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**SUPERIOR COURT OF THE STATE OF CALIFORNIA**

**COUNTY OF ORANGE**

JEANPAUL MAGALLANES, on behalf of  
himself and all others similarly situated,

Plaintiff,

vs.

DISCOVERY PRACTICE MANAGEMENT,  
INC., a California Corporation; and DOES 1  
through 100, inclusive,

Defendants.

CASE NO. 30-2021-01213556-CU-MC-CXC

CLASS ACTION

**PLAINTIFFS' NOTICE OF MOTION  
AND MOTION FOR FINAL APPROVAL  
OF CLASS ACTION SETTLEMENT  
AND ATTORNEYS' FEES AND COSTS;  
MEMORANDUM OF POINTS AND  
AUTHORITIES THEREON**

*Hon. Layne H. Melzer*

Date: February 5, 2026

Time: 2:00 p.m.

Dept: CX103

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

**NOTICE IS HEREBY GIVEN** that, on February 5, 2026, at 2:00 p.m., or as soon thereafter  
as the matter may be heard, in Department CX103 of the Superior Court of California, County

1 of Orange, located at 751 W. Santa Ana Blvd., Santa Ana, California 92701, before the  
2 Honorable Layne H. Melzer, Plaintiff JeanPaul Magallanes (“Plaintiff”), through their  
3 undersigned Class Counsel, will and hereby does move the Court for an order:

- 4 1. Finally certifying the Class, as defined in the Settlement Agreement (the “Settlement  
5 Agreement”) between Plaintiff and Defendant Discovery Practice Management, Inc.  
6 (“Defendant”), and the Court’s August 26, 2025 Order Granting Preliminary Approval of  
7 Class Action Settlement;
- 8 2. Finally appointing Plaintiff JeanPaul Magallanes as the Class Representative for purposes  
9 of settlement;
- 10 3. Finally appointing Mark D. Potter and James M. Treglio of Potter Handy LLP, as Class  
11 Counsel for purposes of settlement;
- 12 4. Finding that notice of the settlement was properly provided to the Class in accordance  
13 with the Court’s Order Granting Preliminary Approval of Class Action Settlement;
- 14 5. Finally approving the settlement as fair, adequate, and reasonable, based upon the terms  
15 set forth in the Settlement Agreement, including the allocation for attorneys’ fees and  
16 costs, settlement administrator expenses, and the class representative payment to Plaintiff;
- 17 6. Binding all Class Members to the terms of the Settlement Agreement, including the  
18 Release specified therein; and
- 19 7. Retaining jurisdiction to enforce the Settlement Agreement for one year from the effective  
20 date of the settlement to enforce the terms of the settlement.

21 This motion is based upon this Notice of Motion and Motion; the Memorandum of Points and  
22 Authorities in Support of Final Approval; the declarations submitted herewith; the Court’s Order  
23 Granting Preliminary Approval of Class Action Settlement; the Declaration of James M. Treglio in  
24 Support of Plaintiffs’ Motion for Final Approval of Class Action Settlement; the Declaration of  
25 Plaintiff JeanPaul Magallanes in Support of Plaintiff’s Motion for Final Approval of Class Action  
26 Settlement, the other records, pleadings, and papers filed in this action; and upon such other  
27 arguments as may be presented to the Court.

28 As this motion is unopposed, Plaintiffs respectfully request relief from the page limit  
requirement under California Rules of Court, Rule 3.1113(d).

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Respectfully submitted,

POTTER HANDY LLP

Dated: December 31, 2025

/s/ James M. Treglio  
James M. Treglio, Esq.  
Attorney for Plaintiff and the Class

**TABLE OF CONTENTS**

1 I. INTRODUCTION ..... 2

2

3 II. FACTUAL AND PROCEDURAL BACKGROUND ..... 3

4 A. Nature of this Action and the Settlement ..... 3

5 B. The Notice Procedures in the Preliminary Approval Order were  
Satisfied and Implemented ..... 5

6 C. The Class Members Unanimously Approve of the Settlement, Which  
is Fair and Reasonable ..... 6

7 A. Standard of Review ..... 6

8 B. The Settlement Meets All Final Approval Standards ..... 9

9       1. The Settlement was Reached Through Arms-Length  
10 Bargaining 9

11       2. Investigation and Discovery Was Sufficient For Counsel and  
12 the Court 9

13       3. Class Counsel is Experienced in Similar Litigation ..... 10

14       4. One Class Member Objected to, Or No One Opted Out of, the  
Settlement 10

15 C. The Class Notice Process Was Adequate To Satisfy Due Process ..... 10

16 III. THE ATTORNEYS’ FEES AND LITIGATION COSTS SOUGHT ARE  
17 FAIR AND REASONABLE AND SHOULD BE APPROVED ..... 12

18 A. Plaintiff is Entitled to Recover Reasonable Attorney’s Fees and Costs  
Under Labor Code § 218.5, 2699 and 1194.2 ..... 12

19 B. Plaintiff’s Request for Fees Are Reasonable under the Common Fund  
20 Method ..... 13

21       1. The Attorneys’ Fees Requested Here Fall Within the  
Reasonable Range Awarded in Similar Cases Under the Well-established  
22 Common Fund Method ..... 14

23       2. The High Quality of Work and Excellent Result Obtained  
Support the Award ..... 15

24       3. The Contingent Nature of Class Counsel’s Representation of  
25 Plaintiff and the Class Further Supports the Fee Award at One-Third of the  
Common Fund ..... 15

26 C. Class Counsel Should be Reimbursed for Litigation Costs and  
27 Expenses ..... 16

28 CONCLUSION ..... **Error! Bookmark not defined.**

**TABLE OF AUTHORITIES**

**STATE CASES**

*7-Eleven Owners for Fair Franchising v. Southland Corp.*, 85 Cal. App. 4th 1135 (2001)..... 15

*Anderson v. Nextel Retail Stores, LLC*, Nos. CV 07–4480–SVW (FFMx), CV 07–6362–SVW (FFMx), CV 07–6576–SVW (FFMx), 2010 WL 8591002 (C.D. Cal. Apr. 12, 2010) ..... 17

*Bell v. Farmers Ins. Exchange*, 115 Cal. App. 4th 715 (2004)..... 24

*Bell v. Farmers Ins. Exchange*, 115 Cal. App. 4th 715, 726 (2004)..... 24

*Boeing Co. v. Van Gemert*, 444 U.S. 472 (1980)..... 22

*Cellphone Fee Termination Cases*, 186 Cal. App. 4th 1380 (2010)..... 14, 15

*Class Plaintiffs v. City of Seattle*, 955 F.2d 1268 (9th Cir. 1992) ..... 16

*Dunk v. Ford Motor Co.*, 48 Cal.App.4th 1794, 1801 (1996) ..... 19

*Harris v. Marhoefer*, 24 F.3d 16, 19 (9th Cir. 1994)..... 24

*Laffitte v. Robert Half Int'l Inc.*, 376 P.3d 672 (2016)..... 21

*Mandujano v. Basic Vegetable Prods, Inc.*, 541 F2d 832 (9th Cir. 1976)..... 18

*Munoz v. BCI Coca-Cola Bottling Co. of Los Angeles*, 186 Cal. App. 4th 399 (2010)..... 15

*Nat'l Rural Telcomms. Coop. v. DIRECTV, Inc.*, 221 F.R.D. 523 (C.D. Cal. 2004) ..... 15

*Nat'l Rural Telecomms. Coop. v. DIRECTV, Inc.*, 221 F.R.D. 523 (C.D. Cal. 2004) ..... 16

*Nordstrom Comm'n Cases*, 186 Cal. App. 4th 576 (2010)..... 14, 15, 16

*Nordstrom Comm'n Cases*, 186 Cal. App. 4th at 581 ..... 16

*Rider v. County of San Diego*, 11 Cal.App.4th 1410 (1992) ..... 24

*Rodriguez v. West Publishing*, 563 F.3d 948 (9th Cir. 2009) ..... 24

*Rodriguez v. West Publishing*, 563 F.3d 948, 959 (9th Cir. 2009) ..... 24

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

*Torrisi v. Tuscon Elec. Power Co.*, 8 F.3d 1370 (9th Cir. 1993)..... 18

*Vizcaino v. Microsoft Corp*, 290 F.3d 1043 (9th Cir. 2002)..... 23

*Wershba v. Apple Computer, Inc.*, 91 Cal. App. 224 (2001)..... 18

*Wershba v. Apple Computer, Inc.*, 91 Cal. App. 4th 224 (2001)..... 15, 16

*Williams v. Costco Wholesale Corp.*, Civil No. 02cv2003 IEG (AJB), 2010 WL 2721452 (S.D. Cal. July 7, 2010)..... 16

**STATUTES**

Cal. Civ. Proc. Code § 1021.5 ..... 15

Cal. Labor Code § 218.5 ..... 14

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- 2
- 3
- 4
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**MEMORANDUM OF POINTS AND AUTHORITIES**

**I. INTRODUCTION**

This motion seeks final approval of a class action settlement (the “Settlement”) for monetary and non-monetary relief between Plaintiff and Defendant (collectively the “Parties”) for a settlement class of 5,668 individuals, as “*All citizens of the State of California who received care at Defendant’s facility, satellite, or urgent care locations on or before June 26, 2020, and who received notices from Defendant that their information was compromised*” (“the “Settlement Class”).

The settlement provides for multiple components of monetary relief and non-monetary relief and protection to Plaintiffs and the Class, including: All Settlement Class Members will be provided access to Aura’s Identity Defense Total Service, free of charge, for a period of 3 years from enrollment in the service, without the need to submit a Claim Form. Financial fraud coverage will be provided through Aura’s Identity Defense. Enrollment must be completed within 90 days of the Effective Date of the settlement.

As discussed below, following the distribution of the Class Notice to the Class, there were no objections to this settlement. This is an excellent response from the Class raising the strong presumption that the Settlement is fair, reasonable, adequate, and in the best interest of the Class Members.

Not surprisingly, *no Class Member objected to the terms of the Settlement*, a significant factor that demonstrates the Class unanimously approves of the terms of the Settlement, which the Court has already previously found to be “fair, reasonable, and adequate” in its August 26, 2025, Order Granting Preliminary Approval of Class Action Settlement.

Furthermore, the Settlement (1) is the product of arms-length negotiations culminating in a full-day mediation with a neutral mediator Bennet G. Picker, (2) was negotiated by experienced class action attorneys during the course of negotiations and significant document and data exchanges, (3) was reached after undertaking sufficient investigation necessary to evaluate the relative strength and value of the class’s claims as well as Defendants’ legal and factual defenses, and (4) reflects a reasoned compromise based directly on the relative strength and value of the

1 class’s claims, as well as the risks, expense, complexity and likely duration of further litigation. As  
2 described in further detail below, the Class Notice was disseminated in accordance with the notice  
3 plan described in the Settlement Agreement and the Court’s Preliminary Approval Order.  
4 (Declaration of Ryan Aldridge with Respect to Settlement Administration and Class Notice  
5 (“Aldridge Decl.”), ¶¶ 6-13). As noted, it is hard to imagine a more positive response from Class  
6 Members, with no Class Member objecting to any aspect of the Settlement.

7 Class Counsel is seeking final approval of attorneys’ fees in the amount of \$130,000, which  
8 is a reasonable fee for a class action as a percentage of the common fund and within the normal  
9 range of attorneys’ fee awards in similar class actions in California courts.

10 Based upon the foregoing, Plaintiffs respectfully request that the Court issue an Order that  
11 (1) the Settlement be finally approved; (2) Plaintiff be appointed as Class Representative; (3)  
12 Plaintiff’s attorneys be appointed as Class Counsel, and (4) that the settlement benefits as set forth  
13 in the proposed Order Granting Final Approval of Class Action Settlement be approved.

## 14 **II. FACTUAL AND PROCEDURAL BACKGROUND**

### 15 **A. NATURE OF THIS ACTION AND THE SETTLEMENT**

16 In the Class Action Complaint, Plaintiff alleges that DPM created, maintained, preserved,  
17 and stored Plaintiff and the putative class members’ individually identifiable medical information  
18 onto Defendant’s computer network, including but not limited to Plaintiff and the putative class  
19 members’ medical history, mental or physical condition, or treatment, including diagnosis and  
20 treatment dates. Such medical information included or contained an element of personal identifying  
21 information sufficient to allow identification of the individual, such as Plaintiff and the putative  
22 class members’ names, dates of birth, addresses, medical record numbers, insurance providers,  
23 electronic mail addresses, telephone numbers, or social security numbers, or other information that,  
24 alone or in combination with other publicly available information, reveals Plaintiff and the putative  
25 class members’ identities.

26 Plaintiff further alleges that in a July 1, 2021, letter, DPM began notifying the Class  
27 including Plaintiff, providing, for the first time, a notice of “an incident involving unauthorized  
28 access to that email environment” that Defendant maintains for the Authentic Recovery Center and

1 Cliffside Malibu facilities (“Facilities”) and which contained some information relating to certain  
2 individuals.

3 In the Notice, DPM notified consumers that on July 31, 2020—almost a year earlier—its  
4 “investigation into suspicious email account activity identified unauthorized logins to two  
5 Facilities’ staff email accounts between June 22 and June 26, 2020” (the “Data Breach”)—or more  
6 than one year before Defendant sent the Notice.

7 The Notice went on to say that after its investigation, Defendant confirmed (with assistance  
8 from a computer forensic firm) that Personal and Medical Information of certain individuals,  
9 including Plaintiff, were contained within the email accounts.

10 Plaintiffs further allege that DPM did nothing to warn Breach Victims until 335 days later—  
11 a delay of almost a year after it discovered the Data Breach, or 374 days or more than a year after  
12 the actual date of the Data Breach, an unreasonable amount of time under any objective standard.  
13 During this time, cyber criminals had free reign to surveil and defraud their unsuspecting victims.  
14 Defendant apparently chose to complete its internal investigation and develop its excuses and  
15 speaking points before giving class members the information they needed to protect themselves  
16 against fraud and identity theft.

17 Plaintiff alleges that this resulted in an unauthorized release of Class members Personal  
18 Health Information (“PHI”) and Personal Identifying Information (“PII”), in violation of  
19 California’s Confidential Medical Information Act, California Civil Code §§ 56, *et seq.* (“CMIA”).  
20 If proven, CMIA violations give rise to statutory damages of \$1,000 per Class member. Civ. Code  
21 § 56.36.

22 **Mediation and Settlement Efforts.**

23 The After exchanging formal and informal discovery, the Parties participated in mediation  
24 in an effort to resolve Plaintiffs’ claims. The Parties agreed on and retained a full-time neutral  
25 mediator, Bennet G. Picker. In advance of the mediation, the Parties briefed their respective  
26 positions on the facts, claims, defenses, and assessments of the risk of litigation.

27 DPM disputed a number of legal and factual issues pertaining to Plaintiff’s claim under the  
28 CMIA, including whether, as a result of the incident described in the July 1, 2021 Notice of Data

1 Breach letter, Plaintiff's and Class members' identifiable medical information had been actually  
2 accessed or viewed by an unauthorized party, and whether that was necessary for a violation of  
3 Civil Code § 56.101. DPM also disputed whether an affirmative communicative act by DPM in  
4 connection with the incident described in the July 1, 2021 Notice of Data Breach letter was required  
5 for a violation of Civil Code § 56.10. DPM also disputed whether and to what extent Plaintiffs  
6 could establish that they and the Class suffered actual and cognizable damages.

7 Resolution of these issues would have impacted whether Plaintiff and Class members were  
8 entitled to nominal damages of one thousand dollars (\$1,000) for each CMIA violation pursuant to  
9 Civil Code §56.36(b)(1), and actual damages suffered, according to proof, for each violation for  
10 each CMIA violation pursuant to Civil Code § 56.36(b)(2), and/or attorney's fees. In light of the  
11 Parties' disagreements over the viability of Plaintiffs' CMIA claim, the Plaintiff's claim for  
12 violation of the UCL, which relied in part on proving a violation of the CMIA, was also in dispute.

13 A full-day mediation session took place on March 18, 2022, before Bennet G. Picker, and  
14 arm's-length negotiations continued thereafter, which ultimately resulted in the Settlement the  
15 Parties submit before this Court.

16 **B. THE NOTICE PROCEDURES IN THE PRELIMINARY APPROVAL ORDER WERE**  
17 **SATISFIED AND IMPLEMENTED**

18 In its Preliminary Approval Order, the Court approved the Notice of Proposed Class Action  
19 Settlement And Hearing Date For Court Approval (the "Class Notice") which was attached as  
20 Exhibit B and C to the Settlement Agreement, which describe the basic terms of the Settlement and  
21 the rights of Class Members to participate in the Settlement, to opt out of it, and to object to the  
22 settlement, or if they wish, and instructions on how to appear and be heard at the final approval and  
23 fairness hearing. (*See* PA Order, at ¶¶ 9-12). The Court also held that the Class Notice met the  
24 requirements of due process and provided the best notice practicable under the circumstances and  
25 constituted due and sufficient notice to all persons entitled thereto. *Id.* at ¶ 6.

26 The procedures for disseminating notice to the Class Members established by the Order  
27 Granting Preliminary Approval have been fully and properly executed. Aldridge Decl. ¶¶ 6-13. On  
28 August 28, 2025, counsel for Defendant provided the Settlement Administrator with a class data

1 list containing each Class Member’s name, last known address, and dates of employment. Aldridge  
2 Decl. ¶ 6. The mailing list contained 5,668 Class Members. Aldridge Decl. ¶ 6.

3 The Settlement Administrator processed and updated the mailing addresses contained in the  
4 Class list by utilizing the National Change of Address Database (“NCOA”) maintained by the US  
5 Postal Service. *Id.* at ¶ 8. A search of this database provides updated addresses for any individual  
6 who has moved in the previous for years and has notified the U.S. Postal Service of his or her  
7 change of address. *Id.* In the event that any individual had filed a US Postal Service change of  
8 address request, the address listed with the NCOA would be utilized in connection with the mailing  
9 of that Class Notice. *Id.*

10 The approved Notice was mailed via First-Class U.S. Mail to the individuals identified as  
11 Class Members on the Class Data List. *Id.* at ¶ 7. As of December 6, 2025, 98 Notices were  
12 undeliverable. *Id.* at ¶ 14.

13 The Settlement Administrator received zero objection (*Id.* at ¶ 17), and zero opt-outs (*Id.* at  
14 ¶ 16). **Since the Settlement Administrator received zero requests for exclusion, the Settlement  
15 has a 100% participation rate.** It is hard to imagine a more favorable response to a Settlement.

16 **C. THE CLASS MEMBERS UNANIMOUSLY APPROVE OF THE SETTLEMENT, WHICH IS**  
17 **FAIR AND REASONABLE**

18 The response of the Class members has been positive:

- 19 ➤ The Settlement Administrator mailed the Notice Packet to 5,668 Class Members.  
20 After re-mailing, **98 notice packets were undeliverable.** *Id.* at ¶ 14.
- 21 ➤ **No Class Member objected** to the Settlement. *Id.* at ¶ 17.

22 **No Class Members requested to be excluded** from the Settlement. *Id.* at ¶ 16.

23 Thus, the Class’ response to the Settlement fully supports a Court Order granting final approval to  
24 the Settlement.

25 //

26 **III. THE SETTLEMENT SHOULD BE FINALLY APPROVED AS IT MEETS**  
27 **ALL CRITERIA FOR FINAL APPROVAL**

28 **A. STANDARD OF REVIEW**

1 Pursuant to the applicable Rules of Court, “[a] settlement or compromise of an entire class  
2 action . . . requires the approval of the court after hearing.” See Cal. R. Ct. 3.769(a) The procedures  
3 for submission of a proposed settlement for *final* approval are set forth in California Rule of Court  
4 3.769(g) – entitled “Conduct of final approval hearing” – which provides that “[b]efore final  
5 approval, the court must conduct an inquiry into the fairness of the proposed settlement.” See Cal.  
6 R. Ct. 3.769(g).<sup>1</sup> Importantly, “[t]he [court’s] inquiry ‘must be limited to the extent necessary to  
7 reach a reasoned judgment that (1) the agreement is not the product of fraud or overreaching by, or  
8 collusion between, the negotiating parties, and (2) that the settlement, taken as a whole, is fair,  
9 reasonable and adequate to all concerned.’” See *Nordstrom Comm’n Cases*, 186 Cal. App. 4th 576,  
10 581 (2010).

11 With regard to the first consideration (i.e. the underlying basis giving rise to the agreement),  
12 it is generally accepted that “[a] presumption of fairness exists where: (1) the settlement is reached  
13 through arm’s-length bargaining; (2) investigation and discovery are sufficient to allow counsel and  
14 the court to act intelligently; (3) counsel is experienced in similar litigation; and (4) the percentage  
15 of objectors is small.” See *Id.* at 581; *Cellphone Fee Termination Cases*, 186 Cal. App. 4th 1380,  
16 1389 (2010).

17 With regard to the second consideration (i.e. the reasonableness and adequacy of the  
18 settlement), “the trial court should consider relevant factors, which may include, but are not limited  
19 to (1) ‘the strength of [the] plaintiffs’ case, (2) the risk, expense, complexity and likely duration of  
20 further litigation, (3) the risk of maintaining class action status through trial, (4) the amount offered  
21 in settlement, (5) the extent of discovery completed and the stage of the proceedings, (6) the  
22 experience and views of counsel, (7) the presence of a governmental participant, and (8) the reaction  
23 of the class members to the proposed settlement.” See *Cellphone Fee Termination Cases, supra*,  
24 186 Cal. App. 4th at 1389; *Nordstrom Comm’n Cases, supra*, 186 Cal. App. 4th at 581; *Munoz v.*

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28 <sup>1</sup> Thereafter, Rule 3.769(h) provides that “[i]f the court approves the settlement agreement after the final approval  
hearing, the court must make and enter judgment” which “must include a provision for the retention of the court’s  
jurisdiction over the parties to enforce the terms of the judgment.” See Cal. R. Ct. 3.769(h.)

1 *BCI Coca-Cola Bottling Co. of Los Angeles*, 186 Cal. App. 4th 399, 407 (2010).<sup>2</sup>

2 While it is generally accepted that “[t]he most important factor is the strength of the case  
3 for plaintiffs on the merits, balanced against the amount offered in settlement,” *Munoz*, 186 Cal.  
4 App. 4th at 407–08, a court must be mindful that its function in such valuation is limited solely to  
5 determining whether the settlement falls within the *range* of acceptable settlements under the  
6 circumstances. *See Id.* at 409 (rejecting contention that a finding of fairness requires “[an] explicit  
7 statement of value” but rather, only “requires a record which allows ‘an understanding of the  
8 amount that is in controversy and the realistic range of outcomes of the litigation.’”). Indeed, “[t]he  
9 proposed settlement is **not** to be judged against a hypothetical or speculative measure of what might  
10 have been achieved had plaintiffs prevailed at trial,” *Wershba v. Apple Computer, Inc.*, 91 Cal. App.  
11 4th 224, 246 (2001), and it is well established that “[t]he merits of the underlying class claims are  
12 not a basis for upsetting the settlement of a class action.” *See 7-Eleven Owners for Fair Franchising*  
13 *v. Southland Corp.*, 85 Cal. App. 4th 1135, 1150 (2001); *Wershba, supra*, 91 Cal. App. 4th at 246.

14 “[D]ue regard ... should be given to what is otherwise a private consensual agreement  
15 between the parties.” *See Cellphone Fee Termination Cases, supra*, 186 Cal. App. 4th at 1389;  
16 *Nordstrom Comm’n Cases, supra*, 186 Cal. App. 4th at 581. “[T]he operative word is ‘settlement,’”  
17 *7-Eleven Owners*, 85 Cal. App. 4th at 1150, and “[c]ompromise is inherent and necessary in the  
18 settlement process.” *See Wershba*, 91 Cal. App. 4th at 250. Importantly, “[p]ublic policy generally  
19 favors the compromise of complex class action litigation.” *Nordstrom Comm’n Cases, supra*, 186  
20 Cal. App. 4th at 581.

21 The Court may appropriately infer that a class action settlement is fair, adequate, and  
22 reasonable when, among other reasons, few or no class members object to it. *See Class Plaintiffs v.*  
23 *City of Seattle*, 955 F.2d 1268, 1291 (9th Cir. 1992); *Williams v. Costco Wholesale Corp.*, 2010 WL  
24 2721452, at \*5 (S.D. Cal. July 7, 2010) (“The absence of any objector strongly supports the fairness,  
25 reasonableness, and adequacy of the settlement.”); *Nat’l Rural Telecomms. Coop. v. DIRECTV*,

26 \_\_\_\_\_  
27  
28 <sup>2</sup> Of course, “[n]ot all of these factors will apply to every class action settlement” and “[u]nder certain circumstances,  
one factor alone may prove determinative in finding sufficient grounds for court approval.” *See Nat’l Rural Telecomms.*  
*Coop. v. DIRECTV, Inc.*, 221 F.R.D. 523, 525-526 (C.D. Cal. 2004).

1 *Inc.*, 221 F.R.D. 523, 529 (C.D. Cal. 2004) (“The absence of a single objection to the Proposed  
2 Settlement provides further support for final approval of the Proposed Settlement”). The total  
3 absence of any objections and opt-outs here raises a strong presumption that the terms of the  
4 proposed class settlement action are favorable to the class members. The Court should therefore  
5 construe the favorable response by the Class, the lack of any objectors and opt-outs to the Settlement  
6 by the Class are strong indicators that the Class Members themselves view the Settlement as fair,  
7 adequate and reasonable. The Court should begin its analysis with the presumption that the  
8 Settlement is fair and should be approved.

9 **B. THE SETTLEMENT MEETS ALL FINAL APPROVAL STANDARDS**

10 Applying the above factors, the proposed settlement embodies all of the key features of a  
11 settlement that is fair, reasonable, adequate, and in the best interests of the members of the class,  
12 and as such, meets all the criteria necessary for final approval.

13 **1. The Settlement was Reached Through Arms-Length Bargaining**

14 The Court has already preliminarily approved the Settlement Agreement, which was the  
15 product of extensive arm’s length and comprehensive negotiations between very experienced  
16 attorneys for Plaintiff and the Defendant and a full day mediation session with neutral mediator,  
17 Bennet G. Picker. Plaintiff will not reiterate all of the evidence and legal arguments establishing  
18 that the Settlement Agreement and the negotiation process that led up to the Court making a factual  
19 finding that it is fair and adequate, which are set forth in detail in Plaintiffs’ Motion for Preliminary  
20 Approval, the Declaration of James M. Treglio in support of that motion, and in the Court’s  
21 Preliminary Approval Order. However, it is important to note that the Settlement was negotiated  
22 at arm’s-length through settlement discussions between experienced attorneys and the Court  
23 determined that the settlement terms set forth in the Settlement Agreement “appear to be fair,  
24 adequate and reasonable to the Class.” See PA Order, ¶ 3. Because there is no objection here and  
25 no opt-outs, there is no reason to deny final approval of the Settlement.

26 **2. Investigation and Discovery Was Sufficient For Counsel and the Court**

27 The settlement ultimately reached by the parties was the product of Class Counsel’s review  
28 of an extensive body of information, documents, and damages calculations based thereon.

1 Defendants' counsel provided Plaintiff's counsel with documents and data responsive to Plaintiffs'  
2 informal discovery requests. (Declaration of James M. Treglio in Support of Plaintiffs' Motion for  
3 Final Approval ("Treglio Decl.") ¶ 4. Based on the foregoing data, information and documents,  
4 Class Counsel was able to calculate estimated potential damages for the Class and also take into  
5 account Defendant's defenses and the various discounts applied to the potential damages for  
6 purposes of settlement negotiations. *Id.*

7 **3. Class Counsel is Experienced in Similar Litigation**

8 Both Plaintiff's and Defense's Counsel are experienced class action and employment  
9 attorneys and have used their experience and expertise in fashioning a Settlement Agreement that  
10 is acceptable to both parties. Treglio Decl. ¶¶ 6, 14-17.

11 **4. No Class Member Objected to, Or No One Opted Out of, the Settlement**

12 As explained above, there were no opt-outs and no objection to the Settlement, which  
13 demonstrates that Class Members approve of the terms of the settlement. Courts have approved  
14 class settlements with far lower participation rates. *See, Anderson v. Nextel Retail Stores, LLC*,  
15 2010 WL 8591002, at \*17 (C.D. Cal. Apr. 12, 2010) (commenting favorably, as indicia of class  
16 member approval of the settlement, on claim-filing rate of 27%); *Stuart v. Radioshack Corp.*, 2010  
17 WL 3155645, at \*4 (N.D. Cal. Aug. 9, 2010) (granting final approval to settlement where 12.54%  
18 of class claimed 31.88% of the net settlement fund).

19 **C. THE CLASS NOTICE PROCESS WAS ADEQUATE TO SATISFY DUE PROCESS**

20 The Court-approved Class Notice, and the notice process described above have adequately  
21 protected the due process rights of the absent Class Members. Class action rules require the class  
22 notice to contain an "explanation of the proposed settlement and procedures for Class Members to  
23 follow in filing written objections to it and in arranging to appear at the settlement hearing and state  
24 any objections to the proposed settlement." Cal. Rules of Court 3.769(f). The notice must contain  
25 the information set forth in California Rule of Court 3.766(d). Notice of a class action settlement is  
26 adequate where notice is given in a "form and manner that does not systematically leave an  
27 identifiable group without notice." *Mandujano v. Basic Vegetable Prods, Inc.*, 541 F2d 832, 835  
28 (9th Cir. 1976). The notice should be the best "practicable under the circumstances including

1 individual notice to all members who can be identified through reasonable effort.” *Torrise v. Tuscon*  
2 *Elec. Power Co.*, 8 F.3d 1370, 1374 (9th Cir. 1993). “The standard is whether the notice has a  
3 reasonable chance of reaching a substantial percentage of the class members.” *Wershba v. Apple*  
4 *Computer*, 91 Cal.App.4th 224, 251 (2001).

5 The Class Notice here, which was approved by the Court in its Preliminary Approval Order,  
6 fully satisfy these standards and those set forth in California Rule of Courts 3.766(d)-(f). The  
7 Settlement Administrator reports that out of the 5,626 Notice Packets mailed, 98 notice packets  
8 were undeliverable. Aldridge Decl. ¶ 14. The Class Notice explained the proposed settlement and  
9 procedures for Class Members to follow to participate in, to opt out of, and to object to the  
10 settlement, or if they wish, to challenge their weeks-worked, and to appear and be heard at the final  
11 approval and fairness hearing. As discussed above, zero Class Members requested exclusion from  
12 the settlement, and zero objected to any of the terms of settlement. Aldridge Decl. at ¶¶ 16, 17. The  
13 Substantial Class Recovery Balanced Against the Risks Inherent in Continued Litigation Favor

#### 14 Final Approval

15 To assess the fairness, adequacy and reasonableness of a class action settlement, the Court  
16 must also weigh the immediacy and certainty of substantial settlement proceeds against the risks  
17 inherent in continued litigation. *See Dunk v. Ford Motor Co.*, 48 Cal.App.4th 1794, 1801 (1996)  
18 (court should consider the strength of plaintiff’s case, the risk of further litigation, including the  
19 risk of maintaining class action status through trial, and the amount offered in settlement); Manual  
20 For Complex Litigation § 21.62 at 316 (this analysis involves consideration of “the advantages of  
21 the proposed settlement versus the probable outcome of a trial, ... the probable time, duration, and  
22 cost of trial; ... [and] the probability that the class claims, issues, or defenses could be maintained  
23 through trial on a class basis”).

24 As discussed in length in Plaintiff’s Motion for Preliminary Approval, the settlement is fair  
25 and adequate given the litigation risks and delay inherent in further litigation and appeals. As noted,  
26 the Court found the same in its Order preliminary approving the Settlement. Treglio Decl. ¶ 5.

27 The parties concluded that proceeding with litigation of the Action would be protracted and  
28 expensive, and that it is desirable that the Action be fully and finally settled in the manner and upon

1 the terms and conditions set forth in the Settlement Agreement in order to limit further expense,  
2 inconvenience and distraction Treglio Decl. ¶ 5. Both Plaintiff and Defendant took into account the  
3 uncertainty and risks inherent in any litigation, especially in complex cases such as the Action.  
4 Treglio Decl. ¶ 5.

5 Moreover, the parties engaged in extensive exchanges of informal discovery prior to  
6 reaching a fair settlement in this matter. Treglio Decl. ¶ 6. Accordingly, sufficient information  
7 existed to allow Class Counsel to act intelligently in valuing this case and, given the parties' arms'  
8 length bargaining, the extensive exchange of informal discovery, the experience of Class Counsel,  
9 no objection, and no requests for exclusion the presumption of fairness clearly applies. Based on  
10 comparison with other settlements of similar cases and claims, Class Counsel maintains the  
11 settlement as fair, reasonable, and adequate, and in the best interest of the Class. Treglio Decl. at ¶  
12 6. The endorsement of qualified and well-informed counsel of a settlement as fair, reasonable and  
13 adequate is entitled to significant weight. See *Officers for Justice v. Civil Serv. Comm'n of City &*  
14 *Cty. of San Francisco*, 688 F.2d 615, 625 (9th Cir. 1982).

15 **III. THE ATTORNEYS' FEES AND LITIGATION COSTS SOUGHT ARE FAIR AND**  
16 **REASONABLE AND SHOULD BE APPROVED**

17 As a component of the Settlement, Plaintiff also seeks final approval of an award of  
18 attorneys' fees and costs and expenses to Class Counsel in the amount of \$130,000. These amounts  
19 will be paid from the settlement Fund as provided by the Settlement Agreement. The Court has  
20 preliminarily approved these payments from the Settlement Fund, Defendants does not oppose  
21 these deductions, and no class members have objected to any of these deductions. Moreover, they  
22 are warranted under the law and within the range of fees commonly awarded in similar cases.  
23 Accordingly, these payments should receive final approval.

24 **A. PLAINTIFF IS ENTITLED TO RECOVER REASONABLE ATTORNEY'S FEES AND COSTS**  
25 **UNDER LABOR CODE § 218.5, 2699 AND 1194.2**

26 Plaintiffs and the Class in this action are entitled to recover reasonable attorneys' fees,  
27 expenses and costs under section 218.5 California Labor Code, which provides that, "[i]n any action  
28 brought for the nonpayment of wages....the Court shall award reasonable attorneys' fees and costs

1 to the prevailing party.” In addition, Plaintiff and the Class are entitled to recover reasonable  
2 attorneys’ fees pursuant to sections 1194.2 and 2699(g)(1) of the Labor Code, which provides that,  
3 “...any employee receiving less than the legal minimum wage...applicable to the employee is  
4 entitled to recover in a civil action the unpaid balance of full amount of this minimum  
5 wage...including...reasonable attorneys’ fees, and costs of suit, and states “Any employee who  
6 prevails...”*See*, 2699(g)(1).<sup>3</sup>

7 An attorneys’ fee award is justified where the legal action has produced its benefits by way  
8 of voluntary settlement. *See Marias P. v. Riles*, 43 Cal.3d 1281, 1290-1291 (1987). California law  
9 provides that when a party is entitled to statutory fees, it must be compensated for all time  
10 reasonably spent seeking to accomplish the desired litigation result. *See Serrano v. Unruh*, 32  
11 Cal.3d 621, 624 (1982). As shown below, California state courts award attorneys’ fees in class  
12 action based on either the “lodestar-multiplier” method or the “common fund” method. Here, under  
13 the common fund method, Plaintiffs request for attorneys’ fees in the amount of one-third of the  
14 Gross Settlement Amount is reasonable and appropriate.

15 **B. PLAINTIFF’S REQUEST FOR FEES ARE REASONABLE UNDER THE COMMON FUND**  
16 **METHOD**

17 Under the “common fund” doctrine, Plaintiff’s request for attorneys’ fees in the amount of  
18 one-third of the common fund is reasonable, justified and appropriate, because (1) it is within the  
19 range routinely awarded as attorneys’ fees in similar cases; (2) it is supported by the high quality  
20 of Class Counsel’s work on this case and the results obtained for the Class; (3) it is supported by  
21 the fact that this case was handled on a contingency basis and was undertaken despite various risks  
22 and expenses; and (4) no class members objected to the requested attorneys’ fees.

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28 <sup>3</sup> Plaintiffs are also entitled to fees and costs under Section 226(e) of the Labor Code (employee who prevails on claims  
for itemized wage statement violation “is entitled to an award of costs and reasonable attorneys’ fees”); and, potentially,  
section 1021.5 of the California Code of Civil Procedure.

1           **1. The Attorneys' Fees Requested Here Fall Within the Reasonable Range**  
2           **Awarded in Similar Cases Under the Well-established Common Fund Method**

3           Attorneys' fees and litigation expenses may properly be awarded based on California's  
4 "common fund" doctrine. "The common fund doctrine, like [Code of Civil Procedure] section  
5 1021.5 itself, is an exception to the American rule which provides that parties to a lawsuit must  
6 ordinarily pay their own attorney fees. Under both exceptions, class counsel is entitled to the same  
7 thing: reasonable attorney fees." *Apple Computer, Inc. v. Superior Court*, 126 Cal. App. 4th 1253,  
8 1269-70 (2005).

9           The California Supreme Court recently approved use of the common fund method of  
10 awarding attorneys' fees in class actions and approved a fee award at 1/3 of the settlement amount  
11 obtained for the class, the same percentage fee award as the attorneys' fees requested in this case.  
12 *See Laffitte v. Robert Half Int'l Inc.*, 1 Cal. 5th 480, 503 (August 11, 2016) ("We join the  
13 overwhelming majority of federal and state courts in holding that when class action litigation  
14 establishes a monetary fund for the benefit of the class members, and the trial court in its equitable  
15 powers awards class counsel a fee out of that fund, the court may determine the amount of a  
16 reasonable fee by choosing an appropriate percentage of the fund created"). The Court noted that  
17 trial courts have the discretion to award fees as a percentage of the common fund, without the  
18 necessity to conduct a lodestar cross-check. (*Id.*). ("...[Courts] ... retain the discretion to forgo a  
19 lodestar cross-check and use other means to evaluate the reasonableness of a requested percentage  
20 fee.")<sup>4</sup> *Id.*, at 505. The California Supreme Court's decision was consistent with its prior rulings  
21 recognizing that "when a number of persons are entitled in common to a specific fund, and an action  
22 brought by ... plaintiffs for the benefit of all results in the creation or preservation of that fund, such  
23 ... plaintiffs may be awarded attorneys' fees out of the fund." *Serrano III v. Priest*, 20 Cal.3d 25,  
24 34 (1977); *Boeing Co. v. Van Gemert*, 444 U.S. 472, 478 (1980) ("[A] lawyer who recovers a  
25 common fund . . . is entitled to reasonable attorneys' fees from the fund as a whole").

26 \_\_\_\_\_  
27  
28 <sup>4</sup> Here, Class Counsel seeks fees based on the common-fund method. However, if the Court wishes to review Class  
Counsel's lodestar to date, Class Counsel can provide the court with detailed time records of all timekeepers who  
worked on this case as well as their respective hourly rates.

1 The negotiated and unopposed attorneys' fee should also be approved because it is within  
2 the approved range of appropriate awards of attorneys' fees in similar wage/hour class action cases  
3 in California. Class counsel have been involved in a number of wage and hour class actions like  
4 this one, and California state and federal courts have routinely approved payments of attorneys'  
5 fees amounting to 1/3 or more of the settlement fund.

6 **2. The High Quality of Work and Excellent Result Obtained Support the Award**

7 In addition to the fact that a Class benefit was created with a common fund, the fairness of  
8 the requested fee award of one-third of that common fund is supported by the high quality of work  
9 performed by Class Counsel and the good result obtained for the Class. Treglio Decl. ¶ 7. Class  
10 Counsel diligently, efficiently, and creatively pursued this case and promptly reached a successful  
11 settlement for the benefit of the entire Class. Treglio Decl. ¶ 7. The fact that the settlement was  
12 embraced and supported by the entire Class, as evidenced by no objection and no opt-outs,  
13 demonstrates that Class Counsel obtained a very favorable result for the Class.

14 **3. The Contingent Nature of Class Counsel's Representation of Plaintiff and the**  
15 **Class Further Supports the Fee Award at One-Third of the Common Fund**

16 An additional factor militating in favor of the granting of the requested fee award is the fact  
17 that this case was both legally and financially risky for Plaintiff's Counsel. *See Vizcaino v.*  
18 *Microsoft Corp*, 290 F.3d 1043, 1048-49 (9th Cir. 2002). Specifically, there was the prospect of  
19 enormous cost inherent in class action litigation, as well as a battle with a corporation represented  
20 by a well-respected law firm; in addition, in coming to a determination that this settlement is fair  
21 and reasonable and in the best interests of the Class. In light of Defendants' legal and factual  
22 arguments, the ultimate success of either party's arguments was uncertain. Taking all the arguments  
23 and defenses into account, the settlement amount reflects the realistic and fair value of the class  
24 claims at issue. It is further consistent with similar settlements that have been finally approved by  
25 various Courts. While the parties dispute whether a class would be appropriate if the litigation were  
26 to continue, they agree, for the purposes of this settlement only, that the Class is subject to common  
27 compensation policies. Treglio Decl. ¶ 8. If Plaintiff had lost this case, Class Counsel would have  
28 recovered nothing and would have lost his out-of-pocket costs. *Id.* at 8.

1 Finally, the absence of any objections to the requested fee award also supports the  
2 appropriateness and reasonableness of the requested attorneys' fees. *In Re Heritage Bond Litig.*,  
3 2005 WL 1594403, at \*21 (C.D. Cal. 2005) ("The absence of objections or disapproval by class  
4 members to Class Counsel's fee further supports finding the fee request reasonable.").

5 **C. CLASS COUNSEL SHOULD BE REIMBURSED FOR LITIGATION COSTS AND EXPENSES**

6 Class Counsel also requests reimbursement from the common fund for out-of-pocket  
7 expenses incurred during this litigation. Class Counsel is permitted to recover their litigation costs  
8 and expenses under the common fund doctrine. *See Serrano v. Priest III*, 20 Cal.3d 24, 35 (1977)  
9 (common fund doctrine permits recovery of fees and costs from the fund); *Rider v. County of San*  
10 *Diego*, 11 Cal.App.4th 1410, 1424 n.6 (1992) (costs are recoverable from the common fund "[o]f  
11 necessity, and for precisely the same reasons discussed above with respect to the recovery of  
12 attorneys' fees by . . . [Plaintiffs'] attorneys"). Furthermore, regardless of the method chosen by the  
13 Court to calculate attorneys' fees, Plaintiff's Counsel are entitled to recover "those out-of-pocket  
14 expenses that would normally be charged to a fee-paying client." *Harris v. Marhoefer*, 24 F.3d 16,  
15 19 (9th Cir. 1994).

16 Here, the actual litigation costs incurred in this case, including estimated costs in connection  
17 with the filing of this motion, amounts to \$2,320.73.00. *See*, Treglio Decl., ¶ 13, containing an  
18 itemized breakdown of all costs incurred in connection with this case, which includes anticipated  
19 costs in association with the filing and service of this motion, and anticipated costs to be incurred  
20 in connection with shepherding this settlement through the funding, payment plan, and  
21 disbursement.

22 **IV. CONCLUSION**

23 For the foregoing reasons, Plaintiff hereby respectfully requests that the Court finally  
24 approve the Settlement in the form of the Proposed Order Granting Final Approval of Class Action  
25 Settlement submitted herewith, including the Settlement Fund, the proposed attorneys' fees, costs,  
26 and the settlement administration fee.

27  
28 Respectfully Submitted,

POTTER HANDY LLP

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Date: December 31, 2025

By:           /s/ James M. Treglio            
James M. Treglio, Esq.  
Attorney for Plaintiff and the Class

1 **PROOF OF SERVICE**

2 **MAGALLANES V. DISCOVERY PRACTICE MANAGEMENT, INC., ET AL**  
3 Case No.: **30-2021-01213556-CU-MC-CXC**

4 I, the undersigned, am over the age of eighteen years and am resident of San Diego County,  
5 California; I am not a party to the above-entitled action; my business address is 100 Pine St.,  
6 Ste. 1250, San Francisco CA 94111.

7 On December 31, 2025, I served the following document(s):

- 8 **1. PLAINTIFFS’S NOTICE OF MOTION AND MOTION FOR FINAL**  
9 **APPROVAL OF CLASS ACTION SETTLEMENT AND ATTORNEYS’ FEES**  
10 **AND COSTS;**  
11 **2. MEMORANDUM OF POINTS AND AUTHORITIES;**  
12 **3. DECLARATION OF JAMES. M. TREGLIO;**  
13 **4. DECLARATION OF JEANPPAUL MAGALLANES;**  
14 **5. DECLARATION OF RYAN ALDRIDGE REGARDING NOTICE AND**  
15 **SETTLEMENT ADMINISTRATION;**  
16 **6. [PROPOSED] FINAL APPROVAL ORDER; and**  
17 **7. [PROPOSED] FINAL JUDGMENT.**

18 Addressed to:

19 **BAKER & HOSTETLER LLP,**  
20 Teresa C. Chow, Esq.  
21 [tchow@bakerlaw.com](mailto:tchow@bakerlaw.com)  
22 Ava Claypool, Esq.  
23 [aclaypool@bakerlaw.com](mailto:aclaypool@bakerlaw.com)  
24 11601 Wilshire Boulevard, Suite 1400,  
25 Los Angeles, CA 90025

- 26  BY USPS MAIL: I caused such envelope with postage thereon fully prepaid to be  
27 placed in the United States mail at San Diego, California.  
28  BY FACSIMILE: In addition to the service by mail as set forth above, I forwarded a  
copy of said documents via facsimile to the listed facsimile number.  
 BY OVERNITE EXPRESS: I caused such envelope with postage thereon fully  
prepaid to be placed in the Designated Overnight Express drop box at San Diego,  
California.  
 BY PERSONAL SERVICE: I caused said documents to be personally served on all  
listed recipients via Ace Attorney Services.  
 BY ELECTRONIC MAIL TRANSMISSION: I caused the listed documents to be  
electronically filed and subsequently emailed to the recipient(s).

Executed on December 31, 2025 from San Diego, California.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

/s/ James M. Treglio

James M. Treglio