

FILED  
DEC 31 2014

STEPHEN H. NASH, CLERK OF THE COURT  
SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF CONTRA COSTA  
By \_\_\_\_\_ Deputy Clerk

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IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE COUNTY OF CONTRA COSTA

ALICIA DEVORA, individually and on behalf  
of all others similarly situated,

Case No. C 14-01864

Plaintiff,

CLASS ACTION

v.

MEMORANDUM OF POINTS AND  
AUTHORITIES IN SUPPORT OF MOTION  
FOR PRELIMINARY APPROVAL OF  
CLASS ACTION SETTLEMENT AND  
CONDITIONAL CLASS CERTIFICATION  
[RULE OF COURT 3.769]

UNIVISION COMMUNICATIONS, INC., a  
Delaware Corporation, UNIVISION RADIO  
SAN FRANCISCO, INC., a Delaware  
Corporation, UNIVISION RADIO LOS  
ANGELES, INC., a California Corporation,  
UNIVISION RADIO FRESNO INC., a  
Delaware Corporation, UNIVISION RADIO  
SAN DIEGO, INC., a Delaware Corporation,  
UNIVISION LOCAL MEDIA, INC., a Delaware  
Corporation, and DOES 1 through 10, inclusive,

Date: 02-26-2015  
Time: 9:00 am  
Dept: 917  
Judge: Hon. Judith Graddick

Defendants.

BY FAX

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I. INTRODUCTION

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Plaintiff Alicia Devora (“Plaintiff” or “Class Representative”) seeks preliminary approval of a \$950,000 class action settlement on behalf of 71 individuals employed by Defendants Univision Communications, Inc., Univision Radio San Francisco, Inc., Univision Radio Los Angeles, Inc., Univision Radio Fresno Inc., Univision Radio San Diego, Inc., and Univision Local Media, Inc., (hereafter collectively “UNIVISION” or “Defendants”), as “Advertising Sales Representatives,” as defined below and in the Operative Complaint. The proposed settlement class includes all employees who served in the following job titles in California between September 30, 2009 and September 30, 2014 (the “Class Period”): Account Executive, Senior Account Executive, Account Manager Retail Account Executive, National Accounts Manager and National Account Executive (“Advertising Sales Representatives” or “Class Members”). While serving as the outside sales force for UNIVISION, Advertising Sales Representatives incurred out-of-pocket expenses for use of their own vehicles; and made payments for client entertainment and gifts. Plaintiff avers that Univision failed to reimburse its Advertising Sales Representatives for these expenses during the Class Period.

The net amount to be paid to these Advertising Sales Representatives under the proposed settlement (after payment of class counsel fees and expenses, settlement administration costs, and Plaintiff’s service award), will be approximately \$689,000. The average class member payout will be over \$9,700, and many class members will receive over \$17,000.

For purposes of this settlement only, all parties agree that the proposed Settlement Class satisfies each of the requirements of Code of Civil Procedure section 382. The settlement is fair, reasonable, and confers a substantial monetary benefit to the entire class. Accordingly, under Rule of Court 3.769, Plaintiff requests that the Court grant preliminary approval of the Stipulation of Settlement and Release (“Settlement”) submitted herewith, conditionally certify the Settlement Class, approve the proposed Class Action Settlement Notice and Share Form,<sup>1</sup> and set a hearing date for final settlement approval.

<sup>1</sup> The Stipulation of Settlement and Release, which includes the proposed Notice of Class Action Settlement and Estimated Share Form as exhibits, is attached as Exhibit A to the Declaration of David Pogrel (“Pogrel Decl.”), filed herewith.

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1 II. CASE FACTS, CLAIMS, AND PROCEEDINGS

2 A. Factual and Legal Background.

3 1. Claims and Defenses.

4 Alicia Devora brings this putative class action seeking reimbursement of daily business  
5 expenses – automobile expenses (mileage) and client entertainment and gift costs – under Labor  
6 Code section 2802, which requires an employer to “indemnify his or her employee for all necessary  
7 expenditures or losses incurred by the employee in direct consequence of the discharge of his or  
8 her duties.” Ms. Devora’s complaint also avers that the Section 2802 violations give rise to claims  
9 under the Unfair Competition Law (“UCL”), Business & Professions Code sections 17200 *et. seq.*

10 UNIVISION asserts that, should this matter be fully litigated, it could defeat Plaintiff’s  
11 claims on the merits and successfully oppose class certification. UNIVISION contends that it could  
12 defeat class certification on the grounds that, among other things, the Court’s determination of  
13 liability under Labor Code section 2802 would require individualized inquiries into whether each  
14 Class Member’s expenses were “necessary,” whether some Class Members were reimbursed  
15 separately for expenses claimed herein, and what information each Class Member received  
16 regarding the application of UNIVISION’s expense-reimbursement polies and the Class Members’  
17 right to claim the expenses at issue. According to UNIVISION, such individualized issues would  
18 overwhelm any common issues shared by Advertising Sales Representatives.

19 On the merits, UNIVISION contends that it maintained lawful expense reimbursement  
20 policies and practices and that any failure to seek reimbursement was due to Advertising Sales  
21 Representatives opting not to take advantage of such policies.

22 Plaintiff believes she would overcome UNIVISION’s defenses, as explained below.  
23 However, Plaintiff acknowledges that there is risk on each of the defenses, justifying compromise  
24 of the class claims.

25 2. Factual and Procedural Background.

26 UNIVISION operates commercial radio stations located throughout California. Each  
27 station serves a large geographical area, including the entire greater Los Angeles area, the Bay  
28 Area, San Diego, and much of the Central Valley. The vast majority of UNIVISION’s revenue

1 derives from selling radio and related advertising to businesses who serve these same areas. The  
2 Advertising Sales Representatives who make up the putative class are the foot soldiers in  
3 UNIVISION's sales force. They are supervised by Sales Managers; and the management pattern,  
4 positions, and job duties of the Advertising Sales Representatives and managers are the same in all  
5 markets and stations.

6 To sell its radio advertising, UNIVISION expects its Advertising Sales Representatives to  
7 cultivate sales leads through face-to-face meetings with clients and potential clients. Advertising  
8 Sales Representatives travel to client meetings at their place of business, which are spread  
9 throughout the geographical areas served by their respective stations. Advertising Sales  
10 Representatives are encouraged and/or required to have regular meetings with existing clients at  
11 their places of business and at other locations away from UNIVISION offices. UNIVISION  
12 managers uniformly emphasize the importance of Advertising Sales Representatives meeting with  
13 customers and potential customers in person. Such meetings included lunch and dinner meetings,  
14 which were often paid for out-of-pocket by the Advertising Sales Representatives. Advertising  
15 Sales Representatives also frequently buy gifts for their UNIVISION clients to foster the business  
16 relationship, which again is known and/or encouraged by UNIVISION and its management.  
17 Despite the fact that UNIVISION was aware its Advertising Sales Representatives incurred  
18 mileage, meal, gift, and other expenses, UNIVISION failed to reimburse the putative class of  
19 Advertising Sales Representatives for these regularly incurred business expenses. UNIVISION  
20 claimed, in its defense, that it had a written policy for making such reimbursements and that its  
21 expense reimbursement software – known as “Concur” – could be used for reimbursement of the  
22 costs at issue in this case.

23 Plaintiff Alicia Devora worked for UNIVISION as an Advertising Sales Representative  
24 during the Class Period. Like other Class Members, plaintiff Devora incurred gas, client meal and  
25 entertainment, and gift expenses, which were not reimbursed by UNIVISION.

26 Plaintiff Devora retained counsel to represent her and a putative class in October 2013.<sup>2</sup>  
27 Ms. Devora was aware of Class Counsels' experience and expertise in these types of cases because  
28

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<sup>2</sup> Pogrel Decl., ¶ 13.

1 she was a Class Member is a prior case filed by her counsel in 2013, which was against one of  
2 UNIVISION's primary competitors. Ms. Devora assisted with the prior case – *Rojas v. Spanish*  
3 *Broadcasting System, Inc.* (Alameda County Case No. RG13-670967) – which settled for a  
4 substantial sum in late 2013 and was granted final approval in mid-2014. Because of Plaintiff's  
5 counsel's experience prosecuting the litigation against Spanish Broadcasting System, in addition to  
6 six other very similar cases litigated by counsel since 2009<sup>3</sup> - Plaintiff sent a demand letter in lieu  
7 of immediate filing of the Complaint. Per Plaintiff's pre-filing request, UNIVISION agreed to  
8 enter into an agreement to toll the statute of limitations on any potential claim so that the parties  
9 could try to negotiate a settlement, subject to Court approval. The parties tolling agreement was  
10 effective October 31, 2013.

11 The parties initially decided to conduct an in-person meeting of counsel and client to  
12 discuss settlement, with a planned private mediation to follow in the event informal discussions did  
13 not lead to a resolution.<sup>4</sup> But prior to their meetings, and after the parties had engaged in engaged  
14 in substantial informal discovery and investigation to prepare for settlement discussions,<sup>5</sup> it became  
15 apparent that private mediation would be required to resolve the matter. Following further  
16 preparation and the exchange of detailed briefs,<sup>6</sup> the parties conducted mediation on September 15,  
17 2014 with experienced employment mediator Steven Serratore.<sup>7</sup>

18 While they did not reach agreement at mediation, in late September 2014 they reached an  
19 agreement in principle to settle all claims on behalf of the class. The parties finalized their  
20 proposed Settlement Agreement on November 26, 2014.<sup>8</sup>

### 21 III. SETTLEMENT TERMS

22 The Settlement resolves all claims of Plaintiff and the proposed Settlement Class against  
23 UNIVISION discussed above. A summary of the Settlement terms follows:

- 24 1. Settlement Fund – UNIVISION will pay \$950,000 (“Settlement Fund”), which  
25 UNIVISION will deposit to an Administrator-established account within 10 days of

26 <sup>3</sup> Pogrel Decl., ¶¶ 7-8.

27 <sup>4</sup> *Id.* at ¶ 14.

27 <sup>5</sup> *Id.* at ¶¶ 15-18.

27 <sup>6</sup> *Id.* at ¶¶ 16-19.

28 <sup>7</sup> *Id.* at ¶ 19.

28 <sup>8</sup> *Id.* at ¶¶ 19-20.

1 the Settlement Effective Date.<sup>9</sup> This is a fixed common fund settlement amount;  
2 Class Members are not required to submit claims and no portion of the fund will  
3 revert back to Defendants. All monetary items listed below are to be paid from the  
4 Settlement Fund. Any undistributed funds (e.g., uncashed checks) will be paid to a  
5 designated *cy pres* beneficiary, the East Bay Community Law Center, subject to this  
6 Court's approval.

- 7 2. Class Representative Service Payment – Plaintiff requests that \$5,000 from the  
8 Settlement Amount be set aside for a class representative service award for the  
9 named Plaintiff for her service to the class and risk incurred.
- 10 3. Class Counsel's Fees and Expenses – Plaintiff requests that the Court preliminarily  
11 approve her attorneys' fees in the amount of 25% of the Settlement Fund, which the  
12 Parties agreed to as part of the Settlement and will likely represent a modest  
13 multiplier on counsel's lodestar at final approval. In addition Plaintiff's counsel  
14 requests to be reimbursed for up to \$8,000 for their out-of-pocket litigation  
15 expenses, as agreed, and which will be less than counsel's actual costs.
- 16 4. Net Settlement Amount – The Net Settlement Amount – the amount that will remain  
17 of the Settlement Fund after deduction of amounts for awards of costs, attorneys'  
18 fees, notice and administrative expenses, and Class Representatives' service  
19 payment – will total approximately \$688,899. This amount will be distributed on a  
20 pro rata basis to all Class Members, other than those who may opt out of the  
21 settlement (if any). Some Class Members will have their individual payments

22  
23 <sup>9</sup> Under the terms of the settlement, the "Effective Date" means the date by which this Settlement is finally approved  
24 as provided herein and the Superior Court's Final Judgment becomes binding. For purposes of this Settlement  
25 Agreement, the Final Judgment becomes binding upon entry of the Court's order granting final approval, except if any  
26 Class Member objects to the settlement. In the event of any objections, the Effective Date means the later of: (i) the  
27 day after the last day by which a notice of appeal to the California Court of Appeal of the Final Judgment may be  
28 timely filed, and none is filed; (ii) if an appeal is filed, and the appeal is finally disposed of by ruling, dismissal, denial,  
or otherwise, the day after the last date for filing a request for further review of the Court of Appeal's decision passes,  
and no further review is requested; (iii) if an appeal is filed and there is a final disposition by ruling, dismissal, denial,  
or otherwise by the Court of Appeal, and further review of the Court of Appeal's decision is requested, the day after  
the request for review is denied with prejudice and/or no further review of the judgment can be requested, or (iv) if  
review is accepted, the day the California Supreme Court affirms the Stipulation of Settlement.

1 reduced based on a discounted percentage of expense reimbursements they, in fact,  
2 received during the Class Period, as detailed further below.

3 5. No Claims Made Procedure – Settlement Class Members will not be required to file  
4 claims in order to receive their share of the Net Settlement Fund. They will  
5 however have the opportunity to correct any errors in UNIVISION’s records of their  
6 number of weeks worked as Advertising Sales Representatives in California or prior  
7 expense-reimbursements received, which are the bases for distribution of the Net  
8 Settlement Fund, by a specified challenge procedure.

9 6. Settlement Administration – The parties have selected Kurtzman Carson  
10 Consultants, LLC (“KCC”) of Novato, California to serve as the Settlement  
11 Administrator. The Settlement Administrator will, among other things, distribute  
12 the Class Settlement Notice, calculate payouts for each Settlement Class member,  
13 provide information to assist in resolution of any disputes over the weeks worked or  
14 prior expense reimbursement provided in the Class Period, draw and distribute  
15 checks to the Settlement Class Members, administer the Settlement Fund, prepare  
16 and file any necessary tax reporting for the Settlement Fund, and report to the Court  
17 on the notice/opt out process and payment of the Settlement Fund. Individual notice  
18 will be mailed to all Settlement Class Members, whose contact and employment  
19 information UNIVISION has already provided to the Settlement Administrator.

20 7. Class Notice – The proposed Class Settlement Notice explains the terms of the  
21 settlement and how to object and/or opt out. In addition, each Settlement Class  
22 Member will receive a Settlement Share Form that includes an individualized  
23 computation of the approximate amount of the individual settlement award that the  
24 particular Settlement Class Member will receive from the Net Settlement Fund, how  
25 that amount was calculated, and how the weeks worked/prior expense  
26 reimbursement calculation can be challenged. The Settlement Class Members will  
27 share in the Net Settlement Fund pro rata based upon their weeks worked in the  
28 class position, with an offset of thirty five per cent (35%) of any individual expense

1 reimbursement records contained in UNIVISION's "Concur" expense  
2 reimbursement system.

3 8. Residual Distribution to *Cy Pres* – Settlement checks not cashed by Class Members  
4 within 120 calendar days of mailing will become void and a stop payment will be  
5 placed on those checks. All amounts remaining from voided and uncashed checks  
6 after deduction of costs, such as stop payment charges, shall remain in settlement  
7 account. 180 days after the settlement effective date, any remaining funds will be  
8 paid to the *cy pres* beneficiary.

9 9. Tax Consequences of Settlement Payments – Each Settlement Class Member's  
10 individual settlement payment will be treated as 70% accountable business expenses  
11 (not subject to withholding), and 30% interest, unless such treatment of the  
12 payments is contrary to an IRS letter ruling. The Administrator shall issue to Class  
13 Members the appropriate tax reporting form (i.e., 1099-INT for the interest portion)  
14 for payments made to Class Members.

15 10. Scope of Release and Final Judgment – The release contemplated by the proposed  
16 Settlement corresponds to the operative Complaint, releasing claims arising from  
17 UNIVISION's alleged failure to indemnify, reimburse, or compensate for business-  
18 related expenses, including interest, penalties and attorneys' fee related to  
19 UNIVISION's alleged failure to failure to reimburse for business-related expenses,  
20 during the Class Period. Upon final approval of the Settlement Fund, the parties  
21 will seek final judgment on all of the class claims.<sup>10</sup>

#### 22 IV. PRELIMINARY APPROVAL OF THE CLASS ACTION SETTLEMENT

##### 23 A. Class Action Settlement Approval Procedure.

24 A class action may not be dismissed, compromised, or settled without approval of the  
25 Court. See Civ. Code § 1781(f); Rule of Court 3.769; Fed. Rule Civ. Proc. 23(e).<sup>11</sup> Proper review  
26 and approval of a class action settlement requires three steps: (1) preliminary approval of the

27 <sup>10</sup> The parties are not aware of any cases pending in other jurisdictions that would be affected by the Settlement and  
entry of final judgment thereon.

28 <sup>11</sup> California courts may seek guidance from federal law regarding class certification issues. See *Vasquez v. Super. Ct.*,  
4 Cal. 3d 800, 821 (1971); *Green v. Obledo*, 29 Cal. 3d 126, 145-46 (1981).

1 proposed settlement after submission of a written motion; (2) dissemination of mailed and/or  
2 published notice of the settlement to all class members; and (3) a formal fairness hearing, or final  
3 settlement approval hearing, at which class members may be heard regarding the settlement, and at  
4 which evidence and argument concerning the fairness, adequacy, and reasonableness of the  
5 settlement is presented. Rule of Court 3.769; *Manual for Complex Litigation* (4th ed. 2004), §  
6 21.61. This procedure serves Class Members' procedural due process rights and the court's role as  
7 the guardian of Class Members' interests. See *Newberg on Class Actions* (4th ed. 2002) § 11.22, *et*  
8 *seq.* ("Newberg")

9 The decision to approve or reject a proposed settlement is committed to the sound  
10 discretion of the Court. See *Kullar v. Foot Locker Retail, Inc.*, 168 Cal. App. 4th 116, 128  
11 (2008); *Wershba v. Apple Computer, Inc.*, 91 Cal. App. 4th 224, 234-35 (2001). A decision  
12 approving a class action settlement may be reversed only upon a strong showing of clear abuse of  
13 discretion. See *Kullar*, 168 Cal. App. 4th at 128; *Hanlon v. Chrysler Corp.*, 150 F.3d 1011, 1027  
14 (9th Cir. 1998).

15 Plaintiff requests that this Court take the first step in the settlement approval process, and  
16 grant preliminary approval of the proposed Settlement. The court's preliminary evaluation of the  
17 Settlement is to determine whether it is within the "range of reasonableness," and whether notice to  
18 the class of the terms and conditions of the Settlement, and the scheduling of a formal fairness  
19 hearing, are worthwhile. See *Wershba*, 91 Cal. App. 4th at 234-35; *Newberg*, § 11.25. This  
20 proposed Settlement provides substantial monetary relief that is fair, reasonable, and adequate; it  
21 therefore well-qualifies for preliminary approval.

22 Plaintiff further requests that the Court provisionally and conditionally certify the proposed  
23 Settlement Class, as defined above. Provisional and conditional class certification is appropriate at  
24 the preliminary approval stage where, as here, the proposed class as it is defined in the parties'  
25 Settlement Agreement has not previously been certified by the Court, and the requirements for  
26 certification are met. See *Newberg*, § 11.22 *et seq.* The practical purpose of provisional and  
27 conditional class certification is to facilitate distribution notice to the class of the terms of the  
28 proposed settlement and the date and time of the final approval hearing. See Rule of Court 3.769;



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1 *Manual for Complex Litigation*, § 21.632. The additional rulings sought on this motion –  
2 approving the form, content, and distribution of the Class Action Settlement Notice, and scheduling  
3 a formal fairness hearing – facilitate the settlement approval process, and are also typically made at  
4 the preliminary approval stage. *See* Rule of Court 3.769. The Court may grant such relief upon  
5 motion by either settling party, and may conduct any necessary hearing in court or in chambers, at  
6 its discretion. *See* Rule of Court 3.769 (d); *see also Manual for Complex Litigation*, § 21.632.

7 The following schedule sets forth a proposed sequence for the relevant dates and deadlines,  
8 as specified in the Settlement Agreement. This schedule is also incorporated in the Proposed  
9 Order, lodged herewith.

10		
11	10 calendar days after entry of order granting Preliminary Approval of Settlement	Defendants to provide complete class list, including contact information and all data needed to compute individual settlement shares. Defendants shall provide the same information to Class Counsel, omitting Class Members' social security numbers.
12		
13	25 days after entry of order granting Preliminary Approval of Settlement	Mailing by first class mail of Class Action Settlement Notice and Settlement Share Form by Settlement Administrator.
14		
15	20 days after mailing of Notice and Settlement Share Form	Settlement Administrator to conduct trace/search efforts and send a follow up mailing to Settlement Class Members whose Notice was returned as undeliverable or whose listed address is found to be inaccurate or outdated.
16		
17		
18		
19	45 days after mailing of Notice and Settlement Share Form	Last day for Settlement Class Members to opt out, challenge dates of employment/prior expenses paid, or submit written objections (the "Objection/Exclusion Deadline").
20		
21		
22	10 days after the Objection/Exclusion Deadline	Settlement Administrator to provide counsel with opt outs, written objections or statements of intention to object to the Settlement received from Settlement Class Members, and also prepare a declaration for Plaintiff's counsel and Defendants' counsel review and approval certifying the completion and results of the class notice and related processes.
23		
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25		
26	5 court days before final approval hearing	Last day for filing and service of papers in support of final settlement approval and requests for attorneys' fees and expenses, and class representative service award.
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TO BE DETERMINED

Date for Hearing on Plaintiff's Motion for Final Approval of Class Action Settlement.

Within 10 days of the Settlement Effective Date<sup>12</sup>

Settlement Administrator to make the final calculation of payments from the Net Settlement Fund to be distributed to the Settlement Class Members and provide all Counsel with a report listing the amount of all payments to be made to each Eligible Settlement Class Member from the Net Settlement Fund.

Within 20 days of Settlement Effective Date

Settlement Administrator to distribute and pay from the Settlement Fund: (1) Settlement share checks to all Eligible Settlement Class Members; (2) awarded attorneys' fees and reimbursed litigation expenses to Plaintiff's counsel; (3) check for the class representative's service award; and (4) administration costs paid to the Settlement Administrator.

120 days after distribution of checks to Eligible Settlement Class Members

Expiration / void date for checks distributed to Eligible Settlement Class Members.

Within 180 days of Settlement Effective Date.

Settlement Administrator to pay any residual funds in the settlement fund to the *cy pres* beneficiary.

Within 200 days of Settlement Effective Date.

Settlement Administrator to provide counsel with sworn certification Plaintiff to submit final Settlement Administrator's report regarding all payments and the *cy pres* distribution, if any.

Within 220 days of Settlement Effective Date.

Plaintiff to submit final Settlement Administrator's report regarding all payments and the *cy pres* distribution, if any.

<sup>12</sup> Under the terms of the settlement, the "Effective Date" means the date by which this Settlement is finally approved as provided herein and the Superior Court's Final Judgment becomes binding. For purposes of this Settlement Agreement, the Final Judgment becomes binding upon entry of the Court's order granting final approval, except if any Class Member objects to the settlement. In the event of any objections, the Effective Date means the later of: (i) the day after the last day by which a notice of appeal to the California Court of Appeal of the Final Judgment may be timely filed, and none is filed; (ii) if an appeal is filed, and the appeal is finally disposed of by ruling, dismissal, denial or otherwise, the day after the last date for filing a request for further review of the Court of Appeal's decision passes, and no further review is requested; (iii) if an appeal is filed and there is a final disposition by ruling, dismissal, denial, or otherwise by the Court of Appeal, and further review of the Court of Appeal's decision is requested, the day after the request for review is denied with prejudice and/or no further review of the judgment can be requested, or (iv) if review is accepted, the day the California Supreme Court affirms the Stipulation of Settlement.

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1 **B. The Proposed Settlement Well Warrants Preliminary Approval.**

2 At the preliminary approval stage, the Court has broad powers to determine whether the  
3 proposed settlement is fair under the circumstances of the case. *See Wershba*, 91 Cal. App. 4th at  
4 234-35; *Mallick v. Super. Ct.*, 89 Cal. App. 3d 434, 438 (1979). Preliminary approval is warranted  
5 if the settlement falls within “the range of reasonableness.” *See N. County Contractor’s Ass’n,*  
6 *Inc. v. Touchstone Ins. Servs.*, 27 Cal. App. 4th 1085, 1089-90 (1994); *Chavez v. Netflix, Inc.*, No.  
7 CGC-04-434884, 2005 WL 3048041, at \*1 (S.F. County Super. Ct. Oct. 27, 2005); *Newberg*  
8 § 11:25.

9 For preliminary approval, the court makes an “initial evaluation” of the fairness of the  
10 proposed settlement on the basis of written submissions and informal presentation from the settling  
11 parties. *See Manual for Complex Litigation*, § 21.632.<sup>13</sup> To make the fairness determination, the  
12 court must consider several factors, including “the strength of Plaintiff’s case, the risk, expense,  
13 complexity and likely duration of further litigation, the risk of maintaining class action status  
14 through trial, the amount offered in settlement, the extent of discovery completed and the stage of  
15 the proceedings, [and] the experience and views of counsel.” *Kullar*, 168 Cal. App. 4th at 128  
16 (quoting *Dunk v. Ford Motor Co.*, 48 Cal. App. 4th 1794, 1801 (1996)). The court may consider  
17 other factors as well when balancing and weighing the circumstances of each case with the  
18 settlement terms proposed. *See Wershba*, 91 Cal. App. 4th at 245. The court must ensure that “the  
19 agreement is not the product of fraud or overreaching by, or collusion between, the negotiating  
20 parties, and that the settlement, taken as a whole, is fair, reasonable and adequate to all concerned.”  
21 *Hanlon*, 150 F.3d at 1027.

22 The California standard for approval of class settlements is similar to the federal standard:  
23 the settlement should be fair, reasonable, and adequate for class members overall. *Dunk*, 48 Cal.  
24 App. 4th at 1801. A presumption of fairness exists where: (1) the settlement is reached through

25 <sup>13</sup> The *Manual for Complex Litigation* summarizes the preliminary approval criteria as follows:  
26 The judge should make a preliminary determination that the proposed class satisfies the [class  
27 certification] criteria . . . . The judge must make a preliminary determination on the fairness,  
28 reasonableness, and adequacy of the settlement terms and must direct preparation of the notice of the  
certification, proposed settlement, and the date of the final fairness hearing.

§ 21.632; see also *Newberg* § 11.25.

1 arm's-length bargaining; (2) investigation and discovery are sufficient to allow counsel and the  
2 court to act intelligently; (3) counsel is experienced in similar litigation; and (4) the percentage of  
3 objectors is small. *Id.* at 1802; *Wershba*, 91 Cal. App. 4th at 245.

4 The Court should view these factors and, in its final analysis, ensure that the proposed  
5 settlement represents a reasonable compromise given the magnitude and apparent merit of the  
6 claims being released, discounted by the risks and expenses of attempting to establish and collect  
7 on those claims by pursuing the litigation. *Kullar*, 168 Cal. App. 4th at 129. The information that  
8 this Court needs to perform this analysis is contained in this Memorandum of Points and  
9 Authorities, and in the accompanying Declaration of David Pogrel ("Pogrel Decl."), the contents of  
10 which are summarized here.

11 **1. The Settlement Is Within the Range of Reasonableness.**

12 The Settlement results in a substantial benefit to all Class Members: \$950,000, an amount  
13 that represents approximately 41.3% of the estimated expense reimbursement claims, including  
14 interest, that could be awarded to the Advertising Sales Representatives should this matter be  
15 litigated to a fully successful conclusion.<sup>14</sup> The Settlement Class Members will share in a Net  
16 Settlement Fund of approximately \$688,899, after deductions for attorneys' fees and expenses,  
17 class representative service awards, and settlement administration costs.<sup>15</sup> The average net payout  
18 to Settlement Class Members will be approximately \$9,700, or approximately \$67.80 per week  
19 worked during the class period.<sup>16</sup> 25 of the Class members will receive over \$16,400.<sup>17</sup> These are  
20 significant payments being made to all Class Members, given the degree of risk on class  
21 certification, liability, and damages, and certainty of delay involved in further litigation as  
22 explained herein and in the Plaintiff's attorney's declaration.

23 **2. The Settlement Is the Product of Informed, Arm's-Length Negotiations.**

24 California courts recognize that "a presumption of fairness exists where . . . [a] settlement is  
25 reached through arm's-length bargaining." *Wershba*, 91 Cal. App. 4th at 245; *see also Clark v. Am.*  
26 *Residential Servs. LLC*, 175 Cal. App. 4th 785, 799 (2009). Here, the Settlement was reached

27 <sup>14</sup> Pogrel Decl., ¶¶17-19.

28 <sup>15</sup> Pogrel Decl., ¶20; Declaration of James Sean McGuire (Administrator Decl.), ¶ 9.

<sup>16</sup> Pogrel Decl., ¶¶20-21; Administrator Decl., ¶ 12, 14.

<sup>17</sup> Administrator Decl., ¶ 14.

1 following extensive investigation on Plaintiff's part, substantial informal exchanges of information  
2 and data prior to mediation, preparation and exchange of detailed mediation briefs, which included  
3 damages models, and bargaining facilitated by an experienced mediator. In reaching settlement,  
4 counsel on both sides relied on their respective substantial litigation experiences in similar  
5 employment class actions, including other expense reimbursement cases, and conducted thorough  
6 analysis of the legal and factual issues presented in this case.<sup>18</sup> *See, e.g., Lewis v. Starbucks Corp.*,  
7 No. 2:07-cv-00490-MCE-DAD, 2008 WL 4196690, at \*6 (E.D. Cal. Sept. 11, 2008) ("approval of  
8 a class action settlement is proper as long as discovery allowed the parties to form a clear view of  
9 the strengths and weaknesses of their cases").

10 **3. Defendant Would Contest Class Certification and Liability on All Issues.**

11 The reasonableness of the Settlement is underscored by the fact that UNIVISION has legal  
12 and factual grounds available to defend this action. Based upon Plaintiff's attorneys' experience  
13 litigating similar matters, they would reasonably expect a vigorous and lengthy defense to both  
14 class certification and the merits absent a settlement. While Plaintiff's counsel remain confident  
15 that UNIVISION violated Labor Code section 2802, continued litigation would be costly, time  
16 consuming, and uncertain in outcome. Plaintiff would still have to litigate class certification,  
17 establish class-wide liability, and then prove up various issues regarding damages. Such efforts  
18 would likely take years, and necessitate expert witness testimony, as well as other costs, risks, and  
19 potential delays. Appellate risks could further delay and jeopardize recovery. By contrast, the  
20 Settlement ensures timely relief and substantial recovery of the expenses Plaintiff contends are  
21 owed to the Settlement Class.

22 Plaintiff is obliged to bring information about UNIVISION's defenses to the Court's  
23 attention for evaluation of the settlement and attendant risks of further litigation. *See Kullar*, 168  
24 Cal. App. 4th at 129 (court bears the responsibility to ensure recovery is a reasonable compromise  
25 based on, among other items, the risks of establishing the claims alleged). Above all, UNIVISION  
26 contends that Plaintiff's claims are not suitable for class certification for many reasons, including  
27 varying duties and different driving, and client gift/entertainment purchase patterns within the class  
28

<sup>18</sup> Pogrel Decl., ¶¶5-10, 32.

1 requiring an individual-by-individual analysis that would preclude certification. UNIVISION also  
2 contends that each Advertising Sales Representative will have to prove that each of his or her  
3 business expenses was necessary and explain why s/he did not seek reimbursement from  
4 UNIVISION at the time s/he incurred the expense. UNIVISION further asserts that issues of the  
5 amount of individual damages will overwhelm any common issues on both claims. Plaintiff's  
6 counsel disagree with UNIVISION and believe that each of these claims would have been  
7 successfully tried on a class-wide basis through representative testimony from the Advertising  
8 Sales Representatives, management testimony, statistical sampling and expert testimony, and  
9 company documents; but they also recognize that such procedures raise difficult management and  
10 proof issues and, accordingly, there is a risk that the Court may have denied class certification or, if  
11 it initially certified the class, later decertified it if the trial procedures appeared to become  
12 unmanageable.

13 Plaintiff's counsel further recognizes that there is risk on the merits, as there would likely  
14 be disputes over several legal and factual issues. Such issues include whether UNIVISION could  
15 prove its defense that it had a valid expense reimbursement policy and whether its "Concur"  
16 expense reimbursement system complied with Labor Code §2802. While Plaintiff's counsel  
17 believes they would have prevailed on these issues and others, they understand that a fact finder  
18 may have found for Defendant on any one or more of these issues and/or found the damages to be  
19 significantly less than what Plaintiff claims.

20 **4. The Class Representative Service Payment is Reasonable.**

21 The proposed class representative service award payment for Alicia Devora is intended to  
22 recognize her initiative, risk, and effort on behalf of the Settlement Class. Courts routinely approve  
23 class representative service payments, a.k.a. incentive awards, to compensate named Plaintiffs for  
24 the services they provide and the risks they incur during class action litigation. *See In re Cellphone*  
25 *Fee Termination Cases*, 186 Cal. App. 4th 1380, 1393 (2010); *see also Bell v. Farmers Ins. Exch.*,  
26 115 Cal. App. 4th 715, 726 (2004) (upholding "service payments" to named plaintiffs for efforts in  
27 bringing the case); *Manual for Complex Litigation*, § 21.62, fn. 971 (noting that such awards "may  
28 sometimes be warranted for time spent meeting with Class Members, monitoring cases, or

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1 responding to discovery”). In approving incentive awards, courts frequently approve awards of  
2 \$15,000 or more to individual class representatives.<sup>19</sup>

3 The “criteria courts may consider in determining whether to make an incentive award  
4 include: 1) the risk to the class representative in commencing suit, both financial and otherwise; 2)  
5 the notoriety and personal difficulties encountered by the class representative; 3) the amount of  
6 time and effort spent by the class representative; 4) the duration of the litigation; and 5) the  
7 personal benefit (or lack thereof) enjoyed by the class representative as a result of the litigation.”  
8 *In re Cellphone Fee Termination Cases*, 186 Cal. App. 4th at 1394-95 (quoting *Van Vranken*, 901  
9 F. Supp. at 299). All of the above factors support the service awards requested here.

10 In the present case, the factors justifying a service award for Alicia Devora are based on her  
11 declaration, which are submitted herewith. Ms. Devora has stepped forward and filed this case as  
12 the sole Plaintiff, shouldering all of the burden and risk. She decided to pursue the case, and now as  
13 a result 70 others will benefit from her service.

14 Ms. Devora both assisted counsel in investigating the case through telephone calls and  
15 meetings; locating, organizing, and providing documents to counsel; and assisting counsel in  
16 contacting prospective witnesses, preparing for and attending mediation in Los Angeles and  
17 assisting with final deal points.<sup>20</sup> In total, Ms. Devora spent approximately 36 to 42 hours to bring  
18 about this result for the class.<sup>21</sup> Ms. Devora will also receive little personal benefit from this  
19 settlement except for this service award, as her estimated individual settlement share is estimated at

20 \_\_\_\_\_  
21 <sup>19</sup> See, e.g., *Hasty v. Elec. Arts, Inc.*, No. CIV 444821 (San Mateo County Super. Ct., Sept. 22, 2006) (\$30,000 to the class  
22 representative in a wage and hour class action); *Butler v. Countrywide Home Loans, Inc.*, No. BC 268250 (L.A. County  
23 Super. Ct. June 27, 2005) (in a wage and hour class action, \$150,000 to two named plaintiffs and \$115,000 to third named  
24 plaintiff); *Meewes v. ICI Dulux Paints*, No. BC265880 (L.A. County Super. Ct. Sept. 19, 2003) (\$50,000, \$25,000 and  
25 \$10,000 to the named plaintiffs); *Cook v. Niedert*, 142 F.3d 1004 (7th Cir. 1998) (\$25,000 incentive award); *Ingram v. The*  
26 *Coca-Cola Co.*, 200 F.R.D. 685 (N.D. Ga. 2001) (\$303,000 payment to each class representative plaintiff in employment  
27 case settling before class certification); *Mousai v. E-Loan, Inc.*, No. C 06-01933 SI (N.D. Cal. May 31, 2007) (service  
28 award of \$20,000 to named plaintiff in wage and hour case); *Martens v. Smith Barney*, No. 96 Civ. 3779, 1998 WL  
1661385, at \*4 (S.D.N.Y. July 28, 1998) and 181 F.R.D. 243, 262 (S.D.N.Y. 1998) (payments of up to \$150,000 for named  
plaintiffs, for a total of \$1.9 million in incentive payments for employment case settling prior to class certification); *Butler*  
*v. Home Depot, Inc.*, No. C 94-4335 SI (N.D. Cal. Jan. 14, 1998) (\$31,155 to named plaintiff Jamie Wilson in recognition  
of the risk and potential liability related to being a plaintiff and in consideration of the time and effort she expended in the  
litigation); *Roberts v. Texaco*, 979 F. Supp. 185 (S.D.N.Y. 1997) (\$85,000 for named plaintiff in employment case settling  
prior to class certification); see also *Van Vranken v. Atl. Richfield Co.*, 901 F. Supp. 294, 300 (N.D. Cal. 1995)  
(\$50,000 participation award in an Economic Stabilization Act case).

<sup>20</sup> Declaration of Alicia Devora (“Devora Decl.”); ¶¶ 4-12, filed herewith.

<sup>21</sup> *Id.*

1 approximately \$9,700, possibly less, which is the average of most class members and well below  
2 many others.<sup>22</sup> Significantly, she may well have recovered significantly more had he decided to  
3 pursue this case on an individual rather than a class basis.

4 Ms. Devora also incurred significant personal risk by suing UNIVISION, a significant  
5 employer in California radio, in particular Latino radio. *See Does I thru XXIII v. Advanced Textile*  
6 *Corp.*, 214 F.3d 1058, 1073 (9th Cir. 2000) (“fear of employer reprisals will frequently chill  
7 employees’ willingness to challenge employers’ violations of their rights”); *see also Rivera v.*  
8 *NIBCO, Inc.*, 364 F.3d 1057, 1064 (9th Cir. 2004). *Mitchell v. Robert DeMario Jewelry, Inc.*, 361  
9 U.S. 288, 292 (1960) (“[I]t needs no argument to show that fear of economic retaliation might  
10 often operate to induce aggrieved employees quietly to accept substandard conditions.”) As Ms.  
11 Devora’s name and his position in this lawsuit is readily apparent from internet searches or  
12 reference to the Court’s website, she risks retaliation from current and future employers for the  
13 indefinite future. Plaintiff was, and still is, concerned about the risk of such adverse treatment but  
14 nevertheless participated in this litigation on behalf of her co-workers who can now collect  
15 substantial settlements.<sup>23</sup>

16 In addition, Plaintiff will be required to execute a general release of all claims against  
17 UNIVISION, which includes a waiver of unknown claims and his rights under California Civil  
18 Code § 1542.<sup>24</sup> Plaintiff has thus sacrificed significantly more than the absent Class Members.

19 This suit is precisely the type of litigation that supports and promotes the public policies  
20 that prohibit employers from passing on their business risks and losses to their employees by  
21 failing to reimburse employees for business expenses. Payment of the award from the class fund  
22 advances the public policies underlying the statutory schemes upon which Plaintiff’s claims are  
23 based by promoting the enforcement of employees’ rights to reimbursement of business expenses  
24 they incur on behalf of their employers.

25 Finally, the requested enhancement awards are reasonable in relation to the Settlement  
26 Awards the remainder of the Settlement Class will receive; the proposed enhancement of \$5,000

27  
28 <sup>22</sup> Pogrel Decl., ¶¶ 39-40.

<sup>23</sup> Devora Decl., ¶¶ 13-14.

<sup>24</sup> Pogrel Decl., Exh. 1 (Settlement Agreement), ¶¶ 36-37.



1 amounts to 0.53% of the total Settlement Amount, and the request is less than the average Class  
2 Member's recovery of nearly \$9,700. This proposed enhancement could not be more different  
3 from those that were disapproved in *Clark v. American Residential Services, LLC*, 175 Cal. App.  
4 4th 785, 805 (2009), where the court ruled that "[a]n enhancement that gives the named plaintiff at  
5 least 44 times the average payout to a class member simply cannot be justified." Accordingly, the  
6 payment to the representative plaintiff is appropriate and justified as part of the overall Settlement.  
7 *Id.*

8 **5. The Requested Attorneys' Fees and Costs Are Reasonable.**

9 Plaintiff and the Settlement Class are entitled to recover their attorneys' fees and costs for  
10 their claims for expense reimbursements *See* Labor Code § 2802; Code Civ. Proc. § 1021.5(a).  
11 Plaintiff's Counsel understands that the Court does not make its final determination on the  
12 propriety of attorneys' fees and costs until the final approval stage, but here provides the court with  
13 a summary of the facts and arguments in support of the requested award to enable the Court to  
14 understand the basis of the request.

15 **a. The Common Fund Approach Is Warranted in This Case.**

16 An award of attorneys' fees can be calculated as a percentage of a common fund. *See*  
17 *Wershba*, 91 Cal. App. 4th at 254; *Lealao v. Beneficial Cal., Inc.*, 82 Cal. App. 4th 19, 26-30  
18 (2000). Courts in California and elsewhere have long recognized the "common fund" doctrine,  
19 which establishes that attorneys who create a common fund or benefit for a group of persons may  
20 be awarded their fees and costs out of the fund. *Bell*, 115 Cal. App. 4th at 726, 765 (25% awarded  
21 as a percentage of the common fund in unpaid overtime case); *Apple Computer, Inc. v. Super. Ct.*,  
22 126 Cal. App. 4th 1253, 1270 (2005) (whether calculated as percentage of common fund or fee-  
23 shifting statutes using lodestar, "ultimate goal is the award of a reasonable fee to compensate  
24 counsel for their efforts irrespective of the method of calculation"); *Wershba*, 91 Cal. App. 4th at  
25 254 (recognizing both the "percentage of recovery" and "lodestar/ multiplier" methods); *Lealao*, 82  
26 Cal. App. 4th at 26-50 (discussing fees under common fund and fee-shifting statutes and use of  
27 common fund as a "cross check" of fee-shifting award); *Vincent v. Hughes Air West, Inc.*, 557 F.2d  
28 759, 769 (9th Cir. 1977).

1 The Second District Court of Appeal recently reconfirmed the propriety of the common  
2 fund approach to attorneys' fees in *LaFitte v. Robert Half International, Inc.*, 180 Cal. App. 3d 136  
3 (October 29, 2014). There the Court reviewed the history of fee awards, described above, and held  
4 that it is appropriate to approve fee awards on a percentage basis when the settlement at issue  
5 results in the establishment of a common fund that is available for the benefit of a class. *LaFitte*,  
6 180 Cal. App. 3d at 147-48.

7 "[W]hen a number of persons are entitled in common to a specific fund, and an action  
8 brought by a plaintiff or plaintiffs for the benefit of all results in the creation or preservation of that  
9 fund, such plaintiff or plaintiffs may be awarded attorneys' fees out of the fund." *Serrano v.*  
10 *Priest*, 20 Cal. 3d 25, 34 (1977) ("*Serrano III*"); see also *The Boeing Co. v. Van Gemert*, 444 U.S.  
11 472, 478 (1980) ("[A] lawyer who recovers a common fund . . . is entitled to a reasonable  
12 attorney's fee from the fund as a whole."); see also *Consumer Cause, Inc. v. Mrs. Gooch's Natural*  
13 *Food Markets, Inc.*, 127 Cal.App.4th 387, 397 (2005) (the common fund doctrine is "frequently  
14 applied in class actions when the efforts of the attorney for the named class representatives produce  
15 monetary benefits for the entire class")

16 Because our legal system relies upon private litigants "to enforce substantive provisions  
17 of law through class and derivative actions, attorneys providing the essential enforcement  
18 services must be provided incentives roughly comparable to those negotiated in the private  
19 bargaining that takes place in the legal marketplace, as it will otherwise be economic for  
20 defendants to increase injurious behavior." *Lealao*, 82 Cal. App. 4th at 47. Indeed, there has  
21 been a "ground swell of support for mandating the percentage-of-the-fund approach in common  
22 fund cases." *LaFitte*, 180 Cal. App. 3d at 148. Significantly, the Ninth Circuit now prefers the  
23 percentage-of-the-fund approach in common fund cases. *Id.*; see also *In re Pac. Enters. Sec.*  
24 *Litig.*, 47 F.3d 373, 379 (9th Cir. 1995); *Paul, Johnson, Alston & Hunt v. Graulity*, 886 F.2d 268  
25 (9th Cir. 1989).

26 Moreover, one of the additional advantages of the common-fund approach – and one that  
27 is well reflected by this Settlement – is that it rewards attorneys who efficiently resolve a dispute  
28 with minimal Court intervention and little time or risk incurred by the Class Members.

1 Class Counsel has undertaken representation at their own expense, with compensation  
2 contingent on providing a benefit to the class. Class Members will now substantially benefit by  
3 the terms of the Settlement. Because there is a defined and clearly traceable monetary benefit to  
4 the class, the Court can base an award of attorneys' fees on the class members' benefit, using a  
5 common fund approach to compensate Counsel. The requested fee is fair compensation for  
6 obtaining an excellent result for the Class and, in doing so, undertaking complex, risky,  
7 expensive, and time-consuming litigation on a contingent basis.

8 **b. The Percentage Requested by Class Counsel Is Reasonable.**

9 The traditional method for calculating a common fund fee is to award a percentage of the  
10 total fund. *See, e.g., Blum v. Stenson*, 465 U.S. 886, 900 n.16 (1984); *Six (6) Mex. Workers v.*  
11 *Ariz. Citrus Growers*, 904 F.2d 1301, 1311 (9th Cir. 1990); *Lealao*, 82 Cal. App. 4th at 26;  
12 *Melendres v. City of Los Angeles*, 45 Cal. App. 3d 267, 278 (1975). The percentage-of-the-fund  
13 method is appropriate for a number of well-recognized reasons. One of the most important is  
14 that the percentage method accomplishes fee spreading in a manner that comports with the legal  
15 marketplace, where counsel's success is frequently measured in terms of the results counsel have  
16 achieved. *See Swedish Hosp. Corp. v. Shalala*, 1 F.3d 1261, 1269 (D.C. Cir. 1993) (in common  
17 fund cases "the monetary amount of the victory is often the true measure of [counsel's]  
18 success"). By assessing the amount of the fee in terms of the amount of the benefit conferred on  
19 the class, the percentage method "more accurately reflects the economics of litigation practice"  
20 which, "given the uncertainties and hazards of litigation, must necessarily be result oriented." *Id.*  
21 (internal quotation marks and citation omitted).

22 California courts have customarily approved payments of attorneys' fees amounting to as  
23 much as the one-third of the common fund in comparable wage and hour class actions.<sup>25</sup> The

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25 <sup>25</sup> *Parker v. City of L.A.*, 44 Cal. App. 3d 556, 567-68 (1974) (33.3%); *Barrett v. The St. John Cos.* (L.A. County  
26 Super. Ct., No. BC 354278, July 9, 2009) (in a wage and hour class action, 33% award); *Case, et al. v. Toyohara Am.*  
27 *Inc.*, (L.A. County Super. Ct., No. BC328111, May 31, 2006) (in a wage and hour class action, 33% award); *Sunio v.*  
28 *Marsh USA, Inc.*, (L.A. County Super. Ct., No. BC328782, Apr. 28, 2006) (in a wage and hour class action, 33%  
award); *Tokar v. GEICO*, (San Diego County Super. Ct., No. GIC 810166, July 9, 2004) (approving award of  
attorney's fees of 33-1/3% of recovery in a wage and hour class action); *Big Lots Overtime Cases* (San Bernardino  
County Super. Ct., JCC Proceeding No. 4283, Feb. 4, 2004) (approving award of attorneys' fees of one-third of the  
recovery); *Miskell v. Auto. Club of S. Cal.* (Orange County Super. Ct., No. 01CC09035, May 27, 2003) (same);  
*Ellmore v. Ditech Funding Corp.* (C.D. Cal., No. SAVC 01-0093, Oct. 21, 2002) (same); *Davis v. The Money Store*,

1 recent *Lafitte* opinion approved such an award and noted that a one-third fee award is “consistent  
2 with, and in the range of awards in other class action lawsuits.” *LaFitte*, 180 Cal. App. 3d at 148  
3 (citing *Chavez v. Netflix, Inc.* 162 Cal. App. 4th 43 (2008); *Bell*, 115 Cal.App.4th at 726; *Fischel v.*  
4 *Equitable Life Assur. Society of U.S.*, 307 F.3d 997, 1006 (9th Cir. 2002)). Here, Plaintiffs’  
5 attorneys seek an award of 25% of the common fund for their attorneys’ fees, and respectfully  
6 suggests that this figure is reasonable given the excellent results achieved.

7 Class counsel further request reimbursement of actual litigation costs up to \$8,000. Class  
8 Counsel has presented a detailed accounting of their costs showing actual costs through November  
9 30, 2014, of \$8,306.<sup>26</sup> Class Counsel have reasonably incurred these costs during the course of  
10 litigating this case and will continue to incur additional expenses throughout the settlement  
11 approval, implementation, payment, and reporting process. Counsel estimate that the additional  
12 costs will be between \$200 and \$500.<sup>27</sup> If requested, counsel will provide this Court with a  
13 complete accounting of their costs *in camera*, either now and/or at the final approval stage.  
14 Counsel’s final cost number will exceed the \$8,000 maximum, but their cost request is capped at  
15 that figure.

16 **C. The Fee Request is Reasonable and Appropriate Under the Lodestar/Multiplier**  
17 **Approach.**

18 Class counsel also submit here their summaries of the attorneys’ and paralegals’ billable  
19 hours to conduct a lodestar cross-check of the proposed percentage-based common fund award,  
20 and/or examine the proposed fee amount on the basis of the lodestar plus (or minus) adjustments.<sup>28</sup>  
21 Should the Court require review of counsel’s detailed and contemporaneous billing records,  
22 counsel will provide such records for the Court’s review *in camera*.

23 As the California Supreme Court explained in *Ketchum v. Moses*, 24 Cal. 4th 112 (2001),  
24 “fee awards should be fully compensatory” and also “adjusted in some manner to reflect the fact  
25 that the fair market value of legal services provided on [the fair market value] basis is greater than

26  
27 *Inc.* (Sacramento County Super. Ct., No. 99AS01716, Dec. 26, 2000) (same); *Barela v. Ralph’s Grocery Co.*, (L.A.  
County Super. Ct., No. BC070061, June 5, 1998) (same).

28 <sup>26</sup> Pogrel Decl., ¶ 32-33 and Exh. E. This figure does not include costs of settlement administration.

<sup>27</sup> Pogrel Decl., ¶ 32.

<sup>28</sup> Pogrel Decl., ¶¶ 29-33.

1 the equivalent noncontingent hourly rate.” *Id.* at 1132-33. Thus, attorneys’ fee awards often  
2 include significant lodestar enhancements through the application of multipliers. Factors that can  
3 justify a multiplier to class counsel include the complexity of issues in a case, the contingent nature  
4 of the litigation, and the amount at stake and results obtained by Class Counsel. *See Serrano*, 20  
5 Cal. 3d. at 49; *Lealao*, 82 Cal. App. 4th at 45-46. While Plaintiff here requests fees under the  
6 percentage-of-the-fund approach and submits that this request is reasonable in this case, Class  
7 Counsel respectfully suggests that all these factors are present here and also justify the requested  
8 fees based on a multiplier that sufficiently rewards the attorneys for their work performed, results  
9 achieved, and risk incurred.

10 **1. Class Counsel’s Lodestar is Supported by Billing Records.**

11 Class Counsel’s declaration describes his firm’s billing procedures and work performed.<sup>29</sup>  
12 In addition, time summaries, and detailed billing records if requested, are available to the Court for  
13 review. These submissions describe the various categories of work that counsel needed to  
14 undertake to prosecute the case effectively. The contemporaneous record summaries and  
15 declarations of counsel provide ample support for Class Counsel’s lodestar. *See Horsford v. Board*  
16 *of Trustees*, 132 Cal. App. 4th 359, 396 (2005) (“the verified time statements of the attorneys, as  
17 officers of the court, are entitled to credence in the absence of a clear indication that the records are  
18 erroneous”).

19 **2. The Proposed Multiplier is Reasonable.**

20 Counsel’s Lodestar as of November 30, 2014 was approximately \$109,173.<sup>30</sup> Counsel is  
21 therefore seeking a 2.18 multiplier of counsel’s then-current lodestar, a number that has already  
22 declined and will decline further following the substantial work required to finalize and implement  
23 this settlement. Counsel’s final multiplier will be approximately 1.8 to 1.9 if their lodestar  
24 increases to \$125,000 or \$130,000 by the conclusion of the litigation, as expected.<sup>31</sup> Counsel  
25 respectfully suggest that such a multiplier is warranted here, if the lodestar method is used to  
26 determine fees, given the outstanding result achieved in an efficient manner, and the contingent  
27

28 <sup>29</sup> Pogrel Decl., ¶¶ 13-21; 29-31.

<sup>30</sup> Pogrel Decl., ¶ 30, 33.

<sup>31</sup> Pogrel Decl., ¶ 33.

1 risk and investment of time and resources of Class Counsel. Such a resulting multiplier on  
2 counsel's reasonable lodestar is well within what courts have considered to be reasonable. *See*  
3 *Wershba*, 255 (“[m]ultipliers can range from 2 to 4, or even higher”); *Chavez v. Netflix, Inc.* 162  
4 Cal. App.4th 43, 66 (2008) (rejecting an objector’s argument that a 2.5 multiplier was “out of line  
5 with prevailing case law”); *City of Oakland v. Oakland Raiders*, 203 Cal. App. 3d 78 (1988)  
6 (affirming a multiplier of 2.34); *Sternwest Corp. v. Ash*, 183 Cal. App. 3d 74, 76 (1986) (noting  
7 multipliers range from 2 to 4 or higher); *Glendora Community Redevelopment Agency v. Demeter*,  
8 155 Cal. App. 3d 465, 479-81 (1984) (affirming a 12-times multiplier of counsel’s hourly rate and  
9 expressly rejecting the argument that the requested fee was exorbitant or unconscionable); *Vizcaino*  
10 *v. Microsoft Corp.*, 290 F.3d 1043, 1052-54 (9<sup>th</sup> Cir. 2002) (surveying 24 common-fund fee award  
11 cases where the percentage fee recovery was cross-checked with the lodestar and finding that the  
12 resulting multipliers were as high as 10.6 and the average multiplier was 3.32). Finally, Class  
13 Counsel’s recovery in this case should not be reduced to a lower multiplier because they were  
14 successful in obtaining an ample settlement of the case at an early stage and they were able to  
15 negotiate and resolve the case efficiently. *See, e.g., Lealao*, 82 Cal. App. 4th 19 at 52 (2000) (“the  
16 promptness of settlement cannot be used to justify the refusal to apply a multiplier to reflect the  
17 size of the class recovery without exacerbating the disincentive to settle promptly inherent in the  
18 lodestar methodology”).

19 **D. The Proposed Notice Is Reasonable.**

20 In order to protect the rights of absent class members, the court must provide the best notice  
21 practicable of a potential class action settlement. *See Phillips Petroleum Co. v. Shutts*, 472 U.S.  
22 797, 811-12 (1985); *Eisen v. Carlisle & Jacquelin*, 417 U.S. 156, 174-75 (1974). The primary  
23 purpose of procedural due process is to provide affected parties with the right to be heard at a  
24 meaningful time and in a meaningful manner. It does not guarantee any particular procedure but  
25 rather requires only notice reasonably calculated to apprise interested parties of the pendency of the  
26 action affecting their interests and an opportunity to present their objections. *Ryan v. Cal.*  
27 *Interscholastic Fed’n - San Diego Section*, 94 Cal. App. 4th 1048, 1072 (2001).  
28

1                   **a. The Proposed Class Notice is accurate, informative, and neutral.**

2           The Notice (Exhibit 1 to the Settlement Agreement) informs the Settlement Class Members  
3 about the terms of the Settlement. The Settlement Share Form (Exhibit 2 to the Settlement  
4 Agreement) will be sent with the Notice, and will contain a computation of each Settlement Class  
5 Member's estimated individual settlement award, the underlying dates of employment and previous  
6 reimbursements used for that computation, and information about the procedure by which the  
7 Settlement Class Member may challenge the data.<sup>32</sup> The Notice informs Settlement Class  
8 Members of the date and location of the final approval hearing. The Notice further explains that if  
9 the Settlement Class Members wish to object to the Settlement, they must send the administrator a  
10 written statement objecting to the settlement and informs them of the deadline for doing so.  
11 Finally, the Notice informs Settlement Class Members of their right to opt out of the Settlement  
12 and the process for doing so by submitting an executed statement of his or her election not to  
13 participate in the class action, and informs them of the deadline for doing so. Accordingly, the  
14 Notice complies with the standards of fairness, completeness, and neutrality required of a  
15 settlement notice disseminated under authority of the Court. Fed. R. Civ. P. 23(c)(2), (e);  
16 *Newberg* §§ 8:21, 8:39; *Manual* § 21.312.

17                   **b. The Proposed Class Notice satisfies due process.**

18           Preliminary approval of the Settlement will enable notice to go out to Settlement Class  
19 Members in the manner best calculated to ensure that they are alerted to the terms of the Settlement  
20 and provided with the opportunity to respond to it. UNIVISION has already provided the  
21 Settlement Administrator with the names, most current mailing addresses, telephone numbers,  
22 social security numbers, tenure dates as Advertising Sales Representatives in California and the  
23 expense reimbursement paid to each Class Member through UNIVISION's Concur system during  
24 the Settlement Class Period – all as contained in UNIVISION's records – for the Settlement Class  
25 Members.

26           Within twenty-five days of preliminary approval, the Settlement Administrator will mail the  
27 court-approved Notice of Class Action Settlement and Settlement Share Form (collectively "Notice  
28

<sup>32</sup> A copy of the proposed Notice is attached as Exhibit 1 to the Settlement Agreement, which is attached to the Pogrel Decl. as Exhibit A.

1 Packet”) to all identified Settlement Class Members via first-class regular U.S. Mail. The Notice  
2 Packet will be sent to the mailing address information provided by UNIVISION from its  
3 employment records, unless modified by any updated address information that the Settlement  
4 Administrator obtains in the course of administration of the Settlement.

5 If a Notice is returned because of an incorrect address, the Settlement Administrator will  
6 search for a more current address for the Class Member and re-mail the Notice and accompanying  
7 papers to the Settlement Class Member.

8 Because the Settlement Class Members are UNIVISION’s current and former employees,  
9 notice in this matter is simpler than in other types of class actions. The proposed notice plan,  
10 calling for first-class mailed notice to all Settlement Class Members, meets constitutional standards  
11 and should be approved. *See, Starbucks*, 2008 WL 4196690, at \*5 (“Notice by mail is sufficient to  
12 provide due process to known affected parties.”); *Cartt v. Super. Ct.*, 50 Cal. App. 3d 960  
13 (1975); *Home Sav. & Loan Ass’n. v. Super. Ct.*, 42 Cal. App. 3d 1006, 1013-14 (1974); *Cooper v.*  
14 *Am. Sav. & Loan Ass’n.*, 55 Cal. App. 3d 274, 284 (1976).

15 **E. The Court Should Also Approve the Claims Administrator and Confirm Its**  
16 **Responsibilities.**

17 The parties have selected Kurtzman Carson Consultants, LLC (“KCC”), an experienced  
18 claims administrator, to serve as the Settlement Administrator to administer the mailing of class  
19 notice and to administer various components of the proposed settlement.<sup>33</sup> Based on Plaintiff’s  
20 counsel’s experience and familiarity with KCC’s work handling class notices and administering  
21 class notices, settlements, and claims processes in other cases, Plaintiff’s counsel believes that  
22 KCC is highly qualified to serve as Settlement Administrator in this case.<sup>34</sup> KCC has provided the  
23 parties with a detailed estimate that the claims administration process will cost \$10,601.<sup>35</sup>  
24

25 \_\_\_\_\_  
26 <sup>33</sup> Pogrel Decl., ¶ 34; Administrator Decl., ¶ 7.

27 <sup>34</sup> Pogrel Decl., ¶ 34.

28 <sup>35</sup> Administrator Decl., ¶¶ 7-8. This cost is an estimate and may increase if the Settlement Administrator assumes additional responsibilities beyond those contemplated by Counsels’ description of the work. KCC’s estimate does not include, for example, the costs of administering any second distribution to class members due to the Settlement Administrator’s inability to locate some class members in this non-reversionary settlement environment. Pogrel Decl., ¶ 34.



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V. CONDITIONAL CERTIFICATION OF THE CLASS

California courts are authorized to adjudicate class-wide claims based on a common course of conduct. *Sav-On v. Super. Ct.*, 34 Cal. 4th 319, 331 (2004) (common issues may be present when defendant’s alleged wrongful acts are allegedly the same with regards to each class member). California law and policy favor the fullest and most flexible use of the class action procedure, so any doubts as to the appropriateness of certification should be resolved in favor of certification. *See Sav-On*, 34 Cal. 4th at 339, 340; *Vasquez*, 4 Cal. 3d at 821; *Richmond v. Dart Indus.*, 29 Cal. 3d 462, 473-74 (1981).

Class certification is appropriate when (1) the class is ascertainable, and (2) there is a well-defined community of interest in the questions of law and fact involved affecting the parties to be represented. *Sav-On*, 34 Cal. 4th at 326; *Linder*, 23 Cal. 4th at 435. The “community of interest” element embodies three factors: (1) predominant common questions of law or fact; (2) class representatives with claims or defenses typical of the class; and (3) class representatives who can adequately represent the class. *Sav-On*, 34 Cal. 4th at 326. Finally, the court must determine that a class action proceeding is the superior means for the fair and efficient adjudication of the litigation. *Id.* at 326. For settlement purposes, each of these prerequisites must be met.<sup>36</sup> *See Wershba*, 91 Cal. App. 4th at 237-38. Here, each of the requirements for class certification is met.<sup>37</sup>

A. The Proposed Class Is Ascertainable.

The members of the Settlement Class are ascertainable through UNIVISION’s own records. *See Rose v. City of Hayward*, 126 Cal. App. 3d 926, 932 (1981) (finding that “[c]lass members are ‘ascertainable’ where they may be readily identified without unreasonable expense or time by reference to official records”). UNIVISION has already compiled the necessary information to identify the Settlement Class Members and has already gathered and organized the dates in the class position, dates of termination, and last-known addresses for its current and former employees.

<sup>36</sup> State law class certification requirements under Code of Civil Procedure Section 382 mirror the federal law requirements under Federal Rule of Civil Procedure 23 of numerosity, typicality of the class representative’s claims, adequacy of representation, predominance of common issues, and superiority. *See Hanlon*, 150 F.3d at 1019, 1023.  
<sup>37</sup> For settlement purposes only, SBS does not oppose Plaintiff’s contentions regarding provisional certification of a class.

1 The ascertainability requirement is thus met.

2 **B. The Proposed Class Is Sufficiently Numerous.**

3 The numerosity requirement is met if the class is so large that joinder of all members would  
4 be impracticable. *See Gentry*, 42 Cal. 4th at 460; *Bell*, 115 Cal. App. 4th at 745. UNIVISION's  
5 records show that there will be 71 Settlement Class Members who worked as Advertising Sales  
6 Representatives in California during the Class Period. Joinder of all of these individuals would be  
7 impracticable, and a class-wide proceeding is preferable and superior because this number is  
8 sufficiently large. *Cf. Hebbard v. Colgrove*, 28 Cal. App. 3d 1017, 1030 (1972) (certifying class  
9 with only 28 members); *Rose*, 126 Cal. App. 3d at 934 (class of 42 sufficiently numerous).

10 **C. The Commonality Requirement Is Met.**

11 The commonality requirement is met when there are questions of law and fact common to  
12 the class. *See Sav-On*, 34 Cal. 4th at 326-27; *Hanlon*, 150 F.3d at 1019. Commonality requires  
13 only that common legal or factual questions predominate; the Plaintiffs need not show that all  
14 issues in the litigation are identical. *See Sav-On*, 34 Cal. 4th at 328, 332-33; *Richmond*, 29 Cal. 3d  
15 at 47. The legality of UNIVISION's expense reimbursement policies and practices for its  
16 Advertising Sales Representatives is central to the commonality inquiry. *Cf. City of San Jose v.*  
17 *Super. Ct.*, 12 Cal. 3d 447, 460 (1974); *Vasquez*, 4 Cal. 3d at 810, 812-13.

18 Where the defendant employer's policy or conduct is uniformly directed at a class of  
19 employees, as it is here, the class-wide impact of the defendant's policies satisfies the commonality  
20 requirement. *See Sav-On*, 34 Cal. 4th at 331 (upholding class certification, where the common  
21 issue was whether the employer properly classified grocery store managers as exempt from  
22 California's overtime requirements); *Vasquez*, 4 Cal. 3d at 810-11; *Stephens v. Montgomery Ward*  
23 *& Co., Inc.*, 193 Cal. App. 3d 411, 421 (1987). For example, class certification was deemed  
24 appropriate where a municipal employer failed to include certain amounts (such as allowances to  
25 buy uniforms and ammunition) in calculating police officers' and firefighters' "final  
26 compensation" for the purpose of computing retirement benefits. *Rose*, 126 Cal. App. 3d 926  
27 (finding that common questions of law and fact predominated because the one decisive issue  
28 pervading the litigation – whether the class members had been wrongfully deprived of pension

1 benefits by an improper method of computation – would not be decided on the basis of facts  
2 peculiar to each class member, but, rather, on the basis of a single set of facts applicable to all  
3 members). Similarly, the Court in *Lewis v. Starbucks Corp.* certified a settlement class because  
4 “the proposed class shares the common legal issue of whether California law entitles them to  
5 reimbursement of their work related mileage expenses from Defendant.” 2008 WL 4196690, at \*3  
6 (noting “[m]inor factual differences stemming from each class member’s individual mileage  
7 accumulations do not defeat commonality”).

8 Here, as in *Starbucks*, the decisive issue pervading the litigation is the legality of common  
9 policies and practices, including whether UNIVISION’s business expense policy (or lack thereof,  
10 as Plaintiff alleges) was unlawful, whether UNIVISION adequately reimbursed Advertising Sales  
11 Representatives for their daily business expenses, and whether the class wide policies violate the  
12 Labor Code and Wage Order. The scope of this case is focused, limited to a class of former and  
13 current employees of UNIVISION working as Advertising Sales Representatives in California.  
14 Plaintiff, on behalf of the class, asserts common claims for reimbursement of business expenses  
15 stemming from UNIVISION’s policies that applied to all. These common factual and legal issues  
16 predominate over any individual issues because Plaintiff and members of the class would rely  
17 primarily on common evidence to establish UNIVISION’s liability. *See, e.g., Starbucks*, 2008 WL  
18 4196690, at \*4 (“whether [Defendant] had a policy or practice of failing to reimburse . . .  
19 employees for mileage expenses” is a “predominant issue common to all class members”).  
20 Because common issues predominate over any possible individual issues UNIVISION might raise,  
21 certification is appropriate. *See Hicks v. Kaufman & Broad Home Corp.*, 89 Cal. App. 4th 908, 916  
22 (2001); *Starbucks*, 2008 WL 4196690, at \*4 (“Class Certification is not prevented . . . by the minor  
23 variation in each individual’s measure of damages.”).

24 **D. The Typicality Requirement Is Met.**

25 Class representatives’ interests need not be identical to other class members; to be typical,  
26 Plaintiffs and Class Members need only be similarly situated. *B.W.I. Custom Kitchen*, 191 Cal.  
27 App. 3d at 1347. The typicality requirement does not focus on the personal characteristics of the  
28 representative plaintiff or his/her individual circumstances with respect to the class, but rather upon

1 the typicality of the proposed representative’s claims as they relate to the defendant’s conduct and  
2 activities. *See Classen v. Weller*, 145 Cal. App. 3d 27, 46 (1983) (“[t]he only requirements are that  
3 common questions of law and fact predominate and that the class representative be similarly  
4 situated” vis-à-vis the class). A representative plaintiff’s claim is typical if it arises from the same  
5 event, practice, or course of conduct that gives rise to the claims of other class members, and if his  
6 or her claims are based on the same legal theory. *Id.*

7 Here, Plaintiff meets the typicality requirement because “Plaintiff and all other class  
8 members claim the same injury, namely, [UNIVISION’s] alleged violation of California law  
9 regarding reimbursement of work related mileage expenses.” *Starbucks*, 2008 WL 4196690, at \*3.  
10 “They also seek the same relief, reimbursement for their work related mileage expenses from  
11 [UNIVISION], [and] restitution.” *Id.* Plaintiff’s legal claims here are typical of those of the  
12 Settlement Class as a whole because they arise under the same legal theories and the same policies  
13 and practices.

14 **E. The Adequacy Requirement Is Met.**

15 Plaintiff can adequately represent the class where she is represented by qualified counsel  
16 and has interests aligned with the class. *McGhee v. Bank of Am.*, 60 Cal. App. 3d 442, 450 (1976).  
17 Vigorous prosecution of class claims also supports a showing of adequacy. *Soc. Servs. Union,*  
18 *Local 535 v. County of Santa Clara*, 609 F.2d 944, 946-47 (9th Cir. 1979); *Kelley v. SBC, Inc.*, No.  
19 97-CV-2729 CW, 1998 WL 1794379, at \*15 (N.D. Cal. Nov. 18, 1998).

20 Plaintiff has shown herself to be a more than adequate representative of the class, as he  
21 shares interest with the Settlements Class and have pursued those interests vigorously. Plaintiff has  
22 devoted time and effort to prosecuting the class claims, including gathering and organizing  
23 documents, assisting counsel with investigating the case, and travelling to attending, and  
24 participating actively in mediation to resolve the claims. The firm seeking to represent the  
25 Settlement Class is well qualified to do so.<sup>38</sup> *See, e.g., Starbucks*, 2008 WL 4196690, at \*3 (where  
26 “Plaintiff’s counsel have been shown to have significant class action experience,” “adequacy of  
27

28 <sup>38</sup> Pogrel Decl., ¶¶5-12 (setting forth attorneys’ qualifications, and noting in particular their successful representation of classes in similar expense-reimbursement litigation).

1 representation [may be] based on this fact alone”). The adequacy of representation requirement is  
2 thus met.

3 The Settlement presents no conflicts, as Plaintiff and all of the Settlement Class Members  
4 will receive a pro rata portion of the Net Settlement Fund based on the weeks she worked in the  
5 class position. Thus, no settlement allocation questions are raised here. *See Hanlon*, 150 F.3d at  
6 1020-21. Moreover, “[p]otential plaintiffs are not divided into conflicting discrete categories,”  
7 since they all claim reimbursement for business expenses while employed for UNIVISION as  
8 Advertising Sales Representatives in California. *Id.* at 1021. Finally, any Settlement Class  
9 Member who wishes to opt out of the Settlement to pursue his or her own individual claims may do  
10 so. *See id.*

11 **F. Common Issues Predominate and Class-Wide Settlement Is Superior to Other**  
12 **Available Methods of Resolution.**

13 Class certification is authorized where common questions of law and fact predominate over  
14 individual questions, and where classwide treatment of a dispute is superior to individual  
15 litigation.<sup>39</sup> *See Sav-On*, 34 Cal. 4th at 326; *Richmond*, 29 Cal. 3d at 469. The test is whether  
16 proposed classes are sufficiently cohesive to warrant adjudication by representation. *See Hanlon*,  
17 150 F.3d at 1022. The Settlement Class in this case is sufficiently cohesive, since all members  
18 share a “common nucleus of facts and potential legal remedies.” *See id.* Plaintiff and Settlement  
19 Class Members seek reimbursement of business expenses as a result of UNIVISION’s policies and  
20 practices which do not sufficiently reimburse such expenses through its policies that it claims  
21 provided for reimbursement even if the amounts paid were minimal and arguably not for the  
22 expenses at issue in this case. Whether such reimbursement methodology is proper, UNIVISION’s  
23 primary defense on the merits, predominates over individual questions. The Settlement Class  
24 Members share many, if not all, potential legal remedies in common. Thus, this Class may be  
25 certified for settlement purposes.

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28 <sup>39</sup> When assessing predominance and superiority, a court may consider that the class will be certified for settlement purposes only, and that manageability of trial is therefore irrelevant. *See Amchem Prods., Inc. v. Windsor*, 521 U.S. 591, 620 (1997).

1 Furthermore, particularly in the settlement context, class resolution is superior to other  
2 available methods for the fair and efficient adjudication of the controversy. *See Hanlon*, 150 F.3d  
3 at 1023; *Dunk*, 48 Cal. App. 4th at 1807 n.19; *Starbucks*, 2008 WL 4196690, at \*4 (“as the parties  
4 have already agreed on a settlement, ‘the desirability of concentrating the litigation in one forum is  
5 obvious.’”) (citation omitted). The superiority requirement involves a “comparative evaluation of  
6 alternative mechanisms of dispute resolution.” *Hanlon*, 150 F.3d at 1023. Here, as in *Hanlon*, the  
7 alternative methods of resolution are individual claims for a relatively small amount of damages.  
8 *See id.* These claims “would prove uneconomic for [a] potential Plaintiffs” because “litigation  
9 costs would dwarf potential recovery.” *Id.* The class action device can also conserve judicial  
10 resources by avoiding the waste and delay of repetitive proceedings and prevent inconsistent  
11 adjudications of similar issues and claims. *See NASDAQ Mkt.-Markers Antitrust Litig.*, 169 F.R.D.  
12 493, 529 (S.D.N.Y. 1996) (noting that the relevant inquiry is not individual versus class cases, but  
13 other methods for the group-wide adjudication of a controversy). For this reason, in this case, as in  
14 *Hanlon*, a class action is the preferred method of resolution.

15 Class certification in this case will provide substantial benefits to the litigants and the  
16 Court. “[T]he alternative to a class action is potentially [42] individual cases seeking damages  
17 unlikely to cover the costs of litigation, and thus no tangible alternative remedy exists.” *Starbucks*,  
18 2008 WL 4196690, at \*4. A large number of repetitive individual cases would waste judicial  
19 resources and could lead to inconsistent adjudications of similar monetary issues and claims.  
20 Many class members with relatively small claims would likely decide not to bother pursuing their  
21 claims at all. Aside from class treatment, a group-wide adjudication of unlawful conduct is not  
22 available. Rather than having a multiplicity of proceedings, all involving substantially the same  
23 issues and evidence, a class action allows these matters to be resolved once on behalf of all  
24 claimants. For all these reasons, the Settlement Class should be certified.

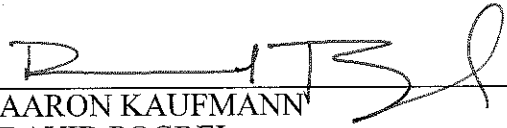
## 25 VI. CONCLUSION

26 The arm’s-length settlement of this matter avoids significant litigation risk and makes a  
27 \$950,000 Settlement Fund available to 71 of UNIVISION’s current and former Account  
28 Executives. For all of the reasons set forth above, the Court should certify the proposed Settlement

1 Class, grant preliminary approval, approve the proposed notice plan, and schedule a final approval  
2 hearing.

3 DATED: December 30, 2014

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