

FILED
LOS ANGELES SUPERIOR COURT

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SHERRI R. CARTER, EXECUTIVE OFFICER/CLERK
BY N. Navarro Deputy
NANCY NAVARRO

**SUPERIOR COURT OF CALIFORNIA
COUNTY OF LOS ANGELES**

THE FPI MANAGEMENT WAGE AND
HOUR CASES

Case No.: JCCP5050

[Coordinated Cases:
Ricardo Vega v. FPI Management, Inc. -
BC687738; *Daniel Herrera v. FPI
Management, Inc.* - 34-2019-00252461;
Esteban Ramos v. FPI Management, Inc. -
19STCV32278; *Jose Rios v. FPI
Management, Inc.* - 19CECG04348]

ORDER GRANTING
MOTION FOR FINAL APPROVAL
OF CLASS ACTION SETTLEMENT;
APPROVING INCENTIVE PAYMENTS;
AWARDING FEES TO PLAINTIFFS'
COUNSEL AND DENYING FEES TO
ATTORNEY GERBER

Date: September 6, 2022
Time: 9:00 a.m.
Dept.: SSC-17

I. BACKGROUND

In this coordinated proceeding, various plaintiffs bring wage and hour claims against Defendant FPI Management Inc. (FPI), a property management firm based in Costa Mesa, California.

1 As is set forth in greater detail below, the original complaint filed was *Ricardo*
2 *Vega v. FPI Management, Inc. (Vega)*, Los Angeles County Superior Court Case No.
3 BC687738, filed December 20, 2017. Plaintiff's counsel was Karl Gerber (Gerber).
4 The original pleading in that action alleged discrimination based upon the Fair
5 Employment and Housing Act (FEHA), as well as violation of the Labor Code's wage
6 and hour provisions.

7 On March 13, 2019, Plaintiffs Daniel Herrera and Araceli Garcia brought claims
8 against FPI for alleged wage and hour violations in an action filed in Sacramento
9 County Superior Court, Case No. 34-2019-00252461 (*Herrera*).

10 On October 2, 2019, the *Herrera* action was coordinated with *Vega*.

11 On February 18, 2020, two additional cases were added to the Coordinated
12 Matter: *Jose Rios v. FPI Management, Inc.*, Fresno County Superior Court, Case No.
13 19CECG04348 (*Rios*) and *Esteban Ramos v. FPI Management, Inc.*, Los Angeles
14 Superior Court Case No. 19STCV32278 (*Ramos*).

15 On October 5, 2020, counsel in the *Herrera*, *Vega* and *Rios* actions attended a
16 full-day mediation with mediator Steven Serratore. The parties and counsel in *Ramos*
17 declined to participate. The parties in *Herrera*, *Vega* and *Rios* were unable to reach a
18 settlement on October 5, 2020 but continued settlement negotiations with the assistance
19 of the mediator.

20 A settlement was purportedly agreed to on March 1, 2021. See Ex. 1 to Dec. of
21 Gerber filed August 9, 2021. Vega then declined to execute the settlement agreement
22 or participate in the action, resulting in a motion to be relieved filed by Gerber which
23 was ultimately granted.

1 Gerber filed a “Notice of Lien.” Exactly what case the lien pertains to is unclear
2 as it is titled as only being under “JCCP 5050” but not in any particular case in the
3 JCCP.¹

4 Vega’s case was dismissed on February 8, 2022 when Vega failed to appear for
5 trial. He appealed the dismissal. That appeal was subsequently dismissed.

6 In the interim, on July 8, 2021, the parties to the *Herrera* and *Rios* actions
7 reached an agreement. The monetary terms were the same as had been initially agreed
8 in March 2021 but certain claims were carved out, the amount allocated to the LWDA
9 for claims under the Private Attorney General Act (PAGA) was increased, and the
10 requested fee award was slightly reduced and allocated only to counsel whose clients
11 participated in the settlement.

12 There were multiple hearings respecting preliminary approval, with preliminary
13 approval being granted on March 29, 2022, subject to certain conditions with which
14 there has been compliance. Notice was given to the Class Members as ordered (see
15 Declaration of Taylor Mitzner dated June 29, 2022, attached as Exhibit 1 to the
16 Amended Declaration of William C. Sung ISO Defendant’s Objection to the
17 Unauthorized Opt-Out for Settlement Class Member-Decedent Esteban Ramos) and
18 counsel in *Herrera* and *Rios* then filed Plaintiffs’ motion for final approval of the
19 Settlement Agreement, including for payment of fees, costs, and service awards to the
20 named plaintiffs. There was also filed a separate motion by Gerber for fees to be paid
21 from the proposed settlement proceeds.

22
23
24
25 ¹ A JCCP is not itself a case. It coordinates separate cases for various purposes. See generally Code of Civil
Procedure section 404; Cal. Rules of Court, rule 3.520 et.seq.

1 On July 29, 2022, the Court identified on Case Anywhere several issues with
2 deficient filings by the parties, to which the parties re-filed certain documents.

3 On August 25, 2022, the Court called the matter for hearing. Following
4 argument, the Court found the opt-out of deceased class member Ramos to be invalid,
5 while deeming the late-filed opt-outs of Sandra Parker and Kendra Kidd to be timely.
6 The Court continued the matter to September 6, 2022 at which time further argument
7 was heard, primarily on the issue of fees.

8 For the reasons set forth below, the Court now grants final approval of the
9 settlement, approves incentive payments, approves the requested fees of Class Counsel,
10 and denies an award of fees to Gerber.

11 12 **II. THE TERMS OF THE SETTLEMENT**

13 14 **A. SETTLEMENT CLASS DEFINITION**

15 “Class” or “Class Members” means any and all Persons who are or were
16 previously employed by Defendant FPI Management, Inc. as a non-exempt employee in
17 the State of California during the Class Period. Based on data provided by Defendant
18 prior to the mediation, as of July 15, 2020, there were approximately 4,163 Persons that
19 comprise of the Class. (¶1.2) “Class Period” means the following: June 9, 2017 through
20 January 4, 2021. (¶1.4)

21 “Participating Class Member(s)” or “Settlement Class” or “Members of the
22 Settlement Class” means all hourly non-exempt employees who worked for Defendant
23 in California at any time during the Class Period, who do not opt out of the settlement.
24 (¶1.32)

1 “PAGA Representative Action Members” means all Persons who are or were
2 previously employed by Defendant FPI Management, Inc. as a non-exempt employee in
3 the State of California during the PAGA Period. (¶1.29) “PAGA Period” means the
4 period of January 13, 2018 through February 2, 2022. (¶1.30)

6 **B. THE MONETARY TERMS OF SETTLEMENT**

7 The essential monetary terms are as follows:

- 8 • The Gross Settlement Sum is **\$4,100,000** (¶1.14). This includes payment of a
9 PAGA penalty of **\$300,000** to be paid 75% to the LWDA (\$225,000) and 25% to
10 the Aggrieved Employees (\$75,000) (¶1.13).
- 11 • The Class Member Payout Fund (**\$2,373,833.33**) is the GSA less:
 - 12 ○ Up to **\$1,316,666.67** (32.11%) for attorney fees (¶2.1.5.a);
 - 13 ○ Up to **\$50,000** for attorney costs (*Ibid.*);
 - 14 ○ Up to **\$30,000 total [\$10,000 each]** for service awards to the proposed
15 class representatives (¶2.1.5.b); and
 - 16 ○ Estimated **\$29,500** for settlement administration costs (¶2.1.5.c).
- 17 • Employer-side payroll taxes will be paid by Defendant in addition to the Gross
18 Settlement Sum (¶1.14).
- 19 • Assuming the Court approves all maximum requested deductions, approximately
20 \$2,391,346.57 will be available for distribution to participating class members.
21 The average settlement share will be approximately \$438.53. ($\$2,391,346.57$
22 $\text{Net} \div 5,453 \text{ class members} = \438.53). In addition, each PAGA Representative
23 Action Member will receive a portion of the PAGA penalty, estimated to be
24 \$14.96 per PAGA Representative Action Member. ($\$75,000$ or 25% of \$300,000
25 $\text{PAGA penalty} \div 5,011 \text{ PAGA Representative Action Members} = \14.96).

- 1 • There is no Claim Requirement (Notice pg. 3).
- 2 • The settlement is not reversionary (§1.5).
- 3 • Individual Settlement Share Calculation:
 - 4 ○ The Individual Class Settlement Amount shall be calculated based on the
 - 5 sum of the following three formulas: (§1.15)
 - 6 ■ Multiplying 40% of the Class Member Payout Fund by a fraction,
 - 7 the numerator of which is the total number of pay periods the
 - 8 Participating Class Member received any Defendant-provided
 - 9 housing during the Class Period and the denominator of which is
 - 10 the aggregate number of pay periods during the Class Period in
 - 11 which all Participating Class Members received any Defendant-
 - 12 provided housing; (§1.15.A)
 - 13 ■ Multiplying 40% of the Class Member Payout Fund by a fraction,
 - 14 the numerator of which is the total number of pay periods the
 - 15 Participating Class Member received any non-discretionary
 - 16 incentive compensation, other than housing bonuses/incentives,
 - 17 during the Class Period and the denominator of which is the
 - 18 aggregate number of pay periods during the Class Period in which
 - 19 all Participating Class Members received any non-discretionary
 - 20 incentive compensation; and (§1.15.B)
 - 21 ■ Multiplying 20% of the Class Member Payout Fund by a fraction,
 - 22 the numerator of which is the total number of pay periods the
 - 23 Participating Class Member worked for Defendant and the
 - 24 denominator of which is the aggregate number of pay periods
 - 25

1 during the Class Period in which all Participating Class Members
2 worked for Defendant. (§1.15.C)

3 ○ The Individual PAGA Payment shall be calculated based on the sum of
4 the following three formulas: (§1.16)

5 ▪ Multiplying 40% of the Net PAGA Payment by a fraction, the
6 numerator of which is the total number of pay periods the PAGA
7 Representative Action Member received any Defendant-provided
8 housing during the PAGA Period and the denominator of which is
9 the aggregate number of pay periods during the PAGA Period in
10 which all PAGA Representative Action Members received any
11 Defendant-provided housing; (§1.16.A)

12 ▪ Multiplying 40% of the Net PAGA Payment by a fraction, the
13 numerator of which is the total number of pay periods the PAGA
14 Representative Action Member received any non-discretionary
15 incentive compensation, other than housing bonuses/incentives,
16 during the PAGA Period and the denominator of which is the
17 aggregate number of pay periods during the PAGA Period in
18 which all PAGA Representative Action Members received any
19 non-discretionary incentive compensation; and (§1.16.B)

20 ▪ Multiplying 20% of the Net PAGA Payment by a fraction, the
21 numerator of which is the total number of pay periods the PAGA
22 Representative Action Member worked for Defendant and the
23 denominator of which is the aggregate number of pay periods
24 during the PAGA Period in which all PAGA Representative
25 Action Members worked for Defendant. (§1.16.C)

- 1 • Tax Withholdings: The Individual Class Settlement Amount shall be allocated as
2 follows: 20% as wages, 80% as interest and penalties (§1.15). The Individual
3 PAGA Payment shall be treated as 100% penalties. (§1.16)
- 4 • Uncashed Settlement Payment Checks: Participating Class Members and PAGA
5 Representative Action Members will have one hundred eighty (180) calendar
6 days from the date of issuance of the check to cash their check. For any check
7 not cashed after 180 calendar days, the Settlement Administrator remit the funds
8 to the Unclaimed Property Fund maintained by the State Controller's Office in
9 the name of the Participating Class Member or PAGA Representative Action
10 Member. (§2.1.7.d)
- 11 • Funding and Distribution of Settlement: Defendant shall fund the Gross
12 Settlement within 30 days after the Effective Date. (§2.1.2)
 - 13 ○ No later than thirty (30) calendar days after the funding of the Gross
14 Settlement Sum, Defendant, through the Settlement Administrator, shall
15 pay to each Participating Class Member his or her Individual Class
16 Settlement Amount and shall pay each to PAGA Representative Action
17 Member his or her Individual PAGA Payment. (§2.1.6)

18 **C. TERMS OF RELEASES**

- 19
- 20 • Class Release: Upon payment of the Gross Settlement Sum by Defendant, each
21 of the Participating Class Members shall be deemed to have, and by operation of
22 the Judgment shall have, fully, finally, and forever released, relinquished, and
23 discharged all Released Class Claims. (§3.5.1)
 - 24 ○ Class members will release: All claims, demands, rights, liabilities and
25 causes of action against Defendant and Defendant Releasees for any type

1 of relief and statutory penalties alleged in the operative complaints in the
2 *Herrera* and *Rios* Actions, along with claims reasonably related to the
3 allegations in the operative complaints in the *Herrera* and *Rios* Actions,
4 including but not limited, unfair competition, failure to pay minimum
5 wages under the Labor Code, failure to pay overtime and/or double time
6 wages under the Labor Code, failure to pay wages, failure to provide meal
7 periods, failure to provide rest periods, failure to reimburse employees for
8 required expenses, failure to provide accurate itemized statements, failure
9 to provide wages upon separation of employment, violations of California
10 controlled standby law and reporting time law and violations of California
11 Labor Code sections 201, 202, 203, 204, 216, 218.5, 218.6, 226, 226.3,
12 226.4, 226.6, 226.7, 510, 512, 558, 1174, 1174.5, 1182.8, 1194, 1194.2,
13 1197, 1197.1, 1198, 1199 and 2802, California Business and Professions
14 Code sections 17200 et seq., California Code of Civil Procedure section
15 1021.5, California Civil Code section 3287, and all applicable IWC Wage
16 Orders, and other associated and related penalties (“Released Class
17 Claims”). (¶1.38)

- 18 ○ The Released Class Claims cover the Class Period. (*Ibid.*)
- 19 ○ Excluded from the Released Class Claims are: 1) any claims under the
20 Private Attorneys General Act, Labor Code section 2698, et seq., which
21 are subject to the PAGA Released Claims; and 2) claims for failure to pay
22 meal and/or rest period premiums under Labor Code sections 226.7 and
23 512 under the theory that such premiums must be paid at the regular rate
24 of pay, an issue decided by the California Supreme Court in *Ferra v.*
25 *Loews Hollywood Hotel, LLC*, (2021) 11 Cal. 5th 858 (*Ibid.*)

- 1 • PAGA Release: Upon payment of the Gross Settlement Sum by Defendant, each
2 of the PAGA Representative Action Members shall be deemed to have, and by
3 operation of the Judgment shall have, fully, finally, and forever released,
4 relinquished, and discharged all PAGA Released Claims. (¶3.5.2)
- 5 ○ “PAGA Released Claims” shall collectively mean all claims for penalties
6 under the California Private Attorneys’ General Act, California Labor
7 Code sections 2698, et seq., alleged in the PAGA Notices filed by
8 Plaintiffs in the *Herrera* and *Rios* Actions for violations of California
9 Labor Code sections 201, 202, 203, 204, 216, 218.5, 218.6, 226, 226.3,
10 226.4, 226.6, 226.7, 510, 512, 558, 1174, 1174.5, 1182.8, 1194, 1194.2,
11 1197, 1197.1, 1198, 1199 and 2802 and all applicable IWC Wage Orders.
12 The PAGA Released Claims covers the period of January 13, 2018
13 through February 2, 2022. (¶1.31)
- 14 ○ No PAGA Opt-Out: Class Members/ PAGA Representative Action
15 Members may not elect to opt out of participating in the settlement of the
16 PAGA Released Claims. (¶3.3.4)
- 17 • “Defendant Releasees” means Defendant, each of its respective parent
18 companies, subsidiaries, affiliates, current and former management companies,
19 shareholders, members, agents (including without limitation, any investment
20 bankers, accountants, insurers, reinsurers, attorneys and any past, present, or
21 future officers, directors, and employees), predecessors, successors, and assigns.
22 (¶1.10)
- 23 • The named Plaintiffs will also provide a general release and a waiver of the
24 protections of Cal. Civ. Code §1542. (¶3.5.3)
- 25

1 ○ Expressly excluded from this general release are Plaintiffs Herrera and
2 Garcia’s claims asserted against Defendant in the Complaint filed on
3 March 26, 2019 in *Daniel Herrera, et al. v. FPI Management, Inc.*,
4 Sacramento County Superior Court, Case No. 34-2019-00253258. (*Ibid.*)

- 5 • The releases are effective upon payment of the Gross Settlement Sum by
6 Defendant, which shall be paid within 30 days after the Effective Date. (¶2.1.2)

8 **III. ANALYSIS OF SETTLEMENT AGREEMENT**

9 “Before final approval, the court must conduct an inquiry into the fairness of the
10 proposed settlement.” Cal. Rules of Court, rule 3.769(g). “If the court approves the
11 settlement agreement after the final approval hearing, the court must make and enter
12 judgment. The judgment must include a provision for the retention of the court’s
13 jurisdiction over the parties to enforce the terms of the judgment. The court may not
14 enter an order dismissing the action at the same time as, or after, entry of judgment.”
15 Cal. Rules of Court, rule 3.769(h).

16 As discussed more fully in the Order conditionally approving the settlement, “[i]n
17 a class action lawsuit, the court undertakes the responsibility to assess fairness in order to
18 prevent fraud, collusion or unfairness to the class, the settlement or dismissal of a class
19 action. The purpose of the requirement [of court review] is the protection of those class
20 members, including the named plaintiffs, whose rights may not have been given due
21 regard by the negotiating parties.” See *Consumer Advocacy Group, Inc. v. Kintetsu*
22 *Enterprises of America* (2006) 141 Cal. App.4th 46, 60 [internal quotation marks
23 omitted]; see also *Wershba v. Apple Computer, Inc.* (2001) 91 Cal.App.4th 224, 245
24 (“*Wershba*”), disapproved on another ground in *Hernandez v. Restoration Hardware*
25 (2018) 4 Cal.5th 260 [Court needs to “scrutinize the proposed settlement agreement to the

1 extent necessary to reach a reasoned judgment that the agreement is not the product of
2 fraud or overreaching by, or collusion between, the negotiating parties, and that the
3 settlement, taken as a whole, is fair, reasonable and adequate to all concerned.”] [internal
4 quotation marks omitted].

5 “The burden is on the proponent of the settlement to show that it is fair and
6 reasonable. However ‘a presumption of fairness exists where: (1) the settlement is
7 reached through arm's-length bargaining; (2) investigation and discovery are sufficient to
8 allow counsel and the court to act intelligently; (3) counsel is experienced in similar
9 litigation; and (4) the percentage of objectors is small.’” See *Wershba, supra*, 91
10 Cal.App.4th at pg. 245, citing *Dunk v. Ford Motor Co.* (1996) 48 Cal.App.4th 1794,
11 1802. Notwithstanding an initial presumption of fairness, “the court should not give
12 rubber-stamp approval.” See *Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th
13 116, 130. “Rather, to protect the interests of absent class members, the court must
14 independently and objectively analyze the evidence and circumstances before it in order
15 to determine whether the settlement is in the best interests of those whose claims will be
16 extinguished.” *Ibid.*, citing 4 Newberg on Class Actions (4th ed. 2002) § 11:41, p. 90. In
17 that determination, the court should consider factors such as “the strength of plaintiffs'
18 case, the risk, expense, complexity and likely duration of further litigation, the risk of
19 maintaining class action status through trial, the amount offered in settlement, the extent
20 of discovery completed and stage of the proceedings, the experience and views of
21 counsel, the presence of a governmental participant, and the reaction of the class
22 members to the proposed settlement.” *Id.* at 128. This “list of factors is not exclusive and
23 the court is free to engage in a balancing and weighing of factors depending on the
24 circumstances of each case.” *Wershba, supra*, 91 Cal.App.4th at pg. 245.)

25 //

1 **A. A PRESUMPTION OF FAIRNESS EXISTS**

2 The Court preliminarily found in its Order of March 29, 2022 that the presumption
3 of fairness should be applied. No facts have come to the Court’s attention that would
4 alter that preliminary conclusion. Accordingly, the settlement is entitled to a presumption
5 of fairness as set forth in the preliminary approval order.

6 **B. THE SETTLEMENT IS FAIR, ADEQUATE, AND REASONABLE**

7 The settlement was preliminarily found to be fair, adequate and reasonable.
8 Notice has now been given to the Class and the LWDA. The notice process resulted in
9 the following:

10 Number of class members: 5,462

11 Number of notices mailed: 5,462

12 Number of undeliverable notices: 65

13 Number of opt-outs: 9

14 Number of objections: 0

15 Number of participating class members: **5,453**

16 (Declaration of Taylor Mitzner (Mitzner Decl.) dated June 29, 2022, ¶¶ 3-12; Mitzner
17 Decl. dated July 8, 2022; Mitzner Decl. dated July 25, 2022.)

18 The administrator states that the request for exclusion of class member Esteban
19 Ramos was submitted by his brother, Juan Manuel Ramos (JM Ramos). Esteban Ramos
20 was the named Plaintiff in the *Ramos* action. In a Declaration attached to his
21 submission, JM Ramos states that Esteban Ramos died on June 27, 2021, that JM Ramos
22 was appointed as the Estate Representative for Esteban Ramos, and that JM Ramos is
23 requesting exclusion on behalf of Esteban Ramos. JM Ramos attaches a copy of his own
24 driver’s license to his declaration. (Mitzner Decl. dated June 29, 2022, ¶9 and Exhibit B
25

1 thereto.). There is nothing showing JM Ramos was appointed executor or the scope of
2 his powers of appointment.

3 On July 8, 2022, Defendant FPI filed an objection to the opt-out for Esteban
4 Ramos. FPI contends that the request for exclusion of Esteban Ramos is invalid because
5 neither JM Ramos nor his counsel followed California law's requirements for
6 substituting JM Ramos for Esteban Ramos as Plaintiff in the *Ramos* action, citing Code
7 Civ. Proc. § 377.31. In addition, FPI contends that JM Ramos is not the personal
8 representative of Esteban Ramos within the meaning of Probate Code § 58(a), making
9 his attempt to opt out ineffective, as JM Ramos did not produce "letters," certified or
10 otherwise, establishing that he is in fact personal representative of Esteban Ramos's
11 estate, pursuant to Probate Code § 52. FPI also contends that JM Ramos is not Esteban
12 Ramos's successor in interest under the meaning of Probate Code § 13107.5. FPI further
13 argues that JM Ramos's declaration submitted to the settlement administrator did not
14 satisfy the requirements of Code Civ. Proc. § 377.32(a) including, among other things,
15 representations as to the place of Plaintiff's death, the administration of the decedent's
16 estate and the absence of anyone else with a superior right to Plaintiff's estate. (See
17 Code Civ. Proc. § 377.32(a).) Finally, FPI argues that JM Ramos failed to provide the
18 settlement administrator with a certified copy of the death certificate of Esteban Ramos
19 pursuant to Code Civ. Proc. § 377.32(c). As such, FPI contends that JM Ramos has no
20 authority to opt out of the settlement on behalf of Esteban Ramos. (Defendant FPI
21 Management, Inc.'s Objection filed August 1, 2022.)

22 In opposition, counsel for Plaintiff Esteban Ramos contends that there is a
23 distinction between Ramos' status as a class member and status as a class representative.
24 Counsel argues that the class notice made no distinction between a class member that is
25 alive and a class member that has passed away. Counsel further contends that the notice

1 did not state that in the event of a class member's death, the class member's estate must
2 provide the Administrator with a copy of class member's death certificate, or that the
3 class member's estate must provide a letter from a Probate Court establishing the person
4 as personal representative of the Estate of the class member. (Plaintiff's Opposition and
5 Response to Defendant's Objection filed August 1, 2022.) In reply, FPI largely
6 reiterates the arguments made in its objection to the opt-out. (Defendant FPI
7 Management Inc.'s Reply to Plaintiff Esteban Ramos' Opposition filed August 18,
8 2022.)

9 At the August 25, 2022 hearing on the matter, the Court found the opt-out of
10 Esteban Ramos to be invalid, as his counsel did not provide authority that JM Ramos
11 had the right to opt-out on Esteban Ramos' behalf by mere assertion that he was his heir.

12 At the same hearing, the Court held the late-filed requests for exclusion of class
13 members Sandra Parker and Kendra Kidd to be timely, pursuant to the stipulation of
14 counsel.

15 The Court finds that the notice was given as directed and conforms to due process
16 requirements. Given the reactions of the Class Members and the LWDA to the proposed
17 settlement and for the reasons set for in the Preliminary Approval order, the settlement is
18 found to be fair, adequate, and reasonable.

19 **C. CLASS CERTIFICATION IS PROPER**

20 For the reasons set forth in the preliminary approval order, certification of the
21 Class for purposes of settlement is appropriate.

22 **D. ATTORNEY FEES AND COSTS**

23 Class Counsel requests **\$1,316,666.67** (32.11%) for attorney fees and **\$32,486.76**
24 for costs. (MFA at 20:13-15, 27:3-4.) From this amount attorney Gerber seeks 42.5%--
25 \$560,000 in fees – as well as \$18,594.24 in costs.

1 **1. Fees to Gerber Are Denied**

2 Gerber submits a Motion for Attorney Fees and Costs payable from the settlement
3 proceeds. (See Memo ISO Attorney Karl Gerber’s Motion for Attorney Fees & Costs,
4 filed July 20, 2022 under incorrect case number BC687783.) An understanding of
5 Gerber’s involvement in these matters is required to understand the motion.

6 Gerber’s client, Vega, was an onsite maintenance supervisor for an apartment
7 complex managed by FPI. His original complaint was not filed as a complex matter and
8 was a mix of FEHA and wage and hour claims. He also filed a separate PAGA action.

9 Vega was required to live on premises and alleged he was “on call” 24/7. He was
10 paid hourly for a forty-hour week and for additional hours when he was required to assist
11 a tenant with after-hours emergencies. He was provided an apartment in the complex
12 with a housing credit. Vega challenged the manner of his compensation, among other
13 things, contending that FPI imposed an improper rent charge, that he should have been
14 paid wages for the time he was “on call” and that he was entitled to “reporting time” pay.

15 FPI sought a “complex” designation and demurred in part. The case was deemed
16 complex and the FEHA claims ordered severed. A Second Amended Complaint was then
17 filed. FPI demurred, which was successful in part, the Court rejecting some (but not all)
18 of Vega’s theories of liability. See Order of March 5, 2019.

19 A Third Amended Complaint was filed. FPI again demurred. While that
20 demurrer was pending Vega moved to file a Fourth Amended Complaint. That motion
21 was granted.

22 At some point, counsel became aware of the *Herrera* action in Sacramento
23 County. A JCCP petition was filed by Vega.

24 The demurrer to the Fourth Amended Complaint was overruled. See Order of
25 November 8, 2019.

1 The JCCP petition was granted shortly thereafter.

2 *Ramos* and *Rios* were filed thereafter and were deemed “add-on” cases. They had
3 some overlapping and some non-overlapping claims. *Rios* also included claims on behalf
4 of persons who may have been putative class members in yet another settled case, *Khan*
5 *v. FPI Management Inc.*, Los Angeles County Superior Court Case No. BC541747.

6 The parties in *Vega*, *Herrera*, and *Rios* agreed to go to mediation, scheduled for
7 May 5, 2020. Due to COVID, the mediation was continued to October 5, 2020. Gerber
8 asserts that he paid the mediation fees.

9 The case did not settle but the parties continued to engage in discussions. By the
10 time of the status conference on October 20, 2020, it was reported there was an
11 agreement as to the terms of a settlement involving Vega, Herrera and Rios. A motion
12 for preliminary approval was set for January 28, 2021. The motion was not filed and
13 there were multiple continuances. A written agreement was apparently finalized
14 approximately March 1, 2021.

15 On March 17, 2021, the Court received correspondence from Vega. On March 23,
16 2021, Gerber filed the “Notice of Lien” indicating FPI (but not Vega) had signed a
17 settlement agreement on March 1, 2021 that would have entitled Gerber to \$560,000 in
18 fees and \$20,000 in costs. Gerber represented that Vega had terminated his services.
19 After numerous proceedings, Gerber was allowed to withdraw on August 27, 2021.

20 Counsel in *Herrera* and *Rios* ultimately filed a motion for preliminary approval of
21 a settlement on August 2, 2021, accompanied by various Declarations. Gerber filed a
22 “response” and a Declaration on August 9, 2021 while his motion to withdraw was
23 pending. Gerber declared that the *amount* of the proposed settlement was the same as the
24 settlement purportedly reached in December 2020 between FPI and Vega, Rios, Herrera
25

1 and Garcia. That settlement agreement is not signed by any plaintiff except Rios. It is
2 signed on behalf of FPI.

3 Gerber declared that he had negotiated the settlement signed by FPI on March 1,
4 2021 and inserted into a memorandum his calculations on the maximum value of the
5 claims Vega pled. He further declared that the new settlement differs from that which he
6 allegedly negotiated and suggests that it is not as beneficial to the class as that which he
7 is alleged to have negotiated. (See Dec. of August 4, 2021).

8 Gerber now moves for fees of \$560,000 and costs of \$17,972.99. (Memo ISO
9 Gerber's Motion for Attorney Fees & Costs at 2:19-20, 13:5-6.) Gerber contends that the
10 class is benefitting from the settlement as a result of Gerber's efforts and cost
11 expenditures. (*Id.* at pp. 3-4.) Gerber asserts that he initiated the *Vega* action in 2017,
12 years before the settling Plaintiffs, and spent 18 months and 273.5 hours of his time and
13 110.45 of associate hours on the action and 30.25 paralegal hours. (*Id.* at pp. 7:17-20.)
14 He seeks a billing rate of \$750 per hour for his time, \$350 per hour for associate time and
15 \$150 per hour for paralegal work. This would imply a lodestar of 2.25 if the time and
16 rates were accepted. He also notes that the Notice issued to the class stated in a footnote
17 that Gerber requested a lien be placed on the settled actions in his requested fee and cost
18 amounts, to which there were no objections. (*Id.* at 4:23-26)

19 Reduced to its essence, Gerber urges that it was his work that caused these cases to
20 settle and that it is because he was "required" to file a JCCP petition that other counsel
21 are before the Court. He contends that other counsel "top filed" his case "against the
22 rules" of the California Employment Association of which plaintiffs' counsel are
23 members, and that but for his action, other counsel would have been required to litigate in
24 Fresno and Sacramento counties (their chosen venue) and that Fresno County, in
25 particular, is a "regarded as a poor place for plaintiffs in employment cases. Fresno is a

1 death knell.” Gerber Dec. ¶14 dated July 14, 2022. He contends that “in equity” he
2 should be awarded fees because other counsel “usurped” fees that would have gone to
3 him (MPA at 8:12-13). He goes so far as to say Vega “mysteriously vanished”
4 (Response filed January 10, 2022 at 2:7-9) and that he strongly suspects somebody “paid
5 Vega to disappear,” suggesting that this was either Diversity Law Group or Wilshire Law
6 Group (Reply Memorandum at 4:3-8; Gerber Dec. filed July 14, 2022, ¶37).

7 Plaintiffs’ counsel oppose Gerber’s motion on the grounds that it is procedurally
8 improper as he no longer represents any party in any action in this JCCP and was not
9 appointed class counsel, nor does he provide a statutory basis for his ability to seek
10 attorneys’ fees as a non-party. They contend the fee request violates State Bar Rule 1.5.1
11 (formerly Rule 2-200). They also contend that this Court does not have the jurisdiction to
12 determine whether Gerber, a non-party, is entitled to foreclose a lien on the judgment,
13 and that under cases such as *Carroll v. Interstate Brands Corp.* (2002) 99 Cal.App.4th
14 1168, Gerber must bring a separate, independent action against his client to establish the
15 existence of his lien. Finally, counsel argues that Gerber did not have his client’s consent
16 to settle the matter on his behalf, making his attempts to obtain fees and costs from the
17 settlement improper. (See Plaintiffs’ Joint Opposition to Gerber’s Motion.)

18 In reply, Gerber contends that the issue of fees are up to the Court’s authority and
19 determination, that Class Counsel benefitted from his work on the case and now stand to
20 benefit from his client’s “disappearance,” and that he acted with his client’s consent.
21 (See Reply of Gerber to Opposition for Motion for Fees.)

22 Some of the positions taken by the parties do not withstand factual scrutiny. There
23 is no evidence that Vega “disappeared,” much less that he was paid by other plaintiffs’
24 counsel to do so. Vega sent his own letter to the Court and filed pleadings with this
25

1 Court as recently as April 28, 2022, after terminating Gerber. See Notice of Appeal filed
2 April 28, 2022.

3 Gerber contends he was ordered to file a JCCP petition. No such order appears in
4 the Court's records. Rather, the Court's minute order of May 21, 2019 indicated that
5 Plaintiff Vega "intend[ed] on moving" for a coordinated proceeding.

6 Gerber also implies that he paid the mediation and expert fees. The Declarations
7 of Agnew (Ex. B) and Marquez (Ex. A) show that their firms also paid expert and
8 mediation fees.

9 Defendants' position that Gerber acted without his client's authority in negotiating
10 the settlement is unsupported. Gerber declares otherwise and the billing records attached
11 to Gerber's Declaration filed July 14, 2022 (Ex. 5) show conversations between Gerber
12 and Vega related to settlement beginning on February 3, 2020. The next entries show
13 setting up a meeting with Vega (February 20, 2020) and a telephone call and letter to
14 Vega on February 26, 2020 regarding opting out of another case. Thereafter, in August
15 31, 2020 there was a call with Vega regarding the class definition. There was a
16 discussion about the mediation with Vega on October 6, 2020, after the mediation
17 occurred and concerning the mediator's proposal on October 7, 9, and 15, 2020. Vega
18 was provided a copy of the settlement on December 28, 2020 and there was a call
19 between Gerber and Vega that day, as well as calls on February 1 and 22, 2021 and
20 March 1, 2021.

21 As to the legal issues, Defendants err in relying on State Bar 1.5.1, as that rule
22 specifically permits fee sharing pursuant to court order. See State Bar rule 1.51(b). As to
23 the issue of Gerber's "lien," it is apparent that Gerber does not seek to foreclose on a lien
24 on a judgment in any particular case. Defendants' reliance on *Carroll* is misplaced.

1 Nonetheless, there is no legal basis to grant Gerber fees from this settlement.
2 Gerber is the former lawyer for a plaintiff in a case that was dismissed. While Vega may
3 have filed the initial lawsuit in this JCCP, and Gerber performed legal work related to
4 that case, including motions before this Court, Gerber withdrew as counsel in August
5 2021. Vega’s case was dismissed thereafter, and the finalized, revised Settlement
6 Agreement approved by the Court was executed by Plaintiffs, Defendant and their
7 respective counsel in February and March 2022. Though Gerber presents lengthy
8 descriptions of his hours spent on filings and research in the action, it is clear that he
9 represents no party to any case being settled.

10 Gerber appeals to the Court’s equitable powers in class actions and argues in the
11 alternative that he may be considered an objector.

12 The equitable power of the Court in a class action include the determination of a
13 reasonable fee and allocation of fees among competing counsel. As a general rule, the
14 source of the court’s powers is under the “common fund” doctrine. As our Supreme
15 Court explains:

16 California has long recognized, as an exception to the general American rule that
17 parties bear the costs of their own attorneys, the propriety of awarding an attorney
18 fee to a party who has recovered or preserved a monetary fund for the benefit of
19 himself or herself and others. In awarding a fee from the fund or from the other
20 benefited parties, the trial court acts within its equitable power to prevent the other
21 parties' unjust enrichment. (*Serrano IV, supra*, 32 Cal.3d at p. 627; *Serrano III,*
22 *supra*, 20 Cal.3d at p. 35; *Farmers etc. Nat. Bank v. Peterson* (1936) 5 Cal.2d 601,
23 607 [55 P.2d 867]; *Fox v. Hale & Norcross S. M. Co.* (1895) 108 Cal. 475, 476–
24 477 [41 P. 328]; *Lealao v. Beneficial California, Inc.* (2000) 82 Cal.App.4th 19,
25 27 ...

1 Because it distributes the cost of hiring an attorney among all the parties benefited,
2 a common fund fee award has sometimes been referred to as “fee spreading.”

3
4 *Laffitte v. Robert Half Internat. Inc.* (2016) 1 Cal.5th 480, 488-489 (*Laffitte*).

5
6 Fee spreading occurs when a settlement or adjudication results in the
7 establishment of a separate or so-called common fund for the benefit of the class.

8 Because the fee awarded class counsel comes from this fund, it is said that the expense is
9 borne by the beneficiaries. *Lealao v. Beneficial California, Inc.* (2000) 82 Cal.App.4th
10 19, 26.

11 There is no dispute that the beneficiaries of the common fund will pay the expense
12 of counsel. The only issue is who the counsel are that should be paid. Gerber urges that
13 it was his early work that generated the settlement and that he should not be penalized
14 because his client did not consent to the settlement. Class Counsel, for their part, contend
15 that fees cannot be shared with a lawyer who is only the former counsel in a dismissed
16 case in a JCCP and whose contributions are, in any event, difficult to evaluate.

17 There is no state case directly on point. In the federal court, to which California
18 looks when there is no state authority on class action procedure, non-class counsel may
19 be entitled to attorneys' fees under Fed. Rule Civ. Pro. 23. *See, e.g., Stetson v. Grissom*
20 (9th Cir. 2016), 821 F.3d 1157 at 1163-65; (indicating that an objector can be entitled to
21 attorneys' fees in a class action); *In re Cendant Sec. Litigation*, (3rd Cir. 2005) 404 F.3d
22 173 at 195 (concluding that an attorney who "creates a substantial benefit for the class"
23 can be "entitled to compensation whether or not chosen as lead counsel"); *Hill*
24 *v. Volkswagen Grp. of Am., Inc. (In re Volkswagen "Clean Diesel" Mktg., Sales*
25 *Practices, & Prods. Litig.)* (9th Cir. 2019) 914 F.3d 623, 641; *In re BankOne*

1 *Shareholders Class Actions* (N.D. Ill. 2000) 96 F. Supp. 2d 780 n. 13. In the cases cited,
2 however, the non-class counsel had clients who had accepted the settlement. Some
3 involved situations where counsel were one of several who filed actions that were
4 ultimately consolidated and were not chosen as lead counsel under the federal Private
5 Securities Litigation Reform Act but had nonetheless been instrumental in researching
6 the facts and doing work that benefitted all class representatives in a manner that would
7 not otherwise occurred. *See Cendant, supra*, 404 F. 3d at 205-206; *BankOne* at n. 13.
8 There is no authority cited for the proposition that a lawyer whose client is not a member
9 of the class is entitled to be paid by the class.

10 The class Gerber sought to represent was a class of managers who were required
11 to be “on-call” and those who were required to live on-site and were given a rent credit.
12 He also sought to represent a subclass of persons receiving an inaccurate paystub due to
13 the rent credit attributed and which had inaccurate overtime and double time rates. It was
14 estimated this could be 500 persons (See SAC at ¶¶ 6-7). The Third Amended Complaint
15 included a “controlled stand-by” class of managers (TAC ¶¶ 6, 7). Gerber’s initial work
16 on the demurrers to the Second and Third Amended Complaints in *Vega* framed and
17 decided (at least at the trial court level) certain legal questions regarding the proper
18 payment to persons who are “on site” managers. Based on these rulings Gerber argues he
19 benefitted the ultimate settlement class.

20 At the time the demurrers were heard Gerber was not representing any person
21 other than Vega, whose representation he undertook on a contingent fee basis (Gerber
22 Dec. dated July 14, 2022, ¶38). He had not been appointed class counsel. Having taken
23 the case on a contingency he took the risk of non-payment depending on the case’s
24 outcome. While the settlement may have been informed, in part, by the rulings on
25 demurrer, the logical conclusion of Gerber’s position is that when a lawyer establishes a

1 legal principle in one case he is entitled to fees in another. No authority is cited for this
2 proposition and the Court is aware of none.

3 It is also undisputed Gerber paid some part of the mediation fees and participated
4 in the mediation. At that time, too, Gerber was acting on behalf of Vega. While he may
5 have hoped to achieve a settlement and to ultimately be appointed class counsel, the work
6 he did was prior to any order granting him authority to act on behalf of any class.

7 Equally importantly, the precise nature of Gerber's contribution on behalf of the
8 class cannot be ascertained given the mediation privilege and the fact that there is no
9 evidence as to why Vega elected not to participate in the proposed settlement. The
10 settlement class includes many more persons than managers, making it unclear how many
11 persons actually benefitted from Gerber's work on the demurrers or whether his work in
12 fact increased any recovery to the class beyond what would have otherwise occurred.
13 While Gerber's work may have benefitted the ultimate class to some degree, Vega's
14 failure to participate in the settlement substantially impacted the class adversely as it
15 required reworking the earlier agreement and delayed by several months the
16 consideration of the settlement now before the Court, to the detriment of the class. Given
17 these facts the Court is not persuaded that, even if it could do so, it should, in equity,
18 require existing Class Counsel to share fees with Gerber, much less fees that amount to
19 more than double Gerber's claimed lodestar.

20 Nor may Gerber be considered an objector. In California an objector must be a
21 party to the action either as a class representative, a class member, or a party given the
22 right to intervene. See *Hernandez v. Restoration Hardware, Inc.* (2018) 4 Cal.5th 260,
23 272 (party appealing a class action judgment must have intervened). Gerber is not party
24 and has not sought to intervene. He may not object.

25 Accordingly, the Court declines to award fees and costs to Gerber.

2. Fees To Class Counsel

Courts have an independent responsibility to review an attorney fee provision and award only what it determines is reasonable. *Garabedian v. Los Angeles Cellular Telephone Company* (2004) 118 Cal.App.4th 123, 128. A percentage calculation is permitted in common fund cases. *Laffitte, supra*, 1 Cal.5th at 503.

In the instant case, fees are sought pursuant to the percentage method. (MFA at pp. 20-23.) The \$1,316,666.67 fee request is 32.11% of the Gross Settlement Amount.

Here, the **\$1,316,666.67** fee request represents a reasonable percentage of the total funds paid by Defendant. Further, the notice expressly advised class members of the fee request, and no one objected. (Mitzner Decl. dated June 29, 2022, ¶10 and Exhibit A thereto.)

Class Counsel ask that the Court engage in a lodestar cross check. A lodestar is calculated by multiplying the number of hours reasonably expended by the reasonable hourly rate. *PLCM Group, Inc. v. Drexler* (2000) 22 Cal.4th 1084, 1095-1096 (*PLCM*). “Generally, ‘[t]he lodestar is calculated using the reasonable rate for comparable legal services in *the local community* for noncontingent litigation of the same type, multiplied by the reasonable number of hours spent on the case.’ ” *Environmental Protection Information Center v. Dept. of Forestry & Fire Protection* (2010) 190 Cal.App.4th 217, 248, quoting *Nichols v. City of Taft* (2007) 155 Cal.App.4th 1233, 1242-1243.

As to the reasonableness of the rate and hours charged, trial courts consider factors such as “the nature of the litigation, its difficulty, the amount involved, the skill required in its handling, the skill employed, the attention given, the success or failure, and other circumstances.” *PLCM, supra*, 22 Cal.4th at p. 1096. “The evidence should allow the court to consider whether the case was overstaffed, how much time the

1 attorneys spent on particular claims, and whether the hours were reasonably expended.”
2 *Christian Research Institute v. Alnor* (2008) 165 Cal.App.4th 1315, 1320.

3 Each of the counsel has provided the Court with detailed information as to the
4 work done, the hours spent, the experience and training of each, and indicates that his or
5 her hourly rate has been approved by other courts. Based on the representations of
6 counsel the combined lodestar, including opposing Gerber’s fee request (which does not
7 benefit the class but only Class Counsel) is approximately \$761,675, implying a
8 multiplier of 1.72. This is on the high side of acceptable multipliers for this kind of
9 work but far less than the implied multiplier for Gerber’s work.

10 Fee Split: Each Plaintiff represents that he or she consented to the following fee
11 split between Class Counsel: Diversity Law Group/Polaris Law Group (65%); and
12 Wilshire Law Group (35%). (Declaration of Araceli Garcia ISO Final ¶14; Declaration
13 of Daniel Herrera ISO Final ¶14; Declaration of Jose Rios ISO Final ¶14.)

14 The Court awards fees to Class Counsel in the amount of **\$1,316,666.67**.

15 Class Counsel requests **\$32,486.76** in costs. This is less than the \$50,000 cap
16 provided in the settlement agreement (¶2.1.5.a). The amount was disclosed to Class
17 Members in the Notice, and no objections were received. (Mitzner Decl. dated June 29,
18 2022, ¶10 and Exhibit A thereto.)

19 Diversity Law Group, P.C. incurred costs in the amount of \$19,827.35 (Agnew
20 Decl. ISO Final ¶14, Exhibit B thereto), while Wilshire Law Firm incurred costs of
21 \$11,745.88 (Marquez Decl. ISO Final ¶42, Exhibit A thereto). Costs include: mediation
22 fees, expert fees, and filing fees.

23 However, Wilshire Law Firm seeks to recover \$12,399.88 in costs with the
24 inclusion of additional, anticipated fees they expect to incur up to the time the Court
25 enters a judgment in the action. (Marquez Decl. ISO Final ¶42.) This amount is

1 unsupported. Furthermore, is unclear how the parties arrived at the cost request of
2 \$32,486.76 stated in the Motion, as the sum of \$19,827.35 (Diversity) and \$12,399.88
3 (Wilshire) equals \$32,227.23. The Court declines to award costs beyond those actually
4 incurred and evidenced in counsel's cost summaries.

5 The costs actually incurred appear to be reasonable and necessary to the litigation,
6 are reasonable in amount, and were not objected to by the class.

7 For all of the foregoing reasons, costs of **\$32,227.23** are approved.

8 **E. SERVICE AWARD TO CLASS REPRESENTATIVES**

9 A service (or incentive) fee award to a named class representative must be
10 supported by evidence that quantifies the time and effort expended by the individual and
11 a reasoned explanation of financial or other risks undertaken by the class representative.
12 See *Clark v. American Residential Services LLC* (2009) 175 Cal.App.4th 785, 806-807;
13 see also *Cellphone Termination Cases* (2010) 186 Cal.App.4th 1380, 1394-1395
14 [“Criteria courts may consider in determining whether to make an incentive award
15 include: (1) the risk to the class representative in commencing suit, both financial and
16 otherwise; (2) the notoriety and personal difficulties encountered by the class
17 representative; (3) the amount of time and effort spent by the class representative; (4) the
18 duration of the litigation and; (5) the personal benefit (or lack thereof) enjoyed by the
19 class representative as a result of the litigation. (Citations.)”].

20 Here, the Class Representatives, Araceli Garcia, Daniel Herrera, and Jose Rios
21 request enhancement awards of **\$10,000 each**, totaling **\$30,000**. (MFA at 17:28-18:2.)
22 They urge that the awards are appropriate for the following reasons:

23 Plaintiff Garcia represents that her contributions to the action include: discussing
24 the case with her attorneys, providing her counsel with documents and information, and
25 reviewing the files and pleadings in the case. She estimates spending 10-15 hours on the

1 case. (Declaration of Araceli Garcia ISO Final ¶8.) She asserts that the filing of the
2 lawsuit may cause a negative impact to her employment prospects, though she has not
3 shown that this has occurred. (*Id.* at ¶11.)

4 Similarly, Plaintiff Herrera represents that his contributions to the action include:
5 discussing the case with his attorneys, providing his counsel with documents and
6 information, and reviewing the files and pleadings in the case. He estimates spending
7 10-15 hours on the case. (Declaration of Daniel Herrera ISO Final ¶8.) He also asserts
8 that the filing of the lawsuit may cause a negative impact to his employment prospects,
9 though he has not shown that this has occurred. (*Id.* at ¶11.)

10 Finally, Plaintiff Rios represents that his contributions to the action include:
11 phone calls with his attorneys, searching for documents to send to them, and discussing
12 the settlement with them. He does not provide an estimate for his total time spent on the
13 case. (Declaration of Jose Rios ISO Final ¶¶ 6-8.) He mentions the negative effect that
14 filing the lawsuit could have with prospective employers, but does not shown that this
15 has occurred. (*Id.* at ¶11.)

16 In light of the above-described contributions to this action, and in
17 acknowledgment of the benefits obtained on behalf of the class, a **\$5,000** service award
18 to each Plaintiff is reasonable and approved.

20 **F. SETTLEMENT ADMINISTRATION COSTS**

21 The Settlement Administrator, Phoenix Settlement Administrators, requests
22 **\$29,500** in compensation for its work in administrating this case. (Mitzner Decl. dated
23 June 29, 2022, ¶17.) At the time of preliminary approval, costs of settlement
24 administration were estimated at \$29,500 (¶2.1.5.c). Class Members were provided with
25

1 notice of this amount and did not object. (Mitzner Decl. dated June 29, 2022, ¶10 and
2 Exhibit A thereto.)

3 Accordingly, settlement administration costs are approved in the amount of
4 **\$29,500.**


5
6 **IV. CONCLUSION AND ORDER**

7 The Court hereby:

- 8 (1) Grants class certification for purposes of settlement;
- 9 (2) Grants final approval of the settlement as fair, adequate, and reasonable;
- 10 (3) Awards **\$1,316,666.67** in attorney fees to Class Counsel, Diversity Law Group,
11 Polaris Law Group, and Wilshire Law Group;
- 12 (4) Denies fees to Gerber;
- 13 (5) Awards **\$32,227.23** in litigation costs to Class Counsel;
- 14 (6) Approves payment of **\$225,000** (75% of \$300,000 PAGA penalty) to the
15 LWDA;
- 16 (7) Awards **\$5,000 each** in Class Representative Service Awards to Daniel Herrera,
17 Araceli Garcia, and Jose Rios;
- 18 (8) Awards **\$29,500** in settlement administration costs to Phoenix Settlement
19 Administrators;
- 20 (9) Orders class counsel to lodge a proposed Judgment, consistent with this ruling
21 and containing the class definition, full release language, and the names of the
22 class members who opted out by September 15, 2022;
- 23 (10) Orders class counsel to provide notice to the class members pursuant to
24 California Rules of Court, rule 3.771(b) and to the LWDA pursuant to Labor
25 Code §2699 (1)(3); and

1 (11) Sets a Non-Appearance Case Review re: Final Report re: Distribution of
2 Settlement Funds for January 31 2023 at 8:30 a.m. Final Report is to be filed
3 five court days in advance.
4

5
6 Dated: 9/8/2022



7 MAREN E. NELSON
8 Judge of the Superior Court
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