

John G. Yslas (SBN 187324)
John.yslas@wilshirelawfirm.com
Eugene Zinovyev (SBN 267245)
Eugene.zinovyev@wilshirelawfirm.com
Emily Borman (SBN 303180)
Emily.Borman@wilshirelawfirm.com
John Brown (SBN 233605)
John.brown@wilshirelawfirm.com
Gabriella Solé (SBN 346164)
Gabriella.sole@wilshirelawfirm.com
WILSHIRE LAW FIRM
660 S. Figueroa Street, Sky Lobby
Los Angeles, CA 90017
Telephone: (213) 381-9988
Facsimile: (213) 381-9989

Attorneys for Plaintiff

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SANTA CLARA**

RYAN ALLEN, individually, and on behalf of
all others similarly situated,

Plaintiff,

v.

THE ASIAN AMERICANS FOR
COMMUNITY INVOLVEMENT OF SANTA
CLARA COUNTY, INC, a California
Corporation; and DOES 1 through 10, inclusive,

Defendants.

Case No.: 25CV457665

CLASS ACTION

[Assigned for all purposes to: Hon. Beth McGowen, Dept. 22]

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

PRELIMINARY APPROVAL HEARING

Date: December 10, 2026

Time: 1:30 p.m.

Dept.: 22

Complaint filed: January 28, 2025

Trial date: Not Set

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

2 **PLEASE TAKE NOTICE** that on December 10, 2026, at 1:30 p.m., or as soon
3 thereafter as the matter may be heard in Department 22 of the above-entitled Court, located at
4 161 North First Street, San Jose, CA 95113, Plaintiff Ryan Allen. ("Plaintiff") will and hereby
5 does move this Court for an Order:

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

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

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

23 Respectfully submitted,

24 Dated: April 28, 2026

WILSHIRE LAW FIRM

25
26 By: _____

27 Emily Borman
28 Attorneys for Plaintiff

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MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

Pursuant to California Rules of Court, Rule 3.769(d) and (e), Plaintiff seeks preliminary approval of a class action settlement of wage and hour claims, including representative claims brought under the Private Attorneys' General Act of 2004 ("PAGA"), against Defendant Asian Americans for Community Involvement of Santa Clara County, Inc. ("Defendant"). The proposed Class is defined as all persons who worked for Defendant in California as an hourly-paid or non-exempt employee at any time during the Class Period ("Class Members") from January 28, 2021 through January 22, 2026 ("Class Period"). The main terms of the Settlement are as follows:

1. A Gross Settlement Amount of \$400,000.00, which will be distributed to approximately 374 Class Members on a pro rata basis according to the total workweeks worked by each Class Member during the Class Period;
2. Attorneys' fees of up to one-third of the Gross Settlement Amount (currently \$133,333.33) and up to \$26,000.00 in reimbursement of litigation costs to Plaintiff's Counsel;
3. A class representative service payment of up to \$10,000.00 to Plaintiff;
4. Costs of settlement administration of up to \$7,950.00; and
5. Allocation of \$20,000.00 to PAGA penalties, sixty-five percent (65%) of which (\$13,000.00) will be paid to the Labor and Workforce Development Agency ("LWDA"), and thirty-five percent (35%) of which (\$7,000.00) will be paid to Class Members who worked for Defendant during the PAGA Period of January 28, 2024 through January 22, 2026 ("Aggrieved Employees").

The Settlement meets all criteria for preliminary approval and falls within the range of reasonableness given the risks and expenses of further litigation. The Settlement was reached through informed, arm's length bargaining between experienced attorneys with the assistance of an experienced neutral. As such, Plaintiff requests that the Court grant preliminary approval of the Settlement, conditionally certify the Class for settlement purposes only, appoint Plaintiff as the Class Representative, appoint Plaintiff's Counsel as Class Counsel, appoint Phoenix Settlement

Administrators, Inc. (“Phoenix”) as the Settlement Administrator, authorize the Settlement Administrator to administer notice of the Settlement to the Class, and set a final approval hearing date.

II. PROCEDURAL HISTORY

On January 28, 2025, Plaintiff filed a putative class action against Defendant alleging: (1) failure to pay minimum and straight time wages; (2) failure to pay overtime wages; (3) failure to provide meal periods; (4) failure to authorize and permit rest periods; (5) failure to timely pay final wages at termination; (6) failure to provide accurate itemized wage statements; (7) failure to indemnify employees for expenditures; (8) failure to produce requested employment records; and (9) unfair business practices. Declaration of John G. Yslas in Support of Motion for Preliminary Approval of Class Action and PAGA Settlement (“Yslas Decl.”) at ¶ 3.

On January 28, 2025, Plaintiff provided written notice to the LWDA and Defendant of his intention to file a PAGA claim. Yslas Decl. at ¶ 4. The LWDA did not notify Plaintiff that it intended to investigate within 65 days of this written notice. *Id.* Therefore, on April 11, 2025 Plaintiff filed a separate complaint for penalties pursuant to Labor Code § 2699, et seq., Case No 25CV463148. *Id.*

The Parties subsequently participated in a private mediation with mediator Michael Loeb, Esq. on January 22, 2026. *Id.* at ¶ 5. The mediator made a proposal, which was accepted by both parties. *Id.* The parties negotiated the terms of the Settlement over the next several months, which was finalized in March 2026. *Id.* at ¶ 6, Exhibit 1 (“Settlement Agreement”). On April 24, 2026, Plaintiff submitted a copy of the Settlement Agreement to the LWDA. *Id.* at ¶ 7, Exhibit 2.

III. SUMMARY OF THE SETTLEMENT TERMS

A. Terms of the Proposed Settlement

The parties have agreed to settle the claims alleged in this case and the related PAGA Action for a Gross Settlement Amount of \$400,000.00. Settlement Agreement at § 3.1. Subject to Court approval, the following payments will be deducted from the Gross Settlement Amount: (1) a class representative service payment of up to \$10,000.00 to Plaintiff; (2) attorneys’ fees of up to one-third of the Gross Settlement Amount (currently \$133,333.33) and reimbursement of litigation

costs of up to \$26,000.00 to Plaintiff's Counsel; (3) costs of settlement administration of up to \$7,950.00 to Phoenix; (4) individual class payments to Class Members; and (5) PAGA penalties in the amount of \$20,000.00, which will be allocated 65% to the LWDA (\$13,000.00) and 35% to Aggrieved Employees (\$7,000.00). *Id.* at § 3.2 *et seq.* After all requested deductions are made, the remaining Net Settlement Amount is currently estimated to be \$202,716.67.

Individual class payments will be calculated based on the number of workweeks worked by each Class Member during the Class Period. *Id.* at § 3.2.4. For tax purposes, the individual class payments will be allocated 20% to wages and 80% to penalties, interest, and reimbursement of expenses. *Id.* at § 3.2.4.1. Defendant will separately pay any and all employer payroll taxes owed on the wage positions of the individual class payments separate from the Gross Settlement Amount. *Id.* at 3.1.

Individual PAGA payments to Aggrieved employees will be calculated based on the number of pay periods worked by each Aggrieved Employee during the PAGA Period. *Id.* at § 3.2.5.1. For tax purposes, the individual PAGA payments will be allocated 100% to penalties. *Id.*

Any deductions not approved by the Court will be retained by the Settlement Administrator in the Net Settlement Amount. *Id.* at § 3.2.1. Funds from any uncashed checks will be transmitted by the Settlement Administrator to the non-profit *cy pres* selected by Defendant, Recovery Café of San José. *Id.* at § 4.4.3. Recovery Café San José is not approved by the Court, the Parties agree that the Court may designate a charity to which the monies shall be donated without any requirement to amend the terms of this settlement agreement. *Id.* None of the Gross Settlement Amount will revert to Defendant. *Id.* at § 3.1.

B. Proposed Settlement Administration

The parties' proposed Class Notice complies with the requirements of California Rules of Court, Rule 3.766(d). *See* Exhibit A to Settlement Agreement. It provides information regarding the nature of this lawsuit, a summary of the settlement terms, the formula used for calculating individual class and PAGA payments and instructions to dispute the calculations, instructions on how to opt-out of or object to the Settlement, the date, time, and location of the final approval hearing, and the amounts sought for the class representative service payment, attorneys' fees and

1 litigation costs, and settlement administration costs. *See generally, id.* The Class Notice also
2 notifies Class Members that they do not need to submit a claim in order to participate in the
3 Settlement and receive a payment. *See id.* The Settlement Administrator will mail Class Members
4 the Class Notice by first-class mail. Settlement Agreement at § 7.4.2.

5 If a Class Notice is returned as undeliverable, the Settlement Administrator will re-mail the
6 Class Notice within five (5) calendar days to the forwarding address provided by the U.S. Postal
7 Service. *Id.* at § 7.4.3. If no forwarding address is provided, the Settlement Administrator will
8 conduct a Class Member Address Search and re-mail the Class Notice to the most current address
9 obtained. *Id.* The deadline to opt-out of the Settlement or to submit an objection or dispute will be
10 extended by fourteen (14) days beyond the forty-five (45) days otherwise provided in the Class
11 Notice for all Class Members whose Class Notice was remailed. *Id.* at §7.4.4.

12 **C. Proposed Release**

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

16 Plaintiff's Release. Plaintiff discharges Released Parties from all claims,
17 transactions, or occurrences, including all claims that were, or reasonably could
18 have been, alleged, based on the facts contained in the Operative Complaint; and
19 claims under the Fair Employment and Housing Act, Americans with Disabilities
20 Act, Title VII of the Civil Rights Act of 1964, the California Labor Code, and all
21 equivalent claims under federal law ("Plaintiff's Release"). Plaintiff's Release does
22 not extend to any claims or actions to enforce this Agreement, or to any claims for
23 vested benefits, unemployment benefits, disability benefits, social security benefits,
24 workers' compensation benefits that arose at any time, or based on occurrences
25 outside the Class Period. Plaintiff acknowledges that Plaintiff may discover facts or
26 law different from, or in addition to, the facts or law that Plaintiff now knows or
27 believes to be true but agrees, nonetheless, that Plaintiff's Release shall be and
28 remain effective in all respects, notwithstanding such different or additional facts or
Plaintiff's discovery of them.

Settlement Agreement at § 5.1.

Plaintiff's Waiver of Rights Under California Civil Code Section 1542. For
purposes of Plaintiff's Release, Plaintiff expressly waives and relinquishes the
provisions, rights, and benefits, if any, of section 1542 of the California Civil Code,
which reads:

A general release does not extend to claims that the creditor or
releasing party does not know or suspect to exist in his or her favor

at the time of executing the release, and that if known by him or her would have materially affected his or her settlement with the debtor or Released Party.

Plaintiff understands fully the statutory language of Civil Code § 1542, and, with this understanding, assumes all risks for claims released hereunder that have already arisen or may in the future arise, whether known or unknown, suspected or unsuspected, and specifically waives all rights he may have under California Civil Code § 1542 with respect to the claims released in paragraphs 5.2-5.3. Plaintiff understands that, if any of the facts relating in any manner to the Actions, or to the release and dismissal of claims as provided in this Agreement, are hereafter found to be other than or different from the facts now believed to be true, he has expressly accepted and assumed that risk and agrees that this Agreement and the release of claims contained herein shall nevertheless remain effective.

Settlement Agreement at § 5.1.1.

Released Class Claims: All Participating Class Members will release all claims, rights, demands, liabilities, and causes of action, alleged or which could have reasonably been alleged based on the facts alleged in the Operative Complaint, including but not limited to: (1) failure to pay minimum and straight time wages (pursuant to Cal. Labor Code §§ 204, 1194, 1194.2, 1197 and 1197.1); (2) failure to pay overtime wages (pursuant to Cal. Labor Code §§ 510, 1194, and 1198); (3) failure to provide meal periods (pursuant to Cal. Labor Code §§ 226.7 and 512); (4) failure to authorize and permit rest periods (pursuant to Cal. Labor Code §§ 226.7); (5) failure to timely pay final wages at termination (pursuant to Cal. Labor Code §§ 201-203); (6) failure to provide accurate itemized wage statements (pursuant to Cal. Labor Code §§ 226); (7) failure to indemnify employees for expenditures (pursuant to Cal. Labor Code §§ 2802); (8) failure to produce requested employment records (pursuant to Cal. Labor Code §§ 226, 432, and 1198.5); (9) failure to pay reporting time pay; (10) failure to pay vacation pay, sick pay, or other time off; (11) failure to pay any bonuses or shift premiums; (12) failure to maintain payroll records; (13) failure to timely pay wages during employment; and (14) unfair business practices (pursuant to Cal. Bus. & Prof. Code §§ 17200, et seq.). The enumeration of these specific claims shall neither enlarge nor narrow the scope of res judicata based on the claims that were asserted in the Actions or could have been asserted in the Actions based on the facts and circumstances alleged in the Operative Complaint. The Released Class Claims are those that accrued during the Class Period.

Settlement Agreement at § 5.2.

Released PAGA Claims: All Aggrieved Employees will release all claims for PAGA civil penalties that are alleged or reasonably could have been alleged based on the facts alleged in the Operative Complaint and in Plaintiff's January 28, 2025 PAGA Notice, including but not limited to: (1) failure to pay minimum and straight time wages (pursuant to Cal. Labor Code §§ 204, 210, 510, 1194, 1194.2, 1197 and 1197.1); (2) failure to pay overtime wages (pursuant to Cal. Labor Code §§ 510, 1194 and 1198); (3) failure to provide meal periods (pursuant to Cal. Labor Code §§ 210, 226.7 and 512); (4) failure to authorize and permit rest periods (pursuant to Cal. Labor Code §§ 210 and 226.7); (5) failure to timely pay final wages at termination

(pursuant to Cal. Labor Code §§ 201 – 203 and 213(d)); (6) failure to provide accurate itemized wage statements (pursuant to Cal. Labor Code §§ 226 and 226.3); (7) failure to indemnify employees for expenditures (pursuant to Cal. Labor Code § 2802); (8) failure to produce requested employment records (pursuant to Cal. Labor Code §§ 226, 432, and 1198.5); (9) failure to pay all earned wages twice per month and unlawfully withholding accrued wages (pursuant to Cal. Labor Code §§ 204, 210 and 216); (10) failure to maintain accurate records of hours worked and meal periods (pursuant to Cal. Labor Code §§ 1174, and 1174.5); (11) recordkeeping requirement violations (pursuant to Cal. Labor Code §§ 226.6, 558.1, 1174, 1174.5, 1198 and 1199); (12) failure to pay reporting time pay; (13) failure to pay vacation pay, sick pay, or other time off; (14) failure to pay any bonuses or shift premiums; and (15) civil penalties for wage and hour violations (pursuant to Cal. Labor Code § 558). The Released PAGA Claims are those that accrued during the PAGA Period.

Settlement Agreement at § 5.3.

Only Plaintiff 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*

1 *Transp., Inc.*, 228 Cal.App.4th 1213, 1222 (2014). Class sizes as small as 10 have been permitted.
2 *Rose v. City of Hayward*, 126 Cal.App.3d 926, 934 (1981), disapproved on other grounds by *Noel*,
3 7 Cal.5th at 986.

4 The Class here consists of all persons who worked for Defendant in California as an hourly-
5 paid or non-exempt employee at any time during the Class Period (January 28, 2021 through
6 January 22, 2026). *See* Settlement Agreement at §§ 1.5, 1.13. The Class is also readily ascertainable
7 from Defendant’s business records, because all Class Members are or were employees of
8 Defendant. Yslas Decl. at ¶ 9. Defendant’s records show there are approximately 374 Class
9 Members, making joinder of all Class Members impracticable. *Id.*

10 **2. A Well-Defined Community of Interest Exists**

11 The community of interest requirement embodies three factors: (1) predominant common
12 questions of law or fact; (2) class representatives with claims or defenses typical of the class; and
13 (3) class representatives who can adequately represent the class. *Brinker*, 53 Cal.4th at 1021.

14 *a) Common Questions Predominate*

15 In determining whether common issues “predominate,” courts consider both plaintiff’s
16 legal theories and defendant’s affirmative defenses. *Duran v. U.S. Bank Nat’l Ass’n*, 59 Cal.4th 1,
17 28-29 (2014). The “predominate common questions” factor does not require that all class members
18 have identical claims. *Ayala v. Antelope Valley Newspapers, Inc.*, 59 Cal.4th 522, 530 (2014).
19 Rather, the focus is on whether issues shared by the class members are sufficiently uniform to
20 permit class-wide assessment, and whether individual variations in proof on those issues are
21 manageable. *Id.*

22 Plaintiff has alleged that Defendant maintained common employment policies and/or
23 practices that unlawfully deprived Class Members of wages, meal period, rest periods,
24 reimbursements for business expenses, accurate wage statements, and timely payment of wages
25 upon separation of employment. Yslas Decl. at ¶ 10. These allegations present common factual
26 and legal questions of, *inter alia*, whether Defendant applied the same scheduling, timekeeping,
27 pay, meal period, rest period, and reimbursement policies to all Class Members, whether these
28 policies and practices resulted in Labor Code violations, whether Defendant’s conduct was

intention, and whether Class Members are entitled to damages and/or penalties. *Id.* These common questions could be resolved using Class Members’ time records, payroll records, testimony from Defendant’s designated representative(s), and Class Members’ testimony. *Id.* Therefore, the Court can and should exercise its discretion to grant conditional class certification for settlement purposes.

b) Plaintiff is Typical of the Class

Typicality does not require that the representative plaintiff’s claims and those of the class members be identical or perfectly aligned. *Wershba v. Apple Computer, Inc.*, 91 Cal.App.4th 224, 228 (2001), disapproved on other grounds by *Hernandez v. Restoration Hardware, Inc.*, 4 Cal.5th 260, 269-280 (2018). Typicality does not require that a plaintiff’s claims be identical to those of other class members, only that their claims and the defenses applicable to them are sufficiently similar to those of other class members that a named plaintiff is able to adequately represent the class and focus on common issues. *Medraza v. Honda of North Hollywood*, 166 Cal.App.4th 89, 99 (2008).

Plaintiff has alleged that he and Class Members were employed by the same Defendant and injured by Defendant’s common wage and hour policies and practices, including Defendant’s scheduling, timekeeping, pay, meal period, rest period, and reimbursement policies. *See* Yslas Decl. at ¶ 10. Through informal discovery, including the production of thousands of documents by Defendant, Plaintiff confirmed that these challenged policies and practices applied to Plaintiff as well as Class Members. *See id.* at ¶ 8. Therefore, Plaintiff’s claims and Class Members’ claims arise from the same challenged employment policies and practices and are based on the same legal theories.

c) Plaintiff and Plaintiff’s 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.

1 *Nat'l Solar Equip. Owners' Ass'n v. Grumman Corp.*, 235 Cal.App.3d 1273, 1286 (1991). The
2 proposed representative Plaintiff and proposed Class Counsel present no such conflict.

3 Plaintiff's interests are coextensive with Class Members' interests. Declaration of Ryan
4 Allen in Support of Motion for Preliminary Approval ("Allen Decl.") at ¶ 6. Plaintiff has
5 demonstrated an ability to advocate for the interests of Class Members by initiating this lawsuit,
6 gathering documents and information, being available on the day of mediation to answer questions,
7 meeting with his attorneys to understand the claims and theories of liability at issue, assisting his
8 attorneys in preparation for mediation, and reviewing the proposed Settlement. *Id.* at ¶ 7.

9 Likewise, Wilshire Law Firm has expended considerable time and effort on this case and
10 will continue to do so through final approval. *See generally*, Yslas Decl. Therefore, Plaintiff should
11 be appointed Class Representative, and his counsel should be appointed Class Counsel.

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

13 Courts have held that class treatment of wage and hour claims is clearly "superior to the
14 other available methods for the fair and efficient adjudication of the controversy." *Dean Witter*
15 *Reynolds, Inc. v. Superior Court*, 211 Cal.App.3d 758, 772-773 (1989). This is so because "[p]ublic
16 policy has long favored the 'full and prompt payment of wages due an employee.'" *Sav-On Drug*
17 *Stores, Inc. v. Superior Court*, 34 Cal.4th 319, 340 (2004). Here, a class action is superior to a
18 multitude of individual lawsuits. Given the size and amount of each Class Members' claim, Class
19 Members have little incentive to litigate their claims on an individual basis because the out-of-
20 pocket expenses and personal commitment necessary to litigate each claim likely outweighs any
21 potential recovery. Yslas Decl. at ¶ 10. Therefore, a class action is the superior method for seeking
22 relief.

23 **B. The Settlement Meets the Standards for Preliminary Approval**

24 The moving party must demonstrate that "the settlement is fair, adequate and reasonable."
25 *Kullar v. Foot Locker Retail, Inc.*, 168 Cal.App.4th 116, 126 (2008). "In determining whether a
26 class settlement is fair, adequate, and reasonable, the trial court should consider relevant factors,
27 such as the strength of plaintiffs' case, the risk, expense, complexity and likely duration of further
28 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. Plaintiff 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, Plaintiff’s Counsel thoroughly investigated the claims, applicable law, and potential defenses. *Id.* at ¶ 8. Plaintiff’s Counsel assessed the value to the class claims using the documents and data 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, Plaintiff’s personnel file, employment handbook and policies, job descriptions, and a random sampling of time and payroll records. *Id.*

c) *Plaintiff’s Counsel is Experienced in Similar Litigation*

Plaintiff is represented by Wilshire Law Firm, PLC. *Id.* at ¶ 1. Plaintiff’s Counsel has

extensive experience litigating wage and hour class actions on behalf of employees. *See id.* at ¶¶ 19-30. Plaintiff's Counsel have 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 Plaintiff's 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 Plaintiff's 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: Plaintiff alleges that Defendant failed to pay for all hours worked, including minimum, straight time, and overtime wages, by requiring class members to work off-the-clock, unpaid. Yslas Decl. at ¶ 12. For purposes of calculating Defendant's liability based on a best-case scenario for Plaintiff and the Class, Plaintiff's Counsel estimates that Defendant's maximum potential exposure by assuming that all unpaid work time should have been paid at the overtime rate, and Plaintiff's Counsel assumed that Defendant is liable for 1 hour of unpaid worktime per workweek. This results in an estimate of approximately \$1,208,074.50 (29,829 workweeks x \$27.00 hourly rate x 1.5 overtime rate x 1 hour of unpaid work per workweek), but Plaintiff's Counsel applied a risk discount based on a 20 % chance of succeeding at class certification and a 25 % chance of succeeding at trial on the merits because liability depends on whether Defendant knew or should have known that class members were working off-the-clock, yielding a realistic damage estimate of approximately \$60,403.73 (\$1,208,074.50 x 20% x 25%).

Meal Periods: With respect to the meal period claim, Plaintiff alleges that Defendant required Plaintiff and similarly situated class members to either work in lieu of taking meal periods, or their meal periods were untimely or interrupted. Yslas Decl. at ¶ 13. Specifically, Plaintiff alleges that synthetic meal periods largely suggest that employees were not provided with compliant meal periods. *Id.* Plaintiff will also testify that regardless of the meal periods in his time sheets, approximately 75% of his meal periods were non-compliant and interrupted by

managers and management staff with work-related tasks and inquiries. *Id.* Therefore, potential liability for the meal period claim is approximately \$1,987,719.75 (98,159 shifts x \$27.00 hourly rate x 75% 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 a 75% violation rate is unrealistic, Plaintiff's Counsel discounted this figure based on a 25% chance of succeeding at class certification and a 25% chance of succeeding at trial, yielding a realistic damage estimate of approximately \$124,232.48 (\$1,987,719.75 x 25% x 25%). *Id.*

Rest Breaks: With respect to the rest period claim, Plaintiff alleges that Defendant required him and similarly situated class members to work in lieu of taking rest periods, remain on-call during their rest periods or their rest periods were interrupted. Yslas Decl. at ¶ 14. Assuming a 40% violation rate for the class period based on Plaintiff's and other class members' experience working for Defendant, Defendant's potential liability for the rest period claim is approximately \$1,219,471.20 (112,914 shifts x \$27.00 hourly rate x 40% violation rate); however, Plaintiff's Counsel discounted this figure to account for the difficulty of certifying and proving rest period claims, particularly because rest periods do not have to be recorded, and to account for the possibility of Class Members voluntarily choosing to forego a rest period. *Id.* Because this claim would have relied exclusively on Class Member testimony, Plaintiff's Counsel discounted this claim based on a 20% chance of succeeding at class certification and a 20% chance of succeeding at trial, yielding a realistic damage estimate of approximately \$48,778.85 (\$1,219,471.20 x 20% x 20%). *Id.*

Reimbursements: Plaintiff's reimbursement claim was based on the allegation that Defendant expected employees to pay out-of-pocket for necessary employment-related expenses. Yslas Decl. at ¶ 15. However, Defendant did not reimburse employees for these expenses. *Id.* Based on Plaintiff's estimate that he incurred \$30.00 in unreimbursed expenses per month, Plaintiff's Counsel assumed each Class Member incurred \$30.00 in unreimbursed expenses per month in calculating potential exposure to be approximately \$223,717.50 for this claim. However, Defendant argued that these expenses were not required by Defendant, and that it could not have known that these expenses were being incurred. Accordingly, Plaintiff's Counsel discounted this

1 claim based on a 25% chance of succeeding at class certification and a 30% chance of succeeding
2 at trial, yielding a realistic damage estimate of approximately \$16,778.81 ($\$223,717.50 \times 25\% \times$
3 30%). *Id.*

4 In sum, Plaintiff's Counsel estimated that Plaintiff's maximum recovery for the off-the-
5 clock claim, meal period violations, rest period violations, and expense reimbursement violations
6 is approximately \$4,638,982.95. Yslas Decl. at ¶ 16. However, after factoring in the risk and
7 uncertainty of prevailing at certification and trial, Plaintiff's Counsel estimates that Plaintiff's
8 realistic estimated recovery for the non-penalty claims is approximately \$250,193.87.

9 Derivative Penalties and PAGA Penalties: With respect to Plaintiff's derivative claims for
10 statutory and civil penalties, Plaintiff estimated that Defendant's realistic potential liability is
11 approximately \$115,911.25. Yslas Decl. at ¶ 17. Defendant's maximum potential liability for
12 waiting time penalties is approximately \$974,025.00 (185 employees x \$27.00 hourly rate x 8.00
13 hours/day x 30 days) based on approximately 185 terminated class members during the 3-year
14 statute of limitations period, approximately \$940,000.00 (235 employees x \$4,000 statutory
15 maximum) for inaccurate wage statements based on approximately 235 class members who worked
16 during the 1-year statute of limitations period, and approximately \$602,100.00 for PAGA
17 violations based on the Court assessing a \$100 penalty for initial violations for all 6,021 pay
18 periods within the PAGA period. *Id.* In light of the foregoing, Plaintiff's Counsel believes that it
19 would be unrealistic to expect the Court to award the full \$2,516,125.00 in penalties given
20 Defendant's defenses, the contested nature of Plaintiff's claims, the challenges of establishing
21 willfulness as applicable, and the discretionary nature of penalties. *Id.* Considering that the
22 underlying claims are realistically estimated to be approximately \$250,193.87, such a
23 disproportionate award would also raise due process concerns. *Id.* As such, Plaintiff's Counsel
24 discounted these figures to account for the risk and uncertainty of prevailing at trial, resulting in a
25 realistic evaluation of approximately \$48,701.25 ($\$974,025.00 \times 20\% \times 25\%$) for waiting time
26 penalty claims, approximately \$47,000.00 ($\$940,000.00 \times 20\% \times 25\%$) for wage statement penalty
27 claims, and \$60,210.00 for PAGA penalties, or approximately \$155,911.25 total for statutory and
28 civil penalties. *Id.*

Using these estimated figures, Plaintiff predicted that the realistic maximum recovery for all claims, including penalties, would be approximately \$406,105.12. Yslas Decl. at ¶ 18. This means that the \$400,000.00 settlement figure represents approximately 98.50% of the realistic maximum recovery ($\$400,000.00 / \$406,105.12 = 98.50\%$). *Id.* Considering the risk and uncertainty of prevailing at class certification and at trial, this is an excellent result for the Class. *Id.* Indeed, because of the proposed Settlement, class members will receive timely, guaranteed relief and will avoid the risk of an unfavorable judgment. *Id.*

C. The Requested Service Payment is Reasonable

Plaintiff seeks a class representative service payment of up to \$10,000.00 for accepting the responsibilities of representing the interests of the Class and potential costs that were not borne by any other Class Member. Settlement Agreement at § 3.2.1. A named plaintiff is eligible for payment that reasonably compensates her for undertaking and fulfilling a fiduciary duty to represent absent class members. *See Cellphone Termination Fee Cases*, 186 Cal.App.4th 1380, 1393 (2010); *Bell v. Farmers Ins. Exch.*, 115 Cal.App.4th 715, 726 (2004).

Throughout this case, Plaintiff assisted counsel in gathering evidence necessary to prosecute the claims, maintained regular contact with counsel, was available on the day of mediation to answer questions, and reviewed the Settlement to ensure it was fair to the Class. Allen Decl. at ¶ 7. No action would likely have been taken by Class Members individually and no compensation would have been recovered for them, but for Plaintiff's services on behalf of the Class. By actively pursuing this action, Plaintiff furthered the California public policy goal of enforcing the State's wage and hour laws. *See Sav-On*, 34 Cal.4th at 340. The requested class representative service payment is reasonable and should be preliminarily approved. Plaintiff has provided a declaration regarding his work performed to date and will provide additional information as requested or required by the Court at final approval.

D. The Requested Attorneys' Fees and Costs Are Reasonable

The purpose of an attorneys' fee award in class action litigation is to reward counsel who invested in a case despite the risk of non-payment and achieved a substantial positive result for the class. California courts routinely award attorneys' fees equaling one-third or more of the potential

1 value of the common fund. *See Chavez*, 162 Cal.App.4th at 66, fn. 11 (“Empirical studies show
2 that, regardless of whether the percentage method or the lodestar method is used, fee awards in
3 class actions average around one-third of the recovery.”).

4 Plaintiff seeks appointment of Wilshire Law Firm as Class Counsel. The attorneys
5 performed significant work and expended litigation costs in prosecuting this matter with no
6 guarantee of payment. Yslas Decl. at ¶ 18. Plaintiff’s Counsel seeks preliminary approval for
7 \$133,333.33 in attorneys’ fees, which is one-third of the Gross Settlement Amount, and up to
8 \$26,000.00 in reimbursement of litigation costs. Given the work performed in this matter, the
9 extensive information exchange, and the substantial recovery obtained on behalf of the Class,
10 Plaintiff’s Counsel achieved a settlement through efficient and diligent work. *See generally*, Yslas
11 Decl. At final approval, Plaintiff’s Counsel will fully brief the merits of their request for the award
12 of attorneys’ fees and litigation costs.

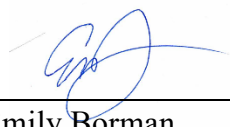
13 **V. CONCLUSION**

14 The Parties have negotiated a fair and reasonable settlement of the class claims in light of
15 the risks presented in this case. Plaintiff has presented the materials and information necessary to
16 demonstrate that the requirements for preliminary approval have been met, and therefore
17 respectfully requests that the Court preliminarily approve the Settlement and schedule a date for
18 the final approval hearing.

19 Respectfully submitted,

20 Dated: April 28, 2026

WILSHIRE LAW FIRM

21
22 By:  _____

23 Emily Borman
24 Attorneys for Plaintiff
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