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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF PLACER

KRISTYNA YOUNG, on behalf of herself and others similarly situated,

Plaintiff,

vs.

BOREAL RIDGE CORPORATION, a California corporation; BOREAL RIDGE SKI RESORT, an entity of unknown form; BOREAL MOUNTAIN RESORT, an entity of unknown form; POWDR CORP., a Delaware corporation; and DOES 1 through 50, inclusive,

Defendants.

Case No.: S-CV-0055093

[Assigned for all purposes to the Hon. Trisha Hirashima, Dept. 32]

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

Preliminary Approval Hearing:
Date: November 10, 2026
Time: 8:30 a.m.
Dept.: 32

Complaint filed: April 21, 2025
FAC filed: June 25, 2025
SAC filed: August 6, 2026
Trial date: None set

TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that on November 10, 2026, at 8:30 a.m., or as soon thereafter as the matter may be heard in Department 32 of the Placer County Superior Court, located at 10820 Justice Center Drive, Roseville, CA 95678, Plaintiffs Kristyna Young, Jewel Nobles, and Michael Delarm ("Plaintiffs") will and hereby do move this Court for an Order:

1. Granting preliminary approval of the proposed Settlement and Class Action and PAGA Settlement Agreement;
2. Conditionally certifying the proposed Class for purposes of settlement;
3. Appointing Plaintiffs as the Class Representatives;
4. Appointing Wilshire Law Firm, PLC and D.Law, Inc. as Class Counsel;
5. Appointing CPT Group, Inc. as the Administrator; and
6. Setting a final approval hearing date.

Pursuant to Code of Civil Procedure § 382 and California Rules of Court 3.769, *et seq*., this Motion is made on the grounds that the proposed Settlement satisfies all criteria for preliminary approval and falls well within the range of reasonableness. The Settlement was reached through adversarial, arm's length negotiating between experienced attorneys with the assistance of an experienced, well-respected neutral, and Plaintiffs and Plaintiffs' counsel will fairly and adequately represent the Class.

This Motion is based on this Notice of Motion, the accompanying Memorandum of Points and Authorities ("MPA"), the Declarations of Thiago M. Coelho, Roman Shkodnik, Kristyna Young, Jewel Nobles, and Michael Delarm, and all records and documents on file, together with such oral and documentary evidence that may be presented at the hearing on this matter.

Respectfully submitted,

Dated: October 15, 2026

WILSHIRE LAW FIRM, PLC

By: _____

Thiago M. Coelho
Rachel J. Vinson
Karen L. Wallace

Attorneys for Plaintiffs

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MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

Pursuant to Code of Civil Procedure § 382 and California Rules of Court 3.769, *et seq*., Plaintiffs Kristyna Young, Jewel Nobles, and Michael Delarm ("Plaintiffs") seek preliminary approval of this proposed Settlement of wage and hour claims, including representative claims brought under the Private Attorneys General Act ("PAGA"), Lab. Code § 2698, *et seq*., against Defendant Boreal Ridge Corporation ("Boreal Ridge") and Defendant Powdr Corp. ("Powdr") (collectively "Defendants"). Pursuant to the proposed Class Action and PAGA Settlement Agreement ("Agreement"), the proposed Class is defined as all persons who worked for Defendants in California as an hourly-paid or non-exempt employee at any time during the period from April 21, 2021, through April 18, 2026, ("Class Members"). Declaration of Thiago M. Coelho ("Coelho Decl.") ¶ 21.

The Settlement provides that Defendants shall pay a Gross Settlement Amount ("GSA") of $855,400.00, from which the following payments will be deducted:

1. Class Counsel Fees up to $285,133.33 (one-third (1/3) of the GSA);
2. Class Counsel Costs up to $30,000.00 to reimburse reasonable litigation costs incurred;
3. Class Representative Service Awards up to $22,500.00 total ($7,500 to each Plaintiff);
4. Administration Costs up to $15,000.00; and
5. PAGA Penalties of $42,770.00, allocated 65% ($27,800.50) to the Labor and Workforce Development Agency ("LWDA") and 35% ($14,969.50) to Aggrieved Employees, *infra*.

The amount remaining after these deductions (the "Net Settlement Amount"), approximately $459,996.67, will be distributed to approximately 1,385 Class Members on a pro rata basis as Individual Class Payments, *infra*. *Id*. ¶¶ 9-11.

The Settlement meets all criteria for preliminary approval and falls within the range of reasonableness given the risks and expense of further litigation. The Settlement was reached

through adversarial, arm's length negotiations between experienced attorneys with the assistance of an experienced, well-respected neutral. *Id*. ¶ 7. Accordingly, Plaintiffs request that the Court grant preliminary approval of the Settlement, conditionally certify the Class for settlement purposes, appoint Plaintiffs as the Class Representatives, appoint Plaintiffs' counsel as Class Counsel, appoint CPT Group, Inc. ("CPT") as the Administrator, authorize the Administrator to administer notice of the Settlement to the Class, and set a final approval hearing date.

II. PROCEDURAL HISTORY

On April 21, 2025, Plaintiff Young filed a putative class action against Boreal Ridge Ski Resort, Boreal Mountain Resort, and Defendants alleging the following causes of action: 1) failure to pay minimum wages; 2) failure to pay wages and overtime; 3) failure to provide meal periods; 4) failure to provide rest periods; 5) failure to pay vacation wages; 6) failure to comply with all requirements for paid sick leave; 7) failure to indemnify employees for business expenses; 8) failure to provide accurate itemized wage statements; 9) failure to maintain records; 10) failure to timely pay final wages at termination; and 11) unfair business practices under the Unfair Competition Law ("UCL"), Bus. & Prof. Code § 17200, *et seq*. (the "Action"). On August 5, 2025, the named defendants Boreal Ridge Ski Resort and Boreal Mountain Resort were dismissed without prejudice. Coelho Decl. ¶ 3.

On April 21, 2025, Plaintiff Young provided written notice to Defendants and the LWDA of the specific provisions of the Labor Code alleged to have been violated, including the facts and theories in support ("Young PAGA Notice"). The LWDA did not notify Plaintiff Young that it intended to investigate within the statutory waiting period. *Id*. ¶ 4, Ex. 1. Accordingly, on June 25, 2025, Plaintiff Young filed a First Amended Complaint in the Action adding a PAGA cause of action seeking civil penalties from Defendants for the Labor Code violations alleged in the Young PAGA Notice. *Id*. ¶ 5.

On April 30, 2025, Plaintiff Nobles filed a putative class action complaint in the Nevada County Superior Court entitled *Nobles v. Boreal Ridge Corporation, et al*., Case No. CU0002063 ("Nobles Action"), alleging against Boreal Ridge the following causes of action: 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; and 8) unfair business practices under the UCL ("*Nobles* Action"). *Id*. ¶ 6.

On April 17, 2025, Plaintiff Nobles provided written notice to Defendants and the LWDA of the specific Labor Code provisions alleged to have been violated, including the facts and theories in support ("Nobles PAGA Notice"). The LWDA did not notify Plaintiff Nobles that it intended to investigate within the statutory waiting period. *Id*. ¶ 7, Ex. 2. Accordingly, on June 25, 2025, Plaintiff Nobles filed a First Amended Complaint in the *Nobles* Action adding a PAGA cause of action seeking civil penalties for the violations alleged in the Nobles PAGA Notice. *Id*. ¶ 8.

On December 2, 2025, Plaintiffs Young and Delarm amended the Young PAGA Notice, which was timely provided to Defendants and the LWDA. *Id.* ¶ 9, Ex. 3.

On February 19, 2026, the Parties participated in a private mediation with Lonnie Giamela, Esq. (the "Mediator"), which led to the Settlement and the Agreement. *Id.* ¶ 10, Ex. 4. The negotiations were adversarial and at arm's length, as all Parties were prepared to continue litigation if the mediation were not successful. *Id.* Subsequently, on August 6, 2026, Plaintiff Young filed a Second Amended Complaint ("SAC") in the Action to consolidate the claims alleged in the *Nobles* Action and add Jewel Nobles and Michael Delarm as named plaintiffs. The SAC is the operative complaint ("Operative Complaint"). *Id*. ¶¶ 10, 11.

On September 23, 2026, Plaintiffs submitted a copy of the Agreement to the LWDA. *Id.* ¶ 12, Ex. 5.

III. SUMMARY OF SETTLEMENT TERMS

The Parties agreed to settle the Action in its entirety for a Gross Settlement Amount ("GSA") of $855,400.00, and Defendants will pay employer payroll taxes owed on the wage portions of the Individual Class Payments separately. Coelho Decl. ¶ 13. Subject to Court approval, the following payments will be deducted from this common fund: 1) Class Counsel Fees up to $285,133.33 (one-third (1/3) of the GSA); 2) Class Counsel Costs up to $30,000.00 to reimburse reasonable litigation costs incurred; 3) Class Representative Service Awards up to $22,500.00 total

($7,500.00 to each Plaintiff); 4) Administration Costs up to $15,000.00 to CPT; and 5) PAGA Penalties of $42,770.00, allocated 65% ($27,800.50) to the LWDA and 35% ($14,969.50) to Aggrieved Employees, distributed on a pro rata basis as Individual PAGA Payments. The estimated $459,996.67 remaining after these deductions (the "Net Settlement Amount") will be distributed to approximately 1,385 Class Members on a pro rata basis as Individual Class Payments. *Id.* ¶¶ 14, 15.

Individual Class Payments will be calculated based on the number of Workweeks worked during the Class Period, allocated 20% to wages and 80% to interest and statutory penalties. *Id*. ¶ 16. The 35% share of PAGA Penalties allocated to Aggrieved Employees will be distributed as Individual PAGA Payments based on the number of Pay Periods worked during the PAGA Period, allocated 100% to penalties for tax purposes. *Id*. ¶ 17.

Any deductions, or the remainder of any deductions, not approved by the Court will be retained by the Administrator in the Net Settlement Amount. The Administrator will also transmit all monies represented by checks remaining uncashed and cancelled after the void date to the California Controller's Unclaimed Property Fund in the name of the Class Member, and none of the GSA will revert to Defendants. *Id.* ¶¶ 18-20.

A. Definitions

"Class Members" means all persons who worked for Defendants in California as an hourly-paid or non-exempt employee at any time during the Class Period, from April 21, 2021, through April 18, 2026. *Id*. ¶ 21.

"Aggrieved Employees" means all persons who worked for Defendants in California as an hourly-paid or non-exempt employee at any time during the PAGA Period, from April 21, 2024, through April 18, 2026. *Id*. ¶ 22.

"Response Deadline" means 60 days after the Administrator mails the Class Notice and is the last date on which Class Members may: (a) fax, email, or mail Requests for Exclusion; (b) fax, email or mail objections to the Settlement; or (c) fax, email, or mail a challenge to the number of Workweeks allocated to the Class Member in the Class Notice. Class Members to whom Class Notices are resent after having been returned undeliverable to the Administrator

shall have their deadline extended an additional 14 calendar days beyond the Response Deadline. *Id*. ¶ 23.

"Effective Date" means the date on which the Judgment becomes final as of the latest of the following occurrences: (a) if no Class Member moves to intervene or objects to the Settlement, the day the Court enters Judgment; (b) if one or more Class Members moves to intervene or objects to the Settlement, the day after the deadline for filing a notice of appeal from the Judgment; or (c) if a timely appeal from the Judgment is filed, the day after the appellate court affirms the Judgment and issues a remittitur. *Id*. ¶ 24.

"Released Parties" means Defendants and Defendants parents, subsidiaries, owners, officers, directors, shareholders, managerial employees, attorneys, and agents. *Id*. ¶ 25.

B. Releases

Effective on the date when Defendants fully fund the GSA and all employer payroll taxes owed on the Wage Portion of the Individual Class Payments, Plaintiffs, Class Members, and Class Counsel will release claims against all Released Parties. *Id*. ¶ 26.

1. Plaintiffs' Release

Plaintiffs and Plaintiffs' respective former and present representatives, agents, attorneys, administrators, successors and assigns, release and discharge Released Parties from all claims, whether known or unknown, related to or arising from their employment with Defendants on or before the date of execution of the Agreement ("Plaintiffs' Release"). Plaintiffs also waive all rights under Civil Code section 1542. *Id*. ¶ 27.

2. Release by Participating Class Members

All Participating Class Members, on behalf of themselves and their respective former and present representatives, agents, attorneys, administrators, successors and assigns, release Released Parties from all claims arising during the Class Period that were alleged, or reasonably could have been alleged, based on the facts and allegations in the Operative Complaint ("Released Class Claims"). Except as set forth in Section 5.3 of the 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, or

workers' compensation or claims based on events occurring outside the Class Period. *Id*. ¶ 28.

3. Release by Aggrieved Employees

All Aggrieved Employees are deemed to release, on behalf of themselves and their respective former and present representatives, agents, attorneys, administrators, successors and assigns, the Released Parties from all claims for PAGA penalties arising during the PAGA Period that were alleged, or reasonably could have been alleged, based on the facts and allegations in the Operative Complaint and the PAGA Notices ("Released PAGA Clams"). *Id*. ¶ 29.

C. Settlement Administration

The Parties' proposed Notice of Class Action and PAGA Settlement and Hearing Date for Final Court Approval ("Class Notice") complies with the requirements of California Rules of Court, Rule 3.766(d). *See* Coelho Decl. ¶ 10, Ex. 4, Ex. A. The Class Notice provides information regarding the nature of this lawsuit, a summary of the settlement terms, the formula for calculating Individual Class and PAGA Payments, instructions how to opt out of or object to the Settlement and how to dispute the calculations, the amounts sought for the Class Representative Service Awards, Class Counsel Fees and Costs, and Administration Costs, and the date, time, and location of the final approval hearing. The Class Notice also notifies Class Members that they do not need to submit a claim in order to participate in the Settlement and receive a payment. *Id*. ¶ 31.

The Administrator will mail the Class Notice in English by first-class mail and, within three (3) business days of receipt, will re-mail any returned as undeliverable to the forwarding address provided by the U.S. Postal Service. If no forwarding address is provided, the Administrator will conduct a Class Member Address Search and re-mail the Class Notice to the most current address obtained. The deadline to submit a Request for Exclusion, an Objection, or a Workweek Challenge will be extended by fourteen (14) days for all Class Members whose Class Notice is re-mailed. *Id*. ¶¶ 32, 33.

Finally, the Administrator will mail Individual Class Payments to Participating Class Members, Individual PAGA Payments to Aggrieved Employees, the LWDA PAGA Payment, Class Counsel Fees, Class Counsel Costs, and the Class Representative Service Awards within fourteen (14) days after Defendant funds the GSA. *Id*. ¶ 34.

IV. THE SETTLEMENT MEETS ALL CRITERIA FOR PRELIMINARY APPROVAL

A. Conditional Certification of the Class is Appropriate

"The party advocating class treatment must demonstrate the existence of an ascertainable and sufficiently numerous class, a well-defined community of interest, and substantial benefits from certification that render proceeding as a class superior to the alternatives." *Brinker Rest. Corp. v. Superior Ct*. (2012) 53 Cal. 4th 1004, 1021 (citations omitted). A lesser standard is used for settlement certification, although courts still need to review and consider the relevant factors. *Glob. Mins. & Metals Corp. v. Superior Ct*. (2003) 113 Cal. App. 4th 836, 859 ("[N]o trial is anticipated in a settlement class case, so the case management issues inherent in the ascertainable class determination need not be confronted.") (citations omitted).

1. The Proposed Class is Ascertainable and Numerous

"An ascertainable class is one defined in objective terms that make the eventual identification of class members possible." *Noel v. Thrifty Payless, Inc*. (2019) 7 Cal. 5th 955, 980. In addition, "a class must be numerous in size such that it is impracticable to bring them all before the court," but there is no minimum requirement. *Hendershot v. Ready to Roll Transportation, Inc*. (2014) 228 Cal. App. 4th 1213, 1222 (internal quotations and citations omitted).

Here, The Class consists of 1,385 members identified by Defendants from their business records based on the Parties' definition. Coelho Decl. ¶ 36. As Class Members are readily ascertainable and joinder would be impracticable, these requirements are met.

2. A Well-Defined Community of Interest Exists

"[T]he 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." *Ayala v. Antelope Valley Newspapers, Inc*. (2014) 59 Cal. 4th 522, 530 (internal quotations and citations omitted).

a. *Common Questions Predominate*

In determining whether common issues "predominate," courts consider both the plaintiff's legal theories and the defendant's affirmative defenses. *Duran v. U.S. Bank Nat'l Ass'n* (2014) 59 Cal.4th 1, 28-29. "Generally, if the defendant's liability can be determined by facts common to all

members of the class, a class will be certified even if the members must individually prove their damages." *Cortina v. N. Am. Title Co*. (2026) 120 Cal. App. 5th 1030, 1075, *reh'g denied* (June 23, 2026), *review filed* (July 8, 2026) (internal quotations and citation omitted). Moreover, predominance does not require that all class members have identical claims; the focus is on whether issues shared by the class members are sufficiently uniform to permit class-wide assessment. *Ayala,* 59 Cal.4th at 530.

Plaintiffs alleged that Defendants maintained uniform policies and practices that unlawfully deprived Class Members of wages, meal periods, rest periods, sick pay, vacation pay, reimbursement of business expenses, accurate wage statements, and timely payment of wages both during and on separation of employment. These allegations present common factual and legal questions regarding, *inter alia*, whether Defendants applied the same policies, including for scheduling, timekeeping, compensation, meal periods, rest periods, sick pay, vacation pay, and reimbursement, to all Class Members, whether these policies and practices resulted in Labor Code violations, whether Defendants' conduct was intentional, and whether Class Members are entitled to relief. Coelho Decl. ¶ 36. These common questions could be resolved using Class Members' common proof, including time and payroll records and testimony from Defendants and Class Members. *Id*. Accordingly, conditional class certification is appropriate for purposes of settlement.

b. *Plaintiffs are Typical of the Class*

"The test of typicality 'is whether other members have the same or similar injury [as the named plaintiffs], whether the action is based on conduct which is not unique to the named plaintiffs, and whether other class members have been injured by the same course of conduct.'" *Martinez v. Joe's Crab Shack Holdings* (2014) 231 Cal. App. 4th 362, 375, *as modified on denial of reh'g* (Dec. 3, 2014) (quoting *Seastrom v. Neways, Inc*. (2007) 149 Cal.App.4th 1496, 1502).

Plaintiffs alleged that they and Class Members were employed in California by the same Defendants and suffered the same injuries from Defendants' uniform wage and hour policies and practices, including with respect to compensation, scheduling, timekeeping, pay, meal periods, rest periods, and reimbursement. Through informal discovery, Plaintiffs confirmed that these challenged policies and practices applied to Plaintiffs and Class Members alike. Coelho Decl. ¶¶

37-46. Accordingly, Plaintiffs' claims are aligned with Class Members' claims and arise from the same challenged employment policies and practices, based on the same legal theories.

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

Certification requires that both the named plaintiff and his or her counsel are adequate to represent the proposed class. Code Civ. Proc. § 382. However, "[o]nly 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* (1981) 29 Cal.3d 462, 470. In other words, only conflicts that are "irreconcilable" can defeat adequacy. *Nat'l Solar Equip. Owners' Ass'n v. Grumman Corp.* (1991) 235 Cal.App.3d 1273, 1286.

Plaintiffs, the proposed representatives, and proposed Class Counsel have no such conflict. *See* Declaration of Jewel Nobles ("Nobles Decl.") ¶¶ 15, 20, 21; Declaration of Kristyna Young ("Young Decl.") ¶ 4; Declaration of Michael Delarm ("Delarm Decl.") ¶ 4; Declaration of Roman Shkodnik ("Shkodik Decl.") ¶ 15; Coelho Decl. ¶¶ 49, 50.

Plaintiffs' interests are coextensive with Class Members' interests. Nobles Decl. ¶¶ 3, 16; Young Decl. ¶¶ 3-5; Delarm Decl. ¶¶ 3-5. For example, Plaintiff Nobles has demonstrated an ability to advocate for the interests of Class Members over her own by initiating this lawsuit, communicating with Class Counsel regarding the claims, being available to answer questions, including the day of mediation, and reviewing the proposed Settlement and other relevant documents. Nobles Decl. ¶ 6.

Class Counsel, who have demonstrable experience and success with complex litigation like the instant Action, have also expended considerable time and effort on this case and will continue to do so through final approval. Coelho Decl. ¶¶ 10, 35-48; Shkodnik Decl. ¶¶ 9-14. Accordingly, Plaintiffs are adequate to serve as Class Representatives, and Class Counsel should be preliminarily approved as such.

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

"Public policy has long favored the 'full and prompt payment of wages due an employee.'" *Sav-On Drug Stores, Inc. v. Superior Court* (2004) 34 Cal.4th 319, 340. Even so, class treatment must be "superior to the other available methods for the fair and efficient adjudication of the

controversy." *Dean Witter Reynolds, Inc. v. Superior Court* (1989) 211 Cal.App.3d 758, 773. Accordingly, section 382 of the Code of Civil Procedure provides in pertinent part: "[W]hen the question is one of a common or general interest, of many persons, or when the parties are numerous, and it is impracticable to bring them all before the court, one or more may sue or defend for the benefit of all." *Id*. at 773, fn. 5.

Here, a class action is superior to a multitude of individual lawsuits. Given the size and amounts of their respective potential claims, each Class Member has little incentive to litigate on an individual basis because the out-of-pocket expenses and personal commitment necessary to litigate each claim likely exceed any potential recovery. Coelho Decl. ¶ 36; *see, e.g., Sav-On Drug Stores,* 34 Cal.4th at 340 ("[T]he class suit both eliminates the possibility of repetitious litigation and provides small claimants with a method of obtaining redress for claims which would otherwise be too small to warrant individual litigation.") (citation omitted). A class action is thus superior to other methods for the efficient adjudication of the claims at issue.

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.* (2008) 168 Cal.App.4th 116, 126. In making that determination, "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 v. Apple Computer, Inc*. (2001) 91 Cal. App. 4th 224, 244–45, *disapproved of by Hernandez v. Restoration Hardware, Inc*. (2018) 4 Cal. 5th 260 (quoting *Dunk v. Ford Motor Co*. (1996) 48 Cal. App. 4th 1794, 1801, *as modified* (Sept. 30, 1996)).

1. <u>The Settlement is Entitled to a Presumption of Fairness</u>

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*, 48 Cal.App.4th at 1801.

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.* (2008) 162 Cal.App.4th 43, 52-53. This Settlement is the product of a full-day mediation with the Mediator, and negotiations were adversarial, conducted at arm's length, and tempered by the efforts of both sides to serve the interests of their clients. Coelho Decl. ¶ 10.

b. *Sufficient Investigation and Discovery Have Been Conducted*

Before mediation, Class Counsel thoroughly investigated the claims and defenses at issue and all applicable law. Coelho Decl. ¶ 35. Class Counsel assessed the potential value of the claims alleged using the data and documents that Defendants produced in informal discovery, including Plaintiffs' personnel files, Defendants' written policies, and other class data, including Class Members' time and payroll records. *Id.*

c. *Class Counsel are Experienced in Complex Litigation*

Plaintiffs are represented by Wilshire Law Firm, PLC and D.Law, Inc. Coelho Decl. ¶ 51. Class Counsel have extensive experience litigating wage and hour class actions on behalf of employees. *Id.* ¶¶ 52-57; Shkodnik Decl. ¶¶ 11-15. Class Counsel have been counsel in numerous class actions that have resulted in millions of dollars in recovery. Coelho Decl. ¶ 55; Shkodnik Decl. ¶¶ 11, 14.

2. <u>The Settlement is Reasonable Given the Risks and Expense of Further Litigation</u>

A settlement does not have to provide 100% of the damages sought to be considered fair and reasonable. *See Rebney v. Wells Fargo Bank* (1991) 220 Cal.App.3d 1117, 1139. Although the exposure Class Counsel calculated is substantial, the risks of successfully certifying a class and prevailing at trial affected the valuation of the claims for settlement purposes. Coelho Decl. ¶ 38; Shkodnik Decl. ¶ 17.

Unpaid Wages: Plaintiffs alleged that Defendants required Class Members to perform work while off the clock and thus without compensation. *Id*. ¶ 39. For example, Plaintiffs alleged that they and other Class Members were required to keep radios and cell phones on during breaks and respond to calls and felt pressured to work through breaks or take breaks late to accommodate heavy workloads. *Id*. Class Counsel assumed 40 minutes of unpaid work per workweek per Class Member at the overtime rate of pay. Defendant's maximum potential exposure for this claim is $760,173.96 (36,400 workweeks x .67 hours x ($20.78 average hourly rate of pay x 1.5)). Because this claim would have relied heavily on Class Member testimony and would not be evidenced in Defendants' time and payroll records, the risk of failing to certify a class and/or prevail at trial was substantial. Accordingly, Class Counsel discounted this figure based on a 40% chance of class certification and a 40% chance of prevailing at trial on the merits. Defendant's estimated realistic exposure is $121,627.83 ($760,173.96 x .4 x .4). *Id*.

Meal Periods: Plaintiffs alleged that Defendants failed to provide Class Members with all legally compliant meal periods to which they were entitled or pay meal period premiums in lieu thereof. Coelho Decl. ¶ 40. For example, as noted above, Plaintiffs alleged that they and other Class Members were required to respond to calls during breaks and felt pressured to work through meal periods or take them late to accommodate heavy workloads. *Id*. Class Counsel's consultant found a 23.2% meal period violation rate in the sampling of Class Members' time and payroll records, where meal periods were short, late, or missed, and Defendant's maximum exposure for the meal period claim is approximately $633,450.04 (131,395 shifts over 5 hours x 23.2% violation rate x $20.78 average hourly rate). Taking into account the difficulty of certifying a class and proving meal period claims, as well as Defendants' contention that the claim lacks merit and that a 23.2% violation rate is unrealistic, Class Counsel discounted this figure based on a 50% chance of certifying class and a 40% chance of prevailing at trial. Defendants' realistic exposure is approximately $126,690.01 ($633,450.04 x .5 x .4). *Id*.

Rest Periods: Plaintiffs allege that Defendants failed to provide Class Members with legally compliant rest periods or pay rest period premiums in lieu thereof. Coelho Decl. ¶ 41. For example, as with meal periods, Plaintiffs alleged that they and other Class Members were required to respond

to calls during breaks and felt pressured to work through rest periods to accommodate heavy workloads. Class Counsel assumed at least one non-compliant rest period per shift and applied a 100% violation rate to all qualifying shifts. Defendants' maximum potential exposure for the rest period claim is approximately $2,904,960.88 (139,796 shifts of at least 3.5 hours x $20.78 average hourly rate x 100% violation rate). To account for the difficulty of certifying and proving rest period claims, particularly because rest periods do not have to be recorded and Class Members may choose to forego rest periods, Class Counsel discounted this figure based on a 30% chance of class certification and a 20% chance of prevailing at trial. Defendants' realistic exposure is approximately $174,297.65 ($2,904,960.88 x .3 x .2). *Id*.

Sick Pay and Vacation Pay: Plaintiffs alleged the Defendants failed to satisfy the sick pay accrual requirements established by Labor Code § 246(b)(2)-(4). *Id*. ¶ 42. However, Defendants contend, and their evidence shows, that Defendants' written policy is compliant, and that they complied, with the accrual requirements. Plaintiffs also alleged that Defendants failed to pay Class Members all vested and accrued vacation upon termination. Similarly, Defendants' written policy is to pay out all accrued vacation time upon termination, and Defendants contend that their practice was to follow its written policy. Accordingly, these claims had zero ($0) value for purposes of settlement. *Id*.

Reimbursements: Plaintiffs alleged that Defendants failed to indemnify Class Members for expenses necessarily incurred in the performance of their duties, including the use of personal cell phones, computers, and home internet, the use of personal vehicles, and out-of-pocket costs for snowboarding gear and tools. *Id*. ¶ 43. Class Counsel conservatively estimated $6.25 in costs incurred per Class Member per workweek, for a total of approximately $227,500.00 ($6.25 x 36,400 workweeks). Defendants contend, however, that these expenses were not required, and that Defendants could not have known that such expenses were being incurred. Accordingly, Class Counsel discounted this figure based on a 30% chance of class certification and a 30% chance of prevailing at trial. Defendants' realistic exposure is thus approximately $20,475.00 ($227,500 x .3 x .3). *Id*.

In sum, Class Counsel estimated that Defendants' maximum potential exposure for off-the-

clock work and meal and rest period violations (the "Wage Claims") is approximately $4,298,584.88. However, considering the risk and uncertainty of certifying a class and/or prevailing at trial, Class Counsel estimates that Defendants' realistic exposure for the Wage Claims is approximately $422,615.49. *Id*. ¶ 44.

Derivative Penalties: Plaintiffs alleged that Defendants owed waiting time and wage statement penalties due to Defendants' failure to pay all wages owed. *Id.* ¶ 45. Based on approximately 1,039 former employees during the 3-year limitations period and an average shift of 4 hours, Class Counsel estimated that Defendants' maximum potential exposure for waiting time penalties is $2,590,850.40 (1,039 employees x $20.78 average hourly rate of pay x 4 hours x 30 days). Based on approximately 571 employees during the 1-year limitations period, Defendants' maximum potential exposure for inaccurate wage statements is approximately $724,250.00 ((571 employees x 1 initial violation x $50 penalty) + ((7,528 pay periods - 571 initial violations) x $100 penalty)). However, Class Counsel believe it would be unrealistic to expect the Court to award the maximum statutory penalties given Defendants' defenses, the contested nature of Plaintiffs' claims, the challenge of establishing willfulness, and the discretionary nature of penalties. Considering further that Defendants' exposure for the underlying Wage Claims is realistically estimated to be $422,615.49, such an award would be disproportionate and raise due process concerns. Accordingly, Class Counsel discounted the maximum penalties to account for the risk and uncertainty of certifying a class (30%) and prevailing at trial (20%). Defendants' realistic exposure is thus approximately $155,451.02 for waiting time penalties ($2,590,850.40 x .3 x .2), and $43,455.00 for wage statement penalties ($724,250 x .3 x .2), or a total of $198,906.02 for statutory penalties. *Id*.

PAGA: Applying the initial $100 penalty for each of 7,573 pay periods during the PAGA Period, Defendants' estimated maximum exposure is $757,300.00. *Id.* ¶ 46. However, even assuming success on the merits of each claim, the Court has discretion to reduce civil penalties, including where to do otherwise would result in an award that is unjust, arbitrary and oppressive, or confiscatory. Accordingly, Class Counsel discounted this figure to 10% to account for the risk and uncertainty of prevailing at trial, such that Defendants' estimated realistic exposure for PAGA

penalties is $75,730.00 ($757,300 x .1). The Settlement provides for PAGA Penalties of $42,770.00, which represents 5% of the Gross Settlement Amount and approximately 57% of Defendants' realistic exposure for PAGA penalties ($42,770 / $75,730). *Id.*

Using these figures, Class Counsel estimated that the realistic recovery for all claims, including penalties, would be approximately $717,726.51. This means that the Gross Settlement Amount represents approximately 119% of Defendants' realistic exposure ($855,400.00 / $717,726.51). Considering the risk and uncertainty of certifying a class and prevailing at trial, this is an excellent result. Indeed, because of the proposed Settlement, Class Members will receive timely, guaranteed relief and avoid the risk of an unfavorable judgment. *Id*. ¶ 47.

As provided in the Agreement, the Net Settlement Amount available for distribution to approximately 1,385 Class Members is currently **$459,996.67**. Accordingly, the estimated Workweek value would be $12.64 ($459,996.67 / 36,400 workweeks), and the average Individual Class Payment to each Participating Class Member approximately $332 ($459,996.67 / 1,385 class members). *Id*. ¶ 48.

C. The Requested Service Awards are Reasonable

A named plaintiff is eligible for payment or service award that reasonably compensates him or her for undertaking and fulfilling a fiduciary duty to represent absent class members. *See Cellphone Termination Fee Cases* (2010) 186 Cal.App.4th 1380, 1393; *Bell v. Farmers Ins. Exch.* (2004) 115 Cal.App.4th 715, 726. Here, Plaintiffs seek Class Representative Service Awards of up to $7,500.00 to each Plaintiff ($22,500.00 total) for accepting the responsibilities of representing the interests of the Class and potential costs that were not borne by any other Class Member. Coelho Decl. ¶¶ 14, 27.

Plaintiffs assisted Class Counsel throughout this case, providing information necessary to prosecute the claims, communicating with the attorneys regarding the claims and defenses at issue, making themselves available the day of mediation to answer questions, and reviewing the Agreement, among other documents, to ensure it was fair to the Class. Nobles Decl. ¶¶ 6-8; Young Decl. ¶ 5; Delarm Decl. ¶ 5. No action would likely have been taken by individual Class Members, and no compensation recovered, but for Plaintiffs' service on their behalf. Coelho Decl. ¶ 50. By

actively pursuing this action, Plaintiffs also advanced the State's public policy and goal of enforcing wage-and-hour laws. *See, e.g., Sav-On Drug Stores,* 34 Cal.4th at 340 (noting "a clear public policy...that is specifically directed at the enforcement of California's minimum wage and overtime laws for the benefit of workers.") (citation omitted). The requested Class Representative Service Awards are reasonable and should be preliminarily approved. Plaintiffs have provided declarations regarding their efforts to date and will provide additional information as requested by the Court at final approval.

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

Plaintiffs seek appointment of Wilshire Law Firm, PLC and D.Law, Inc. as Class Counsel. The attorneys performed significant work and expended litigation costs in prosecuting this matter with no guarantee of payment. Coelho Decl. ¶ 51. Class Counsel seeks preliminary approval for up to one third (1/3) of the Gross Settlement Amount in attorneys' fees, currently estimated to be $285,133.33, and up to $30,000.00 to reimburse reasonable litigation costs. Class Counsel achieved a settlement and the substantial recovery obtained on behalf of the Class through efficient and diligent work. *See, e.g.,* Coelho Decl. ¶ 48. At final approval, Class Counsel will fully brief the merits of its requests for attorneys' fees and costs, and Plaintiffs have approved Class Counsel's fee split in writing. Nobles Decl. ¶ 22; Young Decl. ¶ 9; Delarm Decl. ¶ 9.

E. Administration Costs Are Reasonable

The Parties selected CPT to administer this Settlement. Plaintiffs seek preliminary approval of Administration Costs up to 15,000.00 pursuant to CPT's not-to-exceed bid. Coelho Decl. ¶ 60, Ex. 6. The services covered by this payment are extensive and necessary to carry out the Settlement administration. *See, e.g.*, Sec. III.C, *supra*.

V. CONCLUSION

The Settlement negotiated by the Parties is fair, adequate, and reasonable in light of the risks presented in this case. For the reasons presented above, Plaintiffs submit that the requirements for preliminary approval have been met and, therefore, respectfully request that the Court preliminarily approve the Settlement and schedule a date for the final approval hearing.

Dated: October 15, 2026

WILSHIRE LAW FIRM, PLC

By: _____

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