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9 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

10 **FOR THE COUNTY OF LOS ANGELES – SPRING STREET COURTHOUSE**

11  
12 JEFF ROSS, ROXANNE OLIVEIRA, and  
13 NATASHA SCOTT, on behalf of  
themselves and all others similarly situated,

14 Plaintiffs,

15 v.

16 PANDA RESTAURANT GROUP, INC.,  
17 and DOES 1-50, inclusive,

18 Defendant.

Case No. 21STCV03662  
(Assigned to Hon. Lawrence P. Riff, Dept. 7)

CLASS ACTION

**PLAINTIFFS' MEMORANDUM OF  
POINTS AND AUTHORITIES IN  
SUPPORT OF UNOPPOSED MOTION  
FOR ATTORNEYS' FEES, EXPENSES,  
AND CLASS REPRESENTATIVE  
SERVICE AWARDS**

[Notice of Unopposed Motion for Attorneys'  
Fees, Expenses, and Class Representative  
Service Awards; Declaration of Jeffrey D.  
Kaliel; [Proposed] Order; *Ex Parte*  
Application to File Memorandum in Excess of  
Page Limit; and [Proposed] Order Granting  
*Ex Parte* Application filed concurrently  
herewith]

Hearing Date: November 8, 2023  
Time: 10:00 a.m.  
Department: 7

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Trial date: None

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1       **I. INTRODUCTION**

2               Plaintiffs Jeff Ross, Roxanne Oliveira, and Natasha Scott (“Plaintiffs”) attained preliminary  
3 approval of a nationwide class action settlement with Defendant Panda Restaurant Group, Inc.  
4 (“Panda”), the terms and conditions of which are set forth in the Amended Joint Stipulation of Class  
5 Action Settlement (the “Agreement”) submitted in conjunction with Plaintiffs’ Supplemental Brief  
6 in Support of Preliminary Approval of Class Action Settlement filed on May 12, 2023.

7               The Notice program has now been completed, with emails having been sent to Settlement  
8 Class Members as instructed by the Court’s Preliminary Approval Order. Plaintiffs will move for  
9 final approval of the Settlement on October 6, 2023, after the deadline for Settlement Class Members  
10 to object to or opt-out of the Settlement runs on August 5, 2023. In order to ensure Settlement Class  
11 Members have a chance to review fully Class Counsel’s request for attorneys’ fees, expenses, and  
12 Class Representatives’ service awards, Class Counsel is filing this Motion now. This Motion will  
13 also be published on the Settlement website for review by Settlement Class Members.

14               This case was the result of a significant investigation into delivery fee practices  
15 industrywide, well before the complaint was ever filed. Subsequently, Class Counsel drafted and  
16 filed two complaints in two different jurisdictions, then engaged in informal discovery and extensive  
17 settlement negotiations (including two mediations) overseen by a well-respected neutral, former  
18 U.S. District Court Judge Andrew Guilford (Ret.). The Settlement is an excellent result in this novel  
19 action with merits risks and uncertain odds of a contested class certification motion—indeed, this is  
20 one of the first lawsuits in the nation challenging “delivery fees” that, allegedly, are not actually the  
21 flat, low cost as represented. The most important benefit of the proposed Settlement is one that will  
22 benefit all Settlement Class Members and all current and future users of Panda’s delivery services  
23 nationwide: Panda has stopped charging its “Service Fee” entirely and agrees that it will not charge  
24 a Service Fee on delivery orders for four (4) years from the Effective Date of the Agreement.  
25 Plaintiffs estimate that this results in a saving of at least \$12,000,000 to consumers nationwide.  
26 Declaration of Jeffrey D. Kaliel (“Kaliel Decl.”), ¶ 2. But that is not all. The Settlement also secures  
27 a substantial monetary benefit for Settlement Class Members. As detailed below, the Settlement  
28

1 provides: (a) a cash fund of **\$900,000.00**, and (b) an additional fund of **\$500,000.00** in free medium  
2 entrée Vouchers at Panda Express, up to two (2) Vouchers per Class Member, which can be used  
3 without any further purchase. By submitting a timely and valid claim, Settlement Class Members  
4 will have the option to participate in either the cash or Voucher portion of the Settlement.

5 Subject to the Court’s approval requested herein, the \$900,000.00 cash portion of the Gross  
6 Settlement will also be used to pay court-approved Class Representative Service Awards to each  
7 named Plaintiff to compensate them for the time they spent, the risks they incurred, and the benefits  
8 they obtained for the Settlement class by serving as class representatives (maximum of \$5,000 each);  
9 Class Counsel’s attorneys’ fees of no more than 33% of the \$1,400,000 Gross Settlement  
10 (\$462,000); Class Counsel’s reasonable costs incurred in prosecuting the action are \$16,382.20;  
11 and the costs of notice and settlement administration to the Settlement Administrator (not to exceed  
12 \$105,000). Defendant does not oppose any of the relief sought in this Motion.

13 Class Counsel are entitled to seek fees and costs for their efforts and success. Indeed, Class  
14 Counsel obtained the above benefits for the Settlement Class with hard work and creativity,  
15 investing hundreds of hours of time in this matter—including a significant amount of innovative  
16 investigation at the forefront of litigation. When this case was filed, Plaintiffs were unaware of any  
17 other case in the country challenging the assessment of hidden delivery fees (other than one other  
18 delivery fee class action filed by Plaintiffs’ counsel at that time). With no precedent upon which to  
19 rely, Class Counsel faced significant risks in filing the Actions. Without their hard work, and that  
20 of the Class Representatives, Panda’s alleged practices would have remained shrouded in darkness,  
21 without challenge or notice to the Class.

22 Accordingly, Plaintiffs’ unopposed request for attorneys’ fees, costs, and service awards  
23 should be granted.

24 **II. SUMMARY OF THE LITIGATION**

25 **A. Plaintiffs’ Allegations**

26 Plaintiffs’ class action claims arise out of allegations that Panda unfairly obscures its true  
27 delivery charges by falsely marketing a flat, low cost delivery fee of \$2.95 to consumers for food  
28



1 purchases placed on its App and website. On delivery orders only, Panda assesses an additional  
2 charge it calls a “Service Fee” which amounts to 10% more for the same food received by non-  
3 delivery customers. Kalief Decl., ¶ 3. Plaintiffs contend that because this Fee is exclusively charged  
4 to delivery customers, and not to customers who order online and pick up their food in store, the  
5 “Service Fee”—which is included in a line item called “Taxes and Fees”—is in all actuality a hidden  
6 delivery upcharge, rendering the \$2.95 delivery fee representation false and misleading. *Id.* ¶ 4.  
7 Plaintiffs allege that by omitting, concealing, and misrepresenting material facts about Panda’s  
8 delivery service, Panda deceives consumers into making online food purchases they otherwise  
9 would not make. *Id.* ¶ 5.

10 In the Second Amended Complaint, Plaintiffs allege consumer protection claims under  
11 California and Michigan law and for breach of contract seeking monetary damages, restitution,  
12 injunctive relief, declaratory relief, and attorneys’ fees on behalf of a nationwide class of consumers  
13 who made a food delivery order through Panda’s App or website during the Class Period. *Id.* ¶ 6.

14 **B. Panda’s Defenses**

15 Panda denies that its fees for delivery were not adequately disclosed to consumers. As Panda  
16 argued in its demurrer, Panda contends that Plaintiffs cannot prove any misrepresentation because  
17 Panda’s “Service Fee” is clearly disclosed during the checkout process and is accurately described  
18 as a charge that “[h]elps maintain and improve your digital experience.” Given these multiple  
19 disclosures before checkout, Panda maintains that no reasonable customer was misled. Relatedly,  
20 Panda asserts that Plaintiffs’ claims are barred by the voluntary payment doctrine because all costs  
21 were disclosed prior to Plaintiffs finalizing and completing their orders.

22 Turning to class certification, Panda asserts that (i) what each customer saw during their  
23 personal purchasing experience; (ii) how each customer interpreted what they saw during their  
24 purchasing experience; (iii) whether customers relied on the representations alleged by Plaintiffs;  
25 and (iv) whether customers were actually confused about the Service Fee in light of the multiple  
26 disclosures provided to them, are all highly individualized inquiries that are not amenable to class  
27 treatment.  
28

1 Finally, Panda has pointed out that one of the named plaintiffs made at least five delivery  
2 orders *after* filing the Complaint in this action. In Panda’s view, those post-lawsuit purchases help  
3 disprove the central elements of deception, materiality, causation, and injury, and they would  
4 undermine a contested bid for class certification if this settlement is not approved.

5 **C. Procedural History**

6 Plaintiff Jeff Ross and Roxanne Oliveira filed their complaint on January 29, 2021, in the  
7 Superior Court of California, County of Los Angeles on behalf of all California consumers who  
8 purchased food for delivery from Panda Express’s App or website alleging violations of California’s  
9 Unfair Competition Law (the “UCL”) and California’s Consumer Legal Remedies Act (the  
10 “CLRA”). (*See Ross, et al. v. Panda Restaurant Group, Inc.*, Case No. 21STCV03662) (the “*Ross*  
11 *Action*.”). Plaintiff Natasha Scott filed her complaint on July 1, 2021, in the United States District  
12 Court, Central District of California on behalf of a similar class alleging violations of the UCL,  
13 CLRA, and Michigan’s Consumer Protection Act (the “MCPA”). (*See Scott v. Panda Restaurant*  
14 *Group, Inc.*, Case No. 2:21-cv-05368-MCS-GJS) (the “*Scott Action*”).

15 Panda filed a demurrer in the *Ross Action*, which was overruled on November 3, 2021.  
16 Panda filed a motion to dismiss in the *Scott Action*, which was fully briefed and pending before the  
17 Court at the time the Parties agreed to stay each case pending the conclusion of mediation.

18 On February 9, 2022, the Parties attended a full-day mediation before Judge Andrew  
19 Guilford (Ret.), who previously served as U.S. District Court Judge in the Central District of  
20 California. *Kaliel Decl.*, ¶ 7. In preparation for mediation and for several months throughout the  
21 settlement negotiations, the Parties engaged in informal discovery. Plaintiff requested, and Panda  
22 provided, voluminous information regarding Panda’s policies, practices, and procedures related to  
23 the marketing and pricing of delivery orders during the Class Period. *Id.* ¶ 8. Panda also provided  
24 detailed sales data and data analysis regarding delivery orders, users, and fees. *Id.*, ¶ 9. The matter  
25 did not settle at the mediation, but the Parties continued lengthy negotiations and ultimately agreed  
26 to the material terms of settlement, resulting in the Agreement now before the Court. *Id.* ¶ 10. The  
27 Parties subsequently engaged in confirmatory discovery on class membership and damages. *Id.*, ¶  
28

1 11.

2 The Parties' rigorous efforts in securing the Settlement continued through the preliminary  
3 approval stage. The Court carefully scrutinized the terms of the Settlement and required  
4 supplemental briefing to address outstanding concerns and to clarify specific provisions in the  
5 Agreement and the Notices, including but not limited to, the scope of Panda's potential damages  
6 exposure, justification for the claims process and how counsel will encourage claim submissions,  
7 and the agreed-upon procedures for any undeliverable email notices. *Id.*, ¶ 12. Additionally, the  
8 Parties submitted an Amended Joint Stipulation of Class Action Settlement that designates the State  
9 Bar of California's Justice Gap Fund as a *cy pres* recipient in the very unlikely event there is an  
10 undistributed remainder of the cash portion of the Net Settlement Amount. *Id.*, ¶ 13.

11 On June 7, 2023, after the Court thoroughly examined the Settlement, the Amended Joint  
12 Stipulation, and supplemental briefing to ensure the Settlement was provisionally fair, adequate,  
13 and reasonable, the Court entered its Preliminary Approval Order, conditionally approving the  
14 Settlement and certifying the Class for settlement purposes only.

15 **III. SUMMARY OF SETTLEMENT**

16 **A. Settlement Negotiations**

17 As noted above, the settlement was aggressively negotiated with the assistance of Judge  
18 Andrew Guilford (Ret.), a well-respected mediator who presided over an arm's-length mediation  
19 between capable and experienced class action counsel on both sides. *Kaliel Decl.*, ¶ 14. The Parties  
20 engaged in a significant amount of informal and confirmatory discovery in order to assist Class  
21 Counsel in vetting and assessing the claims of Settlement Class Members and Panda's defenses to  
22 those claims prior to reaching this Agreement. *Id.* ¶ 15. The information provided included, but was  
23 not limited to, the nature, timing, geographic scope and implementation of Panda's advertisements,  
24 marketing materials, and disclosures on its website and App regarding delivery fees and service  
25 fees; each Plaintiffs' purchasing history with Panda; the number of customers who purchased food  
26 for delivery on Panda's website and App; and the approximate fees and prices charged to customers  
27 who purchased food for delivery on Panda's website and App. *Id.* ¶ 16. Importantly, the Parties did  
28

1 not discuss attorneys' fees and costs, nor any potential service awards, until they first agreed on the  
2 material terms of the settlement, including the definition of the Class, notice, class benefits, and  
3 scope of the releases. *Id.* ¶ 17.

4 **B. The Proposed Settlement**

5 The Parties have entered into the Agreement, which completely resolves the *Ross* Action  
6 and the *Scott* Action—both of which the Parties have agreed will be stayed while approval of this  
7 proposed Settlement is pending. Kalliel Decl., ¶ 18. The Agreement includes the following material  
8 terms:

9 **1. Class Certification**

10 For settlement purposes, the Parties have agreed to certify the Class defined as:

11 **Settlement Class** means persons within the United States who at any time between  
12 July 17, 2020, and February 16, 2022 placed an order for delivery through Panda's  
13 website or mobile application where a Service Fee was charged in connection with that  
delivery order.

14 *See* Agreement at ¶ 9.<sup>1</sup>

15 **2. Class Benefits**

16 Class Counsel believes that the contemplated benefits addressed below adequately  
17 compensate the Settlement Class for the harm they suffered and, in light of the risks of litigation,  
18 represent an excellent result for the Settlement Class. Kalliel Decl., ¶ 19. According to Panda's  
19 records, approximately 1,385,236 distinct email addresses were used in connection with purchases  
20 during the Class Period where a Service Fee was charged.

21 **a. Settlement Funds**

22 Within 10 business days of the Effective Date of the Settlement, Panda will deposit the  
23 \$900,000.00 cash portion into a Qualified Settlement Fund ("QSF") to be established by the  
24 Settlement Administrator. Agreement, ¶ 41. The QSF will be used to pay (1) the cash component of  
25 the Participating Class Members Individual Settlement Recoveries; (2) Class Counsel's Fees; (3)  
26 Class Counsel's Costs; (4) Class Representatives' Service Awards; and (5) the Settlement

27 \_\_\_\_\_  
28 <sup>1</sup> The Parties agreed to a February 16, 2022 cut-off because that is when Panda updated its business  
practice and stopped charging the Service Fee.

1 Administrator’s Costs. *Id.* ¶¶ 38(a). The amount of cash of the Individual Settlement Recoveries is  
2 to be determined on a pro rata basis shared equally amongst those Participating Class Members after  
3 deduction for the Class Representatives’ Service Awards, Class Counsel’s Fees and Costs, and  
4 Settlement Administrator costs. *Id.*

5         Additionally, Panda will make \$500,000.00 in Vouchers available to Participating Class  
6 Members (currently estimated at a maximum retail value of \$11.75) for a free medium entrée  
7 through Panda’s mobile App or website. *Id.* ¶¶ 35, 38(b). Participating Class Members may receive  
8 up to two Vouchers. *Id.* ¶ 38(b). The Vouchers provide a real benefit to the Settlement Class in that  
9 they are able to receive up to two free entrees from Panda at no charge *and do not have to spend*  
10 *any of their own money in order to retain this benefit.* (See *Chavez v. Netflix, Inc.* (2008) 162  
11 Cal.App.4th 43, 53-55 [finding settlement benefit of providing free DVD rentals worth \$6 to current  
12 subscribers was fair and reasonable because class members were “being offered an opportunity to  
13 obtain a limited number of rentals at *no charge.*”] [emphasis in original].) Such settlements have  
14 been routinely embraced in California courts as being fair and reasonable. (See *e.g., Aaron Aseltine,*  
15 *et al. v. Chipotle Mexican Grill, Inc.* (Sept. 14, 2022) Super. Ct. Cal., Alameda Cnty., No.  
16 RG21088118 [granting final approval in similar delivery fee class action settlement that provided  
17 class members with the opportunity to claim a voucher for one free entrée worth \$8.50]; *In re*  
18 *Microsoft I-V Cases* (2006) 135 Cal.App.4th 706, 711-13 [affirming approval of class action  
19 settlement that provided computer software vouchers to class]; *Wershba v. Apple Computer, Inc.*  
20 (2001) 91 Cal.App.4th 224, 247 [affirming finding that \$50 coupons for redemption at Apple’s  
21 online store were reasonable]; *Dunk v. Ford Motor Co.*, (1996) 48 Cal.App.4th 1794, 1804-05.)

22                   **b.         Claims Process**

23         Given that Plaintiffs’ allegations exclusively regard consumers’ very recent use of Panda’s  
24 App and website in order to place food orders for delivery (only since early 2020)—and that a valid  
25 email address is a requirement of placing such an order— Panda maintains electronic customer  
26 contact information. Panda has agreed to provide this information to the Settlement Administrator,  
27 who will give direct e-mail notice to the Settlement Class Members. And for those Class Members  
28

1 who might not receive or read the Notice sent by email, the Publication Notice will provide  
2 supplemental notice that permits the Class Member to contact the Settlement Administrator to  
3 determine if they are eligible to receive a Settlement Notice and benefit. Agreement, ¶ 25. (To the  
4 extent the CLRA has additional notice requirements, the Publication Notice will satisfy those goals  
5 too.)

6 In order to receive an Individual Settlement Recovery, Participating Class Members must  
7 submit a valid and timely Claim Form to the Settlement Administrator via web form during the  
8 Claim Period. *Id.*, ¶ 39. Participating Class Members will have the option to receive either a cash  
9 payment or up to two Vouchers, and those who successfully submit a valid Claim will receive their  
10 elected Settlement benefit within 14 calendars of the funding of the Settlement. *Id.* ¶ 42. If a  
11 Participating Class Member fails to choose between a cash payment and a Voucher, or erroneously  
12 chooses both a cash payment and a Voucher, the Settlement Administrator will designate that  
13 Participating Class Member to have chosen the cash option. *Id.* ¶ 38(b).

14 The Claim Forms are accessible via one click in the Email Notice and through the settlement  
15 website. *Id.* ¶ 39. The Claim Forms do not require that the Settlement Class Member submit any  
16 proof of purchase or other supporting documentation. *See* Claim Form, attached as Agreement, Ex.  
17 B. The Claim Forms only require the Participating Class Member to verify their name, email  
18 address, phone number, unique ID Code (provided by email), and certify that they are eligible class  
19 members seeking to participate in the settlement—all of which can be performed on any mobile  
20 device or personal computer with ease.

21 **c. Change to Business Practice**

22 Beginning on or around February 16, 2022, Panda stopped the exact business practice that  
23 Plaintiffs' lawsuit challenged by ceasing its assessment of a Service Fee on delivery orders placed  
24 through Panda's mobile App and website. Agreement, ¶ 38(c). Panda further agrees that it will not  
25 charge a Service Fee on delivery orders for a period of 4 years from the Effective Date of the  
26 Agreement. *Id.*

27 **d. Settlement Releases**

1           The Agreement includes a narrow release by Participating Class Members of Released  
2 Claims that arose during the Class Period and that reasonably arise out of or relate to the claims  
3 alleged in the Action. Agreement, ¶¶ 27-28, 58.

4           The Agreement also includes a General Release and waiver of California Civil Code Section  
5 1542 as to the named Plaintiffs only. *Id.* ¶ 59.

6 **IV. ARGUMENT**

7           **A. The Court Should Grant the Requested Attorneys’ Fees Based on Either a**  
8           **Lodestar Evaluation or a Percentage of the Recovery Calculation**

9           Class Counsel’s total request for attorneys’ fees amounts to \$462,000.00, representing one-  
10 third, or 33% of the Gross Settlement amount.

11           A plaintiff who obtains a settlement on behalf of absentee class members is allowed to  
12 recover reasonable attorneys’ fees and costs incurred in the litigation. (*See, e.g., Mills v. Electric*  
13 *Auto-Lite Co.* (1970) 396 U.S. 375, 391-92 [recognizing the right of class action plaintiffs who have  
14 obtained a settlement to recover attorneys’ fees and costs because, “[t]o allow the others to obtain  
15 full benefit from the plaintiff’s efforts without contributing equally to the litigation expenses would  
16 be to enrich the others unjustly at the plaintiff’s expense.”]; *see also Boeing Co. v. Van Gemert*  
17 (1980) 444 U.S. 472, 473.) Contingency fee litigation such as this is risky and costly, with no  
18 guarantee of success. Despite this risk, Class Counsel have secured an excellent result in this  
19 litigation, and submit that a total award of \$462,000.00 in attorneys’ fees is therefore appropriate.  
20 As explained below, the requested fee is more than reasonable, as it represents an amount *less* than  
21 Class Counsel’s actual lodestar. Indeed, “a trial court acts appropriately—and it certainly does not  
22 abuse its discretion” when it awards fees as a percentage of the common fund in an amount agreed  
23 upon by the parties, where such agreed-upon cap “results in a *lower* award than would be authorized  
24 under the lodestar method.” (*Roos v. Honeywell International, Inc.* (2015) 241 Cal.App.4th 1472,  
25 1495, *disapproved on other grounds by Hernandez v. Restoration Hardware, Inc.* (2018) 4 Cal.5th  
26 260.)

1           Ultimately, regardless of whether attorneys’ fees are determined using the lodestar method  
2 or awarded based on a “percentage-of-the-benefit” analysis under the common fund doctrine, “[t]he  
3 ultimate goal ... is the award of a “reasonable” fee to compensate counsel for their efforts,  
4 irrespective of the method of calculation.’ [Citations.]” (*Apple Computer, Inc. v. Superior Court*  
5 (2005) 126 Cal.App.4th 1253, 1270.)

6           Respectfully, the fee award sought herein is reasonable—under both the common benefit  
7 approach and the lodestar approach.

8                           **1.     The Requested Fee is Reasonable Under the Lodestar Method**

9           The requested attorneys’ fees are reasonable, fair, and appropriate under the lodestar  
10 approach. Under the lodestar approach, the court computes the “lodestar” amount by multiplying  
11 the number of hours reasonably expended by each attorney or legal staff member by their reasonable  
12 hourly rates. (*See Serrano v. Priest* (1977) 20 Cal.3d 25, 48 (“*Serrano III*”).) However, “the lodestar  
13 formula does not limit consideration to hours expended and hourly rate, though that is the foundation  
14 of the calculation.” (*Lealao*, 82 Cal.App.4th at p. 40.) The court then enhances this lodestar figure  
15 by a “multiplier” to account for a range of factors, such as the novelty and difficulty of the case, its  
16 contingent nature, and the degree of success achieved. (*See Serrano III, supra*, 20 Cal.2d at p. 49;  
17 *see also Lealao, supra*, 82 Cal.App.4th at p. 26; *Thayer v. Wells Fargo Bank* (2001) 92 Cal.App.4th  
18 819, 834 [“[t]here is no hard-and-fast rule limiting the factors that may justify an exercise of judicial  
19 discretion to increase or decrease a lodestar calculation”].) Class Counsel’s fee demand is more than  
20 justified based upon the lodestar method of calculating fees, as Class Counsel is seeking virtually  
21 no multiplier—its lodestar is commensurate with the fee claimed. As described in more detail below,  
22 Class Counsel has expended over 600 hours of work in this litigation, and its lodestar is \$454,869,  
23 which is only very slightly lower than the \$462,000 in attorneys’ fees requested.

24                           **a.     The Number of Hours Claimed is Reasonable**

25           Counsel for prevailing parties are entitled to be compensated “for all time reasonably  
26 expended in pursuit of the ultimate result achieved in the same manner that an attorney traditionally  
27 is compensated by a fee-paying client for all time reasonably expended on a matter.” (*Hensley v.*  
28



1 *Eckerhart* (1983) 461 U.S. 424, 431 [internal quotes and citation omitted]; *see also Serrano v.*  
2 *Unruh* (1982) 32 Cal.3d 621, 633 (“*Serrano IV*”) [parties “should recover for all hours reasonably  
3 spent, including those on fee-related matters”].) Class Counsel spent a significant amount of time  
4 on this first-of-its kind case, including an extensive and sophisticated initial investigation that  
5 culminated in the Class Action Complaints. Given the complexity of the issues involved, the  
6 exceptional results obtained, an extended settlement negotiation, and the execution of a large notice  
7 program, the 620 hours expended on the case have been necessary and reasonable. Class Counsel’s  
8 time is detailed by the Declaration submitted concurrently with this Motion. *See* Kaliel Decl., ¶ 20.

9 The lodestar method looks to the number of hours reasonably expended multiplied by the  
10 reasonable hourly rate. (*PLCM Grp. v. Drexler* (2000) 22 Cal.4th 1084, 1095.) Trial courts that  
11 conduct lodestar cross-checks “have generally not been required to closely scrutinize each claimed  
12 attorney-hour, but have instead used information on attorney time spent to focus on the general  
13 question of whether the fee award appropriately reflects the degree of time and effort expended by  
14 the attorneys.” (*Laffitte*, 1 Cal.5th at p. 505 [internal citations and quotation marks omitted].) Here,  
15 the time and effort expended supports Plaintiffs’ fee award request.

16 Plaintiffs’ counsel has spent approximately 620 hours performing necessary work on behalf  
17 of the Class, from investigating and gathering evidence in support of the claims resolved by the  
18 Settlement; drafting the original complaints, then the Amended Complaints; conferring with the  
19 class representatives; regularly researching critical legal issues; performing discovery; preparing for  
20 mediation including by researching and drafting a comprehensive mediation statement; attending  
21 mediation on two separate occasions; negotiating and drafting the Agreement with Defendant’s  
22 counsel that provides substantial benefits to the Settlement Class, moving for and obtaining  
23 preliminary approval, including providing supplemental briefing to address outstanding questions  
24 for the Court; overseeing the Settlement Administrator’s efforts to provide notice to the Class; and  
25 preparing the Motion for Final Approval. *Id.*, ¶ 22.

26 In addition to the extensive work already performed, Counsel will need to continue to work  
27 on the case after final approval is granted, including working with the Settlement Administrator to  
28

1 ensure that all individual payments are made. Class Counsel’s 620 reasonable hours worked  
2 multiplied by Plaintiffs’ Counsel’s reasonable rates amount to a lodestar of over \$454,870.70.  
3 Because Class Counsel’s lodestar is essentially equal to the cap on fees as set forth in the Agreement,  
4 virtually no lodestar multiplier is needed. As such, the lodestar method demonstrates the  
5 reasonableness of the requested percentage fee.

6 **b. The Hourly Rates Requested are Reasonable**

7 Class Counsel are entitled to be compensated at hourly rates that reflect the reasonable  
8 market value of their legal services, based on their experience and expertise. (*See Serrano IV*, 32  
9 Cal.3d at p. 640 n.31; *San Bernardino Valley Audubon Soc’y, Inc. v. County of San Bernardino*  
10 (1984) 155 Cal.App.3d 738, 755.) “The reasonable hourly rate is that prevailing in the community  
11 for similar work.” (*PLCM Group*, 22 Cal.4th at p. 1095.) Payment at full market rates is essential  
12 to entice well-qualified counsel to undertake difficult cases such as this one. (*See Audubon Soc’y*,  
13 *supra*, 155 Cal.App.3d at p. 755.)

14 Mr. Kaliel’s hourly rate of \$829 per hour is derived from the Laffey Matrix, which is  
15 published by the D.C. Circuit Court, and which measure prevailing market rates based on seniority  
16 in the D.C. area. Courts have acknowledged that the “[t]he Laffey Matrix is used as a guideline for  
17 reasonable attorneys’ fees in the Washington/Baltimore area.” *In re Neustar, Inc. Sec. Litig.* (E.D.  
18 Va. Dec. 8, 2015) No. 1:14cv885 (JCC/TRJ), 2015 WL 8484438, at \*10 n.6 [internal quotation and  
19 citation omitted]; *see also Salazar ex rel. Salazar v. D.C.* (D.C. Cir. 2015) 809 F.3d 58, 64  
20 [confirming that the use of the Adjusted Laffey Matrix for attorneys in Washington, D.C. is  
21 appropriate].)

22 Ms. Gold, a partner, has a rate is \$733 and Ms. Casola, an associate, has an hourly rate of  
23 \$733. These hourly rates are in line with market rates in San Francisco for attorneys with Class  
24 Counsel’s backgrounds and levels of experience. (*See Polee v. Central Contra Costa Transit*  
25 *Authority* (N.D. Cal. Jan. 29, 2021) No. 18-cv-05405-SI, 2021 WL 308608, at \*4 [finding \$850/hour  
26 rate is “within the prevailing market rates for the San Francisco Bay Area”]; *O’Bannon v. Nat’l*  
27 *Collegiate Athletic Ass’n* (N.D. Cal. 2015) 114 F. Supp. 3d 819, 827 [approving rates of up to \$985  
28

1 for partners, \$430 for associates, \$320 for professional staff], *objections sustained in part and*  
2 *overruled in part*, (N.D. Cal. Mar. 31, 2016) No. 4:09-cv-03329-CW, 2016 WL 1255454, *aff'd*, 739  
3 F.App'x 890 (9th Cir. 2018) [same].)

4 In sum, Plaintiffs' Counsel calculated their hourly rates by the reasonable market value of  
5 Counsel's services on an hourly basis. As such, they are reasonable under California law. (*Ketchum*  
6 *v. Moses* (2001) 24 Cal.4th 1122, 1134; *Blum*, 465 U.S. at p. 895 n. 11; *PLCM Group*, 22 Cal.4th  
7 at p. 1094; *Camacho v. Bridgeport Fin., Inc.* (9th Cir. 2008) 523 F.3d 973, 979; *see also Robertson*  
8 *v. Fleetwood Travel Trailers of Cal., Inc.* (2006) 144 Cal.App.4th 785, 818; *Blanchard v. Bergeron*  
9 (1989) 489 U.S. 87, 96 [assessing reasonable market value for attorneys working on a contingent  
10 fee basis].) Moreover, these fees are particularly appropriate given the deferred and contingent  
11 nature of Counsel's compensation. (*C.f. Ketchum, supra*, 24 Cal.4th at pp. 1132-33 ["A contingent  
12 fee must be higher than a fee for the same legal services paid as they are performed. The contingent  
13 fee compensates the lawyer not only for the legal services he renders but for the loan of those  
14 services."].)

15 Accordingly, their rates should also be approved in calculating the lodestar as a basis for  
16 awarding Class Counsel's requested fee.

17 **2. A Percentage of the Recovery Analysis Also Supports the Fee Request**

18 The total settlement monetary benefit to the class is \$1,400,000.00 and a \$462,000.00 fee  
19 request amounts to 33% of that total. Defendant does not object to this request and it has been  
20 included in the terms of the Settlement preliminarily approved by the Court. The Class Notice  
21 advises the Settlement Class that Class Counsel would seek these fees. Thus, in light of the  
22 exceptional value created by the Settlement, from which all eligible Settlement Class members will  
23 automatically share unless they opt out, the requested fee award is appropriate.

24 **a. Under the Common Benefit Doctrine, the Agreed-Upon Request**  
25 **for Attorneys' Fees Should Be Awarded**

26 The California Supreme Court confirmed that in common fund cases such as this one, a trial  
27 court may award class counsel a fee out of the fund by choosing an appropriate percentage of that  
28 fund. (*Laffitte v. Robert Half Int'l* (2016) 1 Cal.5th 480, 503.) While recognizing that some courts

1 have employed a benchmark percentage, the Court chose not to adopt one and in that case affirmed  
2 a one-third fee request. (*Id.* at p. 495.) The Court in *Laffitte* further affirmed that a percentage basis  
3 award of attorneys’ fees may be the primary basis of a trial court’s calculation of a fee award. (*See*  
4 *id.* at pp. 503-06.) Indeed, “[t]he recognized advantages of the percentage method—including  
5 relative ease of calculation, alignment of incentives between counsel and the class, a better  
6 approximation of market conditions in a contingency case, and the encouragement it provides  
7 counsel to seek an early settlement and avoid unnecessarily prolonging the litigation—convince us  
8 the percentage method is a valuable tool that should not be denied in our trial courts.” (*Ibid.*)

9 This common fund doctrine has long “been recognized and applied consistently in California  
10 when an action brought by one party creates a fund in which other persons are entitled to share.”  
11 (*City & Cnty. of San Francisco v. Sweet* (1995) 12 Cal.4th 105, 110-11.) Further, common fund  
12 awards benefit society by encouraging “the attorney for the successful litigation, who will be more  
13 willing to undertake and diligently prosecute proper litigation for the protection of recovery of the  
14 fund if he is assured thtt he will be properly and directly compensated should his efforts be  
15 successful.” (*Melendres v. City of Los Angeles* (1975) 45 Cal.App.3d 267, 273 [quoting *Estate of*  
16 *Stauffer* (1959) 53 Cal.2d 124, 132].) Experienced attorneys should be sufficiently compensated for  
17 their skill, time, and efforts in taking on large, risky, complex class action cases on a contingent fee  
18 basis. If they are not, they may avoid taking on these cases, which courts have acknowledged  
19 provide critical benefits to all Californians. (*See Linder v. Thrifty Oil Co.* (2000) 23 Cal.4th 429,  
20 434-35.)

21 Here, as in other common-benefit cases, Class Counsel should be rewarded for creating  
22 substantial recoveries for the Class in the most efficient method possible. California encourages  
23 attorneys to undertake the often enormous risks of time and money necessary to vindicate  
24 consumers’ and employees’ rights and the public interest, and to protect the public policies  
25 underlying our laws. To enable and encourage such actions to be tackled by well qualified counsel,  
26 California law intentionally provides that attorney fee awards should be equivalent to fees paid in  
27 the legal marketplace. (*See Lealao v. Beneficial Cal., Inc.* (2000) 82 Cal.App.4th 19, 47.) Here,  
28

1 Plaintiff’s counsel’s request for attorneys’ fees, which represents 33% of the common monetary  
2 benefit provided by the Settlement, is certainly consistent with decades of contingency fee awards  
3 in California’s legal marketplace. (*See Chavez*, 162 Cal.App.4th at p. 66 fn.11 [“[e]mpirical studies  
4 show that, regardless whether the percentage method or the lodestar method is used, fee awards in  
5 class actions average around one-third of the recovery”]; *see e.g., Laffitte, supra*, 1 Cal.5th at pp.  
6 140-43 [affirming fee award representing one-third of overall settlement amount of \$19 million];  
7 *see also Beaver v. Tarsadia Hotels* (S.D. Cal. Sept. 28, 2017) No. 11-cv-01842-GPC-KSC, 2017  
8 WL 4310707, at \*9 [acknowledging that “California courts routinely award attorneys’ fees of one-  
9 third of the common fund.”].)

10 If this were a non-representative litigation, the customary fee arrangement would be  
11 contingent, on a percentage basis, and in the range of 30%-40% of the recovery. (*Blum v. Stenson*  
12 (1984) 465 U.S. 886, 903 [“In tort suits, an attorney might receive one-third of whatever amount  
13 the plaintiff recovers. In those cases, therefore, the fee is directly proportional to the recovery.”];  
14 *In re M.D.C. Holdings Securities Litigation* (S.D. Cal. 1990) No. CV89-0090E(M), 1990 WL  
15 454747, at \*22 [“in private contingent litigation, fee contracts have traditionally ranged between  
16 30% and 40% of the total recovery.”].) Thus, the customary contingent fee in the private  
17 marketplace – 30% to 40% of the fund recovered – further supports that the requested 33% fee is  
18 reasonable and fair. As *Lealao* also recognizes, fee awards that are too small will “chill the private  
19 enforcement essential to the vindication of many legal rights and obstruct the representative actions  
20 that often relieve the courts of the need to separately adjudicate numerous claims.” (*Lealao, supra*,  
21 82 Cal.App.4th at p. 53.)

22 The goal in a case such as this is to set a fee that approximates the probable terms of a  
23 contingent fee contract negotiated between an attorney and client in comparable litigation. (*Id.* at p.  
24 48.) Courts from varying jurisdictions across the country support the conclusion that fees from 30%  
25 up to even 40% of a common fund have normally been awarded in class litigation for many years.  
26 (*See e.g., In re Warner Commc’ns Securities Litig.* (S.D.N.Y. 1985) 618 F.Supp.735, 749-50  
27 [collecting cases]; *Williams v. MGM-Pathe Communic’ns Co.* (9th Cir. 1997) 129 F.3d 1026, 1027  
28

1 [awarding 33% of total fund amount]; *Barbosa v. Cargill Meat Solutions Corp.* (E.D. Cal. 2013)  
2 297 F.R.D. 431, 451 [wage-and-hour class action where the court approved a fee request of 33% of  
3 the fund where settlement was reached 1.5 years after case was filed and before class certification];  
4 *Lowe v. NBT Bank, N.A.* (N.D.N.Y. Sept. 30, 2022) No. 3:19-cv-1400(MAD/ML), 2022 WL  
5 4621433 at \*10 [awarding 33.33% of \$4,250,000 cash settlement fund in overdraft fee class action];  
6 *Holt v. Community America Credit Union* (W.D. Mo. Dec. 8, 2020) No. 4:19-cv-00629-FJG, 2020  
7 WL 12604384 [awarding one-third of common fund as attorneys’ fees in overdraft fee class action  
8 settlement].)

9 *Newberg on Class Actions Fourth Edition*, vol. 4, p. 560, § 14.6 discusses the concept of a  
10 market place analysis and why it is so valuable in determining a percentage award:

11 [Goodrich and Silver<sup>2</sup>] ... suggest that fee awards should be consistent with contingent  
12 fee arrangements negotiated in non-class litigation:

13 The percentage method is consistent with and is intended to mirror practice in the  
14 private marketplace where contingent fee attorneys typically negotiate percentage fee  
15 arrangements with their clients. As Judge Posner emphasized in *In re Continental*  
16 *Illinois Securities Litigations*, “[t]he object in awarding a reasonable attorney’s fee...is  
17 to simulate the market...**The Class Counsel are entitled to the fee they would have  
18 received had they handled a similar suit on a contingent fee basis, with a similar  
19 outcome, for a paying client.**”

20 *Ibid*; emphasis added.

21 Here, the results achieved justify awarding a fee that is the equivalent of the standard market  
22 fee. As detailed below, Class Counsels’ experience, reputation and ability to obtain an excellent  
23 result for the Class as expeditiously as possible should be rewarded.

24 To further ensure that the requested percentage is reasonable, the California Supreme Court  
25 acknowledged that courts may consider factors such as “the risks and potential value of the  
26 litigation;” the “contingency, novelty, and difficulty” of the case; and “the skill shown by counsel,  
27 the number of hours worked, and the asserted hourly rates.” (*Laffitte, supra*, 1 Cal.5th at p. 504.)  
28 All considerations support Class Counsel’s requested fee award.

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<sup>2</sup> Goodrich, Frank and Silver, Reagan, *Common Fund and Common Fund Problems: Fee Objections and Class Counsel’s Response*, 17 Rev. Litig. 525 (Summer 1995).

1           Class Counsel was able to secure an exceptional settlement with a total monetary value of  
2 \$1.4 million—consisting of a \$900,000 cash fund and \$500,000 in free medium entrée Vouchers—  
3 which constitutes approximately 19.4% of Plaintiffs’ best-case damages. This percentage of  
4 recovery is fair and reasonable in light of the significant risks and challenges inherent in the  
5 litigation. (*See e.g., Schneider v. Chipotle Mexican Grill, Inc.* (N.D. Cal. 2020) 336 F.R.D. 588, 597  
6 [granting final approval of a claims made settlement in nationwide class action concerning alleged  
7 misrepresentations to consumers where settlement amount represented 7.4% of estimated damages];  
8 *Dashnaw v. New Balance Ath., Inc.* (S.D. Cal. July 29, 2019) No. 17cv159-L(JLB), 2019 WL  
9 3413444 [granting final approval of claims made settlement relating to claims of false advertising  
10 and consumer misrepresentation for 14% of estimated damages].) To illustrate, Plaintiffs’ theory of  
11 liability was novel, as this was one of the very first cases in the country challenging the veracity of  
12 low-cost delivery promises where additional delivery-only “service fees” were included in order  
13 totals. At all times, Plaintiffs were up against Panda’s plethora of defenses on the merits, including  
14 that Plaintiffs voluntarily paid the total cost of their delivery orders, including the Service Fees; that  
15 no reasonable consumer would be deceived by Panda’s checkout process; that Panda fully disclosed  
16 the nature of the Service Fee and never represented that the Delivery Fee was the only additional  
17 charge between the pick-up and delivery options; that Panda never represented the delivery fee was  
18 a “flat” fee; and that the Service Fee was not a shrouded way to increase profit, but rather, was  
19 reasonably necessary to pay the significant costs associated with online delivery services. Plaintiffs  
20 also faced substantial challenges in the context of certifying the proposed class due to Panda’s  
21 assertion that potential individualized inquiries were needed to prove the materiality and injury  
22 elements. In addition to the exceptional monetary benefit achieved, however, Plaintiffs won an  
23 important and prominent disclosure improvement from one of the largest restaurant chains in the  
24 country, thereby ensuring that both current and future delivery customers will not continue to be  
25 misled by Panda’s Service Fee.

26           Although Plaintiffs were confident in the strength of their claims on the merits, establishing  
27 liability is a complex and challenging undertaking, especially in light of the novel nature of these  
28

1 claims and the lack of guiding precedent. Indeed, Plaintiffs would still need to survive additional  
2 forthcoming motion practice, such as summary judgment, motions challenging experts, class  
3 certification, and any possible appeals. Thus, the substantial recovery achieved now compared to  
4 the risks and complexity of protracted litigation deem Class Counsel's fee reasonable.

5 Further, Class Counsel took this matter on a full contingency basis, for which they would  
6 have recovered nothing if they had not prevailed in the matter. Counsel have litigated this case for  
7 a substantial length of time and have received no payment of their fees to date. The risks inherent  
8 in such practice, especially when undertaken in the public interests, justifies the reasonableness of  
9 the requested fee.

10 Lastly, KalielGold, PLLC is a respected and experienced class action firm, with substantial  
11 experience in not only in class actions generally, but more particularly in consumer litigation. As  
12 demonstrated throughout the Declaration, it is unquestionable that the firm has regularly achieved  
13 exceptional results. KalielGold has been appointed Class Counsel in dozens of cases across the  
14 country, most recently achieving a groundbreaking \$75,000,000 settlement for class members in a  
15 case in which they were lead counsel. *See* Kaliel Decl., ¶ 24.

16 In short, Class Counsel in this matter were qualified to pursue the claims now before this  
17 Court. It is respectfully submitted that their experience and ongoing quality of representation,  
18 coupled with a demonstrated willingness to bring these cases to certification and then on to trial,  
19 was instrumental in enabling the Class to obtain a very favorable result, under the circumstances  
20 presented by this case. Class Counsel's representation of the Plaintiffs and Class has been wholly  
21 contingent. The combined efforts have resulted in a substantial settlement for the benefit of the  
22 Class.

23 **B. Class Counsel is Entitled to its Requested Litigation Expenses**

24 As set forth in their declaration, Class Counsel has expended in excess of \$16,000.00, but  
25 seeks only \$16,382.20 in costs and expenses on behalf of the Class, including filing fees, mediation  
26 costs, and court fees, all compensable pursuant to C.C.P. § 1033.5(a) and (c)(4), and were  
27 reasonably expended in the duration of the case. Moreover, reimbursement for reasonable costs and  
28



1 expenses in prosecution of the claims and obtaining a settlement is typical for a plaintiff’s counsel.  
2 In *Serrano III*, 20 Cal.3d at 35, the Supreme Court advised that reimbursement of costs in a common  
3 fund is “grounded in the historic power of equity to permit the trustee of a fund or property, or a  
4 party preserving or recovering a fund for the benefit of others in addition to himself, to recover his  
5 costs, including his attorneys’ fees, from the fund or property.” (*Id.* [citing *Alyeska Pipeline Co. v.*  
6 *Wilderness Society* (1995) 421 U.S. 240, 257].)

7 The requested reimbursement for costs and expenses is relatively low for class litigation and  
8 inherently reasonable given the complexity of the litigation. The costs and expenses were necessary  
9 and were an important factor in bringing this matter to a successful conclusion, and consist mainly  
10 of filing fees and costs to engage an experienced and well-respected mediator for two separate  
11 mediation sessions. Kalief Decl., ¶ 25.

12 **C. Plaintiffs’ Incentive Awards are Reasonable and Should be Approved**

13 The Court should also approve a \$5,000.00 service award to each of the Class  
14 Representatives. Defendant does not oppose such an award.

15 In deciding whether to approve a service award, a court should consider: 1) the risk to the  
16 class representative in commencing suit, both financial and otherwise; 2) the notoriety and personal  
17 difficulties encountered by the class representative; 3) the amount of time and effort spent by the  
18 class representative; 4) the duration of the litigation; and 5) the personal benefit (or lack thereof)  
19 enjoyed by the class representative as a result of the litigation. (*Cellphone Termination Fee Cases*  
20 (2010) 186 Cal.App.4th 1380, 1394-95.) Courts routinely grant service awards in similar amounts  
21 or higher. (*See e.g., Aaron Aseltine, et al. v. Chipotle Mexican Grill, Inc.* (Sept. 14, 2022) Super. Ct.  
22 Cal., Alameda Cnty., No. RG21088118 [awarding \$5,000 service awards in similar deceptive  
23 delivery fee class action]; *Cellphone Termination Fee Cases, supra*, 186 Cal.App.4th at p. 1395  
24 [finding no abuse of discretion in a \$10,000 service award]; *Munoz v. BCI Coca-Cola Bottling Co.*  
25 *of Los Angeles* (2010) 186 Cal.App.4th 399, 412 [finding a \$5,000 service award reasonable];  
26 *Dennis v. Kellogg Co.* (S.D. Cal. Nov. 14, 2013) No. 09CV1786-L (WMc), 2013 WL 6055326, at  
27  
28

1 \*9 [noting that a request for a \$5,000 service payment in consumer class action settlement “is well  
2 within if not below the range awarded in similar cases.”].)

3 Here, the Plaintiffs, who have taken every necessary action to protect the interests of the  
4 Class and provided substantial, tangible benefits to all the Class members, were essential to the  
5 success of the litigation and to securing a favorable settlement. Mr. Ross, Ms. Oliveira, and Ms.  
6 Scott assisted in every way possible throughout the case, including assistance in investigation of the  
7 case, and working with Counsel to prepare for mediation. Moreover, by filing suit against Panda  
8 Express for alleged violations of consumer protection laws, Plaintiffs put their personal reputations  
9 at risk, and therefore sought to protect the interests of the Class over their own interests. As such,  
10 Plaintiffs are each entitled to a service award for their work.

11 **V. CONCLUSION**

12 Based on the foregoing, it is requested that Plaintiffs’ unopposed motion for attorneys’ fees,  
13 expenses, and service awards should be granted in full, as set forth herein.

14 Dated: July 5, 2023

**KALIELGOLD PLLC**

15  
16 By:  \_\_\_\_\_

Jeffrey D. Kalief  
Sophia G. Gold

*Attorneys for Plaintiffs and the Class*

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**PROOF OF SERVICE**

**STATE OF CALIFORNIA, COUNTY OF LOS ANGELES**

I am employed in the District of Columbia. I am over the age of 18 and not a party to the within action. My business address is 1100 15<sup>th</sup> Street NW, 4<sup>th</sup> Floor, Washington, DC 20005.

On **July 5, 2023**, I served the document(s) described as:

**PLAINTIFFS’ MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF UNOPPOSED MOTION FOR ATTORNEYS’ FEES, EXPENSES, AND CLASS REPRESENTATIVE SERVICE AWARDS**

on the interested parties in this action by sending [ ] the original [or] [✓] a true copy thereof [✓] to interested parties as follows [or] [ ] as stated on the attached service list:

**SEE ATTACHED SERVICE LIST**

[ ] **BY MAIL:** I enclosed the document(s) in a sealed envelope or package addressed to the persons at the addresses listed in the Service List and placed the envelope for collection and mailing, following our ordinary business practices. I am readily familiar with KalieGold PLLC’s practice for collecting and processing correspondence for mailing. On the same day that the correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service, in a sealed envelope with postage fully prepaid.

[ ] **BY E-MAIL OR ELECTRONIC TRANSMISSION:** I caused a copy of the document(s) to be sent from e-mail address ngarcia@kaliegold.com to the persons at the e-mail addresses listed in the Service List. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.

[ X ] **BY NOTICE OF ELECTRONIC FILING:** I electronically served the document(s) with the by using the CaseAnywhere system. Participants in the case who are registered CaseAnywhere users will be served by the CaseAnywhere system. Participants in the case who are not registered CaseAnywhere users will be served by mail or by other means permitted by the court rules.

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

Executed this **July 5, 2023**, at Los Angeles, California.

NEVA R. GARCIA  
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