

1 I. Discussion¹

2 Rule 23(e) provides that “[t]he claims, issues, or
3 defenses of a certified class may be settled . . . only with the
4 court’s approval.” Fed. R. Civ. P. 23(e). “Approval under 23(e)
5 involves a two-step process in which the Court first determines
6 whether a proposed class action settlement deserves preliminary
7 approval and then, after notice is given to class members,
8 whether final approval is warranted.” Nat’l Rural Telecomms.
9 Coop. v. DIRECTV, Inc., 221 F.R.D. 523, 525 (C.D. Cal. 2004)
10 (citing Manual for Complex Litig. (Third), § 30.41 (1995)).

11 The Ninth Circuit has declared a strong judicial policy
12 favoring settlement of class actions. Class Plaintiffs v. City
13 of Seattle, 955 F.2d 1268, 1276 (9th Cir. 1992). Nevertheless,
14 where, as here, “the parties reach a settlement agreement prior
15 to class certification, courts must peruse the proposed
16 compromise to ratify both [1] the propriety of the certification
17 and [2] the fairness of the settlement.” Staton v. Boeing Co.,
18 327 F.3d 938, 952 (9th Cir. 2003).

19 The first part of the inquiry requires the court to
20 “pay ‘undiluted, even heightened, attention’ to class
21 certification requirements” because, unlike in a fully litigated
22 class action suit, the court “will lack the opportunity . . . to
23 adjust the class, informed by the proceedings as they unfold.”
24 Amchem Prods. Inc. v. Windsor, 521 U.S. 591, 620 (1997); see also

25 ¹ To avoid repetition, the court will refrain from
26 reciting the factual and procedural background, which remains the
27 same as in its February 7, 2018 Order granting plaintiff’s
28 unopposed Motion for preliminary approval of the class action
settlement and provisional certification of the class. (Feb. 7,
2018 Order (Docket No. 39).)

1 Hanlon v. Chrysler Corp., 150 F.3d 1011, 1019 (9th Cir. 1998).

2 In the second stage, the court holds a fairness hearing
3 where the court entertains any class member's objections to (1)
4 the treatment of this litigation as a class action and (2) the
5 terms of the settlement. See Diaz v. Tr. Territory of Pac.
6 Islands, 876 F.2d 1401, 1408 (9th Cir. 1989) (hearing prior to
7 final approval of a dismissal or compromise of class claims is
8 required to "inquire into the terms and circumstances of any
9 dismissal or compromise to ensure it is not collusive or
10 prejudicial"). Following such a hearing, the court must reach a
11 final determination as to whether the court should allow the
12 parties to settle the class action pursuant to the agreed-upon
13 terms. See DIRECTV, 221 F.R.D. at 525.

14 A. Class Certification

15 A class action will be certified only if it meets the
16 four prerequisites identified in Rule 23(a) and additionally fits
17 within one of the three subdivisions of Rule 23(b). Fed. R. Civ.
18 P. 23(a)-(b). Although a district court has discretion in
19 determining whether the moving party has satisfied each Rule 23
20 requirement, the court must conduct a rigorous inquiry before
21 certifying a class. See Califano v. Yamasaki, 442 U.S. 682, 701
22 (1979); Gen. Tel. Co. of Sw. v. Falcon, 457 U.S. 147, 161 (1982).

23 1. Rule 23(a)

24 Rule 23(a) restricts class actions to cases where:
25 (1) the class is so numerous that joinder of all
26 members is impracticable; (2) there are questions
27 of law or fact common to the class; (3) the
28 claims or defenses of the representative parties
are typical of the claims or defenses of the
class; and (4) the representative parties will

1 fairly and adequately protect the interests of
2 the class.

3 Fed. R. Civ. P. 23(a). These requirements are commonly referred
4 to as numerosity, commonality, typicality, and adequacy of
5 representation. In the court's Order granting preliminary
6 approval of the settlement, the court found that the putative
7 class satisfied the Rule 23(a) requirements. Because the court
8 is not aware of any facts that would alter its initial Rule 23(a)
9 analysis, the court finds that the class definition proposed by
10 plaintiff meets the requirements of Rule 23(a).

11 2. Rule 23(b)

12 An action that meets all the prerequisites of Rule
13 23(a) may be certified as a class action only if it also
14 satisfies the requirements of one of the three subdivisions of
15 Rule 23(b). Leyva v. Medline Indus. Inc., 716 F.3d 510, 512 (9th
16 Cir. 2013). Plaintiff seeks certification under Rule 23(b) (3),
17 which provides that a class action may be maintained only if (1)
18 "the court finds that questions of law or fact common to class
19 members predominate over questions affecting only individual
20 members" and (2) "that a class action is superior to other
21 available methods for fairly and efficiently adjudicating the
22 controversy." Fed. R. Civ. P. 23(b) (3).

23 In its Order granting preliminary approval of the
24 settlement, the court found that both prerequisites of Rule
25 23(b) (3) were satisfied. The court is unaware of any changes
26 that would affect this conclusion, and the parties indicated that
27 they were aware of no such developments. Because the settlement
28 class satisfies both Rule 23(a) and 23(b) (3), the court will

1 grant final class certification of this action.

2 3. Rule 23(c)(2) Notice Requirements

3 If the court certifies a class under Rule 23(b)(3), it
4 "must direct to class members the best notice that is practicable
5 under the circumstances, including individual notice to all
6 members who can be identified through reasonable effort." Fed.
7 R. Civ. P. 23(c)(2)(B). Rule 23(c)(2) governs both the form and
8 content of a proposed notice. See Ravens v. Iftikar, 174 F.R.D.
9 651, 658 (N.D. Cal. 1997) (citing Eisen v. Carlisle & Jacquelin,
10 417 U.S. 156, 172-77 (1974)). Although that notice must be
11 "reasonably certain to inform the absent members of the plaintiff
12 class," actual notice is not required. Silber v. Mabon, 18 F.3d
13 1449, 1454 (9th Cir. 1994) (citation omitted).

14 Here, the parties agreed that Atticus Administration,
15 LLC ("Atticus") would serve as the claims administrator.
16 (Wasserman Decl. ¶ 23 (Docket No. 44-2).) Defendant identified
17 and provided Atticus with the class members' names, last known
18 addresses, and the number of wage statements received. (Longley
19 Decl. ¶ 9 (Docket No. 44-4).) The parties identified 1,447
20 potential class members. (Id.) The mailing addresses identified
21 by the parties were processed and updated utilizing the National
22 Change of Address Database maintained by the U.S. Postal Service.
23 (Id. ¶ 10.) On March 1, 2018, the class notice was mailed to
24 each class member via certified mail. (Id. ¶ 11.) On the same
25 date, Atticus launched a toll-free line that class members could
26 call for information and also launched a settlement website which
27 contains, among other things, a viewable, printable, and
28

1 downloadable copy of the full notice.² (Id. ¶ 14.) Atticus
2 represents that just 49 class notices remain undeliverable, for a
3 successful mail rate of 97%. (Longley Decl. ¶ 11.) In addition,
4 only one class member elected to exclude herself from the
5 settlement, and no class members objected to the settlement.
6 (Id. ¶¶ 15, 16; Longley Suppl. Decl. ¶¶ 5, 6 (Docket No. 46).)³

7 The notice identifies the parties, explains the nature
8 of the proceedings, defines the class, provides the terms of the
9 settlement, and explains the procedure for objecting or opting
10 out of the class. (Longley Decl. ¶ 12, Ex. C.) The notice also
11 explains how class members' individual settlement awards will be
12 calculated and the amount that class members can expect to
13 receive. (Id. Ex. C.) Therefore, the content of the notice
14 satisfies Rule 23(c)(2)(B). See Fed. R. Civ. P. 23(c)(2)(B); see
15 also Churchill Vill., L.L.C. v. Gen. Elec., 361 F.3d 566, 575
16 (9th Cir. 2004) ("Notice is satisfactory if it 'generally
17 describes the terms of the settlement in sufficient detail to
18 alert those with adverse viewpoints to investigate and to come

19
20 ² However, the initial notice contained two typographical
21 errors, specifically: (1) the class period was incorrectly stated
22 on the first page as extending from July 25, 2016--instead of
23 July 25, 2015--through September 1, 2016; and (2) an incorrect
24 website address. On March 13, 2018, a supplemental notice,
25 approved by the court, was mailed to the class members that
26 notified them of typographical errors in the class notice. (Id.
27 ¶ 13.) In addition, the parties agreed to operate two websites,
28 the website address included in the initial notice and the
corrected notice, so that interested class members could obtain
the information from either website. (March 8, 2018 Order ¶ 4
(Docket No. 43).)

³ On April 19, 2018, the parties filed a supplemental
declaration to inform the court that only one class member opted-
out and that Atticus did not receive any objections.

1 forward and be heard.'" (quoting Mendoza v. Tucson Sch. Dist. No.
2 1, 623 F.2d 1338, 1352 (9th Cir. 1980)).

3 B. Rule 23(e): Fairness, Adequacy, and Reasonableness of
4 Proposed Settlement

5 Having determined that class treatment is warranted,
6 the court must now address whether the terms of the parties'
7 settlement appear fair, adequate, and reasonable. In conducting
8 this analysis, the court must balance several factors, including:

9 the strength of the plaintiffs' case; the risk,
10 expense, complexity, and likely duration of further
11 litigation; the risk of maintaining class action status
12 throughout the trial; the amount offered in settlement;
13 the extent of discovery completed and the stage of the
14 proceedings; the experience and views of counsel; the
15 presence of a governmental participant; and the
16 reaction of the class members to the proposed
17 settlement.

18 Hanlon, 150 F.3d at 1026. But see In re Bluetooth Headset Prods.
19 Liab. Litig., 654 F.3d 935, 946 (9th Cir. 2011) ("The factors in
20 a court's fairness assessment will naturally vary from case to
21 case.").

22 1. Strength of Plaintiff's Case

23 An important consideration is the strength of
24 plaintiff's case on the merits compared to the settlement amount
25 offered. DIRECTV, 221 F.R.D. at 526. The court, however, is not
26 required to reach an ultimate conclusion of the merits, "for it
27 is the very uncertainty of outcome in litigation and avoidance of
28 wastefulness and expensive litigation that induce consensual
settlements." Officers for Justice v. Civ. Serv. Comm'n of City
& County of S.F., 688 F.2d 615, 625 (9th Cir. 1982).

The settlement terms compare favorably to the
uncertainties with respect to liability in this case. If the

1 case had not settled, defendant would have opposed any class
2 certification request and would have continued to assert legal
3 and factual grounds to defend itself. (Pl.'s Mem. of P. & A.
4 ("Pl.'s Mem.") at 19 (Docket No. 44-1).) Plaintiff also faced
5 the risk that civil penalties sought under the Private Attorneys
6 General Act ("PAGA") would be reduced, possibly significantly, if
7 the court determined that imposition of full penalties would be
8 unjust, arbitrary, oppressive, or confiscatory. (Id. (citing
9 Lab. Code § 2699(e)(2)).)

10 In comparing the strength of plaintiff's case with the
11 proposed settlement, the court finds that the proposed settlement
12 is a fair resolution of the issues in this case.

13 2. Risk, Expense, Complexity, and Likely Duration of
14 Further Litigation

15 As explained above, further litigation could greatly
16 delay resolution of this case and increase expenses. Absent
17 settlement, the parties would likely have had to litigate class
18 certification and summary judgment, both of which would require
19 additional discovery, time, and expense. (Pl.'s Mem. at 20.) In
20 addition, defendants may have appealed any favorable judgment.
21 (Id.) Accordingly, this factor weighs in favor of settlement.

22 3. Risk of Maintaining Class Action Status Throughout
23 Trial

24 If the case proceeded to trial, plaintiff would have
25 faced several risks regarding the maintenance of class status
26 throughout trial, including establishing that the alleged
27 violations were knowing and intentional and that class members
28 suffered injury as a result of the inaccurate wage statements.

1 (Pl.'s Mem. at 20.) In addition, plaintiff anticipated a
2 vigorous and lengthy challenge to class certification and the
3 merits of the action. (Id. at 19.) Accordingly, this factor
4 also weighs in favor of settlement.

5 4. Amount Offered in Settlement

6 In assessing the amount offered in settlement, “[i]t is
7 the complete package taken as a whole, rather than the individual
8 component parts, that must be examined for overall fairness.”
9 Officers for Justice, 688 F.2d at 628. “It is well-settled law
10 that a cash settlement amounting to only a fraction of the
11 potential recovery will not per se render the settlement
12 inadequate or unfair.” Id. This inquiry may involve
13 consideration of the uncertainty class members would face if the
14 case were litigated to trial. See Ontiveros v. Zamora, 303
15 F.R.D. 356, 370-71 (E.D. Cal. 2014).

16 The gross settlement amount in this case is \$450,000.
17 (Wasserman Decl. ¶ 12.) The parties have agreed to distribute
18 the amount as follows: (1) class counsel will receive a fee of
19 \$150,000, equal to one third of the gross settlement amount,
20 (Pl.'s Mem. at 24); (2) plaintiff will receive an incentive
21 reward of \$4,500, (id.); (3) \$4,500 will go to pay any civil
22 penalties that could be awarded and of that amount \$3,375 will be
23 paid to the California Labor & Workforce Development Agency in
24 satisfaction of defendants' alleged penalties under the Labor
25 Code Private Attorney General's Act (id. at 8); (4) \$12,500 will
26 go towards litigation costs (Settlement Agreement at 4 (Docket
27 4402); (5) \$16,000 will be paid to Atticus Administration (id.);
28 and (6) the remaining amount, \$263,625, will be distributed to

1 the settlement class based on the number of wage statements
2 issued to each class member, (see id. at 3.) Additionally,
3 separate and apart from the claims made on a class and
4 representative basis, plaintiff asserted individual claims for
5 alleged violations of the FEHA, and plaintiff has agreed to
6 settle those claims in exchange for \$15,000. (Pl.'s Mem. at 9.)

7 Each of the 1,446 participating class members will
8 receive an average individual settlement payment of \$182.31.
9 (Pl.'s Mem. at 21.) In addition, as a result of the efforts of
10 class counsel, defendants have twice reviewed and amended their
11 policies and procedures associated with the furnishing and
12 maintenance of wage statements so as to ensure compliance with
13 Labor Code sections 226(a)(6), 226(a)(8) and 204. (Wasserman
14 Decl. ¶ 11 (Docket No. 44-2); Pl.'s Mem. of P. & A. for
15 Attorneys' Fees ("Pl.'s Mem. II") at 1 (Docket No. 45-1).)

16 In light of the risks and expense of further litigation
17 in this matter, the court finds the settlement amount to be fair
18 and adequate.

19 5. Extent of Discovery and State of Proceedings

20 A settlement that occurs in an advanced stage of the
21 proceedings indicates that the parties carefully investigated the
22 claims before reaching a resolution. Alberto v. GMRI, Inc., Civ.
23 No. 07-1895 WBS DAD, 2008 WL 4891201, at *9 (E.D. Cal. Nov. 12,
24 2008). Before a settlement was reached, the parties in this case
25 conducted a significant amount of discovery, took depositions,
26 reviewed hundreds of pages of documents, and participated in
27 mediation. (Pl.'s Mem. at 21-22.) The parties' investigation of
28 the claims through extensive formal and informal discovery weigh

1 in favor of settlement.

2 6. Experience and Views of Counsel

3 "When approving class action settlements, the court
4 must give considerable weight to class counsel's opinions due to
5 counsel's familiarity with the litigation and its previous
6 experience with class action lawsuits." Murillo v. Pac. Gas &
7 Elec. Co., Civ. No. 2:08-1974 WBS GGH, 2010 WL 2889728, at *8
8 (E.D. Cal. July 21, 2010). Here, plaintiff has provided evidence
9 that class counsel has substantial experience in prosecuting
10 class actions, including employment actions and wage-and-hour
11 matters. (Wasserman Decl. ¶¶ 34-37.) Based on their experience,
12 plaintiff's counsel believe the proposed settlement is fair,
13 reasonable, and adequate to the class under the circumstances, as
14 it reflects a reasoned compromise which not only takes into
15 consideration the inherent risks in wage and hour class
16 litigation, but the various issues in this case which had the
17 potential to substantially reduce or completely eliminate
18 recovery by class members. (Pl.'s Mem. at 23.) This factor
19 supports approval of the settlement agreement.

20 7. Presence of Government Participant

21 No governmental entity participated in this matter;
22 this factor, therefore, is irrelevant to the court's analysis.

23 8. Reaction of the Class Members to the Proposed
24 Settlement

25 Notice of the settlement was sent to 1,447
26 participating class members and only one has elected to opt-out
27 of the settlement agreement, and not a single class member has
28 filed an objection to its terms. (Pl.'s Mem. at 23.) "It is

1 established that the absence of a large number of objections to a
2 proposed class action settlement raises a strong presumption that
3 the terms of a proposed class settlement action are favorable to
4 the class members.” DIRECTV, 221 F.R.D. at 529. Accordingly,
5 this factor weighs in favor of the court’s approval of the
6 settlement.

7 9. Conclusion

8 Having considered the foregoing factors, the court
9 finds that the settlement is fair, adequate, and reasonable
10 pursuant to Rule 23(e). See Hanlon, 150 F.3d at 1026.

11 C. Attorneys’ Fees

12 Federal Rule of Civil Procedure 23(h) provides, “[i]n a
13 certified class action, the court may award reasonable attorney’s
14 fees and nontaxable costs that are authorized by law or by the
15 parties’ agreement.” If a negotiated class action settlement
16 includes an award of attorney’s fees, that fee award must be
17 evaluated in the overall context of the settlement. Knisley v.
18 Network Assocs., 312 F.3d 1123, 1126 (9th Cir. 2002); Monterrubio
19 v. Best Buy Stores, L.P., 291 F.R.D. 443, 455 (E.D. Cal. 2013)
20 (England, J.). The court “ha[s] an independent obligation to
21 ensure that the award, like the settlement itself, is reasonable,
22 even if the parties have already agreed to an amount.” Bluetooth
23 Headset, 654 F.3d at 941.

24 “Under the ‘common fund’ doctrine, ‘a litigant or a
25 lawyer who recovers a common fund for the benefit of persons
26 other than himself or his client is entitled to a reasonable
27 attorney’s fee from the fund as a whole.’” Staton, 327 F.3d at
28 969 (quoting Boeing Co. v. Van Gemert, 444 U.S. 472, 478 (1980)).

1 In common fund cases, the district court has discretion to
2 determine the amount of attorney's fees to be drawn from the fund
3 by employing either the percentage method or the lodestar method.
4 Id. The court may also use one method as a "cross-check[]" upon
5 the other method. See Bluetooth Headset, 654 F.3d at 944.

6 "Despite this discretion, use of the percentage method
7 in common fund cases appears to be dominant." In re Omnivision
8 Techs., Inc., 559 F. Supp. 2d 1036, 1046 (N.D. Cal. 2008) (citing
9 cases). "Because the benefit to the class is easily quantified
10 in common-fund settlements, [the Ninth Circuit has] allowed
11 courts to award attorneys a percentage of the common fund in lieu
12 of the often more time-consuming task of calculating the
13 lodestar." Bluetooth Headset, 654 F.3d at 942. Because of the
14 ease of calculation and the frequent use of the percentage-of-
15 recovery method in common fund cases, the court thus adopts this
16 method.

17 Under the percentage-of-recovery method, the court may
18 award class counsel a percentage of the total settlement fund.
19 Vizcaino v. Microsoft Corp., 290 F.3d 1043, 1047 (9th Cir. 2002).

20 Here, class counsel requests \$150,000 in attorneys' fees.

21 ("Pl.'s Mem. II at 1.) Defendant does not oppose the request.
22 The attorney's fees requested by counsel constitute 33% of the
23 gross settlement amount. The attorneys' fees requested by
24 counsel are below the lodestar figure of \$189,018.25, which
25 counsel calculated based on 282.25 hours expended in this case
26 times rates of \$717 for a partner, \$440 for an associate, and
27
28

1 \$195 for a paralegal.⁴ (Wasserman Decl. II ¶ 30, Ex. 2 (Docket
2 No. 45-2).) Counsel submitted detailed invoices justifying the
3 number of hours worked. (Id.)

4 While the attorneys' fees requested is above the 25%
5 "benchmark" set by the Ninth Circuit for "common fund"
6 settlements, see Six Mexican Workers v. Arizona Citrus Growers,
7 904 F.2d 1301, 1311 (9th Cir. 1990), courts in this circuit have
8 approved fees that exceeded that "benchmark" in many cases, see
9 Bond v. Ferguson Enters., Inc., No. 1:09-CV-1662 OWW MJS, 2011 WL
10 2648879, at *9 (E.D. Cal. June 30, 2011) ("[T]he exact percentage
11 [of attorneys' fees] varies depending on the facts of the case,
12 and in most common fund cases, the award exceeds [the 25%]
13 benchmark."). A fees award amounting to "33 1/3 % of the total
14 settlement value" is considered "acceptable." Id. Furthermore,
15 "a review of California cases . . . reveals that courts usually
16 award attorneys' fees in the 30-40% range in wage and hour class
17 actions that result in recovery of a common fun[d] under \$10
18 million." Cicero v. DirectTV, Inc., Civ. No. 07-1182, 2010 WL
19 2991486, at *6 (C.D. Cal. July 27, 2010). In addition, the fact
20 that the requested fees in this case are below the lodestar
21 figure further supports granting approval. See Vizcaino, 290
22 F.3d at 1050 ("[T]he lode star . . . provides a check on the
23 reasonableness of the percentage award.").

24 In light of the fees usually awarded in these types of

25 ⁴ Counsel also states that he anticipates his firm will
26 incur several thousand dollars of additional attorney's fees in
27 representing the Class through final judgment in this matter.
28 (Id. ¶ 31.) The amount of fees was calculated up to April 2,
2018. However, no supplemental declaration was filed regarding
additional fees incurred.

1 cases, the risks counsel incurred by taking this case on a
2 contingency basis, the time and effort spent litigating this
3 case, and the reasonable result they obtained for class members,
4 the court finds the requested fees to be reasonable.

5 Accordingly, the court will approve counsel's requested fees.

6 D. Expenses

7 "There is no doubt that an attorney who has created a
8 common fund for the benefit of the class is entitled to
9 reimbursement of reasonable litigation expenses from that fund."
10 In re Heritage Bond Litig., Civ. No. 02-1475, 2005 WL 1594403, at
11 *23 (C.D. Cal. June 10, 2005). Here, plaintiff requests
12 reimbursement for the out-of-pocket expenses they incurred during
13 this litigation in the amount of no more than \$12,500. (Pl.'s
14 Mem. II at 14.) To date, class counsel have incurred \$12,186.47
15 in actual out-of-pocket expenses. (Id.) Class counsel submitted
16 a list of itemized costs including filing fees, copying, postage,
17 computerized legal research charges, and the cost of the
18 mediator. (Wasserman Decl. II Ex. 2.) The court finds these are
19 reasonable litigation expenses, and it therefore will grant class
20 counsel's request for compensation of in the amount of
21 \$12,186.47.

22 E. Incentive Payment to Plaintiff

23 "Incentive awards are fairly typical in class action
24 cases." Rodriguez v. W. Publ'g Corp., 563 F.3d 948, 958 (9th
25 Cir. 2009). "[They] are intended to compensate class
26 representatives for work done on behalf of the class, to make up
27 for financial or reputational risk undertaken in bringing the
28 action, and, sometimes, to recognize their willingness to act as

1 a private attorney general.” Id. at 958-59. In assessing the
2 reasonableness of incentive payments, the court should consider
3 “the actions the plaintiff has taken to protect the interests of
4 the class, the degree to which the class has benefitted from
5 those actions” and “the amount of time and effort the plaintiff
6 expended in pursuing the litigation.” Staton, 327 F.3d at 977
7 (citation omitted). The court must balance “the number of named
8 plaintiffs receiving incentive payments, the proportion of the
9 payments relative to the settlement amount, and the size of each
10 payment.” Id. In the Ninth Circuit, an incentive award of
11 \$5,000 is presumptively reasonable. Davis v. Brown Shoe Co.,
12 Inc., Civ. No. 1:13-01211 LJO BAM, 2015 WL 6697929, at *11 (E.D.
13 Cal. Nov. 3, 2015).

14 Here, the class representative seeks an incentive
15 payment of \$4,500. (Pl.’s Mem. II at 15.) In justifying the
16 award, plaintiff represents that she took on substantial risk in
17 bringing this class action and exposed herself to notoriety and
18 damage to her professional reputation. (Id.) Plaintiff also
19 states that she spent a significant amount of time assisting
20 class counsel in the development of this case, including
21 responding to discovery, participating in mediation, assisting in
22 the preparation and evaluation of the case, and evaluating and
23 approving the proposed settlement on behalf of the class. (Id.
24 at 16.) In light of plaintiff’s efforts and risks incurred in
25 bringing this action, the court finds her requested incentive
26 award to be reasonable, and will approve the award.

27 II. Conclusion

28 Based on the foregoing, the court grants final

1 certification of the settlement class and approves the settlement
2 set forth in the settlement agreement as fair, reasonable, and
3 adequate. The settlement agreement shall be binding upon all
4 participating class members who did not exclude themselves.

5 IT IS THEREFORE ORDERED that plaintiff's Motions for
6 final certification, final approval of class action settlement,
7 attorneys' fees, costs, and incentive award (Docket Nos. 44, 45)
8 be, and the same hereby are, GRANTED.

9 IT IS FURTHER ORDERED THAT:

10 (1) solely for the purpose of this settlement, and
11 pursuant to Federal Rule of Civil Procedure 23, the court hereby
12 certifies the following class: all current and former California
13 employees of Beverly Health and Rehabilitation Services, Inc. who
14 were issued one or more wage statements from July 25, 2015,
15 through September 1, 2016. Specifically, the court finds that:

16 (a) the settlement class members are so numerous
17 that joinder of all settlement class members would
18 be impracticable;

19 (b) there are questions of law and fact common to
20 the settlement class which predominate over any
21 individual questions;

22 (c) claims of the named plaintiff are typical of
23 the claims of the settlement class;

24 (d) the named plaintiff and plaintiff's counsel
25 have fairly and adequately represented and
26 protected the interests of the settlement class;
27 and

28 (e) a class action is superior to other available

1 methods for the fair and efficient adjudication of
2 the controversy.

3 (2) the court appoints the named plaintiff Henna Ahmed
4 as class representative and finds that she meets the requirements
5 of Rule 23;

6 (3) the court appoints Robert J. Wasserman, William J.
7 Gorham III, Nicholas J. Scardigli, and Vladimir J. Kozina of the
8 firm of Mayall Hurley P.C. as class counsel and finds that they
9 meet the requirements of Rule 23;

10 (4) the settlement agreement's plan for class notice is
11 the best notice practicable under the circumstances and satisfies
12 the requirements of due process and Rule 23. The plan is
13 approved and adopted. The notice to the class complies with Rule
14 23(c) (2) and Rule 23(e) and is approved and adopted;

15 (5) the court finds that the parties and their counsel
16 took appropriate efforts to locate and inform all class members
17 of the settlement. Given that no class member filed an objection
18 to the settlement, the court finds that no additional notice to
19 the class is necessary;

20 (6) as of the date of the entry of this Order,
21 plaintiff and all class members who have not timely opted out of
22 this settlement hereby do and shall be deemed to have fully,
23 finally, and forever released, settled, compromised,
24 relinquished, and discharged defendants of and from any and all
25 settled claims, pursuant to the release provisions stated in the
26 parties' settlement agreement;

27 (7) plaintiff's counsel is entitled to fees in the
28 amount of \$150,000, and litigation costs in the amount of

1 \$12,186.47;

2 (8) Atticus Administration is entitled to
3 administration costs in the amount of \$16,000;


4 (9) \$3,375 from the gross settlement amount shall be
5 paid to the California Labor and Workforce Development Agency in
6 satisfaction of defendants' alleged penalties under the Labor
7 Code Private Attorneys General Act;

8 (10) the remaining settlement funds shall be paid to
9 participating class members in accordance with the terms of the
10 settlement agreement; and

11 (11); this action is dismissed with prejudice. However
12 without affecting the finality of this Order, the court shall
13 retain continuing jurisdiction over the interpretation,
14 implementation, and enforcement of the settlement agreement with
15 respect to all parties to this action and their counsel of
16 record.

17 The clerk is instructed to enter judgment accordingly.

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19 Dated: April 24, 2018


WILLIAM B. SHUBB
UNITED STATES DISTRICT JUDGE

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