

**FILED**  
LOS ANGELES SUPERIOR COURT

SEP 12 2022

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

**SUPERIOR COURT OF CALIFORNIA**

**COUNTY OF LOS ANGELES**

JOAQUIN SOTELO and ELISEO  
ZEPEDA, as individuals and on behalf of all  
others similarly situated,

Plaintiffs,

v.

GEORGE L. THROOP CO., a California  
Corporation; THROOP LIGHTWEIGHT  
FILL, INC., a California Corporation; and  
DOES 1 through 100,

Defendants.

Case No.: 19STCV10997

ORDER GRANTING  
MOTION FOR FINAL  
APPROVAL OF CLASS ACTION  
SETTLEMENT

**I. BACKGROUND**

Plaintiffs Joaquin Sotelo and Eliseo Zepeda sue their former employer,  
Defendants George L. Throop Co. and Throop Lightweight Fill, Inc. (collectively,  
“Defendants” or “Throop”) for alleged wage and hour violations. Defendants

1 manufacture and replace concrete slabs for freeways, highways, and other projects  
2 throughout Southern California. Plaintiffs seek to represent a class of Defendants'  
3 current and former non-exempt employees.

4 On April 2, 2019, Plaintiff Sotelo filed the initial class action complaint against  
5 Defendants. On June 7, 2019, Plaintiff Sotelo filed the First Amended Complaint. On  
6 August 29, 2019, Plaintiff Sotelo filed the Second Amended Complaint ("SAC") which  
7 added Plaintiff Zepeda to the action. The operative SAC alleges causes of action for:  
8 (1) failure to pay all overtime wages (Labor Code §§ 204, 510, 228, 1194, 1198); (2)  
9 minimum wage violations (Labor Code §§ 1182.12, 1194, 1194.2, 1197); (3) meal  
10 period violations (Labor Code §§ 204, 210, 226.7, 512, 558); (4) rest period violations  
11 (Labor Code §§ 226.7, 516, 558); (5) failure to reimburse necessary business expenses  
12 (Labor Code §§ 2802, 2804); (6) wage statement violations (Labor Code § 226, *et seq.*);  
13 (7) waiting time penalties (Labor Code §§ 201-203); (8) unfair competition (Bus. &  
14 Prof. Code § 17200, *et seq.*); and (9) civil penalties under the Private Attorneys General  
15 Act (Labor Code §§ 2698, *et seq.*) ("PAGA").

16 Between December 2019 and February 2020, Defendants obtained general  
17 releases from putative class members. Defendants' counsel represented to Plaintiffs'  
18 counsel that 70 non-exempt employees signed "Pick-Up Stix" releases as a result of  
19 these efforts. See *Chindarah v. Pick Up Stix, Inc.* (2009) 171 Cal.App.4th 796.

20 On February 12, 2021, the Parties participated in a mediation with the Hon. Peter  
21 D. Lichtman and reached a resolution. The parties subsequently finalized a Stipulation  
22 of Settlement, which was filed with the Court.

23 Following various proceedings, including the filing of an amended Stipulation of  
24 Settlement on January 31, 2022, the Court preliminarily approved the settlement on  
25 April 4, 2022.

1 Plaintiffs' motion for final approval of the settlement, attorneys' fees, costs, and  
2 an incentive award to the named plaintiffs came on for noticed hearing on August 25,  
3 2022. Thereafter, the settlement administrator confirmed that the escalator clause in the  
4 settlement agreement was not triggered (Salinas Supp. Dec. filed August 25, 2022) and  
5 that the net settlement amount, assuming approved deductions, will be \$341,301.40  
6 (Salinas second Supp. Dec. filed September 8, 2022).

7 For the reasons set forth below, the Court now grants approval of the settlement  
8 and awards attorneys' fees, costs, and incentive awards.

9  
10 **II. THE TERMS OF THE SETTLEMENT**

11 **A. SETTLEMENT CLASS AND RELATED DEFINITIONS**

12 "Settlement Class" is defined as: All current and former non-exempt employees  
13 who have worked for Defendants in California at any time between April 2, 2015 and  
14 the date of preliminary approval of this Settlement (the "Class Period"). (¶1)

15 "PAGA Employees" are defined as: Individuals who were employed by  
16 Defendants in California at any time between April 2, 2018 and the date of preliminary  
17 approval (the "PAGA Period"). (¶2.B)

18  
19 **B. THE MONETARY TERMS OF SETTLEMENT**

20 The essential monetary terms are as follows:

21 The Maximum Settlement Amount is **\$727,990** (¶3). This includes payment of a  
22 PAGA penalty of **\$50,000** to be paid 75% to the LWDA (\$37,500) and 25% to the PAGA  
23 Employees (\$12,500) (¶3.D.5).

24 Escalator Clause: Defendants represent that there are an estimated 15,986  
25 workweeks worked during the Class Period. If the number of workweeks during the Class

1 Period is more than 10% greater than this figure (i.e., if there are 17,585 or more  
2 workweeks worked by the Settlement Class Members), Defendants agree to increase the  
3 Maximum Settlement Amount on a proportional basis (i.e., if there was 15% increase in  
4 the number workweeks during the Class Period, Defendants would increase the  
5 Maximum Settlement Amount by 15%). (¶3.F) The Court finds, based on the  
6 Supplemental Declaration of Salinas filed August 25, 2022 that the “escalator” clause  
7 was not triggered.

8 The Net Settlement Amount (“Net”) (**\$341,301.40**) is the Maximum Settlement  
9 Amount less:

- 10 ○ **\$74,180** previously paid to Settlement Class Members as part of  
11 Defendants' *Pick-Up-Stix* payments (¶3.B)
- 12 ○ **\$37,500** to LWDA for PAGA penalties;
- 13 ○ Up to **\$242,663.33** (33 1/3%) for attorney fees (¶3.D.4);
- 14 ○ Up to **\$14,395.27** for attorney costs (*Ibid.*);
- 15 ○ Up to **\$10,000 total [\$5,000 each]** for service awards to the proposed  
16 class representatives (¶3.D.3); and
- 17 ○ Estimated **\$7,950** for settlement administration costs (¶3.D.2).
- 18 ● Employer-side payroll taxes will be paid by Defendants separate and apart from,  
19 and in addition to, the Maximum Settlement Amount (¶3.G).
- 20 ● Assuming the Court approves all maximum requested deductions, approximately  
21 \$341,301.40 will be available for automatic distribution to participating class  
22 members. The Declaration of Salinas in support of final approval confirms that  
23 based upon the calculations stipulated in the Settlement, the highest individual  
24 settlement payment to be paid will be approximately \$8,018.16, and the lowest  
25 individual settlement payment to be paid will be approximately \$100.00, with

1 the average individual settlement payment to be paid being approximately  
2 \$1,223.30, without applicable taxes, withholdings, and employee garnishments.  
3 Salinas Dec. ¶11. The average allocation for PAGA Members' 25% share of  
4 PAGA civil penalties is \$66.49. The highest PAGA allocation to a PAGA  
5 Member is \$258.91 and the lowest allocation is \$0.53. Second Supp. Salinas  
6 Dec.¶ 6.

- 7 • There is no Claim Requirement (¶4).
- 8 • The settlement is not reversionary (¶4.D).
- 9 • Individual Settlement Share Calculation: From the Net Settlement Amount, the  
10 Settlement Administrator will calculate each Settlement Class member's  
11 Individual Settlement Payment based on the following formula: (¶4.B)
  - 12 ○ Wage Statement Amount: Ten percent (10%) of the Net Settlement  
13 Amount shall be designated as the "Wage Statement Amount." Each  
14 participating Settlement Class member who was employed by Defendants  
15 at any time between April 2, 2018 and the date of preliminary approval,  
16 shall receive a portion of the Wage Statement Amount proportionate to  
17 the number of workweeks that he or she worked during the  
18 aforementioned time period. (¶4.B.i)
  - 19 ○ PAGA Amount: The \$12,500.00 payable to PAGA Employees as PAGA  
20 civil penalties shall be designated as the "PAGA Amount." Each  
21 individual who was employed by Defendants in a non-exempt position at  
22 any time between April 2, 2018 and the date of preliminary approval,  
23 shall receive a portion of the PAGA Amount proportionate to the number  
24 of workweeks that he or she worked during the aforementioned time  
25 period. (¶4.B.ii)

- 1           ○ Waiting Time Amount: Ten percent (10%) of the Net Settlement Amount  
2           shall be designated as the "Waiting Time Amount." The Waiting Time  
3           Amount shall be distributed in equal shares to each participating  
4           Settlement Class member who separated their employment with  
5           Defendants on or after April 2, 2016. (§4.B.iii)
- 6           ○ The remainder of the Net Settlement Amount will be distributed to each  
7           participating Settlement Class member based on their proportionate  
8           number of workweeks worked during the Class Period, by multiplying the  
9           remaining Net Settlement Amount by a fraction, the numerator of which  
10          is the Settlement Class member's total workweeks worked during the  
11          Class Period, and the denominator of which is the total number of  
12          workweeks worked by all participating Settlement Class Members during  
13          the Class Period. (§4.B.iv)
- 14          ○ After calculating the Individual Settlement Payments pursuant to the  
15          above formula, the Individual Settlement Payments for any Settlement  
16          Class member who received payment as part of the prior *Pick-Up-Stix*  
17          payments will be reduced by the dollar amount that the Settlement Class  
18          member previously received. Any amounts left over after performing this  
19          calculation will be redistributed pro-rata to all Settlement Class Members.  
20          For example, if the Settlement Class Member's Individual Settlement  
21          Payment is calculated to be \$1,000.00 and they previously received a  
22          *Pick-Up-Stix* payment of \$100.00 then their updated Individual  
23          Settlement Payment will be \$900.00. The remaining \$100.00 will be  
24          redistributed on a pro-rata basis to all Settlement Class Members. (§4.B.v)
- 25

1           ○ If a Settlement Class member received a payment as part of the *Pick-Up-*  
2           *Stix* campaign that exceeds their Individual Settlement Payment, the  
3           Settlement Class member will instead receive \$100.00. The remainder of  
4           the Individual Settlement Payment will be redistributed pro-rata to all  
5           Settlement Class Members. For example, if the Settlement Class  
6           Member's Individual Settlement Payment is calculated to be \$500.00 and  
7           they previously received a *Pick-Up-Stix* payment of \$1000.00 then their  
8           updated Individual Settlement Payment will be \$100.00. The remaining  
9           \$400.00 will be redistributed on a pro-rata basis to all Settlement Class  
10          Members. (¶4.B.vi)

- 11       • Tax Withholdings: 15% as wages, 85% as penalties and interest (¶4.D).
- 12       • Uncashed Settlement Payment Checks: Any check that is not negotiated within  
13       180 days of mailing to a Settlement Class member shall be distributed by the  
14       Settlement Administrator to the cy pres, Legal Aid Foundation of Los Angeles, a  
15       501(c)(3) organization dedicated to providing legal services to the indigent  
16       population of Greater Los Angeles. (¶4.E)

17           ○ Each party and their respective counsel represent that they have no  
18           interest or involvement with Legal Aid Foundation of Los Angeles.  
19           (Decl. of Fletcher W. Schmidt ¶30; Decl. of Paul K. Haines ¶11; Decl. of  
20           Alma V. Montenegro ¶6; Decl. of Andrew J. Rowbotham ¶9; Supp. Decl.  
21           of Joaquin Sotelo ¶3; Supp. Decl. of Elisio Zepeda ¶3; Decl. of Patricia  
22           Baum ¶4; Decl. of Jason T. Yu ¶4; Decl. of George L. Throop III ¶3.)

- 23       • Settlement Funding: The Parties agree that \$74,180 (previously stated to be  
24       \$77,990.00) previously paid to Settlement Class Members as part of Defendants'  
25       *Pick-Up-Stix* activity will be considered partial pre-payment of the Maximum

1 Settlement Amount. (¶3.B) The remainder of the Maximum Settlement Amount  
2 [i.e., \$653,810.0, or \$727,990 less \$74,180 already paid] shall be paid no later  
3 than 30 days after the Court's final approval of the Settlement. Under no  
4 circumstances, shall the funds of the Maximum Settlement Amount be  
5 distributed or used in any manner until Final Approval of the Settlement  
6 Agreement is entered as set forth in section 10. (¶3.C)

7 **C. TERMS OF RELEASES**

- 8 • Release by Settlement Class Members and Plaintiffs: Plaintiffs and every  
9 member of the Settlement Class (except those who opt out of the Settlement)  
10 will release and discharge Defendants, their past and present officers, directors,  
11 shareholders, managers, employees, agents, principals, spouses, heirs,  
12 representatives, accountants, auditors, consultants, and their respective  
13 successors and predecessors in interest, subsidiaries, affiliates, parents and  
14 attorneys (collectively "Defendants' Releasees ") as follows: (¶2)
  - 15 ○ All members of the Settlement Class who do not opt-out will release and  
16 discharge Defendants and Defendants' Releasees from all claims,  
17 demands, damages, wages, benefits, penalties, obligations, rights,  
18 liabilities, attorneys' fees, costs, causes of action, and any other form of  
19 relief or remedy in law, equity, or whatever kind or nature, that were pled  
20 in the operative complaint in the Action, or which could have been pled in  
21 the operative complaint in the Action based on the factual allegations  
22 therein, that arose during the Class Period, including all claims for failure  
23 to pay overtime, failure to pay all minimum wage, failure to pay all meal  
24 period, failure to authorize and permit all rest periods, failure to reimburse  
25 necessary business expenses, failure to issue accurate, itemized wage



1 statements, failure to timely pay all final wages due upon separation of  
2 employment, violations of the IWC Wage Orders based on any of the  
3 above violations, and unfair business practices under the California Labor  
4 Code and California Business and Professions Code based on any of the  
5 above violations, including all claims for restitution or equitable relief,  
6 liquidated damages, penalties of any nature whatsoever (collectively the  
7 "Released Claims"). The Class Members' Released Claims include all  
8 claims meeting the above definition(s) under any and all applicable  
9 statutes, including without limitation California Labor Code §§ 201, 202,  
10 203, 204, 226, 226.7, 510, 512, 516, 558, 1182.12, 1194, 1194.2, 1197,  
11 1198, 2802 and 2804; the California Unfair Competition Act, and in  
12 particular, California Bus. & Prof. Code § 17200 et seq. (¶2.A)

- 13 ○ The time period covered by this release is April 2, 2015, to the date of  
14 preliminary approval of the settlement. (¶2.A)
- 15 ● **PAGA Release:** Individuals who were employed by Defendants in California at  
16 any time between April 2, 2018 and the date of preliminary approval ("PAGA  
17 Employees"), regardless of whether they opt-out of the Settlement, will release  
18 and discharge Defendants and Defendants' Releasees from all PAGA claims that  
19 are premised on Plaintiffs' pre-filing letter to the LWDA (dated April 2, 2019)  
20 and the factual allegations pled in the operative complaint in the Action, that  
21 arose between April 2, 2018 and the date of preliminary approval of the  
22 settlement (collectively the "PAGA Released Claims"). The time period covered  
23 by this release is April 2, 2018, to the date of preliminary approval of the  
24 settlement (the "PAGA Period"). (¶2.B)

- 1 • The named Plaintiffs will also provide a general release and a waiver of the
- 2 protections of Cal. Civ. Code §1542. (¶2.C)
- 3 • The releases will become effective on the date that Defendant fully funds the
- 4 Maximum Settlement Amount (“Effective Date”). (¶2.D)

5 **D. SETTLEMENT ADMINISTRATION**

- 6 • The proposed Settlement Administrator is Phoenix Settlement Administrators,
- 7 which has provided evidence that no counsel are affiliated with it and that it has
- 8 adequate procedures in place to safeguard the data and funds to be entrusted to it.
- 9 (See Declaration of Jodey Lawrence.)
- 10 • Settlement administration costs are estimated to be \$7,950 (¶3.D.2).
- 11 • Notice: The manner of giving notice is described below.
- 12 • Opt Out/Objection Dates: The “Response Deadline” is 60 calendar days of the
- 13 date of the initial mailing of the Notice Packets, and applies to the submission of
- 14 Requests for Exclusion (¶9.D), written objections (¶9.F), and payment disputes
- 15 (¶9.G).
  - 16 ○ PAGA Employees may not opt-out of the release of PAGA claims (as
  - 17 described in ¶2.B) and will thus receive payment for their share of the
  - 18 PAGA Amount even if they request exclusion from the class and do not
  - 19 receive a class portion of their Individual Settlement Payment. (¶9.D.ii)
  - 20 ○ If 10% or more of the Settlement Class Members validly elect not to
  - 21 participate in the Settlement, Defendants will have the right to rescind the
  - 22 Settlement. (¶9.E)
- 23 • Notice of Final Judgment will be posted on the Settlement Administrator’s website
- 24 (Notice pg. 1).

25 //

1 **III. ANALYSIS OF SETTLEMENT AGREEMENT**

2 “Before final approval, the court must conduct an inquiry into the fairness of the  
3 proposed settlement.” Cal. Rules of Court, rule 3.769(g). “If the court approves the  
4 settlement agreement after the final approval hearing, the court must make and enter  
5 judgment. The judgment must include a provision for the retention of the court's  
6 jurisdiction over the parties to enforce the terms of the judgment. The court may not  
7 enter an order dismissing the action at the same time as, or after, entry of judgment.”  
8 Cal. Rules of Court, rule 3.769(h).

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

23 “The burden is on the proponent of the settlement to show that it is fair and  
24 reasonable. However ‘a presumption of fairness exists where: (1) the settlement is  
25 reached through arm's-length bargaining; (2) investigation and discovery are sufficient to

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

18 **A. A PRESUMPTION OF FAIRNESS EXISTS**

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

23 //

24 //

25 //

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

2           The settlement was preliminarily found to be fair, adequate and reasonable.

3           Notice has now been given to the Class and the LWDA. The notice process resulted in  
4           the following:

5                     Number of class members: 279

6                     Number of notices mailed: 279

7                     Number of undeliverable notices:4

8                     Number of opt-outs: 0

9                     Number of objections: 0

10                    Number of participating class members: 279

11                    Number of PAGA Affected Employees: 188

12  
13           Declaration of Jerrod Salinas ¶¶ 3-9; Second Supp. Salinas Dec. ¶6.

14           The Court finds that the notice was given as directed and conforms to due process  
15           requirements.

16           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 **\$242,663.33** (33 1/3%) for attorney fees and **\$14,395.27**  
24           for costs.

1 Courts have an independent responsibility to review an attorney fee provision and  
2 award only what it determines is reasonable. *Garabedian v. Los Angeles Cellular*  
3 *Telephone Company* (2004) 118 Cal.App.4th 123, 128. A percentage calculation is  
4 permitted in common fund cases. *Laffitte v. Robert Half Int'l, Inc.* (2016) 1 Cal.5th 480,  
5 503.

6 In the instant case, fees are sought pursuant to the percentage method. Counsel  
7 also request a lodestar cross check

8 A lodestar is calculated by multiplying the number of hours reasonably expended  
9 by the reasonably hourly rate. *PLCM Group, Inc. v. Drexler* (2000) 22 Cal.4th 1084,  
10 1095-1096 (*PLCM*). “Generally, ‘[t]he lodestar is calculated using the reasonable rate  
11 for comparable legal services in *the local community* for noncontingent litigation of the  
12 same type, multiplied by the reasonable number of hours spent on the case.’ ”

13 *Environmental Protection Information Center v. Dept. of Forestry & Fire Protection*  
14 (2010) 190 Cal.App.4th 217, 248, quoting *Nichols v. City of Taft* (2007) 155  
15 Cal.App.4th 1233, 1242-1243.

16 As to the reasonableness of the rate and hours charged, trial courts consider  
17 factors such as “the nature of the litigation, its difficulty, the amount involved, the skill  
18 required in its handling, the skill employed, the attention given, the success or failure,  
19 and other circumstances.” *PLCM, supra*, 22 Cal.4th at p. 1096. “The evidence should  
20 allow the court to consider whether the case was overstaffed, how much time the  
21 attorneys spent on particular claims, and whether the hours were reasonably expended.”  
22 *Christian Research Institute v. Alnor* (2008) 165 Cal.App.4th 1315, 1320.

23 The Court declines to do a lodestar cross check as the information provided is  
24 insufficient. Haines does not indicate how much time he spent on this matter. The  
25 Declaration of Schmidt, while showing costs incurred, hours worked, and proposed

1 billing rates, has no information as to hours spent on particular tasks. There is no  
2 information as to the education and training of the lawyers working on the matter other  
3 than Haines, Schmidt, and Rowbotham. As to proposed billing rates, the Laffey matrix  
4 attached to the Declaration of Schmidt does not indicate the basis of the information  
5 contained in it, or provide information regarding the rates charged in the Los Angeles  
6 area for work done on wage and hour matters by lawyers of similar training and  
7 experience.

8         Nonetheless, the **\$242,663.33** fee request represents a reasonable percentage of  
9 the total funds paid by Defendant, being 33 1/3% of the Gross Settlement Amount.  
10 Further, the notice expressly advised class members of the fee request, and no one  
11 objected. (Salinas Dec. ¶9) Accordingly, the Court awards fees in the amount of  
12 \$242,663.33.

13         Class Counsel requests **\$14,395.27** in costs. This is less than the \$25,000 cap  
14 provided in the settlement agreement (¶1.5). The amount was disclosed to Class  
15 Members in the Notice, and no objections were received. Costs include: Filing, Service,  
16 and Messenger Fees, Westlaw fees, Case Anywhere fees, copying fees, and mediation  
17 fees. The costs appear to be reasonable and necessary to the litigation, are reasonable in  
18 amount, and were not objected to by the class.

19         For all of the foregoing reasons, costs of **\$7,068.87** are approved.

20         **E. SERVICE AWARD TO CLASS REPRESENTATIVE**

21         A service (or incentive) fee award to a named class representative must be  
22 supported by evidence that quantifies the time and effort expended by the individual and  
23 a reasoned explanation of financial or other risks undertaken by the class representative.  
24 See *Clark v. American Residential Services LLC* (2009) 175 Cal.App.4th 785, 806-807;  
25 see also *Cellphone Termination Cases* (2010) 186 Cal.App.4th 1380, 1394-1395

1 ["Criteria courts may consider in determining whether to make an incentive award  
2 include: (1) the risk to the class representative in commencing suit, both financial and  
3 otherwise; (2) the notoriety and personal difficulties encountered by the class  
4 representative; (3) the amount of time and effort spent by the class representative; (4) the  
5 duration of the litigation and; (5) the personal benefit (or lack thereof) enjoyed by the  
6 class representative as a result of the litigation. (Citations.)"].

7 Class Representatives Zepeda and Sotelo each request an enhancement award of  
8 **\$5,000**. Zepeda represents that his contributions to the action include: gathering  
9 employment related documents for use in the lawsuit, making himself available the  
10 entire day of mediation, and communicating with his attorneys and reviewing the  
11 settlement agreement. He indicates that he understands that being in a lawsuit is public  
12 record and other employers could find out that I sued my previous employer, which  
13 could stigmatize me and may affect my future employability and he accepted that  
14 potential burden for the benefit of other employees of Throop. He does not indicate any  
15 actual adverse consequences. He indicates he is giving a full release but does not show  
16 that the claims released have value. He estimates spending approximately 15 to 20 hours  
17 on the case. (Declaration of Eliseo Zepeda ISO Final ¶¶ 7-12.)

18 Class Representative Joaquin Sotelo similarly testifies in a Declaration that is  
19 virtually identical to that of Zepeda.

20 In light of the above-described contributions to this action, and in  
21 acknowledgment of the benefits obtained on behalf of the class, a **\$5,000** service award  
22 is reasonable and approved for Zepeda and Sotelo. .

#### 23 **F. SETTLEMENT ADMINISTRATION COSTS**

24 The Settlement Administrator, Phoenix Settlement Administrators, requests  
25 **\$7,950** in compensation for its work in administering this case. (Salinas Decl. ¶12 and



1 Ex. B.) Class Members were provided with notice of this amount and did not object.  
2 (Salinas Dec. ¶9, Exhibit A thereto.)

3 Accordingly, settlement administration costs are approved in the amount of  
4 **\$7,950.**

5  
6 **IV. CONCLUSION AND ORDER**

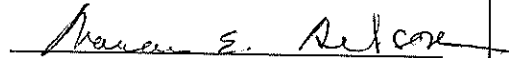
7 The Court hereby:

- 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 **\$242,663.33** in attorneys' fees to Class Counsel, Haines Law Group,  
11 APC;
- 12 (4) Awards **\$14,395.27** in litigation costs to Class Counsel;
- 13 (5) Approves payment of **\$37,500** (75% of \$50,000 PAGA penalty) to the LWDA;
- 14 (6) Awards **\$5,000 each** as a Class Representative Service Award to Joaquin Sotelo  
15 and Eliseo Zepeda;
- 16 (7) Awards **\$7,950** in settlement administration costs to Phoenix Settlement  
17 Administrators;
- 18 (8) Orders class counsel to lodge a proposed Judgment, consistent with this ruling  
19 and containing the class definition, full release language, and a statement that  
20 there were no objectors or persons who opted out by September 19 2022;
- 21 (9) Orders class counsel to provide notice to the class members pursuant to  
22 California Rules of Court, rule 3.771(b) and to the LWDA pursuant to Labor  
23 Code §2699 (1)(3); and
- 24 (10) Sets a Non-Appearance Case Review re: Final Report re: Distribution of  
25 Settlement Funds for 5/17/2023 at 8:30 a.m. Final Report is to be filed five

1 court days in advance. If there is unpaid residue or unclaimed or abandoned  
2 class member funds and/or interest thereon to be distributed to the Legal Aid  
3 Foundation, Plaintiffs' counsel shall also submit an Amended Judgment pursuant  
4 to Cal. Code of Civ. Pro. § 384 and give notice of the Judicial Council of  
5 California upon entry of the Amended Judgment, when entered, pursuant to Cal.  
6 Code of Civ. Pro. §384.5.

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10 Dated:

9/12/2022



11 MAREN E. NELSON

12 Judge of the Superior Court  
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