

1 HAMMONDLAW, P.C.
Julian Hammond (SBN 268489)
2 jhammond@hammondlawpc.com
Adrian Barnes (SBN 253131)
3 abarnes@hammondlawpc.com
Polina Brandler (SBN 269086)
4 pbrandler@hammondlawpc.com
Ari Cherniak (SBN 290071)
5 acherniak@hammondlawpc.com
1201 Pacific Avenue, Suite 600
6 Tacoma, WA 98402
(310) 601-6766
7 (310) 295-2385 (Fax)
Attorneys for Plaintiff and the Putative Class
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10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
11 **COUNTY OF SAN BERNARDINO**

12 **MONICA JACKSON**, individually and on
behalf of all others similarly situated,

13 Plaintiff,

14 vs.

15 **UNIVERSITY OF REDLANDS**, a California
16 Non-Profit Corporation,

17
18 Defendant.

Case No. CIVSB2133143

**MEMORANDUM OF POINTS AND
AUTHORITIES IN SUPPORT OF
PLAINTIFF'S MOTION FOR FINAL
APPROVAL OF CLASS ACTION
SETTLEMENT**

Date: September 18, 2023

Time: 9:00 a.m.

Dept. S26

Hon. David Cohn

1 **I. INTRODUCTION**

2 Plaintiff Monica Jackson seeks final approval of a non-reversionary \$700,000 wage and hour
3 class action settlement on behalf of 1,108 unique employees of University of Redlands (“Defendant” or
4 “Redlands”) including 1,100 current and former employees of Defendant in California including but not
5 limited to Adjunct Professor Class Members (“Reimbursement Claim Class Members” or
6 “Reimbursement CMs”) from March 20, 2020 through March 1, 2022 (the “Reimbursement Claim
7 Period”); and 310 Adjunct Professors employed by Defendant (“Adjunct Professor Class Members” or
8 “AP Class Members”) from January 22, 2021 through January 24, 2023 (“Adjunct Professor Unpaid
9 Wages Class Period”)(collectively referred to as “Class Members” or “CMs”). The following chart sets
10 forth the allocation of the GSA and the Settlement Class:

	Total Amount
Gross Settlement Amount	\$700,000.00
Attorneys’ Fees	(\$233,333.33)
Litigation Costs	(\$14,964.50)
Service Award to Plaintiff	(\$10,000.00)
Claims Administration Costs	(\$10,000.00)
PAGA Allocation	(\$25,000.00)
Net Settlement Amount	\$409,202.17
Participating Class Members	1,108
No-participating Class Members	5

11 On May 5, 2023, the Court entered an order preliminarily approving the settlement, concluding
12 that the settlement was within the range of reasonableness and was the product of good faith, arm’s-
13 length negotiations. The Court ordered dissemination of a Court-approved notice of the settlement to the
14 Class Members, which was mailed on June 7, 2023. The Class’s response has been overwhelmingly
15 positive to date, with only five (5) opt outs and no objections. *See* Declaration of Kevin Lee Regarding
16 Notification and Settlement Administration (“Lee Decl.”), ¶ 8-9.

17 The uniformly positive reaction of the Class Members supports the Court’s earlier finding that
18 that the settlement is fair, adequate, and reasonable. Accordingly, Plaintiff respectfully requests that the
19 Court grant final approval of the proposed settlement.

20 **II. OVERVIEW OF THE SETTLEMENT**

21 The Settlement Agreement (“SA”) resolves all claims of the Plaintiff and the proposed Classes.
22 A summary of the settlement terms is as follows:

- 23 1. Gross Settlement Amount (“GSA”) – Redlands will pay a non-reversionary sum of
24 \$700,000 to settle this case. SA §§ 1.23, 6.1. Redlands will also pay the employer’s share of payroll
25 taxes separately from the GSA. *Id.* § 1.23.

1 2. Attorneys' Fees, Costs, and Named Plaintiff's Service Award – Class Counsel seeks
2 attorneys' fees of up to \$233,333.33 (1/3 of the GSA) and \$14,964.50 in out-of-pocket litigation costs.
3 SA § 5.2. The Settlement Agreement also provides for payment of \$7,500 to Plaintiff as her Class
4 Representative Service Award, subject to Court approval. SA § 5.3.

5 3. PAGA Payment – The Settlement allocates \$25,000 of the GSA to PAGA penalties, of
6 which 75% (\$18,750) will be paid to the California Labor and Workforce Development Agency
7 (“LWDA”) and 25% (\$6,250) will be paid to the members of the Class who worked during the PAGA
8 Period. SA § 5.4.

9 4. Settlement Administration Costs – The Parties designated Phoenix Settlement
10 Administrators (“Phoenix”) as the Settlement Administrator. SA § 1.44. Phoenix’s expenses are \$10,000.
11 Lee Decl. ¶ 13.

12 5. Net Settlement Amount (“NSA”) – The NSA will total approximately \$409,202.17. Lee
13 Decl. ¶ 13. This is the amount remaining after subtracting attorneys’ fees, costs, the service award,
14 settlement administration costs, and PAGA penalties from the GSA, subject to Court approval. The
15 average net payment to each Reimbursement Claim Settlement Class Member is \$334.80 and the highest
16 estimated net payment is \$877.53. Lee Decl. ¶ 15. The average net payment to each Adjunct Professor
17 Settlement Class Member is \$132.00 and the highest estimated net payment is \$512.64. Lee Decl. ¶ 16.

18 6. Release and Final Judgment – The release contemplated by the proposed Settlement
19 Agreement corresponds to the claims alleged in the First Amended Complaint or that could have been
20 alleged based on the facts asserted therein on Class Members’ behalves including claims under Labor
21 Code §§ 201-203, 226(a), (e), 226.2, 226.7, 510, 1194, 2802, 2699 et seq., and IWC Wage Order No. 4-
22 2001, §§ 3, 4, 12, and Business & Professions Code §§ 17200 et seq. SA § 6.1. The Named Plaintiff will
23 also give an additional general release against Defendant. SA § 6.3.

24 **III. OVERVIEW OF NOTICE ADMINISTRATION**

25 **A. The Class Received Adequate Notice of the Settlement**

26 Following the Court’s order granting preliminary approval of the proposed settlement, the
27 Settlement Administrator mailed the Class Notice to 1,113 Class Members contained in the Class List
28 provided by Defendant. Lee Decl. ¶ 3. Before mailing the Court-approved Notice, the Settlement
Administrator updated addresses for the Class Members using the National Change of Address database.
Id. ¶ 4. The Notice fairly and clearly described the proposed settlement terms for monetary relief, the
amount of the service award requested for the Class Representative, attorneys’ fees and costs, settlement
administration costs, and the manner in which Class Members could object to or request exclusion from
the settlement or challenge the number of pay periods reflected in the Class Notice. *See* Lee Decl. Ex. A.

1 The Class Notice also provided each Class Member with an estimate of their award from the settlement
2 and an explanation of how each share would be calculated. *Id.* After the initial mailing, 22 Class Notices
3 were returned as undeliverable. Lee Decl. ¶ 6. Of these 22 undelivered Class Notices, 21 updated
4 addresses were obtained and remailed, which means that 99.99% of the Notices were successfully mailed
5 to the Class. Lee Decl. ¶ 7.

6 **B. No Class Members Objected, and Only Five Class Members Opted Out**

7 The deadline to file an objection or opt out was July 22, 2023. Lee Decl. ¶¶ 8, 9. As of the filing
8 of this Motion, which is over a month after the Response Deadline, no objections to the settlement were
9 filed and only five (5) requests for exclusion were submitted. *Id.*

10 **C. There Were No Challenges to Pay Period Calculations**

11 The Notice provided Class Members with directions for how to dispute the pay periods included
12 in their Notice and that formed the basis for their settlement shares. The Settlement Administrator received
13 no disputes. *Id.* ¶ 10.

14 **IV. THE COURT SHOULD GRANT FINAL APPROVAL OF THE SETTLEMENT**

15 **A. Legal Standard for Granting Final Approval**

16 Court approval is required for the settlement of a class action. *See* Cal. Rule of Court 3.769. In
17 reviewing a proposed class settlement for approval, the Court has broad discretion, and the Court’s
18 decision may be reversed only upon a strong showing of clear abuse of discretion. *Wershba v. Apple*
19 *Computer, Inc.*, 91 Cal. App. 4th 224, 234-35 (2001); *Kullar v. Foot Locker Retail, Inc.*, 168 Cal. App.
20 4th 116, 127-28 (2008).

21 Plaintiff now requests this Court to make a final determination that the proposed settlement is
22 fair, reasonable, and adequate. *See Officers for Justice v. Civil Serv. Comm'n. of the City & Cnty. of S.F.*,
23 688 F.2d 615, 625 (9th Cir. 1982). The law favors settlement, particularly in class actions where
24 substantial resources can be conserved by avoiding the time, cost, and rigors of formal litigation. *See*,
25 *e.g., 7-Eleven Owners for Fair Franchising v. Southland Corp.*, 85 Cal. App. 4th 1135, 1151 (2000) (“7-
26 11”); *Neary v. Regents of Univ. of Cal.*, 3 Cal. 4th 273, 277-281 (1992); *Lealao v. Beneficial Cal., Inc.*,
27 82 Cal. App. 4th 19, 52 (2000).

28 In analyzing whether a settlement is fair and reasonable, courts consider a number of factors,
including: (1) the amount offered in settlement; (2) the risk, expense, complexity, and likely duration of
further class action litigation; (3) the extent of discovery completed and the stage of the proceedings; (4)
the experience and view of counsel, and (5) the reaction of the Class to the proposed settlement. *Dunk*
v. Ford Motor Co., 48 Cal. App. 4th 1794, 1801 (1996); *Kullar*, 168 Cal. App. 4th at 133 (court must be
provided with information about nature and magnitude of claims and the basis for concluding that

1 consideration being paid represents reasonable compromise); *Clark v. Am. Residential Services, LLC*,
2 175 Cal. App. 4th 785, 790, 802-03 (2009).

3 The Court’s role is limited to making a reasoned judgment that the proposed class settlement
4 agreement is not the product of fraud or overreaching by, or collusion between, the negotiating parties,
5 and that the settlement as a whole is fair, reasonable, and adequate to the Class. “[T]he settlement or
6 fairness hearing is not to be turned into a trial or rehearsal for trial on the merits.” 7-11, 85 Cal. App. 4th
7 at 1145 (citation omitted). “Due regard should be given to what is otherwise a private consensual
8 agreement between the parties.” *Dunk*, 48 Cal. App. 4th at 1801.

8 **B. The Settlement Terms Are Presumptively Fair Based on the Settlement Process
and Uniform Support by the Class Member**

9 A settlement agreement is presumptively fair when it is (1) the product of arm’s-length
10 bargaining; (2) supported by sufficient investigation or discovery to allow assessment of plaintiff’s
11 claims; (3) supported by experienced counsel; and (4) subject to only a small percentage of objections.
12 *See Dunk*, 48 Cal. App. 4th at 1802; 7-11, 85 Cal. App. 4th at 1146. As described in detail in the
13 preliminary approval papers filed on December 27, 2022, this settlement satisfies these factors. The
14 settlement, therefore, is presumptively fair and reasonable.

15 First, the settlement was reached after an arm’s length negotiation between the parties. *See*
16 Declaration of Julian Hammond ISO Pls.’ Mot. for Final Approval of Class Action Settlement and Mot.
17 for Approval of Attorneys’ Fees etc. (“Hammond Final Decl.”) ¶ 21. Second, Class Counsel conducted
18 thorough and extensive investigation of Plaintiff’s claims, and analyzed substantial documents and data
19 obtained from Defendant for purposes of settlement negotiations prior to engaging in settlement
20 negotiations. *Id.* ¶¶ 18-19. Third, Class Counsel is highly skilled and experienced in similar cases and
21 has extensive class action litigation experience. Hammond Law has been appointed class counsel in
22 numerous class actions and has represented thousands of adjunct instructors in similar unpaid wage cases
23 since 2016, and recently litigated one such case successfully all the way through a trial and appeal. (*Gola*
24 *v. University of San Francisco*, 90 Cal. App. 5th 548 (2023), pet’n denied July 14, 2023). Hammond
25 Final Decl. ¶ 28. Fourth, as stated above, to date, none of the 1,113 Class Members objected to the
26 settlement and only 5 have opted out. Lee Decl. ¶¶ 8, 9. Further, the fact that many Class Members are
27 sophisticated university-level instructor makes the “the magnitude of the favorable
28 response...particularly impressive.” *Id.* at 1152-53. The settlement is thus presumptively fair,
reasonable, and adequate, and should be finally approved.

27 ///

1 **C. The Settlement Terms Are Fair, Reasonable and Adequate in Relation to the**
2 **Potential Benefits and Risks of Further Litigation**

3 The Court should also grant final approval of the settlement based on the following factors which
4 evince the fairness, reasonableness, and adequacy of the settlement: (1) the value of the settlement; (2)
5 the risks inherent in continued litigation; (3) the extent of discovery completed and the stage of the
6 proceedings when settlement was reached; (4) the complexity, expense, and likely duration of the
7 litigation in the absence of settlement; (5) the experience and views of class counsel; and (6) the reaction
8 of the class members. *See Wershba*, 91 Cal. App. 4th at 244-45; *Dunk*, 48 Cal. App. 4th at 1801.

9 **1. The Value of the Settlement Favors Final Approval When Considered Against the**
10 **Risk, Expense, and Complexity of Continued Litigation**

11 The first two elements for determining whether a settlement is fair, reasonable, and adequate are
12 the amount offered in the settlement and the risk, expense, complexity, and likely duration of further
13 class action litigation. Both of these factors support approving the settlement.

14 The \$700,000 Gross Settlement Amount, of which approximately \$409,202.17 will be distributed
15 to both Classes, provides Class Members with very meaningful financial relief. Lee Decl. ¶ 13. 99.96%
16 of the Class Members will participate in this settlement, with an average Reimbursement Claim
17 Settlement Claim payment of \$334.80 and the highest net payment of \$877.53, and an average Adjunct
18 Professor Settlement Claim payment of \$132.00 and the highest net payment of \$512.64. Lee Decl. ¶¶
19 15, 16. In addition, Class Members who worked during the PAGA Period will also receive their share
20 of PAGA Penalties. Lee Decl. ¶ 17.

21 The financial relief provided by the settlement is commensurate with the risks posed by continued
22 litigation and is based on substantial damages calculations and evidence. At preliminary approval,
23 Plaintiff calculated the maximum total amount that Class Members could recover as \$2,111,830.
24 Hammond Final Decl. ¶ 45. As discussed in detail in the preliminary approval submission, Plaintiff's
25 Counsel believes that the realistic recovery in this case was \$1,195,870 based on the Defendant's
26 contentions that (a) Plaintiff would recover nothing for the Adjunct Professor Class in light of
27 Defendant's written policy and practice requiring Adjunct Professors to record all time worked and
28 prohibited any off-the-clock work, and thus the APs were paid for training time because they submitted
 their training time on their timesheets; (b) that Defendant paid out \$744,659 in expense reimbursements
 to its employees during the Reimbursement Claim Period, and all remote expenses that were submitted
 were reimbursed; (c) most of the Reimbursement Claim CMs returned to work to the office by summer
 2021 so Defendant had no liability after that; (d) that any actual remote work expenses incurred by the
 Reimbursement Claim Class were much lower than Plaintiff estimated; (e) that Plaintiff would not be
 able to certify her Adjunct Professor class claims because whether they attended training, whether the

1 training was mandatory, whether they submitted their hours and were paid, and whether Defendant knew
2 or should have known about each individual Adjunct’s training, would lead to multiple individualized
3 inquires; and (e) Plaintiff would not be able to certify her Reimbursement class claims because which
4 departments and schools Reimbursement CMs worked in, and when they started and ended to work-
5 from-home, would lead to multiple individualized inquires as well. Hammond Final Decl. ¶¶ 45-48.

6 Therefore, the Gross Settlement Amount, which is 33% of the maximum recovery on all claims
7 and 59% of the Class’s realistic recovery, falls well within the range of reasonableness. Id. ¶ 45. This
8 percentage of recovery is consistent with other settlements that other courts have approved as reasonable.
9 *See, e.g., In re Omnivision Technologies, Inc.*, 559 F. Supp. 2d 1036, 1042 (N.D. Cal. 2008) (approving
10 settlement that constituted 9% of the maximum potential damages); *Rodriguez v. W. Publ’g Corp.*, 563
11 F.3d 948, 965 (9th Cir. 2009) (approving settlement amounting to 30% of the damages estimated by the
12 class expert; court noted that even if the plaintiffs were entitled to treble damages that settlement would
13 be approximately 10% of the estimated damages).

12 **2. Plaintiff Conducted Thorough Investigation and Discovery**

13 Plaintiff conducted thorough investigation and reviewed and analyzed highly relevant class data
14 and documents provided by Defendant as part of informal discovery and gathered additional documents
15 and information available online. Hammond Final Decl. ¶ 18. Based on the information obtained, Plaintiff
16 was able to calculate the class sizes, the number of weeks worked by the Classes, the amount Class
17 Members were reimbursed during the Class Period, and AP Class Members’ average hourly rate for
18 purposes of calculating unpaid training time. *Id.* ¶¶ 18-19. Plaintiff prepared a detailed damages analysis
19 to identify the range of settlement figures for the claims alleged. Hammond Final Decl. ¶ 19. Thus,
20 Plaintiff was adequately informed to make the decision to settle this case on the proposed terms. Further,
21 the settlement was reached through arm’s-length settlement negotiations between highly skilled counsel
22 with extensive experience in the particular claims alleged by the Plaintiff. Hammond Final Decl. ¶ 26.

22 **3. Class Counsel’s Experience and Views Favor Final Approval**

23 As discussed above, Class Counsel is highly experienced and has a successful track record in
24 handling wage and hour class actions and those on behalf of university professors and instructors in
25 particular. Hammond Final Decl. ¶¶ 26- 29. Class Counsel believes the settlement is fair, reasonable, and
26 adequate, and in the best interests of the Class. Hammond Final Decl. ¶ 51. The endorsement of qualified
27 and well-informed counsel regarding the settlement as fair is entitled to significant weight in the final
28 approval process. *See Dunk*, 48 Cal. App. 4th at 1802.

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1 **4. Class Members’ Uniformly Positive Reaction to the Settlement Favors Settlement**

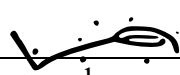
2 The final element of a fair, reasonable, and adequate settlement is a positive reaction by the Class
3 to the settlement’s terms. The Class’s uniformly positive response to the settlement here strongly favors
4 final approval. As discussed above, to date, none of the 1,113 class members have objected and only 5
5 has opted out. Lee Decl. ¶¶ 8-9. *See, e.g., 7-11, 85 Cal. App. 4th at 1152-53 (1.5% opt-out rate and 0.1%*
6 *objection rate supported final approval); Nat’l Rural Telecomm. Coop. v. DIRECTV, Inc., 221 F.R.D.*
7 *523, 529 (C.D. Cal. 2004) (“[T]he absence of a large number of objections to a proposed class action*
8 *settlement raises a strong presumption that the terms of a proposed class action settlement are favorable*
9 *to the class members.”). The positive response in this case indicates universal acceptance of the*
10 *settlement’s terms by the Class and supports approval of the settlement.*

11 **V. CONCLUSION**

12 Because the settlement provides benefits that are demonstrably fair in relation to the potential risk
13 and benefits of continued litigation, is supported by a robust evidentiary record, is endorsed by counsel
14 with extensive experience in wage and hour litigation, and is overwhelmingly supported by the Class,
15 Plaintiff respectfully requests that the Court grant final approval of the settlement as fair, reasonable, and
16 adequate.

17 Dated: August 24, 2023

Respectfully submitted,

18 
19 _____
20 Julian Hammond
21 Polina Brandler
22 Attorneys for Plaintiff and the Putative Class