on attorney time spent to ‘focus on the general question of whether the fee award
28 appropriately reflects the degree of time and effort expended by the attorneys.’” *Laffitte, supra*, 1

Cal.5th at 505. Here, Plaintiffs seek final approval of a fee award of one-third of the \$1,270,000 proposed Settlement. As discussed below, an award of one-third of the common fund (\$423,333.33) is reasonable and warranted in light of the contingency risk and difficulty of the representation here, as well as the strong result achieved. Furthermore, the “Lodestar-Multiplier” cross-check supports the reasonableness of Plaintiffs’ request for Class Counsel Award.

C. The Risks Presented by the Contingent Nature of the Recovery and Complex Nature of the Case Justify the Class Counsel Award Requested

The risks associated with the contingent nature of this action justify the requested fees. “It is an established practice in the private legal market to reward attorneys for taking the risk of non-payment by paying them a premium over their normal hourly rates for winning contingency cases.” *Fischel v. Equitable Life Assurance Soc’y of U.S.* (9th Cir. 2002) 307 F.3d 997, 1008. By undertaking a class action on a contingency fee basis, counsel not only must turn away other income-generating opportunities but must take on a substantial risk of “never receiving compensation at all.” *Amaral v. Cintas Corp. No. 2* (2008) 163 Cal.App.4th 1157, 1217-18.

Counsel take their cases on a contingent fee basis and rely on attorneys’ fee awards to continue their work for the enforcement of labor standards. Bradley Decl., ¶ 24. Indeed, Counsel did not charge the Plaintiffs or the Class any fees or costs to litigate and bring this case to a successful conclusion. *Ibid.* As of April 27, 2023, Counsel has invested a total of 474.38 hours in this case and have not yet received any payment for them. Bradley Decl., ¶ 23; Zakay Decl., ¶ 4; Lapuyade Decl., ¶ 4. In addition, Counsel have to date incurred \$27,368.66 in out-of-pocket costs, which have not yet been recouped. Bradley Decl., ¶¶ 31-34; Zakay Decl., ¶¶ 7-8; Lapuyade Decl., ¶¶ 3. During the course of this case, Counsel also had to forego requests by other prospective clients to bring other cases with merit to ensure that they could continue to adequately and successfully represent the Plaintiffs and the Class in this matter. Bradley Decl., ¶ 24.

Like other important and complex employment class actions, this case carried a risk of no recovery at all for either the class or the attorneys representing them. Bradley Decl., ¶ 25. Examples of the specific risks faced here included whether Plaintiffs would prevail on a contested motion for class certification; whether Plaintiffs would be able to prove up damages across the Class; whether

1 Defendants would prevail on any number of their affirmative defenses, and whether, if successful,
2 Plaintiffs would be able to recover from Defendants given its limited financial resources.

3 As is the nature of contingency work, Plaintiffs' Counsel sometimes recover very little or
4 nothing at all, even for cases that may be meritorious, due to a variety of factors that may or may not
5 have anything to do with the merits. Bradley Decl., ¶¶ 24-25. When Counsel do succeed in vindicating
6 statutory and employment rights on behalf of a class of employees, such as in this case, they depend
7 upon reasonable percentage-of-the-fund fee awards to enable them to take on similar risks in future
8 cases. *Ibid.* Otherwise, they could not continue to represent employees who are denied wages, but
9 whose cases may be time-consuming and difficult to prove. *Ibid.*

10 The instant case is one in which Plaintiffs' Counsel's skill, efforts, and representation of the
11 Class secured strong benefits for the Class Members. From the first interviews with the named
12 Plaintiffs through the complex mediation and settlement process, Plaintiffs' Counsel worked hard to
13 ensure that the relief being sought by the case would be realized on a wholly contingent basis,
14 effectively loaning their services to the Class Members during this time and taking on the risk of
15 recovering nothing or close to nothing in light of the difficulties and uncertainties of class litigation.
16 Bradley Decl., ¶¶ 24-30. Given all these considerations, a fee award amounting to one-third of the
17 common fund settlements is fair and reasonable.

18 **D. The Requested Fees are Well Within the Range of Attorneys' Fees Awarded in**
19 **Similar Wage and Hour Class Action Settlements**

20 "[A] review of California cases ... reveals that courts usually award attorneys' fees in the 30-
21 40% range in wage and hour class actions that result in recovery of a common fund under \$10
22 million." *Watson v. Tennant Co.*, (E.D. Cal., Sept. 11, 2020, No. 2:18-cv-02462 WBS DB) 2020 WL
23 5502318, at *7 (citations omitted). Indeed, State case law provides many examples of fee awards of
24 one-third (or more) of a common fund in wage and hour class actions. *See, e.g., Parker v. City of L.A.*
25 (1974) 44 Cal.App.3d 556, 567-68 (one-third of recovery); *Willey v. Techtronic Industries North*
26 *America, Inc.*, No. RG 16806307 (Alameda Super. Ct. Aug. 4, 2017) (same); *Garrett v. Bank of Am.,*
27 *N.A.* (Alameda Cnty. Super. Ct., Nov. 1, 2016) No. RG13699027, 2016 WL 11431499 (same);
28 *Longstreth v. PAQ, Inc.* (San Luis Obispo Cnty. Oct. 20, 2016) 15-cv-0206, 2016 WL 7163981, at *2

(same); *Lacy T. v. The Oakland Raiders* (Alameda Cnty. Super. Ct. March 3, 2015) No. RG14710815, 2015 WL 13701077 (32% of common fund), *affirmed in* (Cal. Ct. App. Dec. 13, 2016) A144707, 2016 WL 7217584; *Penaloza v. PPG Indus. Inc.* (L.A. Cnty. Super. Ct. May 20, 2013) No. BC471369, 2013 WL 2917624 (one third); *Saberi v. BFS Retail & Commercial Operations, LLC* (Alameda Cnty. Super. Ct. Sept. 19, 2010) No. RG0806555, 2010 WL 5172447 (same). *See also*, *Cotchett, Pitre & McCarthy v. Universal Paragon Corp.* (2010) 187 Cal.App.4th 1405, 1421 (fees typically range from 33 to 40% of class benefit). The same is true of California and other federal court decisions, which regularly approve fee awards amounting to one-third or more of the common fund. *See, e.g., Bennett v. SimplexGrinnell LP* (N.D. Cal., Sept. 3, 2015, No. 11-cv-01854-JST) 2015 WL 12932332, *6-7 (order approving attorneys' fees of 38.8% of settlement in prevailing wage case); *Lee v. JPMorgan Chase & Co.* (C.D. Cal. Apr. 28, 2015) 2015 WL 12711659, *7-9 (approving one-third of class million settlement in misclassification case); *Barbosa v. Cargill Meat Sols. Corp.* (E.D. Cal. 2013) 297 F.R.D. 431, 449 (one-third award based in part on "significant risks" and evidence that "Defendant vehemently contested liability..."); *Garcia v. Gordon Trucking, Inc.* (E.D. Cal., Oct. 31, 2012, No. 1:10-CV-0324 AWISKO) 2012 WL 5364575, at *10 (awarding one-third of the common fund where counsel "achieved a good result" and faced "uncertainty in California law as it related to Plaintiffs' meal break claims."); *Wren v. RGIS Inventory Specialists* (N.D. Cal. April 1, 2011), 2011 WL 1230826, at *29 (42% of the common fund in another wage and hour class action alleging "off the clock" claims); *Stuart v. Radioshack Corp.* (N.D. Cal., Aug. 9, 2010, No. C-07-4499 EMC.) 2010 WL 3155645, at *6 (one-third award where lodestar was approximately the same as fee request, and hours expended reflected "the length of the lawsuit and the vigorous disputes over the course of the litigation..."); *Singer v. Becton Dickinson and Co.* (S.D. Cal., Jun. 1, 2010,) 2010 WL 2196104, *8 (awarding 33 1/3% and citing awards ranging from 30.3% to 40%); *De Munecas v. Bold Food, LLC* (S.D.N.Y. 2010) 2010 WL 3322580, at *9 (request for 33% of fund is reasonable "because reasonable paying clients typically pay one-third of their recovery under private retainer agreements."); *Van Vranken v. Atlantic Richfield Co.* (N.D. Cal. 1995) 901 F.Supp. 294, 297-298 (citing "73 district court opinions in which fees in the range of 30-50 percent of the common fund were awarded.").

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1 **E. The “Lodestar-Multiplier” Cross-Check Confirms the Reasonableness of the**
2 **Fee Award.**

3 As discussed above, the lodestar method may be used to “cross-check” the reasonableness of a
4 percentage award. *Vizcaino v. Microsoft Corp.* (9th Cir. 2002) 290 F.3d 1043, 1050. A trial court using
5 the lodestar/multiplier method should “ensure that the fee awarded is within the range of fees freely
6 negotiated in the legal marketplace in comparable litigation.” *Lealao v. Beneficial California, Inc.*
7 (2000) 82 Cal. App. 4th 19, 50. The California Supreme Court has instructed, “fee awards should be
8 fully compensatory” by remunerating successful counsel for all hours reasonably spent. *Ketchum v.*
9 *Moses* (2001) 24 Cal. 4th 1122, 1133. The lodestar also should be “adjusted in some manner to reflect
10 the fact that the fair market value of legal services provided on that basis [of the fair market value] is
11 greater than the equivalent noncontingent hourly rate.” *Id.* at 1132-1133. Thus, attorneys’ fee awards
12 often include significant lodestar enhancements through the application of multipliers. In class actions,
13 “[m]ultipliers can range from 2 to 4 or even higher.” *Wershba*, 91 Cal. App. 4th at 255. Here,
14 Plaintiffs’ fee request will result in a 1.42 multiplier of their lodestar, despite the substantial contingent
15 risk.

16 **1. Counsel’s time was reasonably spent**

17 The number of hours that Plaintiffs’ Counsel devoted to this case is reasonable. *See, e.g.,*
18 *Ketchum, supra*, at 1133 (fee award should be “fully compensatory [and] absent circumstances
19 rendering the award unjust, an attorney fee award should ordinarily include compensation for *all* the
20 hours reasonably spent.”); *Serrano III, supra*, 20 Cal.3d at 49 (counsel are entitled to compensation
21 for all hours reasonably expended); *Hensley v. Eckerhart* (1983) 461 U.S. 424, 435-36.

22 Counsel’s work on this case included fact-intensive interviews with Plaintiffs and Class
23 Members at the beginning, middle and end of the case; the drafting and filing of pleadings; legal
24 research on complex issues; preparing and responding to mediation discovery; preparing a mediation
25 brief and exposure analysis; a lengthy mediation; prolonged post-mediation negotiations to agree on
26 the detailed terms of the actual settlement agreement; drafting of the settlement papers and approval
27 motions; working with the Settlement Administrator on the settlement notice and various
28 administrative issues; and communications with putative class members throughout the pendency of

1 this case. Bradley Decl., ¶¶ 22-25.

2 As of April 27, 2023, Counsel has invested approximately 474.38 hours of work into this case,
3 for a total lodestar of approximately \$297,448. Bradley Decl., ¶ 23; Zakay Decl., ¶ 4; Lapuyade Decl.,
4 ¶ 4. As discussed below, the billing rates used by Plaintiffs' Counsel are within the market range and
5 have been consistently approved by the courts. Bradley Decl., ¶¶ 19-21; Zakay Decl., ¶ 6; Lapuyade
6 Decl., ¶¶ 5-6.

7 **2. Counsel's hourly rates are within the market range and have been consistently**
8 **approved by the courts**

9 The general principle for determining the reasonableness of hourly rates is that they "are to be
10 calculated according to the prevailing market rates in the relevant community." *Blum v. Stenson* (1984)
11 465 U.S. 886, 895 n.11; *Camacho v. Bridgeport Fin., Inc.* (9th Cir. 2008) 523 F.3d 973, 979. This rule
12 applies even when, as here, the attorneys representing the Plaintiffs performed the work on a
13 contingent fee basis. *See, e.g., Blanchard v. Bergeron* (1989) 489 U.S. 87, 96. Plaintiffs' Counsel sets
14 their rates on an annual basis through a process of continual monitoring of prevailing market rates
15 charged by both defense and plaintiffs' law firms, for individuals with similar levels of skill and
16 experience who are doing comparable work as their attorneys and staff. Bradley Decl., ¶ 20; Zakay
17 Decl., ¶ 6; Lapuyade Decl., ¶ 5.

18 Federal and state courts in California have consistently approved the rates charged by Bradley
19 Grombacher LLP. *See, e.g., Garcia v. XPO Logistics Freight, Inc.*, (San Bernardino County. Super.
20 Ct. April 19, 2021) Case No.: CIVDS2015538 (approving 2020 rates); *Smith v. Hoag Memorial*
21 *Hospital* (Orange County. Super. Ct. Mar. 6, 2020) Case No. 30-2017-00952013 (approving 2019
22 rates); *Haro v. Laboratory Corp. of America*, (C.D. Cal. Nov. 18, 2020) Case No. 2:18-cv-09091-AB-
23 RAO (approving 2019 rates); *Maldonado v. Dayton Superior Corp.* (Riverside County. Super Ct.
24 September 10, 2019) Case No. RIC1615240 (approving 2018 rates). Similarly federal and state courts
25 in California have approved the rates charged by Zakay Law Group, APLC and JCL Law Firm, APC.
26 Zakay Decl., ¶ 6; Lapuyade Decl., ¶ 6. Moreover, Plaintiffs' Counsel have extensive experience in
27 wage and hour class actions, such as this. Bradley Decl., ¶¶ 12-18; Zakay Decl. ¶ 3; Lapuyade Decl.
28 ¶¶ 10-18. Their billing rates are within the market range for attorneys of comparable experience and

skill. Bradley Decl., ¶ 20; Zakay Decl. ¶ 6; Lapuyade Decl. ¶ 5.

3. The proposed fees requested will result in a 1.42 multiplier of Counsel’s total lodestar

As of April 27, 2023, the total lodestar for Plaintiffs’ Counsel’s firms is \$297,448 and is projected to be more by the time the Class Members are fully paid, assuming final approval. Bradley Decl., ¶ 9; Zakay Decl. ¶ 5; Lapuyade Decl. ¶ 7. A fee award of \$423,333.33 would result in a 1.42 multiplier. Bradley Decl., ¶ 10. Indeed, Counsel estimates that this percentage will decrease more by the end of the case. Bradley Decl., ¶ 9; Zakay Decl. ¶ 5; Lapuyade Decl. ¶ 7. The requested fees are also well within the range of fees typically awarded in class actions cases, in which “[m]ultipliers can range from 2 to 4 or even higher.” *Wershba, supra*, 91 Cal.App.4th at 255 (emphasis added).

When assessing a lodestar figure, courts consider factors including: “(1) the novelty or difficulty of questions involved; (2) the skill displayed in presenting them; (3) the extent to which the nature of the litigation precluded other employment by the attorneys, [and] (4) the contingent nature of the fee award.” *Ketchum, supra*, 24 Cal.4th at 1132; *see also Serrano III, supra*, 20 Cal.3d at 34 (listing factors courts may consider). As discussed herein, these factors would support a multiplier in this case. Therefore, the fees requested here—which represent a 1.42 multiplier of Counsel’s total lodestar—are entirely reasonable.

Indeed, while Plaintiffs’ Counsel were able to achieve the settlement before more time-consuming events such as summary judgment, trial and appeal, the case still presented a variety of moving parts and contingencies, which in turn demanded skill, attentiveness, patience and creativity to resolve. Bradley Decl., ¶¶ 26-30. Counsels’ legal analysis and presentation, both prior to and during the mediation, was critical to securing relief for the Class. *Ibid.* Further, as discussed above, Plaintiffs’ Counsel invested their time and effort on a completely contingent basis, with the risk that they would receive no recovery of their time or costs at all. Bradley Decl., ¶ 25. Given all the complexities and risks inherent in this case, this contingency risk was substantial. Bradley Decl., ¶¶ 25-29. Indeed, even if the Court awards the fees requested, Plaintiffs’ counsel will still have absorbed a significant share of the fees incurred without payment. The challenges that Plaintiffs’ Counsel had to confront and the risks they had to fully absorb on behalf of the Class here are precisely the reasons for fee awards up

1 to and often beyond the lodestar in contingency fee cases. *Ketchum, supra*, 24 Cal.4th at 1132-33
2 (quoting Posner, *Economic Analysis of the Law* (4th ed. 1992) 534, 567).

3 **4. Plaintiffs' requested cost reimbursements are reasonable**

4 Plaintiffs' Counsel are entitled to recover the out-of-pocket costs and litigation expenses they
5 reasonably incurred in investigating, prosecuting, and settling this case to achieve a substantial benefit
6 for the Class Members. *Serrano III, supra*, 20 Cal. 3d at 35; Labor Code section 2699(g)(1); Code of
7 Civil Procedure section 1032. Here, as of April 27, 2023, Plaintiffs' Counsel has incurred \$27,368.66
8 in such costs and expenses. Bradley Decl., ¶ 31; Zakay Decl. ¶ 7; Lapuyade Decl. ¶ 3. As documented
9 in the declarations of Counsel, these costs and expenses are reasonable, customary and should be fully
10 reimbursed. Bradley Decl., ¶¶ 32-34; Zakay Decl. ¶ 8; Lapuyade Decl. ¶ 8.

11 **VII. CONCLUSION**

12 For the foregoing reasons, Plaintiffs respectfully request that the Court enter the
13 accompanying proposed order granting final approval of the proposed Settlement. Plaintiffs also
14 request that the Court grant Plaintiffs' request for attorneys' fees and costs, and service award to the
15 Class Representatives.

16
17 DATED: April 27, 2023

JCL LAW FIRM

18 By: 

19 Jean-Claude Lapuyade, Esq.
20 Attorneys for Plaintiffs
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