

1 DAVID YEREMIAN & ASSOCIATES, INC.
David Yeremian (SBN 226337)
2 David@yeremianlaw.com
Roman Shkodnik (SBN 285152)
3 Roman@yeremianlaw.com
535 N. Brand Blvd., Suite 705
4 Glendale, California 91203
Telephone: (818) 230-8380
5 Facsimile: (818) 230-0308

6 UNITED EMPLOYEES LAW GROUP, PC
Walter Haines (SBN 71075)
7 walterhaines@yahoo.com
5500 Bolsa Ave., Suite 201
8 Huntington Beach, CA 92649
Telephone: (310) 652-2242

9 Attorneys for Plaintiff Fred Tollini,
10 on behalf of himself and all others similarly situated

11 **UNITED STATES DISTRICT COURT**
12 **NORTHERN DISTRICT OF CALIFORNIA**

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

**NOTICE OF MOTION AND UNOPPOSED
MOTION FOR AWARD OF ATTORNEYS'
FEES AND COSTS AND CLASS
REPRESENTATIVE ENHANCEMENT AT
FINAL APPROVAL OF CLASS ACTION
SETTLEMENT; MEMORANDUM OF
POINTS AND AUTHORITIES IN SUPPORT
THEREOF**

*[Filed concurrently with Supporting Declarations
of David Yeremian, 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

1 **TO ALL PARTIES AND TO THEIR ATTORNEYS OF RECORD:**

2 **PLEASE TAKE NOTICE** that, on **September 4, 2020**, at **09:00 a.m.** or as soon
3 thereafter as counsel may be heard, in Courtroom 7 of this Court, located at 450 Golden Gate
4 Avenue, San Francisco, CA 94102, before the Honorable Maxine M. Chesney, Plaintiff Fred
5 Tollini (“Plaintiff”), on behalf of himself and the putative Settlement Class of similarly situated
6 employees of Defendant CGI FEDERAL INC., a Delaware Corporation (“Defendant”), will and
7 hereby does move this Court for approval of the Plaintiff’s Unopposed Motion for Attorneys’ Fees
8 and Costs and Class Representative Enhancement at Final Approval of Class Action Settlement.
9 Plaintiff and Class Counsel respectfully request that the Court enter an Order awarding the
10 requested reasonable attorneys’ fees and litigation costs to Plaintiff’s counsel and awarding the
11 Class Representative Enhancement and Service Award to Plaintiff, as addressed in detail in the
12 parties’ Stipulation of Settlement of Class Action and Release of Claims (“Settlement” or
13 “Settlement Agreement”). Defendant does not oppose the Motion or the requested awards
14 pursuant to the parties’ Settlement.

15 This motion follows the Court’s Order granting preliminary approval to the Settlement,
16 entered on **May 22, 2020**. (ECF No. 53). The Administrator has mailed the Court approved Class
17 Notice to the Settlement Class Members, and Plaintiff will also move for final approval of the
18 Settlement upon completion of the administration period. By this Motion, Plaintiff respectfully
19 requests entry of the concurrently provided [Proposed] Order in connection with the final approval
20 of the Settlement Agreement awarding Class Counsel reasonable attorneys’ fees totalling
21 \$87,500.00, which is 25% of the Gross Fund Value of \$350,000.00, a maximum of litigation costs
22 of up to \$16,000.00, and awarding Plaintiff \$5,000.00 as a Class Representative Enhancement and
23 Service Award for his dedicated efforts on behalf of the Class members.

24 Plaintiff respectfully submits good cause exists for granting the Motion for the reasons set
25 forth in the concurrently filed documents. This Motion is based upon this Notice of Motion and
26 Unopposed Motion, the concurrently provided Memorandum of Points and Authorities, and the
27 Declarations of David Yeremian (Class Counsel), Lluvia Islas (Settlement Administration), and
28 Fred Tollini (Plaintiff and Class Representative), along with the other documents filed herewith,

1 including any Exhibits to the Declarations, and the [Proposed] Order granting the award of fees
2 and costs and enhancement, as addressed above, the Settlement Agreement, the other pleadings
3 and records on file in this action, and the presentations of counsel and such oral or documentary
4 evidence as may be presented at the hearing on this unopposed Motion.

5

6 DATED: June 22, 2020

DAVID YEREMIAN & ASSOCIATES, INC.

7

By /s/ David Yeremian
David Yeremian
Roman Shkodnik
Attorneys for Plaintiff Fred Tollini,
and the Settlement Class Members

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

TABLE OF CONTENTS

1

2 I. INTRODUCTION 1

3 II. STATEMENT OF RELEVANT BACKGROUND FACTS 3

4 A. Procedural History and Settlement Approval Proceedings 3

5 B. Investigation and Mediation 4

6 C. The Settlement and Class Response 4

7 III. LEGAL AUTHORITY FOR REQUESTED AWARD 5

8 A. The Equitable Common Fund Doctrine Applies 6

9 B. Fees Should Be Calculated as a Percentage of the Common Fund 7

10 C. The Requested Fees Are Consistent with Ninth Circuit Authority 8

11 D. The Requested Fee Award Is Consistent with Similar Cases 8

12 E. The Requested Fee Award Is Reasonable 9

13 F. Class Counsel’s Hourly Rates Are Reasonable 10

14 G. Counsel’s Hours Spent on This Case Are Reasonable 11

15 IV. RELEVANT FACTORS SUPPORT THE REQUESTED FEE AWARD 11

16 A. The Results Achieved Are Significant and Favorable 12

17 B. The Litigation Presented Significant Risks 12

18 C. This Action Required a High Degree of Skill and Work Quality 13

19 D. Contingent Nature of the Requested Fees 13

20 E. Awards in Similar Cases Support Approval Here 13

21 F. Percentage of Recovery Versus Lodestar 14

22 V. REIMBURSEMENT OF REASONABLE CLASS COUNSEL COSTS 15

23 VI. CLASS REPRESENTATIVE SERVICE AWARD REQUESTED 15

24 VII. CONCLUSION 17

25

26

27

28

TABLE OF AUTHORITIES

Cases

1

2

3 *Bennett v. Simplex*, No. 11 Civ. 01854, 2015 WL 12932332 (N.D. Cal. Sept. 3, 2015) 6

4 *Betancourt v. Advantage Human Resourcing, Inc.*, 2016 WL 344532 (N.D. Cal. 2016)..... 14

5 *Blum v. Stenson*, 465 U.S. 886 (1984) 7, 10

6 *Boeing Co. v. Van Gemert*, 444 U.S. 472 (1980)..... 7

7 *Buccellato v. AT&T*, No. 10 Civ. 00465, 2011 WL 3348055 (N.D. Cal. June 30, 2011)..... 16

8 *Camacho v. Bridgeport Fin., Inc.*, 523 F.3d 973 (9th Cir. 2008) 10

9 *Chem. Bank v. Jaffe & Schlesinger, P.A.*, 19 F.3d 1306 (9th Cir. 1994) 6

10 *Cicero v. DirecTV, Inc.*, No. 07 Civ. 1182, 2010 WL 2991486 (C.D. Cal. July 27, 2010) 9

11 *Coates v. Farmers Grp.*, No. 15 Civ. 01913, 2016 WL 5791413 (N.D. Cal. Sept. 30, 2016)..... 16

12 *Cook v. Niedert*, 142 F.3d 1004 (7th Cir. 1998)..... 15

13 *Elliott v. Rolling Frito-Lay*, No. 11 Civ. 01730, 2014 WL 2761316 (C.D. Cal. June 12, 2014)..... 7

14 *Fernandez v. Victoria Secret*, No. 06 Civ. 04149, 2008 WL 8150856 (C.D. Cal. July 21, 2008) 6, 9

15 *Galeener v. Source Refrigeration & HVAC, Inc.*, No. 13 Civ. 04960, 2015 WL 12976106

16 (N.D. Cal Aug. 20, 2015) 9, 18

17 *Glass v. UBS Fin. Servs., Inc.*, No. 06 Civ. 4068, 2007 WL 221862 (N.D. Cal. Jan. 26, 2007) 16

18 *Hanlon v. Chrysler Corp.*, 150 F.3d 1011 (9th Cir. 1998)..... 9

19 *Hensley v. Eckerhart*, 461 U.S. 424 (1983)..... 9, 12

20 *In re Activision Sec. Litig.*, 723 F. Supp. 1373 (N.D. Cal. 1989)..... 1, 8

21 *In re Bluetooth Headset Prod. Liab. Litig.*, 654F.3d 935 (9th Cir. 2011)..... 5

22 *In re Mego Fin. Corp. Sec. Litig.*, 213 F.3d 454 (9th Cir. 2000) 8

23 *In re Omnivision Techs., Inc.*, 559 F.Supp.2d 1036 (N.D. Cal. 2008)..... 6, 12, 13

24 *In re Pacific Enterprises Sec. Litig.*, 47 F.3d 373 (9th Cir. 1995) 8

25 *Keating v. Super. Ct.*, 31 Cal. 3d 584 (1982) 10

26 *Kerr v. Screen Extra Guild, Inc.*, 526 F.2d 67 (9th Cir. 1975) 10

27 *Ketchum v. Moses*, 24 Cal.4th 1122 (Cal. 2001)..... 9, 10

28 *Knight v. Red Door Salons, Inc.* 2009 WL 248367 (N.D. Cal. Feb. 2, 2009)..... 9, 14

1 *Lealao v. Beneficial Cal.*, 82 Cal. App. 4th 19 (2000)..... 9

2 *Linney v. Cellular Alaska P’ship*, 151 F.3d 1234 (9th Cir. 1998) 12

3 *Lusby v. GameStop Inc.*, No. 12 Civ. 03783, 2015 WL 1501095 (N.D. Cal. Mar. 31, 2015) 8

4 *Morales v. City of SanRafael*, 96 F.3d 359 (9th Cir. 1996) 14

5 *Paul, Johnson, Alston & Hunt v. Grauly*, 886 F.2d 268 (9th Cir. 1989) 7, 10

6 *Pennsylvania v. Delaware Valley Citizens’ Council for Clean Air*, 478 U.S. 546 (1986)..... 14

7 *Press v. Lucky Stores, Inc.* 34 Cal. 3d. 311 (1984) 10

8 *Rippee v. Boston Mkt. Corp.*, No. 05 Civ. 1359, Docket Nos. 53, 69 (S.D. Cal. Oct. 10, 2006)..... 6

9 *Rodriguez v. W. Publ’g Corp.*, 563 F.3d 948 (9th Cir. 2009) 15

10 *Romero v. Producers Dairy Foods, Inc.*,2007 WL 3492841 (E.D. Cal. 2007)..... 14

11 *Ross v. U.S. Bank*, No. 07 Civ. 2951, 2010 WL 3833922 (N.D. Cal. Sept. 29, 2010)..... 16

12 *Schwartz v. Sec’y of Health & Human Servs.*, 73 F.3d 895 (9th Cir. 1995) 10

13 *Silberblatt v. Morgan Stanley*, 524 F. Supp. 2d 425, 435 (S.D.N.Y. 2007)..... 16

14 *Singer v. Becton Dickinson*, No. 08 Civ. 821, 2010 WL 2196104 (S.D. Cal. June 1, 2010)..... 9

15 *Six Mexican Workers v. Arizona Citrus Growers*, 904 F.2d 1301(9th Cir. 1990) 7

16 *Staton v. Boeing Co.*, 327 F.3d 938, 963 (9th Cir. 2003)..... 6, 15, 16

17 *Stetson v. Grissom*, 821 F.3d 1157, 1165 (9th Cir. 2016)..... 14

18 *Stuart v. Radioshack Corp.*, No. 07 Civ. 4499, 2010 WL 3155645 (N.D. Cal. Aug.9, 2010)..... 9

19 *Swedish Hosp. Corp. v. Shalala*, 1 F.3d 1261 (D.C. Cir. 1993)..... 7

20 *United Steelworkers of Am. v. Phelps Dodge Corp.*, 896 F.2d 403 (9th Cir. 1990) 11

21 *Van Vranken v. Atl. Richfield Co.*, 901 F. Supp. 294 (N.D. Cal. 1995) 6, 16

22 *Vandervort v. Balboa Capital Corp.*, 8 F. Supp. 3d 1200 (C.D. Cal. 2014)..... 12

23 *Vedachalam v. Tata Consultancy Servs., Ltd*, No. 06 Civ. 963, 2013 WL 3941319

24 (N.D. Cal. July 18, 2013) 8, 16

25 *Villacres v. ABM Indus., Inc.*, 189 Cal.App.4th 562 (2010) 10

26 *Vincent v. Hughes Air West., Inc.*, 557 F.2d 759 (9th Cir. 1977)..... 6

27 *Vizcaino v. Microsoft Corp.*, 290 F.3d 1043 (9th Cir. 2002) 1, 5, 8, 12

28 *Wellens v. Sankyo*, No. 13 Civ. 00581, 2016 WL 8115715 (N.D. Cal. Feb. 11, 2016) 16

1 *Wren v. RGIS Inventory Specialists*, 2011 WL 1230826 (N.D. Cal. 2011) 14

2 **Statutes**

3 Business & Professions Code § 17200 *et seq.* 3

4 Labor Code § 203 3

5 Labor Code § 226(a) 3

6 Labor Code § 226.7 3

7 Labor Code § 510 3

8 Labor Code § 2699, *et seq.* 3, 10

9 **Rules**

10 Fed. R. Civ. P. 23(e) 6

11 Fed. R. Civ. P. 23(h) 6

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

Plaintiff Fred Tollini (“Plaintiff”), on behalf of himself and the preliminarily approved Settlement Class of similarly situated employees of Defendant CGI FEDERAL INC., a Delaware Corporation (“Defendant”), respectfully requests entry of an Order awarding attorneys’ fees and reasonable 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 Class Action Settlement and Release and Addendum to Settlement Agreement and Release of Claims (“Settlement” or “Settlement Agreement”). A copy of the Settlement Agreement is provided for the Court’s review and referenced at ECF No. 40-2 and ECF No. 51-1. Pursuant to the Settlement, Defendant does not oppose this Motion or the requested awards. (*See* concurrently filed Declaration of David Yeremian in support of Fees and Costs Motion (“Yeremian Decl.”), ¶ 2.)

Plaintiff and Class Counsel have negotiated a Gross Fund Value of Three Hundred and Fifty Thousand U.S. Dollars (**\$350,000.00**) for approximately 380 employee Class members in connection with this non-reversionary Settlement. (*See* Declaration of Lluvia Islas (Settlement Administrator) in support of Fees and Costs Motion (“Islas Decl.”), ¶ 5-7, 14-15.) Plaintiff and Class Counsel request through this Motion award of reasonable attorneys’ fees totalling **\$87,500.00**, which is 25% of the Gross Fund Value, reasonable litigation costs of up to **\$16,000.00** (with present costs at approximately \$12,767.56), and an award of **\$5,000.00** to Plaintiff as a Class Representative Enhancement and Service Award for his dedicated efforts on behalf of the California employees in the Class.

This request is consistent with applicable Ninth Circuit authority awarding fees under both the percentage of the fund and lodestar methods. *See Vizcaino v. Microsoft Corp.*, 290 F.3d 1043, 1047 (9th Cir. 2002); *In re Activision Sec. Litig.*, 723 F. Supp. 1373, 1378 (N.D. Cal. 1989). Class Counsel has obtained an excellent monetary result. To date, out of the **380** current and former employees of Defendant to whom Notice of the Settlement was mailed, there have been no objectors and none have requested exclusion. (*See* Islas Decl., ¶¶ 8-13.) Class counsel has incurred

1 approximately **264.00** attorney hours to date amounting to approximately **\$87,500.00** in attorneys’
2 fees, and will incur further hours and reasonable costs through final approval. (Yeremian Decl., ¶¶
3 29-32, Exhibits B and C.) Given the fees and hours counsel will incur in taking this Settlement
4 through final approval and disbursement, Class Counsel submits no lodestar multiplier will be
5 required in awarding the requested \$87,500.00 for attorneys’ fees, and the request is consistent
6 with the federal benchmark. (*Id.*)

7 The Settlement Agreement also allocates up to **\$16,000.00** for reimbursement of Class
8 Counsel’s reasonable litigation costs. To date, Class counsel has incurred approximately
9 \$12,767.56 in reasonable litigation costs, and estimates this number will be approximately
10 \$14,000.00-\$14,500.00 through final approval. (Yeremian Decl., ¶ 40, Exhibit D.) Class Counsel
11 will provide a supplemental declaration with an updated costs invoice through the final approval
12 hearing. Plaintiff and Class Counsel submit the requested attorneys’ fees, costs, and service
13 awards are reasonable and fair compensation for undertaking and favorably resolving such a
14 complex, risky and time-consuming litigation on a contingency basis.

15 The Settlement provides an excellent benefit to the Class members. The Administrator
16 reports that, to date and pursuant to the terms of the Settlement, Class Members will receive a
17 proportionate share of the Net Settlement Fund, estimated to be **\$230,250.00** if all allocations are
18 approved. The average Settlement Payment for California Class Members is estimated at
19 approximately \$605.92, while the highest estimated payment is \$1,798.48. (Islas Decl., ¶ 14.)

20 Finally, to recognize the time and effort that Plaintiff expended for the benefit of the Class
21 members, the results he made possible for the Class, and the risks he accepted by leading and
22 participating in the litigation, Plaintiff requests a service payment of **\$5,000.00**. Given his
23 significant contributions to Class Counsel’s efforts, and the risk incurred by the Class
24 Representative, Plaintiff and Class Counsel respectfully submit the requested service award is
25 reasonable. (Yeremian Decl., ¶¶ 11-17; Declaration of Fred Tollini in support of Fees and Costs
26 Motion (“Tollini Decl.”), ¶¶ 3-16.)

27 ///

28 ///

1 **II. STATEMENT OF RELEVANT BACKGROUND FACTS**

2 **A. Procedural History and Settlement Approval Proceedings**

3 Plaintiff filed this Class Action Complaint on April 30, 2018, in San Francisco County
 4 Superior Court alleging eight causes of action against Defendant for (1) Failure to Pay Minimum
 5 Wages; (2) Failure to Pay Wages Under FLSA, 29 USC §§ 206, 207; (3) Failure to Pay Wages
 6 and Overtime Under Labor Code § 510; (4) Meal-Period Liability Under Labor Code § 226.7; (5)
 7 Violation of Labor Code § 226(a); (6) Violation of Labor Code § 221; (7) Penalties Pursuant to
 8 Labor Code § 203; and (8) Violation of Business & Professions Code § 17200 *et seq.* The
 9 Complaint was filed alongside Plaintiff's PAGA notice letter, which was submitted to the LWDA
 10 on April 30, 2018 (the "Action").(ECF No.40, Declaration of David Yeremian in support of
 11 Preliminary Approval of Class Action Settlement ("Yeremian PA Decl.") ¶ 12.) On May 30, 2018,
 12 Defendant filed their Answer to Plaintiff's Complaint. (Id. at ¶ 13)

13 On June 1, 2018, Defendant removed this lawsuit from San Francisco Superior Court to
 14 United States District Northern District of California. (ECF No. 1.)

15 On July 18, 2018, the Parties filed their Joint Stipulation for Entry of an Order Granting
 16 Plaintiff Leave to File a First Amended Class Action Complaint, to add a single cause of action for
 17 Penalties Pursuant to Labor Code § 2699, *et seq.* (ECF No. 15.) The Honorable Maxine M.
 18 Chesney approved the Joint Stipulation on July 20, 2018. (ECF No. 16.) Plaintiff later filed his
 19 First Amended Complaint on July 23, 2019, adding a cause of action for violation of Labor Code
 20 section 2699 *et seq.* (ECF No. 17.)

21 On October 9, 2018, the Parties dismissed Defendant CGI Technologies and Solutions,
 22 Inc., from the Action. (ECF No. 29.)

23 On November 21, 2019, Plaintiff filed his Motion for Preliminary Approval (ECF No. 41)
 24 of the parties' Stipulation of Settlement of Class Action and Release of Claims ("Settlement") (Ex.
 25 A to prior Yeremian Decl.). On January 3, 2020, the court ordered Plaintiff to provide
 26 supplemental briefing (ECF No. 44). On April 8, 2020 and May 21, 2020 Plaintiff provided a
 27 supplemental declaration of David Yeremian (ECF Nos. 45 and 51).

28 The parties' counsel appeared for the preliminary approval hearing on May 22, 2020. The

1 court heard oral arguments from both Parties counsels before approving Plaintiff’s motion for
2 Preliminary Approval. (ECF No. 53.)

3 On June 1, 2020, the Claims Administrator received the class data file from Defendant
4 Counsel. (Islas Decl. ¶ 5.) The Notice Packet was subsequently mailed, via U.S. First Class Mail,
5 to all 380 class members, on June 8, 2020. (Islas Decl. ¶ 7.)

6 **B. Investigation and Mediation**

7 The original complaints were based upon substantial pre-filing research, both factual and
8 legal. Prior to filing suit, Class Counsel interviewed Plaintiff at length regarding his claims and
9 those of the putative Class. Class Counsel’s initial investigation painted a picture of the conditions
10 under which Plaintiff and his fellow co-workers worked. Counsel also completed informal
11 discovery and were in possession of the documents and data necessary for estimating liability
12 exposure at the mediation, and Class Counsel provides a detailed summary of the discovery and
13 investigation that the parties relied upon for conducting mediation.

14 Finding that their respective interests were best served by compromise, the parties agreed
15 to mediate, and did so on February 26, 2019, with well-respected wage and hour mediator, Jeffrey
16 A. Ross. After a full day of substantial negotiations, the parties were able to reach an agreement
17 which formed the basis for their Settlement Agreement. At all times, the parties’ settlement
18 negotiations have been non-collusive, adversarial, and at arm’s length while recognizing the
19 uncertainty, risk, expense, and delay attendant to continuing the action through trial and any
20 appeals. (ECF No.40, Yeremian PA Decl. ¶¶ 25, 33.)

21 **C. The Settlement and Class Response**

22 The details of the Settlement terms are addressed and summarized by Class Counsel. The
23 prior moving papers also provide further details as to how the parties added and allocated
24 Settlement value and the bases for doing so. (expense, and delay attendant to continuing the action
25 through trial and any appeals. (ECF No.40, Yeremian PA Decl. ¶¶25-41, 42, 47 53, 56, 57, 73.)

26 The parties settled the underlying claims for a Gross Fund Value of Three Hundred and
27 Fifty Thousand U.S. Dollars (**\$350,000.00**) for approximately 380 employee Class members in
28 connection with this non-reversionary Settlement. (See Islas Decl. ¶ 5-7, 14-15.) Plaintiff submits

1 this number is fair and reasonable in light of the risk of no recovery following protracted litigation,
2 Defendant’s policies and record of compliance, and for all the reasons addressed in the Motion and
3 supporting documents. The Court has preliminarily approved the Settlement after reviewing
4 Plaintiff’s methodology and potential estimated liability calculations. (ECF No. 53.)

5 The Settlement Administrator has provided a Declaration in support of the present Motion
6 for Award of Attorneys’ Fees and Costs addressing the procedures followed for compiling the
7 Class List and sending the Class Notice to the members of the Class. (See Islas Decl., ¶ 4-14.) The
8 Settlement Administrator reports that the Class Information provided to it from Defendant
9 contained data establishing there are now **380** total Class Members. (Islas Decl., ¶ 7.) The
10 accompanying Islas Declaration provides details of the Settlement Administration conducted to
11 date. (Islas Decl., ¶ 7-13.) Court approved Class Notices were sent on **June 8, 2020** to the **380**
12 Class Members. (*Id.* at ¶ 7.) There has been one undeliverable Class Notice. (*Id.* at ¶ 10.) The
13 Settlement Administrator has received no requests for exclusion thus far, and zero objections. (*Id.*
14 at ¶¶ 11-12.) Given the present number of **380** Participating Class Members, and pursuant to the
15 Settlement, the average Individual Settlement Payment to the Class Members is estimated to be
16 approximately \$605.92. The highest payment is estimated to be \$1,798.48 (*Id.* at ¶ 14.)

17 **III. LEGAL AUTHORITY FOR REQUESTED AWARD**

18 Under the Federal Rules of Civil Procedure, “[i]n a certified class action, the court may
19 award reasonable attorney [] fees and nontaxable costs that are authorized by law or by the parties’
20 agreement.” Fed. R. Civ. P. 23(h). “Where a settlement produces a common fund for the benefit of
21 the entire class, courts have discretion to employ either the lodestar method or the percentage-of-
22 recovery method.” *In re Bluetooth Headset Prod. Liab. Litig.*, 654F.3d 935, 942 (9th Cir. 2011).
23 But this “discretion must be exercised so as to achieve a reasonable result.” *Id.* Courts generally
24 first calculate a fee award using the percentage method, and then use the lodestar method as a
25 “check” on that amount. *See, e.g., Vizcaino v. Microsoft Corp.*, 290 F.3d 1043, 1050 (9th Cir.
26 2002).

27 “[A] private plaintiff, or his attorney, whose efforts create, discover, increase or preserve a
28 fund to which others also have a claim is entitled to recover from the fund the costs of his

1 litigation, including attorneys' fees." *Vincent v. Hughes Air West, Inc.*, 557 F.2d 759, 769 (9th
 2 Cir. 1977); *see also*, *Chem. Bank v. Jaffe & Schlesinger, P.A.*, 19 F.3d 1306, 1308 (9th Cir. 1994).
 3 "Attorneys' fees provisions included in proposed class action agreements are, like every other
 4 aspect of such agreements, subject to the determination whether the settlement is fundamentally
 5 fair, adequate and reasonable." *Staton v. Boeing Co.*, 327 F.3d 938, 963 (9th Cir. 2003) (quoting
 6 Fed. R. Civ. P. 23(e)) (internal quotation marks omitted).

7 In the Ninth Circuit, 25 percent of the common fund is the "benchmark" for fees in "mega-
 8 fund" class actions (those in the \$50-200 million range). *See, e.g., Vizcaino*, 290 F.3d at 1047.
 9 District courts are entrusted with wide discretion to approve fees above or below that benchmark,
 10 based on the circumstances of the case. *See id.* at 1048 ("The 25% benchmark rate, although a
 11 starting point for analysis, may be inappropriate in some cases."); *see also, e.g., In re Omnivision*
 12 *Techs., Inc.*, 559 F.Supp.2d 1036, 1047 (N.D. Cal. 2008) ("in most common fund cases, the award
 13 exceeds the [25%] benchmark.").

14 Where the common fund is below \$50 million, fees above 25% are often appropriate. Here,
 15 the requested 25% is consistent with, and is lower than many fee awards in comparable wage and
 16 hour class actions. *See, e.g., Bennett v. SimplexGrinnell LP*, No. 11 Civ. 01854, 2015 WL
 17 12932332, at *6 (N.D. Cal. Sept. 3, 2015) (Tigar, J.) (38.8%; \$ 4.9 million fund); *Rippee v. Boston*
 18 *Mkt. Corp.*, No. 05 Civ. 1359, Docket Nos. 53, 69 (S.D. Cal. Oct. 10, 2006) (40% fee; \$3.75
 19 million fund); *Fernandez v. Victoria Secret Stores, LLC*, No. 06 Civ. 04149, 2008 WL 8150856, at
 20 *16 (C.D. Cal. July 21, 2008) (34% fee; \$8.5 million fund); *Galeener v. Source Refrigeration &*
 21 *HVAC, Inc.*, No. 13 Civ. 04960, 2015 WL 12976106, at *4 (N.D. Cal Aug. 20, 2015) (Chhabria,
 22 J.) (33.33% fee; \$10 million fund); *Van Vranken v. Atl. Richfield Co.*, 901 F. Supp. 294, 297-98
 23 (N.D. Cal. 1995) (Williams, J.) (percentages greater than 30% tend to be awarded in cases with
 24 class funds of less than \$10 million). Courts often employ a lodestar cross-check to confirm the
 25 reasonableness of a percentage-based fee. *See Vizcaino*, 290 F.3d at 1050.

26 **A. The Equitable Common Fund Doctrine Applies**

27 Federal and state courts recognize that when counsel's efforts result in the creation of a
 28 common fund that benefits plaintiffs and unnamed class members, counsel have an equitable right

1 to be compensated from that fund as a whole for their successful efforts in creating it. *See, e.g.,*
 2 *Boeing Co. v. Van Gemert*, 444 U.S. 472, 478 (1980) (observing that the United States Supreme
 3 Court “has recognized consistently that a litigant or a lawyer who recovers a common fund . . . is
 4 entitled to a reasonable attorney’s fee from the fund as a whole”). The common fund doctrine rests
 5 on the understanding that attorneys should normally be paid by their clients. *Id.* at 478. Where the
 6 attorneys’ unnamed class member clients have no express retainer agreement, those who benefit
 7 from the fund without contributing to it would be unjustly enriched if attorneys’ fees were not paid
 8 out of the common fund. *Id.*

9 Here, Class Counsel have helped generate a \$350,000.00 for the participating Class
 10 Members, none of whom has paid any fees or costs. Equity requires them to pay a reasonable fee,
 11 based on what the market would traditionally require, no less than if they had hired private counsel
 12 to litigate their cases individually. *Boeing*, 444 U.S. at 479-81.

13 **B. Fees Should Be Calculated as a Percentage of the Common Fund**

14 The fairest and most efficient way to calculate a reasonable fee when contingency
 15 litigation produces a common fund is to award counsel a percentage of the total fund. *See, e.g.,*
 16 *Blum v. Stenson*, 465 U.S. 886, 900 n.16 (1984); *Six Mexican Workers v. Arizona Citrus Growers*,
 17 904 F.2d 1301, 1311 (9th Cir. 1990) (common fund fee generally “calculated as a percentage of
 18 the recovery”); *Paul, Johnson, Alston & Hunt v. Graulity*, 886 F.2d 268, 272 (9th Cir. 1989).

19 The percentage of the fund method can be appropriate for several reasons. The percentage
 20 method comports with the legal marketplace, where plaintiffs’ counsel’s success is frequently
 21 measured in terms of the results they have achieved. *See Swedish Hosp. Corp. v. Shalala*, 1 F.3d
 22 1261, 1269 (D.C. Cir. 1993) (in common fund cases, “the monetary amount of the victory is often
 23 the true measure of [counsel’s] success”). By assessing the amount of the fee in terms of the
 24 amount of the benefit conferred on the class, the percentage method “more accurately reflects the
 25 economics of litigation practice” which, “given the uncertainties and hazards of litigation, must
 26 necessarily be result-oriented.” *Id.* (internal quotations and citations omitted); *see also Elliott v.*
 27 *Rolling Frito-Lay Sales, LP*, No. 11 Civ. 01730, 2014 WL 2761316, at *9 (C.D. Cal. June 12,
 28 2014) (highlighting significant benefits of percentage approach and its consistency with

1 contingency fee calculations in the private market). Moreover, the percentage approach aligns the
 2 incentives of the class members and their counsel, so that time is spent efficiently and the class's
 3 recovery – rather than lodestar hours – is maximized. *In re Activision Sec. Litig.*, 723 F. Supp. at
 4 1375-76.

5 **C. The Requested Fees Are Consistent with Ninth Circuit Authority**

6 The Ninth Circuit and district courts in this Circuit have consistently reaffirmed that the 25
 7 percent benchmark is just that – a benchmark, which can be adjusted based on the circumstances
 8 of the case. *See Vizcaino*, 290 F.3d at 1048-50. The *Vizcaino* court itself recognized the “increase-
 9 decrease rule” – the percentage of an award generally decreases as the common fund increases,
 10 and vice versa. *Id.* at 1047-48. Thus, in common fund settlements of less than \$50 million, such as
 11 this one, a higher percentage is often appropriate. *See, e.g., In re Pacific Enterprises Sec. Litig.*, 47
 12 F.3d 373, 379 (9th Cir. 1995) (affirming award of 33% of \$12 million common fund); *In re Mego*
 13 *Fin. Corp. Sec. Litig.*, 213 F.3d 454, 460 (9th Cir. 2000) (affirming award of 33.3% of \$1.725
 14 million).

15 **D. The Requested Fee Award Is Consistent with Similar Cases**

16 In this District, in class action common fund cases, a 30% fee is well within the range of
 17 awards commonly approved by courts. *In re Activision Sec. Litig.*, 723 F. Supp. at 1377 (surveying
 18 cases and stating, “[t]his court’s review of recent reported cases discloses that nearly all common
 19 fund awards range around 30%”). A fee award of 30% “is only modestly more than the Ninth
 20 Circuit’s 25% ‘benchmark’ percentage” and “[i]n light of the many cases in this circuit that have
 21 granted fee awards of 30% or more,” it is “well within the usual range of percentages awarded.”
 22 *Vedachalam v. Tata Consultancy Servs., Ltd*, No. 06 Civ. 963, 2013 WL 3941319, at *2 (N.D.
 23 Cal. July 18, 2013) (collecting cases awarding 30% or more); *see also In re Omnivision*, 559
 24 F.Supp.2d at 1047 (“in most common fund cases, the award exceeds [the 25%] benchmark.”).

25 California district courts consistently award 30% to 40% of the common fund in similar
 26 wage and hour settlements, particularly for settlements of less than \$10 million. *See, e.g., Bennett*,
 27 2015 WL 12932332, at *6 (38.8% of \$4.9 million fund); *Lusby v. GameStop Inc.*, No. 12 Civ.
 28 03783, 2015 WL 1501095, at *3-4 (N.D. Cal. Mar. 31, 2015) (Lloyd, J.) (33% of \$750,000 fund);

1 *Galeener*, 2015 WL 12976106, at *3-4 (33.33% of \$10 million fund); *Singer v. Becton Dickinson*
2 *& Co.*, No. 08 Civ. 821, 2010 WL 2196104, at *2, *7-9 (S.D. Cal. June 1, 2010) (33.33% of \$1
3 million fund); *Stuart v. Radioshack Corp.*, No. 07 Civ. 4499, 2010 WL 3155645, at *5-7 (N.D.
4 Cal. Aug.9, 2010) (Chen, J.) (33.33% of \$4.5 million fund); *Fernandez*, 2008 WL 8150856, at *16
5 (34% of \$8.5 million fund); *Rippee*, No. 05 Civ. 1359, Docket No. 69 (40% of \$3.75 million
6 fund); *see Cicero v. DirecTV, Inc.*, No. 07 Civ. 1182, 2010 WL 2991486, at *6 (C.D. Cal. July 27,
7 2010) (California district courts “usually award attorneys’ fees in the 30-40% range in wage and
8 hour class actions that result in recovery of a common fund under \$10 million”).

9 “In most common fund cases, the award exceeds [the 25%] benchmark percentage.”
10 *Barbosa v. Cargill Meat Solutions Corp.* 297 F.R.D. at 448 (citing *Knight v. Red Door Salons,*
11 *Inc.* 2009 WL 248367, at *3 (N.D. Cal. Feb. 2, 2009). That Class Counsel is only requesting the
12 25% benchmark here supports approving the requested \$87,500.00 in attorneys’ fees based on the
13 percentage of the benefit and settlement fund counsel and Plaintiff have created for the Settlement
14 Class Members. However, the requested award of reasonable attorneys’ fees at the federal
15 benchmark is also supported by a lodestar cross-check, which establishes that no multiplier will
16 likely be required for the full award of \$87,500.00. Class Counsel respectfully submits this
17 confirms that the requested attorneys fee award is fair and reasonable.

18 **E. The Requested Fee Award Is Reasonable**

19 The lodestar-multiplier method with a percentage of the fund cross-check is a benchmark
20 method for the determination of an attorneys’ fee award in a case such as this, where the fees are
21 to be paid from a common Settlement Fund obtained for the benefit of the class; the percentage of
22 the fund approach is not the only methodology. *Lealao v. Beneficial Cal.*, 82 Cal. App. 4th 19, 26
23 (2000); *Hanlon v. Chrysler Corp.*, 150 F.3d 1011, 1029 (9th Cir. 1998). Class Counsel’s lodestar
24 is the reasonable number of hours expended for the services provided, multiplied by the
25 reasonable hourly rate, calculated at prevailing market rates for the same services. *Hensley v.*
26 *Eckerhart*, 461 U.S. 424, 433 (1983); *Ketchum v. Moses*, 24 Cal.4th 1122, 1134 (Cal. 2001). The
27 lodestar figure may be then adjusted based on the consideration of specific factors, in order to fix
28 the fee award at the fair market value for the legal services provided in a contingent fee case.

1 *Lealao, supra*, 82 Cal. App. 4th at 40, citing *Press v. Lucky Stores, Inc.* 34 Cal. 3d. 311, 322
 2 (1984); *Kerr v. Screen Extra Guild, Inc.*, 526 F.2d 67, 69-70 (9th Cir. 1975).

3 Further, the Private Attorney General Act (“PAGA”) provides for an award of attorneys’
 4 fees and costs to a prevailing employee. California Labor Code § 2699(g)(1) (“Any employee who
 5 prevails in any action shall be entitled to an award of reasonable attorney’s fees and costs.”); *see*
 6 *also Villacres v. ABM Indus., Inc.*, 189 Cal.App.4th 562, 578 (2010). Here, Plaintiff acted like a
 7 true private attorney general because he initiated and prosecuted a lawsuit that protected the
 8 employees in the Class and penalized their employer for past unlawful conduct.

9 Lastly, equity supports the award of attorney fees. Class actions serve the policy goals of
 10 efficient judicial management; they set a procedure where one judgment covers all claimants,
 11 ensuring that the rights of citizens are exonerated, even where their individual claims are relatively
 12 small and/or their financial means are lean, such that an attorney would be unlikely to accept the
 13 financial risk of an individual representation. *Keating v. Super. Ct.*, 31 Cal. 3d 584, 609 (1982)
 14 (reversed in part on other grounds); *Serrano*, 20 Cal. 3d at 34. Accordingly, “it is well settled that
 15 the lawyer who creates a common fund is allowed an *extra* reward...so that he might share the
 16 wealth of those upon whom he has conferred a benefit.” *Paul, Johnson, Alston & Hunt v. Grauly*,
 17 886 F.2d 268, 271 (9th Cir. 1989). Here, equity supports an award of attorneys’ fees and costs,
 18 because without this class action, individual claims would likely never see the light of day, nor
 19 achieve corrective measures or compensate a class. (*See* Yeremian Decl., ¶ 45.)

20 **F. Class Counsel’s Hourly Rates Are Reasonable**

21 Class counsel requests an hourly rate of \$700/hr for David Yeremian and \$500/hr for
 22 Roman Shkodnik. (Yeremian Decl., ¶¶ 23, 29-31.) Class Counsel’s hourly rates are less than or in
 23 line with the prevailing market rates. (Yeremian Decl., ¶¶ 27, 30-32, Exhibit A “Laffey Matrix.”)
 24 Class Counsel’s rates are therefore reasonable because they are in line with hourly rates charged
 25 by attorneys of comparable experience, reputation and ability for similar litigation. *See Ketchum*,
 26 24 Cal.4th at 1133; *Blum v. Stenson*, 465 U.S. 886, 895 (1984). Further, courts look to prevailing
 27 market rates in the community in which the court sits. *Schwartz v. Sec’y of Health & Human*
 28 *Servs.*, 73 F.3d 895, 906 (9th Cir. 1995); *Camacho v. Bridgeport Fin., Inc.*, 523 F.3d 973, 979 (9th

1 Cir. 2008).

2 “[R]ate determinations in other cases, particularly those setting a rate for the plaintiffs’
 3 attorney, are satisfactory evidence of the prevailing market rate.” *United Steelworkers of Am. v.*
 4 *Phelps Dodge Corp.*, 896 F.2d 403, 407 (9th Cir. 1990). Here, the rates requested here by Class
 5 Counsel have already been approved by many other courts in other employment-related actions,
 6 where Plaintiff’s Counsel also served as a Class Counsel. (Yeremian Decl., ¶¶ 4-10.) Class
 7 Counsel’s skill and experience justify the requested rate. Counsel practices litigation with a focus
 8 on representing employees in wage and hour class actions, are held in high regard by the legal
 9 community, and their practice is a specialized in a high-risk area of law. (*Id.*)

10 **G. Counsel’s Hours Spent on This Case Are Reasonable**

11 Here, Class Counsel has spent approximately **264** attorney hours thus far litigating this
 12 case and bringing the settlement to fruition, for approximately **\$155,400.00** in billable hours.
 13 (Yeremian Decl., ¶¶ 29-32.) This includes time billed for investigating the claims and drafting
 14 pleadings, law and motion practice, exchanging documents informally, reviewing documents and
 15 researching legal authorities, preparing for and participating in all-day mediation, and extensive
 16 communications and meetings among the parties and counsel. Class counsel will incur additional
 17 billable hours to prepare for and attend the final approval hearing and oversee the settlement
 18 distribution process. Class Counsel provides detailed time and task summaries addressing the
 19 major case events and the attorney tasks performed and the total estimated hours worked on this
 20 action. (Yeremian Decl., ¶¶ 29-32, Exhibits B, C.) With the additional fees that will be incurred in
 21 taking this action through final approval, no lodestar multiplier will be required. Class Counsel
 22 therefore requests the Court find these hours were reasonably expended in this litigation, find
 23 Class Counsel’s hourly rates reasonable, and award the requested \$87,500.00 in attorneys’ fees at
 24 final approval.

25 **IV. RELEVANT FACTORS SUPPORT THE REQUESTED FEE AWARD**

26 In assessing a request for attorney fees, courts consider several factors, including: (1) the
 27 results achieved; (2) the risk of litigation; (3) the skill required and the quality of work; (4) the
 28 contingent nature of the fee and the financial burden carried by the plaintiffs; (5) awards made in

1 similar cases; and (6) a comparison of the percentage and lodestar methods. *See Vizcaino v.*
 2 *Microsoft Corp.*, 290 F.3d 1043, 1048–1050 (9th Cir. 2002); *see also In re Omnivision Techs.,*
 3 *Inc.*, 559 F. Supp. 2d 1036, 1046 (N.D. Cal. 2008). Similar factors apply to assessing whether an
 4 upward departure from the benchmark is warranted. *See, e.g., Vandervort v. Balboa Capital Corp.*,
 5 8 F. Supp. 3d 1200, 1209 (C.D. Cal. 2014).

6 These *Vizcaino* factors support Class Counsel’s compensation in this case, where the
 7 financial burden of investigating, developing, and prosecuting the case, the risk and complexity of
 8 adequately proving uniform policies and practices that functioned in concert to violate Class
 9 Members’ rights, and the skill and diligence required to maintain the case in the face of forceful
 10 opposition were substantial.

11 **A. The Results Achieved Are Significant and Favorable**

12 “[T]he most critical factor” in assessing a request for fees “is the degree of success
 13 obtained.” *Hensley v. Eckerhart*, 461 U.S. 424, 436 (1983). Here, class counsel negotiated a
 14 sizable settlement fund of \$350,000.00 that represents substantial and real recovery for Class
 15 members who do not exclude themselves. No part of the settlement amount will revert back to
 16 Defendant. The class members will receive a substantial amount in settlement funds, and these
 17 results were achieved efficiently in a relatively short time. This factor weighs in favor of granting
 18 the fees and costs as requested.

19 **B. The Litigation Presented Significant Risks**

20 Plaintiff faces serious risks due to the uncertainty of trial. Settlements are a way to bypass
 21 those risks. *See Linney v. Cellular Alaska P’ship*, 151 F.3d 1234, 1242 (9th Cir. 1998) (“[I]t is the
 22 very uncertainty of outcome in litigation and avoidance of wasteful and expensive litigation that
 23 induce consensual settlements.” (internal quotation marks omitted).) The risks were high here.

24 Continued litigation presents the class members with a risk of denial of class certification
 25 or decertification and loss on the merits, so this factor weighs in favor of granting fees. Class,
 26 representative, and collective wage and hour cases are inherently complicated and time-
 27 consuming, requiring tremendous investments of time, energy, and resources. In addition,
 28 Defendant has vigorously contested liability, arguing that individualized issues precluded Rule 23

1 certification. These complex issues meant that Plaintiff could lose on class certification, trial, or
 2 appeal (and a jury could award damages based on far fewer hours worked than the class members
 3 actually claimed to have worked), which created substantial risk that Plaintiff and Class Members
 4 would recover nothing in this litigation. In short, Plaintiff was by no means assured of success,
 5 and Class Counsel was not assured of any fees or cost reimbursement.

6 Additionally, this litigation is a complex class case, which increased the risk of non-
 7 recovery. When this case was taken on a contingent-fee basis by Class Counsel, with the firm
 8 advancing all litigation costs, the ultimate result was far from certain. Defendant defended this
 9 action vigorously, and there was always the possibility that the class might not prevail, and then
 10 all the work Class Counsel had done would have gone uncompensated. (Yeremian Decl., ¶¶ 21-22,
 11 29, 34, 41-46.)

12 **C. This Action Required a High Degree of Skill and Work Quality**

13 Class Counsel are highly experienced in wage and hour class actions. (Yeremian Decl., ¶¶
 14 4-10, 24-26.) Overall, class counsel displayed adequate skills and quality of work in moving this
 15 complex wage-and hour class action efficiently along and negotiating a settlement in the face of
 16 uncertainty and great risk. This factor therefore weighs in favor of granting fees.

17 **D. Contingent Nature of the Requested Fees**

18 Contingent-fee arraignments assure “adequate representation for plaintiffs who could not
 19 otherwise afford competent attorneys,” but present acute litigation risks. *See In re Omnivision*
 20 *Techs., Inc.*, 559 F. Supp. 2d 1036, 1047 (N.D. Cal. 2008). Class Counsel has devoted over 220.50
 21 hours to this litigation, resulting in a lodestar of over \$87,500.00, which is expected to rise through
 22 the Final Approval Hearing. (Yeremian Decl., ¶¶ 30-32.) Class Counsel’s lodestar will continue to
 23 increase on a weekly basis, as Class Counsel continue to pursue final settlement approval,
 24 implement the settlement, respond to class member inquiries, etc., continuing months (even years)
 25 beyond final approval. Class counsel accepted this case on a pure contingency basis and have
 26 received no compensation for their time or expenses to date. (Yeremian Decl., ¶¶ 41-46.)

27 **E. Awards in Similar Cases Support Approval Here**

28 Although 25% of the total recovery is the benchmark for attorney fees in the Ninth Circuit,

1 numerous courts have awarded a higher percentage in similar circumstances. *See, e.g., Betancourt*
 2 *v. Advantage Human Resourcing, Inc.*, 2016 WL 344532 at * 9 (N.D. Cal. 2016) (awarding 34.3%
 3 of settlement funding wage and hour class action); *Wren v. RGIS Inventory Specialists*, 2011 WL
 4 1230826 at*29 (N.D. Cal. 2011) (awarding fees that “amount to just under 42% of the settlement
 5 amount” in a wage and hour class action); *Knight v. Red Door Salons, Inc.*, 2009 WL 248367 at
 6 *5–6 (N.D. Cal. 2009) (approving of a 30% fee award in a wage and hour class action settlement);
 7 *Romero v. Producers Dairy Foods, Inc.*, 2007 WL 3492841 at *4 (E.D. Cal. 2007) (approving a
 8 33% fee award in a wage and hour class action settlement). An upward departure from the 25%
 9 benchmark is not requested here, which further supports approval of the requested attorneys’ fees.
 10 Also relevant to approval of the award is the complicated nature of this wage and hour lawsuit and
 11 Class Counsel’s success in achieving efficient results for their clients and the employees they
 12 represent.

13 **F. Percentage of Recovery Versus Lodestar**

14 “There is a strong presumption that the lodestar is a reasonable fee.” *Stetson v. Grissom*,
 15 821 F.3d 1157, 1165 (9th Cir. 2016). It is “well within the district court’s discretion” to “apply the
 16 lodestar method, rather than the percentage-of-fund method.” *Id.* The lodestar is calculated by
 17 multiplying the reasonable hours expended by a reasonable hourly rate. *Pennsylvania v. Delaware*
 18 *Valley Citizens’ Council for Clean Air*, 478 U.S. 546, 565 (1986); *Morales v. City of SanRafael*,
 19 96 F.3d 359, 363 (9th Cir. 1996).

20 Here, Class Counsel has spent approximately **264** attorney hours thus far litigating this
 21 case, for approximately **\$155,400.00** in billables. (Yeremian Decl., ¶ 28-32.) Class Counsel has
 22 submitted sufficient evidence to establish that class counsel’s hourly rates are reasonable, as are
 23 the hours counsel has incurred. (Yeremian Decl., ¶¶ 28-32, Exhibits B and C.) Given the results
 24 achieved, the complexity of the claims, the contingent nature of the fee, and financial burden for
 25 Class Counsel, an award of attorneys’ fees amounting to 25% of the total \$350,000.00 Settlement
 26 amount is reasonable. No Class Member has objected to date, including to any aspect of the fee
 27 request, and there are no requests for exclusion thus far. (Islas Decl., ¶¶ 8-13.) With the hours and
 28 fees Class Counsel will incur in bringing this action through administration and final approval, no

1 Iodestar will be required to award the requested \$87,500.00 in reasonable attorneys' fees.

2 **V. REIMBURSEMENT OF REASONABLE CLASS COUNSEL COSTS**

3 Plaintiff also requests reimbursement from the common fund for out-of-pocket expenses
 4 incurred by Class Counsel during this litigation, up to **\$16,000.00**. Class Counsel has incurred
 5 approximately **\$12,767.56** in costs thus far, and estimates they will be at least approximately
 6 **\$14,000.00-\$14,500.00** through appearance at the final approval hearing. (Yeremian Decl., ¶ 40,
 7 Exhibit D.) Class Counsel is entitled to recover “those out-of-pocket expenses that would
 8 normally be charged to a fee-paying client.” *Harris v. Marhoefer* (9th Cir. 1994) 24 F.3d 16, 19. It
 9 is appropriate to reimburse Class Counsel for such expenses from the common fund. All of the
 10 costs on the invoice counsel has provided were necessary in connection with the prosecution of
 11 this litigation and were expended for the benefit of the class. Class Counsel will submit a
 12 supplemental declaration and invoice to provide updated costs through travel to the final approval
 13 hearing.

14 **VI. CLASS REPRESENTATIVE SERVICE AWARD REQUESTED**

15 Plaintiff also seeks approval of a Class Representative service award of **\$5,000**. “Incentive
 16 awards are fairly typical in class action cases.” *Rodriguez v. W. Publ’g Corp.*, 563 F.3d948, 958
 17 (9th Cir. 2009) (emphasis in original). The class representative here has assisted class counsel in
 18 many ways, and the class representative service award amount is reasonable and justified.
 19 “[N]amed plaintiffs . . . are eligible for reasonable incentive payments” as part of a class action
 20 settlement. *Staton*, 327 F.3d at 977. Service or incentive payments are appropriate in a class action
 21 because they provide an incentive to bring important cases that have a broad impact benefiting a
 22 class of individuals, not just the plaintiff. *Cook v. Niedert*, 142 F.3d 1004, 1016 (7th Cir. 1998).
 23 These payments also recognize the plaintiffs’ time, effort, and inconvenience, as well as the risk
 24 they are exposed to in asserting their and others’ rights in a particularly public manner. By
 25 bringing the litigation on behalf of others in addition to themselves, class representatives in
 26 employment class actions provide a valuable service to their fellow workers. More broadly, they
 27 promote the public policy goals set forth by the legislatures that enacted the underlying
 28 substantive statutes at issue. Plaintiff did so here. (*See* Tollini Declaration, ¶¶ 3-16.)

1 For these reasons, courts in the Ninth Circuit routinely approve the award of service
2 payments to class representatives and witnesses for their assistance to the class. *See, e.g.,*
3 *Galeener*, 2015 WL 12976106, at *3 (\$27,000 and \$25,000 to two class representatives);
4 *Vedachalam v. Tata Consultancy Servs.*, No. 06 Civ. 0963, 2013 WL 3929129, at *2 (N.D. Cal.
5 July 18, 2013) (Wilken, J.) (\$35,000 and \$25,000 to class representatives and \$1,000 to each
6 testifying declarant); *Buccellato v. AT&T Operations, Inc.*, No. 10 Civ. 00465, 2011 WL 3348055,
7 at *3 (N.D. Cal. June 30, 2011) (Koh, J.) (\$20,000 to lead plaintiff); *Lewis v. Wells Fargo & Co.*,
8 No. 08 Civ. 2670, slip op. at 4 (N.D. Cal Apr. 29, 2011), ECF No. 315 (Wilken, J.) (\$22,000 and
9 \$20,000 for named plaintiffs); *Ross v. U.S. Bank Nat'l Ass'n*, No. 07 Civ. 2951, 2010 WL
10 3833922, at *4 (N.D. Cal. Sept. 29, 2010) (Illston, J.) (\$20,000 service award for each of four
11 class representatives); *Glass v. UBS Fin. Servs., Inc.*, No. 06 Civ. 4068, 2007 WL 221862, at *16-
12 17 (N.D. Cal. Jan. 26, 2007) (Chesney, J.) (\$25,000 to each of four class representatives); *see also*
13 *Coates v. Farmers Grp., Inc.*, No. 15 Civ. 01913, 2016 WL 5791413, at *2 (N.D. Cal. Sept. 30,
14 2016) (Koh, J.) (\$5,000 each to two opt-in class members who participated in the litigation);
15 *Wellens v. Sankyo*, No. 13 Civ. 00581, 2016 WL 8115715, at *3 (N.D. Cal. Feb. 11, 2016)
16 (Orrick, J.) (\$1,000 to \$6,000 for opt-in witness class members who provided declarations or were
17 deposed).

18 When evaluating the reasonableness of a service award, courts may consider factors such
19 as “the actions the plaintiff has taken to protect the interests of the class, the degree to which the
20 class has benefitted from those actions, . . . the amount of time and effort the plaintiff expended in
21 pursuing the litigation . . . and reasonabl[e] fear[s] of workplace retaliation.” *Staton*, 327 F.3d at
22 977; *see also Van Vranken*, 901 F. Supp. at 299; *Silberblatt v. Morgan Stanley*, 524 F. Supp. 2d
23 425, 435 (S.D.N.Y. 2007) (“A class representative . . . whose future employability has been
24 impaired may be worthy of receiving an additional payment, lest others be dissuaded.”).
25 Here, the Named Plaintiff made important contributions to the prosecution and fair resolution of
26 this action on behalf of Class Members. The **\$5,000.00** service payment he seeks reflects his
27 considerable efforts in making possible a valuable settlement for the 380 Class Members,
28 expending significant time and effort providing support to Class Counsel since the inception of the

1 case, and subjecting himself to the risk of unfavorable treatment by future employers. The
2 requested award is also reasonable in light of the risks Plaintiff took by affiliating himself publicly
3 with the lawsuit and the benefits he conferred on other Class Members by strengthening the case.
4 (*See*, Yeremian Decl., ¶¶ 11-17; Tollini Decl., ¶¶ 3-16.)

5 In short, Plaintiff's participation in the litigation was integral to its success, and he took
6 great risks in pursuing the claims of Class Members. The requested service award of \$5,000 is
7 reasonable, especially in light of well-established precedent within this Circuit approving such
8 award amounts.

9 **VII. CONCLUSION**

10 For the foregoing reasons, Plaintiff and Class Counsel respectfully request an award at
11 final approval of attorneys' fees in the amount of \$87,500.00 and reimbursement of a maximum of
12 costs incurred of up \$16,000.00. They also request approval of the Class Representative Service
13 Award of \$5,000.00 to Plaintiff for his service to the Class.

14

15 DATED: June 22, 2020

DAVID YEREMIAN & ASSOCIATES, INC.

16

By: /s/ David Yeremian

17

David Yeremian

18

Roman Shkodnik

19

Attorneys for Plaintiff Fred Tollini, and the putative
Class

20

21

22

23

24

25

26

27

28

Natalia Bermudes

From: ECF-CAND@cand.uscourts.gov
Sent: Monday, June 22, 2020 2:45 PM
To: efilings@cand.uscourts.gov
Subject: Activity in Case 3:18-cv-03275-MMC Tollini v. CGI Federal Inc. et al Motion for Attorney Fees

This is an automatic e-mail message generated by the CM/ECF system. Please DO NOT RESPOND to this e-mail because the mail box is unattended.

*****NOTE TO PUBLIC ACCESS USERS***** Judicial Conference of the United States policy permits attorneys of record and parties in a case (including pro se litigants) to receive one free electronic copy of all documents filed electronically, if receipt is required by law or directed by the filer. PACER access fees apply to all other users. To avoid later charges, download a copy of each document during this first viewing. However, if the referenced document is a transcript, the free copy and 30 page limit do not apply.

U.S. District Court

California Northern District

Notice of Electronic Filing

The following transaction was entered by Yeremian, David on 6/22/2020 at 2:44 PM and filed on 6/22/2020

Case Name: Tollini v. CGI Federal Inc. et al

Case Number: [3:18-cv-03275-MMC](#)

Filer: Fred Tollini

Document Number: [54](#)

Docket Text:

MOTION for Attorney Fees filed by Fred Tollini. Motion Hearing set for 9/4/2020 09:00 AM in San Francisco, Courtroom 07, 19th Floor before Judge Maxine M. Chesney. Responses due by 7/6/2020. Replies due by 7/13/2020. (Attachments: # (1) Declaration of David Yeremian, # (2) Exhibit A - Laffey Matrix, # (3) Exhibit B - David Yeremian's Detailed Time and Tasks Summary, # (4) Exhibit C - Roman Shkodnik's Detailed Time and Tasks Summary, # (5) Exhibit D - Expense Report, # (6) Declaration of Fred Tollini, # (7) Declaration of Lluvia Islas, # (8) Proposed Order)(Yeremian, David) (Filed on 6/22/2020)

3:18-cv-03275-MMC Notice has been electronically mailed to:

Catherine M. Dacre cdacre@seyfarth.com, jblackwell@seyfarth.com, mkiefer@seyfarth.com, SFOCalendar@seyfarth.com

David Harmik Yeremian david@yeremianlaw.com, natalia@yeremianlaw.com, sasha@yeremianlaw.com

Jennifer Murakami jmurakami@seyfarth.com, laziz@seyfarth.com, portega@seyfarth.com

Justin Taylor Curley jcurley@seyfarth.com, ndavilla@seyfarth.com, SFOCalendar@seyfarth.com, shobrien@seyfarth.com

Roman Shkodnik roman@yeremianlaw.com, natalia@yeremianlaw.com, sasha@yeremianlaw.com

Ryan Ashley McCoy rmccoy@seyfarth.com, sfocalendar@seyfarth.com, shobrien@seyfarth.com

3:18-cv-03275-MMC Please see [Local Rule 5-5](#); Notice has NOT been electronically mailed to:

The following document(s) are associated with this transaction:

Document description:Main Document

Original filename:C:\fakepath\NTC OF MTN AND MTN FOR ATTYS FEES & COSTS (9.4.20) (TOLLINI).pdf

Electronic document Stamp:

[STAMP CANDStamp_ID=977336130 [Date=6/22/2020] [FileNumber=17063234-0] [313f9ef0048a0322a0c0011f74c7bb4b8c44220f14a45c74a0494e00542d6f954d3d f97948a68843d2deef464e19c758a2f8197f9c0fb3486d7149ef4b114b53]]

Document description:Declaration of David Yeremian

Original filename:C:\fakepath\DEC OF DY ISO MTN FOR ATTYS FEES & COSTS (TOLLINI).pdf

Electronic document Stamp:

[STAMP CANDStamp_ID=977336130 [Date=6/22/2020] [FileNumber=17063234-1] [26c05c5aaedb452c86e36a27777d4f06905e97fbc82e348562b3cf9fcd40ea187348 911886d588f9541218227672b45190b7b44a33ef2b623c667eea1727a6a0]]

Document description:Exhibit A - Laffey Matrix

Original filename:C:\fakepath\EXHIBIT A - LAFFEY MATRIX (TOLLINI).pdf

Electronic document Stamp:

[STAMP CANDStamp_ID=977336130 [Date=6/22/2020] [FileNumber=17063234-2] [198c798d79fb10e5dad412f4ad9c561d0a46a432cd7227c53f27da36c8d10aac4d4e c28e428e53250e0ae3ec20dde2195a26d0fe70c6a0248be8fdff6bea51e5]]

Document description:Exhibit B - David Yeremian's Detailed Time and Tasks Summary

Original filename:C:\fakepath\EXHIBIT B - DY DETAILED TIME & TASKS SUMMARY (TOLLINI).pdf

Electronic document Stamp:

[STAMP CANDStamp_ID=977336130 [Date=6/22/2020] [FileNumber=17063234-3] [183cfcb414d84e5b6bda832c8f28ac1930ea8358d26b9115776b1027a4f5084fe06d 17ce05be7107b710488247b17f8a75d128238923b6813fbd7259fb859c34]]

Document description:Exhibit C - Roman Shkodnik's Detailed Time and Tasks Summary

Original filename:C:\fakepath\EXHIBIT C - RS DETAILED TIME & TASKS SUMMARY (TOLLINI).pdf

Electronic document Stamp:

[STAMP CANDStamp_ID=977336130 [Date=6/22/2020] [FileNumber=17063234-4] [7d9b6dce07f033b4700bfa1e52ec66d6f1b8239a4b8c2fd79b3b4a888a460991343e 4be41fa08ffbd73acfbd49c038a4782abc74c1d09dda6c19cf757107326e9]]

Document description:Exhibit D - Expense Report

Original filename:C:\fakepath\EXHIBIT D - EXPENSE REPORT (TOLLINI).pdf

Electronic document Stamp:

[STAMP CANDStamp_ID=977336130 [Date=6/22/2020] [FileNumber=17063234-5] [4547dabbaa374aa38aee823a49245f36c1131a5c33e95884e5625321ee5ede475f66 4fa1820a9755093a28a003d078f5074f0c48429462a4b6672c5a2759483d]]

Document description:Declaration of Fred Tollini

Original filename:C:\fakepath\DEC OF F. TOLLINI ISO MTN FOR ATTYS FEES & COSTS (TOLLINI).pdf

Electronic document Stamp:

[STAMP CANDStamp_ID=977336130 [Date=6/22/2020] [FileNumber=17063234-6]
[0868c7477d35088096fdac84c2f6b3c3113785e8916e4152b4141bfa6e94fa592a94
9e4c6e1aea6593471b485df1a1357b385923f87e84dc418493d5b0fd8772]]

Document description:Declaration of Lluvia Islas

Original filename:C:\fakepath\DEC OF L. ISLAS OF ILYM GROUP ISO MTN FOR ATTYS FEES &
COSTS (TOLLINI).pdf

Electronic document Stamp:

[STAMP CANDStamp_ID=977336130 [Date=6/22/2020] [FileNumber=17063234-7]
[16e817d71196c225aa1042ab1512ea35546833501d52456c15c40a3b87a03bc0e8d8
099d728b2529f846249d00f9357dc6c97f2092350495bac5930e16f05659]]

Document description:Proposed Order

Original filename:C:\fakepath\[PROPOSED] ORDER GRANTING MTN FOR ATTYS FEES & COSTS
(TOLLINI).pdf

Electronic document Stamp:

[STAMP CANDStamp_ID=977336130 [Date=6/22/2020] [FileNumber=17063234-8]
[90b5873c3b611894cf63369f0774b11eeccc9e2f57f6dc6121cccef1c75330ffd05b
9592886c9799e9364f164d3e8532da06ddaa6518e2debe7f19108844704f]]