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11 **SUPERIOR COURT OF CALIFORNIA**

12 **COUNTY OF FRESNO**

13 **MARY BARBER and ISABEL**  
14 **FERNANDEZ**, as individuals and on behalf  
15 of all others similarly situated,

16 Plaintiffs,

17 v.

18 **GRUNDFOS PUMPS CORPORATION**, a  
19 California corporation, and **DOES 1-20**,  
20 inclusive,

21 Defendants.

**Case No. 14CECG00166 KCK**

**PLAINTIFFS' NOTICE OF  
APPLICATION AND  
APPLICATION FOR APPROVAL  
OF ATTORNEY'S FEES, COSTS  
AND INCENTIVE AWARDS FOR  
NAMED PLAINTIFFS**

**Date:** March 9, 2016  
**Time:** 3:30 p.m.  
**Dept:** 403

1       **PLEASE TAKE NOTICE THAT** on March 9, 2016 at 3:30 P.M., or as soon thereafter as  
2 the matter may be heard, in Department 403 of the above-entitled Court, located at 1130 O Street,  
3 Fresno, California, Plaintiffs Mary Barber and Isabel Fernandez will and hereby do move for an  
4 Order (1) awarding Class Counsel attorney's fees in the total amount of \$416,666, (2) awarding  
5 Class Counsel litigation costs in the total amount of \$17,575.65, and (3) approving Enhancement  
6 Awards to the two named Plaintiffs in the amount of \$10,000 each. This application is made  
7 pursuant to California Rules of Court, Rule 3.769, which requires Court approval of the settlement  
8 of class actions. This application is unopposed by Defendant Grundfos Pumps Corporation and will  
9 be based on the Memorandum of Points and Authorities, the Joint Stipulation and Settlement  
10 Agreement, the Declaration of Charles A. Jones, the Declarations of Isabel Fernandez and Mary  
11 Barber, such evidence or oral argument as may be presented at the hearing, and on the complete  
12 records and file herein.<sup>1</sup>

13 DATED: December 30, 2015

JONES LAW FIRM

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18 Charles A. Jones, Esq.  
19 Class Counsel  
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27 <sup>1</sup> This application should not be construed as a waiver of any attorney-client or attorney work-  
28 product privileges.

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1 MEMORANDUM OF POINTS AND AUTHORITIES

2 I. INTRODUCTION

3 Plaintiffs Mary Barber and Isabel Fernandez (collectively, "Plaintiffs") and Class Counsel,  
4 Jones Law Firm, move for an award of attorney's fees and costs, and approval of service payments  
5 to the Class Representatives in connection with the final approval of the class action settlement of  
6 this action. Plaintiffs and Defendant Grundfos Pumps Corporation (hereinafter "Grundfos" or  
7 "Defendant") have settled the released claims of the Settlement Class Members, as defined in the  
8 parties' Stipulation and Settlement Agreement ("Stipulation" attached as Exhibit 11 to the Jones  
9 Declaration) for a *non-reversionary* settlement payment of \$1,250,000. This class action  
10 settlement ("Settlement") resolves all claims asserted against Defendant by the named Plaintiffs  
11 and Settlement Class Members.

12 The primary claim alleged in this action is that Grundfos failed to issue accurate wage  
13 statements to its hourly, non-exempt employees in violation of California Labor Code §226(a). As  
14 set forth in detail below, assuming that this Court approves the full amount of attorney's fees, costs  
15 and service payments to the class representatives sought through this application, the Settlement  
16 Class Members will still receive nearly 100% of the maximum statutory penalties available to them  
17 for the alleged violations of Labor Code §226(a). See, California Labor Code §226(e). In addition  
18 to the substantial settlement payments made to the Settlement Class Members, the Stipulation  
19 further provides that Defendant will pay \$7,500 to the State of California's Labor and Workforce  
20 Development Agency ("LWDA") as it is 75% of the amount allocated to settle the claims brought  
21 pursuant to the Private Attorneys General Act of 2004, *Labor Code* § 2698 *et. seq.* Stip. at ¶32.

22 Because the Settlement achieves outstanding results for the Settlement Class, Defendant's  
23 past and current employees, and the State of California, Plaintiffs respectfully request that the  
24 Court approve their request for attorney's fees and costs and service payments for serving as the  
25 class representatives. Through this application, Plaintiffs seek the Court's approval of an  
26 attorney's fee award of \$416,666 plus the reimbursement of \$17,575.65 in litigation costs. The  
27 attorney fee request equals 33-1/3% of the Settlement Fund of \$1,250,000, with the fees  
28 representing a multiplier of 1.13 over Class Counsel's \$371,850 lodestar. See, Jones Decl. ¶¶20-23;  
Ex. 6. Class Counsel's request for an award of attorney's fees and costs is reasonable and

1 appropriate in light of the work performed by Class Counsel in the case, the contingent nature of  
2 this action, and the results achieved under the Settlement for the class members. *Lealao v.*  
3 *Beneficial California, Inc.* (2000) 82 Cal.App.4th 19.

4 Plaintiffs also request the Court confirm the amount of service awards agreed to be paid to  
5 each named Plaintiff in the amount of \$10,000 each (totaling \$20,000). The amount proposed to  
6 be awarded to the representative Plaintiffs is fair and reasonable. Courts approve incentive awards  
7 to plaintiffs when justified and appropriate to compensate plaintiffs for their time, effort, and  
8 inconvenience. *See e.g., Van Vranken v. Atlantic Richfield Co.* (N.D. Cal. 1995) 901 F. Supp. 294,  
9 299.

10 Pursuant to Court order, this Application is being filed thirty (30) days after the initial  
11 mailing of Notice and Claim Forms to the Class Members. Plaintiffs will file a formal motion for  
12 Final Approval of this settlement after the date for the filing of Claim Forms and Exclusion Forms  
13 has expired. At that time, Plaintiffs will be able to provide to the Court the actual amount of  
14 settlement payments made to each Settlement Class Member, the number of exclusion forms filed,  
15 and any objections made to the proposed settlement. As of the date of the filing of this Application,  
16 no Class Member has objected to any aspect of this settlement, including the amount of fees and  
17 costs sought by Class Counsel, or the incentive payments to the class representatives.

## 18 **II. DESCRIPTION OF THE ACTION AND THE SETTLEMENT CLASSES**

19 On January 21, 2014, Plaintiff Mary Barber filed her Complaint against Defendant  
20 Grundfos Pumps Corporation (hereinafter "Grundfos") on behalf of current and former hourly,  
21 non-exempt employees who worked for Grundfos at its manufacturing plant located in Fresno,  
22 California. The primary claim alleged in this action is that Grundfos failed to issue accurate wage  
23 statements to its hourly, non-exempt employees. Specifically, the case alleges that Grundfos failed  
24 to include the hourly rates of pay in the wage statements issued to its non-exempt employees when  
25 they received overtime pay, temporary lead pay, or shift differential pay in violation of California  
26 Labor Code §226(a)(9). In addition, Plaintiffs also seek PAGA penalties pursuant to California  
27 Labor Code §2298 *et seq.* for violations of Labor Code §226(a).

28 On October 28, 2014, Plaintiff filed a First Amended Complaint ("FAC") adding an  
additional class representative, Isabel Fernandez, and the following additional causes of action: (1)



1 Violation of Labor Code §§226(b), (c), and (f) and; (2) Labor Code §226.3. The additional causes  
2 of action alleged in the FAC are based on Plaintiffs' allegation that Grundfos failed to maintain  
3 copies of the actual wage statements issued to its employees from January 21, 2011, through  
4 December 14, 2013. In addition, Plaintiffs allege that due to the failure to include all applicable  
5 hourly rates of pay in their wage statements, they were not properly paid for all hours worked.

6 A. **The Settlement Class And Sub-Classes**

7 For the purposes of settlement, the parties have agreed to the creation of one settlement  
8 class with two subclasses, defined as follows:

9 **The Settlement Class:** all current and former Fresno-based hourly non-exempt employees  
10 employed by Grundfos during the Class Period (January 21, 2011 to December 14, 2013), and  
11 shall include two mutually exclusive sub-classes:

12 A. Sub-Class 1: "**Alternate Rate Sub-Class**" shall mean all Settlement Class  
13 Members who, at any time between January 21, 2011 and December 14, 2013, earned  
14 overtime, double-time, shift differentials, lead pay, or other compensation for time  
15 worked that was paid at anything other than their respective base rate.

16 B. Sub-Class 2: "**Base Rate Sub-Class**" shall mean all Settlement Class  
17 Members who, for the entire period between January 21, 2011 and December 14,  
18 2013, only earned compensation for time worked paid at their respective base rate.

19 According to Grundfos's records, there are 263 persons who fall within Sub-Class 1 and 15  
20 persons who fall within Sub-Class 2. The Class and Sub-Classes are only comprised of non-  
21 exempt, hourly employees. Salaried employees are not included in this settlement.

22 **III. KEY SETTLEMENT TERMS**

23 As provided in the Stipulation, the total value of this non-reversionary settlement is  
24 \$1,250,000. (Stip. at ¶¶ 21, 23.) As the settlement is *non-reversionary*, Grundfos will pay out the  
25 full \$1,250,000, regardless of the number of claim forms received by the classes. For example, if  
26 only half of the class members submit valid and timely claim forms, the settlement awards paid to  
27 those members who do submit timely and valid claim forms will increase substantially. (See, Stip.  
28

¶¶33, 36.)<sup>1</sup> From the total settlement amount of \$1,250,000 the following amounts will be deducted: (1) Attorney's fees in the amount of \$416,666, subject to Court approval; (2) Attorney's costs up to a maximum of \$20,000, subject to Court approval; (3) Enhancement Awards to the two named Plaintiffs in the amount of \$10,000 each, subject to Court approval; (4) Claim Administration Costs up to a maximum of \$10,000, subject to Court approval; and (5) a payment to the LWDA in the amount of \$7,500.

Assuming that the Court approves all of the above amounts as requested, the non-reversionary Net Settlement Amount to be distributed to the Classes will be \$775,834. Should the Court decline to approve or reduce any of the amounts noted above, the non-reversionary Net Settlement Amount shall increase proportionately. Of the non-reversionary Net Settlement Amount, \$773,500 is allocated to pay the claims of those Alternate Rate Sub-Class 1 members who timely submit a valid claim form. (*Id.* at ¶¶21, 23-26, 32-37.) Similarly, of the non-reversionary Net Settlement Amount, \$2,334 is allocated to pay the claims of those Base Rate Sub-Class 2 members who timely submit a valid claim form. (*Id.*) As set forth below, under the terms of this settlement the Settlement Class Members will actually receive nearly 100% of the maximum statutory penalties available to them under Labor Code §226. See, Jones Decl. ¶9.

**A. Sub-Class 1: Alternate Rate Sub-Class**

Of the Net Settlement Amount, \$773,500.00 is allocated to pay the claims of those non-exempt class members who timely submit a valid claim form "Alternate Rate Sub-Class Distribution Fund." (*Id.* at ¶¶32-37.) According to Defendant's records, there are a total of 263 putative non-exempt class members who are members of the Alternate Rate Sub-Class. The members of the Alternate Rate Sub-Class consist of Putative Class Members who allegedly received non-complaint wage statements during the class period. *i.e.*, wage statements that did not include the hourly rates of pay when the class members received overtime pay, temporary lead pay, or temporary shift differential pay. Under the terms of the proposed settlement, assuming a 100%

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<sup>1</sup> As the last date to submit claim forms ends on January 29, 2016, the exact amount that each Settlement Class Member will receive is not known at this time. Plaintiffs will set forth the amounts received by the Settlement Class Members in connection with their Motion for Final Approval of this settlement.

1 participation rate, Settlement Shares to the Alternate Rate Sub-Class Members will be paid out  
2 according to the following formula:

3 # Pay Periods For Which Employee Earned Compensation For Time Worked That Was Paid At Anything Other Than Base Rate (January 21, 2011 – December 14, 2013)	4 # of Alternative Rate Sub- Class Members in each group	5 Settlement Share	6 Total settlement payout for each group
7 1-10	39	\$500	\$19,500
8 11-20	28	\$1,000	\$28,000
9 21-30	22	\$2,000	\$44,000
31-40	14	\$3,000	\$42,000
41+	160	\$4,000	\$640,000

10 Pursuant to California Labor Code §226(e)(1) employees who suffer an injury as a result of  
11 a knowing and intentional violation of Labor Code §226(a) are entitled to recover either actual  
12 damages or statutory damages of “fifty dollars (\$50) for the initial pay period in which a violation  
13 occurs and one hundred dollars (\$100) per employee for each violation in a subsequent pay period,  
14 **not to exceed an aggregate penalty of four thousand dollars (\$4,000),”** plus attorney’s fees.  
15 (Labor Code §226(e)(1)[emphasis added]; *Brewer v. General Nutrition Corp.*, 2014 WL 5877695  
16 at \*5 (N.D. Cal. 2014); *Jaimez v. DAIOWS USA, Inc.*, 181 Cal. App. 4<sup>th</sup> 1286, 1305 (2010). **Under**  
17 **the terms of this settlement, Alternate Rate Sub-Class 1 Members will recover nearly 100%**  
18 **of the maximum amount of statutory penalties available to them even after attorney’s fees**  
19 **and costs have been deducted. Specifically, 160 Sub-Class 1 Settlement Class Members will**  
20 **receive the maximum of award of \$4,000, each.** An analysis of the value of other claims  
21 released is discussed in the Jones Declaration at ¶¶9-10.

22 As set forth in the above table, the settlement shares paid to each class members directly  
23 correspond to the harm suffered, *i.e.*, the number of instances in which the Class Members received  
24 non-compliant wage statements. This ensures that all Class Members are treated fairly with  
25 respect to their settlement awards. One of the true benefits of this settlement is that it is a total  
26 payout, non-reversionary settlement. What this means is that none of the settlement funds reverts  
27 to the Defendant and instead they are distributed to the class members on a pro-rata basis. See,  
28 Stipulation ¶36; Jones Decl. ¶¶9-10. The non-reversionary aspect of this settlement sets this

1 settlement apart from many other class action settlements where the Defendant is able to recoup a  
2 portion of the settlement amount based on the number of claim forms received.

3 **B. Sub-Class 2: Base Rate Sub-Class**

4 Of the non-reversionary Gross Settlement Amount, \$2,334 is allocated to pay the claims of  
5 those Base Rate Sub-Class members who timely submit a valid claim form. (Stip at ¶32-37.)  
6 There is a total of 15 putative Base Rate Sub-Class Members. Under the terms of the proposed  
7 settlement, assuming a 100% participation rate, Base Rate Sub-Class Members will receive  
8 \$155.60, net. Base Rate Sub-Class Members consist of individuals who, according to Grundfos's  
9 records, only received clearly compliant wage statements. *i.e.*, they never received a wage  
10 statement in which they received overtime pay, temporary lead pay, or shift differential pay.

11 Pursuant to California Labor Code §226(f), these Sub-Class members are arguably entitled  
12 to a penalty based on the fact that Grundfos allegedly failed to maintain copies of the actual wage  
13 statements issued to these Sub-Class members. However, in order to prevail on this claim,  
14 Plaintiffs would be required to prove that (1) the Defendant failed to maintain "copies" of the wage  
15 statements issued to the class (See, Labor Code §226(a)(b) and (c)) and (2) that the Defendant  
16 failed to permit the class members to inspect or copy their wage statements. While the entity who  
17 processed the payroll for Defendant during the release period failed to provide Grundfos with  
18 copies of the actual wage statements it issued to Defendant's employees (it did provide Grundfos)  
19 but not the class members, with documents which identify all of the information required by Labor  
20 Code §226(a). As a result, Class Counsel believe that there is a very low probability of success on  
21 this particular claim. See, Jones Decl. ¶¶9-10. Given that there are only 15 Sub-Class members at  
22 issue, Class Counsel are pleased with the rate of recovery for these Sub-Class members.

23 **IV. FACTUAL BACKGROUND REGARDING SETTLEMENT**

24 This case has been hotly contested and vigorously litigated since its inception. In total, the  
25 Defendant was represented by three separate law firms during the pendency of this action. This  
26 settlement resulted from a private mediation which was conducted by the Honorable Carl West  
27 (Ret.) The mediation was only pursued after extensive investigation and formal discovery,  
28 numerous interviews of potential class members, the deposition of Grundfos's Person Most  
Knowledgeable Designate on a host of topics, the filing of Plaintiffs' Motion for Class

1 Certification and Motions to Compel, and the disclosure of over 30,000 pages of data and  
2 documents concerning the claims alleged in this action.

3 Prior to mediation, Class Counsel summarized and analyzed the voluminous data provided  
4 by Grundfos in order to evaluate Grundfos's exposure and the likelihood of Plaintiffs' success on  
5 the merits. Based on the data provided through discovery, Class Counsel were able to not only  
6 determine a settlement figure that would pay the Settlement Class Members nearly 100% of the  
7 statutory penalties to which they are entitled under Labor Code §226(e), but also arrive at a  
8 distribution formula which ensures that the Settlement Class Members are receiving settlement  
9 shares that directly correspond to the harm suffered, as reflected in the chart noted above. For a  
10 complete review of the work completed by Class Counsel on this case, and time spent, please see  
11 the Jones Declaration at ¶¶20-24.

## 12 **V. ARGUMENT**

### 13 **A. Class Counsel Request an Award Under the Common Benefit Doctrine**

#### 14 **1. A 33 1/3% Fee Award Is Reasonable Here**

15 Class Counsel respectfully request that this Court approve the fees and costs to be paid in  
16 this action. This Application is made pursuant to California Rules of Court, Rule 3.769 which  
17 requires Court approval of the fees paid through settlement in a class action.

18 Class Counsel seek attorney's fees of \$416,666, representing 33-1/3% of the settlement  
19 consideration under the "common fund" doctrine. Courts have long recognized the "common  
20 fund" or "common benefit" doctrine, under which attorneys who create a common fund or benefit  
21 for a group of persons may be awarded their fees and costs to be paid out of the fund. *Serrano v.*  
22 *Priest* ("Serrano III") (1977) 20 Cal.3d 25, 34, quoting *D'Amico v. Board of Medical Examiners*  
23 (1974) 11 Cal.3d 1; *Glendale City Employees' Association v. City of Glendale* (1975) 15 Cal.3d  
24 328, 341 fn.19; *Quinn v. State of California* (1995) 15 Cal.3d 162, 167; see also *Boeing Co. v. Van*  
*Gemert* (1980) 444 U.S. 472, 478; *Mills v. Electric Auto-Lite Co.* (1970) 396 U.S. 375, 391-392.

25 The California Supreme Court has held that, "when a number of persons are entitled in  
26 common to a specific fund, and an action brought by a plaintiff or plaintiffs for the benefit of all  
27 results in the creation or preservation of that fund, such plaintiff or plaintiffs may be awarded  
28 attorneys' fees out of the fund." *Serrano III, supra*, 20 Cal.3d at 34, quoting *D'Amico*, 11 Cal.3d 1;

1 see also *Boeing, supra*, 444 U.S. at 478 (“[A] lawyer who recovers a common fund for the benefit  
2 of persons other than himself or his client is entitled to a reasonable attorney’s fee from the fund as  
3 a whole.”); *Mills, supra*, 396 U.S. at 391-392 (United States Supreme Court endorsing the common  
4 fund approach in class actions). California Practice Guide: Civil Trials and Evidence (The Rutter  
5 Group) at § 17:172.3 explains the common fund doctrine as follows:

6           Where the lawsuit results in the recovery of a fund or property  
7           benefiting others as well as plaintiff (e.g., a class action), the court has  
8           inherent equitable power to order plaintiff’s attorney fees paid out of  
9           the common fund or property [citations]. Such fee spreading assures  
10          that all of those benefited by the litigation pay their fair share of  
11          obtaining the recovery.

12          The percentage-of-the-fund approach appears to be the preferred method of awarding fees  
13          in traditional common fund cases, such as this case. Where the settlement amount is a “certain or  
14          easily calculable sum of money,” use of the percentage-of-the-fund method is appropriate.  
15          *Serrano III*, 20 Cal. 3d at 35.

16          In *Glendale City Employees’ Association v. City of Glendale* (1975) 15 Cal.3d 328, 341  
17          fn.19, the California Supreme Court upheld an attorneys’ fee award based on a percentage of the  
18          common benefit obtained in a lawsuit by a city employees’ association for retroactive wages:

19               It is not necessary to find this suit a proper class action in order to  
20               uphold the portion of the judgment awarding counsel for plaintiffs 25  
21               percent of all retroactive salaries and wages received. That award may  
22               be sustained under the rule that a litigant who creates a fund in which  
23               others enjoy beneficial rights may require those beneficiaries to pay  
24               their fair share of the expense of litigation. (See *Sprague v. Ticonic*  
25               *National Bank* (1939) 307 U.S. 161, 159; *Estate of Stauffer* (1959) 53  
26               Cal.2d 124, 132).

27          In *Quinn v. State of California* (1995) 15 Cal.3d 162, 167, the California Supreme Court  
28          stated: “[O]ne who expends attorneys’ fees in winning a suit which creates a fund from which  
29          others derive benefits may require those passive beneficiaries to bear a fair share of the litigation  
30          costs.” Similarly, in *City and County of San Francisco v. Sweet* (1995) 12 Cal.4th 105, 110-111,  
31          the California Supreme Court recognized that the common benefit doctrine has been applied  
32          “consistently in California when an action brought by one party creates a fund in which other  
33          persons are entitled to share.”

1 Numerous appellate courts have similarly found this. *See e.g., Knoff v. City and County of*  
2 *San Francisco* (1969) 1 Cal.App.3d 184, 203-204 (court upheld a "contingent percentage" award  
3 of attorneys' fees in a representative action as the proper exercise of the court's broad equitable  
4 powers); *Rider v. County of San Diego* (1992) 11 Cal.App.4th 1410, 1423 (attorneys' fees and  
5 expenses properly awarded from common benefit composed of illegally imposed sales and use tax);  
6 *Bank of America v. Cory* (1985) 164 Cal.App.3d 66, 89-92 (fees awarded from common benefit  
7 created by action compelling state to claim dormant bank accounts); *Parker v. Los Angeles* (1974)  
8 44 Cal.App.3d 556, 567-568 (court upheld fee award equal to one-third of the damages to owners  
9 of residential property in an inverse condemnation action).

10 Moreover, at least eight federal courts of appeal - the First, Third, Sixth, Seventh, Ninth,  
11 Tenth, Eleventh and the D.C. Circuit - have endorsed the "percentage fee" method for determining  
12 reasonable attorneys' fees in common benefit cases. *See e.g., In re Sumitomo Copper Litig.*  
13 (S.D.N.Y. 1999) 74 F.Supp.2d 393, 396-398 (describing the overwhelming weight of federal  
14 authority in favor of the percentage fee method); *see also, Lealao, supra*, 82 Cal.App.4th at 30-31  
15 (describing same).

16 Attorneys' fees awards in line with the amount sought here are frequently upheld. *See e.g.,*  
17 *In re Activision Sec. Litig.* (9th Cir. 1989) 723 F. Supp. 1373, 1375.

18 The requested fee, equal to one-third of the Settlement Fund, falls well within and even  
19 below the percentages awarded in other class action litigation by numerous California trial courts.  
20 *See e.g., Walgreens Overtime Cases*, JCCP No. 4387 (Coordinated Actions) (31% fee award);  
21 *Laykin et al. v. Ann Taylor Retail Inc., et al.*, LASC BC328843 and BC342729 (Coordinated  
22 Actions) (27.5% fee award); *Collins v. Aaron Bros.*, LASC No. BC 208856 (33 1/3% fee award);  
23 *Gallegos v. Office Depot*, Santa Clara Sup. Ct., Case No. CV 797847 (33 1/3% fee award);  
24 *Chalmers v. Electronics Boutique*, LASC Case No. BC306571 (33% of common fund); *Graubard,*  
25 *et al. v. Goodyear Tire & Rubber Co.*, LASC Case No. BC 230520 (33% award); *Viovens, et al. v.*  
26 *Wackenhut Corp.*, LASC Case No. BC290071 (31% award); *Goddard v. Longs Drugs Stores,*  
27 Alameda Super. Ct. Case No. RG04141291 (25% award); *Crandall v. U-Haul International, Inc.,*  
28 LASC Case No. BC178775 (40% award); *Albrecht v. Rite Aid Corp.*, San Diego Super. Ct. Case  
No. 729219 (35% award); *Marroquin v. Bed Bath & Beyond*, Alameda Super. Ct. Case No.

1 RG04145918 (33 1/3% award); *In re Liquid Carbon Dioxide Cases*, San Diego Super. Ct Case No.  
2 J.C.C.P. 3012 (33 1/3% award plus costs); *In re California Indirect-Purchaser Plasticware*  
3 *Antitrust Litigation*, San Francisco Super. Ct. Case Nos. 961814, 963201, and 963590 (33 1/3% fee  
4 award plus costs); *Bright v. Kanzaki Specialty Papers*, S.F. Super. Ct. Case No. 964899 (33 1/3%  
5 fee plus costs); *Andrews v. First Interstate Bank of California*, S.F. Super. Ct. Case No. 953575  
6 (30% fee award including costs); *In re California Indirect-Purchaser Infant Formula Antitrust*  
7 *Class Action Litigation*, LASC Case No. J.C.C.P. No. 2557 (30% fee award including costs);  
8 *Sconce/Lamb Cremation Cases*, LASC Case No. J.C.C.P. No. 2085 (30% fee award plus costs);  
9 *Yates v. Wingfoot Commercial Tire Systems, LLC*, Sacramento Superior Court Case No.  
10 04AS00169 (33% fee award plus costs); *Lindley v. Discount Tire Centers, Inc.*, LASC Case No.  
11 BC239094 (33% fee award plus costs); *Alfaro v. Senior Classic Leasing, LLC.*, LASC Court Case  
12 No. BC328987 (33% fee award plus costs); and *Carl v. Advanced Call Center Technologies, LLC*,  
13 Sacramento County Superior Court Case No. 34-2013-00148310 (2014)(33 1/3% fee award plus  
costs.) See, Jones Decl. ¶16; Exhibits 1-5.

14 As the cases cited above demonstrate, attorney's fee awards in the amount sought here are  
15 well-established by California law and practice. Accordingly, Class Counsel's fee request is fair  
16 and reasonable and is consistent with the awards in California and the Ninth Circuit. It is also  
17 reasonable given the history of this action and the result obtained by Class Counsel. See, Jones  
18 Decl. ¶¶15-19.

## 19 **2. The Circumstances of this Case Support a 33 1/3 % Fee Award**

20 Given the significant results achieved under the circumstances of this litigation, the  
21 requested fee award is reasonable. As discussed in *Sumitomo Copper Litigation, supra*, 74 F. Supp.  
22 2d at 396:

23 No one expects a lawyer whose compensation is contingent on the  
24 success of his services to charge, when successful, as little as he would  
25 charge a client who in advance of the litigation has agreed to pay for  
26 his services, regardless of success. Nor, particularly in complicated  
cases producing large recoveries, is it just to make a fee depend solely  
on the reasonable amount of time expended.

27 In that vein, this Court should consider the contingent nature of this case, the uncertainty of  
the outcome, the quality of the counsel, and the preclusion from other employment.



1                                   **a. The Contingent Nature of This Case**

2           From the outset of the case to the present, prosecution of this action has involved  
3 significant financial risk for Class Counsel. Class Counsel undertook this matter solely on a  
4 contingent basis, with no guarantee of recovery. Class Counsel have placed their own resources at  
5 risk to prosecute this action with no guarantee of success. Jones Decl. at ¶¶12-25. The risks of this  
6 case are apparent in that class certification would have been a hard-fought issue, especially given  
7 the uncertainty regarding certification of cases such as this. Moreover, even if class certification  
8 were granted over Defendant's opposition, there was no assurance that Plaintiffs would succeed at  
9 trial. Despite such challenges, Class Counsel were able to persuade Defendant that it faced  
10 significant liability exposure such that it was willing to pay \$1,250,000 to settle the Class  
11 Members' claims.

12                                   **b. The Experience, Reputation, and Ability of Counsel, and the**  
13                                   **Skill They Displayed in Litigation**

14           Class Counsel have substantial experience in wage-and-hour and other class action  
15 litigation, including litigation involving the novel legal issues in this action. *See e.g.*, Jones Decl.  
16 at ¶¶2-7. Class Counsel's skill in developing a factual record, moving for Class Certification, and  
17 convincing Defendant of their litigation exposure under California law were essential to achieving  
18 the Settlement. Through their skill and reputation, Class Counsel were able to obtain a settlement  
19 that provides an outstanding result for Class Members. Jones Decl. at ¶¶9-10.

20                                   **c. The Results Achieved**

21           The excellent results achieved by the Settlement support Class Counsel's request for  
22 attorney's fees. As noted, no Class Member has filed an objection to any aspect of this settlement,  
23 including the amount of fees and costs sought by Class Counsel, both of which were described  
24 clearly in the Notice. Pursuant to the terms of the Settlement, all funds will be paid to the  
25 Alternate Rate and Base Rate Sub-Class members. As noted, the Settlement Class Members will  
26 receive nearly 100% of the statutory penalties available to them under Labor Code §226(e), even  
27 if this Court grants the full amount of attorney's fees and costs sought by Class Counsel.  
28 Moreover, assuming a 100% claims rate, 160 of the 263 Alternate Rate Sub-Class Members will

1 receive the maximum recovery of \$4,000 each for Labor Code §226(a) violations. Below is a  
2 chart indicating the amounts paid for the Alternate Rate Sub-Class Members:

<b># Pay Periods For Which Employee Earned Compensation For Time Worked That Was Paid At Anything Other Than Base Rate (January 21, 2011 – December 14, 2013)</b>	<b># of Alternative Rate Sub- Class Members in each group</b>	<b>Settlement Share</b>	<b>Total settlement payout for each group</b>
1-10	39	\$500	\$19,500
11-20	28	\$1000	\$28,000
21-30	22	\$2000	\$44,000
31-40	14	\$3000	\$42,000
41+	160	\$4000	\$640,000

10  
11 If less than 100% of the Settlement Class Members submit claims, the amount paid to  
12 those who do will increase commensurately.

13 With respect to the 15 Base Rate Sub-Class members, i.e., individuals who received  
14 compliant wage statements, they too are receiving just compensation of more than \$150.00 each.

15 Class Counsel are extremely pleased with the settlement result achieved in this case. It is  
16 not often that attorneys are able to settle an individual case, let alone a complex class action such  
17 as the instant case involving nearly 300 class members, for nearly 100% of the value of each  
18 individual's case, even after a reduction for attorney's fees and costs. Jones Decl. ¶¶9-10, 24.  
19 These payments are intended to compensate class members for claims for Defendant's alleged  
20 failure to issue compliant wage statements, and maintain copies of the wage statements provided  
21 to its hourly paid employees.<sup>2</sup> As the vast majority of the Settlement Class Members earn less  
22 than \$13.00 per hour, the monetary settlement achieved in this case will be truly meaningful.

23 <sup>2</sup> Due to the fact that class members were paid at higher rates of pay when they worked overtime and  
24 received lead pay, and the wage statements did not set forth the hourly rates of pay when the class  
25 members did so, Plaintiffs alleged that they and the class members were not paid at their proper rates  
26 of pay. After an in-depth review of the wages statements issued to the Class Members, it was  
27 determined that 208 class members were not paid at their proper rate of pay when they worked  
28 overtime or received lead pay. However, the median amount of underpayments relating to the failure  
to properly calculate the regular rate of pay during the class period amounts to only \$39.52. Thus,  
under the terms of this settlement, the Settlement Class Members will be reimbursed for any claims  
relating the failure to properly calculate their rates of pay. See, Jones Decl. ¶10.

1 This is a significant benefit for the Class Members here – it represents a recovery for highly  
2 disputed claims. Jones Decl. at ¶24. Equally important is the fact that the State of California will  
3 receive \$7,500 for enforcement of labor laws and education of employers.

4 In addition to the significant monetary awards paid to the Settlement Class members,  
5 this filing of this action has also benefited Defendant's past and present employees by virtue of  
6 the fact that Defendant changed its practices after the filing of this case and began issuing  
7 compliant wage statements to its employees. As a result, Grundfos's current employees, many of  
8 whom are class members in this case, will benefit from the fact that they will not only receive  
9 accurate wage statements from which they can determine if they are being paid correctly, but also  
10 that they will be able to determine whether they are paid at the proper legal rate of pay for all  
11 hours worked.

12 **d. Preclusion of Other Employment**

13 As California law recognizes, Class Counsel's commitment to this litigation should not be  
14 assessed in a vacuum. *See Serrano, supra*, 20 Cal.3d at 49. A relevant factor in determining  
15 attorney's fees is whether the litigation required Class Counsel to forego other employment. *Id.*  
16 Additional cases were available to Class Counsel but had to be foregone to devote the time  
17 necessary to pursue this litigation. Jones Decl. at ¶19.

18 **B. The Requested Fees are Also Justified Under the Lodestar Method**

19 Fee calculations under the lodestar method would result in a similar, if not greater, award,  
20 demonstrating the fairness of Class Counsel's percentage fee request. Under the lodestar method,  
21 a base fee amount is calculated from a compilation of time reasonably spent on the case and the  
22 reasonable hourly compensation of the attorney. The base amount is then adjusted by use of a  
23 multiplier in light of various factors. *Serrano III, supra*, 20 Cal.3d at 48. Class Counsel's hourly  
24 rates are summarized in the Jones Declaration at ¶¶13-21.

25 One difficulty in determining the hourly rate of attorneys of similar skill and experience in  
26 the relevant community is the scarcity of hourly fee-paying clients in class action litigation. As a  
27 practical matter, few if any employees or consumers pay attorney's fees on an hourly basis for  
28 such extensive litigation, and thus retainer agreements in such cases are based on a stepped-up  
contingency fee (with the percentage increasing from one third to forty percent if the case goes to

1 trial). Therefore, there is no customary hourly billing rate for work that is routinely based on a  
2 contingent fee relationship, but the nature of class action work should be strongly considered by  
3 the Court. In addition, wage and hour work presents a difficult area of law that is not within the  
4 knowledge of many lawyers. This kind of class action work requires specialized learning and the  
5 willingness to take large risks. Jones Delc. at ¶¶13-25.

6 Class Counsel have spent approximately 619 hours litigating this case to date.<sup>3</sup> Jones Decl.  
7 at ¶¶21-24; Ex. 6. Class Counsel expects to spend another 65 hours dealing with claims  
8 administration issues, work week disputes, communication with class members, researching and  
9 drafting the Motion for Final Approval, and preparing for and attending the Final Approval  
10 Hearing. *Id.* Reasonable hours include, in addition to time spent during litigation, the time spent  
11 before the action was filed, including time spent interviewing the clients, investigating the facts  
12 and the law, preparing the initial pleadings and litigating the case. *Webb v. Board of Educ.* (1985)  
13 471 U.S. 234. Further, the fee award should include fees incurred to establish and defend the  
attorney's fee claim. *Serrano v. Priest* (1982) 32 Cal.3d 621, 639 ("*Serrano IV*").

14 In cases where a common fund analysis is not used, once the court establishes the lodestar  
15 amount, it should adjust the fee award by a multiplier in order to make an appropriate fee award.  
16 *Serrano III, supra*, 20 Cal.3d at 48. In applying the multiplier, *Newberg on Class Actions* states  
17 that "[m]ultiples ranging from one to four frequently are awarded in common fund cases when the  
18 lodestar method is applied. A large common fund award may warrant an even larger multiplier." 4  
19 *Newberg on Class Actions* 4th (4th ed. 2002) § 14.6. If the class members paid the fees that the  
20 market would bear, they would pay a fee of anywhere from one-third to forty percent of any

21  
22  
23 <sup>3</sup> In *Martino v. Denevi* (1986) 182 Cal.App.3d 553, 559, the court addressed the issue of what  
24 evidence is required in California to support a fee application. The court held: "Testimony of an  
25 attorney as to the number of hours worked on a particular case is sufficient evidence to support an  
26 award of attorney fees, even in the absence of detailed time records." *Id.* There is no need to  
27 attach the voluminous invoices prepared in a case as a basis for an award of fees and costs. *Id.*  
28 Through Class Counsel's declaration in support of this application, however, Plaintiffs present a  
thorough breakdown of all hours spent, and costs incurred, in prosecuting this class action.  
Pursuant to *Martino, supra*, this presentation is more than sufficient to support the amount sought.

1 recovery. Since this is the market rate, the lodestar calculation should be enhanced to reflect what  
2 the class members would pay on the open market. *Lealao*, *supra*, 82 Cal.App.4th at 47-48.

3 In *Lealao*, the court held that trial courts should award lodestar fees by examining the  
4 percentage-of-the-benefit and adjusting the lodestar calculation accordingly. *Id.* at 49, 53. The  
5 court indicated that this is an upward adjustment and should be akin to a contingency fee recovery;  
6 the court stated, “[a]n adjustment reflecting the amount of the class recovery is not significantly  
7 different from an adjustment reflecting a percentage of that amount; and California courts have  
8 evaluated a lodestar as a percentage of the benefit.” *Id.* at 46. The *Lealao* method appears  
9 particularly appropriate because class actions generally are contingency fee cases for plaintiffs –  
10 and the class action clients do not expect to pay an hourly fee.

11 The rationale of *Lealao* comports with the purpose of the multiplier. The multiplier is  
12 “primarily to compensate the attorney for the prevailing party at a rate reflecting the risk of  
13 nonpayment in contingency cases.” *Ketchum v. Moses* (2001) 24 Cal.4th 1122, 1138. The *Lealao*  
14 court reasoned:

15 Given the unique reliance of our legal system on private litigants to  
16 enforce substantive provisions of law through class and derivative  
17 actions, attorneys providing the essential enforcement services must be  
18 provided incentives roughly comparable to those negotiated in the  
19 private bargaining that takes place in the legal marketplace, as it will  
20 otherwise be economic for defendants to increase injurious behavior. It  
21 has therefore been urged (most persistently by Judge Richard Posner)  
22 that in defining a reasonable fee’ in such representative actions the law  
23 should mimic the market.

24 In the class action context, that would mean attempting to award the  
25 fee that informed private bargaining, if it were truly possible, might  
26 have reached. The simplest way for the law to duplicate the bargain  
27 that informed parties would reach if agency costs were low is to look to  
28 fee award levels in actions brought by sophisticated private parties  
under the same or comparable statutes.

24 *Lealao*, 82 Cal.App.4th at 47 – 48 (internal citations and quotations omitted).

25 The court added:

26 [T]rial judges need the flexibility *Serrano III* provides, as it enables  
27 them to relate fee awards to the economic realities that determine the  
28

1 efficacy of the private enforcement contemplated by our civil justice  
2 system.

3 Accordingly, we hold that, in cases in which the value of the class  
4 recovery can be monetized with a reasonable degree of certainty and it  
5 is not otherwise inappropriate, a trial court has discretion to adjust the  
6 basic lodestar through the application of a positive or negative  
multiplier where necessary to ensure that the fee awarded is within the  
range of fees freely negotiated in the legal marketplace in comparable  
litigation.

7 *Id.* at 49-50.

8 In looking at similar cases, including those set forth above, Class Counsel's requested fee  
9 comports to the market. Jones Decl. ¶16. Based on the reasonable hourly rates suggested by Class  
10 Counsel, the requested fee award would represent a multiplier of 1.13 over Class Counsel's  
11 \$371,850 lodestar – an amount well within the accepted range for class action cases. In this regard,  
12 decisions of other courts in awarding attorneys' fees in class action litigation are persuasive  
13 evidence of the fair market value of the services provided.

14 **C. No Class Member Has Objected to the Attorney Fee Award**

15 Counsel's intention to request payment of attorney's fees in the amount requested herein  
16 was clearly disclosed to each Class Member in the Court-approved Notice of Class Action  
17 Settlement. *See* Exhibit 10. As of the filing of this brief, there has been not one single objection to  
18 the request for attorney's fees. Class Counsel will file a supplemental application once the claims  
19 period has closed updating the number of objections and the actual amounts paid to the Settlement  
20 Class Members.

21 **D. Class Counsel's Request for Costs is Reasonable**

22 In the course of this litigation, Class Counsel had to (and will) incur substantial out-of-  
23 pocket costs totaling approximately \$17,575.65. *See* Jones at ¶25; Ex. 7. Pursuant to the terms of  
24 the Stipulation and the class notice, the requested cost award would not exceed \$20,000. The  
25 remaining cost balance of \$2,424.35 will be redistributed to the settlement class members on a pro  
rata basis.

26 As demonstrated in the Jones Declaration submitted herewith, the incurred costs included  
27 filing fees, travel, court reporting fees, deposition transcript fees, legal research fees, photocopy  
28

1 charges, service of process fees, mediation fees and associated expenses, and mailing charges.  
2 Jones Decl. Ex. 7. Such costs are appropriate for cost reimbursement in these types of cases. *See*  
3 *e.g.*, *In re United Energy Corp. Sec. Litig.* (C.D. Cal. 1989) 1989 WL 7321 1, \*6 (quoting *Newberg*,  
4 Attorney Fee Awards, § 2.19 (1987)); *see also*, *In re GNC Shareholder Litigation* (W.D. Pa. 1987)  
5 668 F. Supp. 450, 452.

6 The costs incurred by Class Counsel in this litigation benefited Class Members. In light of  
7 the litigation costs that Class Counsel needed to incur to prosecute this action and the positive  
8 reaction of Class Members, Plaintiffs' cost request is reasonable and should be granted.

9 **E. The Class Representatives' Service Payment is also Reasonable**

10 Plaintiffs each seek a service or incentive payment in the amount of \$10,000 (totaling  
11 \$20,000). Jones at ¶26. These service payments are intended to recognize the time and efforts that  
12 the named Plaintiffs spent on behalf of the Class. Jones at ¶26.

13 When determining whether incentive awards are appropriate, courts consider a variety of  
14 non-exclusive factors such as:

15 "the actions the plaintiff has taken to protect the interests of the class,  
16 the degree to which the class has benefitted from those actions, and the  
17 amount of time and effort the plaintiff expended in pursuing the  
18 litigation . . . the risk to the class representative in commencing suit,  
19 both financial and otherwise, the notoriety and personal difficulties  
20 encountered by the class representative, the duration of the litigation,  
21 and the personal benefit (or lack thereof) enjoyed by the class  
22 representative as a result of the litigation."

23 *Clark v. American Residential Services LLC* (2009) 175 Cal.App.4th 785, 804 (internal quotations  
24 omitted), *citing Cook v. Niedert* (7th Cir. 1998) 142 F.3d 1004, 1016 and *Van Vranken, supra*, 901  
25 F.Supp. at 299.

26 Plaintiffs' proposed \$10,000 incentive award falls within a range deemed acceptable by  
27 California courts. *See also In re Cellphone Fee Termination Cases* (2010) 186 Cal.App.4th 1380,  
28 1395 (no abuse of discretion when trial court awarded incentive payments of \$10,000 each); *Reed*  
*v. 1-800 Contacts, Inc.*, 2014 WL 29011 (S.D. Cal. 2014) (approving incentive awards of \$10,000  
to named plaintiffs). The proposed incentive payments represent only 1.6% of the total settlement  
amount of \$1,250,000. Moreover, the proposed incentive payments of \$10,000 each are

1 commensurate with the amount of incentive awards awarded to class representatives in other class  
2 action settlements with which class counsel have been involved. For instance, In *Doornbos v.*  
3 *Pilot Travel*, Case No. 04CV00044 BEN (BLM), United States District Court Judge for the  
4 Southern District of California, Robert Benitez, approved service payments of \$20,000 each to the  
5 two named class representatives in a wage and hour overtime class action which settled for  
6 \$3,900,000. (Exhibit 8, Order Awarding Additional Compensation) In *Lindley v. Discount Tire*  
7 *Centers, Inc.*, Case No. BC239094, the Honorable Judge Peter Lichtman (Ret.) approved service  
8 payments totaling \$110,000 for the five class representatives in an overtime class action which  
9 settled for \$3,250,000. (Exhibit 9, Order Awarding Additional Compensation.) Recently, in *Carl v.*  
10 *Advanced Call Center Technologies, LLC*, Sacramento County Superior Court Case No. 34-2013-  
11 00148310, the Honorable Alan G. Perkins awarded incentive payments to the five class  
12 representatives in the amount of \$10,000 each in a wage and hour class action which settled for  
13 \$2,475,000 (Exhibit 4, Final Approval Order). An award of \$10,000 actually falls *below* the  
14 average enhancement award, according to one study. See Theodore Eisenberg & Geoffrey P.  
15 Miller, *Incentive Awards to Class Action Plaintiffs: An Empirical Study* (2006) 53 UCLA L. Rev.  
16 1303, 1308 (concluding the average award per class representative was \$15,992).

17 In this instance, the efforts of the Named Plaintiffs in pursuing this litigation have  
18 conferred a substantial economic benefit on a large number of current and former employees of  
19 defendant. Without the efforts of the Named Plaintiffs, these absent class members would have  
20 received no economic benefit whatsoever. It is widely recognized among attorneys handling  
21 overtime cases that both current and former employees are extremely hesitant to assert claims  
22 against major employers. Whether well-founded or not, workers have tremendous concerns that  
23 they will be retaliated against by their current employer. In this instance, Mrs. Fernandez is a  
24 current employee of the Defendant and was initially hesitant to serve as a class representative due  
25 to fears that her employment with the Defendant would be jeopardized. (Fernandez Decl. ¶4)  
26 Moreover, both Mrs. Barber and Mrs. Fernandez risked adverse financial consequences in agreeing  
27 to pursue this litigation. Had this case not been certified, or had plaintiffs not prevailed on liability,  
28 the Named Plaintiffs may have been liable for costs incurred by the defendant in this action. In  
addition, the Named Plaintiffs held valid individual claims against defendant before becoming the



1 class representatives in this suit. Nonetheless, Mrs. Barber and Mrs. Fernandez were willing to  
2 serve as class representatives, thereby subordinating their individual claims in order to benefit a  
3 large class of their co-workers.

4 As a result of the named Plaintiffs' efforts, the Settlement Class Members will receive  
5 nearly 100% of the statutory penalties available to them under Labor Code §226(e) and the State of  
6 California will receive \$7,5000, to be put toward education and enforcement of California's labor  
7 laws. Additionally, each of the named Plaintiffs will sign release agreements which cover any and  
8 all claims that they had or may have against the Defendant, including a Civil Code § 1542 waiver.  
9 Thus, the claims released by the named Plaintiffs are far broader than those claims released by the  
10 Class Members themselves.

11 The Named Plaintiffs have been extremely helpful to counsel throughout all stages of this  
12 case, including pre-filing investigation, discovery, the drafting of the Class Certification Motion  
13 and the settlement process. The amount of time spent by Plaintiffs in assisting Class Counsel in  
14 prosecuting this case is set forth in the declarations of Barber at ¶2 and Fernandez at ¶2. As set  
15 forth in their declarations, the named Plaintiffs have performed the following tasks in this case: (1)  
16 assisted Counsel in investigating and substantiating the claims alleged in this action, including  
17 multiple conversations with counsel to review facts, documents, and Defendant's policies; (2)  
18 assisted in the preparation of the Complaint and First Amended Complaint in this action; (3)  
19 produced evidentiary documents and contact information for other class members to Counsel; (4)  
20 reviewed the Motion for Class Certification; and (5) assisted Counsel in the Settlement Process and  
21 reviewed and approved the Joint Settlement Agreement and Preliminary approval papers. *Id.*

22 The award of service/incentive payments to the named Plaintiff is especially warranted in a  
23 case like this one. Service/incentive payments are necessary to ensure that employees, like  
24 Plaintiffs, continue to bring claims like those brought here to enforce the rights of employees.  
25 Individuals like the named Plaintiffs (and most Class Members) would have little, if any, recourse  
26 without the class action device. Most Class Members – like the named Plaintiffs – would be  
27 fearful of retaliation in response to filing any lawsuit, much less a class action. Plaintiffs must be  
28 commended for pursuing their claims; modest service payments like those sought here are an  
appropriate means of doing so.

1 To date, not a single Class member objected to the service payment requested on behalf of  
2 the named Plaintiffs, who brought this litigation on their behalf and who secured a benefit for them  
3 worth \$1,250,000. In light of the work that the named Plaintiffs performed on behalf of Class  
4 Members, and the Class Members' response to the Settlement, the requested service payments are  
5 reasonable and appropriate. Jones at ¶26.

6 **VI. CONCLUSION**

7 For all the foregoing reasons, Plaintiffs request that the Court (1) approve Class Counsel's  
8 request of \$416,666 as an award of attorneys' fees, (2) approve the requested award of \$17,575.65  
9 in litigation costs to Class Counsel, and (3) approve the request of \$10,000 as a service/incentive  
10 payment to each named Plaintiff.

11 DATED: December 30, 2015

JONES LAW FIRM

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15 \_\_\_\_\_  
16 Charles A. Jones, Esq.  
17 Class Counsel  
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28

1 **CERTIFICATE OF SERVICE**

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2 I, the undersigned, declare as follows:

3 I am employed in the County of Washoe, State of Nevada.

4 I am over the age of eighteen (18) years and not a party to the within action; my business address  
5 is 9585 Prototype Court, Suite B, Reno Nevada, 89521.

6 On December 30, 2015, I served the foregoing documents describes as:

7 1. Plaintiffs' Notice of Application and Application for Approval of Attorney's Fees,  
8 Costs and Incentive Awards for Named Plaintiffs.

9 2. Declaration of Charles A. Jones in Supports of Application for Approval of Attorney's  
10 Fees, Costs and Incentive Awards for Named Plaintiffs.

11 3. Declaration of Isabel Fernandez.

12 4. Declaration of Mary Barber

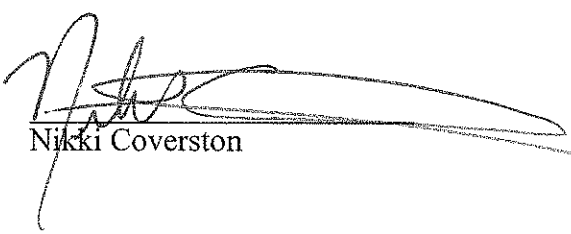
13 on all interested parties in this action addressed to the addressee as follows:

14 Catherine A. Conway  
15 GIBSON DUNN  
16 333 South Grand Ave.  
17 Los Angeles, CA 90071

18   X   (FEDERAL EXPRESS)

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

21 Executed on December 30, 2015, at Reno, Nevada.

22   
23  
24 Nikki Coverston  
25  
26  
27  
28