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10 on behalf of himself and all others similarly situated

11 **UNITED STATES DISTRICT COURT**

12 **NORTHERN DISTRICT OF CALIFORNIA - SAN FRANCISCO DIVISION**

13 FRED TOLLINI, an individual, on behalf of
14 himself and others similarly situated,

15 Plaintiff,

16 vs.

17 CGI FEDERAL INC., a Delaware Corporation;
18 CGI TECHNOLOGIES AND SOLUTIONS
INC., a Delaware Corporation; and DOES 1
19 through 50, inclusive,

20 Defendants.

Case No.: 18-cv-03275-MMC

*[Assigned for all purposes to the Honorable
Maxine M. Chesney]*

CLASS ACTION

**DECLARATION OF DAVID YEREMIAN IN
SUPPORT OF PLAINTIFF'S UNOPPOSED
MOTION FOR AWARD OF ATTORNEYS'
FEES AND COSTS AND CLASS
REPRESENTATIVE ENHANCEMENT AT
FINAL APPROVAL OF CLASS ACTION
SETTLEMENT**

*[Filed concurrently with Notice of Motion and
Motion; Memorandum in Support; Supporting
Declarations of Lluvia Islas and Fred Tollini;
and [Proposed] Order]*

Date: September 4, 2020

Time: 9:00 a.m.

Courtroom.: 7

Complaint Filed: April 30, 2018

FAC Filed: July 23, 2018

DECLARATION OF DAVID YEREMIAN

I, David Yeremian, declare as follows:

1. I am an attorney licensed and admitted to practice before all courts of the State of California, the United States District Court for the Central, Southern, Eastern, and Northern Districts of California, and the Ninth Circuit Court of Appeals. I am the managing attorney of David Yeremian & Associates, Inc., counsel for Plaintiff Fred Tollini (“Plaintiff”) on behalf of himself and all other similarly situated employees of Defendant CGI FEDERAL INC., a Delaware Corporation (“Defendant”) (together, the “Parties”). My firm and I are referred to herein as Class Counsel. I have personal knowledge of the facts herein and if called as a witness, I could and would competently testify.

2. All of the matters set forth herein are within my personal knowledge, except those matters that are stated to be upon information and belief. As to such matters, I believe them to be true. I have represented Plaintiff and the putative Classes since the inception of this matter. I submit this Declaration in support of the Motion for reasonable attorneys’ fees and litigation costs to Plaintiff’s counsel and awarding the Class Representative Enhancement and Service Award to Plaintiff, as addressed in detail in the parties’ Stipulation of Settlement of Class Action and Release of Claims and Addendum to Settlement Agreement and Release of Claims (“Settlement” or “Settlement Agreement”). A copy of this Settlement Agreement is provided at ECF No. 40-2 and ECF No. 51-1.

3. My Declaration focuses on our firm’s qualifications and background, the attorneys who worked on this action, our hourly rates and lodestar hours we have dedicated to it thus far, the litigation costs our firm has incurred, and the Representative Enhancement Service Award we are requesting for Plaintiff.

FRCP Rule 23(g) – Class Counsel Background and Experience

4. My firm is well qualified because of our experience, knowledge, and resources to act as counsel and represent Plaintiff and the putative class in this action. My practice is exclusively focused on employment matters, with a substantial percentage devoted to litigating wage, hour, and working-conditions violations on a class-wide basis.

1 5. I graduated from UC Berkeley in 1997 and received my law degree and MBA from
2 UCLA in 2001. I am a member of the Los Angeles County Bar Association and the California
3 Employment Lawyers Association. I have been honored as a Super Lawyers Rising Star in 2009,
4 2010, 2012-2015. I have been named honored as a Super Lawyer since 2016.

5 6. I have been practicing law since 2003. Since 2007, I have focused almost
6 exclusively on representing employees, including in wage-and-hour class actions. During my
7 career I have represented employees in over 150 wage-and-hour class action lawsuits as lead or
8 co-lead counsel (including in the Central, Southern, Eastern and Northern Districts of California),
9 and I have obtained six and seven figure settlements against a range of defendants, including
10 Fortune 500 companies. These cases have involved the gamut of wage-and-hour claims, including
11 claims for failure to pay minimum wages, unpaid wages and overtime, failure to provide meal and
12 rest breaks, failure to reimburse necessary business expenses, inaccurate pay statements, failure to
13 pay timely wages—similar to claims at issue in the present matter.

14 7. I am experienced in prosecuting employment matters, particularly class actions. In
15 addition to the present case, I am also class counsel for dozens of other putative certified wage-
16 and-hour class-action lawsuits pending in various state and federal jurisdictions throughout
17 California.

18 8. My extensive experience in litigating employment wage and hour matters has been
19 integral in identifying legal issues, evaluating the strengths and weaknesses of a case, and
20 generally negotiating fair and reasonable class action settlements. Practice in the narrow field of
21 wage and hour litigation requires skill and knowledge concerning the constantly evolving
22 substantive law (state and federal), as well as the procedural law of class action litigation. In this
23 action, I am fully equipped to use the skills and knowledge I have developed through more than a
24 decade of prosecuting and defending wage and hour class actions to fairly and adequately
25 represent the interests of the Class. Therefore, on the account of my resources, experience, and
26 knowledge, I am well qualified to act as class counsel and represent Plaintiff and the putative class
27 members in this action.

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1 9. In the last several years I have had several contested class cases certified. When
2 necessary we pursue cases on appeal. Owing to my experience, I am well qualified to evaluate the
3 class claims in this action, to evaluate settlement v. trial and defenses raised. I have negotiated
4 over 100 class action settlements, including many involved the same issues presented in this case.
5 A selection of cases wherein I have served as lead or co-lead class counsel includes: *Galavis v.*
6 *Patina Restaurant Group, LLC* (LASC BC375225; class size approx. 10,000; co-lead counsel);
7 *Milford v. ADT Security Services, Inc.* (CACD CV08-2236; class size approx. 2,000; lead
8 counsel); *Carreon v. Wolfgang Puck Catering and Events, LLC* (LASC BC398569; class size
9 approx. 1,400; lead counsel); *Fluke v. RFG Oil, Inc.* (LASC BC403354; class size approx. 1,400;
10 lead counsel); *Urena v. Camachos Restaurant* (LASC BC365913; class size approx. 887; lead
11 counsel); *Smith v. Rio Rancho Pontiac GMC Buick Inc.* (LASC BC391187; class size approx. 860;
12 lead counsel); *Callela v. Dolce Group* (LASC BC364711; class size approx. 600; lead counsel);
13 *Vasquez v. The Hollywood Pig n Whistle LP* (LASC BC335075; class size approx. 600; lead
14 counsel); *Goldman v. Aorta Restaurant Operating LP* (LASC BC379688; class size approx. 300;
15 lead counsel); *Sink-Crilly v. Centex Homes* (CACD CV09-2476; class size approx. 250; lead
16 counsel); *Utley v. Cranbrook Partners Inc.* (LASC BC392813; class size approx. 200; lead
17 counsel); *Garcia v. California Credits Group* (LASC BC353213; class size approx. 160; lead
18 counsel); *Afanasyev v. Miller Infiniti, Inc.* (LASC BC350788; class size approx. 160; lead
19 counsel); *Morris v. Gymboree, Inc.* (LASC BC393270; class size approx. 150; lead counsel);
20 *Ortega v. AJC Sandblasting, Inc.* (LASC BC378806; class size approx. 140; lead counsel);
21 *Lulejyan v. Jim Falk Motors of Beverly Hills, Inc.* (LASC BC398459; class size approx. 72; lead
22 counsel); *Rylko v. The Griddle Café, Inc.* (LASC BC386126; class size approx. 70; lead counsel);
23 *Healy v. Siemens IT Solutions and Services, Inc.* (Santa Clara Superior Court 108CV113479; class
24 size approx 60; lead counsel).

25 10. I do not believe that I have any conflicts of interest with the Class Members or the
26 similarly aggrieved PAGA employees or with Plaintiff. I am not related to Plaintiff. I have not
27 previously represented Defendant in any matter. I respectfully submit that David Yeremian &
28 Associates, Inc. and I are well suited to act as counsel for Plaintiff and the Class Members in this

1 action, and we have and will continue to vigorously represent the interests of those individuals.

2 **Class Representative Service Award**

3 11. The separate Service Award payment to Plaintiff is intended to recognize his time
4 and effort on behalf of the putative class. Class Counsel contends, and Defendant do not contest,
5 that the proposed payment of \$5,000.00 to Plaintiff for his services as the Class Representative is
6 fair and appropriate. By initiating and prosecuting this action, Plaintiff bore all the risks associated
7 with a potentially unfavorable outcome, including liability for Defendant’s attorneys’ fees.
8 Moreover, even if successful, Plaintiff risked incurring retaliation from current and prospective
9 employers for suing Defendant because employers are less likely to hire an applicant who has sued
10 his former employer over one who has not.

11 12. Plaintiff spent a considerable amount of time and effort assisting Class Counsel by,
12 *inter alia*, providing them with documents and information, identifying witnesses, helping them
13 analyze documents produced by Defendant, assisting Class Counsel in drafting the mediation
14 brief, participating in the mediations, and reviewing and signing the settlement agreements.
15 (Declaration of Fred Tollini in support of Motion for Attorneys’ Fees, Costs, Representative
16 Enhancement Award (“Tollini Decl.”) ¶¶ 3-16.) At all times Plaintiff served unselfishly as the
17 champion of the Class Members. (*Id.*) Furthermore, the proposed Service Award, subject to the
18 approval of the Court, is a very small percentage of the aggregate value of the Net Distribution
19 Fund being paid in its entirety to the Settlement Class Members. Plaintiff has provided a
20 Declaration in support of the requested Service Award and detailing his contributions to the Class
21 and this litigation. (*Id.*)

22 13. **Plaintiff Is an Adequate Class Representative:** The Settlement Agreement provides
23 that Class Counsel will move the Court for a Service Award for Plaintiff in the amount of up to
24 **\$5,000.00**. Plaintiff has agreed to serve as the Class Representative, and he will and has fairly and
25 adequately protected the Class interests. The Tollini Declaration establishes he has no interests in
26 conflict with the Class Members, he is well aware of his duties as class representative, and has
27 actively participated in the prosecution of this case to date. (Tollini Decl., ¶¶ 3-16.)

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1 14. Plaintiff assisted Class Counsel with investigation and evaluation of the class and
2 representative claims, including producing documents and attending multiple telephonic
3 conferences and meetings with Plaintiff's counsel. He worked with Class Counsel from the onset
4 of their investigation providing statements and information regarding Defendant's policies and
5 practices. (Tollini Decl., ¶¶ 10-12). Plaintiff spent a considerable amount of time and effort
6 assisting Class Counsel by, *inter alia*, providing documents and information, being available to
7 discuss intricate details of the case on multiple occasions, identifying witnesses, helping counsel
8 analyze documents produced by Defendant, assisting Class Counsel in preparing for mediation,
9 participating in the mediation, and reviewing and signing the settlement agreement. (*Id.*).

10 15. At all times Plaintiff served unselfishly as the champion of the putative class. In
11 doing so, and by initiating and prosecuting this action, Plaintiff bore all the risks associated with a
12 potentially unfavorable outcome, including liability for Defendant's attorneys' fees. Moreover,
13 even if successful, Plaintiff risked incurring retaliation from prospective employers for suing
14 Defendant because employers are less likely to hire an applicant who has sued his former
15 employer over one who has not. (Tollini Decl., ¶¶ 13-15). Based on my experience as Class
16 Counsel, fear of publicity resulting from serving as a named Plaintiff is one of the primary reasons
17 people whose rights have been violated decide not to sue their employer. In addition, the proposed
18 service payment is modest compared to the estimated aggregate value of the settlement
19 compensation being provided to the putative Class as a whole. There are no conditions attached to
20 Plaintiff seeking such incentives. Therefore, neither the size nor terms on the incentive awards
21 undermine the adequacy of the class representatives.

22 16. As a former employee of Defendant, Plaintiff has placed his future employment
23 prospects in peril by becoming a class representative. If/when Plaintiff looks for future
24 employment, it is common for employers to screen employee candidates to determine whether
25 they have ever filed suit, and that employee candidates who might be branded "litigious" are likely
26 to be screened out of the process. In fact, an entire industry has developed for providing employers
27 with background information on employee candidates. The companies that provide these services
28 actually promote themselves by touting their ability to identify and weed out potentially litigious

1 employee candidates.

2 17. For all of these reasons, the proposed service award is fair and justified. Both state
3 and federal courts recognize that class representatives should be specially compensated for the
4 time and energy they put into the case as well as the risks they undertake prosecuting such actions.
5 Plaintiff has satisfied his obligations as Class Representative, has incurred numerous hours in
6 service to this case and the Class members, and has been invaluable in developing the claims,
7 conducting discovery into them, and in reaching the Settlement. The Declaration from Plaintiff in
8 support of counsel's fees and costs and his service award and final approval further address the
9 details of his contributions to this favorable litigation result. (*See Tollini Decl.*). Plaintiff and Class
10 Counsel request that he be awarded the requested Class Representative Service Award of
11 \$5,000.00.

12 **Request for Attorneys' Fees and Costs**

13 18. Administration of the Settlement will soon be completed, and the final approval
14 hearing is approaching on **September 4, 2020**. Plaintiff therefore requests, without opposition
15 from Defendant, that Plaintiff's Counsel be awarded at final approval, from the preliminarily
16 approved Gross Fund Value of \$350,000.00, our attorney's fees (not to exceed 25 percent of the
17 Gross Fund Value, i.e. \$87,500.00) and a maximum of costs incurred of up to \$16,000.00, as
18 awarded by the Court (with present costs at approximately \$12,767.56). Any portion of the fees or
19 costs that are not awarded to Counsel will be added back into the Net Settlement Amount for
20 distribution to the Class Members. (Settlement at ECF No. 40-2, ¶ 7.)

21 19. Counsel requests that the Court consider awarding attorneys' fees at the 25%
22 benchmark based on Counsel's submissions in connection with this Motion and throughout the
23 litigation of this action. David Yeremian & Associates, Inc., along with myself and Mr. Shkodnik,
24 have the background, resources, and experience to zealously represent Plaintiff and the Settlement
25 Class Members, and have done so.

26 20. From my extensive experience litigating and settling wage-and-hour class and
27 representative actions, I believe that the requested award is fair and reasonable to compensate
28 Counsel for all work done and to be done in prosecuting this action through approval and

1 disbursement.

2 21. Class Counsel is well acquainted with the contingent-fee market throughout
 3 California particularly as it pertains to complex-employment, wage-and-hour, and class and
 4 representative action litigation. Counsel has negotiated numerous contingency-fee agreements
 5 with plaintiffs, both as individuals and as representatives in class-action suits and in other PAGA
 6 only actions. Many of those agreements required that counsel receive a fee of up to 40 percent of
 7 any recovery that was obtained and be reimbursed for the costs that counsel incurred out of the
 8 recovery amount.

9 22. Plaintiff, in his capacity as a representative of the putative Class, signed a
 10 contingency-fee agreement providing that counsel could receive up to 40 percent of any recovery
 11 if this case settled. This is a standard percentage in employment-related contingency agreements
 12 throughout California. Indeed, in declarant’s opinion, the Class Members in this complex wage-
 13 and-hour case could not have retained more competent counsel in California, particularly with the
 14 considerable skill and expertise of Counsel, for any amount less than the contingency-fee
 15 percentage provided in the retainer agreement with Plaintiff.

16 23. Class Counsel charges rates commensurate with or less than the prevailing market
 17 rates in the Los Angeles area, and in the San Francisco Bay area, for attorneys of comparable
 18 experience and skill handling complex litigation. The hourly rates for individual lawyers who
 19 worked on this matter from David Yeremian & Associates, Inc. are:

ATTORNEY	RATE
David Yeremian	\$700
Roman Shkodnik	\$500

24 24. I have provided a summary of my background and experience, and other cases
 25 where I have been approved as Class Counsel and received the above hourly rate, in the above
 26 paragraphs and in connection with preliminary approval.

27 ///
 28

1 “lodestar” figure based on the time spent and reasonable hourly compensation for each attorney
2 involved in the case. *Serrano v. Priest* (1975) 20 Cal.3d 25, 48. The court then sets a reasonable
3 hourly fee to apply to the time expended, with reference to the prevailing rates in the geographical
4 area in which the action is pending. *Bihun v. AT&T Information System* (1993) 13 Cal.App.4th
5 976, 997. Finally, a “multiplier” is selected with reference to the following factors: (1) the novelty
6 and difficulty of issues involved, (2) the skill displayed in presenting them, (3) the extent to which
7 the nature of the litigation precluded other employment by the attorneys, and (4) the contingent
8 nature of the fee award, based on the uncertainty of prevailing on the merits and of establishing
9 eligibility for the award. *Serrano*, 20 Cal.App.3d at 49.

10 29. As summarized above, Class Counsel charges rates commensurate with or less than
11 the prevailing market rates in the Los Angeles area, and in San Francisco, for attorneys of
12 comparable experience and skill handling complex litigation. (*See* Laffey Matrix, at Exhibit A,
13 David Yeremian \$700 v. \$747 (16 years), \$500 v. \$458 (7 years)). Also, Counsel’s rates have been
14 approved in numerous other settlements we have negotiated in state and federal courts in recent
15 years, including in the Northern District.

16 30. To provide the Court with an overview of the work done by Class Counsel in this
17 case, without requiring the review of our voluminous time records themselves, I have divided my
18 firm’s work into specific phases and tasks that track the progress of the litigation from our initial
19 investigation through settlement. I therefore provide the attached summary of the timekeeping
20 records detailing the hours I worked in connection with this action in the time and task summary at
21 **Exhibit B** to this Declaration. I have incurred at least 117 hours thus far in prosecuting this action.
22 I have also included a similar time and task summary for Roman Shkodnik at **Exhibit C** (147
23 hours), for a total of 264 hours.

24 31. A rough lodestar is as follows: hours for David Yeremian (\$700/hr x 117 hours =
25 \$81,900.00); for Roman Shkodnik (\$500/hr x 147 hours = \$73,500.00). This results in a total
26 lodestar, to date, of **\$155,400.00**. This does not include the additional hours by paralegals and
27 staff, and also does not include all the hours that will be incurred to take this action through
28 Settlement approval, funding, and disbursement. For example, our firm and staff have received

1 calls from Class Members with questions regarding the Settlement, and we expect this to increase
2 as funding and disbursement approach. Therefore, the requested fees of **\$87,500.00** will not
3 require any lodestar multiplier, when considering all the hours that remain required for taking this
4 action through the approval, funding, and disbursement process.

5 32. I submit that a lodestar cross-check of these timekeeping records support a
6 conclusion that a 25% fee award of \$87,500.00 is reasonable under both the percentage of the fund
7 approach and following the lodestar cross-check.

8 33. Many federal courts have authorized fees in excess of 25%. Rubenstein, Conte and
9 Newberg, *Newberg on Class Actions*, §14:6 (4th ed. 2002); *Singer v. Becton, Dickinson & Co.*,
10 2010 WL 2196104, at *8 (S.D. Cal. 2010); *Collins v. ITT Educational Servs., Inc.*, Case No. 12-
11 cv-1395-DMS-BGS, Dkt. No. 93. (S.D. Cal, Jan. 15, 2015). Plaintiff's Counsel has provided
12 support for the fees and costs awards using both methodologies, lodestar and percentage-of-the-
13 fund, as cross checks. Defendant does not oppose this application for attorneys' fees and costs,
14 and there have been no objectors to date. Any potential reduction by the Court of the requested
15 fees and costs does not change the remaining terms of the Settlement, and will be added back into
16 the Net Settlement Amount.

17 34. In addition to the hours worked, or to be worked, by Counsel, the attorneys' fees
18 award also takes into account the risks of prosecuting this action. Plaintiff's Counsel prosecuted
19 this case on a contingency basis with no guarantee of recovery, and had to devote a significant
20 amount of time and money without the possibility of receiving any compensation unless Plaintiff
21 prevailed. When this case was taken on a contingent-fee basis, with the firm advancing all
22 litigation costs, the ultimate result was far from certain. Defendant defended this action
23 vigorously, and there has been substantial procedure and investigation and informal discovery to
24 date which have required a substantial investment of time and resources. There is always the
25 possibility that all the work Counsel had done would have gone uncompensated.

26 35. In the course of this litigation, Counsel had to incur substantial out-of-pocket costs
27 including, but not limited to, filing fees, service of process, copy charges for documents, attorney-
28 service costs for court filings, computer research, travel expenses and mediator's fees. Practicing

1 in the narrow area of wage-and-hour litigation requires skill and knowledge concerning the
2 constantly evolving substantive law, state and federal, as well as the procedural law of class-action
3 and representative action litigation, and involves a great deal of risk in that these cases can be lost
4 on both class-action and representative action procedural rulings as well as the merits. Further, due
5 to the high stakes involved in terms of both retroactive and prospective relief, wage and hour class
6 actions and representative actions are vigorously defended, and this case was no exception.

7 36. Moreover, by working on this case, Plaintiff's counsel passed up other
8 employment. And this case did not just crowd out another case, but, because of the significant
9 time commitment involved, it also crowded out our capacity to take several other cases. Part of the
10 reason for this was because several areas of wage & hour law are constantly developing, and thus
11 the issues presented in this case required more than just a general apprehension of wage-and-hour
12 law and class-action and representative action procedure.

13 37. For all of the above reasons Class Counsel's contingency-fee percentage of 25%
14 for fees and costs is reasonable. Federal courts and California courts have recognized that an
15 appropriate method for determining the award for attorneys' fees is based on a percentage of the
16 total value of benefits made available to the class members by the settlement. *Boeing Co. v. Van*
17 *Gemert*, 444 U.S. 472, 478, 100 S.Ct. 745, 749 (1980); *Vincent v. Hughes Air West, Inc.* (9th Cir.
18 1977) 557 F.2d 749, 769 (9th Cir. 1977); *Lealao v. Beneficial California, Inc.*, 82 Cal.App.4th 19,
19 28, 97 Cal.Rptr.2d 797 (2000) (recognizing the federal trend to award a percentage of the common
20 fund as attorneys' fees rather than the lodestar method). The requested fee award is justified under
21 both approaches.

22 38. Moreover, federal courts often award attorneys' fees of greater than 25% of the
23 common fund. *In Re Pacific Enter. Sec. Litig.*, 47 F.3d 373, 379 (9th Cir. 1995) (affirming 33
24 percent award); *In Re Activision Sec. Litig.*, 723 F.Supp. 1373 (N.D. Cal. 1989) (noting that fee
25 awards in common fund cases "almost always hover [] around 30% of the fund created by the
26 settlement"); *Vizcaino v, et al. v. Opinion Microsoft Corp.*, 290 F.3d 1043 (9th Cir. 2002)(in
27 upholding 28 percent attorneys' fees award of \$27 million settlement). Although there are no
28 bright-line rules in this area, fifty percent of the fund is typically considered the upper limit, with

1 thirty to fifty percent commonly awarded as attorneys' fees in cases where the common fund is
2 relatively small. 4 *Newberg* § 14.6; *Van Vranken v. Atlantic Richfield Company*, 901 F. Supp. 294
3 (N.D. Cal. 1995) (stating that most cases where 30-50 percent was awarded involved smaller
4 settlement funds of under \$10 million); *In re Ampicillin Antitrust Litigation*, 526 F. Supp. 494 (D.
5 D.C. 1981) (awarding attorney's fees consisting of 50% of \$7.3 million settlement); *In re Warner*
6 *Communications Securities Litigation*, 618 F. Supp. 735, 749-50 (S.D.N.Y. 1985) (attorneys' fees
7 up to 50 percent of the total possible value of the settlement permissible).

8 39. To sum up, Class Counsel diligently litigated this matter to vindicate the rights of
9 Class Members. Class Counsel undertook this complex, risky, expensive, and time-consuming
10 litigation solely on a contingency basis and in so doing have secured substantial benefits for Class
11 Members. Consequently the Court should approve the requested attorneys' fees of \$87,500.00 as
12 adequate and reasonable.

13 Reasonable Litigation Costs

14 40. As of the date of the filing of the instant motion, my firm has documented costs of
15 approximately **\$12,767.56**. Class Counsel incurred costs including, but not limited to, filing fees
16 (e.g. complaint, stipulation, motions), service of process, travel costs, mediation fees, attorney-
17 service costs for court filings and chambers' copies and the like, copy charges for documents,
18 parking and mileage, and postage charges. At **Exhibit D** to this Declaration, I provide a copy of
19 our firm's Cost Invoice listing the reasonable litigation related expenses we have incurred thus far
20 in connection with this action. Class Counsel also intend to spend a substantial amount of time
21 bringing this case to its termination after the hearing of this motion, including in connection with
22 drafting and filing the motion for final approval and all supporting documents, and traveling to
23 and from and preparing for and participating in the hearings. I estimate that David Yeremian &
24 Associates, Inc. will have incurred at least approximately **\$14,000.00-\$14,500.00** in reasonable
25 litigation costs in taking this action through final approval. The Court has preliminarily approved
26 costs of up to **\$16,000.00**, and Class Counsel will provide an updated Costs Invoice and requests
27 in connection with final approval and at the time of the final approval hearing. Class Counsel
28 respectfully requests that the Court approve reimbursement of our reasonable litigation costs from

1 the Settlement fund.

2 **The Risks of Representation Support the Requested Fees and Costs**

3 41. This matter has required Class Counsel to expend substantial time that could have
4 been spent on other fee-generating matters. We took this matter on a pure contingency basis,
5 expending this effort without any guarantee of recovery. At various times, the litigation has
6 consumed a significant percentage of my time, my attorney colleagues' time, and my staff's time.

7 42. When lawyers at our firm spend time on contingency matters, they do so at
8 significant opportunity cost for the firm. We frequently turn away hourly matters, including hourly
9 litigation matters, in order to enable its attorneys to work on contingency matters, primarily
10 (though not exclusively) class actions.

11 43. Because we constantly decline to represent workers with valid legal claims – who
12 might pay hourly or retain us on a contingency basis – there is a significant opportunity cost to
13 each class action we pursue. Class Counsel undertook representation of plaintiff in this action
14 without any assurance of payment for its services, litigating the case on a wholly contingent basis
15 in the face of significant risk. Class and collective wage and hour cases of this type are, by their
16 very nature, complicated and time-consuming. Any lawyer undertaking representation of large
17 numbers of affected employees in wage and hour actions inevitably must be prepared to make a
18 tremendous investment of time, energy, and resources. Sometimes these cases result in a recovery
19 for the class, and sometimes they do not, in which case we are paid nothing for our time and costs
20 incurred.

21 44. For example, my firm represented over 2,000 workers in a case entitled *Espinoza,*
22 *et al. v. Phoenix Warehouse of California, LLC*, LASC Case No. BC503678, consolidated with
23 BC512859, BC549172. Class Counsel in that consolidated action expended over \$1,500,000.00 of
24 attorney time and over \$30,000.00 in expenses over the course of 5 years. Class Counsel obtained
25 certification took and defended over 20 depositions and was preparing for trial when Defendant
26 filed for chapter 7 bankruptcy protection. We take our responsibilities as Class Counsel seriously
27 and invest the time and expenses necessary to prosecute these actions to the fullest extent, and
28 sometimes we have no recovery for our investment.

