

The Honorable James L. Robart

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**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON**

PEDRO TORRES et al.,  
Plaintiffs,  
vs.  
NORTH PACIFIC SEAFOODS, INC. et  
al.,  
Defendants.

Case No. 2:20-cv-01545-JLR

**PLAINTIFFS' MOTION FOR ATTORNEYS'  
FEES, COSTS, AND SERVICE AWARDS;  
MEMORANDUM OF POINTS AND  
AUTHORITIES IN SUPPORT THEREOF**

NOTE ON MOTION CALENDAR: November  
10, 2021

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## I. INTRODUCTION

1  
2 Plaintiffs Pedro Torres and Jorge Hurtado (“Plaintiffs”) represent a class of seafood  
3 processing workers who were employed by Defendant North Pacific Seafoods, Inc. (“Defendant”  
4 or “NPSI”) at numerous processing facilities in Alaska. Plaintiffs allege that Defendant failed to  
5 pay its workers for all hours worked, including while donning and doffing work-related gear, and  
6 made false representations relating to working conditions, in violation of federal and state laws.

7 While Plaintiffs were confident in the pursuit of this action, the operational idiosyncrasies  
8 of the various Defendant facilities across Alaska created unique risks that presented a serious  
9 obstacle to class certification and raised the possibility that, if the case was not resolved, Class  
10 Members would be unable to recover at all on a class-wide basis. Because of the transient nature  
11 of the Class Members’ seasonal work, the remote locations of the facilities, and the diverse areas  
12 where Class Members lived in the off-season (including Mexico, Ukraine, and Romania), it was  
13 unlikely that they would all be able to bring individual actions. Class Counsel worked diligently  
14 to resolve this action for valuable relief with the understanding that, for the majority of Class  
15 Members, this was their only shot at vindicating the rights implicated in Plaintiffs’ allegations.

16 In April 2021, after nine months of Plaintiffs’ investigation, litigation, and negotiation, the  
17 Parties reached a settlement that amounted to *nearly the full value* of the Class’s wage claims  
18 (excepting penalties). The \$1.9 million settlement will result in payments ranging from \$100 to  
19 \$4,332, with an average payment of \$458. The net settlement fund is allocated across three tiers in  
20 order to equitably distribute the funds consistent with risks of litigation unique to certain facilities.  
21 The Court preliminarily approved the Settlement in July 2021. No class member has objected to  
22 or opted out of the Settlement, demonstrating overwhelming support for Class Counsel’s efforts.

23 Plaintiffs now seek Court approval for attorneys’ fees in the amount of \$570,000.00 and  
24 litigation costs in the amount of \$9,576.74. Class Counsel collectively spent over 770.75 hours  
25 litigating the action and procuring this valuable result. Substantial time was spent in case  
26 development, discovery, and settlement discussions, which included significant review and  
27 analysis of data and document in preparation for a formal full-day mediation.

1 The fee award sought is fair, reasonable and justified under both methodologies used by  
2 courts to analyze fee requests: the percentage of recovery method and lodestar method. Under the  
3 percentage of recovery method, the request amounts to 30 percent of the common fund, which falls  
4 within the usual range for such cases. Applying a lodestar cross-check, the request represents a  
5 multiplier of 1.2, which is also within the range of reasonableness in the Ninth Circuit.

6 Plaintiffs also seek service awards in the amount of \$5,000.00 each to Plaintiffs Torres and  
7 Hurtado. This amount is appropriate in light of Plaintiffs' involvement in the pursuit of this action,  
8 which included fifteen to twenty hours spent conducting the pre-filing investigation, liaising with  
9 Class Members, reviewing documents, preparing for depositions, and reviewing the Settlement.

10 For the reasons set forth herein, Plaintiffs respectfully request that the Court enter an order  
11 granting Plaintiffs' attorneys' fees, costs, and service awards.

## 12 II. BACKGROUND

### 13 A. Class Counsel Achieved Substantial Benefits for the Class

14 As a result of vigorous prosecution and negotiation, Class Counsel secured important and  
15 substantial benefits for the Class Members. The terms of the Settlement are detailed in the  
16 Settlement Agreement and subsequent addendum, which fully resolves the claims of the Class  
17 against Defendant.

#### 18 1. The Settlement Provides Valuable Monetary Recovery to the Class

19 Defendant will pay an all-in amount of \$1,900,000.00 ("Gross Settlement Fund") in  
20 exchange for the settlement and release of claims of the Class against Defendant. Dkt. 60, Ex. 1,  
21 Settlement Agreement, §§ 1.6, 1.9. Settlement Class Members are defined as all persons who  
22 worked as Seafood Processing Employees for NPSI in Alaska State at any time from October 19,  
23 2017 to March 31, 2021. Dkt. 60, Ex. 4, Addendum to Settlement Agreement, § 1.1. The range of  
24 payments will be between \$100 and \$4,332.02, with an average payment of \$458.35. Dkt. 60,  
25 Declaration of Elizabeth Kruckenberg ("Kruckenberg Decl."), ¶ 13. Accounting for the differing  
26 risks associated with the various facilities, the \$1.9 million gross settlement represents most of the  
27 total estimated back wages and liquidated damages, excluding penalties. Arns. Decl., ¶ 21.

1                   **2. The Unanimous Support of Class Members Supports the Fee Request**

2                   The Notice of Settlement informed the 2,748 Settlement Class Members that Plaintiffs  
3 would request an award of attorneys' fees in the amount of \$570,000, expenses of up to \$15,000,  
4 and service awards totaling \$10,000. Dkt. 60, Kruckenberg Decl., ¶ 13. To date, no Settlement  
5 Class Member has objected to any aspect of the Settlement or opted out. *Id.*, ¶¶ 9-12.<sup>1</sup>

6                   **B. Class Counsel Expended Considerable Time and Resources to Investigate,  
7 Litigate, and Settle the Class Claims**

8                   Plaintiffs filed this class action in October 2020. In the three months prior to, and after  
9 filing the initial Complaint, Class Counsel engaged in extensive investigation, including  
10 communications with Class Members to determine the scope and specifics of the allegations. Class  
11 Counsel also engaged in corporate research regarding NPSI's organizational structure. Dkt. 60.

12                   Class Counsel drafted multiple versions of the complaint as they worked to focus the claims  
13 to represent all Class Members and support class certification. Erickson Decl., ¶ 19(g). Class  
14 Counsel also conducted the Rule 26(f) conference with counsel for NPSI and drafted and served  
15 the Rule 26(f) Report and Plaintiffs' initial disclosures. Class Counsel also drafted and negotiated  
16 the ESI protocol to be used in this case. *Id.*, ¶¶ 16(g) & (j), 19(j), 22(b) & (g).

17                   After reviewing the documents produced with Defendant's initial disclosures, Class  
18 Counsel served Plaintiffs' first set of interrogatories, as well as requests for admission and  
19 production of documents. Arns Decl., ¶ 13. Defendant produced thousands of pages of responsive  
20 documents and served Plaintiffs with its first sets of discovery requests and interrogatories. *Id.*  
21 Plaintiffs then noticed the depositions of several NPSI employees and the corporate representative  
22 of NPSI on numerous topics pursuant to Fed. R. Civ. Pro. 30(b)(6). *Id.* The Parties engaged in  
23 meet and confer efforts with respect to Plaintiffs' request for the production of a class list. *Id.* After  
24 reaching an impasse, the Parties drafted and filed a joint letter and appeared before the Court for a  
25 discovery conference, after which the Parties continued to confer with respect to the class list. *Id.*

26 \_\_\_\_\_  
27 <sup>1</sup> Class Counsel has also received numerous phone calls from Settlement Class Members  
28 expressing gratitude and support of the Settlement. Erickson Decl., ¶ 29.

1 Over the course of the litigation, Class Counsel had frequent communication with Plaintiffs  
2 to update them on the status of the case, continue the investigation of the claims, and prepare  
3 discovery responses. *Id.*, ¶ 14. In addition, in preparation for the motion for class certification,  
4 Class Counsel consulted with experts regarding a time and motion study to determine the amount  
5 of time Class Members spent donning and doffing. *Id.*, ¶ 15.

6 In advance of the mediation, Class Counsel analyzed thousands of pages of responsive  
7 documents relating to Defendant's policies, Class Members' donning and doffing practices, the  
8 number of hours worked, and wages paid, pay records, and timeclock data. *Id.*, ¶ 16.

9 Class Counsel drafted an extensive mediation brief that included detailed analysis of the  
10 factual and legal issues of the merits and class certification. *Id.*, ¶ 17. After preliminary discussion  
11 with Defendant, Class Counsel drafted a supplemental brief to address additional issues. *Id.* Class  
12 Counsel analyzed Defendant's mediation brief, strategized with co-counsel regarding potential  
13 settlement offers, and conducted data analysis to determine a range of demands. *Id.*

14 Following a successful mediation, Class Counsel was heavily involved in drafting, editing,  
15 and negotiating the terms of the Settlement, which went through numerous rounds of competing  
16 edits. *Id.*, ¶ 18. Class Counsel drafted and filed the motion for preliminary approval and, following  
17 approval, drafted, negotiated, and filed an addendum to clarify the scope of the class. *Id.* Class  
18 Counsel also spent a considerable amount of time crafting and tailoring the formula used by the  
19 Settlement Administrator to allocate funds. *Id.* This involved extensive data analysis of the pay  
20 data for each facility—every clock-in and clock-out instance for every class member. *Id.*

21 Class Counsel ultimately assisted with administration and distribution of notice and  
22 continue to field calls from Class Members who have questions about the settlement. *Id.*, ¶ 20.  
23 Class Counsel anticipate they will continue to do so following final approval. *Id.*

### 24 **C. Class Counsel's Experience and Coordination of Efforts**

25 Class Counsel consisted of a team of experienced attorneys from law firms in Washington  
26 and California, each with special skills and resources that contributed to the investigation,  
27 prosecution and resolution of this action. Arns Decl., ¶ 5. Class Counsel has considerable expertise

1 in litigating complex cases, including those involving wage and hour violations. *Id.*, ¶ 2. Class  
 2 Counsel coordinated their efforts to maximize efficiency and avoid duplication, with each firm  
 3 taking a leadership role in certain aspects of the case to advance the litigation. *Id.*, ¶ 8.

4 Class Counsel consulted with one another regularly to devise strategy, make key decisions,  
 5 and prepare work product necessary to prosecute and resolve the case on behalf of the Class  
 6 Members. *Id.* The delegation of various tasks and cooperation regarding high-stakes decisions and  
 7 briefing were always carried out with the benefit of the Class in mind. *Id.*

#### 8 **D. Proposed Payment of Service Awards, Attorneys' Fees and Litigation Costs**

9 Subject to Court approval, the Settlement provides for Service Awards of \$5,000.00 to each  
 10 of the two named Plaintiffs in recognition of their service to the Settlement Class Members. Dkt.  
 11 60, Ex. 1, § 11.5. The Settlement also allows Plaintiffs to seek attorneys' fees, subject to Court  
 12 approval, not to exceed \$570,000.00. *Id.*, § 11.2. Additionally, Class Counsel requests the Court  
 13 approve the reimbursement of litigation costs in the amount of \$9,576.74. Arns Decl., ¶ 36;  
 14 Erickson Decl., ¶ 28; Salvetti Decl., ¶ 35. Under the Settlement, Defendant does not and will not  
 15 oppose Class Counsel's requests herein for attorneys' fees and actual costs of litigation. Dkt. 60,  
 16 Ex. 1, § 9.2.

### 17 **III. ARGUMENT**

#### 18 **A. The Fee Request is Fair, Reasonable, and Justified**

19 The fairness of attorneys' fee requests in class action settlements generally turns on the  
 20 degree of success obtained. *See Arthur v. Sallie Mae, Inc.*, No. 10-198, 2012 WL 4076119, at \*1  
 21 (W.D. Wash. Sep. 17, 2012). The Ninth Circuit recognizes two methods for determining the  
 22 fairness of fee requests: the percentage of recovery and lodestar methods. *In re Wash. Pub. Power*  
 23 *Supply Sys. Sec. Litig.*, 19 F.3d 1291, 1295-96 (9th Cir. 1994). While either method may be  
 24 utilized, the percentage method is appropriate here because the Settlement is a common fund  
 25 settlement and Class Counsel's fee request is within the range of approved percentage in such  
 26 cases. Nonetheless, Class Counsel's fee request is reasonable under both methods.



**1. The Fee Request is Reasonable Under the Percentage Approach**

“Many courts and commentators have recognized that the percentage of the available fund analysis is the preferred approach in class action fee requests because it more closely aligns the interests of the counsel and the class, i.e., class counsel directly benefit from increasing the size of the class fund and working in the most efficient manner.” *Aichele v. City of Los Angeles*, 2015 WL 5286028, at \*5 (C.D. Cal. Sept. 9, 2015).

Under the percentage method, a court “sets attorney fees by calculating the total recovery secured by the attorneys and awarding them a reasonable percentage of that recovery, often in the range of 20 to 30 percent.” *Dennings v. Clearwire Corp.*, 2013 WL 1858797, at \*5 (W.D. Wash. May 3, 2013). The percentage is determined based on a case-specific basis and must be “reasonable under the circumstances.” *State of Fla. v. Dunne*, 915 F.2d 542, 545 (9th Cir. 1990).

Courts within the Ninth Circuit examine the following factors in determining the reasonableness of fees under the percentage method: (1) the results achieved; (2) the risk involved with the litigation; (3) the contingent nature of the fee; and (4) awards made in similar cases.” *Arthur*, 2012 WL 4076119, at \*1.

Here, Class Counsel seek attorneys’ fees of \$570,000.00, or 30 percent of the \$1.9 million cash settlement fund—a percentage within the usual range and reasonable under the circumstances.

*a) The Results Achieved*

In common fund cases, “the size of the recovery constitutes a suitable measure of the attorneys’ performance.” *Bowles v. Washington Dep’t of Ret. Sys.*, 121 Wash. 2d 52, 72 (1993).

. Here, the Settlement creates a \$1.9 million settlement fund to compensate Class Members while avoiding protracted and risky litigation. Dkt. 60, Ex. 1, § 1.6. Accounting for risks associated with the various facilities, the settlement amount represents most of the total estimated back wages and liquidated damages, excluding penalties, for Settlement Class Members—a significant result, especially considering the relatively early stage in which the action settled. Arns Decl., ¶ 21. For individual class members, this translates to an average payment is \$458.35, with a highest payment of \$4,332.02. Dkt. 60, Kruckenberg Decl., ¶ 13.

1 Not only is the Settlement a significant benefit to the Class Members, but Class Counsel  
2 managed to achieve this result in an expeditious manner, without the delay or expense of protracted  
3 litigation. This weighs in favor of the fee request's reasonableness. *See In re NCAA Athletic Grant-*  
4 *in-Aid Cap Antitrust Litig.*, 2017 WL 6040065, at \*10 n. 61 (N.D. Cal. Dec. 6, 2017).

5 As discussed above in detail, Class Counsel engaged in extensive work prior to, and in the  
6 early stages of, this litigation to ensure its timely and fair resolution for an amount that provides  
7 significant recovery to Class Members. *See* Section II, *supra*. Under the circumstances, and in light  
8 of Class Counsel's exceptional result, an award of attorneys' fees equal to 30 percent of the  
9 Settlement Fund is reasonable and should be granted.

10 *b) The Risks Involved with the Litigation*

11 The Ninth Circuit has recognized that risk is one factor weighed in approving class counsel  
12 fee requests in the upper end of the usual range of 20-30%. *Vizcaino v. Microsoft Corp.*, 290 F.3d  
13 1043, 1047 (9th Cir. 2002) (fee award of 33% was justified in light of the risks involved).

14 Plaintiffs have discussed the risks associated with this litigation in detail in the Motion for  
15 Preliminary Approval. *See* Dkt. 48, pp. 6-7. Plaintiffs faced significant risks proving (1) that the  
16 time Plaintiffs and the Settlement Class Members spent donning and doffing was compensable;  
17 (2) that Defendant induced workers to relocate to Alaska under false pretenses; and (3) that  
18 Defendant failed to fully compensate Class Members for all hours worked. *Id.* at 6.

19 Defendant's facilities were also located in highly remote areas, travel to which would have  
20 been expensive and time consuming. Arns Decl., ¶ 7. If the case has continued, Class Counsel  
21 would have had to travel to these facilities with experts to conduct time and motion studies. *Id.*

22 Defendant also raised issues unique to certain facilities, creating a hurdle to showing  
23 commonality at class certification. Dkt. 48., p. 7. Even if Plaintiffs had successfully moved for  
24 class certification, they likely would have faced a motion to decertify the class and would have  
25 had to contend with the aforementioned hurdles through trial and a possible appeal. In sum, the  
26 risks of litigation faced by Plaintiffs were significant and weigh in favor of approval of the fee.

c) *The Contingent Nature of the Fee*

It is common practice “to reward attorneys for taking the risk of non-payment by paying them a premium over their normal hourly rates for winning contingency cases.” *Power Supply*, 19 F.3d 1291, 1299 (9th Cir. 1994).

Legal issues and unfavorable facts, as well as a global pandemic, presented uncertainty and risks to the claims at issue. By prosecuting this action on a contingency basis, Class Counsel bore substantial risk of an uncertain outcome as well as all the difficulties inherent in complex class action litigation. Class Counsel risked significant amounts of time and expenses to ensure a successful outcome—over 770 hours and \$9,576.74 in costs. Arns Decl., ¶ 7. When this case was accepted, Class Counsel were aware of the risks but considered the possibility of a risk-related enhancement award as justification for accepting fees on a contingent basis. *Id.*

d) *Awards Made in Similar Cases*

Courts within this district and circuit routinely approve fee awards of 30 percent or more of the recovery. *See Ikuseghan v. Multicare Health Sys.*, 2016 WL 4363198, at \*3 (W.D. Wash. Aug. 16, 2016) (30%); *In re Pac. Enterprises Sec. Litig.*, 47 F.3d 373, 379 (9th Cir. 1995) (33%); *In re Atossa Genetics, Inc. Sec. Litig.*, 2018 WL 3546176, at \*1 (W.D. Wash. Jul. 20, 2018) (33%); *In re Mego Fin. Corp. Sec. Litig.*, 213 F.3d 454, 463 (9th Cir. 2000) (one-third); *In re Activision Sec. Litig.*, 723 F.Supp. 1373, 1377 (N.D. Cal. 1989) ( “nearly all common fund awards range around 30%” ).

Because of the results achieved by Class Counsel, the risks of litigation, the contingency basis on which Class Counsel litigated this case, and because a 30 percent award is in line with other awards in this district and circuit, the fee request is justified under the percentage method.

**2. A Lodestar-Multiplier Cross-Check Supports Class Counsel’s Fee Request**

Under the lodestar method, a court “multiplies the total number of hours reasonably expended in the litigation by the reasonable hourly rate.” *Dennings*, WL 1858797, at \*5. The Court may enhance the lodestar with a multiplier to arrive at a reasonable attorneys’ fee in light of Class Counsel’s efforts. *See Pelletz v. Weyerhaeuser Co.*, 592 F. Supp. 2d 1322, 1328 (W.D. Wash.

1 2009). While the lodestar method need not be used where percentage of recovery applies, a lodestar  
 2 “cross-check” further supports the reasonableness of the fee request. *See Aichele*, 2015 WL  
 3 5286028, at \*6.

4 Class Counsel’s total lodestar is \$478,063.25. This is based on the 770.75 hours of work  
 5 performed in this case. Erickson Kramer Osborne LLP expended 334.2 hours (\$244,230), The  
 6 Arns Law Firm expended 304.75 hours (\$170,598.75), and Zwerling, Schachter & Zwerling, LLP  
 7 expended 131.8 hours (\$63,243.50). These hours are further broken down by timekeeper in the  
 8 attached declarations. Erickson Decl., ¶¶ 16-22; Arns Decl., ¶¶ 27-35; Salvetti Decl., ¶¶ 20-31.

9 The requested 1.2 multiplier on Class Counsel’s lodestar, without accounting for work still  
 10 to come, is consistent with precedent and reasonable in light of the risks Class Counsel assumed  
 11 in bringing this matter, their efforts in bringing about a speedy resolution that provides substantial  
 12 monetary relief for the Class, and the favorable reception of Class members to the cash recoveries.

13 *a) The Hours Expended by Class Counsel Are Reasonable*

14 The 770 hours spent by Class Counsel for the benefit of the class—excluding future work  
 15 to effectuate the settlement—was necessary and reasonable. Arns Decl., ¶ 25. Class Counsel  
 16 expended a substantial amount of time investigating, litigating, and negotiating a resolution,  
 17 including through formal and informal discovery; conferences with defense counsel; consultation  
 18 with an expert; and analysis of documents and data. *See* Section II.B (detailing Class Counsel’s  
 19 efforts); Arns Decl., ¶¶ 10-19. Class Counsel also prepared detailed mediation briefs, engaged in  
 20 a full-day mediation, participated in negotiating and drafting the settlement, drafted the  
 21 preliminary approval motion, and assisted with administration of the Notice. Section II.B, *supra*.  
 22 While collaboration between firms was necessary, each firm was delegated responsibility for  
 23 specific tasks to minimize duplicative work. *See* Section II.B(1), *supra*; Arns Decl., ¶ 8.

24 *b) Class Counsel’s Hourly Rates Are Reasonable*

25 The established standard for determining a reasonable hourly rate is the “rate prevailing in  
 26 the community for similar work performed by attorneys of comparable skill, experience, and  
 27 reputation.” *Barjon v. Dalton*, 132 F.3d 496, 502 (9th Cir. 1997). Additionally, it is “appropriate

1 to calculate class counsel’s lodestar at current billing rates, as the use of current rates offsets the  
 2 delay between counsel’s expenditure of time and a court’s award of attorneys’ fees.” *Dennings*,  
 3 2013 WL 1858797, at \*6 n. 1. Declarations regarding the market rate in the relevant community  
 4 are sufficient to establish a reasonable hourly rate. *See Widrig v. Apfel*, 140 F.3d 1207, 1209 (9th  
 5 Cir. 1998); *United Steelworkers of Am. v. Phelps Dodge Corp.*, 896 F.2d 403, 407 (9th Cir. 1990).

6 Class Counsel have substantial experience in class action litigation and, in particular, wage  
 7 and hour cases. Arns Decl., ¶ 2. Each firm involved brought a unique blend of expertise and skill,  
 8 including specialized knowledge in wage and hour class actions and complex litigation which were  
 9 vital to the success and settlement of this case. *Id.*, ¶ 5. Here, the rates requested by Class Counsel  
 10 are well within the range of rates charged by skilled counsel in the Western District of Washington  
 11 in similar complex civil litigation and in line with those approved by courts within this district and  
 12 circuit. Salvetti Decl., ¶ 17; Erickson Decl., ¶ 13; Arns Decl., ¶ 22; *see, e.g., Pelletz*, 592 F.Supp.2d  
 13 at 1326-27 (approving hourly rate of \$800 per hour in 2009).<sup>2</sup>

14 c) *Additional Circumstances Support Class Counsel’s Fee Request*

15 The lodestar figure calculated above is presumptively reasonable. *In re Bluetooth Headset*  
 16 *Prod. Liab. Litig.*, 654 F.3d 935, 941 (9th Cir. 2011). The Court may adjust the figure based on a  
 17 host of other “reasonableness” factors that take into account the work performed by counsel and  
 18 the risks involved. *Kerr v. Screen Extras Guild, Inc.*, 526 F.2d 67, 70 (9th Cir. 1975). Many of  
 19 these non-exhaustive factors have been discussed in the preceding sections. The four additional  
 20 factors below weigh in favor of approval of the fee request.

21 First, as administration of the settlement continues, the 1.2 multiplier will decrease. Class  
 22 Counsel can reasonably expect to spend additional hours overseeing the settlement administration  
 23 process and preparing for and appearing at the final approval hearing, but these additional hours  
 24 are not reflected in the lodestar before the Court. Arns Decl., ¶¶ 20, 39; *See Pelletz*, 592 F.Supp.2d  
 25 at 1327-28 (expected future hours effectuating the settlement justified a multiplier of 1.82).

26 <sup>2</sup> Accounting for inflation (using the U.S. Bureau of Labor Statistics’ Consumer Price Index  
 27 Inflation Calculator) the \$800 per hour approved in *Pelletz* is approximately \$1,039 today. Arns  
 28 Decl., ¶ 22, n. 1. The maximum rate requested here is \$950.

1           The second relevant factor is the existence of time limitations imposed by circumstances  
 2 of the case that necessitated swift resolution by counsel. Here, Class Counsel were cognizant of  
 3 the fact that, over time, class members' memories would fade, and it would be difficult to calculate  
 4 the amount of time spent donning and doffing or recall the specifics of the alleged inducements to  
 5 travel to Alaska, should litigation be prolonged. Arns Decl., ¶ 7. Additionally, because of the  
 6 transient nature of seasonal work, it was likely that the longer this litigation took, the harder it  
 7 would be to contact class members and gather evidence for class certification. *Id.*

8           Third, a lack of objections and opt-outs supports class counsel's fee request. *See In re*  
 9 *Immune Response Sec. Litig.*, 497 F. Supp. 2d 1166, 1177 (S.D. Cal. 2007) ("the lack of objection  
 10 from any Class Member supports the attorneys' fees award"); *Atossa Genetics*, 2018 WL 3546176  
 11 at \*1 (lack of objections following settlement notice supported the fee award); *Dennings*, 2013  
 12 WL 1858797 at \*9. To date, no Class Member has objected to, or opted out of, the Settlement. *See*  
 13 Section II.A.2; Dkt. 60, Kruckenberg Decl., ¶¶ 11-12.

14           Finally, Class Counsel's 1.2 lodestar multiplier request should be approved because it is  
 15 within the range of multipliers commonly approved by courts within the Ninth Circuit. *See*  
 16 *Vizcaino*, 290 F.3d at 1051 n. 6 ("[M]ultipliers ranging from one to four are frequently awarded in  
 17 common fund cases when the lodestar method is applied.").

18           **B. The Request for Reimbursement of Costs is Reasonable<sup>3</sup>**

19           "The Ninth Circuit allows recovery of pre-settlement litigation costs in the context of class  
 20 action settlement." *Arthur*, 2012 WL 4076119, at \*2. Class Counsel seek reimbursement of  
 21 \$9,576.74 in actual costs. The costs include mediation fees, filing fees, court reporting/transcript  
 22 services, online legal research, and process service. Arns Decl., ¶ 36; Erickson Decl., ¶ 28; Salvetti  
 23 Decl., ¶ 35. These costs were reasonable and necessary for the prosecution of this action and are  
 24 below the \$15,000 maximum provided for under the Settlement. Arns Decl., ¶ 36.

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 27 <sup>3</sup> As discussed in the Final Approval Motion, Plaintiffs also request the Court allocate \$44,750 to  
 PSA for expenses associated with administering the Settlement. Dkt. 60, 4.



### C. The Service Awards for the Named Plaintiffs Are Appropriate

1 “[N]amed plaintiffs . . . are eligible for reasonable incentive payments” as part of a class  
 2 action settlement. *Staton v. Boeing Co.*, 327 F.3d 938, 977 (9th Cir. 2003). The Settlement provides  
 3 for service awards of \$5,000.00 to each of the two Plaintiffs in recognition of their service to the  
 4 Settlement Class Members. Dkt. 60, Ex. 1, § 11.5. The award is appropriate in light of the efforts  
 5 taken by the Plaintiffs for the Class. Arns Decl., ¶ 41. When evaluating the reasonableness of an  
 6 incentive award, courts consider, *inter alia*, “the actions the plaintiff has taken to protect the  
 7 interests of the class, the degree to which the class has benefitted from these actions,” and “the  
 8 amount of time and effort the plaintiff expended in pursuing the litigation.” *Staton*, 327 F.3d at  
 9 977.

10 The requested \$5,000.00 service awards are reasonable in light of Plaintiffs’ efforts and  
 11 service performed on behalf of the Class Members. *See* Declaration of Pedro Torres (“Torres  
 12 Decl.”), ¶¶ 3-6; Declaration of Jorge Hurtado Jr. (“Hurtado Decl.”), ¶¶ 3-6. Specifically, Plaintiffs  
 13 agreed to be named in the complaint, thereby subjecting themselves to public attention. Torres  
 14 Decl., ¶ 7; Hurtado Decl., ¶ 7. Additionally, Plaintiffs participated in the litigation by speaking  
 15 with other employees, collecting records to provide to Class Counsel, and spending a significant  
 16 amount of time with Class Counsel reviewing data produced by Defendant. Torres Decl., ¶¶ 3-4;  
 17 Hurtado Decl., ¶¶ 3-4. Plaintiffs also participated in settlement discussions and had an opportunity  
 18 to review the Settlement in its entirety. Torres Decl., ¶ 5; Hurtado Decl., ¶ 5. Finally, the requested  
 19 service awards are in line with those approved within this district. *See, e.g., Pelletz*, 592 F.Supp.2d  
 20 at 1329-31 (approving \$7,500.00 service awards).

### IV. CONCLUSION

21 For the foregoing reasons, Class Counsel respectfully request an Order awarding: (i)  
 22 attorneys’ fees in the amount of \$570,000.00; (ii) litigation costs in the amount of \$9,576.74; (iii)  
 23 service awards in the amount of \$5,000.00 to each of the named Plaintiffs in recognition of their  
 24 service to the Settlement Class Members; (iv) and administration expenses of \$44,750 to PSA.  
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