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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN DIEGO**

MICHAEL SARIVALAS and JESSI
VERGARA, individually, on behalf of all
others similarly situated, and on behalf of the
State of California and other aggrieved
persons,

Plaintiffs,

v.

RCP BLOCK & BRICK, INC., a California
corporation; and DOES 1 through 10,
inclusive,

Defendants.

Case No.: 37-2021-00043660-CU-OE-CTL

*[Assigned for All Purposes to the Honorable
Terrie E. Roberts, Dept. C-68]*

**PLAINTIFFS' NOTICE OF MOTION AND
MOTION FOR PRELIMINARY APPROVAL
OF CLASS ACTION AND PAGA
SETTLEMENT; MEMORANDUM OF
POINTS AND AUTHORITIES**

Preliminary Approval Hearing:

Date: May 14, 2027

Time: 10:30 a.m.

Dept.: C-68

Reservation Number: 104206

Action Filed: October 13, 2021

1 **TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:**

2 **PLEASE TAKE NOTICE** that on May 14, 2027, at 10:30 a.m., or as soon thereafter as
3 the matter may be heard in Department C-68 of the Superior Court of California, County of San
4 Diego, located at 330 W Broadway, San Diego, CA 92101, Michael Sarivalas and Jessi Vergara
5 (collectively, "Plaintiffs") will and hereby does move this Court for an Order:

- 6 1. Granting preliminary approval of the proposed Class Action and PAGA Settlement
7 Agreement and Class Notice ("Settlement Agreement");
- 8 2. Conditionally certifying the proposed Class for settlement purposes only;
- 9 3. Appointing Plaintiffs as the Class Representatives;
- 10 4. Appointing Wilshire Law Firm, PLC as Class Counsel;
- 11 5. Appointing Apex Class Action Administrators as the Administrator; and
- 12 6. Setting a final approval hearing date.

13 Pursuant to California Rules of Court, Rule 3.769(d) and (e), this Motion is made on the
14 grounds that the proposed Settlement satisfies all criteria for preliminary approval and falls well
15 within the range of reasonableness. The Settlement was reached through informed, arm's length
16 bargaining between experienced attorneys with the assistance of an experienced neutral, and
17 Plaintiffs and Plaintiffs' Counsel will fairly and adequately represent the Class.

18 This Motion is based on this Notice of Motion, the accompanying Memorandum of
19 Points and Authorities, the Declaration of John G. Yslas, the Declaration of Michael Sarivalas,
20 the Declaration of Jessi Vergara, and on all records and documents on file, together with such
21 oral and documentary evidence that may be presented at the hearing on this matter.

22 Respectfully submitted,

23 Dated: August 28, 2026

WILSHIRE LAW FIRM, PLC

24 By: 

25 John G. Yslas
26 Arrash T. Fattahi
27 Arman A. Salehi
28 Giancarlo A. Recinos
Attorneys for Plaintiffs

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1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. INTRODUCTION**

3 Pursuant to California Rules of Court, Rule 3.769(d) and (e), Plaintiffs seek preliminary
4 approval of a class action settlement of wage and hour claims, including representative claims
5 brought under the Labor Code Private Attorneys General Act of 2004 (“PAGA”), against
6 Defendant RCP Block & Brick, Inc. (“Defendant”). The proposed Class is defined all persons
7 employed by RCP Block & Brick, Inc. in California and classified as an hourly-paid non-exempt
8 employee who worked for RCP Block & Brick, Inc. (“Class Members”) during the period from
9 October 13, 2017, to May 15, 2025 (“Class Period”). Notably, the Class definition does not include
10 employees of Defendant who are subject to any collective bargaining agreement, but only for the
11 period of their employment during which they are covered by a collective bargaining agreement. The
12 main terms of the Settlement are as follows:

- 13 1. A Gross Settlement Amount of \$700,000.00, which will be distributed to
14 approximately 437 Class Members on a pro rata basis according to the total
15 workweeks worked by each Class Member during the Class Period;
- 16 2. Attorneys’ fees of up to 35% of the Gross Settlement Amount (currently
17 \$245,000.00) and up to \$35,000.00 in reimbursement of litigation costs to Plaintiffs’
18 Counsel;
- 19 3. Class Representative Service Payments of up to \$15,000.00 to each Plaintiff
20 (\$30,000.00 total);
- 21 4. Costs of settlement administration of up to \$15,000.00; and
- 22 5. Allocation of \$10,000.00 to PAGA penalties, seventy-five percent (75%) of which
23 (\$7,500.00) will be paid to the Labor and Workforce Development Agency
24 (“LWDA”), and twenty-five percent (25%) of which (\$2,500.00) will be paid to a
25 person employed by RCP Block & Brick, Inc. in California and classified as an
26 hourly-paid non-exempt employee who worked for RCP Block & Brick, Inc.
27 (“Aggrieved Employees”) during the period from October 13, 2020, to May 15,
28 2025 (“PAGA Period”).

1 The Settlement meets all criteria for preliminary approval and falls within the range of
2 reasonableness given the risks and expenses of further litigation. The Settlement was reached
3 through informed, arm’s length bargaining between experienced attorneys with the assistance of
4 an experienced neutral. As such, Plaintiffs request that the Court grant preliminary approval of the
5 Settlement, conditionally certify the Class for settlement purposes only, appoint Plaintiffs as the
6 Class Representatives, appoint Plaintiffs’ Counsel as Class Counsel, appoint Apex Class Action
7 Administrators (“Apex”) as the Administrator, authorize the Administrator to administer notice of
8 the Settlement to the Class, and set a final approval hearing date.

9 **II. PROCEDURAL HISTORY**

10 On October 13, 2021, Plaintiff Sarivalas filed this putative class action against Defendant
11 alleging: (1) failure to pay minimum and straight time wages; (2) failure to pay overtime wages;
12 (3) failure to provide meal periods; (4) failure to authorize and permit rest periods; (5) failure to
13 timely pay final wages at termination; (6) failure to provide accurate itemized wage statements;
14 (7) failure to indemnify employees for expenditures; and (8) unfair business practices (“Class
15 Action”). Declaration of John G. Yslas in Support of Plaintiffs’ Motion for Preliminary Approval
16 of Class Action and PAGA Settlement (“MPA”) (“Yslas Decl.”) at ¶ 3.

17 On October 13, 2021, Plaintiff Sarivalas provided written notice to the LWDA and
18 Defendant (amended on August 22, 2022) of the specific provisions of the Labor Code alleged to
19 have been violated, including the facts and theories in support. Yslas Decl. at ¶ 4, Exhibit 1. The
20 LWDA did not notify Plaintiff that it intended to investigate within 65 days of this written notice.
21 *Id.* Therefore, on August 23, 2022, Plaintiff Sarivalas filed a First Amended Complaint in this
22 Class Action adding a cause of action for civil penalties under PAGA (which made Plaintiff
23 Sarivalas a representative of the State of California and other aggrieved persons) and naming Jessi
24 Vergara as an additional class representative. *Id.* On May 15, 2023, Plaintiffs filed a Second
25 Amended Class & Representative Action Complaint, making Plaintiff Vergara a representative of
26 the State of California and other aggrieved persons. *Id.*

27 On May 15, 2025, the Parties participated in a private mediation with Hon. Ronald S. Prager
28 (Ret.). *Id.* at ¶ 6. The mediator made a proposal, which was accepted by the Parties. *Id.* The Parties

1 negotiated the terms of the Settlement, which was finalized on May 15, 2026. *Id.* at ¶ 6, Exhibit 2
2 (“Settlement Agreement”). On August 28, 2026, Plaintiffs submitted a copy of the Settlement
3 Agreement to the LWDA. *Id.* at ¶ 8, Exhibit 3.

4 **III. SUMMARY OF THE SETTLEMENT TERMS**

5 **A. Terms of the Proposed Settlement**

6 The Parties have agreed to settle the claims alleged in this case for a Gross Settlement
7 Amount of \$700,000.00. Settlement Agreement at § 3.1. Subject to Court approval, the following
8 payments will be deducted from the Gross Settlement Amount: (1) Class Representative Service
9 Payments of up to \$15,000.00 to each Plaintiff (\$30,000.00 total); (2) attorneys’ fees of up to 35%
10 of the Gross Settlement Amount (currently \$245,000.00) and reimbursement of litigation costs of
11 up to \$35,000.00 to Plaintiffs’ Counsel; (3) costs of settlement administration of up to \$15,000.00
12 to Apex; (4) Individual Class Payments to Class Members; and (5) PAGA Penalties in the amount
13 of \$10,000.00, which will be allocated 75% to the LWDA (\$7,500.00) and 25% to Aggrieved
14 Employees (\$2,500.00). *Id.* at § 3.2 *et seq.* After all requested deductions are made, the remaining
15 Net Settlement Amount is currently estimated to be \$365,000.00.

16 Individual Class Payments will be calculated based on the number of Workweeks worked
17 by each Class Member during the Class Period. *Id.* at § 3.2.4. For tax purposes, the Individual
18 Class Payments will be allocated 15% to wages and 85% to expense reimbursements, interest and
19 penalties. *Id.* at § 3.2.4.1. Defendant will separately pay employer payroll taxes owed on the wage
20 positions of the individual class payments separate from the Gross Settlement Amount. *Id.* at § 3.1.

21 Individual PAGA Payments to Aggrieved Employees will be calculated based on the
22 number of PAGA Pay Periods worked by each Aggrieved Employee during the PAGA Period. *Id.*
23 at § 3.2.5.1. For tax purposes, the individual PAGA payments will be allocated 100% to penalties.
24 *Id.*

25 Any deductions not approved by the Court will be retained by the Settlement Administrator
26 in the Net Settlement Amount. *Id.* at §§ 3.2.1, 3.2.2, 3.2.3, 3.2.5. Funds from any uncashed checks
27 will be transmitted by the Administrator to the San Diego County Bar Foundation. *Id.* at § 4.4.3.
28 None of the Gross Settlement Amount will revert to Defendant. *Id.* at § 3.1.

1 **B. Proposed Settlement Administration**

2 The Parties' proposed Class Notice complies with the requirements of California Rules of
3 Court, Rule 3.766(d). *See* Exhibit A to Settlement Agreement. It provides information regarding
4 the nature of this lawsuit, a summary of the settlement terms, the formula used for calculating
5 individual class and PAGA payments and instructions to dispute the calculations, instructions on
6 how to opt-out of or object to the Settlement, the date, time, and location of the final approval
7 hearing, and the amounts sought for the class representative service payments, attorneys' fees and
8 litigation costs, and settlement administration costs. *See generally, id.* The Class Notice also
9 notifies Class Members that they do not need to submit a claim in order to participate in the
10 Settlement and receive a payment. *See id.* The Administrator will mail Class Members the Class
11 Notice by first-class mail in English and in Spanish. Settlement Agreement at § 7.4.2.

12 If a Class Notice is returned as undeliverable, the Settlement Administrator will re-mail the
13 Class Notice within three (3) business days to the forwarding address provided by the U.S. Postal
14 Service. Settlement Agreement at § 7.4.3. If no forwarding address is provided, the Settlement
15 Administrator will conduct a Class Member Address Search and re-mail the Class Notice to the
16 most current address obtained. *Id.* The deadline to opt-out of the Settlement or to submit an
17 objection or dispute will be extended by fourteen (14) days for all Class Members whose Class
18 Notice was remailed. *Id.* at §7.4.4.

19 **C. Proposed Release**

20 Effective on the date when Defendant fully funds the Gross Settlement Amount and all
21 employer payroll taxes owed on the Wage Portion of the Individual Class Payments, Plaintiffs,
22 Class Members, and Class Counsel will release claims against all Released Parties as follows:

23 Release by Participating Class Members:

24 All Participating Class Members who are also Aggrieved Employees, on behalf of
25 themselves and their respective former and present representatives, agents, attorneys, heirs,
26 administrators, successors, and assigns, release Released Parties from (i) all claims that
27 were alleged, or reasonably could have been alleged, based on the Class Period facts stated
28 in the Action and ascertained in the course of the Action including the failure to pay
minimum and straight time wages, failure to pay overtime wages, failure to provide meal
periods, failure to authorize and permit rest periods, failure to provide accurate itemized
wage statements, failure to timely pay final wages at termination, failure to indemnify

employees for expenditures, and unfair business practices and any other violations of the Labor Code related to any of the wage and hour violation which were alleged in the action; and (ii) any damages, premiums, penalties, liquidated damages, interest, punitive damages, costs, attorneys' fees, injunctive relief, declaratory relief, or accounting based on the Action or PAGA Notice and which occurred during the Class Period. Except as set forth in Sections 5.1 and 5.3 of this Agreement, Participating Class Members do not release any other claims, including claims for vested benefits, wrongful termination, violation of the Fair Employment and Housing Act, unemployment insurance, disability, social security, workers' compensation, or claims based on facts occurring outside the Class Period.

Settlement Agreement at § 5.2.

Release Non-Participating Class Members Who Are Aggrieved Employees:

All Non-Participating Class Members who are Aggrieved Employees are deemed to release, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, the Released Parties from (i) all claims for PAGA penalties that were alleged, or reasonably could have been alleged, based on the PAGA Period facts stated in the Action and the PAGA Notice, and ascertained in the course of the Action including the failure to pay minimum and straight time wages, failure to pay overtime wages, failure to provide meal periods, failure to authorize and permit rest periods, failure to timely pay final wages at termination, failure to provide accurate itemized wage statements, and failure to indemnify employees for expenditures, and any other violations of the Labor Code related to any of the wage and hour violation which were alleged in the action; and (ii) and any damages, civil penalties, interest, punitive damages, costs, attorneys' fees, based on the Action or PAGA Notice and which occurred during the PAGA Period.

Settlement Agreement at § 5.3.

Only Plaintiffs will agree to a general release and a waiver of Civil Code § 1542. Settlement Agreement at §§ 5.1, 5.1.1.

IV. THE PROPOSED SETTLEMENT AGREEMENT MEETS ALL CRITERIA FOR PRELIMINARY APPROVAL

A. Provisional Certification of the Class is Appropriate

Class certification is appropriate when there is: (1) an ascertainable and sufficiently numerous class; (2) a well-defined community of interest among class members; and (3) substantial benefits from certification that render proceeding as a class superior to the alternatives. *Brinker Restaurant Corp. v. Superior Court*, 53 Cal.4th 1004, 1021 (2012). Although courts still need to review and consider each element for certification, a lesser standard can be used to provisionally certify a settlement class. *Global Minerals & Metals Corp. v. Superior Court*, 113 Cal.App.4th

836, 859 (2003).

1. The Proposed Class is Numerous and Ascertainable

“Ascertainability” is determined by examining the class definition and the size of the class and may also involve examining the means available to identify class members. *Noel v. Thrifty Payless, Inc.*, 7 Cal.5th 955, 980-981, 985-986 (2019). As the settlement eliminates the need for trial, “the case management issues inherent in the ascertainable class determination need not be confronted.” *Global Minerals*, 113 Cal.App.4th at 859. Further, under California law, there is no minimum number of class members for maintenance of a class action. *Hendershot v. Ready to Roll Transp., Inc.*, 228 Cal.App.4th 1213, 1222 (2014). Class sizes as small as 10 have been permitted. *Rose v. City of Hayward*, 126 Cal.App.3d 926, 934 (1981), disapproved on other grounds by *Noel*, 7 Cal.5th at 986.

The Class here consists of all persons employed by RCP Block & Brick, Inc. in California and classified as an hourly-paid non-exempt employee who worked for RCP Block & Brick, Inc. during the Class Period. Notably, the Class definition does not include employees of Defendant who are subject to any collective bargaining agreement, but only for the period of their employment during which they are covered by a collective bargaining agreement. *See* Settlement Agreement at § 1.5, 1.13. The Class is also readily ascertainable from Defendant’s business records, because all Class Members are or were employees of Defendant. *Id.* Defendant’s records show there are approximately 437 Class Members, making joinder of all Class Members impracticable. Yslas Decl. at ¶ 9.

2. A Well-Defined Community of Interest Exists

The community of interest requirement 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. *Brinker*, 53 Cal.4th at 1021.

a. Common Questions Predominate

In determining whether common issues “predominate,” courts consider both plaintiff’s legal theories and defendant’s affirmative defenses. *Duran v. U.S. Bank Nat’l Ass’n*, 59 Cal.4th 1, 28-29 (2014). The “predominate common questions” factor does not require that all class members

1 have identical claims. *Ayala v. Antelope Valley Newspapers, Inc.*, 59 Cal.4th 522, 530 (2014).
2 Rather, the focus is on whether issues shared by the class members are sufficiently uniform to
3 permit class-wide assessment, and whether individual variations in proof on those issues are
4 manageable. *Id.*

5 Plaintiffs have alleged that Defendant maintained common employment policies and/or
6 practices that unlawfully deprived Class Members of wages, meal periods, rest periods,
7 reimbursements for business expenses, accurate wage statements, and timely payment of wages
8 upon separation of employment. Yslas Decl. at ¶ 10. These allegations present common factual
9 and legal questions of, *inter alia*, whether Defendant applied the same scheduling, timekeeping,
10 pay, meal period, rest period, and reimbursement policies to all Class Members, whether these
11 policies and practices resulted in Labor Code violations, whether Defendant's conduct was
12 intentional, and whether Class Members are entitled to damages and/or penalties. *Id.* These
13 common questions could be resolved using Class Members' time records, payroll records,
14 testimony from Defendant's designated representative(s), and Class Members' testimony. *Id.*
15 Therefore, the Court can and should exercise its discretion to grant conditional class certification
16 for settlement purposes.

17 *b. Plaintiffs are Typical of the Class*

18 Typicality does not require that the representative plaintiff's claims and those of the class
19 members be identical or perfectly aligned. *Wershba v. Apple Computer, Inc.*, 91 Cal.App.4th 224,
20 228 (2001), disapproved on other grounds by *Hernandez v. Restoration Hardware, Inc.*, 4 Cal.5th
21 260 (2018). Typicality does not require that a plaintiff's claims be identical to those of other class
22 members, only that their claims and the defenses applicable to them are sufficiently similar to those
23 of other class members that a named plaintiff is able to adequately represent the class and focus on
24 common issues. *Medraza v. Honda of North Hollywood*, 166 Cal.App.4th 89, 99 (2008).

25 Plaintiffs have alleged that they and Class Members were employed by the same Defendant
26 and injured by Defendant's common wage and hour policies and practices, including Defendant's
27 scheduling, timekeeping, pay, meal period, rest period, and reimbursement policies. *See* Yslas
28 Decl. at ¶ 10. Through informal discovery, Plaintiffs confirmed that these challenged policies and

practices applied to Plaintiffs and Class Members alike. *See id.* at ¶ 8. Therefore, Plaintiffs’ claims and Class Members’ claims arise from the same challenged employment policies and practices and are based on the same legal theories.

c. Plaintiffs and Plaintiffs’ Counsel Will Adequately Represent the Class

Certification requires adequacy of both the proposed class representative and of the proposed class counsel. Cal. Code Civ. Proc. § 382. “Only a conflict that goes to the very subject matter of the litigation will defeat a party’s claim of representative status.” *Richmond v. Dart Industries*, 29 Cal.3d 462, 470 (1981). Only conflicts that are “irreconcilable” can defeat adequacy. *Nat’l Solar Equip. Owners’ Ass’n v. Grumman Corp.*, 235 Cal.App.3d 1273, 1286 (1991). The proposed representative Plaintiffs and proposed Class Counsel present no such conflict.

Plaintiffs’ interests are coextensive with Class Members’ interests. Declaration of Michael Sarivalas in Support of Plaintiffs’ MPA (“Sarivalas Decl.”) at ¶ 6. and Declaration of Jessi Vergara in Support of Plaintiffs’ MPA (“Vergara Decl.”) at ¶ 6. Plaintiffs have demonstrated an ability to advocate for the interests of Class Members by initiating this lawsuit, providing information to their attorneys, meeting with their attorneys regarding the claims, making themselves available the day of mediation to answer questions, and reviewing the proposed Settlement. Sarivalas Decl. at ¶ 11. and Vergara Decl. at ¶ 11.

Likewise, Wilshire Law Firm has expended considerable time and effort on this case and will continue to do so through final approval. *See generally*, Yslas Decl. Therefore, Plaintiffs should be appointed Class Representatives, and their counsel should be appointed Class Counsel.

3. *A Class Action is Superior to a Multitude of Individual Lawsuits*

Courts have held that class treatment of wage and hour claims is clearly “superior to the other available methods for the fair and efficient adjudication of the controversy.” *Dean Witter Reynolds, Inc. v. Superior Court*, 211 Cal.App.3d 758, 772-773 (1989). This is so because “[p]ublic policy has long favored the ‘full and prompt payment of wages due an employee.’” *Sav-On Drug Stores, Inc. v. Superior Court*, 34 Cal.4th 319, 340 (2004). Here, a class action is superior to a multitude of individual lawsuits. Given the size and amount of each Class Member’s claim, Class

Members have little incentive to litigate their claims on an individual basis because the out-of-pocket expenses and personal commitment necessary to litigate each claim likely outweigh any potential recovery. Yslas Decl. at ¶ 9. Therefore, a class action is the superior method for seeking relief.

B. The Settlement Meets the Standards for Preliminary Approval

The moving party must demonstrate that “the settlement is fair, adequate and reasonable.” *Kullar v. Foot Locker Retail, Inc.*, 168 Cal.App.4th 116, 126 (2008). “In determining whether a class settlement is fair, adequate, and reasonable, the trial court should consider relevant factors, such as the strength of plaintiffs’ case, the risk, expense, complexity and likely duration of further litigation, the risk of maintaining class action status through trial, the amount offered in settlement, the extent of discovery completed and the stage of the proceedings, the experience and views of counsel, the presence of a governmental participant, and the reaction of the class members to the proposed settlement.” *Wershba*, 91 Cal.App.4th at 244-245 (internal quotations and citations omitted).

1. The Settlement is Entitled to a Presumption of Fairness

A settlement is entitled to “a presumption of fairness . . . where: (1) the settlement is reached through arm’s length bargaining; (2) investigation and discovery are sufficient to allow counsel and the court to act intelligently; (3) counsel is experienced in similar litigation; and (4) the percentage of objectors is small.” *Dunk v. Ford Motor Co.*, 48 Cal.App.4th 1794, 1801 (1996). The Settlement here satisfies the first three factors. Plaintiffs will analyze the fourth factor at final approval after Class Members have been notified of the Settlement and provided with an opportunity to object.

a. The Settlement is the Result of Arm’s Length Negotiation

Courts have recognized that the involvement of a respected mediator provides a high degree of assurance that the settlement is the result of arm’s length bargaining. *See Chavez v. Netflix, Inc.*, 162 Cal.App.4th 43, 52-53 (2008). The Settlement in this matter was the product of a full-day mediation session with a respected mediator. Yslas Decl. at ¶ 5. The negotiations were adversarial, conducted at arm’s length, and tempered by the efforts of both sides to serve the interests of their

clients. *Id.*

b. Sufficient Investigation and Discovery Have Been Conducted

Prior to attending mediation, Plaintiffs' Counsel thoroughly investigated the claims, applicable law, and potential defenses. Yslas Decl. at ¶ 8. Plaintiffs' Counsel assessed the value to the class claims using the data and documents that Defendant produced in informal discovery, including class data providing the number of Class Members, the number of workweeks in the Class Period, and the number of pay periods in the PAGA Period, Plaintiffs' personnel file/documents concerning Plaintiffs, Defendant's employee handbook(s), Defendant's written wage-and-hour policies, job descriptions, and a random sampling of time and payroll records. *Id.*

c. Plaintiffs' Counsel is Experienced in Similar Litigation

Plaintiffs are represented by Wilshire Law Firm, PLC. Yslas Decl. at ¶ 1. Plaintiffs' Counsel has extensive experience litigating wage and hour class actions on behalf of employees. *See id.* at ¶¶ 21-31. Plaintiffs' Counsel has been involved as counsel in numerous class actions that have resulted in millions of dollars in recovery. *See id.*

2. *The Settlement is Reasonable Given the Strengths of Plaintiffs' Claims and the Risks and Expense of Further Litigation*

A settlement does not have to provide 100% of the damages sought to be considered fair and reasonable. *See Rebney v. Wells Fargo Bank*, 220 Cal.App.3d 1117, 1139 (1991). Although the exposure Plaintiffs' Counsel calculated is substantial, the various risks at succeeding at class certification and through trial affected the valuation of the claims for settlement purposes. Yslas Decl. at ¶ 11.

Minimum and Overtime Wages: Plaintiffs' unpaid minimum and overtime wage claims were based on the allegation that Defendant required Class Members to perform work duties while off the clock, without compensation. Yslas Decl. at ¶ 12. For example, Plaintiffs alleged that Defendant required them and other Class Members to perform work-related tasks prior to clocking in, during their meal periods, and after clocking out. *Id.* For purposes of calculating Defendant's liability based on a best-case scenario for Plaintiffs and the Class, Plaintiffs' Counsel assumed that all unpaid worktime should have been paid at the overtime rate of pay and

conservatively estimated that Defendant is liable for one (1) hour of unpaid worktime per workweek. *Id.* This results in potential exposure for this claim of approximately \$1,443,872.93 (46,167 workweeks x \$20.85 average hourly rate of pay x 1 hour/workweek x 1.5 overtime rate). *Id.* Because this claim would have relied heavily on Class Member testimony and would not be evidenced in Defendant's time and payroll records, the risk of succeeding at class certification and trial was substantial. Accordingly, Plaintiffs' Counsel applied a risk discount based on a 20% chance of succeeding at class certification and a 20% chance of succeeding at trial on the merits, yielding a realistic damage estimate of approximately \$231,019.67 (\$57,754.92 x 20% x 20%). *Id.*

Meal Periods: Plaintiffs' meal period claim was based on the allegation that Defendant failed to provide Class Members with legally compliant meal periods or pay meal period premiums in lieu thereof. Yslas Decl. at ¶ 13. For example, Plaintiffs alleged that Defendant required them and other Class Members to regularly take interrupted or late meal periods. *Id.* Additionally, Plaintiffs' Counsel's expert consultant determined there was a 47.4% meal period violation rate from the sampling of Defendant's time and payroll records, where meal periods were short, late, or missed. *Id.* Therefore, potential liability for the meal period claim is approximately \$2,412,356.59 (244,094 shifts over 5 hours x \$20.85 average hourly rate x 47.4% violation rate). *Id.* After taking into account the difficulty of certifying and proving meal period claims, as well as Defendant's contention that the claim lacks merit and that a 47.4% violation rate is unrealistic, Plaintiffs' Counsel discounted this figure based on a 40% chance of succeeding at class certification and a 30% chance of succeeding at trial, yielding a realistic damage estimate of approximately \$289,482.79 (\$2,412,356.59 x 40% x 30%). *Id.*

Rest Periods: Plaintiffs' rest period claim was based on the allegation that Defendant failed to provide Class Members with legally compliant rest periods or pay rest period premiums in lieu thereof. Yslas Decl. at ¶ 14. For example, Plaintiffs alleged that Defendant required them and other Class Members to be on call during rest periods or skip them altogether. *Id.* Based on Plaintiffs' allegations and Plaintiffs' and other Class Members' experience working for Defendant, Plaintiffs' Counsel applied a 100% violation rate to all qualifying shifts during the Class Period. Therefore,

1 Defendant's potential liability for the rest period claim is approximately \$5,189,773.50 (248,910
2 shifts of 3.5 hours or longer x \$20.85 average hourly rate x 100% violation rate). However,
3 Plaintiffs' Counsel discounted this figure to account for the difficulty of certifying and proving
4 rest period claims, particularly because rest periods do not have to be recorded, and to account for
5 the possibility of Class Members voluntarily choosing to forego a rest period. *Id.* Because this
6 claim would have relied exclusively on Class Member testimony, Plaintiffs' Counsel discounted
7 this claim based on a 20% chance of succeeding at class certification and a 20% chance of
8 succeeding at trial, yielding a realistic damage estimate of approximately \$207,590.94
9 (\$5,189,773.50 x 20% x 20%). *Id.*

10 Reimbursements: Plaintiffs' reimbursement claim was based on the allegation that
11 Defendant failed to indemnify Class Members for expenses incurred as a direct result of performing
12 their job duties for Defendant, such as mandatory use of personal cell phones for work purposes,
13 as well as paying out of pocket for tools and equipment necessary for the job. Yslas Decl. at ¶ 15.
14 For purposes of calculating Defendant's liability based on a best-case scenario for Plaintiffs and
15 the Class, Plaintiffs' Counsel estimated that Defendant was liable to each Class Member for \$12.50
16 per workweek in unreimbursed expenses, for a total amount of approximately \$577,087.50 (\$12.50
17 x 46,167 workweeks). *Id.* However, Defendant argued that these expenses were not required by
18 Defendant, and that it could not have known that these expenses were being incurred. *Id.*
19 Accordingly, Plaintiffs' Counsel discounted this claim based on a 30% chance of succeeding at
20 class certification and a 30% chance of succeeding at trial, yielding a realistic damage estimate of
21 approximately \$51,937.88 (\$577,087.50 x 30% x 30%). *Id.*

22 In sum, Plaintiffs' Counsel estimated that Plaintiffs' maximum recovery for the off-the-
23 clock claim, meal period violations, and rest period violations (i.e., the wage claims) is
24 approximately \$9,046,003.02. Yslas Decl. at ¶ 16. However, after factoring in the risk and
25 uncertainty of prevailing at certification and trial, Plaintiffs' Counsel estimates that Plaintiff's
26 realistic estimated recovery for these non-penalty wage claims is approximately \$554,828.65. *Id.*

27 Derivative Penalties: Plaintiffs alleged that as a result of Defendant's failure to pay all
28 wages owed, Defendant owed waiting time penalties and wage statement penalties. Yslas Decl. at

¶ 17. With respect to Plaintiffs' derivative claims for statutory penalties, Plaintiffs' Counsel estimated that Defendant's realistic potential liability is approximately \$127,549.81. *Id.* Defendant's maximum potential liability for waiting time penalties is approximately \$1,948,725.25 ([372 employees x \$20.85 average hourly rate of pay x 8.00 hours/day x 30 days] + [372 employees x \$20.85 average hourly rate of pay x 0.25 hours of overtime/day x 1.5 overtime rate x 30 days]). *Id.* Defendant's maximum potential liability for inaccurate wage statements is approximately \$1,240,000.00 (310 employees x \$4,000.00 statutory maximum) based on approximately 310 Class Members who worked during the 1-year statute of limitations period and approximately 27,664 pay periods in that statutory timeframe. *Id.* In light of the foregoing, Plaintiffs' Counsel believes that it would be unrealistic to expect the Court to award the full \$3,188,745.25 in statutory penalties given Defendant's defenses, the contested nature of Plaintiffs' claims, the challenges of establishing willfulness as applicable, and the discretionary nature of penalties. *Id.* Considering that the underlying wage claims are realistically estimated to be approximately \$554,828.65, such a disproportionate award would also raise due process concerns. *Id.* As such, Plaintiffs' counsel discounted these figures to account for the risk and uncertainty of obtaining class certification and prevailing at trial, resulting in a realistic evaluation of approximately \$77,949.81 for waiting time penalty claims (\$1,948,725.25 x 20% x 20%), and approximately \$49,600.00 for wage statement penalty claims (\$1,240,000.00 x 20% x 20%), or approximately \$127,549.81 total for statutory penalties. *Id.*

PAGA: For the PAGA claim, Plaintiffs' Counsel determined that Defendant's potential exposure could potentially reach \$1,520,600.00, assuming the initial \$100 penalty would apply for each of the 15,206 pay periods in the PAGA Period. Yslas Decl. at ¶ 18. However, even assuming success on the merits of each claim, PAGA gives the Court discretion to reduce penalties for a variety of reasons, including where to do otherwise would result in an award that is unjust, arbitrary and oppressive, or confiscatory. *Id.* As such, Plaintiffs' counsel discounted this figure to account for the risk and uncertainty of prevailing at trial, resulting in a realistic evaluation of approximately \$152,060.00 for PAGA penalties (\$1,520,600.00 x 10%). *Id.* The settlement allocates \$10,000.00 of the Gross Settlement Amount to PAGA, therefore the PAGA allocation amounts to 1.4% of the

1 Gross Settlement Amount and approximately 7% of the realistic maximum damages for PAGA
2 penalties (\$10,000.00 / \$152,060.00). *Id.*

3 Using these estimated figures, Plaintiffs' Counsel predicted that the realistic maximum
4 recovery for all claims, including penalties, would be approximately \$886,376.34. Yslas Decl. at
5 ¶ 19. This means that the gross settlement amount represents 79% of the realistic maximum
6 damages (\$700,000.00 / \$886,376.34). *Id.* Considering the risk and uncertainty of prevailing at
7 class certification and at trial, this is an excellent result for the Class. *Id.* Indeed, because of the
8 proposed Settlement, Class Members will receive timely, guaranteed relief and will avoid the risk
9 of an unfavorable judgment. *Id.*

10 Based on the figures in the Settlement Agreement, the Net Settlement Amount available for
11 class settlement payments is currently estimated to be \$365,000.00 for approximately 437 Class
12 Members. Yslas Decl. at ¶ 20. As a result, each Settlement Class Member would be eligible to
13 receive an average net benefit of approximately \$835.24. *Id.* Based on the estimated Net Settlement
14 Amount available for individual class payments and there being approximately 46,167 workweeks
15 in the Class Period, the estimated weekly valuation for Individual Class Payments is \$7.91
16 (\$365,000.00/ 46,167 workweeks). *Id.*

17 **C. The Requested Service Payments are Reasonable**

18 Plaintiffs seek Class Representative Service Payments of up to \$15,000.00 each
19 (\$30,000.00 total) for accepting the responsibilities of representing the interests of the Class and
20 potential costs that were not borne by any other Class Member. Settlement Agreement at § 3.2.1.
21 A named plaintiff is eligible for payment that reasonably compensates the plaintiff for undertaking
22 and fulfilling a fiduciary duty to represent absent class members. *See Cellphone Termination Fee*
23 *Cases*, 186 Cal.App.4th 1380, 1393 (2010); *Bell v. Farmers Ins. Exch.*, 115 Cal.App.4th 715, 726
24 (2004).

25 Throughout this case, Plaintiffs assisted counsel in providing information necessary to
26 prosecute the claims, meeting with counsel regarding the claims, maintaining regular contact with
27 counsel, making themselves available the day of mediation to answer questions, and reviewing the
28 Settlement to ensure it was fair to the Class. Sarivalas Decl. at ¶ 11. and Vergara Decl. at ¶ 11. No

1 action would likely have been taken by Class Members individually and no compensation would
2 have been recovered for them, but for Plaintiffs’ services on behalf of the Class. By actively
3 pursuing this action, Plaintiffs furthered the California public policy goal of enforcing the State’s
4 wage-and-hour laws. *See Sav-On*, 34 Cal.4th at 340. The requested Class Representative Service
5 Payments are reasonable and should be preliminarily approved. Plaintiffs have provided a
6 declaration regarding their work performed to date and will provide additional information as
7 requested or required by the Court at final approval.

8 **D. The Requested Attorneys’ Fees and Costs Are Reasonable**

9 The purpose of an attorneys’ fee award in class action litigation is to reward counsel who
10 invested in a case despite the risk of non-payment and achieved a substantial positive result for the
11 class. California courts routinely award attorneys’ fees equaling one-third or more of the potential
12 value of the common fund. *See Chavez*, 162 Cal.App.4th at 66, fn. 11 (“Empirical studies show
13 that, regardless of whether the percentage method or the lodestar method is used, fee awards in
14 class actions average around one-third of the recovery.”).

15 Plaintiffs seek appointment of Wilshire Law Firm, PLC as Class Counsel. The attorneys
16 performed significant work and expended litigation costs in prosecuting this matter with no
17 guarantee of payment. Yslas Decl. at ¶ 21. Plaintiffs’ Counsel seeks preliminary approval for up
18 to 35% of the Gross Settlement Amount in attorneys’ fees, currently estimated to be \$700,000.00,
19 and up to \$35,000.00 in reimbursement of litigation costs. Given the work performed in this matter,
20 the extensive information exchange, and the substantial recovery obtained on behalf of the Class,
21 Plaintiffs’ Counsel achieved a settlement through efficient and diligent work. *See generally*, Yslas
22 Decl. At final approval, Plaintiffs’ Counsel will fully brief the merits of its request for the award
23 of attorneys’ fees and litigation costs.

24 **E. The Administration Costs Are Reasonable**

25 The Parties have agreed upon using Apex to administer this Settlement. Settlement
26 Agreement at §§ 1.2, 7.1. Plaintiffs seek preliminary approval of \$8,990.00 for Apex to administer
27 this Settlement pursuant to Apex’s will-not-exceed bid. *See* Yslas Decl. at ¶ 34, Exhibit 4. The
28 services covered by this payment are extensive and necessary to carry out the Settlement

1 administration.

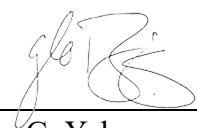
2 **V. CONCLUSION**

3 The Parties have negotiated a fair and reasonable settlement of the class claims in light of
4 the risks presented in this case. Plaintiffs have presented the materials and information necessary
5 to demonstrate that the requirements for preliminary approval have been met, and therefore
6 respectfully requests that the Court preliminarily approve the Settlement and schedule a date for
7 the final approval hearing.

8
9 Respectfully submitted,

10 Dated: August 28, 2026

WILSHIRE LAW FIRM, PLC

11
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